

CHAPTER 97**(HB 191)**

AN ACT relating to vacancies in office.

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

➔Section 1. KRS 67C.103 is amended to read as follows:

- (1) The legislative authority of a consolidated local government, except as otherwise specified in KRS 67C.101 to 67C.137, shall be vested in a consolidated local government council. The members of the council shall be nominated and elected by district. There shall be only one (1) council member elected from each council district.
- (2) There shall be twenty-six (26) council districts. The initial boundaries, population, and numerical designation of the council districts shall be as specified by KRS 67C.135. The population of the council districts shall be as nearly equal as is reasonably possible. Any changes made to alter the boundaries of council districts shall be based on the population of the county as determined by the most recent United States Census or official census estimates as provided by the United States Bureau of the Census.
- (3) Following the official publication of each decennial census by the United States Bureau of the Census for the area embraced by a consolidated local government, the council shall adopt an ordinance, if necessary, to redistrict the council districts. A redistricting ordinance shall provide for the distribution of population among the council districts as nearly equal as is reasonably possible. Every council district shall be compact and contiguous and shall respect existing neighborhood, community, and city boundaries whenever possible.
- (4) The consolidated local government council members shall serve for a term of four (4) years beginning on the first Monday in January following their election, except that the initial election of council members shall be in a manner as to provide for staggered terms for council members. At the initial election of the members of a consolidated local government council, those representing even-numbered districts shall be elected for a two (2) year term. Those representing odd-numbered districts shall be elected for a four (4) year term. Thereafter, all council members shall be elected for four (4) year terms.
- (5) The members of a consolidated local government council shall be nominated and elected from the district in which they reside in partisan elections. After the initial terms of office of the first elected council members, council members shall be elected in the same election years as other local government officials as regulated by the regular election laws of the Commonwealth and as provided in subsection (4) of this section.
- (6) No person shall be eligible to serve as a member of a consolidated local government council unless he or she is at least eighteen (18) years old, a qualified voter, and a resident within the territory of the consolidated local government and the district that he or she seeks to represent for at least one (1) year immediately prior to the person's election. A council member shall continue to reside within the district from which he or she was elected throughout the term of office.
- (7) The presiding officer of a consolidated local government council shall be a president who shall be chosen annually by a majority vote of the entire council from among its members at the first meeting of the council in January. The council president has the right to introduce any resolution or recommend any ordinance and shall be entitled to vote on all matters.
- (8) The consolidated local government council shall upon notice meet within seven (7) days after its members have taken office, and shall thereafter hold at least one (1) regular meeting per month. No newspaper notice shall be required for regular or special meetings of the consolidated local government council. However, notice of all meetings of the council and all meetings of committees of the council shall be held pursuant to KRS 61.805 to 61.850.
- (9) A majority of the members of the consolidated local government council shall constitute a quorum, but a smaller number may adjourn from day to day. The consolidated local government council may enforce the attendance of members by rules or ordinances with appropriate fines. The mayor or two-thirds (2/3) of the entire membership of the council may call a special meeting at any time. Meetings shall be held in such places in the county as are provided by ordinance, and the place of meetings shall not be changed except by an ordinance for which two-thirds (2/3) of the members of the consolidated local government council have voted.

- (10) The council shall determine its own rules and order of business, and keep and provide a public record of its proceedings. The council shall provide for the publication of all ordinances in a composite code of ordinances.
- (11) Council ordinances that prescribe penalties for their violation shall be enforced through the entire area of the consolidated local government unless:
- (a) Otherwise provided by statute; or
 - (b) The legislative body of any city within the consolidated local government area has adopted an ordinance pertaining to the same subject matter that is the same as or more stringent than the standards set forth in the consolidated local government's ordinance.
- (12) (a) In the case of a vacancy on the consolidated local government council by reason of death, resignation, or removal, ***an election shall be held to fill the unexpired term, unless paragraph (c) of this subsection applies***~~[the council by majority vote of the membership of the council shall elect a qualified resident of the council district not later than thirty (30) days after the date the vacancy occurs. Should the council fail to elect, by majority vote of the membership of the council, a qualified person to fill the vacancy within thirty (30) days, the mayor of the consolidated local government shall fill the vacancy by appointment of a qualified person for the unexpired term]. ***The county clerk shall be responsible for administering the election. The election shall proceed as follows:***~~
1. ***The presiding officer of the council shall declare the position vacant and issue a writ of election within twenty-four (24) hours of the occurrence of the vacancy.***
 2. ***The writ shall be signed by the presiding officer, shall designate the day for holding the election, and shall be delivered to the sheriff.***
 3. ***Candidates for the unexpired term shall file petitions of nomination with the county clerk not later than ten (10) days following the declaration of vacancy. The election shall be held sixty (60) days after the declaration of vacancy on the next Tuesday which is not a federal holiday under 5 U.S.C. sec. 6103(a), unless paragraph (b) of this subsection applies. The petition for nomination shall contain the signatures of two (2) registered voters of the council district and shall meet the requirements of KRS 118.315(2).***
 4. ***If the candidate is a registered member of a political party, as defined by KRS 118.551, the candidate shall be designated as such on the election ballot. If the candidate is not a registered member of a political party, as defined by KRS 118.551, the candidate shall be designated as "independent" on the election ballot, or may choose to be designated as a member of another political organization on the ballot, if such political organization is indicated on the candidate's petition for nomination.***
 5. ***The successful candidate elected to fill an unexpired term in the office of consolidated local government council member shall take office immediately upon certification of the election results and administration of the oath of office.***
- (b) ***If the unexpired term will not end on the first Monday in January following the next regular election, and if less than three (3) months intervene before that regular election, the unexpired term shall be filled on the date set for the regular election. Candidates for full terms shall be grouped together, and candidates for unexpired terms shall be grouped together, under appropriate headings, so that the voter may easily distinguish the candidates for full terms from the candidates for unexpired terms.***
- (c) ***If the unexpired term will end on the first Monday in January following the next regular election, and if less than three (3) months intervene before that regular election, the presiding officer of the council shall appoint a qualified person to fill the vacancy and serve the remainder of the term.***
- (d) ***Votes cast pursuant to subsection (3) of Section 3 of this Act shall not be counted for, or assigned to, any candidate in an election to fill a vacancy on the council, even if that candidate is the only designee of a political party or organization nominated in an election to fill a vacancy on the council.***
- (e) ***The order of the names on the ballot for the candidates shall be determined by lot at a public drawing to be held in the office of the county clerk at 4 p.m., standard time, ten (10) days following the declaration of vacancy.***
- (13) All legislative powers of a consolidated local government are vested in the consolidated local government council. The term "legislative power" is to be construed broadly and shall include the power to:

