

**Local Government Mandate Statement
Kentucky Legislative Research Commission
2023 Regular Session**

Part I: Measure Information

Bill Request #: 1237

Bill #: HB 302 HCS 1

Document ID #: 5279

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

Sponsor: Representative Jennifer Decker

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

Office(s) Impacted: County Clerks, Jails

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 1 of HB 302 HCS 1 amends KRS 15.243 to require the Attorney General to promulgate administrative regulations to establish a uniform procedure and timeline for independent inquiries of at least 12 counties following each election.

Section 2 amends KRS 117.066 to require county boards of elections that petition the State Board of Elections to consolidate precincts in one location to disclose the number of parking spaces at the location and to determine whether there are sufficient parking spaces.

Section 3 amends KRS 117.235 to prohibit electioneering at any voting location during the times that polls are open on election day or any of the days that in-person absentee voting is conducted. The prohibition of electioneering near polling places would be extended from within 100 feet of the entrance to the building to 100 feet of the property line of the building and any parking areas designated as parking spaces for voters by the county board of elections. Electioneering is also prohibited in any building where training for election officers is being conducted. The penalty for doing so is a Class A misdemeanor and

possibly a Class D felony for each subsequent offense, as set out in KRS 117.995 (4) and (6).

Section 4 amends KRS 117.265 to prohibit any candidate who was defeated in a primary from running for the same office during the regular election unless there is a vacancy pursuant to KRS 118.105.

Section 5 amends KRS 118.105. If a vacancy occurs in the nomination of an unopposed candidate or in a nomination made by the primary more than 10 days before the certification of candidates for the regular election made under KRS 118.215 because of death, disabling withdrawal, disqualification, or severe condition which arose after the nomination, the governing authority of the party may provide for filling the vacancy, but only following certification to the governing authority, by the Secretary of State, that a vacancy exists due to death.

If a vacancy occurs in the nomination of an unopposed candidate or in a nomination made by the primary more than 10 days before the certification of candidates before the regular election, and if the party's nominee was the only political party candidate for the office sought, the governing authority of each party may nominate a candidate for the regular election, provided no person has sought that party's nomination by filing a notification and declaration.

Section 6 amends KRS 118.315 to conform with previous provisions of this Act.

Section 7 amends KRS 119.165 to make it a Class D Felony for any person lawfully registered to vote who is then convicted of a felony offense and has not previously been restored to their civil rights by executive pardon to knowingly vote or attempt to vote.

Section 8 amends KRS 121.175 to allow for funds in a campaign account to be used for fees incurred from legal services while defending a matter before the Kentucky Legislative Ethics Commission in which the final adjudication is rendered in favor of the candidate.

Section 9 amends KRS 121.180 to allow state and county executive committees, and caucus campaigns committees to file campaign finance reports annually if the committee has less than \$10,000 in its campaign fund account, however a committee with greater than \$10,000 in its campaign fund account would have to do so semi-annually. It would also clarify language allowing for unexpended campaign funds to be donated to a charity, nonprofit or educational institution to ensure that the candidate or committee receive no financial benefit from this donation.

The fiscal impact on local governments is expected to be minimal.

According to the Kentucky County Clerks' Association, **Section 2** may result in county clerks having to use different voting locations which could entail a cost, if there is a charge for use of the facility, but that would be hard to estimate and would not occur often. The impact to county clerks is expected to be minimal to nonexistent.

According to the Kentucky County Clerk's Association, a reduction in the number of late replacement candidates that can be nominated as described in **Section 5** is expected to have a small but positive impact on county clerks. By moving up the deadline for replacement candidates, there are potential savings in regard to avoided voting machine reprogramming and ballot reprinting costs.

Section 3 and Section 7 include criminal provisions affecting potential Class A Misdemeanor offenses and Class D Felony offenses; however, the expected frequency of such offenses is unknown. A person convicted of a Class A misdemeanor may be incarcerated for up to twelve months. Misdemeanants are housed in one of Kentucky's 74 full-service jails or three life safety jails. While the expense of housing inmates varies by jail, this estimated impact will be based on an average cost to incarcerate of \$40.11 per day. While the majority of misdemeanor defendants are granted bail, those who do are not will also cost local jails an average cost to incarcerate of \$40.11 per day.

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 \$40.11, which includes the \$35.34 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 \$35.34 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 to HB 302 HCS 1 and keeps several provisions of HB 302 and makes the following changes:

- Eliminates language describing criteria by which the Attorney General must select 12 counties for an independent inquiry following an election.
- Technical language in Section 2 was minimally altered.
- Adds language extending the distance from polling places in which electioneering may take place from at least 100 feet from the front door of the building to at least 100 feet from the building's property line
- Adds language to make an exception for candidates who lose a primary to run in a subsequent general election.
- Adds language changing procedures and time limits for when a nominee vacancy occurs following a primary election and removes original bill language eliminating reasons that a vacancy may be filled according to statutory procedures.
- Amends bill language to make the act of knowingly voting or attempting to vote as a felon a Class D Felony on first and subsequent offense where previously the bill would make a first offense a Class A Misdemeanor and any subsequent offense a Class D Felony.

- Adds language allowing campaign funds to be used for fees incurred from legal services while defending a matter before the Kentucky Legislative Ethics Commission if the final adjudication is rendered in favor of the candidate.
- Adds language that would alter campaign finance reporting requirements depending on whether a campaign fund account holds more or less than \$10,000.

Data Source(s): LRC Staff, Kentucky County Clerk's Association; Kentucky Department of Corrections

Preparer: Jacob Blevins (WB) **Reviewer:** KHC **Date:** 3/7/23