

CHAPTER 114**(SB 190)**

AN ACT relating to actions of government officials.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 12 IS CREATED TO READ AS FOLLOWS:

(1) *This section applies to:*

- (a) *Cities;*
- (b) *Counties;*
- (c) *Consolidated local governments;*
- (d) *Urban-county governments;*
- (e) *Charter county governments;*
- (f) *Unified local governments;*
- (g) *Program cabinets, departments, organizational units, and administrative bodies of the Commonwealth; and*
- (h) *Boards, commissions, committees, and other administrative bodies created by the entities listed in paragraphs (a) to (g) of this subsection.*

(2) *An entity named in subsection (1) of this section shall not enter into a contract, agreement, or consent decree that gives any person, agency, or authority subpoena power not specifically or explicitly allowed by the Kentucky Revised Statutes.*

➔Section 2. KRS 83A.030 is amended to read as follows:

(1) Each city organized and governed under the mayor-council plan shall have a mayor and each shall have a legislative body composed of not less than six (6) nor more than twelve (12) members as prescribed by ordinance. *An ordinance amending the number of legislative body members shall be:*

- (a) *Enacted and filed with the county clerk of any county or counties in which the city is located by no later than the first Wednesday after the first Monday in November of the year preceding the year in which the legislative offices will appear on the ballot; and*
- (b) *Crafted in such a manner that the amended number of legislative body members becomes effective on January 1 of the year following the election of the number of legislative body members specified in the amending ordinance.*

(2) Each city organized and governed under the commission plan or city manager plan shall have a legislative body composed of a mayor and four (4) commissioners.

➔Section 3. KRS 83A.040 is amended to read as follows:

(1) A mayor shall be elected by the voters of each city at a regular election. A candidate for mayor shall be a resident of the city for not less than one (1) year prior to his or her election. His *or her* term of office shall begin on the first day of January following his *or her* election and shall be for four (4) years and until his *or her* successor qualifies. If a person is elected or appointed as mayor in response to a vacancy and serves less than four (4) calendar years, then that period of service shall not be considered for purposes of re-election a term of office. A mayor shall be at least twenty-one (21) years of age, shall be a qualified voter in the city, and shall reside in the city throughout his *or her* term of office.

(2) If a vacancy occurs in the office of mayor, the following provisions shall apply:

- (a) The legislative body of the city shall fill the vacancy within thirty (30) days;~~;~~
- (b) A member of the legislative body in any city organized and governed under the commission plan as provided by KRS 83A.140 or city manager plan as provided by KRS 83A.150 may vote for himself;~~;~~

