

1 AN ACT relating to elections and making an appropriation therefor.

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

3 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 120 IS CREATED TO  
4 READ AS FOLLOWS:

5 *(1) In any regular election or special election for any member of the General*  
6 *Assembly, the United States Senate or the United States House of*  
7 *Representatives, Governor and Lieutenant Governor, Treasurer, Auditor of*  
8 *Public Accounts, Commissioner of Agriculture, Labor and Statistics, Secretary of*  
9 *State, and Attorney General, a recount of the vote shall be required when a*  
10 *candidate is defeated by a margin of not more than one-half of one percent*  
11 *(0.5%) of the votes cast for the office.*

12 *(2) The State Board of Elections shall determine whether a recount is required under*  
13 *this section based upon the total number of votes certified to the Secretary of*  
14 *State. The time for conducting the recount under this section shall be as follows:*

15 *(a) For the offices of Governor and Lieutenant Governor, no recanvass under*  
16 *KRS 117.305 shall be made. The recount shall be commenced not later than*  
17 *9 a.m. on the Tuesday following the election and shall be conducted in the*  
18 *manner provided under subsections (3) to (7) of this section. The recount*  
19 *shall be completed within fourteen (14) days, Sundays excluded; and*

20 *(b) For all other offices listed in subsection (1) of this section, the recount shall*  
21 *be commenced not later than 9 a.m. on the second Tuesday following the*  
22 *election and shall be conducted in the manner provided under subsections*  
23 *(3) to (7) of this section. The recount shall be completed within fourteen*  
24 *(14) days, Sundays excluded.*

25 *(3) The custody of the voting equipment, ballots, boxes, and all papers pertaining to*  
26 *the election shall be maintained by the county board of elections. The voting*  
27 *equipment shall remain continuously locked, and the ballot boxes containing all*

- 1 paper ballots shall remain continuously locked as required by Section 9 of this  
2 Act until the time set for the recount. The keys shall remain in the possession of  
3 the county board of elections until the time set for the recount.
- 4 (4) The recount shall be conducted by the county board of elections of each county in  
5 which votes for the office that is the subject of the recount were cast.
- 6 (5) At the recount, each political party represented on the county board of elections  
7 may appoint a representative to be present, and each candidate subject to the  
8 recount may be present, either in person or by a representative, or both. The  
9 county board of elections shall authorize representatives of the news media to  
10 observe the recount.
- 11 (6) On the day fixed for the recount, the county board of elections shall meet and,  
12 after confirming the integrity of the ballots, shall proceed to recount the ballots.
- 13 (7) The county board of elections shall complete the recount within the time  
14 established under subsection (2) of this section. Upon completion of the recount,  
15 the county board of elections shall file and enter of record the results of the  
16 recount, and shall certify the results of the recount of the total number of votes to  
17 the Secretary of State not later than 4 p.m., prevailing time, on the day following  
18 the completion of the recount, Sunday excluded. No certificate of election shall  
19 be issued by the State Board of Elections while the recount is pending.
- 20 (8) The costs of any recount held pursuant to this section shall be paid by the  
21 Commonwealth of Kentucky. The costs shall be deemed a necessary government  
22 expense and shall be paid from the general fund surplus account under KRS  
23 48.700 or the budget reserve trust fund under KRS 48.705.
- 24 (9) If a recount is conducted under subsection (1) of this section:
- 25 (a) The time for filing a contest petition shall be tolled until the vote is certified  
26 under subsection (7) of this section; and
- 27 (b) The candidate may initiate an election contest, but no request for an

1                   *additional recount shall be considered prior to the completion of the*  
 2                   *certification of the vote under subsection (7) of this section.*

3                   ➔Section 2. KRS 118.775 is amended to read as follows:

4                   A successful candidate in a special election held for the purpose of filling a vacancy in  
 5                   any elective office shall take office immediately upon certification of the election results  
 6                   by the State Board of Elections or the county board of elections in which the special  
 7                   election was held,~~and~~ administration of the oath of office, *and if the successful*  
 8                   *candidate was a candidate for the General Assembly, upon being determined to be a*  
 9                   *member by the house in which membership is sought.*

10                  ➔Section 3. KRS 120.185 is amended to read as follows:

11               (1) *(a) 1.* Any candidate who was voted for at a regular election for any of the  
 12                   offices to which KRS 120.155 applies, *and who does not qualify for an*  
 13                   *automatic recount under Section 1 of this Act,* may request a recount of  
 14                   the ballots by filing a petition~~so requesting,~~ with the same court  
 15                   *where*~~that~~ petitions of contest are required to be filed.~~with, within ten~~  
 16                   ~~(10) days after the day of the election, or,~~

