

**Local Government Mandate Statement
Kentucky Legislative Research Commission
2022 Regular Session**

Part I: Measure Information

Bill Request #: 433

Bill #: HB 564 GA

Document ID #: 7674

Bill Subject/Title: AN ACT relating to elections and declaring an emergency.

Sponsor: Representative Josh Branscum

Unit of Government: City County Urban-County
 Unified Local
 Charter County Consolidated Local Government

Office(s) Impacted: County Clerks

Requirement: Mandatory Optional

Effect on
Powers & Duties: Modifies Existing Adds New Eliminates Existing

Part II: Bill Provisions and the Estimated Fiscal Impact Relating to Local Government

Section 3:

Provides for **no-excuse absentee** voting by any qualified voter in his or her county of residence on the Thursday, Friday, or Saturday immediately preceding an election day. Requires the location at which the voter may cast his or her vote to be open 8 hours between 6 a.m. and 8 p.m. as determined by the county board of elections in each county.

Application to cast an **excused** absentee ballot may be made during the six business days prior to the Thursday on which no-excuse absentee voting occurs. The applicant must meet one of the following conditions not allowing them to appear at the polls on election day and on the no-excuse absentee voting days:

- be a resident of Kentucky and a qualified voter, be absent from his or her county of residence;
- having surgery or has a spouse who is having surgery requiring;
- temporarily resides outside the state, but still eligible to vote in this state;
- be an uniformed service member confined to a military;

- be in her last trimester of pregnancy and completes a sworn statement to that effect;
- unable to appear due to age, disability, or illness and unable to appear;
- be a student temporarily residing out of his or her county of residence;
- be an employed person scheduled to work during poll hours; or
- be an election officer for the current election cycle.

Any person voting an in-person absentee or federal provisional in-person absentee ballot shall provide photo identification issued by the one of the following: the United States or the Commonwealth of Kentucky and its governmental subsidiaries, the military, or a public or private educational institutions including technical and professional schools per KRS 117.001. If unable to provide a photo identification or execute a voter's affirmation per KRS 117.228, then he or she may vote by provisional ballot if they meet the requirements of KRS 117.228 or KRS 117.229.

In-person absentee voting shall be conducted at the county clerk's office, or in another location as designated by the county board of elections and approved by the State Board of Elections. If assistance is needed to vote, a voter assistance form is required to be completed. If a voter's qualifications are challenged on grounds other than proof of identification by any clerk or deputy, the voter must complete an oath of voter affidavit. All voters must sign the in-person absentee signature roster.

Members of the county board of elections or their designees equally representing both political parties may serve as volunteer precinct election officers for all in-person voting. If county board members or their designees do not serve, then the county clerk or deputy county clerk shall supervise the in-person absentee voting. Challengers are appointed same as they are for the regular election day.

During in-person voting days, the voting machines shall remain locked with a temper-resistant seal until the ballots are counted. Keys to the machines shall be kept by two members of the central ballot counting board who are not of the same political party and two members of the county board of elections who are not of the same political party. Ballot totals cannot be released until 6 p.m. on the day of a primary or election. The condition of the seal and the number recorded shall be witnessed by an election official of a different party doing the recording. Any irregularities shall immediately be reported to the county attorney or the Office of Attorney General.

The time frame that the State Board of Elections must furnish the county clerk with the appropriate registration lists is extended from five to six days.

Section 7:

Expand the reasons for requesting a mail-in absentee ballot to include being unable to cast an excused or no excuse in-person absentee ballot in person due to being absent from the county during voting hours or due to age, disability, or illness;

Provides that qualified disabled voters may use an accessible mail-in absentee ballot portal to request and receive a mail-in absentee ballot via electronic transmission system. Deletes the requirement that a voter return a mail-in absentee ballot seven days prior to an election.

Provides that if a person receives a mail-in absent ballot and then knows he or she **will be able** to vote in person during the days of no-excuse in-person absentee voting or as currently provided for, on the day of the election, he or she shall cancel the mail-in absentee ballot and vote in person who is not of the same political affiliation as the county clerk.

Requires that a voter applying for a mail-in absentee ballot must provide the reason he or she cannot vote during the dates and time of no-excuse in-person absentee voting as well as in person on the day of an election (currently required).

If the voter is unable to return the mail-in absentee ballot to the county clerk's office on or before the election day, at the time he or she votes in person, he or she shall sign a written oath as to his or her qualifications on a form provided by the State Board of Elections.

Section 9:

Requires that a member of the central ballot counting board if one is appointed to accompany the county clerk when emptying a receptacle or drop-box if at least one member of the county board of elections who is not of the same political affiliation does not accompany the clerk.

