

1 AN ACT relating to elections.

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

3 ➔Section 1. KRS 117.001 is amended to read as follows:

4 As used in this chapter, unless the context otherwise requires:

- 5 (1) "Audit log" means a detailed record of all actions and events that have occurred on
6 the voting system, including:
- 7 (a) Log-in attempts with username and time stamp;
 - 8 (b) Election definition and setup;
 - 9 (c) Ballot preparation and results processing;
 - 10 (d) Diagnostics of any type; and
 - 11 (e) Error and warning messages and operator response;
- 12 (2) "Automatic tabulating equipment" means apparatus necessary to automatically
13 examine and count votes as designated on ballots and data processing machines
14 which can be used for counting ballots and tabulating results;
- 15 (3) "Ballot" or "official ballot" means the official presentation of offices and candidates
16 to be voted for, including write-in candidates, and all public questions submitted for
17 determination, and shall include a voting machine ballot, a paper ballot, an absentee
18 ballot, a federal provisional ballot, a federal provisional absentee ballot, or a
19 supplemental paper ballot which has been authorized for the use of voters in any
20 primary, regular election, or special election by the Secretary of State or the county
21 clerk;
- 22 (4) "Ballot box" means any box, bag, or other container that can be locked, sealed, or
23 otherwise rendered tamper-resistant, for receiving ballots;
- 24 (5) "Ballot marking device" means any approved device for marking a ballot which
25 will enable the ballot to be tabulated manually or by means of automatic tabulating
26 equipment;
- 27 (6) "Election" or "elections" means any primary, regular election, or special election;

- 1 (7) "Election officer" has the same meaning as in KRS 118.015;
- 2 (8) "E-poll book" means an electronic device capable of holding a file of voter data and
3 related information for use in identifying registered voters prior to a voter's
4 receiving or casting a ballot, and allowing a voter to electronically sign in on an
5 electronic registered voter roster in lieu of signing a paper registered voter roster;
- 6 (9) "Federal provisional voter" means a person:
- 7 (a) Who does not appear to be registered to vote;
- 8 (b) Whose name does not appear on the precinct roster;
- 9 (c) Who has not provided proof of identification to the precinct election officer
10 before voting in a federal election; and
- 11 (d) Who elects to proceed with voting a federal provisional ballot under KRS
12 117.229;
- 13 (10) "Federal provisional ballot" or "federal provisional absentee ballot" means ballots
14 which have been authorized by the Secretary of State or the county clerk to be used
15 by federal provisional voters in any federal primary or election;
- 16 (11) "Inner envelope" or "secrecy envelope" means the envelope provided to the voter
17 with a ballot into which the voter shall place his or her voted ballot;
- 18 (12) "Political group" has the same meaning as in KRS 118.015;
- 19 (13) "Political organization" has the same meaning as in KRS 118.015;
- 20 (14) "Precinct ballot counter" means an automatic tabulating device used at the precinct
21 to tabulate and process ballots;
- 22 (15) "Proof of identification" means a document that was issued by:
- 23 (a) The United States or the Commonwealth of Kentucky, and the document
24 contains:
- 25 1. The name of the individual to whom the document was issued; and
26 2. A photograph of the individual to whom the document was issued;
- 27 (b) The United States Department of Defense, a branch of the uniformed services,

1 the Merchant Marine, or the Kentucky National Guard, and the document
2 contains:

- 3 1. The name of the individual to whom the document was issued; and
- 4 2. A photograph of the individual to whom the document was issued;

5 (c) A public or private college, university, or postgraduate technical or
6 professional school located within the United States, and the document
7 contains:

- 8 1. The name of the individual to whom the document was issued; and
- 9 2. A photograph of the individual to whom the document was issued; or

10 (d) Any city government, county government, urban-county government, charter
11 county government, consolidated local government, or unified local
12 government, which is located within this state, and the document contains:

- 13 1. The name of the individual to whom the document was issued; and
- 14 2. A photograph of the individual to whom the document was issued;

15 (16) ~~["Risk limiting audit" means an audit protocol that makes use of statistical~~
16 ~~principles and methods and is designed to limit to acceptable levels the risk of~~
17 ~~certifying a preliminary election outcome that constitutes an incorrect outcome;~~

18 ~~(17) "Voting booth" or "ballot completion area" means an area in which a voter casts~~
19 ~~his or her vote or completes his or her ballot which is designed to ensure the secrecy~~
20 ~~of the vote;~~

21 ~~(17)~~~~(18)~~ "Vote center" means a consolidated precinct of the county;

22 ~~(18)~~~~(19)~~ "Voting equipment" means any physical component of a voting system and
23 includes voting machines where voting machines are in operation;

24 ~~(19)~~~~(20)~~ "Voting machine" or "machine":