17                   *2.* If the candidate is qualified to institute a contest proceeding under KRS  
 18                   120.155, *the candidate may request a recount* by including a *recount*  
 19                   request~~for a recount~~ in his *or her* petition instituting the contest  
 20                   *proceeding*~~proceedings, but in the latter case the petition shall be filed~~  
 21                   ~~within ten (10) days after the day of the election].~~

22               *(b)* Any candidate who is a contestee in a contest proceeding under KRS 120.155  
 23                   may request a recount in his *or her* answer filed in the contest proceeding, but  
 24                   only if the answer *containing the recount request* is filed within *five (5)*~~ten~~  
 25                   ~~(10)]~~ days after *service of the petition upon the contestee*~~the day of election].~~

26               *(c) Any candidate under this subsection who would receive a certificate of*  
 27                   *election from the county board of elections under KRS 118.425 shall file his*

1 or her petition requesting a recount not later than ten (10) days after the  
 2 day of the election. The county board of elections shall be named a party  
 3 defendant in the petition.

4 (d) Any candidate under this subsection who would receive a certificate of  
 5 election from the State Board of Elections under KRS 118.425 shall file his  
 6 or her petition requesting a recount not later than the second Tuesday  
 7 following the election. The State Board of Elections shall be named a party  
 8 defendant in the petition.

9 ~~[ If a request for a recount is made, the State Board of Elections or the county board of~~  
 10 ~~elections, whichever would issue the certificate of election shall be made a~~  
 11 ~~party defendant.]~~

12 (e) The party requesting the recount shall execute bond with approved surety for  
 13 the costs of the recount, in an amount to be fixed by the Circuit Judge. *The*  
 14 *bond may be filed by the state political party, political organization, or*  
 15 *political group, if any, to which the candidate is affiliated.* Upon the bond  
 16 being filed, the clerk shall immediately notify the Circuit Judge of the request  
 17 and the filing of the bond, and the judge shall at once enter an order directing  
 18 the voting *equipment*~~[machines]~~, ballots, boxes, and all papers pertaining to  
 19 the election~~[ to]~~ be *secured. The court shall further order that the voting*  
 20 *equipment and ballot boxes containing all paper ballots shall remain*  
 21 *continuously locked as required by Section 9 of this Act until the time set*  
 22 *for the recount. The keys shall remain in the custody and possession of the*  
 23 *county board of elections until the time set for the recount.*~~[transferred to]~~

24 (f) The Circuit Court *shall*~~[, and]~~ fix a day for the recount proceedings to begin.  
 25 A copy of the order shall be served upon the parties or their counsel in the  
 26 same manner as notices are required to be served, which shall be deemed  
 27 sufficient notice of the proceeding.

1 (g) At the recount, each political party represented on the county board of  
2 elections may appoint a representative to be present, and each candidate  
3 subject to the recount may be present, either in person or by a  
4 representative, or both. The county board of elections shall authorize  
5 representatives of the news media to observe the recount.

6 (h) On the day fixed by the court, the county board of elections shall meet and,  
7 after confirming the integrity of the ballots,~~court~~ shall proceed to recount  
8 the ballots,~~if their integrity is satisfactorily shown and shall~~

9 (i) The county board of elections shall complete the recount as soon as  
10 practicable, and shall forward the results of the recount to the Circuit Court.

11 (j) Upon receipt of the results of the recount the court shall enter a judgment  
12 setting out~~file and enter of record~~ the results of the recount~~thereof~~, and  
13 directing~~direct~~ the State Board of Elections~~state board~~ or county board of  
14 elections, whichever would issue the certificate of election, to issue the  
15 certificate~~same~~ to the party entitled thereto as shown by the recount.

16 (k) No certificate of election shall be issued by the State Board of Elections or  
17 any county board of elections while any recount proceeding is pending, and  
18 any certificate of election issued before the final judgment in any recount  
19 proceeding shall be null and void.

20 (L)~~(2)~~ Any party may appeal from the judgment issued under paragraph (j) of  
21 this subsection to the Court of Appeals, in the same manner as provided in  
22 KRS 120.075, and all of the provisions of that~~which~~ statute shall apply~~be~~  
23 applicable.

24 (m)~~(3)~~ If a proceeding for recount is requested~~asked~~ and prosecuted in a  
25 contest proceeding, the recount~~it~~ shall not await the preparation or trial of  
26 the contest in the Circuit Court or in the Court of Appeals. The action of the  
27 courts shall be final~~, concluding the parties~~ as to the question of a recount of

1 the ballots under this subsection, and certificates shall then be issued to the  
2 parties entitled thereto.

