

**STATE BOARD OF ELECTIONS**  
**(Amendment)**

**31 KAR 4:160. Elections Emergency Contingency Plan.**

RELATES TO: KRS 39A.100, 117.045, 117.065, 117.085, 117.165, 117.187, ~~[117.285]~~, Chapter 424

STATUTORY AUTHORITY: KRS 39A.100(1)(k), 117.015(1)(b)

CERTIFICATION STATEMENT: This is to certify that this administrative regulation complies with the requirements of 2025 RS HB6, Section 8.

NECESSITY, FUNCTION, AND CONFORMITY: KRS 117.015(1)(b) requires the State Board of Elections to promulgate administrative regulations establishing a procedure for election officials to follow if an election has been suspended or delayed as described in KRS 39A.100(1)(k). This administrative regulation establishes this procedure.

Section 1. Definitions.

(1) "Affected county board of elections" means a county board of election that is required to suspend or delay an election pursuant to an executive order issued pursuant to KRS 39A.100(1)(k).

(2) "Affected county clerk" means a county clerk in a county that is required to suspend or delay an election pursuant to an executive order issued pursuant to KRS 39A.100(1)(k).

(3) "Affected election area" means an election area for which a state of emergency has been declared for all or part of an election area as specifically described by the Governor in an executive order issued pursuant to KRS 39A.100(1)(k).

(4) "Elections Emergency Contingency Plan" means the procedures established by a county board of elections to address the specific needs of their county in the event the Governor issues an executive order delaying or rescheduling an election pursuant to KRS 39A.100(1)(k). ~~[this administrative regulation for election officials to follow if an election has been suspended or delayed pursuant to KRS 39A.100(1)(k) through the Governor's executive order.]~~

(5) "Precinct election officer" means an individual who has been appointed to serve as an election officer in a precinct in accordance with the provisions of KRS 117.045.

(6) "Voting place" means a place for voting established in accordance with the provisions of KRS 117.065 and KRS 117.066.

Section 2. General Provisions.

(1) ~~[Election officials shall follow the Elections Emergency Contingency Plan as specifically mandated by this administrative regulation in accordance with the Governor's executive order, pursuant to KRS 39A.100(1)(k), suspending or delaying an election.]~~

~~[(2)]~~ The procedures in the general election laws, KRS Chapters 116 to 121A, shall be applicable to an election conducted pursuant to the Elections Emergency Contingency Plan, unless superseded by ~~[(a)]~~

~~[(a)]~~ the Governor's executive order, pursuant to KRS 39A.100(1)(k) ~~[(b)]~~ or

~~[(b)]~~ ~~[Provisions of this administrative regulation].~~

~~[(2)]~~ ~~[(3)]~~ County boards of elections shall establish procedures to address the specific needs of their county in the event the Governor issues an executive order delaying or rescheduling an election pursuant to KRS 39A.100(1)(k) ~~[to implement the provisions of this administrative regulation at the local level]~~ and shall file the "County Board of Elections Notice of Establishment of Local Elections Emergency Contingency Plan Procedures" Form SBE 20 on or before the first day of March of each year in which a general election occurs.

(3) ~~[(4)]~~ County boards of elections shall, in accordance with KRS 117.187, train all precinct election officers prior to each primary and general election on the procedures established by the county boards of elections to implement the Elections Emergency Contingency Plan.

Section 3. Notification. After the Governor has issued an executive order pursuant to KRS 39A.100(1)(k), the State Board of Elections shall notify all county clerks in the affected election area or statewide, in accordance with the Governor's executive order.

Section 4. Voting Places. After notification from the State Board of Elections of an executive order suspending or delaying an election, an affected county board of elections shall:

- (1) Identify the number of voting places that are functional, that can be repaired, and that have been destroyed; and
- (2) Establish new voting places, if needed, in a manner consistent with KRS 117.065 and KRS 117.066.

Section 5. Precinct Election Officers. If an affected county board of elections determines that new precinct election officers are required because of an emergency, the affected county board of elections shall use the same list of precinct election officers from the suspended election and may create a new list of additional precinct election officers in a manner consistent with the provisions of KRS 117.045.

Section 6. Procedures for Conducting an Election Rescheduled Prior to the Original Election Day.

