

1 AN ACT relating to elections and making an appropriation therefor.

2 *Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

3 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 120 IS CREATED TO
4 READ AS FOLLOWS:

5 *(1) In any regular election or special election for any member of the General*
6 *Assembly, the United States Senate or the United States House of*
7 *Representatives, Governor and Lieutenant Governor, Treasurer, Auditor of*
8 *Public Accounts, Commissioner of Agriculture, Labor and Statistics, Secretary of*
9 *State, and Attorney General, a recount of the vote shall be required when a*
10 *candidate is defeated by a margin of not more than one-half of one percent*
11 *(0.5%) of the votes cast for the office.*

12 *(2) Any recount held under subsection (1) of this section shall be commenced not*
13 *later than the second Tuesday following the election. The State Board of*
14 *Elections shall determine whether a recount is required under this section based*
15 *upon the total number of votes certified to the Secretary of State.*

16 *(3) The custody of the machines, the ballots, boxes, and all papers pertaining to the*
17 *election shall be maintained by the county board of elections. The voting*
18 *machines shall remain continuously locked, and the ballot boxes containing all*
19 *paper ballots shall remain continuously locked as required by Section 9 of this*
20 *Act until the time set for the recount. The keys shall remain in the possession of*
21 *the county board of elections until the time set for the recount.*

22 *(4) The recount shall be conducted by the county board of elections of each county in*
23 *which votes for the office that is the subject of the recount were cast.*

24 *(5) At the recount, each political party represented on the county board of elections*
25 *may appoint a representative to be present, and each candidate subject to the*
26 *recount may be present, either in person or by a representative or both. The*
27 *county board of elections shall authorize representatives of the news media to*

1 observe the recount.

2 (6) On the day fixed for the recount, the county board of elections shall meet and,
3 after confirming the integrity of the ballots, shall proceed to recount the ballots.

4 (7) The county board of elections shall complete the recount as soon as practicable.
5 Upon completion of the recount, the county board of elections shall file and enter
6 of record the results of the recount, and shall certify the results of the recount of
7 the total number of votes to the Secretary of State not later than 4 p.m., prevailing
8 time, on the day following the completion of the recount, Sunday excluded. No
9 certificate of election shall be issued by the State Board of Elections while the
10 recount is pending.

11 (8) The costs of any recount held pursuant to this section shall be paid by the
12 Commonwealth of Kentucky. The costs shall be deemed a necessary government
13 expense and shall be paid from the general fund surplus account under KRS
14 48.700 or the budget reserve trust fund under KRS 48.705.

15 (9) If a recount is conducted under subsection (1) of this section:

16 (a) The time for filing a contest petition shall be tolled until the vote is certified
17 under subsection (7) of this section; and

18 (b) The candidate may initiate an election contest, but no request for a recount
19 shall be granted prior to the completion of the certification of the vote under
20 subsection (7) of this section.

21 ➔Section 2. KRS 118.775 is amended to read as follows:

22 A successful candidate in a special election held for the purpose of filling a vacancy in
23 any elective office shall take office immediately upon certification of the election results
24 by the State Board of Elections or the county board of elections in which the special
25 election was held,~~and~~ administration of the oath of office, and if the successful
26 candidate was a candidate for the General Assembly, upon being determined to be a
27 member by the house in which membership is sought.

1 ➔ Section 3. KRS 120.185 is amended to read as follows:

- 2 (1) (a) 1. Any candidate who was voted for at a regular election for any of the
 3 offices to which KRS 120.155 applies ***but who does not qualify for an***
 4 ***automatic recount under Section 1 of this Act*** may request a recount of
 5 the ballots by filing a petition~~[-so requesting,]~~ with the same court
 6 ***where***~~[that]~~ petitions of contest are required to be filed ~~[-with, within ten~~
 7 ~~(10) days after the day of the election,]~~ or~~;~~~~[-]~~
- 8 2. If the candidate is qualified to institute a contest proceeding under KRS
 9 120.155, ***the candidate may request a recount*** by including a ***recount***
 10 request~~[-for a recount]~~ in his ***or her*** petition instituting the contest
 11 ***proceeding***~~[proceedings, but in the latter case the petition shall be filed~~
 12 ~~within ten (10) days after the day of the election].~~
- 13 (b) Any candidate who is a contestee in a contest proceeding under KRS 120.155
 14 may request a recount in his ***or her*** answer filed in the contest proceeding, but
 15 only if the answer ***containing the recount request*** is filed within ***five (5)***~~ten~~
 16 ~~(10)]~~ days after ***service of the petition upon the contestee***~~[the day of election].~~
- 17 (c) ***Any candidate under this subsection who would receive a certificate of***
 18 ***election from the county board of elections under KRS 118.425 shall file his***
 19 ***or her petition requesting a recount not later than ten (10) days after the***
 20 ***day of the election. The county board of elections shall be named a party***
 21 ***defendant in the petition.***
- 22 (d) ***Any candidate under this subsection who would receive a certificate of***
 23 ***election from the State Board of Elections under KRS 118.425 shall file his***
 24 ***or her petition requesting a recount not later than the second Tuesday***
 25 ***following the election. The State Board of Elections shall be named a party***
 26 ***defendant in the petition.***
- 27 ~~[- If a request for a recount is made, the State Board of Elections or the county board of~~

1 elections, whichever would issue the certificate of election shall be made a
2 party defendant.]

3 **(e)** The party requesting the recount shall execute bond with approved surety for
4 the costs of the recount, in an amount to be fixed by the Circuit Judge. **The**
5 **bond may be filed by the state political party, political organization, or**
6 **political group, if any, to which the candidate is affiliated.** Upon the bond
7 being filed, the clerk shall immediately notify the Circuit Judge of the request
8 and the filing of the bond, and the judge shall at once enter an order directing
9 the voting machines, ballots, boxes, and all papers pertaining to the election[
10 to] be **secured. The court shall further order that the voting machines and**
11 **ballot boxes containing all paper ballots shall remain continuously locked**
12 **as required by Section 9 of this Act until the time set for the recount. The**
13 **keys shall remain in the custody and possession of the county board of**
14 **elections until the time set for the recount.**[transferred to]

15 **(f)** The Circuit Court **shall**[, and] fix a day for the recount proceedings to begin.
16 A copy of the order shall be served upon the parties or their counsel in the
17 same manner as notices are required to be served, which shall be deemed
18 sufficient notice of the proceeding.

19 **(g)** **At the recount, each political party represented on the county board of**
20 **elections may appoint a representative to be present, and each candidate**
21 **subject to the recount may be present, either in person or by a**
22 **representative, or both. The county board of elections shall authorize**
23 **representatives of the news media to observe the recount.**

24 **(h)** On the day fixed **by the court**, the **county board of elections shall meet and,**
25 **after confirming the integrity of the ballots,**[court] shall proceed to recount
26 the ballots.[if their integrity is satisfactorily shown and shall]

27 **(i)** **The county board of elections shall** complete the recount as soon as

1 practicable, and shall forward the results of the recount to the Circuit Court.

2 (j) Upon receipt of the results of the recount the court shall enter a judgment
3 setting out ~~file and enter of record~~ the results of the recount~~thereof~~, and
4 directing~~direct~~ the State Board of Elections~~state board~~ or county board of
5 elections, whichever would issue the certificate of election, to issue the
6 certificate~~same~~ to the party entitled thereto as shown by the recount.

7 (k) No certificate of election shall be issued by the State Board of Elections or
8 any county board of elections while any recount proceeding is pending, and
9 any certificate of election issued before the final judgment in any recount
10 proceeding shall be null and void.

11 (l)~~(2)~~ Any party may appeal from the judgment issued under paragraph (j) of
12 this subsection to the Court of Appeals, in the same manner as provided in
13 KRS 120.075, and all of the provisions of that~~which~~ statute shall apply. ~~be~~
14 ~~applicable.~~

15 (m)~~(3)~~ If a proceeding for recount is requested~~asked~~ and prosecuted in a
16 contest proceeding, the recount~~it~~ shall not await the preparation or trial of
17 the contest in the Circuit Court or in the Court of Appeals. The action of the
18 courts shall be final~~, concluding the parties~~ as to the question of a recount of
19 the ballots under this subsection, and certificates shall then be issued to the
20 parties entitled thereto.

