

CHAPTER 123**(HB 648)**

AN ACT relating to state personnel.

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

Section 1. KRS 18A.0551 is amended to read as follows:

- (1) (a) Elections to the board shall be scheduled every four (4) years on or before July 1. The **board**~~{cabinet}~~ shall provide written notification of the date of the election to all classified employees on or before May 1; and
 - (b) Upon receipt of the notification provided for by paragraph (a) of this subsection, an employee wishing to serve on the board shall notify the **board**~~{cabinet}~~, in writing, no later than June 1. This notification shall be notarized and shall include the candidate's name, address, Social Security number, job classification, and length of state employment. It shall also include the name and address of his current employer.
- (2) On the last working day of May, the cabinet shall certify a payroll **listing to the board** that is current on such day and that contains the name, Social Security number, and home address of every classified employee.
- (3) At least fifteen (15) working days prior to the election provided for in subsection (1) of this section, the **board**~~{cabinet}~~ shall mail to each classified employee whose name appeared on the payroll **listing** certified by the **cabinet**~~{department}~~ at his home address:
 - (a) A list of candidates for election to the board, in alphabetical order, with a brief biography following the name of each candidate;
 - (b) Instructions for voting;
 - (c) A ballot listing the names of all candidates for election to the board in alphabetical order and providing a blank space next to each name; and
 - (d) Two (2) envelopes for returning the ballot. Prior to mailing the envelopes to a state employee, one (1) envelope shall be addressed by the **board**~~{cabinet}~~ to the impartial third party selected by the **board**~~{cabinet}~~ to receive, validate, and tabulate the ballots at a post office box rented by the **board**~~{cabinet}~~ for the election. The upper left corner of the preaddressed or outer envelope shall contain a sufficient number of blank lines and spaces to permit an employee to print his name and address. The upper left corner of the second or inner envelope shall contain a sufficient number of blank lines and spaces to permit an employee to print his name, address, Social Security number, the date, and to affix his signature.
- (4) Upon receipt of his ballot, a classified employee wishing to participate in the election provided for in subsection (1) of this section shall:
 - (a) Vote for no more than two (2) candidates;
 - (b) Mark his ballot by placing a mark in the blank space next to the name of the candidate for whom he is casting his vote;
 - (c) Print his name and address in the upper left corner of the preaddressed or outer envelope provided by the **board**~~{cabinet}~~;

- (d) Print his name, address, Social Security number, the date, and affix his signature in the upper left corner of the second or inner envelope provided by the **board**~~[cabinet]~~;
 - (e) Seal his ballot in the second or inner envelope; and
 - (f) Seal the second or inner envelope in the preaddressed or outer envelope, affix a stamp to it, and post it.
- (5) The **board**~~[cabinet]~~ shall:
- (a) Select an impartial third party to receive, validate, and tabulate all returned ballots as provided by this subsection and subsection (6) of this section;
 - (b) Acquire a post office box to which all ballots shall be mailed; and
 - (c) Provide the impartial third party with a computer generated list of the names and Social Security numbers of eligible voters, with the names of the eligible voters in numerical sequence as determined by their Social Security numbers. The names and Social Security numbers listed on the list shall correspond to those appearing on the payroll certified by the cabinet under subsection (2) of this section.
- (6) The impartial third party selected by the **board**~~[cabinet]~~ shall collect all ballots, unopened, from the post office box. It shall:
- (a) Examine the postmark on each envelope;
 - (b) Set aside, unopened, any preaddressed or outer envelope postmarked with a date subsequent to the deadline provided for by this section;
 - (c) Remove the second or inner envelope from the preaddressed or outer envelope;
 - (d) Verify the name and Social Security number on the second or inner envelope by comparing them to the computer generated list of names and Social Security numbers of eligible voters provided by the cabinet;
 - (e) Set aside, unopened, any second or inner envelope containing a name and Social Security number that does not match the name and Social Security number appearing next to the name on the computer generated list;
 - (f) Tabulate the ballots by electronic data entry in duplicate, provided that ballots in envelopes specified in paragraphs (b) and (e) of this subsection shall not be counted;
 - (g) Compare the total tabulated vote with the total number of eligible employees appearing on the computer generated list provided by the cabinet;
 - (h) Return the ballots; envelopes, including envelopes that have not been opened; and other election material to the **board**~~[cabinet]~~; and
 - (i) Certify to the **board**~~[cabinet]~~:
 1. That the tabulation does not include two (2) or more ballots with the same Social Security number;
 2. The total number of ballots received;
 3. The total number of ballots not included in the tabulation, and the reason each such ballot was not included in the tabulation;
 4. The total number of ballots included in the tabulation; and

