

## CHAPTER 23

## ( HB 114 )

AN ACT relating to elections and declaring an emergency.

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

➔Section 1. KRS 118.367 is amended to read as follows:

- (1) An independent, or political organization, or political group 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 home rule 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 *the last Tuesday in January*~~[April 1]~~ preceding the day fixed by law for holding of regular 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.

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

- (1) There shall be a State Board of Elections *that is an independent agency of state government*, which shall administer the election laws of the state and supervise registration and purgation of voters within the state. The board:
  - (a) May promulgate 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 KRS 39A.100.
- (2) The board shall consist of the *following*:
  - (a) *The Secretary of State, who shall be an ex officio, nonvoting member, and who shall also serve as the chief election official for the Commonwealth;*~~[and]~~
  - (b) *Two (2) members appointed by the Governor as provided in subsection (6) of this section;*
  - (c) *Six (6) voting members*~~[to be]~~ appointed by the Governor as provided in *subsection (5) of this section; and*~~[subsection. The Secretary of State shall serve as the chairman of the state board and the chief election official for the Commonwealth]~~
  - (d) *An executive director appointed in accordance with Section 3 of this Act, who may vote only to break a tie regarding selection of the chair of the board.*
- (3) *A chair of the board, who is a then-current voting member of the board, shall be elected as chair of the board by a majority of the voting members who serve on the board. The chair shall preside at the meetings of the board and vote on matters before the board.*
- (4) 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 ~~or~~~~;~~ have been a candidate for public office for two (2) years prior to his ~~or her~~ appointment, *except as provided in subsection (2)(b) of this section. No member of the board shall*~~;~~~~or~~ have been convicted of any election law offense.
- (5) 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.

- (6) *Two (2) members shall be appointed by the Governor from a separate list of at least four (4) names submitted by the Kentucky County Clerk's Association of each of the two (2) political parties that polled the largest vote in the last preceding regular election for state officials. Each of the two (2) members appointed under this subsection shall be former county clerks. The lists required under this subsection shall be submitted to the Governor by July 15 of 2019 and every four (4) years thereafter. The appointments made by the Governor under this subsection shall be made by August 15 of 2019 and every four (4) years thereafter.*
- (7) 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 *or her* predecessor.
- (8)~~(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.}~~
- (9)~~(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 *chair*~~chairman~~ of the board and approved by the secretary of the Finance and Administration Cabinet.

➔Section 3. KRS 117.025 is amended to read as follows:

- (1) The State Board of Elections shall appoint an executive director, who shall be the chief administrative officer for the board. The board shall also appoint an assistant ~~to the~~ director, who shall be of a different political party than the director. The salaries of the director and *the*~~his~~ assistant *director* shall be set by the board.
- (2) The State Board of Elections shall employ, on a bipartisan basis, a staff sufficient to carry out the duties assigned to the board, including legal counsel and a training officer to provide assistance to the county clerks and the county boards of elections in their training of precinct election officers.
- (3) The board shall:
- (a) Maintain a complete roster of all qualified registered voters within the state by county and precinct, *and institute appropriate safeguards to ensure that there is no inappropriate use of the voter registration roster. State and local election officials, including the Secretary of State, employees of the Secretary, and members of the State Board of Elections and their staff, shall only use the voter registration roster for purposes relevant to their prescribed duties of election administration. The Secretary of State, and two (2) employees of the Secretary, who may be designated by the Secretary with explicit written authority and notification to the board, shall have electronic access to the information contained within the voter registration roster, but shall not correct, alter, or delete information from the voter registration roster, unless having obtained prior approval by a majority of the voting members of the board;*
  - (b) For each primary ~~election~~, furnish each county clerk with a master list of all registered voters in the county, together with three (3) signature rosters of all registered voters in each precinct of the county according to party affiliation, and two (2) lists of all registered voters in each precinct of the county at least five (5) days prior to each primary ~~election~~;
  - (c) For each regular election, furnish each county clerk with a master list of all registered voters in the county, together with one (1) signature roster of all registered voters in each precinct of the county on which each voter's party affiliation is identified, and two (2) lists of all registered voters in each precinct of the county at least five (5) days prior to each regular election;
  - (d) Maintain all information furnished to the board relating to the inclusion or deletion of names from the rosters for four (4) years;
  - (e) Furnish, at a reasonable price, the state central executive committee of each political party qualifying under KRS 118.015 monthly data of all additions, deletions and changes of registration in each precinct

of each county and the state central executive committee shall furnish a county listing to each of the county executive committees of each political party;

