

Vetoed in its Entirety

1 AN ACT relating to elections.

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

3 ➔Section 1. KRS 117.035 is amended to read as follows:

- 4 (1) There shall be a county board of elections, which shall, at the direction and under
5 the supervision of the State Board of Elections, administer the election laws and the
6 registration and purgation of voters within the county.
- 7 (2) (a) The board shall consist of the county clerk, the sheriff, and two (2) members
8 appointed by the State Board of Elections not later than July 1 following the
9 election *for President and Vice President of the United States*~~[of persons to~~
10 ~~statewide office]~~, for a term of four (4) years and until their successors are
11 appointed.
- 12 (b) The sheriff shall not serve on the board during any year in which he or she is a
13 candidate, but shall recommend to the board a temporary replacement to serve
14 in his or her place. If the sheriff cannot serve because he or she is sick,
15 injured, or otherwise incapacitated, he or she may recommend a temporary
16 replacement to serve in his or her place until the sheriff may resume his or her
17 duties or a vacancy in office is declared.
- 18 (c) The county clerk may, at his or her option, continue to serve on the board
19 during a year in which he or she is a candidate. If the clerk elects not to serve,
20 he or she shall recommend a temporary replacement to serve in his or her
21 place. If the county clerk cannot serve because he or she is sick, injured, or
22 otherwise incapacitated, he or she may recommend a temporary replacement
23 to serve in his or her place until the county clerk may resume his or her duties
24 or a vacancy in office is declared.
- 25 (d) 1. Notwithstanding the provisions of KRS 61.080, service on the board of
26 elections shall be compatible with the holding of any other county or city
27 office.

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- 1 2. The members shall be at least twenty-one (21) years of age, qualified
2 voters in the county from which they are appointed, and shall not have
3 been convicted of any election law offense.
- 4 3. One (1) member shall be appointed from a *nomination*~~[list of five (5)~~
5 ~~names]~~ submitted by the county executive committee of each political
6 party as defined in KRS 118.015. If there are two (2) or more contending
7 executive committees of the same political party in any county, the one
8 recognized by the written certificate of the chair of the state central
9 committee of the political party shall be the one authorized to submit the
10 *nomination*~~[lists]~~.
- 11 4. If the State Board of Elections *rejects the nomination or* does not
12 receive the *nomination*~~[list]~~ as required by subparagraph 3. of this
13 paragraph for each political party for each county by the deadline
14 established in paragraph (a) of this subsection or within one (1) month
15 of a vacancy, then the chair of the state central committees for the
16 political parties may submit *the nomination*~~[lists of five (5) names]~~ of
17 qualified residents from the *county or counties whose nomination was*
18 *rejected, or the* remaining counties by August 1 *of the year in which the*
19 *term expires*~~[following the election of persons to statewide office] or~~
20 within two (2) months of a vacancy.
- 21 5. If the State Board of Elections does not receive a *nomination*~~[list]~~ from
22 either the county executive committee under subparagraph 3. of this
23 paragraph or the chair of the state executive committee under
24 subparagraph 4. of this paragraph, then the State Board of Elections
25 shall appoint a qualified resident from the county at its next regularly
26 scheduled meeting in September following the election *for President*
27 *and Vice President of the United States*~~[of persons to statewide office]~~

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- 1 or within three (3) months of a vacancy.
- 2 6. A member appointed by the State Board of Elections may be removed
- 3 by the State Board of Elections for cause.
- 4 7. A member appointed by the State Board of Elections may be removed
- 5 by the State Board of Elections upon a request approved by a two-thirds
- 6 (2/3) vote of the full membership of the county executive committee that
- 7 submitted the member's name. The county executive shall provide
- 8 conclusive evidence of the committee's membership and evidence of the
- 9 committee's two-thirds (2/3) vote before the State Board of Elections
- 10 removes any member appointed by the State Board of Elections.
- 11 8. If an appointee is temporarily unable to act, a temporary appointee shall
- 12 be named by the State Board of Elections. A temporary appointee shall
- 13 serve until the original appointee notifies the State Board of Elections
- 14 that he or she is able to resume his or her term.
- 15 9. A member appointed by the State Board of Elections shall not serve on
- 16 the board if he or she is a candidate for public office, and the member
- 17 shall resign upon filing papers to become a candidate for public office or
- 18 shall be removed from office by the State Board of Elections. A member
- 19 who resigns or is removed because of his or her candidacy shall not
- 20 resume his or her term following the completion of the candidacy.
- 21 10. Vacancies and temporary vacancies shall be filled in the same manner as
- 22 provided for original appointments, and the person appointed to fill the
- 23 vacancy or temporary vacancy shall be of the same political party as his
- 24 or her predecessor.
- 25 (e) Compensation and payment of actual expenses of members shall be set by the
- 26 fiscal court either as an amount payable on an annual basis, or as an amount
- 27 payable on a per diem basis of not less than fifteen dollars (\$15) nor more than

