

CHAPTER 91**(HB 266)**

AN ACT relating to gubernatorial power to reschedule elections during a state of emergency.

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

Section 1. KRS 39A.100 is amended to read as follows:

- (1) In the event of the occurrence or threatened or impending occurrence of any of the situations or events contemplated by KRS 39A.010, 39A.020, or 39A.030, the Governor may declare, in writing, that a state of emergency exists. The Governor shall have and may exercise the following emergency powers during the period in which the state of emergency exists:
 - (a) To enforce all laws, and administrative regulations relating to disaster and emergency response and to assume direct operational control of all disaster and emergency response forces and activities in the Commonwealth;
 - (b) To require state agencies and to request local governments, local agencies, and special districts to respond to the emergency or disaster in the manner directed;
 - (c) To seize, take, or condemn property for the protection of the public or at the request of the President, the Armed Forces, or the Federal Emergency Management Agency of the United States, including:
 1. All means of transportation and communication;
 2. All stocks of fuel of whatever nature;
 3. Food, clothing, equipment, materials, medicines, and all supplies; and
 4. Facilities, including buildings and plants;
 - (d) To sell, lend, give, or distribute any of the property under paragraph (c) of this subsection among the inhabitants of the Commonwealth and to account to the State Treasurer for any funds received for the property;
 - (e) To make compensation for the property seized, taken, or condemned under paragraph (c) of this subsection;
 - (f) To exclude all nonessential, unauthorized, disruptive, or otherwise uncooperative personnel from the scene of the emergency, and to command those persons or groups assembled at the scene to disperse. A person who refuses to leave an area in which a written order of evacuation has been issued in accordance with a written declaration of emergency or a disaster may be forcibly removed to a place of safety or shelter, or may, if this is resisted, be arrested by a peace officer. Forcible removal or arrest shall not be exercised as options until all reasonable efforts for voluntary compliance have been exhausted;
 - (g) To declare curfews and establish their limits;
 - (h) To prohibit or limit the sale or consumption of goods or commodities for the duration of the emergency;
 - (i) To perform and exercise other functions, powers, and duties deemed necessary to promote and secure the safety and protection of the civilian population;~~and~~

- (j) To request any assistance from agencies of the United States as necessary and appropriate to meet the needs of the people of the Commonwealth; **and**
 - (k) *Upon the recommendation of the Secretary of State, to declare by executive order a different time or place for holding state elections in an election district for which a state of emergency has been declared for part or all of the election district. The election shall be held within twenty (20) days from the date of the suspended or delayed election. The State Board of Elections shall establish procedures for election officials to follow.*
- (2) In the event of the occurrence or threatened or impending occurrence of any of the situations or events contemplated by KRS 39A.010, 39A.020, or 39A.030, which in the judgment of a local chief executive officer is of such severity or complexity as to require the exercise of extraordinary emergency measures, the county judge/executive of a county other than an urban-county government, or mayor of a city or urban-county government, or chief executive of other local governments or their designees as provided by ordinance of the affected county, city, or urban-county may declare in writing that a state of emergency exists, and thereafter, subject to any orders of the Governor, shall have and may exercise for the period as the state of emergency exists or continues, the following emergency powers:
- (a) To enforce all laws and administrative regulations relating to disaster and emergency response and to direct all local disaster and emergency response forces and operations in the affected county, city, urban-county, or charter county;
 - (b) To exclude all nonessential, unauthorized, disruptive, or uncooperative personnel from the scene of the emergency, and to command persons or groups of persons at the scene to disperse. A person who refuses to leave an area in which a written order of evacuation has been issued in accordance with a written declaration of emergency or a disaster may be forcibly removed to a place of safety or shelter, or may, if this is resisted, be arrested by a peace officer. Forcible removal or arrest shall not be exercised as options until all reasonable efforts for voluntary compliance have been exhausted;
 - (c) To declare curfews and establish their limits;
 - (d) To order immediate purchase or rental of, contract for, or otherwise procure, without regard to procurement codes or budget requirements, the goods and services essential for protection of public health and safety or to maintain or to restore essential public services; and
 - (e) To request emergency assistance from any local government or special district and, through the Governor, to request emergency assistance from any state agency and to initiate requests for federal assistance as are necessary for protection of public health and safety or for continuation of essential public services.

Section 2. KRS 117.015 is amended to read as follows:

- (1) There shall be a State Board of Elections which shall administer the election laws of the state and supervise registration and purgation of voters within the state. The board:
 - (a) May ***promulgate***~~adopt~~ administrative regulations necessary to properly carry out its duties; **and**

(b) Shall promulgate administrative regulations establishing a procedure for elections officials to follow when an election has been suspended or delayed as described in Section 1 of this Act.

- (2) The board shall consist of the Secretary of State and six (6) members to be appointed by the Governor as provided in this subsection. The Secretary of State shall serve as the chairman of the state board and the chief election official for the Commonwealth. The members shall serve for a term of four (4) years or until their successors are appointed. Members shall be at least twenty-five (25) years of age and qualified voters of this state. No appointed member shall be a candidate for public office, have been a candidate for public office for two (2) years prior to his appointment, or have been convicted of any election law offense. Two (2) members shall be appointed by the Governor from a separate list of at least five (5) names submitted by the state central executive committee of each of the two (2) political parties that polled the largest vote in the last preceding election for state officials. The list shall be submitted to the Governor by February 15 of 1992, and the appointments of the Governor shall be made by April 1 of the same year. Two (2) separate lists shall be submitted to the Governor by August 15 of 1990 and every four (4) years thereafter, and two (2) appointments shall be made from these lists by September 15 of each year in which the lists are received. Vacancies shall be filled in the same manner as provided for original appointments, and the person appointed to fill the vacancy shall be of the same political party as his predecessor.
- (3) The board shall meet as often as necessary to carry out its duties and shall keep a record of its acts, orders, findings, and proceedings. A majority of the board shall constitute a quorum. The Secretary of State shall preside at the meetings and may vote.
- (4) The members of the board shall be paid a reasonable sum to be fixed by the secretary of the Personnel Cabinet, with the approval of the secretary of the Finance and Administration Cabinet, and in addition, their expenses in attending board meetings. The compensation shall be paid out of the State Treasury upon requisition signed by the chairman of the board and approved by the secretary of the Finance and Administration Cabinet.

Approved March 16, 2005.