- (f) Purchase, lease or contract for the use of equipment necessary to properly carry out its duties under the provisions of this chapter and KRS Chapters 116 and 118;
- (g) Secure information from any source which may assist the board in carrying out the purposes of this section;
- (h) Furnish at a reasonable price any and all precinct lists to duly qualified candidates, political party committees or officials thereof, or any committee that advocates or opposes an amendment or public question. The State Board of Elections may also furnish the precinct lists to other persons at the board's discretion, at a reasonable price *to be determined by the board*. The board shall not furnish precinct lists to persons who intend to use the lists for commercial use; *and*
- (i) ***Be responsible for oversight of board personnel, including hiring, investigations, disciplinary actions, promotions, and other like actions subject to KRS Chapter 18A.***

➔Section 4. KRS 117.995 is amended to read as follows:

- (1) Any person appointed to serve as an election officer but who shall knowingly and willfully fail to serve and who is not excused by the county board of elections for the reasons specified in this chapter shall be guilty of a violation and shall be ineligible to serve as an election officer for a period of five (5) years.
- (2) Any county clerk or member of the county board of elections who knowingly and willfully violates any of the provisions of this chapter, including furnishing applications for absentee ballots to persons other than those specified by the provisions of this chapter and failure to type the name of the voter on the application form as required by the provisions of this chapter, shall be guilty of a Class D felony.
- (3) Any officer who willfully fails to prepare or furnish ballot labels or absentee ballots or fails to allow a qualified voter to cast his or her vote on the machine as required of the voter by this chapter shall be guilty of a Class A misdemeanor.
- (4) Any election officer who knowingly and willfully violates any of the provisions of this chapter, including failure to enforce the prohibition against electioneering established by KRS 117.235, shall be guilty of a Class A misdemeanor for the first offense and a Class D felony for each subsequent offense.
- (5) Any person who signs a name other than his or her own on an application for an absentee ballot or on the verification form for the ballot or on an emergency absentee ballot affidavit, or any person who votes an absentee ballot other than the one issued in his or her name, or any person who applies for the ballot for the use of anyone other than himself or herself or the person designated by the provisions of this chapter, or any person who makes a false statement on an application for an absentee ballot or on an emergency absentee ballot affidavit shall be guilty of a Class D felony.
- (6) Any person who violates any provision of KRS 117.235 or 117.236 related to prohibited activities during absentee voting or on election day, after he or she has been duly notified of the provisions by any precinct election officer, county clerk, deputy county clerk, or other law enforcement official, shall, for each offense, be guilty of a Class A misdemeanor.
- (7) Any person who knowingly and willfully prepares or assists in the preparation of an inaccurate or incomplete voter assistance form or fails to complete a voter assistance form when required shall be guilty of a Class A misdemeanor for the first offense and a Class D felony for each subsequent offense; however, if a voter has been permanently certified as requiring voting assistance, there shall be no offense for the failure of the voter to complete the form.
- (8) The members of a county board of elections that fails to provide the training to precinct election officers required by KRS 117.187(2) shall be subject to removal by the State Board of Elections.
- (9) ***Any local or state election official, including the Secretary of State, employees of the Secretary, and members of the State Board of Elections and their staff, who knowingly and willfully uses the voter registration roster in violation of subsection (3)(a) of Section 3 of this Act, shall, for each offense, be guilty of a Class A misdemeanor.***