25 (a) Means a part of a voting system that consists of ~~:~~

26 1. ~~A direct recording electronic voting machine that:~~

27 a. ~~Records votes by means of a ballot display provided with~~

1 ~~mechanical or electro-operated components that may be actuated~~
2 ~~by the voter;~~

3 ~~b. Processes the data by means of a computer program;~~

4 ~~c. Records voting data and ballot images in internal and external~~
5 ~~memory components; and~~

6 ~~d. Produces a tabulation of the voting data stored in a removable~~
7 ~~memory component and on a printed copy; or~~

8 ~~2. One (1) or more electronic devices that operate independently or as a~~
9 ~~combination of a ballot marking device and an electronic or automatic~~
10 ~~vote tabulation device; and~~

11 (b) Does not include an e-poll book;

12 (20)~~(21)~~ "Voting system":

13 (a) Means the total combination of physical, mechanical, electromechanical, or
14 electronic equipment, including the software, hardware, firmware, and
15 documentation required to program, control, and support that equipment, that
16 is used to:

- 17 1. Define ballots;
- 18 2. Cast and count votes;
- 19 3. Report or display election results; and
- 20 4. Maintain and produce any audit trail information;

21 (b) Includes the practices and associated documentation used to:

- 22 1. Identify system components and versions of those components;
- 23 2. Test the system during its development and maintenance;
- 24 3. Maintain records of system errors and defects;
- 25 4. Determine specific system changes to be made to a system after the
26 initial qualification of the system;
- 27 5. Make available any materials to the voter, such as notices, instructions,

1 forms, or paper ballots; and

2 (c) Does not include an e-poll book; and

3 ~~(21)~~~~(22)~~ "Voter-verified paper audit trail" means a contemporaneous paper record of a
4 ballot printed for the voter to confirm his or her votes before the voter casts his or
5 her ballot that:

6 (a) Allows the voter to verify the voter's ballot choices before the casting of the
7 voter's ballot;

8 (b) Is not retained by the voter;

9 (c) Does not contain individual voter information;

10 (d) Is produced on paper that is sturdy, clean, and resistant to degradation; and

11 (e) Is readable in a manner that makes the voter's ballot choices obvious to the
12 voter or any person without the use of computer or electronic code.

13 ➔Section 2. KRS 117.383 is amended to read as follows:

14 The State Board of Elections shall promulgate administrative regulations under KRS
15 Chapter 13A which shall maintain the maximum degree of correctness, impartiality, and
16 efficiency of the procedures of voting and shall provide methods to:

17 (1) Count, tabulate, and record votes;

18 (2) Place items on any ballot which shall, as closely as possible, follow the
19 requirements pertaining to ballots;

20 (3) Design the ballots to include a system to ensure an accurate record of all voting
21 activities;

22 (4) Instruct voters in the use of the voting system, including any ballot marking device;

23 (5) Provide for checking the accuracy of the voting system;

24 (6) Provide necessary supplies, including those necessary for a write-in vote, to ensure
25 voter privacy;

26 (7) ~~[As part of the official canvass, provide for a manual recount of randomly selected~~
27 ~~precincts representing three percent (3%) to five percent (5%) of the total ballots~~

1 ~~cast in each election;~~

2 ~~(8)]~~ Provide for the conducting and review of an audit of any component of a voting
3 system or any voting equipment, and a review of any audit log;

4 ~~(8)~~~~(9) — (a)]~~ Provide for the conducting and review of an election audit~~[, including a~~
5 ~~risk-limiting audit, and risk-limiting audit pilot program, all of]~~ which shall
6 establish the protocol by which ballots are checked, compared, and verified with the
7 results produced by vote tallying equipment to ensure accuracy **through a hand-to-**
8 **eye recount defined and conducted as follows:**

9 **(a) To validate the accuracy and fidelity of the vote tabulation, the Secretary of**
10 **State or his or her designee shall randomly select, in all counties of the**
11 **Commonwealth, one (1) ballot scanner and one (1) race tabulated on that**
12 **scanner for a hand-to-eye recount to be performed by each county board of**
13 **elections or its designee;**

14 **(b) The sealed ballot boxes and signed tabulator tally tape or record from**
15 **election day, as established in KRS 117.275, shall be provided by the county**
16 **board of elections at an agreed upon location, and shall be accessible for**
17 **public viewing. The sealed ballots are only to be unsealed in the presence of**
18 **the county board of elections or its designee and public witnesses;**

19 **(c) A minimum of (2) qualified poll workers, not of the same political party,**
20 **shall be selected from lists of available volunteers, sworn in by the county**
21 **board of elections or its designee to do the hand-to-eye recount, and**
22 **compensated at the local poll worker rate. A video recording device shall be**
23 **used for recording the event and it may be streamed for public internet**
24 **viewing;**

25 **(d) Ballots are to be aligned for stacking as needed, then viewed one (1) at a**
26 **time, with each volunteer making a tally mark on a tally sheet for each vote**
27 **cast for each candidate. Any ballots that are disputed or unclearly marked**