3 (2) (a) Any slate of candidates for Governor and Lieutenant Governor, or any  
4 candidate for the United States Senate or the United States House of  
5 Representatives who was voted for at a regular election or a special election,  
6 and who does not qualify for an automatic recount under Section 1 of this  
7 Act, may request a recount of the ballots by filing a petition in the Franklin  
8 Circuit Court.

9 (b) For any slate of candidates for Governor and Lieutenant Governor, the  
10 petition requesting a recount shall be filed not later than the Tuesday  
11 following the election. No recanvass under KRS 117.305 shall be conducted.  
12 The court shall order the recount to commence at 9 a.m. not later than a  
13 date five (5) days after the filing of the petition. The recount shall be  
14 completed by the county board of elections within fourteen (14) days of  
15 commencement of the recount, Sundays excluded. The State Board of  
16 Elections shall be named a party defendant in the petition.

17 (c) For any candidate for the United States Senate or the United States House  
18 of Representatives, the petition requesting a recount shall be filed not later  
19 than the second Tuesday following the election. The State Board of  
20 Elections shall be named a party defendant in the petition.

21 (d) Except for the time requirements established under paragraphs (b) and (c)  
22 of this subsection, the recount shall proceed as provided in subsection (1)(e)  
23 to (j) of this section.

24 (e) No appeal shall be taken from the findings issued by the Franklin Circuit  
25 Court described in subsection (1)(j) of this section; however, any party  
26 aggrieved by the findings or action of the court may file a petition for  
27 contest to the General Assembly under Section 4 of this Act, and the

1           General Assembly may accept, modify, or disregard the findings of the court  
2           in its sole and absolute discretion.

3           (f) No certificate of election shall be issued by the State Board of Elections  
4           while any recount proceeding or contest proceeding is pending, and if  
5           issued before entry of the findings described in subsection (2)(e) of this  
6           section shall be null and void.

7           (g) Any candidate for the United States Senate or the United States House of  
8           Representatives aggrieved by the findings or action of the court shall  
9           proceed under the rules established by the United States Congress or federal  
10          law.

11          (3) (a) Any candidate for the General Assembly who was voted for at a regular  
12          election or special election, and who does not qualify for an automatic  
13          recount under Section 1 of this Act, may request a recount of the ballots by  
14          filing a petition in the Circuit Court of the county where the requesting  
15          candidate resides.

16          (b) The petition requesting a recount shall be filed not later than the second  
17          Tuesday following the election. The State Board of Elections shall be  
18          named a party defendant in the petition.

19          (c) The recount shall proceed as provided in subsection (1)(e) to (j) of this  
20          section.

21          (d) No appeal shall be taken from the findings issued by the court described in  
22          subsection (1)(j) of this section; however, any party aggrieved by the  
23          findings or action of the court may file a petition for contest to the General  
24          Assembly under Section 4 of this Act, and the General Assembly may  
25          accept, modify, or disregard the findings of the court in its sole and absolute  
26          discretion.

27          (e) No certificate of election shall be issued by the State Board of Elections

1           while any recount proceeding or contest proceeding is pending, and if  
2           issued before entry of the findings described in subsection (1)(j) of this  
3           section shall be null and void.

4           ➔Section 4. KRS 120.195 is amended to read as follows:

5           (1) Any slate of candidates for Governor and Lieutenant Governor may contest any  
6           regular election or special election to the General Assembly by filing a written  
7           application and notice of the contest with the clerk of the Senate and with the  
8           clerk of the House of Representatives of the General Assembly. The application  
9           and notice of contest shall be signed by the parties contesting the election, and:

10          (a) If contesting a regular election, the application and notice of contest shall:

11                 1. Be filed not later than thirty (30) days after the final action of the  
12                 State Board of Elections; or

13                 2. Be filed not later than thirty (30) days following entry of the findings  
14                 of the Franklin Circuit Court as provided in subsection (2) of Section  
15                 3 of this Act if a recount was conducted; and

16          (b) If contesting a special election, the application and notice of contest shall be  
17                 filed not later than seven (7) days after the final action of the State Board of  
18                 Elections.

