

GENERAL GOVERNMENT CABINET
Kentucky Registry of Election Finance
(Amendment)

32 KAR 1:020. Statement of spending intent and appointment of campaign treasurer.

RELATES TO: KRS 121.160(1), 121.180(1)

STATUTORY AUTHORITY: KRS 121.120(1)(g), (4)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 121.120(1)(g) grants the Registry the power to promulgate administrative regulations necessary to carry out the provisions of KRS Chapter 121. KRS 121.120(4) requires the Registry to promulgate administrative regulations and prescribe forms for the making of reports under KRS Chapter 121. KRS 121.015(18) defines "form" to mean an "an online Web page of an electronic document designed to capture, validate, and submit data for processing to the registry." KRS 121.160(1) requires candidates ~~[as part of their filing papers]~~ to designate a campaign treasurer. KRS 121.180(1) permits certain candidates to use an electronic form to request an exemption from reporting to the Registry when they file for office. This administrative regulation establishes the Web page from which candidates designate their treasurers and state their spending intents.~~[a single form for the appointment of a campaign treasurer and the optional request for exemption from reporting.]~~

Section 1. Appointment of Campaign Treasurer. Candidates shall designate campaign treasurers, as required by KRS 121.160(1), or state whether they will act as their own campaign treasurers prior to beginning to campaign for each primary, regular, or special election by using the Kentucky Election Finance Management System found on the Registry's Web site at <https://kref.ky.gov>.~~[The Statement of Spending Intent and Appointment of Campaign Treasurer Form shall be the official form to be used by candidates for the appointment of a campaign treasurer under KRS 121.160(1).]~~

Section 2. Optional Request for Reporting Exemption. Candidates shall state whether they are exempt from filing campaign finance reports, as required by KRS 121.180(1)(a), by stating their spending intents for each primary, regular, or special election by using the Kentucky Election Finance Management System found on the Registry's Web site at <https://kref.ky.gov>.

~~[(1)] [The Statement of Spending Intent and Appointment of Campaign Treasurer Form shall be the official form to be used by candidates seeking an exemption from election finance reporting under KRS 121.180(1)(a).]~~

~~[(2)] [The Statement of Spending Intent and Appointment of Campaign Treasurer Form shall be the official form to be used by candidates seeking to rescind a request for exemption from election finance reporting under KRS 121.180(1)(b).]~~

~~[Section 3.] [Incorporation by Reference.]~~

~~[(1)] [The "Statement of Spending Intent and Appointment of Campaign Treasurer Form" reference KREF 001, revised 11/2017 is incorporated by reference.]~~

~~[(2)] [This material may be inspected, copied, or obtained, subject to applicable copyright law, at the office of the Kentucky Registry of Election Finance, 140 Walnut Street, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.]~~

JOHN R. STEFFEN, Executive Director

APPROVED BY AGENCY: June 14, 2023

FILED WITH LRC: June 15, 2023 at 9:10 a.m.

PUBLIC HEARING AND COMMENT PERIOD: A public hearing on this administrative regulation shall be held on August 21, 2023, at 10:00AM, at the Kentucky Registry of Election Finance, 140 Walnut Street, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by five (5) workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through August 31, 2023, at 11:59 PM. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Leslie Saunders, General Counsel, Kentucky Registry of Election Finance, 140 Walnut Street, Frankfort, Kentucky 40601, phone (502) 573-2226, fax (502) 573-5622, email LeslieM.Saunders@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person:Leslie Saunders

(1) Provide a brief summary of:

(a) What this administrative regulation does:

KRS Chapter 121.160 requires state and local candidates to designate a campaign treasurer and KRS 121.180 allows candidates to request an exemption from making certain campaign finance reports otherwise required if they expect to spend under \$3,000. This administrative regulation tells candidates how to provide the Registry with that information.

(b) The necessity of this administrative regulation:

This administrative regulation is necessary because, while the statutes cited above describe candidate's filing obligations or options, they do not detail the mechanism by which candidates and slates of candidate should provide that information. Both mention only note that the regulated entities shall use a form provided by the Registry.