21 (2) (a) Any slate of candidates for Governor and Lieutenant Governor, or any
22 candidate for the United States Senate or the United States House of
23 Representatives, who was voted for at a regular election, and who does not
24 qualify for an automatic recount under Section 1 of this Act, may request a
25 recount of the ballots by filing a petition in the Franklin Circuit Court.

26 (b) The petition requesting a recount shall be filed not later than the second
27 Tuesday following the election. The State Board of Elections shall be

1 named a party defendant in the petition.

2 (c) The recount shall proceed as provided in subsection (1)(e) to (j) of this
3 section.

4 (d) No appeal shall be taken from the findings issued by the Franklin Circuit
5 Court described in subsection (1)(j) of this section; however, any party
6 aggrieved by the findings or action of the court may file a petition for
7 contest to the General Assembly under Section 4 of this Act, and the
8 General Assembly may accept, modify, or disregard the findings of the court
9 in its sole and absolute discretion.

10 (e) No certificate of election shall be issued by the State Board of Elections
11 while any recount proceeding or contest proceeding is pending, and if
12 issued, shall be null and void.

13 (3) (a) Any candidate for the General Assembly who was voted for at a regular
14 election, and who does not qualify for an automatic recount under Section 1
15 of this Act, may request a recount of the ballots by filing a petition in the
16 Circuit Court of the county where the requesting candidate resides.

17 (b) The petition requesting a recount shall be filed not later than the second
18 Tuesday following the election. The State Board of Elections shall be
19 named a party defendant in the petition.

20 (c) The recount shall proceed as provided in subsection (1)(e) to (j) of this
21 section.

22 (d) No appeal shall be taken from the findings issued by the court described in
23 subsection (1)(j) of this section; however, any party aggrieved by the
24 findings or action of the court may file a petition for contest to the General
25 Assembly under Section 4 of this Act, and the General Assembly may
26 accept, modify, or disregard the findings of the court in its sole and absolute
27 discretion.

1 (e) No certificate of election shall be issued by the State Board of Elections
2 while any recount proceeding or contest proceeding is pending. Any
3 certificate of election issued before entry of the findings described in
4 subsection (1)(j) of this section, shall be null and void.

5 ➔Section 4. KRS 120.195 is amended to read as follows:

6 (1) Any slate of candidates for Governor and Lieutenant Governor may contest any
7 regular election or special election by filing a written application and notice of
8 the contest with the clerk of the Senate and with the clerk of the House of
9 Representatives of the General Assembly. The application and notice of contest
10 shall be signed by the parties contesting the election, and:

11 (a) If contesting a regular election, the application and notice of contest shall:

12 1. Be filed not later than thirty (30) days after the final action of the
13 State Board of Elections; or

14 2. Be filed not later than thirty (30) days following entry of the findings
15 of the Franklin Circuit Court as provided in subsection (2) of Section
16 3 of this Act if a recount was conducted; and

17 (b) If contesting a special election, the application and notice of contest shall be
18 filed not later than seven (7) days after the final action of the State Board of
19 Elections.

20 (2) Any candidate for the General Assembly may contest any regular or special
21 election by filing a written application and notice of the contest with the clerk of
22 the house to which the candidate seeks election. The application and notice of
23 contest shall be signed by the party contesting the election, and:

24 (a) If contesting a regular election, the application and notice of contest shall:

25 1. Be filed not later than fifteen (15) days after the final action of the
26 State Board of Elections; or

27 2. Be filed not later than fifteen (15) days following entry of the findings

1 entered by the Circuit Court as provided in subsection (3) of Section 3
 2 of this Act if a recount was conducted; and

3 (b) If contesting a special election, the application and notice of contest shall be
 4 filed not later than three (3) days following the final action of the State
 5 Board of Elections.

6 (3) The application and notice required under subsections (1) and (2) of this section
 7 shall state the grounds of the contest, and no grounds other than those stated in
 8 the application and notice shall be heard as coming from that party following the
 9 filing of the application and notice. In the case of a special election contest, the
 10 candidates filing the application and notice may include a request for a recount
 11 which may be ordered by the board selected to try the contest under Section 5 or 6
 12 of this Act.