- (1) Notification. After notification from the State Board of Elections of an executive order suspending or delaying an election, prior to the original date scheduled for an election by law, the affected county clerk shall ensure that the public receives prompt notification of the suspension or delay of an election in accordance with KRS Chapter 424, if possible, and any other means available.
- (2) Absentee voting. After notification from the State Board of Elections of an executive order suspending or delaying an election, an affected county clerk shall immediately:
  - (a) Suspend all forms of absentee voting being conducted ~~[pursuant to KRS 117.085(1)(e)]~~; and
  - (b) Secure all voting machines being used for all forms of absentee voting until absentee voting may be resumed ~~[in accordance with KRS 117.085(1)(e)]~~.
- (3) Mail-in absentee ballots. After notification from the State Board of Elections of an executive order suspending or delaying an election, an affected county clerk shall immediately deposit all unvoted mail-in absentee ballots and related materials in a secured and locked storage container or area until mail-in absentee voting may be resumed ~~[in accordance with KRS 117.085(1)(e)]~~.
- (4) Examination of voting equipment.
  - (a) The date of examination of voting equipment, conducted pursuant to KRS 117.165, which has been previously noticed, but is affected by the suspension or delay of an election, shall be re-noticed pursuant to KRS Chapter 424, if possible, and any other means available.
  - (b) The affected county board of elections shall not conduct a reexamination of the voting equipment if the affected county board of elections has already conducted the examination required by KRS 117.165 prior to receipt of the notice of the rescheduled election.

Section 7. Procedures for Conducting an Election Rescheduled After the Commencement of the Original Election Day.

(1) Notification. After notification from the State Board of Elections of an executive order suspending or delaying an election after the commencement of an election, the affected county clerk shall ensure that the public receives immediate notification of the suspension of the election and the date of the rescheduled election by any means possible, including all electronic media available and notice in accordance with KRS Chapter 424.

(2) Suspend general voting. After notification from the State Board of Elections of an executive order suspending or delaying an election, an affected county board of elections shall immediately:

- (a) Suspend general voting being conducted on all voting systems;
- (b) Instruct the precinct election officers to secure all voting machines being used for general voting until voting may be resumed in accordance with the executive order issued pursuant to KRS 39A.100(1)(k);
- (c) Instruct the precinct election officers to not closeout or tally the votes in the voting machines. The precinct election officers shall ensure that all seals on the voting machines are intact prior to storage in a secure location;
- (d) Instruct the precinct election officers to record the public counter number on the form furnished by the county board of elections. The form shall be signed by all present precinct election officers; and
- (e) Instruct the precinct election officers to return all election materials to the county board of elections.

(3) Ballots and election materials. After notification from the State Board of Elections of an executive order suspending or delaying an election, an affected county clerk shall immediately deposit all election materials, including unvoted absentee ballots, paper ballots, provisional ballots, e-poll books~~[precinct signature rosters]~~, and related materials, in a secured and locked storage container or area until voting may be resumed in accordance with the executive order issued pursuant to KRS 39A.100(1)(k).

(4) Conduct of rescheduled election.

(a) If the e-poll books~~[precinct signature roster]~~ and voting machines are intact from the original election~~[date]~~, then only those persons duly registered to vote during the originally scheduled election~~[upon the original election date]~~ who did not previously vote ~~[on that date]~~ shall be entitled to vote on any~~[the]~~ additional day of voting ~~[in that precinct]~~.

(b) If the e-poll books~~[precinct signature rosters]~~ or the voting machines are not intact from the original election~~[date]~~:

1. Any person duly registered to vote during~~[upon]~~ the originally~~[original]~~ scheduled election~~[date]~~, regardless of whether that person previously voted during ~~[on]~~ the originally~~[original]~~ scheduled election~~[date]~~, shall be entitled to vote on any~~[the]~~ additional day of voting in that precinct;

2. If the e-poll books~~[signature rosters]~~ are destroyed or incomplete and the voting machines are intact, the county board of elections shall acquire replacement e-poll books~~[use a new set of precinct signature rosters provided by the State Board of Elections]~~, clear the voting machines of all votes, and reset the machines for use in the rescheduled election; and

3. If the voting machines are not intact, the county board of elections shall repair, replace, or acquire additional~~[new]~~ voting machines.

(c) ~~[Voting on the rescheduled election day shall be accomplished by physically appearing at the voting place.]~~ The time set by law for casting or canvassing a military, mail-in absentee, or special presidential ballot shall not be extended by the executive order rescheduling the election. Any mail-in absentee, military, or special presidential ballot duly received on the original election date shall be valid.

