

1 AN ACT relating to elections.

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

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

- 4 (1) **(a)** Any candidate who was voted for at a regular election for any of the offices to
 5 which KRS 120.155 applies, **and any candidate who was voted for at a**
 6 **regular election as a member of the General Assembly,** may request a
 7 recount of the ballots by:
- 8 **1.** Filing a petition~~[-so requesting,]~~ with the same court **where**~~[that]~~
 9 petitions of contest are required to be filed **under KRS 120.155**~~[with,]~~
 10 within ten (10) days after the day of the election;~~[-]or[-]~~
- 11 **2.** If the candidate is qualified to institute a contest proceeding under KRS
 12 120.155, by including a request for a recount in his **or her** petition
 13 instituting the contest proceedings~~[-, but in the latter case the petition~~
 14 ~~shall be]~~ filed within ten (10) days after the day of the election;~~[-] or~~
- 15 **3. If a candidate for the General Assembly, by filing a petition for a**
 16 **recount in the Circuit Court of the county where the requesting**
 17 **candidate resides within ten (10) days after the day of the election;**
- 18 **(b)** Any candidate who is a contestee in a contest proceeding under KRS 120.155
 19 may request a recount in his answer filed in the contest proceeding, but only if
 20 the answer is filed within ten (10) days after the day of election;~~[-]~~
- 21 **(c)** If a request for a recount is made, the State Board of Elections or the county
 22 board of elections, whichever would issue the certificate of election shall be
 23 made a party defendant;~~[-]~~
- 24 **(d)** The party requesting the recount shall execute bond with approved surety for
 25 the costs of the recount, in an amount to be fixed by the Circuit Judge;~~[-]~~
- 26 **(e)** Upon the bond being filed, the clerk shall immediately notify the Circuit
 27 Judge of the request and the filing of the bond, and the judge shall at once

1 enter an order directing the custody of the voting machines, ballots, boxes,
 2 and all papers pertaining to the election to be transferred to the Circuit Court,
 3 and fix a day for the recount proceedings to begin. A copy of the order shall be
 4 served upon the parties or their counsel in the same manner as notices are
 5 required to be served, which shall be deemed sufficient notice of the
 6 proceeding;[-.]

7 (f) On the day fixed, the court shall proceed to recount the ballots if their integrity
 8 is satisfactorily shown and shall complete the recount as soon as
 9 practicable;[-.] and

10 (g) Upon completion of the requested recount under this subsection the court
 11 shall file and enter of record the results of the recount[thereof], and direct the
 12 State Board of Elections[state board] or county board of elections, whichever
 13 would issue the certificate of election to issue the certificate[same] to the
 14 party entitled thereto as shown by the recount.

15 (2) Any party may appeal from the judgment issued under subsection (1) of this
 16 section to the Court of Appeals, in the same manner as provided in KRS 120.075,
 17 and all of the provisions of that[which] statute shall apply[be applicable].

18 (3) If a proceeding for recount is requested[asked] and prosecuted in a contest
 19 proceeding, the recount[it] shall not await the preparation or trial of the contest in
 20 the Circuit Court or in the Court of Appeals. The action of the courts shall be final[-,
 21 ~~excluding the parties~~] as to the question of a recount of the ballots, and certificates
 22 shall then be issued to the parties entitled thereto.

23 ➔Section 2. KRS 120.195 is amended to read as follows:

24 (1) No application to contest the election of a Governor, Lieutenant Governor, or
 25 member of the General Assembly shall be heard unless written notice, signed by the
 26 party contesting, is given. The notice shall state the grounds of the contest, and none
 27 other shall afterwards be heard as coming from that party, but the contestee may

1 make defense without giving counternotice. *A request for a recount of the votes*
2 *cast in any election of a member of the General Assembly shall not be grounds*
3 *for filing an election contest, and no recount other than as provided under*
4 *Section 1 of this Act shall be authorized or undertaken at any time in any contest*
5 *proceeding.*

6 (2) In the case of the Governor or Lieutenant Governor, the notice shall be given within
7 thirty (30) days after the final action of the State Board of Elections. In the case of a
8 member of the General Assembly, the notice shall be given within fifteen (15) days
9 after the final action of the county board of elections or the State Board of
10 Elections, whichever canvasses the returns.

11 (3) Immediately after the notice, either party may proceed to take proof by depositions,
12 under the same rules and regulations that govern the taking of depositions in actions
13 in equity, except that no commission shall be required for taking a deposition out of
14 the state. The depositions shall be sealed up by the officer taking them, and directed
15 to the clerk of the Senate or clerk of the House, as the case may require. The
16 depositions properly taken shall be read as evidence before the board or branch of
17 the General Assembly having jurisdiction of the case, and the board or branch may
18 call for and hear other proof. The taking of depositions to be used before a board or
19 branch of the General Assembly shall close ten (10) days before the next meeting of
20 the General Assembly, or, if in session when the notice is given, when the taking is
21 ordered to close.

22 (4) The costs of the proceeding shall be adjudged against the unsuccessful party, and a
23 certificate thereof shall be given by the clerk of the Senate or the clerk of the House,
24 as the case requires. A judgment for the costs may be obtained after five (5) days'
25 notice in a Circuit Court.

26 ➔Section 3. If any section, any subsection, or any provision of this Act is found
27 by a court of competent jurisdiction in a final, unappealable order to be invalid or

- 1 unconstitutional, the decision of the courts shall not affect or impair any of the remaining
- 2 sections, subsections, or provisions of this Act.