13 (4) No election contest shall be heard unless the contestee to the proceeding has been
 14 served with a copy of the application and notice of contest. The contestee may
 15 make defense without giving counternotice.

16 (5) No certificate of election shall be issued by the State Board of Elections while any
 17 election contest is pending, and any certificate issued before, during, or after
 18 final resolution by the board of any election contest filed under this section shall
 19 be null and void†

20 ~~No application to contest the election of a Governor, Lieutenant Governor, or member of~~
 21 ~~the General Assembly shall be heard unless written notice, signed by the party~~
 22 ~~contesting, is given. The notice shall state the grounds of the contest, and none other~~
 23 ~~shall afterwards be heard as coming from that party, but the contestee may make~~
 24 ~~defense without giving counternotice.~~

25 ~~(2) In the case of the Governor or Lieutenant Governor, the notice shall be given within~~
 26 ~~thirty (30) days after the final action of the State Board of Elections. In the case of a~~
 27 ~~member of the General Assembly, the notice shall be given within fifteen (15) days~~

1 after the final action of the county board of elections or the State Board of
2 Elections, whichever canvasses the returns}.

3 ~~(6)~~⁽³⁾ Immediately after the **filing of the application and** notice **of contest**, either
4 party may proceed to take proof by depositions, under the same rules and
5 regulations that govern the taking of depositions in actions in equity, except that no
6 commission shall be required for taking a deposition out of the state. The
7 depositions shall be sealed~~[up]~~ by the officer taking them, and directed to the clerk
8 of the Senate or clerk of the House, as the case may require. The depositions
9 properly taken shall be read as evidence before the board or **house**~~[branch]~~ of the
10 General Assembly having jurisdiction of the case, and the board or **house**~~[branch]~~
11 may call for and hear other proof **as either shall determine**. The taking of
12 depositions to be used before **the**~~[a]~~ board or **house**~~[branch]~~ of the General
13 Assembly shall close ten (10) days before the next meeting of the General
14 Assembly, or, if **the General Assembly is** in session when the **application and**
15 notice is **filed**~~[given]~~, when the **board or house orders the taking of proof by**
16 **deposition**~~[taking is ordered]~~ to close.

17 ~~(7)~~⁽⁴⁾ The costs of the proceeding shall be adjudged against the unsuccessful party,
18 and a certificate **of costs**~~[thereof]~~ shall be given by the clerk of the Senate or the
19 clerk of the House **to the parties to the contest or their attorneys**, as the case
20 requires, **and shall be paid to the prevailing party within thirty (30) days of**
21 **adjudication. If the costs are not timely paid, the prevailing party may seek entry**
22 **of a judgment in a Circuit Court of competent jurisdiction**.~~[A judgment for the~~
23 ~~costs may be obtained after five (5) days' notice in a Circuit Court.]~~

24 ➔Section 5. KRS 120.205 is amended to read as follows:

25 When the election of a Governor **and**~~[or]~~ Lieutenant Governor is contested, a board for
26 determining the contest shall be formed and shall proceed in the following manner:

27 (1) On the third day after the organization of the General Assembly that meets next

1 after the election, the Senate shall select three (3) of its members as provided in
 2 subsection (2) of this section, and the House of Representatives shall select eight
 3 (8) of its members as provided in subsection (2) of this section, and the eleven (11)
 4 so selected shall constitute a board to try the contest, seven (7) of whom shall
 5 constitute a quorum.

6 (2) In making the selection, the name of each member present shall be written on a
 7 separate piece of paper, every piece being as nearly similar to the other as possible.
 8 Each piece shall be rolled up so that the names thereon cannot be seen, nor any
 9 particular piece ascertained or selected by feeling. The whole, so prepared, shall be
 10 placed by the clerk in a box on the clerk's~~his~~ table, and after it has been well
 11 shaken, and the papers therein well intermixed, the clerk shall draw out one (1)
 12 paper, which shall be opened and read aloud by the presiding officer, and so on until
 13 the required number is obtained.

