

CHAPTER 156**(HB 53)**

AN ACT relating to elections and making an appropriation therefor.

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

➔Section 1. KRS 117.001 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

- (1) "Audit log" means a detailed record of all actions and events that have occurred on the voting system, including:
 - (a) Log-in attempts with username and time stamp;
 - (b) Election definition and setup;
 - (c) Ballot preparation and results processing;
 - (d) Diagnostics of any type; and
 - (e) Error and warning messages and operator response;
- (2) "Automatic tabulating equipment" means apparatus necessary to automatically examine and count votes as designated on ballots and data processing machines which can be used for counting ballots and tabulating results;
- (3) "Ballot" or "official ballot" means the official presentation of offices and candidates to be voted for, including write-in candidates, and all public questions submitted for determination, and shall include a voting machine ballot, a paper ballot, an absentee ballot, a federal provisional ballot, a federal provisional absentee ballot, or a supplemental paper ballot which has been authorized for the use of voters in any primary, regular election, or special election by the Secretary of State or the county clerk;
- (4) "Ballot box" means any box, bag, or other container that can be locked, sealed, or otherwise rendered tamper-resistant, for receiving ballots;
- (5) "Ballot marking device" means any approved device for marking a ballot which will enable the ballot to be tabulated manually or by means of automatic tabulating equipment;
- (6) "Election" or "elections" means any primary, regular election, or special election;
- (7) "Election officer" has the same meaning as in KRS 118.015;
- (8) "E-poll book" means an electronic device capable of holding a file of voter data and related information for use in identifying registered voters prior to a voter's receiving or casting a ballot, and allowing a voter to electronically sign in on an electronic registered voter roster in lieu of signing a paper registered voter roster;
- (9) "Federal provisional voter" means a person:
 - (a) Who does not appear to be registered to vote;
 - (b) Whose name does not appear on the precinct roster;
 - (c) Who has not provided proof of identification to the precinct election officer before voting in a federal election; and
 - (d) Who elects to proceed with voting a federal provisional ballot under KRS 117.229;
- (10) "Federal provisional ballot" or "federal provisional absentee ballot" means ballots which have been authorized by the Secretary of State or the county clerk to be used by federal provisional voters in any federal primary or election;
- (11) "Inner envelope" or "secrecy envelope" means the envelope provided to the voter with a ballot into which the voter shall place his or her voted ballot;
- (12) "Political group" has the same meaning as in KRS 118.015;

- (13) "Political organization" has the same meaning as in KRS 118.015;
- (14) "Precinct ballot counter" means an automatic tabulating device used at the precinct to tabulate and process ballots;
- (15) "Proof of identification" means a document that was issued by:
- (a) The United States or the Commonwealth of Kentucky, and the document contains:
 1. The name of the individual to whom the document was issued; and
 2. A photograph of the individual to whom the document was issued;
 - (b) The United States Department of Defense, a branch of the uniformed services, the Merchant Marine, or the Kentucky National Guard, and the document contains:
 1. The name of the individual to whom the document was issued; and
 2. A photograph of the individual to whom the document was issued;
 - (c) A public or private college, university, or postgraduate technical or professional school located within the United States, and the document contains:
 1. The name of the individual to whom the document was issued; and
 2. A photograph of the individual to whom the document was issued; or
 - (d) Any city government, county government, urban-county government, charter county government, consolidated local government, or unified local government, which is located within this state, and the document contains:
 1. The name of the individual to whom the document was issued; and
 2. A photograph of the individual to whom the document was issued;
- (16) ~~["Risk limiting audit" means an audit protocol that makes use of statistical principles and methods and is designed to limit to acceptable levels the risk of certifying a preliminary election outcome that constitutes an incorrect outcome;~~
- ~~(17)~~ "Voting booth" or "ballot completion area" means an area in which a voter casts his or her vote or completes his or her ballot which is designed to ensure the secrecy of the vote;
- ~~(17)~~~~(18)~~ "Vote center" means a consolidated precinct of the county;
- ~~(18)~~~~(19)~~ "Voting equipment" means any physical component of a voting system and includes voting machines where voting machines are in operation;
- ~~(19)~~~~(20)~~ "Voting machine" or "machine":
- (a) Means a part of a voting system that consists of ~~[-~~:
 1. ~~A direct recording electronic voting machine that:~~
 - a. ~~Records votes by means of a ballot display provided with mechanical or electro-operated components that may be actuated by the voter;~~
 - b. ~~Processes the data by means of a computer program;~~
 - c. ~~Records voting data and ballot images in internal and external memory components; and~~
 - d. ~~Produces a tabulation of the voting data stored in a removable memory component and on a printed copy; or~~
 2. ~~one (1) or more electronic devices that operate independently or as a combination of a ballot marking device and an electronic or automatic vote tabulation device; and~~
 - (b) Does not include an e-poll book;
- ~~(20)~~~~(21)~~ "Voting system":
- (a) Means the total combination of physical, mechanical, electromechanical, or electronic equipment, including the software, hardware, firmware, and documentation required to program, control, and support that equipment, that is used to:

