

CHAPTER 172**(HB 618)**

AN ACT relating to elections.

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

➔Section 1. KRS 117.001 is amended to read as follows:

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

- (1) "Audit log" means a detailed record of all actions and events that have occurred on the voting system, including:
 - (a) Log-in attempts with username and time stamp;
 - (b) Election definition and setup;
 - (c) Ballot preparation and results processing;
 - (d) Diagnostics of any type; and
 - (e) Error and warning messages and operator response;
- (2) "Automatic tabulating equipment" means apparatus necessary to automatically examine and count votes as designated on ballots and data processing machines which can be used for counting ballots and tabulating results;
- (3) "Ballot" or "official ballot" means the official presentation of offices and candidates to be voted for, including write-in candidates, and all public questions submitted for determination, and shall include a voting machine ballot, a paper ballot, an absentee ballot, a federal provisional ballot, a federal provisional absentee ballot, or a supplemental paper ballot which has been authorized for the use of voters in any primary, regular election, or special election by the Secretary of State or the county clerk;
- (4) "Ballot box" means any box, bag, or other container that can be locked, sealed, or otherwise rendered tamper-resistant, for receiving ballots;
- (5) "Ballot marking device" means any approved device for marking a ballot which will enable the ballot to be tabulated manually or by means of automatic tabulating equipment;
- (6) "Election" or "elections" means any primary, regular election, or special election;
- (7) ***"E-poll book" means an electronic device capable of holding a file of voter data and related information for use in identifying registered voters prior to a voter's receiving or casting a ballot, and allowing a voter to electronically sign in on an electronic registered voter roster in lieu of signing a paper registered voter roster;***
- (8) "Federal provisional voter" means a person:
 - (a) Who does not appear to be registered to vote;
 - (b) Whose name does not appear on the precinct roster;
 - (c) Who has not provided proof of identification to the precinct election officer before voting in a federal election; and
 - (d) Who elects to proceed with voting a federal provisional ballot under KRS 117.229;
- ~~(9)~~~~(8)~~ "Federal provisional ballot" or "federal provisional absentee ballot" means ballots which have been authorized by the Secretary of State or the county clerk to be used by federal provisional voters in any federal primary or election;
- ~~(10)~~~~(9)~~ "Inner envelope" or "secrecy envelope" means the envelope provided to the voter with a ballot into which the voter shall place his or her voted ballot;
- ~~(11)~~~~(10)~~ "Political group" has the same meaning as in KRS 118.015;
- ~~(12)~~~~(11)~~ "Political organization" has the same meaning as in KRS 118.015;

- ~~(13)~~~~(12)~~ "Precinct ballot counter" means an automatic tabulating device used at the precinct to tabulate and process ballots;
- ~~(14)~~~~(13)~~ "Proof of identification" means a document that was issued by:
- (a) The United States or the Commonwealth of Kentucky, and the document contains:
 1. The name of the individual to whom the document was issued; and
 2. A photograph of the individual to whom the document was issued;
 - (b) The United States Department of Defense, a branch of the uniformed services, the Merchant Marine, or the Kentucky National Guard, and the document contains:
 1. The name of the individual to whom the document was issued; and
 2. A photograph of the individual to whom the document was issued;
 - (c) A public or private college, university, or postgraduate technical or professional school located within the United States, and the document contains:
 1. The name of the individual to whom the document was issued; and
 2. A photograph of the individual to whom the document was issued; or
 - (d) Any city government, county government, urban-county government, charter county government, consolidated local government, or unified local government, which is located within this state, and the document contains:
 1. The name of the individual to whom the document was issued; and
 2. A photograph of the individual to whom the document was issued;
- ~~(15)~~~~(14)~~ "Risk-limiting audit" means an audit protocol that makes use of statistical principles and methods and is designed to limit to acceptable levels the risk of certifying a preliminary election outcome that constitutes an incorrect outcome;
- ~~(16)~~~~(15)~~ "Voting booth" or "ballot completion area" means an area in which a voter casts his or her vote or completes his or her ballot which is designed to ensure the secrecy of the vote;
- ~~(17)~~~~(16)~~ "Vote center" means a consolidated precinct of the county;
- ~~(18)~~~~(17)~~ "Voting equipment" means any physical component of a voting system and includes voting machines where voting machines are in operation;
- ~~(19)~~~~(18)~~ "Voting machine" or "machine":
- (a) Means a part of a voting system that consists of:
 - ~~1.~~~~(a)~~ A direct recording electronic voting machine that:
 - ~~a.~~~~1-~~ Records votes by means of a ballot display provided with mechanical or electro-operated components that may be actuated by the voter;
 - ~~b.~~~~2-~~ Processes the data by means of a computer program;
 - ~~c.~~~~3-~~ Records voting data and ballot images in internal and external memory components; and
 - ~~d.~~~~4-~~ Produces a tabulation of the voting data stored in a removable memory component and on a printed copy; or
 - ~~2.~~~~(b)~~ One (1) or more electronic devices that operate independently or as a combination of a ballot marking device and an electronic or automatic vote tabulation device; **and**
 - (b) **Does not include an e-poll book;**
- ~~(20)~~~~(19)~~ "Voting system" ~~means~~:
- (a) **Means** the total combination of physical, mechanical, electromechanical, or electronic equipment, including the software, hardware, firmware, and documentation required to program, control, and support that equipment, that is used to:
 1. Define ballots;

2. Cast and count votes;
 3. Report or display election results; and
 4. Maintain and produce any audit trail information;~~{and}~~
- (b) **Includes** the practices and associated documentation used to:
1. Identify system components and versions of those components;
 2. Test the system during its development and maintenance;
 3. Maintain records of system errors and defects;
 4. Determine specific system changes to be made to a system after the initial qualification of the system;~~{and}~~
 5. Make available any materials to the voter, such as notices, instructions, forms, or paper ballots; and

(c) **Does not include an e-poll book; and**

~~(21)~~~~(20)~~ "Voter-verified paper audit trail" means a contemporaneous paper record of a ballot printed for the voter to confirm his or her votes before the voter casts his or her ballot that:

- (a) Allows the voter to verify the voter's ballot choices before the casting of the voter's ballot;
- (b) Is not retained by the voter;
- (c) Does not contain individual voter information;
- (d) Is produced on paper that is sturdy, clean, and resistant to degradation; and
- (e) Is readable in a manner that makes the voter's ballot choices obvious to the voter or any person without the use of computer or electronic code.