14 (3) If any member~~person so~~ selected swears that he or she cannot, without great
 15 personal inconvenience, serve on the board, or that he or she feels an undue bias for
 16 or against either of the parties, that member~~he~~ may be excused by the house from
 17 which that member~~he~~ was chosen from serving on the board,~~and~~ If it appears
 18 that a selected member~~person so selected~~ is related to either party, or is liable to
 19 any other proper objection on the score of his or her partiality, that member~~he~~
 20 shall be excused. Any deficiency in the proper number~~so~~ created by excuse shall
 21 be supplied by another draw from the box.

22 (4) The selected members of the board~~so chosen~~ shall be sworn by the Speaker of the
 23 House of Representatives to try the contested election, and shall give true
 24 judgment~~thereon~~ according to the evidence, unless dissolved before rendering
 25 judgment.

26 (5)~~(2)~~ The board shall, within twenty-four (24) hours after its selection, meet,
 27 appoint its chair~~chairman~~, and assign a day for hearing the contest. It~~and~~ may

1 adjourn from day to day as its business requires. If any member of the board
 2 willfully fails to attend its sessions, **that member** ~~he~~ shall be reported to the house
 3 to which he **or she** belongs, and that house shall **then** ~~thereupon~~, in its discretion,
 4 punish **that member** ~~him~~ by fine, or imprisonment, or both.

5 ~~(6)~~~~(3)~~ The board may, **upon a majority vote**, send for persons, papers, and records,
 6 **including all voting machines, ballots, boxes, and precinct rosters. The board** ~~and~~
 7 **and** ~~may~~ issue **subpoenas** ~~attachments therefor~~ signed by its **chair** ~~chairman~~ or
 8 **the Speaker of the House of Representatives** ~~clerk, and may issue commissions for~~
 9 ~~taking proof~~.

10 **(7) The board may use the services of any law enforcement agency to transport all**
 11 **records relating to the election contest, including voting machines, ballots, boxes,**
 12 **and precinct rosters. All voting machines, ballots, boxes, precinct rosters, and**
 13 **other voting records sent for by the board shall be sealed, to the extent possible,**
 14 **and transmitted in a tamper-resistant manner. The chain of custody for the**
 15 **records shall be recorded, in writing, on a form prescribed by the State Board of**
 16 **Elections in administrative regulations promulgated under KRS Chapter 13A to**
 17 **include the identity of the person or persons transferring and receiving the**
 18 **records, and the date, time, and location of the transfer. The clerk of the house**
 19 **before which the contest is proceeding shall be designated by the board as the**
 20 **custodian of the records while the records are in the possession of the board.**

21 ~~(8)~~~~(4)~~ If it appears that the candidates receiving the highest number of votes
 22 **cast** ~~given~~ have received an equal number, the right to the office shall be
 23 determined by lot, **in the manner prescribed by the board, and** under the direction
 24 of the board.

25 **(9)** If the person returned is found not ~~to have been~~ legally qualified to receive the
 26 office at the time of his **or her** election ~~, and the first two (2) years of his term have~~
 27 ~~not expired~~, a new election shall be ordered to fill the vacancy.

1 **(10)** If a person other than the one returned is found to have received the highest number
 2 of legal votes ~~cast~~~~[given]~~, he ***or she*** shall be adjudged ***by the General Assembly*** to
 3 be the person elected and entitled to the office.

4 ~~**(11)**~~~~[(5)]~~ No decision shall be made but by the vote of ***at least*** six (6) members of the
 5 board. The decision of the board shall not be final ~~or~~~~[not]~~ conclusive, but shall be
 6 reported to the two (2) houses of the General Assembly, in joint session, for the
 7 further action of the General Assembly. The Speaker of the House shall preside at
 8 the joint session, and the General Assembly shall then determine the contest.

9 **(12)** If no decision of the board is given during the then session of the General
 10 Assembly, ***the board***~~[it]~~ shall be dissolved, unless by joint resolution of the two (2)
 11 houses it is empowered to continue longer.

12 ~~**(13)**~~~~[(6)]~~ If a new election is required, it shall be immediately ordered by proclamation
 13 of the Speaker of the House, ***who shall issue a writ of election. The writ shall be***
 14 ***signed by the Speaker, shall designate the day for holding the election, and shall***
 15 ***be directed to the proper sheriff or sheriffs as provided in Section 10 of this Act***~~[~~
 16 ~~to take place on a day not less than thirty (30) days nor more than six (6) weeks~~
 17 ~~thereafter].~~

18 ~~**(14)**~~~~[(7)]~~ When a new election is ordered, or the incumbent is adjudged not to be
 19 entitled to the office, his ***or her*** power shall immediately cease, and if the office is
 20 not adjudged to another, it shall be deemed~~[to be]~~ vacant.

