STATE BOARD OF ELECTIONS

(Amendment)

31 KAR 4:230. Post-election audit procedures.

RELATES TO: KRS 117.383(8)

STATUTORY AUTHORITY: KRS 117.015(1)(a), 117.383(8)

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) establishes the State Board of Elections as the independent agency of state government which shall administer the election laws of the state. KRS 117.383(8) requires the State Board of Elections to promulgate an administrative regulation providing for the conducting and review of an election audit through a hand-to-eye recount. This administrative regulation establishes the post-election audit to be performed throughout the Commonwealth.

Section 1. Definitions.

(1) "Ballot" is defined by KRS 117.001(3).

(2) "Ballot box" is defined by KRS 117.001(4).

(3) "Ballot scanner" or "scanner" has the same definition as "automatic tabulating equipment" as defined by KRS 117.001(2).

(4) "Designated marking area" means the area in the near vicinity of the area containing the oval, box, or space designating a candidate on a ballot.

(5) "Election" is defined by KRS 117.001(6).

(6) "Electronic or paper sign-in records" means the records contained in the signed voter rosters established in KRS 117.025 and in Form SBE 25, "Supplemental Precinct Signature Roster".

(7) "Hand-to-eye recount" means the procedures established in KRS 117.383(8).

(8) "Poll worker" means the same as "precinct election officer" defined by KRS 117.045.

(9) "Race" means a single decision or set of associated decisions being put before voters for candidates to elected office.

(10) "Register tape" means the return sheets established in KRS 117.275.

(11) "Vote tallying equipment" has the same definition as "automatic tabulating equipment" defined by KRS 117.001(2).

(12) "Voter intent" is defined through the uniform definition of a vote found in 31 KAR 6:030.

Section 2. Post-election Hand-to-eye Recount.

(1) Following all elections for office in the Commonwealth there shall be a hand-to-eye recount of ballots, during which poll workers shall hand-tally ballots cast in the election on a Form SBE 90, "Post-election Hand-to-eye Recount Tally Sheet".

(2) Determinations and findings made by a County Board of Elections following the hand-to-eye recount shall be recorded on a Form SBE 91, "Determinations and Findings Following Hand-to-eye Recount", for reporting to the Attorney General and Secretary of State. If a term used in KRS 117.383(8) is not defined in this administrative regulation or in the procedures established in KRS 117.383(8), the term shall be defined either through KRS 446.010 or by a vote of the County Board of Elections.

Section 3. Incorporation by Reference.

(1) The following material is incorporated by reference:

(a) "Supplemental Precinct Signature Roster", Form SBE 25, 10/2025[~~09/2020~~];

(b) "Post-election Hand-to-eye Recount Tally Sheet", Form SBE 90, 12/2024; and

(c) "Determinations and Findings Following Hand-to-eye Recount", Form SBE 91, 12/2024.

(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.

(3) This material may also be obtained on the board's Web site at https://elect.ky.gov.

(031 KAR 004:230. 51 Ky.R. 818, 1253; eff. 4-2-2025; 52 Ky.R. 816; eff. 5-5-2026.)

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 the post-election audit to be performed with a hand-to-eye recount throughout the Commonwealth following elections.

(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 Form SBE 25.

(b) The necessity of the amendment to this administrative regulation:
This amendment updates Form SBE 25 to reflect statutory changes.

(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 ensure that they use the new Form SBE 25.

(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 117.015(1)(a) and KRS 117.383(8) 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 no 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.