

CHAPTER 71

(HB 141)

AN ACT relating to elections.

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

SECTION 1. A NEW SECTION OF KRS CHAPTER 117 IS CREATED TO READ AS FOLLOWS:

- (1) *For purposes of this section "personal telecommunication device" means a device that emits an audible signal, vibrates, displays a message, or otherwise summons or delivers a communication to the possessor, including but not limited to a paging device or cellular telephone.*
- (2) *No election officer, voter, or other person permitted by law within the voting room, except for challengers appointed under KRS 117.315, shall use paper, telephone, a personal telecommunications device, or a computer or other information technology system, for the purpose of creating a checkoff list or otherwise recording the identity of voters within the voting room, except for the official use of the precinct signature roster that is furnished or approved by the State Board of Elections and is otherwise permitted by law.*

Section 2. KRS 117.035 is amended to read as follows:

- (1) There shall be a county board of elections, which shall, at the direction and under the supervision of the State Board of Elections, administer the election laws and the registration and purgation of voters within the county.
- (2)
 - (a) The board shall consist of the county clerk, the sheriff, and two (2) members appointed by the State Board of Elections not later than July 1 following the election of persons to statewide office, for a term of four (4) years and until their successors are appointed. The first board shall be appointed within one (1) month following December 1, 1972, and serve until successors are appointed in April, 1976.
 - (b) The sheriff shall not serve on the board during any year in which he is a candidate, but shall recommend to the board a temporary replacement to serve in his place, subject to approval by the board.
 - (c) The county clerk may, at his option, continue to serve on the board during a year in which he is a candidate. If the clerk elects not to serve, he shall recommend a temporary replacement to serve in his place, subject to approval by the board.
 - (d) If the board rejects a replacement recommended by the sheriff or the county clerk *under paragraph (b) or (c) of this subsection*, a new name shall be recommended until a temporary appointment is approved by the board.
 - (e) Notwithstanding the provisions of KRS 61.080, service on the board of elections shall be compatible with the holding of any other county or city office. The members shall be at least twenty-one (21) years of age, qualified voters in the county from which they are appointed, and shall not have been convicted of any election law offense. One (1) member shall be appointed from a list of five (5) names submitted by the county executive committee of each of the two (2) political parties that polled the largest number of votes in the state at the last preceding election for presidential electors. If there are two (2) or more contending executive committees of the same party in any county, the one recognized by the written certificate of the chairman of the state

central committee of the party shall be the one authorized to submit the lists. Appointees may be removed by the State Board of Elections for cause. A member appointed by the State Board of Elections may be removed upon a request approved by a two-thirds (2/3) vote of the county executive committee that submitted the member's name. If an appointee is temporarily unable to act, a temporary appointee shall be named by the State Board of Elections. A temporary appointee shall serve until the original appointee notifies the State Board of Elections that he is able to resume his term. ***A member appointed by the State Board of Elections shall not serve on the board if he or she is a candidate for public office, and the member shall resign upon filing papers to become a candidate for public office or shall be removed from office by the State Board of Elections. A member who resigns or is removed because of his or her candidacy shall not resume his or her term following the completion of the candidacy.*** Vacancies and temporary vacancies shall be filled in the same manner as provided for original appointments, and the person appointed to fill the vacancy or temporary vacancy shall be of the same political party as his predecessor.

- (f) Compensation and payment of actual expenses of members shall be set by the fiscal court either as an amount payable on an annual basis, or as an amount payable on a per diem basis of not less than fifteen dollars (\$15) nor more than one hundred dollars (\$100) for each day the board meets.
- (3) A majority of the board shall constitute a quorum. The county clerk shall serve as chairman of the meetings and may vote. In case of a tie, the chairman may cast an additional vote. Records shall be kept of all proceedings, and the records shall be public and kept at the office of the county clerk.
- (4) The board shall meet at least once a month and may meet more frequently if necessary. The board shall stay in session on election days to correct clerical errors and rule on questions regarding voter registration and may make to the election officers such certifications as may be necessary. On election days, appeals may be made to a Circuit Judge, but a ruling of the board shall be reversed only upon a finding that it was arbitrary and capricious.
- (5) In counties containing cities of the first and second class, the board may employ, on a bipartisan basis, a staff sufficient to carry out the duties assigned to the board.

