

ELECTION CODE

TITLE 14. ELECTION CONTESTS

SUBTITLE C. CONTESTS IN OTHER TRIBUNALS

CHAPTER 241. CONTEST FOR STATE SENATOR OR REPRESENTATIVE

Sec. 241.001. APPLICABILITY OF CHAPTER. This chapter applies to a contest of a general or special election for the office of state senator or state representative.

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

Sec. 241.002. PARTIES. The provisions of this title relating to who may be or is required to be a party in an election contest in the district court apply to a contest under this chapter.

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

Sec. 241.003. PETITION. (a) The contestant must state the grounds for the contest in a petition in the same manner as a petition in an election contest in the district court.

(b) The contestant must file the petition with the secretary of state not later than the later of the seventh day after the date the election records are publicly available under Section 1.012 or the official result of the contested election is determined. The contestant must deliver a copy of the petition to the contestee by the same deadline.

(c) The contestant may not file the petition with the secretary of state or deliver the copy to the contestee before the day after the date of the contested election.

(d) Section 1.006 does not apply to this section.
Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1993, 73rd Leg., ch. 759, Sec. 6, eff. Sept. 1, 1993.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1215 (S.B. 902), Sec. 6, eff. September 1, 2019.

Sec. 241.004. ANSWER. (a) The contestee must reply to the contestant's petition in an answer in the same manner as an answer to a petition in an election contest in the district court.

(b) The contestee must file the answer with the secretary of state not later than the seventh day after the date the contestee receives the copy of the petition. The contestee must deliver a copy of the answer to the contestant by the same deadline.

(c) Section 1.006 does not apply to this section. Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1993, 73rd Leg., ch. 759, Sec. 7, eff. Sept. 1, 1993.

Sec. 241.005. METHOD OF DELIVERING CONTEST PAPERS TO PARTIES. (a) The copies of the petition and answer must be delivered to the parties by:

- (1) personal delivery; or
- (2) registered or certified mail, return receipt requested.

(b) Any adult resident of the state may perform the personal delivery. If the party to whom delivery is intended cannot be found in the party's county of residence, the delivery may be completed by leaving the document at the party's usual place of abode or business with a person who is 16 years of age or older.

(c) Personal delivery of a copy of an answer is sufficient if it is delivered to the contestant's attorney of record or left at the attorney's regular office with a person who is 16 years of age or older.

(d) A copy of a petition delivered by mail must be marked for restricted delivery to the addressee only. The delivery is sufficient if the copy is mailed to the contestee's regular residence or business address.

(e) If the contestant's petition states an address to which the copy of the answer is to be delivered, a copy delivered by mail must be mailed to that address. Otherwise, delivery of a copy of an answer by mail is sufficient if the copy is mailed to the contestant at the contestant's regular residence or business address or to the contestant's attorney of record at the attorney's regular business address.

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

Sec. 241.006. DELIVERY OF CONTEST PAPERS TO PRESIDING

OFFICER. (a) On receipt of a petition or answer, the secretary of state shall enter the date of filing on the document. If the document is filed by mail, the secretary shall attach to the document the envelope in which it was mailed.

(b) The secretary of state shall deliver a petition to the president of the senate or the speaker of the house of representatives, as appropriate, as soon as possible but not later than the day after the date the petition is received. The secretary shall deliver an answer to the appropriate presiding officer as soon as possible but not later than the day after the date of its receipt.

(c) The secretary of state shall deliver with the petition the secretary's certified statement of the total votes cast for each candidate for the office as shown by the final canvass. If the final canvass has not been completed, the statement shall be delivered as soon as practicable thereafter.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1993, 73rd Leg., ch. 759, Sec. 8, eff. Sept. 1, 1993.

Sec. 241.0061. SECURITY FOR COSTS. (a) Not later than the third day after the date the contestee's answer is received by the presiding officer of the house having jurisdiction, the contestant must file with the secretary of the senate or chief clerk of the house of representatives, as appropriate:

(1) a cost bond payable to the appropriate house and to the contestee in the amount of \$5,000, having sufficient sureties approved by the presiding officer, and conditioned that the contestant will pay all costs of the contest assessed against the contestant;

(2) a cash deposit in lieu of bond; or

(3) an affidavit of inability to pay costs.

(b) Security for costs must be filed under Subsection (a), and an affidavit of inability to pay costs may be contested, in the manner generally applicable to a civil suit in the district court, subject to any changes imposed by the master or by rules of the house having jurisdiction.

