

1 AN ACT relating to local boards of education.

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

3 ➔ SECTION 1. A NEW SECTION OF KRS CHAPTER 160 IS CREATED TO
4 READ AS FOLLOWS:

5 *As used in Sections 1 to 4 of this Act:*

6 *(1) "Neglect of duty" means:*

7 *(a) The commission of a trespass or wrongful act in the performance of an*
8 *official duty;*

9 *(b) Acceptance of a bribe of money or other valuable consideration to induce*
10 *failure to perform duties prescribed by law;*

11 *(c) Willful or careless failure to exercise due diligence in the performance of*
12 *an official duty, or intentional failure to perform a duty imposed by statute*
13 *or the Constitution of Kentucky;*

14 *(d) Commission of an act or acts of misfeasance or malfeasance while in office;*

15 *(e) Violation of the oath of office;*

16 *(f) Willful misuse, conversion, or misappropriation, without authority, of*
17 *public property or public funds entrusted to or associated with the office;*

18 *(g) Habitual impairment in office due to ingestion or other use of alcohol, an*
19 *illegal substance, or a controlled substance as defined in KRS 218A.010;*

20 *(h) Conviction of forgery, perjury, or any felony while in office;*

21 *(i) Conviction of two (2) Class A misdemeanors within an eight (8) year period*
22 *while in office;*

23 *(j) Conduct in a manner which relates to and adversely affects the*
24 *administration of the office and adversely affects the rights and interests of*
25 *the public;*

26 *(k) Incapacity; or*

27 *(l) Incompetence; and*

1 (2) "Neglect of duty" shall not include the discretionary performance of a lawful act
2 or a prescribed duty.

3 ➔ SECTION 2. A NEW SECTION OF KRS CHAPTER 160 IS CREATED TO
4 READ AS FOLLOWS:

5 (1) In addition to other methods for removal as provided in the Constitution of
6 Kentucky and as permitted by law, members of district boards of education shall
7 be subject to recall from office for neglect of duty.

8 (2) (a) No fewer than five (5) voters who are eligible to vote in an election for the
9 relevant district board of education position may commence recall
10 proceedings by filing a notice of intent with the county clerk of the county
11 in which the school district is located that declares the intent to circulate a
12 petition for a recall election.

13 (b) The notice of intent shall include:

14 1. The statement "We, the undersigned registered voters of (name of
15 school district), declare our intent to circulate a petition for a recall
16 election of (name and, if it is a county school district, the division the
17 member to be recalled represents) for neglect of duty as defined in
18 Section 1 of this Act.":

19 2. A copy of the petition for a recall election to be circulated. Signatures
20 shall not be affixed to a petition for a recall election prior to the filing
21 by the county clerk of a notice of intent. The petition for a recall
22 election shall not be amended or supplemented after the notice of
23 intent has been filed;

24 3. The signature and legibly printed name of each voter who has signed
25 the notice of intent, the voter's residential address and date of birth,
26 and the date signed;

27 4. A designation by name and address of five (5) of the voters who have

signed the notice of intent, who shall:

a. Constitute the members of the petition committee;

b. Be responsible for circulating the petition for a recall election;

and

c. Properly file the petition for a recall election as required by subsections (3) to (7) of this section with the county clerk;

5. The identity of one (1) of the five (5) members of the petition committee who will serve as the chief petitioner; and

6. The address to which all notices to the petition committee are to be sent.

(c) The notice of intent shall not:

1. Be filed during the first ninety (90) days of the term of office of the district board of education member named in the petition;

2. Be filed less than one hundred and eighty (180) days prior to the regular election the recall question would appear on the ballot;

3. Be filed for a regular election which would require the recall question to appear on the same ballot as the district board of education member

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or

4. *Demand the recall of more than one (1) district board of education*

member.

The county clerk shall immediately deliver a copy of a notice of intent filed in accordance with this subsection to the district board of education member

(3) A petition for a recall election:

(a) Shall be signed by voters who are:

1. Registered and reside in:

- 1 a. The district, if it is an independent school district; or
- 2 b. The division the member represents, if it is a county school
- 3 district; and
- 4 2. Eligible to vote in an election for a vacancy in that district board of
- 5 education position; and
- 6 (b) May consist of one (1) or more separate signature sheets. Each signature
- 7 sheet shall include:
 - 8 1. The statement "We, the undersigned registered voters of (name of
 - 9 school district), petition for a recall election of (name and, if it is a
 - 10 county school district, the division the member to be recalled
 - 11 represents) for neglect of duty as defined in Section 1 of this Act. The
 - 12 question on the ballot shall read: 'Are you in favor of recalling (name
 - 13 and, if it is a county school district, the division the member to be
 - 14 recalled represents) which shall result in removal of (name of district
 - 15 board of education member) from office?''';
 - 16 2. The statement "Any person who gives or receives money or any other
 - 17 thing of value for signing a petition for a recall election shall be guilty
 - 18 of a Class A misdemeanor.";
 - 19 3. The signature, executed in ink or indelible pencil, followed by the
 - 20 legibly printed name of the voter;
 - 21 4. The voter's residential address;
 - 22 5. The voter's date of birth; and
 - 23 6. The date the voter signed the petition.
- 24 (4) If a voter is incapable of signing his or her own name on the petition for a recall
- 25 election, the voter may specifically request the circulator of the petition to sign
- 26 and print the voter's name and complete the information required on the petition
- 27 sheet to accompany the signature, provided the circulator shall also sign his or

1 her full name beside the printed name of the voter.

