

CONTESTING ELECTIONS GENERAL PROVISIONS

Footnotes

Chapter applicable to primary elections, § 43.5

57.1 Standing to bring contest grounds for contest.

1. Elections may be contested under this chapter as follows:

- a.* The election of any person to any county office, to a seat in either branch of the general assembly, to a state office, to the office of senator or representative in Congress, or to the office of presidential elector may be contested by any eligible person who received votes for the office in question.
- b.* The outcome of the election on a public measure may be contested by petition of the greater of ten eligible electors or a number of eligible electors equalling one percent of the total number of votes cast upon the public measure; each petitioner must be a person who was entitled to vote on the public measure in question or would have been so entitled if registered to vote.

2. Grounds for contesting an election under this chapter are:

- a.* Misconduct, fraud or corruption on the part of any election official or of any board of canvassers of sufficient magnitude to change the result of the election.
- b.* That the incumbent was not eligible to the office in question at the time of election.
- c.* That prior to the election the incumbent had been duly convicted of a felony, as defined in section 701.7, and that the judgment had not been reversed, annulled, or set aside, nor the incumbent pardoned or restored to the rights of citizenship by the governor under chapter 914, at the time of the election.
- d.* That the incumbent has given or offered to any elector, or any precinct election official or canvasser of the election, any bribe or reward in money, property, or thing of value, for the purpose of procuring the incumbent's election.
- e.* That illegal votes have been received or legal votes rejected at the polls, sufficient to change the result of the election.
- f.* Any error in any board of canvassers in counting the votes, or in declaring the result of the election, if the error would affect the result.
- g.* That the public measure or office was not authorized or required by state law to appear on the ballot at the election being contested.
- h.* Any other cause or allegation which, if sustained, would show that a person other than the incumbent was the person duly elected to the office in question, or would show the outcome of the election on the public measure in question was contrary to the result declared by the board of canvassers.

[C51, § 339, 341, 368, 380, 387; R60, § 569, 571, 598, 610, 617; C73, § 692, 718, 730, 737; C97, § 1198; C24, 27, 31, 35, 39, § **981**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 57.1; 81 Acts, ch 34, § 39]

86 Acts, ch 1112, § 3; 2002 Acts, ch 1134, §72, 115

57.2 Certificate withheld.

If notice of a contest of the election of an officer is filed before the certificate of election is delivered to the incumbent, or notice of a contest of the declared result of an election on a public measure is filed before a duplicate of the abstract of votes upon the measure and of the county board's declaration is certified pursuant to section 50.27, the certificate or duplicate abstract and declaration shall be withheld until the determination of the contest. If the certificate of election or duplicate abstract and declaration have been issued, the commissioner shall send the persons or political subdivisions affected by the notice of contest a statement advising them that the election is being contested and that the certificate or duplicate abstract and declaration are not valid until the election contest is resolved.

[C51, § 367; R60, § 597; C73, § 713; C97, § 1219; C24, 27, 31, 35, 39, § **982**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 57.2]

57.3 Terms defined.

The term "*incumbent*" in this chapter means the person whom the canvassers declare elected. The term "*election*" in this chapter means the voting for a particular office, or the voting for or against a particular public measure, including the notice and other preparations for voting required by law and the tallying and canvass of the votes cast, section 39.2 notwithstanding.

[C51, § 340; R60, § 570; C73, § 693; C97, § 1199; C24, 27, 31, 35, 39, § **983**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 57.3]

57.4 Change of result.

When the misconduct, fraud, or corruption complained of is on the part of the precinct election officials in a precinct, it shall not be held sufficient to set aside the election, unless the rejection of the vote of that precinct would change the result as to that office.

[C51, § 342; R60, § 572; C73, § 694; C97, § 1200; C24, 27, 31, 35, 39, § **984**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 57.4]

57.5 Recanvass in case of contest.

The parties to any contested election shall have the right, in open session of the court or tribunal trying the contest, and in the presence of the officer having them in custody, to have the ballots opened, and all errors of the precinct election officials in counting or refusing to count ballots corrected by such court or tribunal.

[C97, § 1143; S13, § 1143; C24, 27, 31, 35, 39, § **985**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 57.5]

57.6 Other contests.

All the provisions of the chapter in relation to contested elections of county officers shall be applicable, as near as may be, to contested elections for other offices, and for public measures except as herein otherwise provided, and in all cases process and papers may be issued to and served in the manner provided by the rules of civil procedure for service of an original notice by the sheriff of any county.

[C51, § 379, 396; R60, § 609, 626; C73, § 729, 745; C97, § 1250; C24, 27, 31, 35, 39, § **986**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 57.6; 81 Acts, ch 34, § 40]

Footnotes

Contesting election of county officers, chapter 62

57.7 Contest court for contest of public measure.

The court for the trial of a contested election on a public measure shall consist of one person designated by the petitioners who are contesting the election, who shall be designated in writing by the petitioners at the time the contest is filed, one person designated by the county commissioner of elections to represent the interests adverse to those of the petitioners, and a third person who shall be chosen jointly by the designees of the petitioners and of the commissioner. If the persons selected by the petitioners and the county commissioner of elections cannot agree on a third person, the chief judge of the judicial district in which the contest is filed shall appoint a third person to serve.

[C77, 79, 81, § 57.7]