STATE BOARD OF ELECTIONS
(New Administrative Regulation)

31 KAR 4:200. Chain of custody for records during an election contest.

RELATES TO: KRS 120.205, 120.215
STATUTORY AUTHORITY: KRS 117.015(1)(a)
NECESSITY, FUNCTION, AND CONFORMITY: KRS 117.015(1)(a) authorizes the State Board of Elections to promulgate administrative regulations necessary to properly carry out its duties. KRS 120.205 and KRS 120.215 require the State Board of Elections to promulgate administrative regulations to provide for a form on which documents any individuals transporting all voting equipment, ballots, boxes, precinct rosters, and other voting records related to an election contest involving an election of a Governor and Lieutenant Governor or a member of the General Assembly. This administrative regulation establishes that form.

Section 1. In the event that a board is established under KRS 120.205 or KRS 120.215 to try a contested election of a Governor and Lieutenant Governor or a member of the General Assembly, the possession of all voting equipment, ballots, boxes, precinct rosters, and any other voting records sent for by the board shall not transfer unless documented in writing on Form SBE 75, “Election Contest Chain-of-Custody.”

Section 2. Incorporated by Reference. (1) Election Contest Chain-of-Custody, Form SBE 75, 06/2021, is incorporated by reference.
(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 Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

JARED DEARING, Executive Director
APPROVED BY AGENCY: June 23, 2021
FILED WITH LRC: June 23, 2021 at 10:20 a.m.
PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this new administrative regulation shall be held on September 21, 2021, at 10:00 a.m. ET, at the Office of the State Board of Elections. Individuals interested in being heard at this hearing shall notify this agency in writing by five (5) workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing was received by that date, the hearing may be cancelled. This 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 September 30, 2021. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.
CONTACT PERSON: Taylor Brown, 140 Walnut Street, Frankfort, Kentucky 40601, phone (502) 782-9499, email TaylorA.Brown@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Taylor Brown
(1) Provide a brief summary of:
(a) What this administrative regulation does: This administrative regulation establishes the form which documents any individuals transporting all voting equipment, ballots, boxes, pre-

cinct rosters, and other voting records related to an election contest involving an election of a Governor and Lieutenant Governor or a member of the General Assembly, as required by KRS 120.205 and KRS 120.215.

(b) The necessity of this administrative regulation: This administrative regulation is necessary given that Kentucky Acts Chapter 197 requires the State Board to promulgate new administrative regulations under KRS 120.205 and KRS 120.215.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 117.015(1)(a) authorizes the State Board of Elections to promulgate administrative regulations necessary to properly carry out its duties.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation fulfills the mandates of KRS 120.205 and KRS 120.215, as amended by Kentucky Acts Chapter 197.

(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:

(b) The necessity of the amendment to this administrative regulation:

(c) How the amendment conforms to the content of the authorizing statutes:

(d) How the amendment will assist in the effective administration of the statutes: This is a new administrative regulation.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This administrative regulation will affect those involved in the administration of an election contest involving an election of a Governor and Lieutenant Governor or a member of the General Assembly.

(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. To comply with this administrative regulation, those transporting election materials will need to document themselves on a standardized form anytime the materials are transferred.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): The State Board of Elections estimates that the implementation of this administrative regulation will cost only the amount necessary to print a standardized from through conventional means.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Compliance with this new administrative regulation will benefit those involved in administering an election contest by providing the complete history of the movement of any related election materials.

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

(a) Initially: The cost of the implementation of this administrative regulation for the State Board of Elections will be minimal as it will require only the creation of the new Form SBE 75.

(b) On a continuing basis: The only continuing cost will be the price associated with printing any copies of the Form SBE 75 that are necessary.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Funds from the State Board of Elections' administrative budget will be used in the implementation and enforcement of this administrative regulation.

(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: Im-

plementation of this administrative regulation can be achieved without an increase in fees or funding by the General Assembly.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: No fees are associated with this administrative regulation.

(9) TIERING: Is tiering applied? Tiering is not used in this administrative regulation, as a desired result of the promulgation of this administrative regulation is uniform procedures for the administration of elections throughout all of the counties in the Commonwealth.

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? The State Board of Elections and the General Assembly will be impacted by this administrative regulation, as well as any law enforcement agency requested to transport the election materials required for the contest.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 120.205 and KRS 120.215, as amended by Kentucky Acts Chapter 197, require and authorize the actions taken by this administrative regulation.

(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? It is not expected or intended that this administrative regulation will generate any revenue.

(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? It is not expected or intended that this administrative regulation will generate any revenue.

(c) How much will it cost to administer this program for the first year? The State Board of Elections expects that this administrative regulation amendment will cost no more to administer than is currently expended.

(d) How much will it cost to administer this program for subsequent years? The State Board of Elections expects that this administrative regulation amendment will cost no more to administer than is currently expended.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation: