

### **83A.170 Nonpartisan primaries.**

- (1) In any city which has under the provisions of KRS 83A.045 or 83A.050 required nonpartisan city elections, or in any city of the second class operating under the city manager form of government pursuant to KRS 83A.150, no person shall be elected to city office except as provided in this section or as otherwise provided in this chapter relating to nonpartisan elections.
- (2) No person shall be elected to city office without being nominated in the manner provided in this section at a nonpartisan primary to be held at the time prescribed by KRS Chapters 116 to 121, except as otherwise provided in this chapter. Nonpartisan primaries shall be conducted by the same officers, chosen and acting in the same manner, with the same rights and duties as in regular elections.
- (3) Each applicant for nomination shall, 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 last date prescribed by the election law generally for filing notification and declaration forms with the county clerk as provided in KRS 83A.047, file a petition of nomination, which shall be in the form prescribed by the State Board of Elections signed by at least two (2) registered voters in the city. Each voter may sign individual petitions equal to the number of offices to be filled. If a voter signs petitions for more candidates than he or she is authorized, he or she shall be counted as a petitioner for the candidate whose petition is filed first.
- (4) The county clerk shall examine the petition of each candidate to determine whether it is regular on its face. If there is an error, the county clerk shall notify the candidate by certified mail within twenty-four (24) hours of filing.
- (5) Immediately upon expiration of the time for filing petitions, the county clerk shall have published in accordance with KRS Chapter 424 the names of the applicants as they will appear before the voters at the primary.
- (6) Subsection (5) of this section shall not apply if it appears, immediately upon expiration of the time for filing petitions, that there are not more than two (2) applicants for nomination for each city office to be filled, or, when the nominations are for city legislative body members in cities electing legislative body members at large, and there are no more than twice the number of applicants for nomination for the number of offices to be filled. In that case, the applicants for nomination shall thereby be nominated and no drawing for ballot position nor primary election shall be held for that office.
- (7) The ballot position of a candidate shall not be changed after the ballot position has been designated by the county clerk.
- (8) If, before the time of certification of candidates who will appear on the ballot, any candidate whose petition has been filed in the office of the county clerk dies or notifies the clerk in writing, signed and properly notarized, that he or she will not accept the nomination, the clerk shall not cause the candidate's name to be printed on the ballot.

- (9) If, after the certification of candidates who will appear on the ballot, any candidate whose name appears thereon shall withdraw pursuant to KRS 118.212 or die:
- (a) Neither the precinct election officers nor the county board of elections shall tabulate or record the votes cast for the candidate;
  - (b) The county clerk shall provide notices to the precinct election officers who shall see that a notice is conspicuously displayed at the polling place advising voters of the change, and that votes for the candidate shall not be tabulated or recorded. If the county clerk learns of the death or withdrawal at least five (5) days prior to the election and provides the notices required by this subsection and the precinct officers fail to post the notices at the polling place, the officers shall be guilty of a violation;
  - (c) In a primary, if there are only one (1) or two (2) remaining candidates on the ballot for that office, following the withdrawal or death of the other candidate or candidates, neither the precinct election officers nor the county board of elections shall tabulate or record the votes for the remaining candidate or candidates, and the officer with whom the remaining candidate or candidates has filed his or her nomination papers shall immediately issue and file in his or her office a certificate of nomination for that remaining candidate or candidates and send a copy to the remaining candidate or candidates.
- (10) Names of applicants for each nomination shall be placed before the voters of the city. The voters shall be instructed to vote for one (1) candidate, except that they shall be instructed to vote for the number of legislative body members to be elected in cities nominating legislative body members at large. No party designation or emblem of any kind nor any sign indicating any applicant's political belief or party affiliation shall be used.
- (11) Persons qualified to vote at a regular election shall be qualified to vote at a nonpartisan primary and the law applicable to challenges made at a regular election shall be applicable to challenges made at a nonpartisan primary.
- (12) Votes shall be counted as provided in general election laws, pursuant to KRS Chapters 116 to 121, and the result shall be published as provided in KRS Chapter 424.
- (13) The two (2) applicants receiving the highest number of votes for nomination for each city office shall be nominated; or where the nominations are for city legislative body members in cities electing legislative body members at large, there shall be nominated the number of applicants receiving the highest number of votes equal to twice the number of offices to be filled. If two (2) candidates are tied for the second highest number of votes in a mayoral election, the names of those two (2) candidates, plus the name of the candidate receiving the highest number of votes, shall be placed upon the ballot.
- (14) At the regular election following a nonpartisan primary, the names of the successful nominees and candidates who have filed a petition of candidacy as provided in this chapter to fill a vacancy shall be placed before the voters.

- (15) The nominee or candidate receiving the greater number of votes cast for each city office shall be elected.
- (16) KRS Chapters 116 to 121 prescribing duties of county clerks and other public officers in the conduct of elections shall be applicable in all respects to nonpartisan city elections, except no election officer or other person within a polling place shall tell or indicate to a voter, by word of mouth or otherwise, the political affiliation of any candidate for city office.

**Effective:** July 15, 2008

**History:** Amended 2008 Ky. Acts ch. 79, sec. 20, effective July 15, 2008. -- Amended 2003 Ky. Acts ch. 61, sec. 1, effective June 24, 2003; and ch. 101, sec. 2, effective June 24, 2003. -- Amended 2000 Ky. Acts ch. 354, sec. 2, effective July 14, 2000. -- Amended 1998 Ky. Acts ch. 2, sec. 15, effective July 15, 1998. -- Amended 1992 Ky. Acts ch. 288, sec. 32, effective July 14, 1992. -- Amended 1990 Ky. Acts ch. 48, sec. 93, effective July 13, 1990; ch. 169, sec. 5, effective July 13, 1990; and ch. 366, sec. 4, effective July 13, 1990. -- Amended 1988 Ky. Acts ch. 17, sec. 4, effective July 15, 1988. -- Amended 1986 Ky. Acts ch. 470, sec. 4, effective July 15, 1986. -- Amended 1984 Ky. Acts ch. 44, sec. 2, effective March 2, 1984; ch. 185, sec. 4, effective July 13, 1984; and ch. 185, sec. 33, effective April 3, 1984. -- Amended 1982 Ky. Acts ch. 360, sec. 24, effective July 15, 1982; ch. 394, sec. 3, effective July 15, 1982; ch. 402, sec. 1, effective January 1, 1984; and ch. 434, sec. 7, effective July 15, 1982. -- Created 1980 Ky. Acts ch. 235, sec. 17, effective July 15, 1980.