

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

Part I: Measure Information

Bill Request #: 879

Bill #: SB 62

Document ID #: 2564

Bill Subject/Title: AN ACT relating to elections.

Sponsor: Senator Adrienne Southworth

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**

KRS 117.125 establishes that the State Board of Elections shall not approve a voting system for use after June 29, 2021 unless the system has been certified pursuant to KRS 117.379. The statute currently allows for, or “grandfathers in” voting equipment that has been certified and in use on or before that date. **SB 62 Section 1** would eliminate that exception.

SB 62 **Section 5** would require that ballots cast in an election be counted by hand. Currently, Kentucky county clerks count ballots electronically, either by optical scan of each ballot or by computers employing a Direct Recording Electronic (DRE) system. **SB 62 Section 5** would amend KRS 117.275 to require that, following the electronic tabulation, ballots cast in an election shall be counted for certification by hand, using the following procedure:

Two judges of different political parties shall:

- (a) Sort the ballots into lots of fifty or 100, along with a partial lot of the remainder;

- (b) Manually tabulate the number of votes cast in each lot for each candidate and complete a tally sheet for each lot;
- (c) Once each judge has completed a tally for a lot, compare the tallies; if identical the judges would certify the tally sheet for that lot; and
- (d) If tallies of both judges for the lot are not identical, each judge would complete a second tally and record it on a new tally sheet. If the new tallies are identical, the initial tally sheet would be discarded and the second tally sheet would be certified. If the second tallies are not identical the lot would be referred to the county board of elections.

The county board of elections would then compare the tallies of voters to the tallies of cast ballots and, if they match, certify the results as the official election result. If they don't match, the county board of elections shall:

1. File a report of the discrepancy with the local grand jury; and
2. Keep all tally sheets, papers, or notes; and
3. Recommend the State Board of Elections certify the election in net result only if the difference in tallied votes exceeds the number of discrepancy within a contest or if the contest is unopposed, or request resources for further investigation by the board.
4. When the tally sheets have been certified the clerk shall announce the results and shall furnish a certified copy of the results, on request, to any candidate or any person present.

SB 62 **Section 1(2)** would establish unequivocally the paper voting ballot as the official record for the purpose of vote certification, vote audit, or recount.

SB 62 emphasizes throughout, that county clerks shall notify and educate the public regarding the effect of casting multiple votes for a single office on a paper ballot. County boards of elections already include this information on the paper ballots and post the information at polling locations.

Section 5 (16) of the bill requires that no voting system be left physically unattended between close of an election and certification of the results.

SB 62 would have a significant negative fiscal impact on county clerks and county boards of elections. Each election costs each county board of elections approximately \$2,200 per precinct. The State Board of Elections reports that the state pays each county clerk \$0.34 per voter registered at the time of the election. (KRS 117.343 allows payment up to \$0.50 per registered voter, but this is contingent upon funding.) Reimbursement under that statute only occurs following a primary election and the eligibility of the county varies because of the number of registered voters at the time of the election. This money is applied to staff who perform election-related duties year round i.e., adding to and purging voter rolls, processing voter registration cards, and other duties. For example, the Daviess County clerk employs three dedicated elections staff year round. In 2019, pursuant to KRS 117.343, the Daviess County clerk was reimbursed approximately \$37,000 from the state,

which did not fully reimburse for salaries and benefits paid the three elections staff. Pursuant to another statute, KRS 117.345, each county is allowed \$255 per precinct; however, each fiscal court is actually paid \$200 per precinct upon certification of the election as reimbursement to the county for election related expenses. The difference between the statutory and actual amounts is attributable to General Assembly funding.

All sources consulted emphasized that hand counting of ballots would require considerably more personnel, money and other resources, depending on the number of precincts, voters in a precinct, number of races on a ballot, and number of candidates in a race. Costs are frequently reported on a per ballot basis.

For example, a 2010 Pew Research Issue Brief titled “The Cost of Statewide Recounts” studied the hand recounts in two statewide races, one in Minnesota and one in Washington. It reports that in a manual re-count of ballots cast in Minnesota’s 2008 U. S. Senate race, the state’s 87 counties spent an average of 15 cents per ballot, for an estimated total of more than \$460,000. In Washington’s 2004 gubernatorial race, the state’s manual recount cost 39 counties an average of more than 30 cents per ballot, with total costs just over \$900,000. The Kentucky County Clerks Association references a 2007 study of manual counting of ballots in New Hampshire which estimates a cost in that state of .07¢ per contest, per ballot. To extrapolate, in 2020 there were approximately 2 million ballots cast and 25 contests in the general election in Kentucky; according to the New Hampshire calculations, a hand count would have cost an estimated \$3,500,000 statewide.

Staffing for ballot counts by hand would be difficult and a significant expense to counties. Counties currently have a difficult time finding enough people to staff the polls during an election. Finding enough people to count paper ballots after the polls close would likely be even more difficult. The New Hampshire study estimated in order to hand count votes 7 teams of 3 staff (2 counters and 1 observer) plus 3 managers, for a total of 21 staff, would be needed per 936 voter precinct (according to the study, the average U.S. precinct size in 2006) with 20 races per ballot.

The former Deputy County Clerk for Daviess County stated that, for the recount that occurred in that county in 2019 involving one race, 2 candidates, and 39 precincts, Daviess County Board of Elections hired 19 people at \$20/hour. The hand count took a minimum of 9 hours and a maximum of 13 hours per worker at a cost of \$7,178, including \$654.98 to feed the workers. There must be enough counters hired to complete the count and certification by the deadline. In Kentucky, an election must be certified by the county board of elections by the second Monday following the election, or, in a county containing a first class city, by the 30th of December following the election.

Section 5 (16) requires that no voting system be left physically unattended between close of an election and certification of the results. Finding storage space to temporarily house the voting machines and accommodate counters during a hand count would be difficult, especially in rural counties with few warehouses or other appropriate facility. Providing 24/7 security to comply with Section 5 (16) would be a significant expense to counties. Security provided by the sheriff’s office is estimated to cost \$50-\$60/hour. Many smaller

counties do not have enough local law enforcement personnel to provide 24/7 security so those counties might have to hire private security or deputize additional personnel.

Section 5 (15)(c) requires the local election clerk, after announcing the results, to provide a certified copy of the election results, on demand, to any candidate or any person present. That provision doesn't identify who is to pay for the certified copy. A county clerk would normally charge \$5 to certify a document and 50 cents a page to copy.

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

Part II applies to SB 62 as introduced. There is no prior version for comparison.

Data State Board of Elections; Kentucky Association of County Clerks; Jefferson County Board
Source(s): of Elections; Boone County Clerk's Office;
[https://ballotpedia.org/Voting methods and equipment by state;](https://ballotpedia.org/Voting_methods_and_equipment_by_state)
[https://web.archive.org/web/20080919152131/http://www.electiondefensealliance.org/files/](https://web.archive.org/web/20080919152131/http://www.electiondefensealliance.org/files/Hand_Count_Elections_Steps_only_Sept_6_2007.pdf)
[Hand Count Elections Steps only Sept 6 2007.pdf](https://web.archive.org/web/20080919152131/http://www.electiondefensealliance.org/files/Hand_Count_Elections_Steps_only_Sept_6_2007.pdf)

Preparer: Mary Stephens **Reviewer:** KHC **Date:** 2/3/22