19          (2) Any candidate for the General Assembly may contest any regular election or  
20                 special election to the General Assembly by filing a written application and notice  
21                 of the contest with the clerk of the house to which the candidate seeks election.  
22                 The application and notice of contest shall be signed by the party contesting the  
23                 election, and:

24          (a) If contesting a regular election, the application and notice of contest shall:

25                 1. Be filed not later than fifteen (15) days after the final action of the  
26                 State Board of Elections; or

27                 2. Be filed not later than fifteen (15) days following entry of the findings



1 entered by the Circuit Court as provided in subsection (3) of Section 3  
 2 of this Act if a recount was conducted; and

3 (b) If contesting a special election, the application and notice of contest shall be  
 4 filed not later than three (3) days following the final action of the State  
 5 Board of Elections.

6 (3) The application and notice required under subsections (1) and (2) of this section  
 7 shall state the grounds of the contest, and no grounds other than those stated in  
 8 the application and notice shall be heard as coming from that party following the  
 9 filing of the application and notice. The candidates filing the application and  
 10 notice may include a request for a recount which may be ordered by the board  
 11 selected to try the contest under Section 5 or 6 of this Act.

12 (4) No election contest shall be heard unless the contestee to the proceeding has been  
 13 served with a copy of the application and notice of contest. The contestee may  
 14 make defense without giving counternotice.

15 (5) No certificate of election shall be issued by the State Board of Elections while any  
 16 election contest is pending, and any certificate issued before, during, or after  
 17 final resolution by the board of any election contest filed under this section shall  
 18 be null and void†

19 ~~No application to contest the election of a Governor, Lieutenant Governor, or member of~~  
 20 ~~the General Assembly shall be heard unless written notice, signed by the party~~  
 21 ~~contesting, is given. The notice shall state the grounds of the contest, and none other~~  
 22 ~~shall afterwards be heard as coming from that party, but the contestee may make~~  
 23 ~~defense without giving counternotice.~~

24 ~~(2) In the case of the Governor or Lieutenant Governor, the notice shall be given within~~  
 25 ~~thirty (30) days after the final action of the State Board of Elections. In the case of a~~  
 26 ~~member of the General Assembly, the notice shall be given within fifteen (15) days~~  
 27 ~~after the final action of the county board of elections or the State Board of~~

1 ~~Elections, whichever canvasses the returns}.~~

2 ~~(6){(3)}~~ Immediately after the **filing of the application and** notice **of contest**, either  
 3 party may proceed to take proof by depositions, under the same rules and  
 4 regulations that govern the taking of depositions in actions in equity, except that no  
 5 commission shall be required for taking a deposition out of the state. The  
 6 depositions shall be sealed~~[up]~~ by the officer taking them, and directed to the clerk  
 7 of the Senate or clerk of the House, as the case may require. The depositions  
 8 properly taken shall be read as evidence before the board or **house**~~[branch]~~ of the  
 9 General Assembly having jurisdiction of the case, and the board or **house**~~[branch]~~  
 10 may call for and hear other proof **as either shall determine**. The taking of  
 11 depositions to be used before ~~the~~~~[a]~~ board or **house**~~[branch]~~ of the General  
 12 Assembly shall close ten (10) days before the next meeting of the General  
 13 Assembly, or, if **the General Assembly is** in session when the **application and**  
 14 notice is **filed**~~[given]~~, when the **board or house orders the taking of proof by**  
 15 **deposition**~~[taking is ordered]~~ to close.

16 ~~(7){(4)}~~ The costs of the proceeding shall be adjudged against the unsuccessful party,  
 17 and a certificate **of costs**~~[thereof]~~ shall be given by the clerk of the Senate or the  
 18 clerk of the House **to the parties to the contest or their attorneys**, as the case  
 19 requires, **and shall be paid to the prevailing party within thirty (30) days of**  
 20 **adjudication. If the costs are not timely paid, the prevailing party may seek entry**  
 21 **of a judgment in a Circuit Court of competent jurisdiction**.~~[ A judgment for the~~  
 22 ~~costs may be obtained after five (5) days' notice in a Circuit Court.]~~

23 ➔Section 5. KRS 120.205 is amended to read as follows:

24 When the election of a Governor ~~and~~~~[or]~~ Lieutenant Governor is contested, a board for  
 25 determining the contest shall be formed and shall proceed in the following manner:

26 (1) On the third day after the organization of the General Assembly that meets next  
 27 after the election, the Senate shall select three (3) of its members **as provided in**

1 subsection (2) of this section, and the House of Representatives shall select eight  
 2 (8) of its members as provided in subsection (2) of this section, and the eleven (11)  
 3 so selected shall constitute a board to try the contest, seven (7) of whom shall  
 4 constitute a quorum.