Section 3. KRS 117.187 is amended to read as follows:

- (1) The State Board of Elections shall regularly provide special training regarding the election laws and methods of enforcement to all members of county boards of elections, county attorneys, Commonwealth's attorneys, and certain members of the Kentucky State Police.
- (2) The county board of elections shall provide special training before each primary and regular election to all election officers, alternates, and certified challengers regarding their duties and the penalties for failure to perform. Election officers, including alternates, and certified challengers shall attend the training session, unless excused by the county board of elections for reason of illness or other emergency. Any person who fails to attend a training session without being excused shall be prohibited from serving as an election officer or challenger for a period of five (5) years. The training provided by the county board of elections shall include, but not be limited to, the following:
- (a) Operation of the voting machine or ballot cards;
- (b) Posting of necessary signs and notices at the polling place;

- (c) Voter assistance;
 - (d) Maintaining precinct rosters;
 - (e) Confirmation of a voter's identity;
 - (f) Challenge of a voter;
 - (g) Completing changes of address or name at the polling place;
 - (h) Qualifications for voting in a primary election;
 - (i) Electioneering and exit polling;
 - (j) Write-in voting procedures;
 - (k) Persons who may be in the voting room;
 - (l) Election violations and penalties;
 - (m) Assistance which may be provided by law enforcement officers;~~{and}~~
 - (n) Election reports;
 - (o) *Disability awareness; and*
 - (p) *Provisional voting process.*
- (3) The county attorney shall attend the training session for election officers to assist in explaining the duties and penalties for failure to perform.
- (4) Compensation in the minimum amount of ten dollars (\$10) for reimbursement of actual expenses shall be paid by the county to the election officers for attending the training session.

Section 4. KRS 117.265 is amended to read as follows:

- (1) A voter may, at any regular or special election, cast a write-in vote for any person qualified as provided in subsection (2) or (3) of this section, whose name does not appear upon the ballot label as a candidate, by writing the name of his choice upon the appropriate device for the office being voted on provided on the voting machine as required by KRS 117.125. Any candidate for city office who is defeated in a partisan or nonpartisan primary election shall be ineligible as a candidate for the same office in the regular election. Any voter utilizing an absentee ballot for a regular or special election may write in a vote for any eligible person whose name does not appear upon the ballot, by writing the name of his choice under the office.
- (2) Write-in votes shall be counted only for candidates for election to office who have filed a declaration of intent to be a write-in candidate with the Secretary of State or county clerk, depending on the office being sought, not less than ten (10) days preceding the date of the regular or special election. ***The declaration of intent shall be filed no later than 4 p.m. local time at the place of filing when filed on the last date on which papers may be filed.*** The declaration of intent shall be on a form prescribed by the Secretary of State.
- (3) A person shall be ineligible as a write-in candidate for more than one (1) office in a regular or special election.
- (4) Persons who wish to run for President and Vice-President shall file a declaration of intent to be a write-in candidate, along with a list of presidential electors pledged to those candidates,

with the Secretary of State not less than ten (10) days preceding the date of the regular election for those offices. ***The declaration of intent shall be filed no later than 4 p.m. local time at the place of filing when filed on the last date on which papers may be filed.*** Write-in votes cast for the candidates whose names appear on the ballot shall apply to the slate of pledged presidential electors, whose names shall not appear on the ballot.

- (5) The county clerk shall provide to the precinct election officers certified lists of those persons who have filed declarations of intent as provided in subsections (2) and (3) of this section. Only write-in votes cast for qualified candidates shall be counted.
- (6) Two (2) election officers of opposing parties shall upon the request of any voter instruct the voter on how to cast a write-in vote.

