

ELECTION CODE

TITLE 14. ELECTION CONTESTS

SUBTITLE B. CONTESTS IN DISTRICT COURT

CHAPTER 233. CONTEST ON MEASURE

Sec. 233.001. APPLICABILITY OF CHAPTER. This chapter applies to a contest of an election on a measure.

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

Sec. 233.002. CONTESTANT. One or more qualified voters of the territory covered by an election on a measure may contest the election.

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

Sec. 233.003. CONTESTEE. (a) The contestee must be at least one of the following:

(1) the presiding officer of the final canvassing authority for the contested election;

(2) the presiding officer of the authority that ordered the contested election or the ordering authority, if ordered by an individual; or

(3) if the person specified by Subdivision (1) or (2) is incapacitated or cannot act for any other reason, another member of the specified authority.

(b) The secretary of state must be a contestee in a contest of an election on a proposed constitutional amendment or any other statewide measure submitted by the legislature.

(c) The costs of an election contest may not be assessed against a contestee specified by this section or against the governmental or political entity the contestee represents.

(d) A contestee specified by this section may not be required to give bond on appeal.

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

Sec. 233.004. INTERVENTION. (a) The court may permit one or more qualified voters of the territory covered by the contested election to intervene as contestants or contestees.

(b) The court shall determine the extent to which each intervenor may participate in the contest as the ends of justice and orderly procedure require. However, the court must permit at least one intervention on the side of the contestee, if requested to do so, and must permit the intervening contestee to participate fully in the conduct of the contest.

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

Sec. 233.005. VENUE. The venue of an election contest is:

(1) in Travis County if the contested election is statewide; or

(2) in any county wholly or partly in the territory covered by the contested election if the election is less than statewide.

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

Sec. 233.006. FILING PERIOD FOR PETITION. (a) The contestant may not file the petition in the contest earlier than the day after election day.

(b) Except as provided by Section [233.014](#), the contestant must file the petition not later than the later of the 30th 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) The contestant must deliver 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. 70, eff. Sept. 1, 1997.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1215 (S.B. [902](#)), Sec. 5, eff. September 1, 2019.

Sec. 233.007. FILING PERIOD FOR ANSWER. (a) A contestee must file an answer to the contestant's petition not later than:

(1) 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 of the contested election is determined, whichever is later, if the contested election is less than statewide; or

(2) 10 a.m. of the 20th day after the date of service of citation, if the contested election is statewide.

(b) 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. 233.008. 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. 233.009. NOTICE OF FILING AND OUTCOME OF CONTEST TO AUTHORITY RECEIVING ELECTION CERTIFICATION. If the result of a contested election is required to be certified to an authority other than the authority that ordered the election, the authority responsible for delivering the certification shall:

(1) include with the certification written notice of the filing of the contest or, if the contest is filed after the certification is delivered, deliver the notice promptly after the contest is filed; and

(2) deliver to the authority receiving the certification written notice of the outcome of the contest promptly after the judgment becomes final.

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

Sec. 233.010. EFFECT OF CONTEST ON IMPLEMENTATION OF ADOPTED MEASURE. (a) The filing of an election contest does not suspend implementation of a contested measure that is shown by the officially determined result to have been adopted, except that in the application of equitable principles, the court in which an election contest is filed may suspend implementation of the contested measure pending outcome of the contest.

(b) Another law that provides that implementation may or may

not be suspended supersedes this section.

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

Sec. 233.011. NEW ELECTION ORDERED IF CONTESTED ELECTION VOID. The court may not order a new election to be held if the contested election is declared void, except that the court shall include in its judgment an order directing the appropriate authority to order a new election if the authority that ordered the contested election was required by law to order it pursuant to a petition requesting the election or requesting other action making the holding of the election necessary.

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

Sec. 233.012. EFFECT OF VOID ELECTION. (a) The effect of a void election with respect to a restriction on the authority to order another election or on the time interval between elections of the same or similar nature is the same as if the election had not been held.

(b) If the authorization for ordering the election that was declared void was conditioned on its being ordered or held before a specified date and that condition was satisfied with respect to the void election, the condition is also satisfied if another election is ordered for a date not later than the 120th day after the date the judgment declaring the contested election void becomes final or the first day on which the election may lawfully be held, whichever is later.

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

Sec. 233.013. CONSOLIDATION OF CONTEST. If more than one election contest involving the same measure is filed, the actions shall be consolidated.

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

Sec. 233.014. SPECIAL PROCEDURES FOR CONTEST OF CONSTITUTIONAL AMENDMENT ELECTION. (a) This section applies only to a contest of an election on a proposed constitutional amendment.

(b) The contestant's petition must be filed and service of

citation on the secretary of state must be obtained before the final official canvass is completed.

(c) The declaration of the official result of a contested election may not be made until the contest is finally determined. The secretary of state shall tabulate the county returns and the governor shall announce the final vote count, as ascertained from the returns, in a written document. The document announcing the final vote count must state that a contest of the election has been filed and that the declaration of the official result will not be made until the contest is finally determined.

(d) The trial date may not be earlier than the 45th day after the date of the contested election unless the contestant requests an earlier date.

(e) If an amended petition alleging additional grounds of contest is filed, the contest may not be called for trial earlier than the 20th day after the date the amended petition is filed unless the secretary of state agrees to calling the contest for trial at an earlier date.

(f) The court shall include in its judgment in a contest an order directing the governor to declare the official result of the election or to declare the election void, as appropriate, not later than the 10th day after the date the judgment becomes final.

(g) Any question relating to the validity or outcome of a constitutional amendment election may be raised in an election contest. A contest is the exclusive method for adjudicating such questions.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1989, 71st Leg., ch. 163, Sec. 9, eff. Sept. 1, 1989.