5 (2) In making the selection, the name of each member present shall be written on a  
 6 separate piece of paper, every piece being as nearly similar to the other as possible.  
 7 Each piece shall be rolled up so that the names thereon cannot be seen, nor any  
 8 particular piece ascertained or selected by feeling. The whole, so prepared, shall be  
 9 placed by the clerk in a box on the clerk's<sup>[his]</sup> table, and after it has been well-~~[~~  
 10 ]shaken, and the papers therein well-~~[~~intmixed, the clerk shall draw out one (1)  
 11 paper, which shall be opened and read aloud by the presiding officer, and so on until  
 12 the required number is obtained.

13 (3) If any member~~[person so]~~ selected swears that he or she cannot, without great  
 14 personal inconvenience, serve on the board, or that he or she feels an undue bias for  
 15 or against either of the parties, that member~~[he]~~ may be excused by the house from  
 16 which that member~~[he]~~ was chosen from serving on the board.~~[, and]~~ If it appears  
 17 that a selected member~~[person so selected]~~ is related to either party, or is liable to  
 18 any other proper objection on the score of his or her partiality, that member~~[he]~~  
 19 shall be excused. Any deficiency in the proper number~~[so]~~ created by excuse shall  
 20 be supplied by another draw from the box.

21 (4) The selected members of the board~~[so chosen]~~ shall be sworn by the Speaker of the  
 22 House of Representatives to try the contested election, and shall give true  
 23 judgment~~[thereon]~~ according to the evidence, unless dissolved before rendering  
 24 judgment.

25 (5)~~(2)~~ The board shall, within twenty-four (24) hours after its selection, meet,  
 26 appoint its chair~~[chairman]~~, and assign a day for hearing the contest. It~~[, and]~~ may  
 27 adjourn from day to day as its business requires. If any member of the board

1 willfully fails to attend its sessions, **that member** ~~he~~ shall be reported to the house  
 2 to which he **or she** belongs, and that house shall **then** ~~thereupon~~, in its discretion,  
 3 punish **that member** ~~him~~ by fine or imprisonment, or both.

4 ~~(6)~~~~(3)~~ The board may, **upon a majority vote**, send for persons, papers, and records,  
 5 **including all voting equipment, ballots, boxes, and precinct rosters. The board** ~~and~~  
 6 **may** issue **subpoenas** ~~attachments therefor~~ signed by its **chair** ~~chairman~~ or  
 7 **the Speaker of the House of Representatives** ~~clerk, and may issue commissions for~~  
 8 ~~taking proof~~.

9 **(7) The board may use the services of any law enforcement agency to transport all**  
 10 **records relating to the election contest, including voting equipment, ballots,**  
 11 **boxes, and precinct rosters. All voting equipment, ballots, boxes, precinct rosters,**  
 12 **and other voting records sent for by the board shall be sealed, to the extent**  
 13 **possible, and transmitted in a tamper-resistant manner. The chain of custody for**  
 14 **the records shall be recorded, in writing, on a form prescribed by the State Board**  
 15 **of Elections in administrative regulations promulgated under KRS Chapter 13A**  
 16 **to include the identity of the person or persons transferring and receiving the**  
 17 **records, and the date, time, and location of the transfer. The clerk of the House of**  
 18 **Representatives shall be designated by the board as the custodian of the records**  
 19 **while the records are in the possession of the board.**

20 ~~(8)~~~~(4)~~ If it appears that the **slates of** candidates receiving the highest number of votes  
 21 **cast** ~~given~~ have received an equal number, the right to the **offices** ~~office~~ shall be  
 22 determined by lot, **in the manner prescribed by the board, and** under the direction  
 23 of the board.

24 **(9)** If the person returned **for the office of Governor** is found not ~~to have been~~ legally  
 25 qualified to receive the office at the time of his **or her** election ~~, and the first two (2)~~  
 26 ~~years of his term have not expired~~, a new election shall be ordered to fill the  
 27 vacancy **under subsection (13) of this section.**

1 **(10)** If a slate of candidates~~[person]~~ other than the one returned is found to have  
 2 received the highest number of legal votes cast~~[given]~~, that slate~~[he]~~ shall be  
 3 adjudged by the General Assembly to be the persons~~[person]~~ elected and entitled to  
 4 the offices~~[office]~~.

5 **(11)**~~(5)~~ No decision shall be made but by the vote of at least six (6) members of the  
 6 board. The decision of the board shall not be final or~~[nor]~~ conclusive, but shall be  
 7 reported to the two (2) houses of the General Assembly, in joint session, for the  
 8 further action of the General Assembly. The Speaker of the House shall preside at  
 9 the joint session, and the General Assembly shall then determine the contest.

10 **(12)** If no decision of the board is given during the then session of the General  
 11 Assembly, the board~~[it]~~ shall be dissolved, unless by joint resolution of the two (2)  
 12 houses it is empowered to continue longer.