Added by Acts 1993, 73rd Leg., ch. 759, Sec. 9, eff. Sept. 1, 1993.

Amended by Acts 1997, 75th Leg., ch. 864, Sec. 231, eff. Sept. 1, 1997.

Sec. 241.007. RUNOFF DELAYED. (a) If a special election for which a runoff is necessary according to the official result is contested, the secretary of state shall promptly notify the governor in writing of the contest when the canvass is completed or the petition is received, whichever is later.

(b) The governor shall delay ordering the runoff pending the outcome of the contest.

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

Sec. 241.008. PRESIDING OFFICER AS PARTY. If the presiding officer of the house having jurisdiction is a party to a contest, the house shall elect one of its members to perform the duties of the presiding officer with respect to the contest. The chair of the house's committee on administration shall perform those duties until the substitute is elected.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1997, 75th Leg., ch. 864, Sec. 232, eff. Sept. 1, 1997.

Sec. 241.009. MASTER OF DISCOVERY. (a) As soon as practicable after receiving the contestee's answer, the presiding officer of the house having jurisdiction shall appoint a master of discovery to supervise discovery proceedings and the taking of depositions, to issue any necessary process, to receive and report evidence, and to perform any other duties assigned by the presiding officer or by the committee to which the contest is referred.

(b) The master must be a member of the house in which the contest is pending.

(c) The presiding officer or the committee may limit the master's authority in the same manner as a civil court in appointing a master in chancery.

(d) The master acts under the direction of the presiding officer before the case is referred to a committee and acts under the direction of the committee after the referral.

(e) The master's rulings are subject to review by the

committee to which the contest is referred unless otherwise provided by rules of the house.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1993, 73rd Leg., ch. 759, Sec. 9, eff. Sept. 1, 1993.

Sec. 241.0091. FRIVOLOUS PETITION. (a) The master may on the master's own motion, or shall on the motion of the committee, determine whether the contestant's petition is frivolous or otherwise does not state the grounds necessary to maintain the contest.

(b) After making a determination under Subsection (a), the master shall promptly deliver to the committee a report stating the findings. The report to the committee may include any recommendation the master considers appropriate.

Added by Acts 1993, 73rd Leg., ch. 759, Sec. 9, eff. Sept. 1, 1993. Amended by Acts 1997, 75th Leg., ch. 864, Sec. 233, eff. Sept. 1, 1997.

Sec. 241.010. DISCOVERY AND DEPOSITIONS. (a) Any party to a contest may conduct discovery and take depositions under the procedures applicable to a civil suit in the district court, subject to changes in those procedures or limitations imposed by the master or by rules of the house in which the contest is pending.

(b) Each party is responsible for the initial payment of the party's costs of discovery and taking depositions, but the costs may be assessed as provided by Section [241.025](#).

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

Sec. 241.011. REFERRAL OF CONTEST TO COMMITTEE; HEARING BY COMMITTEE. (a) As soon as practicable after receiving the contestee's answer, the presiding officer of the house in which the contest is pending shall refer the contest to a special committee, a standing committee, or a committee of the whole, as provided by rules of the house.

(b) The committee shall promptly set a time and place for hearing the contest. After notice to the parties, the committee shall investigate the issues raised by the contest, hearing all

legal evidence presented by the parties, except as provided by Subsection (c).

(c) The committee may refuse to hear testimony or other evidence presented in person by the parties if the master determines under Section [241.0091](#) that the contestant's petition is frivolous or otherwise groundless.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1993, 73rd Leg., ch. 759, Sec. 9, eff. Sept. 1, 1993.

Sec. 241.012. HEARING PROCEDURE. The procedure for the committee hearing of an election contest shall be prescribed by rules of the house in which the contest is pending.

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

Sec. 241.013. EVIDENCE. Except as otherwise provided by house rules, the rules of evidence generally applicable to a civil suit in the district court apply to the hearing of an election contest.

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

Sec. 241.014. ATTENDANCE OF WITNESSES. (a) The committee to which an election contest is referred has the same authority as other legislative committees to compel attendance of witnesses and production of evidence without the necessity for an express authorization by resolution, rule, or other action of the house creating the committee.

(b) The law generally applicable to the issuance and service of process in legislative committee hearings applies to the hearing of a contest.

(c) A summoned witness is entitled to payment for travel and subsistence expenses in accordance with the laws applicable to in-state travel for state employees.

(d) Each party is responsible for the initial payment of the costs for service of process and attendance of witnesses at the party's request, but the costs may be assessed as provided by Section [241.025](#).

