

1 AN ACT relating to elections.

2 ***Be it enacted by the General Assembly of the Commonwealth of Kentucky:***

3 → Section 1. KRS 15.243 is amended to read as follows:

- 4 (1) In addition to the other duties and powers of the Attorney General, he or she shall
5 enforce all of the state's election laws by civil or criminal processes.
- 6 (2) The Attorney General shall:
- 7 (a) Devise and administer programs to observe the conduct of elections;
- 8 (b) Hold public hearings;
- 9 (c) Establish a toll-free telephone service for the purpose of receiving reports of
10 election law violations. The service shall be operated during regular business
11 hours throughout the year and during the hours which any poll in the state is
12 open on the day of any primary, special election, or regular election;
- 13 (d) Initiate investigations or investigate alleged violations of election laws at the
14 request of a registered voter or on his or her own motion;
- 15 (e) Issue subpoenas for the production of any books, papers, correspondence,
16 memoranda or other records, and compel the attendance of witnesses that he
17 or she deems relevant to the purposes of any investigation;
- 18 (f) Present evidence of alleged violations to a grand jury; and
- 19 (g) File appropriate complaints in any court of competent jurisdiction.
- 20 (3) ~~[(a)]~~ The Attorney General shall be required to begin an independent inquiry for
21 any potential irregularities that may have occurred in each election in not fewer
22 than twelve (12) of Kentucky's counties, to be selected at random in a public
23 process, within twenty (20) days following each primary or regular election.
- 24 **(4) ~~[(b)]~~ *To validate the accuracy and fidelity of the vote tabulation, and fulfill the***
25 ***requirement for a risk-limiting audit, the Attorney General or his or her designee***
26 ***shall randomly select, in all counties of the Commonwealth, at least one (1) ballot***
27 ***scanner and one (1) race tabulated on that scanner for a hand-to-eye recount to***

1 be performed by each county clerk or his or her designee. The hand-to-eye
2 recount shall be defined and conducted as follows:

3 (a) The sealed ballot boxes and signed return sheet or record from election day,
4 as established in KRS 117.275, shall be provided by the county clerk at an
5 agreed upon location, and shall be accessible for public viewing. The sealed
6 ballots are only to be unsealed in the presence of the county clerk or his or
7 her designee and public witnesses;

8 (b) Two (2) qualified poll workers, not of the same political party, shall be
9 selected from lists of available volunteers, sworn in by the county clerk or
10 his or her designee to do the hand-to-eye recount, and compensated at the
11 local poll worker rate. A video recording device shall be used for recording
12 the event and it may be streamed for public Internet viewing;

13 (c) Ballots are to be aligned for stacking as needed, and then turned over, one
14 (1) at a time, with each volunteer making a tally mark on a tally sheet for
15 each vote cast for each candidate. Any ballots that are disputed or unclearly
16 marked shall be set aside and the county clerk or his or her designee shall
17 determine voter intent;

18 (d) Once the hand-to-eye recount is completed, each volunteer shall add up the
19 tally marks for each candidate, write down a total number of votes for each
20 candidate, and sign the tally sheet. The county clerk or his or her designee
21 shall verify if the two (2) separate hand-to-eye tallies match. If the two (2)
22 hand-to-eye tallies do not match each other, the process must be repeated
23 until the totals are matching. Once this occurs, the county clerk or his or
24 her designee shall also verify the tallies by signing each tally sheet. Then,
25 the ballots must be returned to the ballot box and resealed in the presence of
26 the county clerk or his or her designee and public witnesses;

27 (e) The county clerk or his or her designee shall compare the signed register

1 tape total from the vote tabulation machine on election day to the hand-to-
2 eye tallies. If there is a discrepancy between the machine count and the
3 hand-to-eye recount, other than instances of voter intent markings outside
4 the designated marking area on the paper ballot that were unreadable by
5 the scanner, or unscanned overvotes resulting from two (2) or more voter
6 intent marks on the same race, the county clerk or his or her designee shall
7 open an election investigation including a review of election day irregularity
8 reports. If more discrepancies are found, the county clerk or his or her
9 designee shall broaden his or her investigation until the reason for the
10 discrepancy is discovered and subsequently resolved. A determination as to
11 whether the outcome of the race could have been impacted by the
12 discrepancies shall be made and any findings shall be reported to the
13 Attorney General; and

14 (f) The county clerk or his or her designee shall examine the electronic or
15 paper sign-in records from the precinct or vote center and validate that the
16 ballots cast and recounted were less than or equal to the sign-in records for
17 that precinct or vote center. If the cast ballots for the precinct or vote center
18 exceed the number of voters on the sign-in records for the precinct or vote
19 center, the county clerk shall open an election investigation and report the
20 findings to the Attorney General.

21 (5) The Attorney General shall promulgate administrative regulations in accordance
22 with KRS Chapter 13A to establish a uniform procedure and timeline for his or her
23 agents to follow when conducting the independent inquiries and randomly
24 selecting tabulators and races for hand-to-eye recounts, with input from the
25 Kentucky County Clerk's Association. The administrative regulations shall also
26 designate the data and forms that shall be requested from each county that is
27 chosen.

1 **(6)** ~~[(e)]~~ The Attorney General shall report any~~[his or her]~~ findings to the grand jury
 2 of each county where the Attorney General determines that there are legal
 3 discrepancies or election irregularities~~[involved]~~, the chief circuit judge for the
 4 circuit in which the county is located, and the appropriate county clerk.