13 **(13)**~~(6)~~ If a new election is required, it shall be immediately ordered by proclamation  
 14 of the Speaker of the House, who shall issue a writ of election. The writ shall be  
 15 signed by the Speaker, shall designate the day for holding the election, and shall  
 16 be directed to the proper sheriff or sheriffs as provided in Section 10 of this Act~~[~~  
 17 ~~to take place on a day not less than thirty (30) days nor more than six (6) weeks~~  
 18 ~~thereafter]~~.

19 **(14)**~~(7)~~ When a new election is ordered, or the incumbent is adjudged not to be  
 20 entitled to the office, his or her power shall immediately cease, and if the office is  
 21 not adjudged to another, it shall be deemed~~[to be]~~ vacant.

22 ➔Section 6. KRS 120.215 is amended to read as follows:

23 **(1)** When the election of a member of the General Assembly is contested, the  
 24 house~~[branch]~~ to which he or she belongs or seeks to be a member shall, within  
 25 three (3) days after its organization, and in the manner provided in KRS 120.205,  
 26 select a board of not more than nine (9) nor less than five (5) of its members to  
 27 determine the contest.

- 1 (2) The number of members required for the board shall be determined by the  
2 presiding officer of the house to which the person filing the contest belongs or  
3 seeks to be a member, and announced to the house prior to the selection of any  
4 member of the board, a majority of whom shall constitute a quorum.
- 5 (3) The members selected to serve on the board as provided in this section shall be  
6 sworn by the presiding officer to try the contested election, and shall give true  
7 judgment according to the evidence, unless dissolved before rendering judgment.
- 8 (4) The~~[Such]~~ board shall be governed by the same rules, have the same power, and be  
9 subject to the same penalties as a board to determine the contested election of  
10 Governor and Lieutenant Governor under Section 5 of this Act and as provided in  
11 this section. It shall report its decision to the house~~[branch]~~ of the General  
12 Assembly by which it was appointed, for its further action.
- 13 (5) The board shall, within twenty-four (24) hours of its selection, meet, appoint its  
14 chair, and assign a day for hearing the contest, and may adjourn from day to day  
15 as its business requires. If any member of the board willfully fails to attend its  
16 sessions, that member shall be reported to the house to which he or she belongs,  
17 and that house shall then, in its discretion, punish that member by fine or  
18 imprisonment, or both.
- 19 (6) The board may, upon a majority vote, send for persons, papers, and records,  
20 including all voting equipment, ballots, boxes, and precinct rosters, and may  
21 issue subpoenas signed by its chair or the presiding officer of the house before  
22 which the contest is proceeding. The board or the presiding officer may also issue  
23 subpoenas for taking proof.
- 24 (7) The board may use the services of any law enforcement agency to transport all  
25 records relating to the election contest, including voting equipment, ballots,  
26 boxes, and precinct rosters. All voting equipment, ballots, boxes, precinct rosters,  
27 and other voting records sent for by the board shall be sealed, to the extent

1 possible, and transmitted in a tamper-resistant manner. The chain of custody for  
2 the records shall be recorded, in writing, on a form prescribed by the State Board  
3 of Elections in administrative regulations promulgated under KRS Chapter 13A  
4 to include the identity of the person or persons transferring and receiving the  
5 records, and the date, time, and location of the transfer. The clerk of the house  
6 before which the contest is proceeding shall be designated by the board as the  
7 custodian of the records while the records are in the possession of the board.

8 (8) The board may order a recount of the election even if a recount has been  
9 conducted under Section 1 or 3 of this Act. A recount ordered by the board may  
10 be conducted without prior approval of the house before which the contest is  
11 proceeding. The recount shall be conducted by:

12 (a) The county clerk of the county or counties in which the precincts subject to  
13 the recount are located, if no recount of the election has been conducted; or

14 (b) The State Board of Elections, if a recount has been conducted under  
15 Section 1 or 3 of this Act, which shall:

16 1. Determine the number of persons required to conduct the recount,  
17 each of whom shall be a county clerk;

18 2. Select that number of clerks by placing the name of each county clerk  
19 in a box or similar receptacle, and after it has been well-shaken and  
20 well-intermixed, the chair of the State Board of Elections shall draw  
21 out one (1) name at a time, which shall be announced aloud. This  
22 process shall continue until the required number is obtained; and

23 3. Once completed, provide the results of the recount to the contest  
24 board.

25 The county clerk of any county containing precincts subject to the recount  
26 shall not be eligible to conduct the recount.