1 shall be set aside and the county board of elections or its designee shall
2 determine voter intent;

3 (e) Once the hand-to-eye recount is completed, each volunteer shall add up the
4 tally marks for each candidate, write down a total number of votes for each
5 candidate, and sign the tally sheet. The county board of elections or its
6 designee shall verify if the two (2) separate hand-to-eye tallies match. If the
7 two (2) hand-to-eye tallies do not match each other, the process must be
8 repeated until the totals are matching. Once this occurs, the county board of
9 elections or its designee shall also verify the tallies by signing each tally
10 sheet. Then, the ballots must be returned to the ballot box and resealed in
11 the presence of the county board of elections or its designee and public
12 witnesses;

13 (f) The county board of elections or its designee shall compare the signed
14 register tape total from the vote tabulation machine on election day to the
15 hand-to-eye tallies. If there is a discrepancy between the machine count and
16 the hand-to-eye recount, other than instances of voter intent markings
17 outside the designated marking area on the paper ballot that were
18 unreadable by the scanner, or unscanned overvotes resulting from two (2)
19 or more voter intent marks on the same race, the county board of elections
20 or its designee shall open an election investigation including a review of
21 election day irregularity reports. If more discrepancies are found, the
22 county board of elections or its designee shall broaden the investigation
23 until the reason for the discrepancy is discovered and subsequently resolved.
24 A determination as to whether the outcome of the race could have been
25 impacted by the discrepancies shall be made and any findings shall be
26 reported to the Attorney General and Secretary of State; and

27 (g) The county board of elections or its designee shall examine the electronic or

1 *paper sign-in records from the precinct or vote center and validate that the*
 2 *ballots cast and recounted were less than or equal to the sign-in records for*
 3 *that precinct or vote center. If the cast ballots for the precinct or vote center*
 4 *exceed the number of voters on the sign-in records for the precinct or vote*
 5 *center, the county board of elections shall open an election investigation*
 6 *and report the findings to the Attorney General and Secretary of State*[-.

7 ~~(b) The pilot program shall, at a minimum, include individuals representing the~~
 8 ~~State Board of Elections, the Office of the Secretary of State, and no fewer~~
 9 ~~than five percent (5%) of Kentucky's counties.~~

10 ~~(c) The risk limiting audit and risk limiting audit pilot program shall make the~~
 11 ~~results of its findings available to the public];~~

12 ~~(9)~~[(10)] Provide a method for maintaining sufficient documents, including ballots and
 13 records, so that votes can be recounted;

14 ~~(10)~~[(11)] Ensure the county board of elections produces accurate precinct-by-precinct
 15 summaries of tabulation sheets showing the results of each precinct during in-
 16 person absentee voting, election day voting, and when a county is approved to use a
 17 vote center;

18 ~~(11)~~[(12)] Except as otherwise required in this chapter, all records and papers relating to
 19 specified elections be retained for twenty-two (22) months, such documents and
 20 records shall be maintained for thirty (30) days following an election; and

21 ~~(12)~~[(13)] Unless contrary to the Help America Vote Act of 2002, ensure that all federal
 22 provisional voting shall be conducted in a manner as prescribed by KRS Chapters
 23 116 to 120.

24 ➔Section 3. KRS 117.295 is amended to read as follows:

25 (1) For a period of thirty (30) days following any election, the voting equipment shall
 26 remain locked against voting, the ballot boxes containing all paper ballots shall
 27 remain locked, and the voting equipment and ballot boxes shall be under video

1 surveillance. The system used to conduct the video surveillance shall have enough
2 storage capacity to retain sixty (60) consecutive days of continuous recording data.
3 The voting equipment and the ballot boxes may be opened and all the data and
4 figures therein examined:

- 5 (a) Upon the order of any court of competent jurisdiction, or judge thereof;
- 6 (b) By direction of any legislative committee or board authorized and empowered
7 to investigate and report upon contested elections;
- 8 (c) By a county board of elections ***or its designee*** under the direction of the
9 ***Secretary of State***~~[State Board of Elections]~~ pursuant to a ***hand-to-eye***
10 ***recount as described in Section 2 of this Act***~~[risk limiting audit]~~; or
- 11 (d) As required to conduct a recount under KRS 120.157.

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

23 (2) During the period when the voting equipment and the ballot boxes are required to
24 be kept locked, the keys thereto shall remain in the possession of the county board
25 of elections. After that period, it shall be the duty of the county board of elections to
26 return the keys to the custody of the county clerk.

27 ➔Section 4. There is hereby appropriated General Fund moneys in the amount of

1 \$1,200,000 in fiscal year 2024-2025 and \$1,200,000 in fiscal year 2025-2026 to the
2 Board of Elections to reimburse each county clerk up to \$5,000 for actual expenses
3 incurred for each election in which the clerk conducts a hand-to-eye recount as outlined
4 in Section 2 of this Act.