2 (5) All papers of the petition for a recall election shall be substantially uniform in
3 size and style and shall be assembled in one (1) instrument for filing.

4 (6) The number of voters necessary to petition the recall of the office by election shall
5 be equal to twenty-five percent (25%) of the total votes cast in the last election for
6 the district board of education position being recalled.

7 (7) After a petition for a recall election has received no fewer than the number of
8 qualifying signatures required by subsection (6) of this section, the signed
9 petition shall be filed with the county clerk of the county in which the school
10 district is located on or before 4 p.m. local time on the earlier of:

11 (a) Ninety (90) days after the filing of the notice of intent; or
12 (b) June 1 of the year the recall question would appear on the regular election
13 ballot.

14 (8) A signer of the petition shall not withdraw his or her name or have it removed
15 from the petition after the petition has been filed in accordance with subsection
16 (7) of this section unless his or her name has been placed on the petition for
17 recall without that person's authority. If a name has been placed on the petition
18 for a recall election without authority, that person may appear before the county
19 board of elections at any time before the county clerk determines whether the
20 petition is regular on its face and contains enough signatures of voters to place
21 on the ballot as required by subsection (6) of this section. Upon proof that the
22 person's name was placed on the petition without his or her authority as
23 determined by a majority vote of the county board of elections, the person's name
24 and personal information required in subsection (3) of this section shall be
25 removed. When the person's name and personal information has been removed,
26 he or she shall not be counted as a petitioner.

27 (9) The inclusion of any invalid signature on a page shall not invalidate the entire

1 page of the petition.

2 (10) After the petition for a recall election has been filed with the county clerk, the
3 clerk shall:

4 (a) Immediately notify the district board of education member named in the
5 petition that a petition for a recall election has been received; and

6 (b) Make a determination, within thirty (30) days, of whether the petition is
7 regular on its face and contains enough voters' signatures to place the
8 petition for a recall election before the voters.

9 (11) (a) If the county clerk finds the petition for a recall election:

10 1. Contains enough signatures and is regular on its face, the clerk shall:

11 a. Certify to the petition committee and the district board of
12 education member named in the petition for a recall election that
13 the petition is properly presented and in compliance with the
14 requirements of this section, and that the recall question shall be
15 placed before the voters for approval or rejection; and

16 b. Place the question stated in the petition on the ballot for the next
17 regular election to be held in that school district so that each
18 voter may by his or her vote answer "yes" or "no"; or

19 2. Is insufficient, the clerk shall, within the thirty (30) day period
20 provided in subsection (10) of this section, notify the petition
21 committee, in writing, sent by certified mail, of the specific deficiencies
22 found, including the count of valid and invalid signatures.

23 (b) After receiving notice that a petition for a recall election is insufficient, the
24 petition committee may submit supplemental signatures obtained and filed
25 with the county clerk before fourteen (14) days have passed since receiving
26 the notice if:

27 1. The originally filed petition contained an adequate number of

signatures if counting both the valid and invalid signatures; and

2. The supplemental signatures are filed on or before the second Tuesday in August preceding the day fixed by law for holding a regular election.

(c) The county clerk shall, within fourteen (14) days from the date supplemental signatures are filed, make a determination on whether the petition, as amended by the supplemental signatures, is timely, regular on its face, and contains enough voters' signatures to place the petition for a recall election before the voters. If the county clerk finds the petition for a recall election is timely, contains enough signatures, and is regular on its face, the clerk shall proceed in accordance with paragraph (a) of this subsection. If the county clerk finds the petition for a recall election is insufficient, the clerk shall, notify the petition committee, in writing, sent by certified mail, of the specific deficiencies found, including the count of valid and invalid signatures.

16 (12) The county clerk's determination of the sufficiency of a petition for a recall
17 election shall be subject to final review by the Circuit Court of the county in
18 which the school district is located. The review shall be limited to the validity of
19 the county clerk's determination. Any petition for review challenging the county
20 clerk's determination on a petition for a recall election shall be filed within ten
21 (10) days of the issuance of the clerk's determination. The Circuit Court shall
22 schedule the petition for review for a hearing to be held within fourteen (14) days
23 from the date a petition for review is filed.

24 (13) Any recall election under this section shall be held at the next regular election.

25 (14) (a) The result of the election shall be certified by the county board of elections.
26 The certificate of the result shall be immediately filed with the county clerk,
27 and the county judge/executive shall have the certificate entered on the

order book.