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1 one hundred dollars (\$100) for each day the board meets.

2 (3) A majority of the board shall constitute a quorum. The county clerk shall serve as
3 chair of the meetings and may vote. In case of a tie, the chair may cast an additional
4 vote. Records shall be kept of all proceedings, and the records shall be public and
5 kept at the office of the county clerk.

6 (4) The board shall meet as follows:

7 (a) During years in which a primary or regular election is scheduled, the board
8 shall meet at least once every other month and may meet more frequently if
9 necessary upon the call of the chair or upon written agreement of two (2) or
10 more members of the board. The call shall provide notice as prescribed by
11 KRS 61.823.

12 (b) During years in which no primary or regular election is scheduled, the board
13 shall meet at the call of the chair or upon written agreement of two (2) or more
14 members of the board. The call shall provide notice as prescribed by KRS
15 61.823.

16 (c) The board shall meet and stay in session on primary, regular election, and
17 special election days to correct clerical errors, to rule on questions regarding
18 voter registration and proof of identification, and may make to the election
19 officers such certifications as may be necessary. On primary, regular election,
20 and special election days, appeals may be made to a Circuit Judge, but a ruling
21 of the board shall be reversed only upon a finding that it was arbitrary and
22 capricious.

23 (5) The board may employ, on a bipartisan basis, a staff sufficient to carry out the
24 duties assigned to the board.

25 ➔Section 2. KRS 117.125 is amended to read as follows:

26 No make of voting machine shall be approved **and certified** for use unless it is so
27 constructed that:

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- 1 (1) It will ~~ensure~~^{insure} secrecy to the voter in the act of voting;[-]
- 2 (2) It provides facilities that will permit votes to be cast for any candidate entitled to
3 have his or her name printed upon the ballots at any primary or regular[-] or
4 special[-~~or primary~~] election, and for or against any public question entitled to be
5 placed upon the ballots;[-]
- 6 (3) It will, except at a primary[-elections], permit a voter to vote for all the candidates
7 of one (1) party or for one (1) or more candidates of every party having candidates
8 entitled to be voted for, or for one (1) or more independent candidates;[-]
- 9 (4) It will permit a voter to vote for as many persons for an office as he or she is
10 lawfully entitled to vote for, and no more;[-]
- 11 (5) It will prevent a voter from voting for the same person, or for or against the same
12 question, more than once;[-]
- 13 (6) It will permit a voter to vote for or against any question he or she may have the
14 right to vote on, but no other;[-]
- 15 (7) It may be adjusted for use in primaries~~[primary elections]~~ so that a voter may not
16 vote for any person except those seeking nomination as candidates of his or her
17 party or as candidates for an office of the Court of Justice;[-]
- 18 (8) It will correctly register and accurately count all votes cast for each person, and for
19 or against each public question;[-]
- 20 (9) It can be determined whether the machine has been unlocked and operated after
21 once being locked;[-]
- 22 (10) It will show at all times during an election how many persons have voted by a
23 device~~[hereinafter]~~ referred to as a public counter;[-]
- 24 (11) The counter indicating the number of votes cast for each person and for or against
25 each public question cannot be seen or tampered with without unlocking a covering
26 device that cannot be unlocked by a key that unlocks any other part of the machine.
27 When such counters are so exposed the machine can no longer be placed into

