

117.087 Challenge of an absentee ballot -- Counting procedure -- Persons permitted to observe.

- (1) The challenge of an absentee ballot returned by mail shall be in writing and in the hands of the county clerk before 10 a.m. on election day.
- (2) The county board of elections shall count the absentee ballots returned by mail and the votes cast on the voting machine in the county clerk's office or other place designated by the county board of elections and approved by the State Board of Elections. The board may appoint a central ballot counting board of not less than three (3) members, who shall be qualified voters and no more than two-thirds (2/3) of whom shall be members of the same political party, to count the ballots at the direction of the county board of elections.
- (3) Beginning at 10 a.m. on election day, the board shall meet at the clerk's office to count the absentee ballots returned by mail and the ballots cast on the voting machine in the county clerk's office or other place designated by the county board of elections and approved by the State Board of Elections. Candidates or their representatives shall be permitted to be present. The county board of elections shall authorize representatives of the news media to observe the counting of the ballots. The board shall open the boxes containing absentee ballots returned by mail and remove the envelopes one (1) at a time. As each envelope is removed, it shall be examined to ascertain whether the outer envelope and the detachable flap are in proper order and have been signed by the voter. A person having power of attorney for the voter and who signs the detachable flap and outer envelope for the voter shall complete the voter assistance form required by KRS 117.255. The signatures of two (2) witnesses are required if the voter signs the form with the use of a mark instead of the voter's signature. All unsigned absentee ballots shall be rejected automatically. The chairman of the county board of elections shall compare the signatures on the outer envelope and the detachable flap with the signature of the voter that appears on the registration card. If the outer envelope and the detachable flap are found to be in order, the chairman shall read aloud the name of the voter. If the vote of the voter is not rejected on a challenge then made as provided in subsection (4) of this section, the chairman shall remove the detachable flap and place the inner envelope unopened in a ballot box which has been provided for the purpose.
- (4) When the name of a voter who cast an absentee ballot by mail is read aloud by the chairman, the vote of the voter may be challenged by any board member or by the written challenge provided in subsection (1) of this section and the challenge may be determined and the vote accepted or rejected by the board as if the voter was present and voting in person; but if the outer envelope and the detachable flap are regular, and substantially comply with the provisions of this chapter, they shall be considered as showing that the voter is prima facie entitled to vote. If the vote of a voter is rejected pursuant to the challenge, the inner envelope shall not be opened, but returned to the outer envelope upon which the chairman shall write on the envelope the word "rejected."

- (5) After the challenges have been made and all the blank inner envelopes have been placed in a ballot box, the box shall be thoroughly shaken to redistribute the absentee ballots in the box. The board shall open the ballot box, remove the absentee ballots from the inner envelopes, and count the ballots.
- (6) The board shall unlock any voting equipment used to cast ballots in the clerk's office or other place designated by the county board of elections, and approved by the State Board of Elections, as provided for in KRS 117.086, and a total of all ballots shall be made and recorded on the form provided by the State Board of Elections.
- (7) The county board of elections, the county clerk, and all individuals permitted to be present for the counting of absentee ballots pursuant to subsection (2) of this section shall not make public the absentee ballot results determined as provided in this section until after 6 p.m. prevailing time.

Effective: June 24, 2003

History: Amended 2003 Ky. Acts ch. 184, sec. 1, effective June 24, 2003. -- Amended 2002 Ky. Acts ch. 3, sec. 4, effective February 15, 2002. -- Amended 1998 Ky. Acts ch. 243, sec. 9, effective April 1, 1998. -- Amended 1994 Ky. Acts ch. 394, sec. 14, effective July 15, 1994. -- Amended 1990 Ky. Acts ch. 48, sec. 22, effective July 13, 1990. -- Amended 1988 Ky. Acts ch. 341, sec. 29, effective July 15, 1988. -- Amended 1986 Ky. Acts ch. 287, sec. 7, effective July 15, 1986; and ch. 470, sec. 11, effective July 15, 1986. -- Amended 1982 Ky. Acts ch. 394, sec. 12, effective July 15, 1982. -- Amended 1980 Ky. Acts ch. 316, sec. 2, effective July 15, 1980. -- Repealed and reenacted 1980 Ky. Acts ch. 73, sec. 3, effective July 15, 1980. -- Amended 1978 Ky. Acts ch. 71, sec. 3, effective June 17, 1978. -- Amended 1976 Ky. Acts ch. 130, sec. 3, effective June 19, 1976. -- Created 1974 Ky. Acts ch. 130, sec. 47, effective June 21, 1974.

Formerly codified as KRS 117.335