Section 5. KRS 117.345 is amended to read as follows:

- (1) The cost of all elections held in any county shall be allowed by the fiscal court and paid by the county treasurer, except as otherwise provided by law.
- (2) When the cost of any election has been allowed by the fiscal court and paid by the county treasurer, and within sixty (60) days following the date of the election, the county treasurer shall certify a statement of the number of precincts in the county, the date, and kind of election to the State Board of Elections. The certification shall be filed within ninety (90) days after the election. Upon receipt of the certification and upon being satisfied as to the correctness thereof, the State Board of Elections shall issue its warrant upon the State Treasurer in favor of the county treasurer for the amount of two hundred fifty-five dollars (\$255) for each precinct in the county. ~~However, the State Board of Elections shall not remit to a county payment for election expenses for any precinct containing less than three hundred fifty (350) registered voters unless the county has received prior approval from the state board to establish a precinct containing less than three hundred fifty (350) registered voters.~~
- (3) Payments to any county under the provisions of subsection (2) of this section shall be terminated if and whenever it fails to renew a lease, contract, or lease and option with the State Property and Buildings Commission executed in connection with the acquisition of voting machines by the commission for the use of the county; and payments to any county shall be terminated whenever the county fails to pay any part of the rentals required for any effective period of the lease or if a county board of elections fails to provide training to precinct election officers required by KRS 117.187(2).

Section 6. KRS 117.900 is amended to read as follows:

- (1) The Secretary of State shall implement an annual statewide essay contest for students in grades nine (9) through twelve (12) and an annual statewide slogan contest, each to be relative to ***an elections-related topic to be chosen by the Secretary of State each year*** ~~[voting and registration]~~. The Secretary of State shall publicize the contests, present awards or certificates to the essay winner in each grade level and to the slogan contest winner in a public ceremony, and provide appropriate publicity for the winning entries.
- (2) The Secretary of State shall solicit sponsorship for the essay and slogan contests so that, in addition to awards or certificates, winners shall receive ***a monetary award*** ~~[the following amounts]~~, as funds are available from sponsors:
 - (a) ~~Essay contest winner in each grade, a one hundred dollar (\$100) United States savings bond; and~~

~~(b) Slogan contest winners, one thousand dollars (\$1,000) to the first place winner; five hundred dollars (\$500) to the second place winner; and two hundred fifty dollars (\$250) to the third place winner.~~

~~(3) The Secretary of State shall report his efforts toward development of sponsorship to the Legislative Research Commission annually, beginning in 1988. The report shall be presented at the October meeting, or the first meeting conducted after October if no meeting of the Legislative Research Commission is held during that month].~~

Section 7. KRS 118.105 is amended to read as follows:

- (1) Except as provided in subsections (3) and (4) of this section and in KRS 118.115, every political party shall nominate all of its candidates for elective offices to be voted for at any regular election at a primary election held as provided in this chapter, and the governing authority of any political party shall have no power to nominate any candidate for any elective office or to provide any method of nominating candidates for any elective office other than by primary elections as provided in this chapter.
- (2) Any political organization not constituting a political party as defined in KRS 118.015 may make its nominations as provided in KRS 118.325.
- (3) If a vacancy occurs in the nomination of an unopposed candidate or in a nomination made by the primary before the certification of candidates for the regular election made under KRS 118.215, because of death, disqualification to hold the office sought, or severe disabling condition which arose after the nomination, the governing authority of the party may provide for filling the vacancy, but only following certification to the governing authority, by the Secretary of State, that a vacancy exists for a reason specified in this subsection. When such a nomination has been made, the certificate of nomination shall be signed by the chairman and secretary of the governing authority of the party making it, and shall be filed in the same manner as certificates of nomination at a primary election.
- (4) If a vacancy occurs in the nomination of an unopposed candidate or in a nomination made by the primary before the certification of candidates for the regular election, and if that party's nominee was the only *political party* candidate for the office sought, the governing authority of each party may nominate a candidate for the regular election, provided that no person has sought that party's nomination by filing a notification and declaration.
- (5) If a vacancy occurs in the nomination of a candidate under the conditions of subsections (3) or (4) of this section after the certification of candidates for the regular election but not later than the second Thursday preceding the date of the regular election, certificates of nomination for replacement candidates shall be filed in the same manner as provided in subsections (3) and (4) not later than 4 p.m. five (5) days after the vacancy occurs.
- (6) If a vacancy in candidacy described in subsection (5) of this section occurs later than the second Thursday preceding the date of the regular election, no certificates of nomination shall be filed and any candidate whose name does not appear on the ballot may seek election by write-in voting pursuant to KRS 117.265.
- (7) This section does not apply to candidates for members of boards of education, or presidential electors, nor to candidates participating in nonpartisan elections.