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1 condition for operation without the use of a special key, which key shall not have
2 been in the possession of the election officers at the polling places; but if this
3 requirement has the effect of eliminating from consideration any other make of
4 machine such requirement shall not apply;[-]

5 (12) The operating device and operating mechanism may be locked before the time for
6 opening the polls and after the time for closing the polls;[-]

7 (13) It is accompanied by a mechanical model illustrating the manner of voting on the
8 machine, suitable for the instruction of voters;[-]

9 (14) It will permit a voter to vote for all the candidates for presidential electors of any
10 party by one (1) operation;[-]

11 (15) It will permit a voter to vote, in any regular or special election, for any person
12 desired to be voted for whose name does not appear upon the voting machine;[-]

13 (16) It bears a number that will distinguish it from any other machine;[-]

14 (17) **It shall not be capable of:**

15 **(a) Establishing a wireless connection;**

16 **(b) Establishing a connection to an external network;**

17 **(c) Connecting to any device that is capable of establishing a connection to an**
18 **external network, including any over-the-air interface; or**

19 **(d) Establishing any hardware or software connection between any component**
20 **of the voting machine, voting equipment, or voting system during voting;**

21 **and**

22 **(18) It shall produce a paper record with a manual audit capacity, which shall be**

23 **available as an official record of votes cast**~~[The frames in which ballot labels are~~
24 ~~placed shall be constructed with transparent protective devices, in order that the~~
25 ~~names thereon cannot be mutilated or altered].~~

26 ➔Section 3. KRS 117.379 is amended to read as follows:

27 (1) Any person or corporation owning, manufacturing or selling any electronic voting

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1 system, may request the State Board of Elections to examine the system. Before
2 requesting an examination or reexamination, any person, persons, or corporation
3 shall pay to the State Treasurer an examination fee of five hundred dollars (\$500)
4 and submit a test report from an independent testing authority approved by the State
5 Board of Elections. The report shall demonstrate that the system meets all Federal
6 Election Commission voting system standards. The State Board of Elections may, at
7 any time, reexamine any system already approved. The State Board of Elections
8 shall approve or disapprove any voting system within sixty (60) days after the date
9 of its initial submission. Any voting machine or voting system certified by the
10 State Board of Elections, but not in compliance with Sections 2 and 4 of this Act,
11 shall continue to operate until a replacement voting machine or voting system as
12 required by Sections 2 and 4 of this Act has been certified and placed in
13 operation.

14 (2) Upon receipt of a request for examination or reexamination of an electronic voting
15 system, the State Board of Elections shall require that such system be examined or
16 reexamined by three (3) examiners. The State Board of Elections shall appoint one
17 (1) examiner who is an expert in computer science or electronic voting systems, one
18 (1) person who is knowledgeable in election procedures and law in Kentucky, and
19 one (1) person who is a present or former county clerk. The three (3) examiners
20 shall submit one (1) written report on each system examined or reexamined to the
21 State Board of Elections. The members of the State Board of Elections shall also
22 examine or reexamine the system. A system shall be approved if the examiners'
23 report states that the system meets all the requirements of KRS 117.381 and the
24 State Board of Elections finds that the system meets all of the requirements of KRS
25 117.381. The report and a letter of approval shall be filed in the office of the State
26 Board of Elections.

27 (3) Any electronic voting system not approved by the State Board of Elections shall not

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1 be used at any election.

2 (4) When an electronic voting system has been approved any improvement or changes
3 in the system shall render necessary the examination or approval of such system or
4 improvement.

5 (5) Neither the members of the State Board of Elections, nor any examiner appointed
6 by the State Board of Elections, nor any member of a county board of elections shall
7 have any pecuniary interest in any electronic voting system.

8 (6) Each examiner appointed by the State Board of Elections shall receive fair
9 compensation to be established by the State Board of Elections.