➔Section 5. KRS 117A.010 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

- (1) "Covered voter" means:
- (a) A uniformed-service voter or an overseas voter who is registered to vote in the Commonwealth of Kentucky;
  - (b) A uniformed-service voter defined in subsection (9)(a) of this section whose voting residence is in the Commonwealth of Kentucky and who otherwise satisfies the Commonwealth of Kentucky's voter eligibility requirements;
  - (c) An overseas voter who, before leaving the United States, was last eligible to vote in the Commonwealth of Kentucky and, except for his or her absence from the state, otherwise satisfies the Commonwealth of Kentucky's voter eligibility requirements;
  - (d) An overseas voter who, before leaving the United States, would have been last eligible to vote in the Commonwealth of Kentucky had the voter then been of voting age and, except for his or her absence from the state, otherwise satisfies the Commonwealth of Kentucky's voter eligibility requirements; or
  - (e) An overseas voter who was born outside the United States, is not described in paragraph (c) or (d) of this subsection, and, except for his or her absence from the state, otherwise satisfies the Commonwealth of Kentucky's voter eligibility requirements, if:
    1. The last place where a parent or legal guardian of the voter was, or under this chapter would have been, eligible to vote before leaving the United States is within the Commonwealth of Kentucky; and
    2. The voter has not previously registered to vote in any other state;
- (2) "Dependent" means an individual recognized as a dependent by a uniformed service;
- (3) "Federal postcard application" means the application prescribed under *the Registration and Voting by Absent Uniformed Services Voters and Overseas Voters in Elections for Federal Office Act, 52 U.S.C. secs. 20301 to 20311*~~[Section 101(b)(2) of the Uniformed and Overseas Citizens Absentee Voting Act, 42 U.S.C. sec. 1973ff(b)(2)]~~;
- (4) "Federal write-in absentee ballot" means the ballot described in *the Registration and Voting by Absent Uniformed Services Voters and Overseas Voters in Elections for Federal Office Act, 52 U.S.C. secs. 20301 to 20311*~~[Section 103 of the Uniformed and Overseas Citizens Absentee Voting Act, 42 U.S.C. sec. 1973ff 2]~~;
- (5) "Military-overseas ballot" means:
- (a) A federal write-in absentee ballot;
  - (b) A ballot specifically prepared or distributed for use by a covered voter in accordance with this chapter; or
  - (c) A ballot cast by a covered voter in accordance with this chapter;
- (6) "Overseas voter" means a United States citizen who is outside the United States;
- (7) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States;
- (8) "Uniformed service" means:
- (a) Active and reserve components of the Army, Navy, Air Force, Marine Corps, or Coast Guard of the United States;
  - (b) The Merchant Marine, the commissioned corps of the Public Health Service, or the commissioned corps of the National Oceanic and Atmospheric Administration of the United States; or
  - (c) The National Guard and state militia;
- (9) "Uniformed-service voter" means an individual who is qualified to vote and is:
- (a) A member of the active or reserve components of the Army, Navy, Air Force, Marine Corps, or Coast Guard of the United States who is on active duty;
  - (b) A member of the Merchant Marine, the commissioned corps of the Public Health Service, or the commissioned corps of the National Oceanic and Atmospheric Administration of the United States;
  - (c) A member on activated status of the National Guard or state militia; or

(d) A spouse or dependent of a member referred to in this subsection; and

- (10) "United States," used in the territorial sense, means the several states, the District of Columbia, Puerto Rico, the United States Virgin Islands, and any territory or insular possession subject to the jurisdiction of the United States.

➔Section 6. KRS 117A.030 is amended to read as follows:

- (1) The *State Board of Elections* ~~is~~ ~~Secretary of State is the state official~~ responsible for implementing this chapter and the Commonwealth of Kentucky's responsibilities under the *Registration and Voting by Absent Uniformed Services Voters and Overseas Voters in Elections for Federal Office Act, 52 U.S.C. secs. 20301 to 20311* ~~Uniformed and Overseas Citizens Absentee Voting Act, 42 U.S.C. secs. 1973ff et seq.~~
- (2) The *State Board of Elections shall have the authority to promulgate* ~~Secretary of State may delegate to the State Board of Elections responsibilities under this chapter, including but not limited to the promulgation of~~ administrative regulations necessary to implement this chapter.
- (3) The *State Board of Elections* ~~Secretary of State~~ shall make available to covered voters information regarding voter registration procedures for covered voters and procedures for casting military-overseas ballots.
- (4) The *State Board of Elections* ~~Secretary of State~~ shall establish an electronic transmission system through which a covered voter may apply for and receive voter registration materials, military-overseas ballots, and other information authorized under this chapter.
- (5) The *State Board of Elections* ~~Secretary of State~~ shall:
  - (a) Develop standardized absentee-voting materials, including privacy and transmission envelopes and their electronic equivalents, authentication materials, and voting instructions, to be used with the military-overseas ballot of a voter authorized to vote in any jurisdiction in the Commonwealth of Kentucky; and
  - (b) To the extent reasonably possible, coordinate with other states to carry out this section.
- (6) The *State Board of Elections* ~~Secretary of State~~ shall prescribe the form and content of a declaration for use by a covered voter to swear or affirm specific representations pertaining to the voter's identity, eligibility to vote, status as a covered voter, and timely and proper completion of a military-overseas ballot. The declaration shall be based on the declaration prescribed to accompany a federal write-in absentee ballot, as modified to be consistent with this chapter. The *State Board of Elections* ~~Secretary of State~~ shall ensure that a form for the execution of the declaration, including an indication of the date of execution of the declaration, is a prominent part of all balloting materials for which the declaration is required.