27 (9) If it appears the candidates have received an equal number of legal votes cast, the

1 right to the office shall be determined by lot, in the manner prescribed by the  
2 board, and under the direction of the board.

3 (10) If the board finds the person returned is not legally qualified to receive the office  
4 at the time of his or her election, and if the house in which the contest is pending  
5 concurrs under subsection (14) of this section, a vacancy shall exist, and a new  
6 election shall be ordered to fill the vacancy. If a new election is required, it shall  
7 be immediately ordered by proclamation of the presiding officer of the house  
8 before which the contest is proceeding who shall issue a writ of election. The writ  
9 shall be signed by the officer issuing it, shall designate the day for holding the  
10 election, and shall be directed to the proper sheriff or sheriffs as provided in  
11 Section 10 of this Act.

12 (11) If the board finds a person other than the one returned received the highest  
13 number of legal votes cast, and if the house in which the contest is pending  
14 concurrs under subsection (14) of this section, he or she shall be adjudged the  
15 person elected and entitled to the office.

16 (12) If the board is unable to decide the person entitled to the office, and if the house  
17 in which the contest is pending concurrs under subsection (14) of this section, a  
18 vacancy shall exist, and a new election shall be ordered by that house of the  
19 General Assembly to fill the vacancy. If a new election is required, it shall be  
20 immediately ordered by proclamation of the presiding officer of the house before  
21 which the contest is proceeding who shall issue a writ of election. The writ shall  
22 be signed by the officer issuing it, shall designate the day for holding the election,  
23 and shall be directed to the proper sheriff or sheriffs as provided in Section 10 of  
24 this Act.

25 (13) When a new election is ordered, or the incumbent is adjudged not to be entitled to  
26 the office, his or her power shall immediately cease, and if the office is not  
27 adjudged to another, it shall be deemed vacant.



1 **(14) No decision shall be made but by the vote of a majority of the members of the**  
 2 **board. The decision of the board shall not be final or conclusive, except as**  
 3 **provided in subsection (8) of this section, but shall be reported to the house of the**  
 4 **General Assembly by which it was appointed, for its further action.**

5 ➔Section 7. KRS 120.155 is amended to read as follows:

6 **(1)** Any candidate for election to any state, county, district or city office (except the  
 7 office of Governor, Lieutenant Governor, member of the General Assembly, and  
 8 those city offices as to which there are other provisions made by law for  
 9 determining contest elections), for whom a number of votes was cast equal to not  
 10 less than twenty-five percent (25%) of the number of votes cast for the successful  
 11 candidate for the office, may contest the election of the successful candidate, by  
 12 filing a petition in the Circuit Court of the county where the contestee resides,  
 13 unless the officer is one (1) elected by the voters of the whole state, in which case  
 14 the petition shall be filed in the Franklin Circuit Court.

15 **(2) (a)** The petition shall be filed and process issued within thirty (30) days after the  
 16 day of election.

17 **(b)** **The petition**~~[; ;†]~~ shall state the grounds of the contest relied on, and no other  
 18 grounds shall afterwards be relied upon.

19 **(3) (a)** The contestee shall file an answer within twenty (20) days after the service of  
 20 summons upon him **or her**.

21 **(b)** The answer may consist of a denial of the averments of the petition and may  
 22 also set up grounds of contest against the contestant; if grounds are so set up  
 23 they shall be specifically pointed out and none other shall thereafter be relied  
 24 upon by the party.

25 **(4)** Any candidate who would have been qualified to bring a contest action under this  
 26 section, who is a party to a **requested** recount proceeding under **subsection (1) of**  
 27 **Section 3 of this Act**~~[KRS 120.185]~~, may, by filing answer in the recount

1 proceeding within the time allowed by this section for filing grounds of contest, set  
2 forth grounds of contest against the petitioner in the recount proceeding.

3 (5) A reply may be filed within ten (10) days after the answer is filed; its affirmative  
4 allegations shall be treated as controverted, and no subsequent pleading shall be  
5 allowed.

6 ➔Section 8. KRS 120.017 is amended to read as follows:

7 (1) It shall be the duty of precinct election officers at all primaries~~[primary]~~, regular  
8 elections, or special elections to immediately report to the county clerk any  
9 administrative or clerical error discovered in the process of conducting the polling  
10 or tabulation of votes at any such primary or election.