1. Define ballots;
 2. Cast and count votes;
 3. Report or display election results; and
 4. Maintain and produce any audit trail information;
- (b) Includes the practices and associated documentation used to:
1. Identify system components and versions of those components;
 2. Test the system during its development and maintenance;
 3. Maintain records of system errors and defects;
 4. Determine specific system changes to be made to a system after the initial qualification of the system;
 5. Make available any materials to the voter, such as notices, instructions, forms, or paper ballots; and

(c) Does not include an e-poll book; and

~~(21)~~~~(22)~~ "Voter-verified paper audit trail" means a contemporaneous paper record of a ballot printed for the voter to confirm his or her votes before the voter casts his or her ballot that:

- (a) Allows the voter to verify the voter's ballot choices before the casting of the voter's ballot;
- (b) Is not retained by the voter;
- (c) Does not contain individual voter information;
- (d) Is produced on paper that is sturdy, clean, and resistant to degradation; and
- (e) Is readable in a manner that makes the voter's ballot choices obvious to the voter or any person without the use of computer or electronic code.

➔Section 2. KRS 117.383 is amended to read as follows:

The State Board of Elections shall promulgate administrative regulations under KRS Chapter 13A which shall maintain the maximum degree of correctness, impartiality, and efficiency of the procedures of voting and shall provide methods to:

- (1) Count, tabulate, and record votes;
- (2) Place items on any ballot which shall, as closely as possible, follow the requirements pertaining to ballots;
- (3) Design the ballots to include a system to ensure an accurate record of all voting activities;
- (4) Instruct voters in the use of the voting system, including any ballot marking device;
- (5) Provide for checking the accuracy of the voting system;
- (6) Provide necessary supplies, including those necessary for a write-in vote, to ensure voter privacy;
- (7) ~~[As part of the official canvass, provide for a manual recount of randomly selected precincts representing three percent (3%) to five percent (5%) of the total ballots cast in each election;~~
- ~~(8)~~ Provide for the conducting and review of an audit of any component of a voting system or any voting equipment, and a review of any audit log;
- ~~(8)~~~~(9)(a)~~ Provide for the conducting and review of an election audit~~[-, including a risk limiting audit, and risk limiting audit pilot program, all of]~~ which shall establish the protocol by which ballots are checked, compared, and verified with the results produced by vote tallying equipment to ensure accuracy ***through a hand-to-eye recount defined and conducted as follows:***
 - (a) ***To validate the accuracy and fidelity of the vote tabulation, the Secretary of State or his or her designee shall randomly select, in all counties of the Commonwealth, one (1) ballot scanner and one (1) race tabulated on that scanner for a hand-to-eye recount to be performed by each county board of elections or its designee;***