(c) How this administrative regulation conforms to the content of the authorizing statutes:

As noted above, the Registry is given the authority by statute to provide forms for the various filings that KRS Chapter 121 requires of candidates. Further, the General Assembly amended KRS 121.015 last year to make the definition of "form" mean "an online Web page or an electronic document designed to capture, validate, and submit data for processing to the registry, unless the context otherwise prescribes."

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes:

It gives the location of the Web page candidates use to designate their treasurers and, if desired, to request their reporting exemptions.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation:

The original administrative regulation listed and incorporated by reference paper forms to provide the required information to the Registry. This amendment removes the mention of paper forms, which the Registry no longer uses, and replaces them with the Web page of the Kentucky Electronic Finance Management System, an electronic filing system that is required under KRS 121.120(6)(h).

(b) The necessity of the amendment to this administrative regulation:

As noted above, the paper forms are no longer in use and, therefore, the administrative regulation as currently written is incorrect.

(c) How the amendment conforms to the content of the authorizing statutes:

The amendment brings the administrative regulation into conformity with the electronic filing requirements in KRS 121.120(6)(h). Candidates have been required to file electronically since 2020 by KRS 121.120 and this amendment catches the administrative regulation up to both what is happening in reality and what the statute now requires.

(d) How the amendment will assist in the effective administration of the statutes:

Without this amendment, candidates have a duty to designate a treasurer, but no mechanism by which to do so. Similarly, they have an option, under the statute cited above, to request a reporting exemption, but are not told how to make that request.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation:

All candidates for state and local offices are affected.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment:

Instead of filing the paper Statement of Spending Intent and Appointment of Campaign Treasurer form (KREF 001), the regulated entities will create a secured account through the Kentucky Electronic Management System and will use that system to provide the information formerly on the KREF 001.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3):

The entities will incur no costs in complying.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3):

Compliance will provide the regulated population with efficient access to the administrative body's statutorily mandated electronic filing system.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially:

There will be no initial cost to the administrative body to implement this administrative regulation.

(b) On a continuing basis:

There will be no cost on a continuous basis to the administrative body to implement this administrative regulation.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation:

While no additional funding will be required for the implementation and enforcement of this administrative regulation, the administrative body operates solely on General Funds.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment:

It will not be necessary to increase fees or funding to implement this administrative regulation.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees:

No.

(9) TIERING: Is tiering applied?

This administrative regulation itself does not apply tiering as the registration requirements under statute are the same for all candidates. The statute itself divides

candidates into those that expect to raise or spend \$3,000 or more and those that do not. To that extent, the administrative regulation describes how those under the \$3,000 threshold make a request for exemption from most reporting requirements.

FISCAL NOTE

(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation?

The Kentucky Registry of Election Finance

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation.

KRS 121.015, KRS 121.120, KRS 121.160. and KRS 121.180

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year?

This administrative regulation will not generate revenue for the first year.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years?

This administrative regulation will not generate revenue for subsequent years.

(c) How much will it cost to administer this program for the first year?

This program will not cost any additional amount to administer for the first year.

(d) How much will it cost to administer this program for subsequent years?

This program will not cost any additional amount to administer for subsequent years.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

(4) Estimate the effect of this administrative regulation on the expenditures and cost savings of regulated entities for the first full year the administrative regulation is to be in effect.

(a) How much cost savings will this administrative regulation generate for the regulated entities for the first year?

This administrative regulation will not generate any cost savings for the first year.

(b) How much cost savings will this administrative regulation generate for the regulated entities for subsequent years?

This administrative regulation will not generate any cost savings for subsequent years.

(c) How much will it cost the regulated entities for the first year?

This administrative regulation will not cost the regulated entities anything for the first year.

(d) How much will it cost the regulated entities for subsequent years?

This administrative regulation will not cost the regulated entities anything for subsequent years.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Cost Savings (+/-):

Expenditures (+/-):

Other Explanation:

(5) Explain whether this administrative regulation will have a major economic impact, as defined below.

"Major economic impact" means an overall negative or adverse economic impact from an administrative regulation of five hundred thousand dollars (\$500,000) or more on state or local government or regulated entities, in aggregate, as determined by the promulgating administrative bodies. [KRS 13A.010(13)]. This administrative regulation will not have a major economic impact.