21 ➔Section 6. KRS 120.215 is amended to read as follows:

22 **(1)** When the election of a member of the General Assembly is contested, the
 23 ***house***~~[branch]~~ to which he ***or she*** belongs shall, within three (3) days after its
 24 organization, and in the manner provided in KRS 120.205, select a board of not
 25 more than nine (9) nor less than five (5) of its members to determine the contest.

26 **(2)** ***The number of members required for the board shall be determined by the***
 27 ***presiding officer of the house to which the person filing the contest belongs or***

1 seeks to be a member, and announced to the house prior to the selection of any
2 member of the board, a majority of whom shall constitute a quorum.

3 (3) The members selected to serve on the board as provided in this section shall be
4 sworn by the presiding officer to try the contested election, and shall give true
5 judgment according to the evidence, unless dissolved before rendering judgment.

6 (4) The~~[Such]~~ board shall be governed by the same rules, have the same power, and be
7 subject to the same penalties as a board to determine the contested election of
8 Governor and Lieutenant Governor under Section 4 of this Act. It shall report its
9 decision to the house~~[branch]~~ of the General Assembly by which it was appointed,
10 for its further action.

11 (5) The board shall, within twenty-four (24) hours of its selection, meet, appoint its
12 chair, and assign a day for hearing the contest, and may adjourn from day to day
13 as its business requires. If any member of the board willfully fails to attend its
14 sessions, that member shall be reported to the house to which he or she belongs,
15 and that house shall then, in its discretion, punish that member by fine, or
16 imprisonment, or both.

17 (6) The board may, upon a majority vote, send for persons, papers, and records,
18 including all voting machines, ballots, boxes, and precinct rosters, and may issue
19 subpoenas signed by its chair or the presiding officer of the house before which
20 the contest is proceeding. The board or the presiding officer may also issue
21 subpoenas for taking proof.

22 (7) The board may use the services of any law enforcement agency to transport all
23 records relating to the election contest, including voting machines, ballots, boxes,
24 and precinct rosters. All voting machines, ballots, boxes, precinct rosters, and
25 other voting records sent for by the board shall be sealed, to the extent possible,
26 and transmitted in a tamper-resistant manner. The chain of custody for the
27 records shall be recorded, in writing, on a form prescribed by the State Board of

1 Elections in administrative regulations promulgated under KRS Chapter 13A to
2 include the identity of the person or persons transferring and receiving the
3 records, and the date, time, and location of the transfer. The clerk of the house
4 before which the contest is proceeding shall be designated by the board as the
5 custodian of the records while the records are in the possession of the board.

6 (8) The board may order a recount of the election even if a recount has been
7 conducted under Section 1 or 3 of this Act. A recount ordered by the board may
8 be conducted without prior approval of the house before which the contest is
9 proceeding. The recount shall be conducted by:

10 (a) The county clerk of the county or counties in which the precincts subject to
11 the recount are located, if no recount of the election has been conducted; or

12 (b) The State Board of Elections, if a recount has been conducted under
13 Section 1 or 3 of this Act, which shall:

14 1. Determine the number of persons required to conduct the recount,
15 each of whom shall be a county clerk;

16 2. Select that number of clerks by placing the name of each county clerk
17 in a box or similar receptacle, and after it has been well-shaken and
18 well-intermixed, the chair of the State Board of Elections shall draw
19 out one (1) name at a time, which shall be announced aloud. This
20 process shall continue until the required number is obtained; and

21 3. Once completed, provide the results of the recount to the contest
22 board.

23 The county clerk of any county containing precincts subject to the recount shall
24 not be eligible to conduct the recount.

25 (9) If it appears the candidates have received an equal number of legal votes cast, the
26 right to the office shall be determined by lot, in the manner prescribed by the
27 board, and under the direction of the board.