- (c) A member of the legislative body in any city organized and governed under the mayor-council plan as provided by KRS 83A.130 and in any city of the first class organized under the mayor-alderman plan as provided by KRS Chapter 83 shall not vote for himself; ~~and~~
 - (d) The legislative body shall elect from among its members an individual to preside over meetings of the legislative body during any vacancy in the office of mayor in accordance with the provisions of KRS 83A.130 to 83A.150.
- (3) When voting to fill the vacancy created by a resignation of a mayor the resigning mayor shall not vote on his *or her* successor.
 - (4) Each legislative body member shall be elected at large by the voters of each city at a regular election. A candidate for a legislative body shall be a resident of the city for not less than one (1) year prior to his or her election. His *or her* term of office shall begin on the first day of January following his *or her* election and shall be for two (2) years, except as provided by KRS 83A.050. A member shall be at least eighteen (18) years of age, shall be a qualified voter in the city, and shall reside in the city throughout his *or her* term of office.
 - (5) If one (1) or more vacancies on a legislative body occur in a way that one (1) or more members remain seated, the remaining members shall within thirty (30) days fill the vacancies one (1) at a time, giving each new appointee reasonable notice of his *or her* selection as will enable him *or her* to meet and act with the remaining members in making further appointments until all vacancies are filled. If vacancies occur in a way that all seats become vacant, the Governor shall appoint qualified persons to fill the vacancies sufficient to constitute a quorum. Remaining vacancies shall be filled as provided in this section.
 - (6) If for any reason, any vacancy in the office of mayor or the legislative body is not filled within thirty (30) days after it occurs, the Governor shall promptly fill the vacancy by appointment of a qualified person who shall serve for the same period as if otherwise appointed.
 - (7) No vacancy by reason of voluntary resignation in the office of mayor or on a legislative body shall occur unless a written resignation which specifies a resignation date is tendered to the legislative body. ***The resignation may be submitted through electronic mail if it originates from the official's electronic mail address and includes also the official's handwritten signature.*** The resignation shall be effective at the next regular or special meeting of the city legislative body occurring *on or* after the date specified in the written letter of resignation. ***If a resignation date is not specified, the written resignation shall be deemed to become effective at the first regular or special meeting of the legislative body occurring on or after its receipt.***
 - (8) Pursuant to KRS 118.305(7), if a vacancy occurs which is required by law to be filled temporarily by appointment, the legislative body or the Governor, whichever is designated to make the appointment, shall immediately notify in writing both the county clerk and the Secretary of State of the vacancy.
 - (9) Except in cities of the first class, any elected officer, in case of misconduct, incapacity, or willful neglect in the performance of the duties of his *or her* office, may be removed from office by a unanimous vote of the members of the legislative body exclusive of any member to be removed, who shall not vote in the deliberation of his *or her* removal. No elected officer shall be removed without having been given the right to a full public hearing. The officer, if removed, shall have the right to appeal to the Circuit Court of the county and the appeal shall be on the record. No officer so removed shall be eligible to fill the office vacated before the expiration of the term to which originally elected.
 - (10) Removal of an elected officer in cities of the first class shall be governed by the provisions of KRS 83.660.
 - ➔Section 4. KRS 83A.045 is amended to read as follows:
 - (1) Except as provided in KRS 83A.047, partisan elections of city officers shall be governed by the following provisions, regardless of the form of government or classification of the city:
 - (a) A candidate for party nomination to city office shall file his or her nomination papers with the county clerk of the county not earlier than the first Wednesday after the first Monday in November of the year preceding the year in which the office will appear on the ballot and not later than the first Friday following the first Monday in January before the day fixed by KRS Chapter 118 for holding a primary for the office sought. Signatures for nomination papers shall not be affixed on the document to be filed prior to the first Wednesday after the first Monday in November of the year preceding the year in which the office will appear on the ballot. All nomination papers shall be filed no later than 4 p.m. local time when filed on the last day on which the papers are permitted to be filed;

- (b) An independent candidate for nomination to city office shall not participate in a primary, but shall file his or her nomination papers with the county clerk of the county not earlier than the first Wednesday after the first Monday in November of the year preceding the year in which the office will appear on the ballot and not later than the first Tuesday after the first Monday in June before the day fixed by KRS Chapter 118 for holding a regular election for the office. Signatures for nomination papers shall not be affixed on the document to be filed prior to the first Wednesday after the first Monday in November of the year preceding the year in which the office will appear on the ballot. All nomination papers shall be filed no later than 4 p.m. local time when filed on the last day on which the papers are permitted to be filed; and
 - (c) A candidate for city office who is defeated in a partisan primary shall be ineligible as a candidate for the same office in the regular election. However, if a vacancy occurs in the party nomination for which he or she was an unsuccessful candidate in the primary, his or her name may be placed on the ballot for the regular election as a candidate of that party if he or she has been duly made the party nominee after the vacancy occurs, as provided in KRS 118.105.
- (2) Except as provided in KRS 83A.047, nonpartisan elections of city officers shall be governed by KRS 83A.050, 83A.170, 83A.175, and the following provisions, regardless of the form of government or classification of the city:
- (a) A candidate for city office shall file his or her nomination papers with the county clerk of the county not earlier than the first Wednesday after the first Monday in November of the year preceding the year in which the office will appear on the ballot and not later than the first Friday following the first Monday in January before the day fixed by KRS Chapter 118 for holding a primary for nominations for the office. Signatures for nomination papers shall not be affixed on the document to be filed prior to the first Wednesday after the first Monday in November of the year preceding the year in which the office will appear on the ballot. All nomination papers shall be filed no later than 4 p.m. local time when filed on the last day on which the papers are permitted to be filed;
 - (b) Any city of the home rule class may by ordinance provide that the nomination and election of candidates for city office in a nonpartisan election shall be conducted pursuant to the provisions of this subsection:
 1. A city may forgo conducting a nonpartisan primary for the nomination of candidates to city office, regardless of the number of candidates running for each office, and require all candidates to file their nomination papers with the county clerk of the county not earlier than the first Wednesday after the first Monday in November of the year preceding the year in which the office will appear on the ballot and not later than the first Tuesday after the first Monday in June before the day fixed by KRS Chapter 118 for holding a regular election for the office. Signatures for nomination papers shall not be affixed on the document to be filed prior to the first Wednesday after the first Monday in November of the year preceding the year in which the office will appear on the ballot;
 2. All nomination papers shall be filed no later than 4 p.m. local time when filed on the last day on which the papers are permitted to be filed;
 3. If a city does not conduct a primary pursuant to this subsection, the election of candidates to city office shall be governed by the provisions of this subsection, KRS 83A.175(2) to (6), and KRS Chapters 116 to 121;
 4. In the absence of a primary pursuant to this subsection, the number of candidates equal to the number of city offices to be filled who receive the highest number of votes cast in the regular election for each city office shall be elected;
 5. Candidates shall be subject to all other applicable election laws pursuant to this chapter and KRS Chapters 116 to 121;
 6. If a vacancy occurs in a candidacy for city office in any city which has not held a primary pursuant to this subsection after the expiration of time for filing nomination papers, or if there are fewer candidates than there are offices to be filled, the vacancy in candidacy shall be filled by write-in voting; and