➔Section 2. 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 director, who shall be of a different political party than the director. The salaries of the director and the 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, 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 **eighteen (18)**~~{five (5)}~~ days prior to each primary;
 - (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 **eighteen (18)**~~{five (5)}~~ days prior to each regular election;

- (d) *Select the required format for any voter registration list provided to a county clerk including those intended for use in an e-poll book product;*
- (e) Maintain all information furnished to the board relating to the inclusion or deletion of names from the rosters for four (4) years;
- ~~(f)(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;
- ~~(g)(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;
- ~~(h)(g)~~ Secure information from any source which may assist the board in carrying out the purposes of this section;
- ~~(i)(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
- ~~(j)(i)~~ Be responsible for oversight of board personnel, including hiring, investigations, disciplinary actions, promotions, and other like actions subject to KRS Chapter 18A.

➔Section 3. KRS 117.379 is amended to read as follows:

- (1) (a) Any person or corporation owning, manufacturing, or selling any voting system *or e-poll book product*, may request the State Board of Elections to examine the voting system *or e-poll book product*. Before requesting an examination or reexamination, any person, persons, or corporation shall pay to the State Treasurer a nonrefundable deposit of five hundred dollars (\$500) and submit a test report from an independent testing authority approved by the State Board of Elections.
- (b) *If the report concerns a voting system*, the report shall demonstrate that the voting system meets all Election Assistance Commission ~~[voting system]~~ standards. Notwithstanding any other provision of law to the contrary, if these *Election Assistance Commission* ~~[voting system]~~ standards have been amended less than thirty-six (36) months prior to the request for examination under this subsection, the State Board of Elections may approve and certify a voting system that meets the prior standards after determining:
 - 1. ~~(a)~~ The effect that such approval would have on the integrity and security of elections; and
 - 2. ~~(b)~~ The procedure and cost involved to bring the voting system into compliance with the amended standards.
- (c) The State Board of Elections may, at any time, reexamine any voting system *or e-poll book product* already approved. The State Board of Elections shall approve or disapprove any voting system *or e-poll book product* within sixty (60) days after the date of its initial submission. Any or all costs associated with the voting system *or e-poll book product* being examined or reexamined shall be paid to the State Treasurer by the person or corporation once the approval or disapproval ~~[of the voting machine]~~ is complete.
- (2) (a) Upon receipt of a request for examination or reexamination of a voting system *or e-poll book product*, the State Board of Elections shall require that such voting system *or e-poll book product* be examined or reexamined by three (3) examiners. The State Board of Elections shall appoint one (1) examiner who is an expert in computer science, ~~[or]~~ voting systems, *or e-poll book products, whichever is applicable*; one (1) person who is knowledgeable in election procedures, election security, and election law in Kentucky; and one (1) person who is a present or former county clerk. The three (3) examiners shall submit one (1) written report on each voting system *or e-poll book product*, examined or reexamined, to the State Board of Elections. The members of the State Board of Elections shall also examine or reexamine the voting system *or e-poll book product*.
- (b) A voting system shall be approved and certified if the examiners' report states that the voting system meets all the requirements of KRS 117.125 and applicable federal law, and the State Board of Elections finds that the voting system meets all of the requirements of KRS 117.125 and applicable federal law.

- (c) *Beginning September 1, 2022, an e-poll book product shall be approved and certified if the examiners' report and the State Board of Elections find that the e-poll book product meets the certification requirements promulgated by the State Board of Elections pursuant to KRS Chapter 13A and applicable federal law.*
- (d) *Each report and letter of approval pertaining to a voting system or an e-poll book product*~~{The report and a letter of approval}~~ shall be filed in the office of the State Board of Elections.
- (3) Any voting system *or e-poll book product* not approved by the State Board of Elections shall not be used at any primary, *regular election*, or *special* election.
- (4) When a voting system *or e-poll book product* has been approved, any improvement or changes in the voting system *or e-poll book product* shall render necessary the examination or approval of such voting system or improvement.
- (5) Neither the members of the State Board of Elections, nor any examiner appointed by the State Board of Elections, nor any member of a county board of elections shall have any pecuniary interest in any voting system *or e-poll book product*.
- (6) Each examiner appointed by the State Board of Elections shall receive fair compensation to be established by the State Board of Elections.
- (7) *An e-poll book product approved under this section shall not be used in any primary, regular election, or special election held before May 11, 2023.*

➔Section 4. KRS 117.115 is amended to read as follows:

The legislative body of any county, urban-county government, charter county, consolidated local government, or unified local government may select, in its discretion, any type and make of voting system *or e-poll book product* that complies with the specifications and requirements of this chapter. The legislative body may employ engineers and other skilled persons to advise and aid in the selection of voting systems *or e-poll book products* and in determining compliance with the specifications and requirements of this chapter.

Signed by Governor April 8, 2022.