The county clerk shall send a list of all person who cast their ballots by means of an excused in-person absentee or no-excuse in-person absentee to the State Board of Elections after any primary or elections day.

Section 10:

Allows for another meeting place besides the clerk's officer and as designated by the county board of elections to process and review the mail-in ballots.

Reduces the number of locks required to lock ballot boxes into which all accepted mail-in ballots are placed from three to two and provides that the keys be retained by at least two members of the county board of elections two members of the central ballot counting board who are not of the same political affiliation.

Section 12:

Prohibits voting equipment and systems from being connected to any network, including the internet, or form communicating with any external device.

Section 13:

Requires that voting equipment be secured and locked by the county clerk restricting access to only members of the county board of elections or other persons as authorized by law.

Section 14:

Requires the use of a tamper-resistant seal.

Section 16:

Requires the county board of elections to mail, fax, hand deliver, or submit by electronic means a copy of the precinct-by-precinct summary of the tabulation sheet showing the results from each precinct including the votes cast on the day of an election and during in-person absentee voting.

Requires that two election officers who are not of the same political affiliation return to the county board of elections the keys to the voting equipment received at each voting location.

Section 18:

In the case of vacancies in candidacy, the filing deadlines for unexpired terms of partisan races are as follows:

- If occurring less than 160 days before the primary, certificates of nomination shall be filed with the Secretary of State or county clerk no later than the first Tuesday after the First Monday in June preceding the day of the election.
- If occurring after the first Tuesday after the first Monday in June preceding the day of the election, but not less than three months before the regular election, the nomination shall be made in a manner determined by the governing authority of the political party. Certificates of nomination shall be filed with the Secretary of State or county clerk no later than the second Tuesday in August preceding the regular election.
- For independent candidates, candidates filing to fill an unexpired term shall be governed by KRS 118.375.
- On the ballot, full term candidates shall be grouped together, and candidates for unexpired terms shall be grouped together, and clearly identified.

Section 19:

Names on the ballot shall be certified no later than the fourth Monday in August except when the Monday follows the Friday following the first Tuesday in September preceding a regular election for Presidential election years.

Section 21:

Makes connecting or attempting to connect a voting machine, equipment, or system that tabulates and aggregates votes to a public network, including the Internet a Class D felony.

Section 22-23:

Defines “election officer” to be any person tasked with election administration, including the Secretary of State and his or her employees, members of the State Board of Elections and staff, members of the county boards of elections and staff, precinct election officers, election officials, and poll workers.

The fiscal impact of HB 564 HCS on local governments is expected to be minimal. This bill remedies many of the concerns resulting from the passage of HB 574 during the 2021 Regular Session. The Kentucky County Clerks Association (KCCA) worked with bill sponsors and support the bill. The KCCA feels that the passage of HB 564 reduces the

likelihood of litigation arising from HB 574. It should not have any unfunded mandate to counties.

When a court denies bail to a Class D felony defendant, the local government is responsible for incarcerating the defendant until disposition of the case in one of Kentucky's 74 full service jails or three life safety jails. While the expense of housing inmates varies by jail, each additional inmate increases facility costs by an average cost to incarcerate of \$35.43, which includes the \$31.34 per diem and medical expenses that the Department of Corrections pays jails to house felony offenders. Upon sentencing, a Class D felon is housed in one of Kentucky's full service jails for the duration of his or her sentence. The Department of Corrections pays a jail \$31.34 per day to house a Class D felon. The per diem may be less than, equal to, or greater than the actual housing cost.

Part III: Differences to Local Government Mandate Statement from Prior Versions

Part II refers HB 564 GA.

HB 564 GA keeps all the provisions of HB 564 HCS 1. There were no changes from the HCS version.

HB 564 HCS 1 keeps the provisions of HB 564 as introduced and makes the following changes:

- Changes the time frame for which to make application to cast an excused in-person absentee ballot from 7 days to 6 days immediately preceding the Thursday of no-excuse in-person absentee voting.
- Provides that election officers may apply to cast an excused in-person absentee ballot.
- Changes the number of ballot box key-holders from three to two members of the central ballot county board and three to two members of the county board of elections.
- Requires that a voter to applying for a mail-in absentee ballot must provide the reason the he or she cannot vote or during the dates and time of no-excuse in-person absentee voting as well as in person on the day of an election (currently required).
- Clarifies that the person accompanying the county clerk when emptying a receptacle or drop-box not be of the same political affiliation.
- Defines "election officer".

Data Source(s): LRC Staff; KY County Clerks Association; KY Department of Corrections

Preparer: Wendell F. Butler (ks) **Reviewer:** KHC **Date:** 3/14/22