

CHAPTER 59

CONTESTING ELECTIONS FOR SEATS IN THE GENERAL ASSEMBLY

[P]

Chapter applicable to primary elections, §43.5

59.1	Statement served.	59.5	Statement and depositions —
59.2	Subpoenas.		notice.
59.3	Depositions.	59.6	Power of general assembly.
59.4	Return of depositions.	59.7	Notice of result.

59.1 Statement served.

The contestant for a seat in either branch of the general assembly shall, prior to twenty days before the first day of the next session, serve on the incumbent in the manner provided by the rules of civil procedure for service of an original notice a statement of notice of contest which shall allege a fact or facts, believed true by the contestant which, if true, would alter the outcome of the election.

A copy of the statement of notice of contest shall be filed with the secretary of state within five days of service of the notice upon the incumbent. The secretary of state shall notify the presiding officer of the house in which the contest will be tried.

A special election for a seat in either house of the general assembly may be contested. The contestant shall serve notice on the incumbent in the manner described in this section not later than twenty days after the state canvass of votes for the election. A copy of the notice shall also be filed with the presiding officer of the house in which the contest is to be tried, if the general assembly is in session. If the general assembly is not in session, a copy of the notice shall be filed with the secretary of state. The secretary of state shall notify the presiding officer of the house in which the contest will be tried.

[C51, §381; R60, §611; C73, §731; C97, §1233; C24, 27, 31, 35, 39, §994; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §59.1; 81 Acts, ch 34, §42]

93 Acts, ch 143, §37; 97 Acts, ch 170, §75

59.2 Subpoenas.

Any judge or clerk of a court of record may issue subpoenas in the above cases, as in those provided in chapters 61 and 62, and compel the attendance of witnesses thereunder.

[C51, §382; R60, §612; C73, §732; C97, §1234; C24, 27, 31, 35, 39, §995; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §59.2]

59.3 Depositions.

Depositions may be taken in such cases in the same manner and under the same rules as in an action at law in the district court, but no cause for taking the same need be shown.

[C51, §383; R60, §613; C73, §733; C97, §1235; C24, 27, 31, 35, 39, §996; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §59.3]

[P] Depositions in general, R.C.P. 1.701 et seq.

59.4 Return of depositions.

A copy of the statement, and of the notice for taking depositions, with the service endorsed, and verified by affidavit if not served by an officer, shall be returned to the officer taking the depositions, and then, with the depositions, shall be sealed up and transmitted to the secretary of state, with an endorsement thereon showing the nature of the papers, the names of the contesting parties, and the branch of the general assembly before whom the contest is to be tried.

[C51, §384; R60, §614; C73, §734; C97, §1236; C24, 27, 31, 35, 39, §997; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §59.4]

59.5 Statement and depositions — notice.

The secretary shall deliver the same unopened to the presiding officer of the house in which the contest is to be tried, on or before the second day of the session, regular or special,

of the general assembly next after taking the depositions, and the presiding officer shall immediately give notice to that officer's house that such papers are in the officer's possession.

[C51, §385; R60, §615; C73, §735; C97, §1237; C24, 27, 31, 35, 39, §998; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §59.5]

59.6 Power of general assembly.

Nothing herein contained shall be construed to abridge the right of either branch of the general assembly to grant commissions to take depositions, or to send for and examine any witness it may desire to hear on such trial.

[C51, §386; R60, §616; C73, §736; C97, §1238; C24, 27, 31, 35, 39, §999; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §59.6]

59.7 Notice of result.

The presiding officer of the house in which the contest was tried shall certify to the secretary of state the results of the contest.

93 Acts, ch 143, §38