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

Sec. 241.015. COMMITTEE REPORT. (a) Except as provided by Section [241.019](#), as soon as practicable after completing its hearing on a contest, the committee shall make a written report of its findings of fact and conclusions of law with respect to the contest to the house in which the contest is pending. The report may include any recommendation the committee considers appropriate.

(b) The committee shall accompany its report with all the papers in the contest and the evidence presented to the committee.

(c) The committee chair shall file the report with the secretary of the senate or the chief clerk of the house of representatives, as appropriate.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1997, 75th Leg., ch. 864, Sec. 234, eff. Sept. 1, 1997.

Sec. 241.016. MINORITY REPORT. Any member of the committee dissenting from the views of the majority may file a minority report.

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

Sec. 241.017. WITHDRAWAL OF CONTEST. (a) A contestant may withdraw the election contest at any time before the filing of the committee report by filing with the committee chair and the presiding officer of the house a written statement of withdrawal signed by the contestant or the contestant's attorney.

(b) On withdrawal of the contest, the contest is dismissed and the presiding officer shall have the statement of withdrawal read into the journal of the appropriate house.

(c) Costs of the contest following a withdrawal may be assessed as provided by Section [241.025](#).

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1997, 75th Leg., ch. 864, Sec. 235, eff. Sept. 1, 1997.

Sec. 241.018. DISPOSITION OF CONTEST BY HOUSE. (a) Except as provided by Section [241.019](#), the house in which a contest is pending shall dispose of the contest as provided by this section.

(b) As soon as practicable after the committee report on the contest is filed, the house shall set a date for consideration of the report.

(c) The house shall take action on the contest as prescribed by Section 221.012.

(d) A contestee may not vote on any matter involving the contest.

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

Sec. 241.019. DISPOSITION OF CONTEST BY COMMITTEE. The committee to which a contest of a special election is referred shall take action on the contest as prescribed by Section 221.012 if:

(1) no candidate received a majority of the votes according to the official result of the election;

(2) the legislature is not in session on the date the contestant's petition is filed with the secretary of state, or, if it is in session, the session will end before the 25th day after the date the petition is filed;

(3) no session of the legislature is scheduled to begin within 30 days after the date the petition is filed; and

(4) the legislature is not in session on the date the committee completes its hearing, and no session is scheduled to begin within 30 days after that date.

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

Sec. 241.020. NEW ELECTION ORDERED IF CONTESTED ELECTION VOID. In an election contest in which the election is declared void, the house or committee, as appropriate, shall include in its judgment an order directing the governor to order a new election.

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

Sec. 241.021. DELIVERY OF CERTIFIED COPIES OF JUDGMENT.

(a) After the judgment in a contest is rendered, the secretary of the senate or the chief clerk of the house of representatives, as appropriate, shall promptly deliver a certified copy of the judgment to the secretary of state.

(b) If another election is necessary under the judgment, the

secretary of the senate or chief clerk of the house of representatives shall promptly deliver a certified copy of the judgment to the governor.

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

Sec. 241.022. PROCEDURES FOR NEW ELECTION GENERALLY. (a) If the contested election is declared void, the new election shall be held in the same manner as the contested election, except as otherwise provided by this chapter.

(b) Section 232.050 applies to the ballot form for the new election.

(c) Section 232.043 applies to write-in voting in the new election.

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

Sec. 241.023. ACCELERATED ELECTION SCHEDULE. If another election is necessary under the judgment in an election contest, the applicable time intervals for conducting a special election for state senator or state representative apply if the judgment is rendered:

(1) during a regular legislative session; or

(2) within 60 days before the date a legislative session is convened.

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

Sec. 241.024. CANDIDATES IN NEW ELECTION. (a) The candidates in a new election ordered in an election contest in which the election is declared void under this chapter are determined in accordance with the applicable provisions of Chapter 232, Subchapter B, prescribing the candidates in a new election ordered by a court.

(b) In a new election in which replacement candidates are permitted on the ballot, the governor shall set the filing deadlines that are set by the district court in a new election ordered by a court.

(c) The governor shall set the deadline for withdrawal from a new election.

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

Sec. 241.025. COSTS OF CONTEST. (a) Subject to Section [221.013\(a\)](#), the house considering an election contest may assess the costs of the contest against any one or more of the parties, except that costs may not be assessed against a contestee who prevails in the contest.

(b) In a contest covered by Section [241.019](#), the committee determines how the costs are to be assessed.

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