## Section 8. Release and Certification of Election Returns.

(1) If a statewide election is affected by the suspension or delay of an election in an affected election area pursuant to KRS 39A.100 (1)(k):

(a) County boards of elections not located in the affected election area that have races affected by the suspension or delay of an election in an affected election area shall:

1. Withhold returns for affected races until the county boards of elections in those counties where an election has been suspended or delayed have conducted rescheduled elections and are able to certify returns to the Secretary of State;
2. Not release any vote totals for the affected races until the suspended election has been completed in the affected counties;
3. Instruct the precinct election officers to not closeout or tally the votes in the voting machines;
4. Instruct the precinct election officers to remove the memory device that stores the vote totals on each voting machine, to secure and seal each voting machine, and to not post the vote totals of the affected races at the precinct as required by KRS 117.27~~1815~~(2). The precinct election officers shall immediately return all election materials to the county board of elections; and
5. Tally the vote totals from each precinct and only post at the county clerk's office the vote totals for those races not affected by the suspension or delay pursuant to KRS 39A.100(1)(k).

(b) The State Board of Elections shall notify the county boards of elections not located in the affected election area that have races affected by the suspension or delay of an election in an affected election area if vote totals are to be delayed and when vote totals shall be certified to the Secretary of State.

(2) If a county election, or any part of a county election, is suspended, the vote totals from an affected race shall not be released by the affected county board of elections until after the polls have closed in those voting locations~~[precincts]~~ with delayed elections.

Section 9. Post-Election Deadlines. All post-election timeframes and deadlines not specifically addressed in the provisions of this administrative regulation that are enumerated in general election laws shall be suspended until the rescheduled election occurs, in accordance with the Governor's executive order, pursuant to KRS 39A.100(1)(k).

Section 10. Incorporation by Reference.

(1) "County Board of Elections Notice of Establishment of Local Elections Emergency Contingency Plan Procedures" SBE 20 10/2025~~[(December 2005 edition)]~~, 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 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

*KAREN SELLERS, Executive Director*

APPROVED BY AGENCY: October 13, 2025

FILED WITH LRC: October 14, 2025 AT 11:55 a.m.

PUBLIC HEARING AND COMMENT PERIOD: A public hearing on this administrative regulation shall be held on December 22, 2025, at 11:00 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 December 31, 2025. 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, General Counsel, 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

**Subject Headings:**Elections and Voting; County Clerks; Local Governments

**(1) Provide a brief summary of:**

**(a) What this administrative regulation does:**

This administrative regulation establishes a procedure for election officials to follow if an election has been suspended or delayed as described in KRS 39A.100(1)(k).

**(b) The necessity of this administrative regulation:**

This administrative regulation is necessary to maintain the maximum degree of correctness, impartiality, and efficiency in the procedures of voting.

**(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 assists in maintaining the maximum degree of correctness, impartiality, and efficiency in the procedures of voting.

**(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 updates language to reflect election administration experience since the last invocation of KRS 39A.100(1)(k) in 2020, new election laws, and Form SBE 20.

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

This amendment is necessary as the regulation has not been amended since the since the last invocation of KRS 39A.100(1)(k) in 2020 and the enactment of new election laws.

**(c) How the amendment 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 the amendment will assist in the effective administration of the statutes:**

This amendment will assist in maintaining the maximum degree of correctness, impartiality, and efficiency in the procedures of voting.

**(3) Does this administrative regulation or amendment implement legislation from the previous five years?This amendment does not implement legislation from the previous five years.**

**(4) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation:**

This administrative regulation will affect voters of the Commonwealth, county boards of election, and the State Board of Elections.

**(5) Provide an analysis of how the entities identified in question (4) 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 (4) will have to take to comply with this administrative regulation or amendment:**

. To comply with this amendment, county boards of election will need to update their Elections Emergency Contingency Plan.

**(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (4):**

The State Board of Elections estimates that the implementation of this administrative regulation will have minimal costs.

**(c) As a result of compliance, what benefits will accrue to the entities identified in question (4):**

Compliance with this new administrative regulation will benefit all by assisting in maintaining the maximum degree of correctness, impartiality, and efficiency in the procedures of voting.