- (a) Enact ordinances, orders, and resolutions, and override a veto of the mayor by a two-thirds (2/3) majority of the membership of the legislative council;
 - (b) Review the budgets of and appropriate money to the consolidated local government;
 - (c) Adopt a budget ordinance;
 - (d) Levy taxes, subject to the limitations of the Constitution and the laws of the Commonwealth of Kentucky;
 - (e) Establish standing and temporary committees; and
 - (f) Make independent audits and investigations concerning the affairs of the consolidated local government and any board or commission that:
 - 1. Is composed of members who are appointed by the mayor and approved by the legislative council; or
 - 2. Has a budget that is equal to or greater than one million dollars (\$1,000,000.00), except that this subparagraph shall not apply to any fee officer elected within the consolidated local government.
- (14) (a) The consolidated local government council shall establish a Government Oversight and Audit Committee. This committee shall be:
- 1. Composed of members from each of the two (2) largest political caucuses in the legislative council;
 - 2. Appointed by the chairs of their respective caucuses; and
 - 3. Composed on the basis of the proportion of each of the two (2) caucuses' total membership as compared to the total membership of the legislative council. Any fractional proportions shall be rounded in the favor of the smallest caucus' membership on the committee.
- (b) The committee shall have the power to:
- 1. Compel testimony and the submission of work papers or documents;
 - 2. Issue subpoenas to compel any officer, appointee, or former officer or appointee to a board or commission described in subsection (13)(f) of this section or any department or division of the consolidated local government to appear before the committee and to compel the submission to the committee of any work papers or documents pertinent to an independent audit or investigation. Any subpoenas issued or testimony compelled shall be subject to any relevant statutes concerning privacy. Testimony subject to KRS 61.810 shall only be taken in executive session. The right to privacy or the requirement that testimony be taken in executive session may be waived by the person or entity being subpoenaed or compelled to testify;
 - 3. Petition the appropriate Circuit Court to compel obedience by proceedings for contempt as in the case of disobedience of a subpoena issued from the Circuit Court or a refusal to testify therein, if any officer or appointee fails or refuses to testify or furnish the work papers or documents subpoenaed;
 - 4. Administer oaths to witnesses appearing before the committee when the committee deems the administration of an oath necessary and advisable as provided by law. This decision to administer oaths shall be taken by a majority vote of the committee of the legislative council; and
 - 5. Recommend the removal of any appointee to a board or commission described in subsection (13)(f) of this section.
- (c) The legislative council of the consolidated local government shall adopt by resolution any process or procedures deemed necessary for the administration of subpoenas and oaths.
 - (d) The legislative council of the consolidated local government may only act to remove an appointee to a board or commission described in subsection (13)(f) of this section upon the recommendation of the Government Oversight and Audit Committee.
 - (e) The Government Oversight and Audit Committee shall have the power to issue subpoenas or administer oaths. Except as provided in KRS 65.003(7), the legislative council of the consolidated local

government shall not delegate those powers to any other entity or entities not a part of the legislative council of the consolidated local government.

- (15) The consolidated local government council shall be known as the legislative council of/..... County Metro Government, which shall be a combination of the names of the largest city in existence in the county on the date of the adoption of the consolidated local government and the county.