10 ➔Section 4. KRS 117.381 is amended to read as follows:

11 No electronic voting system shall, upon any examination or reexamination, be approved
12 **and certified** by the State Board of Elections unless it ~~is~~^{is}~~shall be~~ established that such
13 system, at the time of examination or reexamination:

14 (1) Provides for voting in secrecy;

15 (2) Permits each voter to vote at any election for all candidates and questions for which
16 he **or she** is lawfully entitled to vote, and no others;

17 (3) Permits each voter, at the **regular**~~general~~ election to vote a straight political party
18 ticket by one (1) or more marks or acts;

19 (4) Provides a method for write-in voting;

20 (5) Provides for a nonpartisan ballot;

21 (6) If it is of a type that registers the vote electronically, the voting system shall
22 preclude each voter from voting for more persons for any office than he **or she** is
23 entitled to vote for or upon any question more than once;

24 (7) Permits each voter at a primary~~election~~ to vote only for the candidates seeking
25 nomination by a political party in which such voter is registered, and for any
26 candidate for nonpartisan nomination, and for any question upon which he **or she** is
27 entitled to vote;

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- 1 (8) If it is of a type that registers the vote electronically, the voting system shall permit
2 each voter to change his or her vote for any candidate or upon any question
3 appearing on the official ballot up to the time that he or she takes the final step to
4 register his or her vote and to have his or her vote computed. If it is of a type that
5 uses paper ballots or ballot cards to register the vote and automatic tabulating
6 equipment to compute such votes, the system shall provide that a voter who spoils
7 his or her ballot may obtain another ballot;
- 8 (9) Is suitably designed for the purpose used, is constructed of a durable material, and is
9 safely transportable;
- 10 (10) Is so constructed that a voter may readily learn the method of operating it;~~and~~
- 11 (11) Meets or exceeds the standards for electronic voting equipment established by the
12 Federal Election Commission;~~and~~
- 13 (12) Provides for tabulating votes at the precinct in accordance with the requirements of
14 KRS 117.275;~~and~~

15 **(13) Is not be capable of:**

- 16 **(a) Establishing a wireless connection;**
- 17 **(b) Establishing a connection to an external network;**
- 18 **(c) Connecting to any device that is capable of establishing a connection to an**
19 **external network including any over-the-air interface; or**
- 20 **(d) Establishing any hardware or software connection between any component**
21 **of the voting machine, voting equipment, or voting system during voting;**
22 **and**

23 **(14) Produces a paper record with a manual audit capacity, which shall be available**
24 **as an official record of votes cast.**

25 ➔Section 5. KRS 118.025 is amended to read as follows:

- 26 (1) **(a)** Except as otherwise provided by law, voting in all primaries and elections
27 shall be by secret paper ballot, marked in pen by the voter~~on voting~~

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1 machines}.

2 **(b) Notwithstanding paragraph (a) of this subsection, if a county or precinct does not**
3 **have voting equipment capable of complying with this section and Sections 2 and**
4 **4 of this Act, the county or precinct shall continue to use voting machines or**
5 **voting systems that are certified by the State Board of Elections before the**
6 **effective date of this Act until a replacement voting machine or system as**
7 **required by this section and Sections 2 and 4 of this Act has been certified and**
8 **placed in operation.**

9 (2) The general laws applying to primaries, regular, and special elections shall apply to
10 primaries, regular, and special elections conducted with the use of voting machines,
11 and all provisions of the general laws applying to the custody of ballot boxes shall
12 apply, as far as applicable, to the custody of the voting machine.

13 (3) Primaries for the nomination of candidates to be voted for at the next regular
14 election shall be held on the first Tuesday after the third Monday in May of each
15 year.

16 (4) The election of all officers of all governmental units shall be held on the first
17 Tuesday after the first Monday in November.

18 (5) If the law authorizes the calling of a special election on a day other than the day of
19 the regular election in November, the election shall be held on a Tuesday.

20 (6) If the law requires that a special election be held within a period of time during
21 which the voting machines must be locked as required by KRS 117.295, the special
22 election shall be held on the fourth Tuesday following the expiration of the period
23 during which the voting machines are locked.

24 ➔Section 6. As a schedule of transitional provisions, those members appointed
25 under Section 1 of this Act by the State Board of Elections in 2024 shall serve for a term
26 of three years and until their successors are appointed in 2027. Beginning in 2027, and for
27 each term thereafter, members of the county board of elections appointed by the State

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- 1 Board of Elections shall serve for a term of four years and until their successors are
- 2 appointed.