**(6) 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.

**(b) On a continuing basis:**

The continuing costs of this administrative regulation for the State Board of Elections will be minimal.

**(7) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation or this amendment:**

Funds from the State Board of Elections' administrative budget will be used in the implementation and enforcement of this administrative regulation.

**(8) 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:**

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

**(9) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees:**

No fees are associated with this administrative regulation.

**(10) 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 IMPACT STATEMENT

**(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation:**

. KRS 39A.100(1)(k), KRS 117.015(1)(a), and KRS 117.015(1)(b) require and authorize the actions taken by this administrative regulation.

**(2) State whether this administrative regulation is expressly authorized by an act of the General Assembly, and if so, identify the act:**

This administrative regulation is expressly authorized by the creation of KRS 117.015(a), 2005 Ky. Acts ch. 91, sec. 2.

**(3)(a) Identify the promulgating agency and any other affected state units, parts, or divisions:**

This administrative regulation will affect the promulgating agency, the State Board of Elections.

**(b) Estimate the following for each affected state unit, part, or division identified in (3)(a):**

**1. Expenditures:**

**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.

**For subsequent years:**The State Board of Elections expects that this administrative regulation amendment will cost no more to administer than is currently expended.

**2. Revenues:**

**For the first year:**It is not expected or intended that this administrative regulation will generate any revenue.

**For subsequent years:**It is not expected or intended that this administrative regulation will generate any revenue.

**3. Cost Savings:**

**For the first year:**The State Board of Elections expects that this administrative regulation will not generate any specific cost savings.

**For subsequent years:**The State Board of Elections expects that this administrative regulation will not generate any specific cost savings.

**(4)(a) Identify affected local entities (for example: cities, counties, fire departments, school districts):**

This administrative regulation will affect county boards of election. (b) Estimate the following for the first year:

**(b) Estimate the following for each affected local entity identified in (4)(a):**

**1. Expenditures:**

**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.

**For subsequent years:**The State Board of Elections expects that this administrative regulation amendment will cost no more to administer than is currently expended.

**2. Revenues:**

**For the first year:**It is not expected or intended that this administrative regulation will generate any revenue.

**For subsequent years:**It is not expected or intended that this administrative regulation will generate any revenue.

**3. Cost Savings:**

**For the first year:**The State Board of Elections expects that this administrative regulation will not generate any specific cost savings for the regulated entities.

**For subsequent years:**The State Board of Elections expects that this administrative regulation will not generate any specific cost savings for the regulated entities.

**(5)(a) Identify any affected regulated entities not listed in (3)(a) or (4)(a):**

This administrative regulation will affect voters of the Commonwealth.

**(b) Estimate the following for each regulated entity identified in (5)(a):**

**1. Expenditures:**

**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.

**For subsequent years:**The State Board of Elections expects that this administrative regulation amendment will cost no more to administer than is currently expended.

**2. Revenues:**

**For the first year:**It is not expected or intended that this administrative regulation will generate any revenue.

**For subsequent years:**It is not expected or intended that this administrative regulation will generate any revenue.

**3. Cost Savings:**

**For the first year:**The State Board of Elections expects that this administrative regulation will not generate any specific cost savings for the regulated entities.

**For subsequent years:**The State Board of Elections expects that this administrative regulation will not generate any specific cost savings for the regulated entities.

**(6) Provide a narrative to explain the following for each entity identified in (3)(a), (4)(a), and (5)(a)**

**(a) Fiscal impact of this administrative regulation:**

The State Board of Elections expects that this administrative regulation will have little to no fiscal impact on the regulated entities, outside those expenditures already undertaken.

**(b) Methodology and resources used to reach this conclusion:**

This determination of this administrative regulation's fiscal impact is made by the listed contact person and other agency staff based on their collective experience with the subject matter.

**(7) Explain, as it relates to the entities identified in (3)(a), (4)(a), and (5)(a):**

**(a) Whether this administrative regulation will have a "major economic impact", as defined by KRS 13A.010(14):**

The State Board of Elections does not expect that this administrative regulation will result in a "major economic impact" as the combined implementation and compliance costs of an administrative regulation are not expected to rise to at least five hundred thousand dollars (\$500,000) over any two (2) year period.

**(b) The methodology and resources used to reach this conclusion:**

This conclusion is made by the listed contact person and other agency staff based on their collective experience with the subject matter.