➔Section 7. KRS 117A.040 is amended to read as follows:

- (1) In registering to vote, an overseas voter who is eligible to vote in the Commonwealth of Kentucky shall use and shall be assigned to the voting precinct of the address of the last place of residence of the voter in the Commonwealth of Kentucky, or, in the case of a voter described by KRS 117A.010(1)(e), the address of the last place of residence in the Commonwealth of Kentucky of the parent or legal guardian of the voter. If that address is no longer a recognized residential address, the voter shall be assigned an address for voting purposes.
- (2) The *State Board of Elections* ~~Secretary of State~~ shall promulgate administrative regulations covering the procedures for assigning an address for voting purposes for an overseas voter whose last place of residence is no longer a recognized residential address, provided that any regulations promulgated under this section shall specify that the overseas voter's assigned address shall be located in the same voting precinct as the overseas voter's last place of residence would have been located if the address were still a recognized residential address.

➔Section 8. KRS 117A.050 is amended to read as follows:

- (1) To apply to register to vote, in addition to any other approved method, a covered voter may use a federal postcard application, or the application's electronic equivalent.
- (2) A covered voter may use the declaration accompanying a federal write-in absentee ballot to apply to register to vote simultaneously with the submission of the federal write-in absentee ballot, if the declaration is received during the period registration is open under KRS 116.045. If the declaration is received after the last day of registration under KRS 116.045, it shall be treated as an application to register to vote for subsequent elections.

- (3) The *State Board of Elections* ~~Secretary of State~~ shall ensure that the electronic transmission system described in KRS 117A.030(4) is capable of accepting both a federal postcard application and any other approved electronic registration application sent to the appropriate election official. The voter may use the electronic transmission system or any other approved method to register to vote.

➔Section 9. KRS 117A.060 is amended to read as follows:

- (1) A covered voter who is registered to vote in the Commonwealth of Kentucky may apply for a military-overseas ballot using either the regular absentee ballot application in use in the voter's jurisdiction under KRS 117.085, ~~or~~ the federal postcard application, or the application's electronic equivalent.
- (2) A covered voter who is not registered to vote in the Commonwealth of Kentucky may use a federal postcard application, or the application's electronic equivalent, to apply simultaneously to register to vote under KRS 117A.050, and for a military-overseas ballot.
- (3) The *State Board of Elections* ~~Secretary of State~~ shall ensure that the electronic transmission system described in KRS 117A.030(4) is capable of accepting the submission of both a federal postcard application and any other approved electronic military-overseas ballot application sent to the appropriate election official. The covered voter may use the electronic transmission system or any other approved method to apply for a military-overseas ballot.
- (4) A covered voter may use the declaration accompanying a federal write-in absentee ballot as an application for a military-overseas ballot simultaneously with the submission of the federal write-in absentee ballot, if the declaration is received by the appropriate election official by the close of business hours seven (7) days before the election.
- (5) To receive the benefits of this chapter, a covered voter shall inform the appropriate election official that the voter is a covered voter. Methods of informing the appropriate election official that a voter is a covered voter include:
  - (a) The use of a federal postcard application or federal write-in absentee ballot; and
  - (b) The use of the electronic transmission system established under KRS 117A.030(4).
- (6) This chapter does not preclude a covered voter from voting using the regular absentee ballot provisions under KRS 117.075, 117.077, 117.085, and 117.086.

➔Section 10. KRS 117A.130 is amended to read as follows:

The *State Board of Elections* ~~Secretary of State~~, in coordination with local election officials, shall implement an electronic free-access system by which a covered voter may determine by telephone, electronic mail, or Internet whether:

- (1) The voter's federal postcard application or other registration or military-overseas ballot application has been received and accepted; and
- (2) The voter's military-overseas ballot has been received.

➔Section 11. KRS 117A.150 is amended to read as follows:

- (1) At least fifty (50) days before a regularly scheduled election and forty-five (45) days before an election not regularly scheduled, an official in each jurisdiction charged with printing and distributing ballots and balloting material shall make available a sample ballot that includes all of the ballot measures and federal, state, and local offices provided in KRS 117A.020 that will be on the ballot on the date of the election, and shall provide an electronic copy of the sample ballot to the Secretary of State *and to the State Board of Elections*.
- (2) The *State Board of Elections*, Secretary of State, and any local election jurisdiction that maintains an Internet Web site shall make the sample ballot required under subsection (1) of this section available on their Web sites.
- (3) A covered voter may request a copy of a sample ballot from ~~either~~ the Secretary of State, ~~or~~ the local election official, *or the State Board of Elections*, who shall send the sample ballot to the voter by facsimile, electronic mail, or regular mail, as the voter requests.

➔Section 12. Whereas ensuring proper access to the voter registration roster is a compelling and immediate need, as well as making a new delegation of authority to oversee the Uniform Military and Overseas Voters Act, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

**Signed by Governor March 19, 2019.**