

### **120.205 Board for determining contest of election of Governor and Lieutenant Governor.**

When the election of a Governor and Lieutenant Governor is contested, a board for determining the contest shall be formed and shall proceed in the following manner:

- (1) On the third day after the organization of the General Assembly that meets next after the election, the Senate shall select three (3) of its members as provided in subsection (2) of this section, and the House of Representatives shall select eight (8) of its members as provided in subsection (2) of this section, and the eleven (11) so selected shall constitute a board to try the contest, seven (7) of whom shall constitute a quorum;
- (2) In making the selection, the name of each member present shall be written on a separate piece of paper, every piece being as nearly similar to the other as possible. Each piece shall be rolled up so that the names thereon cannot be seen, nor any particular piece ascertained or selected by feeling. The whole, so prepared, shall be placed by the clerk in a box on the clerk's table, and after it has been well shaken, and the papers therein well intermixed, the clerk shall draw out one (1) paper, which shall be opened and read aloud by the presiding officer, and so on until the required number is obtained;
- (3) If any member selected swears that he or she cannot, without great personal inconvenience, serve on the board, or that he or she feels an undue bias for or against either of the parties, that member may be excused by the house from which that member was chosen from serving on the board. If it appears that a selected member is related to either party, or is liable to any other proper objection on the score of his or her partiality, that member shall be excused. Any deficiency in the proper number created by excuse shall be supplied by another draw from the box;
- (4) The selected members of the board shall be sworn by the Speaker of the House of Representatives to try the contested election, and shall give true judgment according to the evidence, unless dissolved before rendering judgment;
- (5) The board shall, within twenty-four (24) hours after its selection, meet, appoint its chair, and assign a day for hearing the contest. It may adjourn from day to day as its business requires. If any member of the board willfully fails to attend its sessions, that member shall be reported to the house to which he or she belongs, and that house shall then, in its discretion, punish that member by fine or imprisonment, or both;
- (6) The board may, upon a majority of vote, send for persons, papers, and records, including all voting equipment, ballots, boxes, and precinct rosters. The board may issue subpoenas signed by its chair or the Speaker of the House of Representatives;
- (7) The board may use the services of any law enforcement agency to transport all records relating to the election contest, including voting equipment, ballots, boxes, and precinct rosters. All voting equipment, ballots, boxes, precinct rosters, and other voting records sent for by the board shall be sealed, to the extent possible, and transmitted in a tamper-resistant manner. The chain of custody for the records shall be recorded, in writing, on a form prescribed by the State Board of Elections in

administrative regulations promulgated under KRS Chapter 13A to include the identity of the person or persons transferring and receiving the records, and the date, time, and location of the transfer. The clerk of the House of Representatives shall be designated by the board as the custodian of the records while the records are in the possession of the board;

- (8) If it appears that the slates of candidates receiving the highest number of votes cast have received an equal number, the right to the offices shall be determined by lot, in the manner prescribed by the board, and under the direction of the board;
- (9) If the person returned for the Office of Governor is found not legally qualified to receive the office at the time of his or her election, a new election shall be ordered to fill the vacancy under subsection (13) of this section;
- (10) If a slate of candidates other than the one returned is found to have received the highest number of legal votes cast, that slate shall be adjudged by the General Assembly to be the persons elected and entitled to the offices;
- (11) No decision shall be made but by the vote of at least six (6) members of the board. The decision of the board shall not be final or conclusive, but shall be reported to the two (2) houses of the General Assembly, in joint session, for the further action of the General Assembly. The Speaker of the House shall preside at the joint session, and the General Assembly shall then determine the contest;
- (12) If no decision of the board is given during the then session of the General Assembly, the board shall be dissolved, unless by joint resolution of the two (2) houses it is empowered to continue longer;
- (13) If a new election is required, it shall be immediately ordered by proclamation of the Speaker of the House, who shall issue a writ of election. The writ shall be signed by the Speaker, shall designate the day for holding the election, and shall be directed to the proper sheriff or sheriffs as provided in KRS 118.740; and
- (14) When a new election is ordered, or the incumbent is adjudged not to be entitled to the office, his or her power shall immediately cease, and if the office is not adjudged to another, it shall be deemed vacant.

**Effective:** June 29, 2021

**History:** Amended 2021 Ky. Acts ch. 197, sec. 83, effective June 29, 2021. -- Created 1974 Ky. Acts ch. 130, sec. 168.