

**STATE BOARD OF ELECTIONS
(Amendment)**

31 KAR 4:120. Additional and emergency precinct officers.

RELATES TO: KRS 117.015, 117.045

STATUTORY AUTHORITY: KRS 117.015(1)(a), 117.045(5),(6)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 117.015(1)(a) authorizes the State Board of Elections to promulgate administrative regulations necessary to implement the provisions of KRS Chapter 117. KRS 117.045(6) requires the State Board of Elections to promulgate an administrative regulation establishing conditions under which additional precinct officers may be approved. This administrative regulation establishes the conditions under which additional precinct officers may be approved, and establishes the form of the list of emergency election officer appointments required by KRS 117.045(5).

Section 1. Request to Appoint Additional Precinct Officers. A county board of elections seeking permission to appoint additional precinct officers, pursuant to KRS 117.045(6), shall file with the State Board of Elections SBE 23, Additional Precinct Officer Request, that contains the following information:

- (1) The precinct number of each precinct for which approval of additional officers is sought;
- (2) For each designated precinct, the reasons additional precinct officers are necessary;
- (3) For each designated precinct, whether one (1) or two (2) additional precinct officers are requested; and
- (4) The election for which approval is sought, designating whether the election is a primary, general, or special election.

Section 2. Approval of Request.

(1) The State Board of Elections may approve a request to appoint additional precinct officers if the request sets forth a reasonable explanation why voting may not be conducted safely and expediently unless additional precinct officers are appointed.

(2) The county board of elections shall submit these requests to the State Board of Elections at least fourteen (14) days prior to election day. If the request for additional precinct officers is not received by the State Board of Election at least fourteen (14) days prior to election day, then the State Board of Elections may deny the request.

(3) Approval of a request to appoint additional precinct officers shall be granted for one (1) election only.

(4)~~(3)~~ Approval of a request to appoint additional precinct officers may authorize a county board of elections to appoint one (1) or two (2) additional precinct officers.

(5)~~(4)~~ If a county board of elections requests and is approved to appoint two (2) additional precinct officers:

(a) The two (2) additional precinct officers shall not be of the same political party; and

(b) If it appears from the list of additional precinct officers submitted to the State Board of Elections pursuant to KRS 117.045(8) that the two (2) additional precinct officers are of the same political party, then the State Board of Elections may deny~~shall revoke its~~ approval of the request to appoint additional precinct officers ~~[and the appointments shall be invalid].~~

Section 3. Duties of Additional Precinct Officers. The duties of additional precinct officers shall be prescribed by the county board of elections.

Section 4. Request to Appoint Emergency Precinct Officers.

(1) A county board of elections seeking permission to appoint emergency precinct officers pursuant to KRS 117.045(5) shall file with the State Board of Elections a SBE Form 24, Emergency Precinct Officer Request, ~~that~~~~which~~ contains the following information:

~~(a)~~~~(1)~~ The precinct number of each precinct for which approval of emergency~~[additional]~~-of-ficers is sought;

~~(b)~~~~(2)~~ The name of the officer requested, the registered party of the officer, and the party the officer will be serving as for the specified election;

~~(c)~~~~(3)~~ The election for which approval is sought, designating whether the election is a primary, general, or special election; and

~~(d)~~~~(4)~~ A description of the efforts made to acquire precinct officers in the party, democrat or republican, ~~that~~~~which~~ did not have enough workers as required by KRS 117.045(5).

(2) If a county board of elections requests and is approved to appoint emergency precinct officers, the procedures established in this subsection shall apply:

(a) If more than one (1) emergency precinct officer is needed, the county clerk shall make every effort to ensure the emergency precinct officers are of equal political party representation;

(b) If it appears from the list of emergency precinct officers submitted to the State Board of Elections pursuant to KRS 117.045(8) that the emergency precinct officers submitted will result in an imbalance between the political parties represented by the State Board, then the State Board of Elections may deny the request to appoint emergency precinct officers.

(c) If the State Board denies the list of emergency precinct workers as provided in Section 4(2)(b) above, the State Board may direct the county board of elections to take other action such as appointing properly trained officers from within or outside the affected county in order to ensure the balance prescribed in KRS 117.045(4). The State Board may provide training for, or ensure training is provided to, emergency precinct election officers referenced in this section and the training for the emergency precinct election workers shall be determined on an individualized basis.