5. The total vote for each candidate.
- (7) For at least sixty (60) days after the completion of the tabulation provided for by subsection (6) of this section, the ballots, envelopes, and other election materials provided for by this section shall be public record and open to inspection, *but the home addresses and Social Security numbers of the eligible employees and voters shall be redacted prior to public inspection or disclosure.*
- (8) The two (2) candidates receiving the greatest number of votes shall be declared the successful candidates. In the event of a tie vote, the tie shall be broken by a coin toss in the presence of the candidates receiving the tie vote.
- (9) Successful candidates shall be notified by the ~~board~~^{cabinet} no later than five (5) working days after the election. Successful candidates shall take office immediately upon notification.
- (10) State employees shall not use state materials or equipment for any purpose related to the election of classified employees to the board, nor shall any activity related to the election of a classified employee to the board be conducted during working hours.

Section 2. KRS 18A.245 is amended to read as follows:

- (1) The authority shall be administered by a board of trustees composed of seven (7) members, who shall be as follows:
 - (a) Secretary, Finance and Administration Cabinet, ex officio;
 - (b) Secretary of personnel, ex officio;
 - (c) The state controller, ex officio; and
 - (d) Four (4) at-large members appointed by the Governor, one (1) of whom shall have at least five (5) years of investment or banking experience and one (1) of whom shall be a representative of a nonstate government employer.
- (2) The members of the board appointed by the Governor shall serve for a period of four (4) years and the ex officio members of the board shall serve only for the period of their term of office.
- (3) Any vacancy which may occur shall be filled in the same manner provided for the selection of the particular member for a full term. Vacancies shall be filled for the unexpired term only.
- (4) Membership on the board of trustees shall not be incompatible with any other office unless a constitutional incompatibility exists, and no member shall be subject to removal from office, except upon conviction of a felony, or of a misdemeanor involving moral turpitude.
- (5) Board members who do not otherwise receive a salary or compensation from the State Treasury shall receive a per diem of *one hundred dollars (\$100)*~~forty five dollars (\$45)~~ for each day they are in session or on official duty, and they shall be reimbursed for their actual and necessary expenses in accordance with state administrative regulations and standards applicable to state employees.
- (6) The board shall meet at least once in each quarter of the year, and may meet in special session upon the call of the chairman. It shall elect a chairman and a vice chairman. A majority of the members shall constitute a quorum, and all actions taken by the board shall be by affirmative vote of a majority of the members present.

- (7) The *authority*~~[Personnel Cabinet]~~ shall~~[-perform the administrative functions of the board, which shall]~~ be attached to the *Personnel* Cabinet for *administrative* purposes~~[-of administration]~~ only. The board may *take*, but is not limited to the following actions:
- (a) Appoint such employees as it deems necessary and fix the compensation for all employees of the board, subject to the approval of the secretary. The executive director of the authority and employees appointed by the board shall serve at its will and pleasure. All other staff of the authority shall be employed under KRS 18A.005 to 18A.200;
 - (b) Require such employees as it thinks proper to execute bonds for the faithful performance of their duties;
 - (c) Establish a system of accounting;
 - (d) Contract for such services as may be necessary for the operation or administration of deferred compensation plans authorized in KRS 18A.230 to 18A.275, including annual audits;
 - (e) Do all things, take all actions, and adopt plans for participation consistent with federal *law*~~[requirements]~~ and with the provisions of KRS 18A.230 to 18A.275, ***including but not limited to:***
 - 1. ***Amending the board's plan for the Kentucky Public Employees 401(k) Deferred Compensation Plan or the Kentucky Employees 457 Deferred Compensation Plan, or both such plans, to adopt, maintain, and terminate a deemed IRA program under Internal Revenue Code Section 408;***
 - 2. ***Amending the board's plan for the Kentucky Public Employees 401(k) Deferred Compensation Plan to adopt, maintain, and terminate a qualified Roth contribution program under Internal Revenue Code Section 402A; and***
 - 3. ***Adopting, maintaining, and terminating an Internal Revenue Code Section 403(b) plan for qualified employees.***
- (8) The Attorney General, or an assistant designated by him, may act as legal adviser and attorney for the board. The board may also appoint legal counsel in accordance with KRS Chapter 12.
- (9) The board shall prepare an annual financial report showing all receipts, disbursements, assets, and liabilities and shall submit a copy to the Governor and the Legislative Research Commission. All board meetings and records shall be open for inspection by the public.

Approved April 2, 2002