

By: Muñoz, Jr.

H.B. No. 4072

A BILL TO BE ENTITLED

AN ACT

relating to the award of attorney's fees in an election contest.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Amend Chapter 231, Election Code, by adding Sections 231.010 and 231.011 to read as follows:

Sec. 231.010. FRIVOLOUS PETITION. (a) On the motion of a party or on the judge's own motion, the district judge may determine whether the contestant's petition is frivolous or otherwise does not state the grounds necessary to maintain the contest.

(b) If the judge determines that the contestant's petition is frivolous or otherwise groundless, the judge may dismiss the contest with prejudice.

Sec. 231.011. AWARD OF ATTORNEY'S FEES. The district judge may order the contestant to pay the reasonable attorney's fees of the contestee if the judge determines under Section 23.010 that the contestant's petition was frivolous or otherwise groundless.

SECTION 2. Section 241.025, Election Code, is amended to read as follows:

Sec. 241.025. COSTS AND FEES OF CONTEST. (a) Subject to Sections [~~Section~~] 221.013(a) and 241.026(a), the house considering an election contest may assess the costs and fees of the contest against any one or more of the parties, except that costs or fees may not be assessed against a contestee who prevails in the contest.

1 (b) In a contest covered by Section 241.019, the committee  
2 determines how the costs and fees are to be assessed.

3 SECTION 3. Chapter 241, Election Code, is amended by adding  
4 Section 241.026 to read as follows:

5 Sec. 241.026. AWARD OF ATTORNEY'S FEES. (a) The house  
6 considering an election contest may order the contestant to pay the  
7 reasonable attorney's fees of the contestee if the committee  
8 hearing the contest agrees with a determination under Section  
9 241.0091 that the contestant's petition was frivolous or otherwise  
10 groundless.

11 (b) In a contest covered by Section 241.019, the committee  
12 determines if attorney's fees may be awarded under Subsection (a).

13 SECTION 4. The change in law made by this Act applies only  
14 to an election contest for which the initial petition is filed on or  
15 after the effective date of this Act.