(b) If the district board of education member named in the petition for recall is recalled upon final certification of the result of the election, a vacancy in the office of the recalled member shall be declared and the vacancy shall be filled as prescribed by KRS 160.190. The recalled district board of education member shall:

1. Not be appointed to fill the vacancy; and
2. Be disqualified from holding any office in the state for a period of four (4) years.

(c) If the district board of education member named in the petition for recall is not recalled upon final certification of the result of the election, the member shall not be the subject of a petition for recall for at least one (1) year from the date of the previous recall election.

14 (15) If the district board of education member named in the petition for a recall
15 election dies, or submits a resignation in writing, a vacancy in the office of that
16 member shall be declared and a recall election shall not be held. The vacancy
17 shall be filled as prescribed by KRS 160.190. The district board of education
18 member named in the petition for a recall election shall not be appointed to fill
19 the vacancy.

(16) The right of any voter or the district board of education member named in the petition for a recall election to contest or recount an election under KRS Chapter 120 shall not be impaired.

23 (17) The forms required under subsections (2) and (3) of this section shall be provided
24 by the State Board of Elections by administrative regulation promulgated in
25 accordance with KRS Chapter 13A.

26 ➔ SECTION 3. A NEW SECTION OF KRS CHAPTER 160 IS CREATED TO
27 READ AS FOLLOWS:

1 (1) The canvass and returns under subsection (16) of Section 2 of this Act shall
2 constitute the official returns for the recall election, unless before 4 p.m. on the
3 Tuesday following the regular election, the county clerk or the county board of
4 elections takes notice of a discrepancy in the tally of votes cast in any precinct or
5 number of precincts, or the district board of education member named in the
6 petition under Section 2 of this Act makes a written request to the county board of
7 elections to check and recanvass the voting machines and absentee ballots of any
8 precinct or any number of precincts involving the petition for a recall election.
9 Any recanvass shall proceed as under KRS 117.305.

10 (2) At any recanvass, the committee favoring the recall and the district board of
11 education member named in the petition for a recall election may be present. As
12 provided in KRS 117.305, the county board of elections shall authorize
13 representatives of the news media to observe the recanvass of the votes cast on the
14 voting machines in each precinct. This section shall not prohibit an individual
15 from requesting, in addition to a recanvass, a recount as authorized by KRS
16 Chapter 120.

17 ➔ SECTION 4. A NEW SECTION OF KRS CHAPTER 160 IS CREATED TO
18 READ AS FOLLOWS:

19 Any person who gives or receives money or any other thing of value for signing a
20 petition for a recall election under Section 2 of this Act shall be guilty of a Class A
21 misdemeanor.

22 ➔ Section 5. KRS 160.190 is amended to read as follows:

23 (1) Any vacancy in any board of education shall be filled by a majority vote of the
24 remaining members of the local board within sixty (60) days after the vacancy
25 occurs. Within thirty (30) days of the vacancy, the local board shall, for two (2)
26 weeks, have solicited applications by posting a notice announcing the vacancy on
27 the district's website and by placing an advertisement in the newspaper of the

1 largest general circulation in the county. An applicant shall file a letter of intent
2 with the local board affirming that the applicant meets the eligibility requirements
3 as established by KRS 160.180 and shall submit with the application a transcript
4 evidencing completion of the twelfth grade or results of a twelfth grade equivalency
5 examination. After the two (2) weeks of advertisement on the district's website and
6 in the newspaper, the local board shall select from the applicants under this
7 subsection to fill the vacancy.

8 (2) If the local board fails to make an appointment under subsection (1) of this section,
9 then the chief state school officer shall fill the vacancy within sixty (60) days of the
10 failure.

11 (3) The member chosen under this section shall:

12 (a) Meet the eligibility requirements as established by KRS 160.180; ~~and shall~~

13 (b) **Be subject to recall from office for neglect of duty in accordance with**
14 **Section 2 of this Act; and**

15 (c) Hold office until:

16 1. His or her successor is elected or appointed, and has qualified; or

17 2. **The member is recalled pursuant to Section 2 of this Act.**

18 (4) Any vacancy having an unexpired term of one (1) year or more on August 1 after
19 the vacancy occurs shall be filled for the unexpired term by an election to be held at
20 the next regular election after the vacancy occurs. The elected member shall
21 succeed the member chosen under subsection (1) or (2) of this section to fill the
22 vacancy. Nominating petitions shall be filed with the county clerk not later than the
23 second Tuesday in August preceding the day for holding the regular election for the
24 unexpired term. Declarations of intent to be a write-in candidate shall be filed with
25 the county clerk in accordance with KRS 117.265.

26 (5) (a) If no candidate files a petition of nomination or declaration of intent to be a
27 write-in candidate to fill an unexpired term on a local board of education

1 under subsection (4) of this section, then a new vacancy shall exist on
2 November 1 and the vacancy shall be filled according to subsection (1) of this
3 section.

4 (b) If no candidate files a petition of nomination or declaration of intent to be a
5 write-in candidate for a new term on a local board of education opening
6 pursuant to KRS 118.315 and 118.365, then a vacancy shall exist on January 1
7 and the vacancy shall be filled according to subsection (1) of this section.