11 (2) Upon receipt by the county clerk of notice of error in conducting the polling or  
12 tabulation of votes pursuant to subsection (1) of this section, the county clerk shall  
13 file an action in the Circuit Court, within fifteen (15) days of the primary or  
14 election, requesting a recount of ballots for the precinct reporting the administrative  
15 or clerical error. Simultaneously with the filing of such action, the county clerk shall  
16 make written notice by regular mail to all candidates appearing on the ballot of the  
17 precinct at issue that such action is being filed. In the case of an election for  
18 candidates for offices for the state at large or an election on a statewide public  
19 question, the action shall be filed in the Franklin Circuit Court; in the case of other  
20 elections, the action shall be filed in the Circuit Court of the county in which the  
21 precinct reporting the error is located.

22 (3) An action filed in the Circuit Court of competent~~[proper]~~ jurisdiction pursuant to  
23 this section shall be heard summarily and without delay. Upon filing of the action,  
24 the circuit clerk shall immediately notify the Circuit Judge, and the judge shall at  
25 once enter an order directing custody of the voting equipment~~[machine]~~, the ballots,  
26 boxes, and all papers pertaining to the primary or election from that precinct  
27 claiming error, to be transferred to the Circuit Court, and fix a day for the recount

1 proceeding to begin.

2 (4) Candidates notified pursuant to subsection (3) of this section shall, upon proper  
3 motion, be made parties to the action.

4 (5) On the day fixed for the recount, the court shall proceed to recount the ballots if  
5 their integrity is satisfactorily shown, ~~and~~ shall complete the recount as soon as  
6 practicable, and shall file and enter of record the results thereof.

7 (6) Any person made party to the action pursuant to subsection (4) of this section may  
8 appeal from the judgment to the Court of Appeals, in the same manner as provided  
9 in KRS 120.075.

10 (7) The county clerk shall certify the final recount results entered of record in any  
11 action filed pursuant to this section to the county board of elections and to the local  
12 governing body of each of two (2) dominant political parties. Final certification of  
13 election results shall then proceed according to KRS Chapters 117, 118, and 118A.

14 **(8) The court may determine if an automatic recount conducted under Section 1 of**  
15 **this Act satisfies the recount required under this section.**

16 ➔Section 9. KRS 117.295 is amended to read as follows:

17 (1) For a period of ten (10) days following any primary ~~election~~, and for a period of  
18 thirty (30) days following any **regular**~~general~~ or special election, the voting  
19 **equipment**~~machine~~ shall remain locked against voting and the ballot boxes  
20 containing all paper ballots shall remain locked, except that the voting  
21 **equipment**~~machines~~ and the ballot boxes may be opened and all the data and  
22 figures therein examined; ~~or~~

23 **(a)** Upon the order of any court of competent jurisdiction, or judge thereof; ~~or~~

24 **(b)** By direction of any legislative committee **or board** authorized and empowered  
25 to investigate and report upon contested elections; **or** ~~or~~

26 **(c) As required to conduct a recount under Section 1 of this Act.** ~~and~~

27 All the data and figures shall be examined by the court, judge, **county board of**

1        *elections, State Board of Elections,* or committee in the presence of the officer  
2        having the custody of the *voting equipment*~~[machine]~~ and ballot boxes. In the event  
3        of a contest of election, the court in which the contest is pending or the committee  
4        before which the contest is being heard may, upon motion of any party to the  
5        contest, issue an order requiring that the voting *equipment*~~[machines]~~ and ballot  
6        boxes shall remain continuously locked for further time as may be reasonable or  
7        necessary, with due regard for the preparation of the *voting equipment*~~[machines]~~  
8        for a succeeding primary, regular *election,* or special election, but in no event shall  
9        the order compel that the *voting equipment*~~[machines]~~ remain locked to a time  
10       within thirty (30) days next preceding any approaching primary, regular *election,* or  
11       special election.

12       (2) During the period when the machine and the ballot boxes are required to be kept  
13       locked, the keys thereto shall remain in the possession of the county board of  
14       elections. After that period, it shall be the duty of the county board of elections to  
15       return the keys to the custody of the county clerk.

16       ➔Section 10. KRS 118.740 is amended to read as follows:

17       (1) A copy of a proclamation issued under KRS 118.710 or 118.720, or a writ of  
18       election issued under KRS 118.730 *or Section 5 or 6 of this Act* shall be forwarded  
19       by mail to the sheriff of each county in the district in which the election is to be  
20       held, at least fifty-six (56) days before the election. The sheriff of each county in  
21       which an election is to be held shall give notice at least forty-nine (49) days before  
22       the day of election. If, from any cause, the sheriff cannot properly act, he shall  
23       immediately hand the writ or proclamation to the person authorized to act in his  
24       place.

25       (2) If a special election is administered under KRS 118.730(2), the notice required by  
26       subsection (1) of this section shall include the location of the election.