Section 5. Incorporation by Reference.

(1) The following material is incorporated by reference:

(a) "Additional Precinct Officer Request", SBE 23, January 2015 edition; and

(b) "Emergency Precinct Officer Request", SBE 24, August 2007 edition.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the State Board of Elections, 140 Walnut Street, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

ALISON LUNDERGAN GRIMES, Secretary of State

APPROVED BY AGENCY: December 6, 2018

FILED WITH LRC: December 12, 2018 at 9 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on January 25, 2019, at 9:00 a.m. EST, at Office of the Secretary of State. Individuals interested in being heard at this hearing shall notify this agency in writing by five (5) work days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted until January 31, 2019. Send written notification of intent to be heard at the public hearing or written comments on the pro-

posed administrative regulation to the contact person.

CONTACT PERSON: Erica Galyon, Assistant Secretary of State, 700 Capital Avenue, State Capitol, Suite 152, Frankfort, Kentucky 40601, phone (502) 782-7417, fax (502) 564-5687. email Erica.galyon@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Erica Galyon

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the conditions under which additional and emergency precinct officers may be approved.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to establish procedures for approving additional and emergency precinct officers.

(c) How this administrative regulation conforms to the content of the authorizing statutes: In order for the State Board of Elections to fulfill its duties under KRS 117.045, this administrative regulation is necessary to establish the procedure for approving additional and emergency precinct officers.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation is necessary to establish procedures for approving additional precinct officers.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: This amendment outlines the requirement that the county board of elections submit the list of additional precinct election officers to the State Board of Elections by a certain date. Additionally, this amendment provides some guidance and consistency in the conditions for appointment of additional precinct officers and emergency precinct officers.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to outline requirement that the county board of elections submit the list of additional precinct election officers to the State Board of Elections by a certain date. Additionally, this amendment is necessary to ensure guidance and consistency in the conditions for appointment of additional precinct officers and emergency precinct officers.

(c) How the amendment conforms to the content of the authorizing statutes: This administrative regulation conforms to the content of the authorizing statute, KRS 117.045.

(d) How the amendment will assist in the effective administration of the statutes: This amendment outlines the requirement that the county board of elections submit the list of additional precinct election officers to the State Board of Elections by a certain date. Additionally, this amendment provides guidance and consistency in the conditions for appointment of additional precinct officers and emergency precinct officers.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This amendment affects county boards of elections.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: Regulated individuals identified in question (3) will have to familiarize themselves with this amended administrative regulation.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): Individuals identified in question (3) will incur negligible costs in order to comply.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The regulation facilitates the ability of county board of elections to provide for statutorily required election officers and provides procedural consistency in the process for appointing additional and emergency precinct officers.

(5) Provide an estimate of how much it will cost to implement this administrative regulation:

(a) Initially: There will be negligible costs to implement this administrative regulation for the first year.

(b) On a continuing basis: There is negligible cost to implement this administrative regulation on a continuing basis.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Existing appropriations for county boards of elections and the State Board of Elections.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change, if it is an amendment: An increase in fees or funding will not be necessary to implement this administrative regulation.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This administrative regulation neither establishes nor increases any fees.

(9) TIERING: Is tiering applied? Tiering was not appropriate in this administrative regulation because the administrative regulation applies equally to similarly situated individuals and entities regulated by it.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? This administrative regulation will impact the county boards of election.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. This administrative regulation is authorized by KRS 117.015 and KRS 117.045.

3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? This administrative regulation will not generate any additional revenue for state or local governments during the first year.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? This administrative regulation will not generate any additional revenue for state or local governments during subsequent years of implementation.

(c) How much will it cost to administer this program for the first year? Cost to implement this administrative regulation for the first year will be negligible.

(d) How much will it cost to administer this program for subsequent years? Cost to administer this program for subsequent years will be negligible.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain

the fiscal impact of the administrative regulation. While no significant cost is anticipated, there may be negligible costs related to identifying, communicating with and training emergency precinct officers.

Revenues (+/-):

Expenditures (+/-):

Other Explanation: