

STATEMENT OF EMERGENCY

31 KAR 3:031E

This emergency regulation is being promulgated pursuant to both KRS 13A.190(1)(a)(1), to meet an imminent threat to public welfare, as well as, KRS 13A.190(1)(a)(3), to meet an imminent deadline for the promulgation of an administrative regulation established by state statute. Section 150 of the Constitution of Kentucky requires free and fair elections in the Commonwealth; KRS 118.025(3) sets May 17, 2022 as the statutory date for the primary nomination of candidates, while KRS 118.025(4) sets November 8, 2022 as the date for the regular election. This is being filed as an emergency administrative regulation to ensure the administrative regulations and procedures required by state statute to promote free and fair elections are in effect during the upcoming primary and regular election. This emergency administrative regulation is temporary in nature will be replaced by an ordinary administrative regulation. The companion ordinary administrative regulation is identical to this emergency administrative regulation.


ANDY BESHEAR
Governor


KAREN SELLERS
Director, State Board of Elections

1 STATE BOARD OF ELECTIONS

2 (New Emergency Administrative Regulation)

3 31 KAR 3.031E. Voting precinct and address of overseas voter whose last place of
4 residence in the Commonwealth is no longer a recognized residential address.

5 RELATES TO: KRS 117A.010(1)(e), 117A.040

6 STATUTORY AUTHORITY: KRS 117.015(1)(a), KRS 117A.030(2), 117A.040(2)

7 NECESSITY, FUNCTION, AND CONFORMITY: KRS 117A.040(2) requires the State
8 Board of Elections to promulgate administrative regulations covering the procedures
9 under KRS 117A.040 for assigning an address for voting purposes for an overseas voter
10 whose last place of residence is no longer a recognized residential address. KRS
11 117A.030(2) authorizes the State Board of Elections to promulgate the administrative
12 regulations necessary to implement KRS Chapter 117A. This administrative regulation
13 establishes the procedures under KRS 117A.040 for assigning an address for voting
14 purposes for an overseas voter whose last place of residence is no longer a recognized
15 residential address.

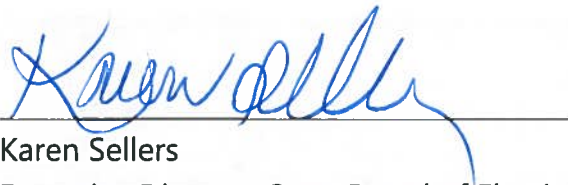
16 Section 1. Definition. "Overseas voter" is defined by KRS 117A.010(6).

17 Section 2. Voting Precinct and Address of Overseas Voter Whose Last Place of
18 Residence in the Commonwealth is No Longer a Recognized Residential Address. If the

1 last place of residence in the Commonwealth of Kentucky of an overseas voter who is
2 eligible to vote in the Commonwealth, or the last place of residence of the parent or legal
3 guardian of a voter described by KRS 117A.010(1)(e), is no longer a recognized residential
4 address, the county clerk shall:

5 (1) In consultation with federal, state and local government agencies, as necessary,
6 determine and designate in the statewide voter registration database the voting precinct,
7 school board district, city, and ward, if any, in which the voter's last place of residence, or
8 the last place of residence of the parent or legal guardian of a voter described by KRS
9 117A.010(1)(e), would have been located if the address were still a recognized residential
10 address; and

11 (2) Designate the voter's residential address in the statewide voter registration
12 database as "Overseas."



Karen Sellers

Executive Director, State Board of Elections

PUBLIC HEARING AND PUBLIC COMMENT PERIOD

A public hearing on this temporary emergency administrative regulation shall be held on June 28, 2022, at 10:00 a.m. ET, at the Office of the State Board of Elections. Individuals interested in being heard at this hearing shall notify this agency in writing by five (5) workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing was received by that date, the hearing may be cancelled. This hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted until June 30, 2022. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Taylor Brown, General Counsel, 140 Walnut Street, Frankfort, Kentucky 40601, Phone: (502) 782-9499, Email: TaylorA.Brown@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

31 KAR 3:031E Contact Person: Taylor Brown, phone: 502-782-9499, email: TaylorA.Brown@ky.gov

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes a voting precinct and voter registration address for overseas voters whose last place of residence in the Commonwealth is no longer a recognized residential address.

(b) The necessity of this administrative regulation: This administrative regulation is necessary given KRS 117A.040(2) requires the State Board of Elections to promulgate administrative regulations covering the procedures under KRS 117A.040 for assigning an address for voting purposes for an overseas voter whose last place of residence is no longer a recognized residential address.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 117.015(1)(a) authorizes the State Board of Elections to promulgate administrative regulations necessary to properly carry out its duties. KRS 117A.030(2) authorizes the State Board of Elections to promulgate the administrative regulations necessary to implement KRS Chapter 117A.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation fulfills the mandates of KRS 117A.040(2).

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

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

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

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

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

This is a new administrative regulation.

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

This administrative regulation will affect all the State Board of Elections, the office of the Secretary of State, county clerks, and overseas voters as defined by KRS 117A.010(6).

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

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment. To comply with this administrative regulation, county clerks will need to determine and designate in the statewide voter registration database the voting precinct, school board district, city, and ward, if any, in which the voter's last place of residence, or the last place of residence of the parent or legal guardian of a voter described by KRS 117A.010(1)(e), would have been

located if the address were still a recognized residential address. The State Board of Elections and Secretary of State will need to make sure that overseas voters are aware of this regulation. Overseas voters will have to take no action outside of providing the address.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): The State Board of Elections estimates that the implementation of this administrative regulation will result in the entities involved incurring only nominal costs.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Compliance with this new administrative regulation will benefit the entities involved in that they will be able to further guarantee free and fair elections in the Commonwealth.

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

(a) Initially: The expected cost of the implementation of this administrative regulation for the State Board of Elections will be nominal.

(b) On a continuing basis: The expected continuing cost of this administrative regulation for the State Board of Elections will be nominal.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Funds from the State Board of Elections' administrative

budget will be used in the implementation and enforcement of this administrative regulation.

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

It is expected that implementation of this administrative regulation can be achieved without an increase in fees or funding by the General Assembly.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: No fees are associated with this administrative regulation.

(9) TIERING: Is tiering applied? Explain why or why not. Tiering is not used in this administrative regulation, as a desired result of the promulgation of this administrative regulation is recommendations for uniform procedures for the administration of elections throughout all of the counties in the Commonwealth.

FISCAL NOTE

31 KAR 3:031E

Contact Person: Taylor Brown, phone: 502-782-9499, email: TaylorA.Brown@ky.gov

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

At the state level, the State Board of Elections and the office of the Secretary of State will be impacted by this administrative regulation. At the local level, county clerks will be impacted by this administrative regulation.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS117A.040 requires and authorizes the actions taken by this administrative regulation.

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

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? It is not expected or intended that this administrative regulation will generate any revenue.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? It is not expected or intended that this administrative regulation will generate any revenue.

(c) How much will it cost to administer this program for the first year? The State Board of Elections expects that this administrative regulation amendment will cost no more to administer than is currently expended.

(d) How much will it cost to administer this program for subsequent years? The State Board of Elections expects that this administrative regulation amendment will cost no more to administer than is currently expended.

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

Revenues (+/-): It is not expected or intended that this administrative regulation will generate any revenue.

Expenditures (+/-): The State Board of Elections expects that this administrative regulation amendment will cost no more to administer than is currently expended.

Other Explanation: N/A

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

(a) How much cost savings will this administrative regulation generate for the regulated entities for the first year? The State Board of Elections expects that this administrative regulation will not generate any specific cost savings for the regulated entities.

(b) How much cost savings will this administrative regulation generate for the regulated entities for subsequent years? The State Board of Elections expects that this administrative regulation will not generate any specific cost savings for the regulated entities.

(c) How much will it cost the regulated entities for the first year? The State Board of Elections estimates that the implementation of this administrative regulation will result in the regulated entities incurring only nominal costs.

(d) How much will it cost the regulated entities for subsequent years? The State Board of Elections estimates that the implementation of this administrative regulation will result in the regulated entities incurring only nominal costs.

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

Cost Savings(+/-): It is not expected that this administrative regulation will result in any cost savings.

Expenditures (+/-): The State Board of Elections expects that this administrative regulation amendment will cost no more to administer than is currently expended.

Other Explanation: N/A

(5) Explain whether this administrative regulation will have a major economic impact, as defined below. *"Major economic impact" means an overall negative or adverse economic impact from an administrative regulation of five hundred thousand dollars (\$500,000) or more on state or local government or regulated entities, in aggregate, as determined by the promulgating administrative bodies. [KRS 13A.010(13)].* The State Board of Elections does not expect that this administrative regulation will result in a major economic impact as it is not expected to have an overall negative or adverse economic impact of five hundred thousand dollars (\$500,000) or more on state or local government or regulated entities, in aggregate.

118.025 Voting to be by secret paper ballot -- General laws applicable -- Time for holding elections.

- (1) Except as otherwise provided by law, voting in all primaries and elections shall be by secret paper ballot.
- (2) The general laws applying to primaries, regular elections, and special elections shall apply to primaries, regular elections, and special elections conducted with the use of voting equipment, and all provisions of the general laws applying to the custody of ballot boxes shall apply, as far as applicable, to the custody of the voting system or voting equipment.
- (3) A primary for the nomination of candidates to be voted for at the next regular election shall be held on the first Tuesday after the third Monday in May of each year.
- (4) The election of all officers of all governmental units shall be held on the first Tuesday after the first Monday in November.
- (5) If the law authorizes the calling of a special election on a day other than the day of the regular election in November, the election shall be held on a Tuesday.
- (6) If the law requires that a special election be held within a period of time during which the voting equipment must be locked as required by KRS 117.295, the special election shall be held on the fourth Tuesday following the expiration of the period during which the voting equipment is locked.

Effective: June 29, 2021

History: Amended 2021 Ky. Acts ch. 197, sec. 48, effective June 29, 2021. -- Amended 2020 Ky. Acts ch. 88, sec. 5, effective July 15, 2020. -- Amended 2008 Ky. Acts ch. 129, sec. 6, effective July 15, 2008. -- Amended 2002 Ky. Acts ch. 262, sec. 1, effective July 15, 2002. -- Amended 2000 Ky. Acts ch. 261, sec. 2, effective July 14, 2000. -- Amended 1996 Ky. Acts ch. 195, sec. 13, effective July 15, 1996. -- Amended 1994 Ky. Acts ch. 394, sec. 20, effective July 15, 1994. -- Amended 1992 Ky. Acts ch. 288, sec. 38, effective July 14, 1992; and ch. 296, sec. 7, effective July 14, 1992. -- Amended 1990 Ky. Acts ch. 431, sec. 1, effective July 13, 1990. -- Amended 1986 Ky. Acts ch. 29, sec. 12, effective July 15, 1986. -- Amended 1984 Ky. Acts ch. 44, sec. 6, effective March 2, 1984. -- Amended 1982 Ky. Acts ch. 402, sec. 3, effective January 1, 1984. -- Created 1974 Ky. Acts ch. 130, sec. 98, effective June 21, 1974.

Section 150 Disqualification from office for using money or property to secure or influence election -- Corporation not to use money or other thing of value to influence election -- Exclusion from office for conviction of felony or high misdemeanor -- Laws to regulate elections.

Every person shall be disqualified from holding any office of trust or profit for the term for which he shall have been elected who shall be convicted of having given, or consented to the giving, offer or promise of any money or other thing of value, to procure his election, or to influence the vote of any voter at such election; and if any corporation shall, directly or indirectly, offer, promise or give, or shall authorize, directly or indirectly, any person to offer, promise or give any money or any thing of value to influence the result of any election in this State, or the vote of any voter authorized to vote therein, or who shall afterward reimburse or compensate, in any manner whatever, any person who shall have offered, promised or given any money or other thing of value to influence the result of any election or the vote of any such voter, such corporation, if organized under the laws of this Commonwealth, shall, on conviction thereof, forfeit its charter and all rights, privileges and immunities thereunder; and if chartered by another State and doing business in this State, whether by license, or upon mere sufferance, such corporation, upon conviction of either of the offenses aforesaid, shall forfeit all right to carry on any business in this State; and it shall be the duty of the General Assembly to provide for the enforcement of the provisions of this section. All persons shall be excluded from office who have been, or shall hereafter be, convicted of a felony, or of such high misdemeanor as may be prescribed by law, but such disability may be removed by pardon of the Governor. The privilege of free suffrage shall be supported by laws regulating elections, and prohibiting, under adequate penalties, all undue influence thereon, from power, bribery, tumult or other improper practices.

Text as Ratified on: August 3, 1891, and revised September 28, 1891.

History: Not yet amended.