Section 8. KRS 118.315 is amended to read as follows:

- (1) A candidate for any office to be voted for at any regular election may be nominated by a petition of electors qualified to vote for him, complying with the provisions of subsection (2) of this section. No person whose registration status is as a registered member of a political party shall be eligible to election as an independent candidate, nor shall any person be eligible to election as an independent candidate whose registration status was as a registered member of a political party on January 1 immediately preceding the regular election for which the person seeks to be a candidate. This restriction shall not apply to candidates to those offices specified in KRS 118.105(7), for supervisor of a soil and water conservation district, for candidates for mayor or legislative body in cities of the second to sixth class, or to candidates participating in nonpartisan elections.
- (2) The form of the petition shall be prescribed by the State Board of Elections. It shall be signed by the candidate and by registered voters from the district or jurisdiction from which the candidate seeks nomination. The petition shall include a declaration, sworn to by the candidate, that he or she possesses all the constitutional and statutory requirements of the office for which the candidate has filed. Signatures for a petition of nomination for a candidate seeking any office, ***excluding President of the United States in accordance with KRS 118.591(1)***, shall not be solicited prior to the first Wednesday after the first Monday in November of the year preceding the year in which the office will appear on the ballot. A petition of nomination for a state officer, or any officer for whom all the electors of the state are entitled to vote, shall contain five thousand (5,000) petitioners; for a representative in Congress from any congressional district, or for any officer from any other district except as herein provided, four hundred (400) petitioners; for a county officer, member of the General Assembly, or Commonwealth's attorney, one hundred (100) petitioners; for a soil and water conservation district supervisor, twenty-five (25) petitioners; for a city officer, two (2) petitioners; and for an officer of a division less than a county, except as herein provided, twenty (20) petitioners. It shall not be necessary that the signatures of the petition be appended to one (1) paper. Each petitioner shall include his ***address of*** residence, Social Security number or date of birth~~, and post office address~~. Failure of a voter to include his Social Security number or date of birth and address ***of residence*** shall result in his signature not being counted. If any person joins in nominating, by petition, more than one (1) nominee for any office to be filled, he shall be counted as a petitioner for the candidate whose petition is filed first, except a petitioner for the nomination of candidates for soil and water conservation district supervisors may be counted for every petition to which his signature is affixed.
- (3) Titles, ranks, or spurious phrases shall not be accepted on the filing papers and shall not be printed on the ballots as part of the candidate's name; however, nicknames, initials, and contractions of given names may be accepted as the candidate's name.
- (4) The Secretary of State and county clerks shall examine the petitions of all candidates who file with them to determine whether each petition is regular on its face. If there is an error, the Secretary of State or the county clerk shall notify the candidate by certified mail within twenty-four (24) hours of filing.

Section 9. KRS 118.367 is amended to read as follows:

- (1) An independent candidate required to file nomination papers pursuant to KRS 118.365(5) shall be required to file a statement-of-candidacy form with the same office at which nomination papers are filed. ***Candidates for federal office and candidates for mayor or legislative body in cities of the second to sixth class participating in partisan elections***

shall not be required to file a statement-of-candidacy form. The statement-of-candidacy form shall be filed not earlier than the first Wednesday after the first Monday in November of the year preceding the year in which the office will appear on the ballot and not later than April 1 preceding the day fixed by law for holding of general elections for the offices sought. If the office in which the statement-of-candidacy form is to be filed is closed on April 1, the form may be filed on the next business day. The statement-of-candidacy form shall be filed no later than 4 p.m. local time when filed on the last day on which papers are permitted to be filed. No person shall file a statement-of-candidacy form for more than one (1) public office during an election cycle.

- (2) The statement-of-candidacy form shall be prescribed by the State Board of Elections. The statement-of-candidacy form shall be signed by the candidate upon filing. No charge shall be assessed for the filing of a statement-of-candidacy form. The Secretary of State and county clerks shall examine the statement-of-candidacy form of each candidate who files the form to determine if there is an error. If an error has occurred, the candidate shall be notified by certified mail within twenty-four (24) hours.

Approved March 16, 2005.