- (b) *The sealed ballot boxes and signed tabulator tally tape or record from election day, as established in KRS 117.275, shall be provided by the county board of elections at an agreed upon location, and shall be accessible for public viewing. The sealed ballots are only to be unsealed in the presence of the county board of elections or its designee and public witnesses;*
- (c) *A minimum of two (2) qualified poll workers, not of the same political party, shall be selected from lists of available volunteers, sworn in by the county board of elections or its designee to do the hand-to-eye recount, and compensated at the local poll worker rate. A video recording device shall be used for recording the event and it may be streamed for public internet viewing;*
- (d) *Ballots are to be aligned for stacking as needed, then viewed one (1) at a time, with each volunteer making a tally mark on a tally sheet for each vote cast for each candidate. Any ballots that are disputed or unclearly marked shall be set aside and the county board of elections or its designee shall determine voter intent;*
- (e) *Once the hand-to-eye recount is completed, each volunteer shall add up the tally marks for each candidate, write down a total number of votes for each candidate, and sign the tally sheet. The county board of elections or its designee shall verify if the two (2) separate hand-to-eye tallies match. If the two (2) hand-to-eye tallies do not match each other, the process must be repeated until the totals are matching. Once this occurs, the county board of elections or its designee shall also verify the tallies by signing each tally sheet. Then, the ballots must be returned to the ballot box and resealed in the presence of the county board of elections or its designee and public witnesses;*
- (f) *The county board of elections or its designee shall compare the signed register tape total from the vote tabulation machine on election day to the hand-to-eye tallies. If there is a discrepancy between the machine count and the hand-to-eye recount, other than instances of voter intent markings outside the designated marking area on the paper ballot that were unreadable by the scanner, or unscanned overvotes resulting from two (2) or more voter intent marks on the same race, the county board of elections or its designee shall open an election investigation including a review of election day irregularity reports. If more discrepancies are found, the county board of elections or its designee shall broaden the investigation until the reason for the discrepancy is discovered and subsequently resolved. A determination as to whether the outcome of the race could have been impacted by the discrepancies shall be made and any findings shall be reported to the Attorney General and Secretary of State; and*
- (g) *The county board of elections or its designee shall examine the electronic or paper sign-in records from the precinct or vote center and validate that the ballots cast and recounted were less than or equal to the sign-in records for that precinct or vote center. If the cast ballots for the precinct or vote center exceed the number of voters on the sign-in records for the precinct or vote center, the county board of elections shall open an election investigation and report the findings to the Attorney General and Secretary of State*~~;~~
- ~~(b) The pilot program shall, at a minimum, include individuals representing the State Board of Elections, the Office of the Secretary of State, and no fewer than five percent (5%) of Kentucky's counties.~~
- ~~(c) The risk limiting audit and risk limiting audit pilot program shall make the results of its findings available to the public;~~
- ~~(9)~~~~(10)~~ Provide a method for maintaining sufficient documents, including ballots and records, so that votes can be recounted;
- ~~(10)~~~~(11)~~ Ensure the county board of elections produces accurate precinct-by-precinct summaries of tabulation sheets showing the results of each precinct during in-person absentee voting, election day voting, and when a county is approved to use a vote center;
- ~~(11)~~~~(12)~~ Except as otherwise required in this chapter, all records and papers relating to specified elections be retained for twenty-two (22) months, such documents and records shall be maintained for thirty (30) days following an election; and
- ~~(12)~~~~(13)~~ Unless contrary to the Help America Vote Act of 2002, ensure that all federal provisional voting shall be conducted in a manner as prescribed by KRS Chapters 116 to 120.

➔Section 3. KRS 117.295 is amended to read as follows:

- (1) For a period of thirty (30) days following any election, the voting equipment shall remain locked against voting, the ballot boxes containing all paper ballots shall remain locked, and the voting equipment and ballot boxes shall be under video surveillance. The system used to conduct the video surveillance shall have enough storage capacity to retain sixty (60) consecutive days of continuous recording data. The voting equipment and the ballot boxes may be opened and all the data and figures therein examined:
- (a) Upon the order of any court of competent jurisdiction, or judge thereof;
 - (b) By direction of any legislative committee or board authorized and empowered to investigate and report upon contested elections;
 - (c) By a county board of elections *or its designee* under the direction of the *Secretary of State*~~State Board of Elections~~ pursuant to a *hand-to-eye recount as described in Section 2 of this Act*~~risk limiting audit~~; or
 - (d) As required to conduct a recount under KRS 120.157.

All the data and figures shall be examined by the court, judge, county board of elections, State Board of Elections, or committee in the presence of the officer having the custody of the voting equipment, ballots, and ballot boxes. In the event of a contest of election, the court in which the contest is pending or the committee before which the contest is being heard may, upon motion of any party to the contest, issue an order requiring that the voting equipment, ballots, and ballot boxes shall remain continuously locked for further time as may be reasonable or necessary, with due regard for the preparation of the voting equipment for a succeeding primary, regular election, or special election, but in no event shall the order compel that the voting equipment remain locked to a time within thirty (30) days next preceding any approaching primary, regular election, or special election.

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

➔Section 4. There is hereby appropriated General Fund moneys in the amount of \$1,200,000 in fiscal year 2024-2025 and \$1,200,000 in fiscal year 2025-2026 to the Board of Elections to reimburse each county clerk up to \$5,000 for actual expenses incurred for each election in which the clerk conducts a hand-to-eye recount as outlined in Section 2 of this Act.

Became law without Governor's signature April 10, 2024.