- 1 (10) If the board finds the person returned is not legally qualified to receive the office
2 at the time of his or her election, and if the house in which the contest is pending
3 concurrs under subsection (14) of this section, a vacancy shall exist, and a new
4 election shall be ordered to fill the vacancy. If a new election is required, it shall
5 be immediately ordered by proclamation of the presiding officer of the house
6 before which the contest is proceeding who shall issue a writ of election. The writ
7 shall be signed by the officer issuing it, shall designate the day for holding the
8 election, and shall be directed to the proper sheriff or sheriffs as provided in
9 Section 10 of this Act.
- 10 (11) If the board finds a person other than the one returned received the highest
11 number of legal votes cast, and if the house in which the contest is pending
12 concurrs under subsection (14) of this section, he or she shall be adjudged the
13 person elected and entitled to the office.
- 14 (12) If the board is unable to decide the person entitled to the office, and if the house
15 in which the contest is pending concurrs under subsection (14) of this section, a
16 vacancy shall exist, and a new election shall be ordered by that house of the
17 General Assembly to fill the vacancy. If a new election is required, it shall be
18 immediately ordered by proclamation of the presiding officer of the house before
19 which the contest is proceeding who shall issue a writ of election. The writ shall
20 be signed by the officer issuing it, shall designate the day for holding the election,
21 and shall be directed to the proper sheriff or sheriffs as provided in Section 10 of
22 this Act.
- 23 (13) When a new election is ordered, or the incumbent is adjudged not to be entitled to
24 the office, his or her power shall immediately cease, and if the office is not
25 adjudged to another, it shall be deemed vacant.
- 26 (14) No decision shall be made but by the vote of a majority of the members of the
27 board. The decision of the board shall not be final or conclusive, except as

1 *provided in subsection (8) of this section, but shall be reported to the house of the*
2 *General Assembly by which it was appointed, for its further action.*

3 ➔Section 7. KRS 120.017 is amended to read as follows:

- 4 (1) It shall be the duty of precinct election officers at all *primaries*~~[primary]~~, regular
5 *elections*, or special elections to immediately report to the county clerk any
6 administrative or clerical error discovered in the process of conducting the polling
7 or tabulation of votes at any such *primary or* election.
- 8 (2) Upon receipt by the county clerk of notice of error in conducting the polling or
9 tabulation of votes pursuant to subsection (1) of this section, the county clerk shall
10 file an action in the Circuit Court, within fifteen (15) days of the *primary or*
11 election, requesting a recount of ballots for the precinct reporting the administrative
12 or clerical error. Simultaneously with the filing of such action, the county clerk shall
13 make written notice by regular mail to all candidates appearing on the ballot of the
14 precinct at issue that such action is being filed. In the case of an election for
15 candidates for offices for the state at large or an election on a statewide public
16 question, the action shall be filed in the Franklin Circuit Court; in the case of other
17 elections, the action shall be filed in the Circuit Court of the county in which the
18 precinct reporting the error is located.
- 19 (3) An action filed in the Circuit Court of proper jurisdiction pursuant to this section
20 shall be heard summarily and without delay. Upon filing of the action, the circuit
21 clerk shall immediately notify the Circuit Judge, and the judge shall at once enter an
22 order directing custody of the voting machine, the ballots, boxes, and all papers
23 pertaining to the *primary or* election from that precinct claiming error, to be
24 transferred to the Circuit Court, and fix a day for the recount proceeding to begin.
- 25 (4) Candidates notified pursuant to subsection (3) of this section shall, upon proper
26 motion, be made parties to the action.
- 27 (5) On the day fixed for the recount, the court shall proceed to recount the ballots if

1 their integrity is satisfactorily shown, ~~and~~ shall complete the recount as soon as
2 practicable, and shall file and enter of record the results thereof.

3 (6) Any person made party to the action pursuant to subsection (4) of this section may
4 appeal from the judgment to the Court of Appeals, in the same manner as provided
5 in KRS 120.075.

6 (7) The county clerk shall certify the final recount results entered of record in any
7 action filed pursuant to this section to the county board of elections and to the local
8 governing body of each of two (2) dominant political parties. Final certification of
9 election results shall then proceed according to KRS Chapters 117, 118, and 118A.