➔Section 2. KRS 118.740 is amended to read as follows:

- (1) A copy of a proclamation issued under KRS 118.710 or 118.720, or a writ of election issued under **Section 1 of this Act**, KRS 63.200, 118.730, 120.205, or 120.215 shall be forwarded by mail to the sheriff of each county in the district in which the election is to be held, at least fifty-six (56) days before the election. The sheriff of each county in which an election is to be held shall give notice at least forty-nine (49) days before the day of election. If, from any cause, the sheriff cannot properly act, he **or she** shall immediately hand the writ or proclamation to the person authorized to act in his **or her** place.
- (2) If a special election is administered under KRS 118.730(2), the notice required by subsection (1) of this section shall include the location of the election.

➔Section 3. KRS 117.125 is amended to read as follows:

No voting system or voting equipment shall be approved for use after January 1, 2024, by the State Board of Elections, either upon initial examination or reexamination, and no voting equipment or voting system shall be purchased after July 14, 2022, unless the system and equipment has been certified under KRS 117.379 and is so constructed that it shall:

- (1) Ensure secrecy to the voter in the act of voting so that no person can see or know for whom any other voter has voted or is voting, except for those voters requiring assistance under KRS 117.255;
- (2) Permit votes to be cast for any candidate entitled to have his or her name printed upon the ballots at any primary, regular election, or special election, and for or against any public question entitled to be placed upon the ballots;
- (3) Except at a primary **or at a special election held under subsection (12) of Section 1 of this Act**, permit a voter to vote for all the candidates of one (1) party or for one (1) or more candidates of every party having candidates entitled to be voted for, or for one (1) or more independent, political organization, or political group candidates;
- (4) Permit a voter to vote for as many persons for an office as the voter is lawfully entitled to vote for, and no more;
- (5) Prevent a voter from voting for more persons for any office than the voter is entitled to vote for, and from voting for the same person, or for or against the same question, more than once;
- (6) Permit a voter to vote for or against any question the voter may have the right to vote on, but no other;
- (7) Provide for a nonpartisan ballot;
- (8) Be capable of being adjusted for use in a primary so that a voter may not vote for any person except those seeking nomination as candidates of the voter's party, as candidates for a nonpartisan office, or as candidates for an office of the Court of Justice;
- (9) Permit each voter to vote for all the candidates for presidential electors of any party by one (1) operation;
- (10) Permit each voter to vote, in any regular or special election, for any person for whom the voter desires to vote whose name does not appear upon the ballot by providing a method of write-in voting;
- (11) Be safe, efficient, and accurate in the conduct of elections, and correctly register and accurately count all votes cast for each person, and for or against each public question;
- (12)
 - (a) Provide each voter an opportunity to verify votes recorded on the permanent paper ballot, either visually or using assistive voting technology, by producing a voter-verified paper audit trail;
 - (b) Provide each voter an opportunity to change votes or correct any error before the voter's ballot is cast and counted; and
 - (c) Provide a voter who spoils his or her ballot another ballot as provided under this chapter;
- (13) Use an individual, discrete, permanent, paper ballot cast by the voter for tabulating purposes;

- (14) Preserve the paper ballot as an official record available for use in any audit or recount;
- (15) Be suitably designed for the purpose used, constructed of a durable material, and safely transportable;
- (16) Be capable of determining whether the voting equipment has been unlocked and operated or adjusted in any manner after once being locked;
- (17) Have a public counter with a register which is visible from the outside of the counter or device that will show at all times during an election how many persons have voted;
- (18) Have a protective cumulative counter indicating the number of votes cast for each person, and the votes cast for or against each public question which cannot be seen, reset, or tampered with without unlocking a covering device by a key or other security apparatus that cannot unlock any other part of the equipment, and which prevents changes to the cumulative counter once the system has been put into operation on the day of any election;
- (19) Provide for the tabulating of votes at the precinct as required under KRS 117.275;
- (20) Provide locks or other security apparatus by which the operation of the voting equipment may be locked before the time for opening the polls and after the time for closing the polls;
- (21) Permit a voter to readily learn the method of operating it, to expeditiously cast a vote for all candidates and on all questions of the voter's choice, and when operated properly, register and record correctly and accurately every vote cast;
- (22) Bear a number or other unique designation that will distinguish it from any other voting equipment or voting system;
- (23) Produce a real-time audit log record for the voting system, and produce a paper record with a manual audit capacity which shall be available as an official record for any recount conducted related to any primary or election in which the system is used;
- (24) Be accessible for individuals with impairments, including nonvisual accessibility for the blind or visually impaired, in a manner that provides the same opportunity for access and participation, including privacy and independence, as for other voters;
- (25) Prohibit voting equipment that tabulates or aggregates votes used in official results from connecting to any network, including the Internet, or communicating with any device external to the voting system;
- (26) Meet or exceed the standards for a voting system established by the Election Assistance Commission, as amended from time to time, and those approved under KRS 117.379; and
- (27) Meet such other requirements as may be established by the State Board of Elections in administrative regulations promulgated under KRS Chapter 13A to reflect changes in technology to ensure the integrity and security of voting systems.

Signed by Governor March 24, 2023.