7. At the regular election, the voters shall be instructed to vote for one (1) candidate, except when there is more than one (1) candidate for which voters may vote, the instruction "vote for up to ... candidates" shall be used on the ballot; and
- (c) A candidate for city office who is defeated in a nonpartisan primary shall be ineligible as a candidate for the same office in the regular election.
- (3) ***Any city enacting an ordinance eliminating the nonpartisan primary as authorized by subsection (2)(b) of this section or enacting an ordinance that repeals a previously enacted ordinance that eliminated the nonpartisan primary authorized by subsection (2)(b) of this section shall file the ordinance with the county clerk of the county or counties in which the city is located no later than the first Wednesday after the first Monday in November of the year preceding the year in which city elections are held.***

➔Section 5. KRS 83A.100 is amended to read as follows:

- (1) The legislative body of a city may by ordinance divide the city into wards by either of the following methods:
- (a) The city may create the same number of wards as the number of legislative body members. Wards shall be as nearly equal in population as practicable and their boundaries shall be fixed by the ordinance; or
- (b) The city may establish a hybrid ward system for the conduct of its legislative body elections. A city acting under this paragraph shall provide in the ordinance that a specific number of legislative body seats shall be subject to the ward system and that a specific number of legislative body seats shall be elected at large within the entire city without representing a particular ward. The wards created under this paragraph shall be as nearly equal in population as practicable and their boundaries shall be fixed by ordinance.
- (2) The populations of wards shall be reviewed as necessary to ensure that populations are as nearly equal as practicable, but the populations of wards shall be reviewed for equalization at least as often as each regular federal census.
- (3) Wards may be abolished by repeal of the ordinance creating them. No creation, alteration or abolition of wards shall occur ***later than the first Wednesday after the first Monday in November of the year preceding the year in which the city legislative offices will appear on the ballot*** ~~[within two hundred forty (240) days preceding a regular election].~~
- (4) If a city is divided into wards, legislative body members shall be nominated and elected in the following manner:
- (a) Members shall be elected in the regular November election at large, but each candidate shall reside in the ward he ***or she*** seeks to represent and shall be elected in such a manner that each ward is equally represented on the legislative body. The names shall be presented in the election to show for which ward each candidate is seeking election and voters shall be instructed to "vote for one candidate in each ward." The candidate receiving the highest number of votes cast in each ward shall be deemed to be elected from such ward;
- (b) Persons seeking the nomination of a political party for the office of legislative body member where a primary election is required for the political party, shall be voted upon exclusively by the eligible voters of the ward in which the person resides and seeks to represent;
- (c) Except as provided by paragraph (d) of this subsection, persons seeking nomination for the office of legislative body member in a nonpartisan election where a primary is conducted pursuant to KRS 83A.170 shall be voted upon at large by the voters of the city, and the two (2) candidates receiving the highest number of votes cast in each ward shall be deemed to be nominated from that ward; and
- (d) The city may provide specifically in the ordinance required by subsection (1) of this section that persons seeking nomination for the office of legislative body member in a nonpartisan primary conducted pursuant to KRS 83A.170 shall be voted upon exclusively by the eligible voters of the ward in which the person resides and seeks to represent. The two (2) candidates receiving the highest number of votes cast in each ward shall be deemed to be nominated from the ward.
- (5) Any city enacting or amending an ordinance to establish or abolish wards, modify ward boundaries, or establish the manner of elections under subsection (4) of this section shall be completed within the time specified by subsection (3) of this section, and the city shall forward a copy of the ordinance to the county clerk or county clerks of the county or counties in which the city is located.

Signed by Governor March 27, 2023.