10 **(8) The court may determine if an automatic recount conducted under Section 1 of**
11 **this Act satisfies the recount required under this section.**

12 ➔Section 8. KRS 120.155 is amended to read as follows:

13 Any candidate for election to any state, county, district or city office (except the office of
14 Governor, Lieutenant Governor, member of the General Assembly, and those city offices
15 as to which there are other provisions made by law for determining contest elections), for
16 whom a number of votes was cast equal to not less than twenty-five percent (25%) of the
17 number of votes cast for the successful candidate for the office, may contest the election
18 of the successful candidate, by filing a petition in the Circuit Court of the county where
19 the contestee resides, unless the officer is one (1) elected by the voters of the whole state,
20 in which case the petition shall be filed in the Franklin Circuit Court. The petition shall be
21 filed and process issued within thirty (30) days after the day of election; it shall state the
22 grounds of the contest relied on, and no other grounds shall afterwards be relied upon.
23 The contestee shall file an answer within twenty (20) days after the service of summons
24 upon him or her. The answer may consist of a denial of the averments of the petition and
25 may also set up grounds of contest against the contestant; if grounds are so set up they
26 shall be specifically pointed out and none other shall thereafter be relied upon by the
27 party. Any candidate who would have been qualified to bring a contest action under this

1 section, who is a party to a **requested** recount proceeding under **subsection (1) of Section**
 2 **3 of this Act**~~[KRS 120.185]~~, may, by filing answer in the recount proceeding within the
 3 time allowed by this section for filing grounds of contest, set forth grounds of contest
 4 against the petitioner in the recount proceeding. A reply may be filed within ten (10) days
 5 after the answer is filed; its affirmative allegations shall be treated as controverted, and no
 6 subsequent pleading shall be allowed.

7 ➔Section 9. KRS 117.295 is amended to read as follows:

8 (1) For a period of ten (10) days following any primary~~[election]~~, and for a period of
 9 thirty (30) days following any **regular**~~[general]~~ or special election, the voting
 10 machine shall remain locked against voting and the ballot boxes containing all
 11 paper ballots shall remain locked, except that the voting machines and the ballot
 12 boxes may be opened and all the data and figures therein examined;~~[,]~~

13 **(a)** Upon the order of any court of competent jurisdiction, or judge thereof;~~[, or]~~

14 **(b)** By direction of any legislative committee **or board** authorized and empowered
 15 to investigate and report upon contested elections;~~[, or]~~

16 **(c)** **As required to conduct a recount under Section 1 of this Act.**~~[and]~~

17 All the data and figures shall be examined by the court, judge, **county board of**
 18 **elections, State Board of Elections,** or committee in the presence of the officer
 19 having the custody of the machine and ballot boxes. In the event of a contest of
 20 election, the court in which the contest is pending or the committee before which
 21 the contest is being heard may, upon motion of any party to the contest, issue an
 22 order requiring that the voting machines and ballot boxes shall remain continuously
 23 locked for further time as may be reasonable or necessary, with due regard for the
 24 preparation of the machines for a succeeding primary, regular **election,** or special
 25 election, but in no event shall the order compel that the machines remain locked to a
 26 time within thirty (30) days next preceding any approaching primary, regular
 27 **election,** or special election.

1 (2) During the period when the machine and the ballot boxes are required to be kept
2 locked, the keys thereto shall remain in the possession of the county board of
3 elections. After that period, it shall be the duty of the county board of elections to
4 return the keys to the custody of the county clerk.

5 ➔Section 10. KRS 118.740 is amended to read as follows:

6 (1) A copy of a proclamation issued under KRS 118.710 or 118.720, or a writ of
7 election issued under KRS 118.730 or Section 5 or 6 of this Act shall be forwarded
8 by mail to the sheriff of each county in the district in which the election is to be
9 held, at least fifty-six (56) days before the election. The sheriff of each county in
10 which an election is to be held shall give notice at least forty-nine (49) days before
11 the day of election. If, from any cause, the sheriff cannot properly act, he shall
12 immediately hand the writ or proclamation to the person authorized to act in his
13 place.

14 (2) If a special election is administered under KRS 118.730(2), the notice required by
15 subsection (1) of this section shall include the location of the election.