5 ~~(7)~~~~[(4)]~~ When the Registry of Election Finance concludes there is probable cause to
 6 believe a violation of election laws has occurred, it shall forward the matter to the
 7 Attorney General for prosecution. In the event the Attorney General or local
 8 prosecutor fails to prosecute the matter in a timely fashion, the registry's attorney
 9 may petition the Circuit Court to be appointed as a special prosecutor. Upon such
 10 motion timely filed, for good cause shown, the court shall enter an order to that
 11 effect.

12 ~~(8)~~~~[(5)]~~ When requested by the Attorney General, all state and local agencies and
 13 officials, including the Auditor of Public Accounts, Commonwealth's attorneys,
 14 county attorneys, Registry of Election Finance, Department of Kentucky State
 15 Police, sheriffs' departments and local police shall give all possible assistance to the
 16 Attorney General in the performance of his or her duties.

17 ➔ Section 2. KRS 117.383 is amended to read as follows:

18 The State Board of Elections shall promulgate administrative regulations under KRS
 19 Chapter 13A which shall maintain the maximum degree of correctness, impartiality, and
 20 efficiency of the procedures of voting and shall provide methods to:

- 21 (1) Count, tabulate, and record votes;
- 22 (2) Place items on any ballot which shall, as closely as possible, follow the
 23 requirements pertaining to ballots;
- 24 (3) Design the ballots to include a system to ensure an accurate record of all voting
 25 activities;
- 26 (4) Instruct voters in the use of the voting system, including any ballot marking device;
- 27 (5) Provide for checking the accuracy of the voting system;

- 1 (6) Provide necessary supplies, including those necessary for a write-in vote, to ensure
2 voter privacy;
- 3 ~~[(7) As part of the official canvass, provide for a manual recount of randomly selected
4 precincts representing three percent (3%) to five percent (5%) of the total ballots
5 cast in each election;]~~
- 6 ~~(7)~~~~[(8)]~~ Provide for the conducting and review of an audit of any component of a
7 voting system or any voting equipment, and a review of any audit log;
- 8 ~~(8)~~~~[(9)]~~—(a) Provide for the conducting and review of an election audit, including a
9 risk-limiting audit ***through a hand-to-eye recount as described in Section 1 of this***
10 ***Act***, ~~[and risk limiting audit pilot program, all of]~~which shall establish the protocol
11 by which ballots are checked, compared, and verified with the results produced by
12 vote tallying equipment to ensure accuracy[-.
- 13 ~~(b) The pilot program shall, at a minimum, include individuals representing the
14 State Board of Elections, the Office of the Secretary of State, and no fewer
15 than five percent (5%) of Kentucky's counties.~~
- 16 ~~(c) The risk limiting audit and risk limiting audit pilot program shall make the
17 results of its findings available to the public];~~
- 18 ~~(9)~~~~[(10)]~~ Provide a method for maintaining sufficient documents, including ballots and
19 records, so that votes can be recounted;
- 20 ~~(10)~~~~[(11)]~~ Ensure the county board of elections produces accurate precinct-by-precinct
21 summaries of tabulation sheets showing the results of each precinct during in-
22 person absentee voting, election day voting, and when a county is approved to use a
23 vote center;
- 24 ~~(11)~~~~[(12)]~~ Except as otherwise required in this chapter, all records and papers relating to
25 specified elections be retained for twenty-two (22) months, such documents and
26 records shall be maintained for thirty (30) days following an election; and
- 27 ~~(12)~~~~[(13)]~~ Unless contrary to the Help America Vote Act of 2002, ensure that all federal

1 provisional voting shall be conducted in a manner as prescribed by KRS Chapters
2 116 to 120.

3 → Section 3. KRS 117.295 is amended to read as follows:

4 (1) For a period of thirty (30) days following any election, the voting equipment shall
5 remain locked against voting, the ballot boxes containing all paper ballots shall
6 remain locked, and the voting equipment and ballot boxes shall be under video
7 surveillance. The system used to conduct the video surveillance shall have enough
8 storage capacity to retain sixty (60) consecutive days of continuous recording data.
9 The voting equipment and the ballot boxes may be opened and all the data and
10 figures therein examined:

- 11 (a) Upon the order of any court of competent jurisdiction, or judge thereof;
- 12 (b) By direction of any legislative committee or board authorized and empowered
13 to investigate and report upon contested elections;
- 14 (c) By a county clerk or his or her designee~~[board of elections]~~ under the
15 direction of the Attorney General~~[State Board of Elections]~~ pursuant to a risk-
16 limiting audit; or
- 17 (d) As required to conduct a recount under KRS 120.157.

18 All the data and figures shall be examined by the court, judge, county board of
19 elections, State Board of Elections, or committee in the presence of the officer
20 having the custody of the voting equipment, ballots, and ballot boxes. In the event
21 of a contest of election, the court in which the contest is pending or the committee
22 before which the contest is being heard may, upon motion of any party to the
23 contest, issue an order requiring that the voting equipment, ballots, and ballot boxes
24 shall remain continuously locked for further time as may be reasonable or
25 necessary, with due regard for the preparation of the voting equipment for a
26 succeeding primary, regular election, or special election, but in no event shall the
27 order compel that the voting equipment remain locked to a time within thirty (30)

1 days next preceding any approaching primary, regular election, or special election.
2 (2) During the period when the voting equipment and the ballot boxes are required to
3 be kept locked, the keys thereto shall remain in the possession of the county board
4 of elections. After that period, it shall be the duty of the county board of elections to
5 return the keys to the custody of the county clerk.