

TOURISM, ARTS AND HERITAGE CABINET
Department of Fish and Wildlife Resources
(Amended at Subject Matter Committee)

301 KAR 4:001. Selection of Fish and Wildlife Resources Commission nominees.

RELATES TO: KRS 150.022, 150.023

STATUTORY AUTHORITY: KRS 150.022, 150.025

NECESSITY, FUNCTION, AND CONFORMITY: KRS 150.025 authorizes the department of Fish and Wildlife Resources to promulgate administrative regulations to carry out the purposes of KRS Chapter 150. KRS 150.022 requires that a meeting of sportsmen in a commission district be held to nominate five (5) candidates for membership on the Kentucky Fish and Wildlife Commission. These five (5) candidate names shall then be submitted to the Governor for his or her selection. This administrative regulation establishes the procedures for nominating the candidates for commission membership.

Section 1. Scheduling of Meetings and Notification of the Public.

- (1) At least thirty (30) days prior to the expiration of the term of a member of the Fish and Wildlife Resources Commission, the commissioner shall select the time and place for a public meeting to select a list of five (5) nominees to submit to the governor. The meeting shall be held within a county of the commission district that shall be centrally located and easily accessible to the majority of the sportsmen of that district.
- (2) The location of the meeting shall be in a public building with facilities adequate to accommodate the expected turnout. If more participants attend than the facilities can reasonably accommodate, the commissioner (or his or her designee) may order a change in location, if a suitable site is readily available, or may take whatever steps he or she deems necessary to ensure the orderly and safe conduct of the meeting.
- (3) Each meeting shall be called to order at 7:30 p.m. local prevailing time. If a change of location is called as established in subsection (2) of this section, the commissioner shall delay the beginning of the meeting for at least one (1) hour. The commissioner may also delay the beginning of the meeting for any other reason necessary, but the commissioner shall not convene the meeting earlier than the stated starting time.
- (4) The facilities where the meeting is held shall be made available to the public by at least 6 p.m. local prevailing time.
- (5) The commissioner shall cause to be published in each newspaper in the district a legal notice announcing the purpose, time, and place of the meeting. The commissioner shall also prepare and distribute news releases announcing the meeting to all major mass media outlets in the district. In addition, the commissioner shall prepare and distribute posters about the meeting for posting at each county courthouse in the district and at those places where sportsmen are known to gather or frequent.

Section 2. Conduct of the Meeting.

- (1) The commissioner, or an official of the department designated by the commissioner, shall serve as chair of the meeting and shall be the final arbiter of any disputes or procedural questions that arise during the course of the meeting.
- (2) After calling the meeting to order, the chair shall explain the purpose of the meeting and the rules under which it shall be conducted.
- (3) The chair shall then open the floor to nominations.
- (4) As each name is placed in nomination, the nominee shall sign an affidavit attesting to his or her residency in the district.
- (5) The chair shall not close the nominations until he or she has called three (3) times for additional nominations and has received none. Motions to close the nominations shall not be recognized while there are still those waiting to place a name in nomination.

(6) If no more than five (5) names are placed in nomination, the chair shall declare that the purpose of the meeting has been fulfilled and shall adjourn the meeting.

Section 3. Balloting to Select Five (5) Nominees.

(1) If more than five (5) names are placed in nomination, the list of nominees shall be narrowed to five (5) names by secret ballots cast by the qualified sportsmen in attendance.

(2) The chair shall direct each nominee to appoint at least one (1) individual to serve on a balloting committee. The chair shall determine the number needed for this committee, and each nominee shall be allowed an equal number of committee members.

(3) Members of the balloting committee shall distribute ballots to the participants in the meeting. Each ballot shall consist of two (2) parts: an affidavit by which each participant shall attest to his or her legal right to participate in the selection process as established in KRS 150.022 and a ballot with which the participant may vote for one (1) nominee.

(4) Each eligible participant shall complete the information requested on the affidavit and swear an oath attesting to the veracity of that information.

(5) Each eligible participant shall then vote for the nominee of his or her choice on the ballot provided. Ballot boxes, overseen by personnel of the department, shall be available at designated exits. Each eligible participant shall hand the department employee his or her signed affidavit and shall place his or her ballot in the ballot box.

(6) After depositing his or her ballot, each participant shall immediately leave the meeting room and shall not return until all ballots are cast and the ballot boxes are closed.

(7) The ballot boxes shall be opened in the presence of the balloting committee, who shall count the ballots in the presence of the chair or his or her designee.

(8) Each member of the balloting committee shall sign an affidavit attesting to the ballot count and to the fact that, to the best of his or her knowledge, the process of distributing and counting the ballots was conducted in a fair and impartial manner. The chair shall obtain a written statement from any committee member who feels that irregularities did occur during the course of the meeting.

(9) Immediately after the ballots are counted and the results certified by the balloting committee, the chair shall announce the full results of the balloting and shall then adjourn the meeting.

Section 4. Resolving Disputes.

(1) In the event of a tie vote for fifth and sixth place, the chair shall settle the issue by the toss of a coin. Tie votes that do not affect the outcome of the selection of the five (5) names shall not be resolved.

(2) Any other disputes, whether over vote counts or over procedural matters, shall be arbitrated immediately by the chair, whose decision shall be binding unless subsequently overturned by the commission or the courts.

(3) Any individual who is aggrieved by a decision of the chair or by any other action at the meeting may appeal in writing to the Fish and Wildlife Resources Commission. An appeal shall be made within ten (10) calendar days after the meeting.

(4) Upon appeal an administrative hearing shall be conducted in accordance with KRS Chapter 13B.

(5) Any party aggrieved by a final order of the commission may appeal to Franklin Circuit Court in accordance with KRS Chapter 13B.

Section 5. Submission of the List of Nominees to the Governor.

(1) The commissioner shall, within thirty (30) working days after the meeting, submit to the governor the names of the five (5) nominees chosen at the meeting.

(2) If balloting was used to limit the list to five (5) names, the commissioner shall not submit any ballot totals to the governor.

(13 Ky.R. 1805; eff. 5-14-1987; Am. 19 Ky.R. 1842; Am. 2243; eff. 4-7-1993; 28 Ky.R. 2055; eff. 5-16-2002; 48 Ky.R. 899; 49 Ky.R. 35; 561; eff. 8-18-2022; 48 Ky.R. 899; 49 Ky.R. 35, 561; eff. 8-18-2022.)

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