

132.017 Recall petition -- Requirements and procedures -- Reconsideration -- Election -- Second billing.

- (1) As used in this section, "local governmental entity" includes a county fiscal court and legislative body of a city, urban-county government, consolidated local government, charter county government, or other taxing district.
- (2)
 - (a) That portion of a tax rate levied by an ordinance, order, resolution, or motion of a local governmental entity or district board of education subject to recall as provided for in KRS 68.245, 132.023, 132.027, and 160.470, shall go into effect forty-five (45) days after its passage.
 - (b) During the forty-five (45) days next following the passage of the ordinance, order, resolution, or motion, any five (5) qualified voters who reside in the area where the tax levy will be imposed may commence petition proceedings to protest the passage of the ordinance, order, resolution, or motion by filing with the county clerk an affidavit stating that they constitute the petition committee and that they will be responsible for circulating the petition and filing it in the proper form within forty-five (45) days from the passage of the ordinance, order, resolution, or motion. The affidavit shall state their names and addresses and specify the address to which all notices to the committee are to be sent. Upon receipt of the affidavit, the county clerk shall:
 1. At the time of filing of the affidavit, notify the petition committee of all statutory requirements for the filing of a valid petition under this section;
 2. At the time of the filing of the affidavit, notify the petition committee that the clerk will publish a notice identifying the tax levy being challenged and providing the names and addresses of the petition committee in a newspaper of general circulation within the county, if such publication exists, if the petition committee remits an amount equal to the cost of publishing the notice determined in accordance with the provisions of KRS 424.160 at the time of the filing of the affidavit. If the petition committee elects to have the notice published, the clerk shall publish the notice within five (5) days of receipt of the affidavit; and
 3. Deliver a copy of the affidavit to the appropriate local governmental entity or district board of education.
 - (c) The petition shall be filed with the county clerk within forty-five (45) days of the passage of the ordinance, order, resolution, or motion. All papers of the petition shall be uniform in size and style and shall be assembled in one (1) instrument for filing. Each sheet of the petition shall contain the names of voters from one (1) voting precinct only, and shall include the name, number and designation of the precinct in which the voters signing the petition live. The inclusion of an invalid signature on a page shall not invalidate the entire page of the petition, but shall instead result in the invalid signature being stricken and not counted. Each signature shall be executed in ink or indelible pencil and shall be followed by the printed name, street address, and Social Security number or birthdate of the person signing. The petition shall be signed by a number of registered and qualified voters residing in the affected

jurisdiction equal to at least ten percent (10%) of the total number of votes cast in the last preceding presidential election.

- (d) Upon the filing of the petition with the county clerk, the ordinance, order, resolution, or motion shall be suspended from going into effect until after the election referred to in subsection (3) of this section is held, or until the petition is finally determined to be insufficient and no further action may be taken pursuant to paragraph (h) of this subsection.
- (e) The county clerk shall immediately notify the presiding officer of the appropriate local governmental entity or district board of education that the petition has been received and shall, within thirty (30) days of the receipt of the petition, make a determination of whether the petition contains enough signatures of qualified voters to place the ordinance, order, resolution, or motion before the voters.
- (f) If the county clerk finds the petition to be sufficient, the clerk shall certify to the petition committee and the local governmental entity or district board of education within the thirty (30) day period provided for in paragraph (e) of this subsection that the petition is properly presented and in compliance with the provisions of this section, and that the ordinance, order, resolution, or motion levying the tax will be placed before the voters for approval.
- (g) If the county clerk finds the petition to be insufficient, the clerk shall, within the thirty (30) day period provided for in paragraph (e) of this subsection, notify, in writing, the petition committee and the local governmental entity or district board of education of the specific deficiencies found. Notification shall be sent by certified mail and shall be published at least one (1) time in a newspaper of general circulation within the county containing the local governmental entity or district board of education levying the tax or, if there is no such newspaper, shall be posted at the courthouse door.
- (h) A final determination of the sufficiency of a petition shall be subject to final review by the Circuit Court of the county in which the local governmental entity or district board of education is located, and shall be limited to the validity of the county clerk's determination. Any petition challenging the county clerk's final determination shall be filed within ten (10) days of the issuance of the clerk's final determination.
- (i) The local governmental entity or district board of education may cause the cancellation of the election by reconsidering the ordinance, order, resolution, or motion and amending the ordinance, order, resolution, or motion to levy a tax rate which will produce no more revenue from real property, exclusive of revenue from new property as defined in KRS 132.010, than four percent (4%) over the amount of revenue produced by the compensating tax rate defined in KRS 132.010 from real property. The action by the local governmental entity or district board of education shall be valid only if taken within fifteen (15) days following the date the clerk finds the petition to be sufficient.

- (3) (a) If an election is necessary under the provisions of subsection (2) of this section, the county fiscal court, legislative body of a city, urban-county government, consolidated local government, or other taxing district shall cause to be submitted to the voters of the county, district, consolidated local government, or urban-county at the next regular election, the question as to whether the property tax rate shall be levied. The question shall be submitted to the county clerk not later than the second Tuesday in August preceding the regular election.
 - (b) If an election is necessary for a school district under the provisions of subsection (2) of this section, the district board of education may cause to be submitted to the voters of the district in a called common school election not less than thirty-five (35) days nor more than forty-five (45) days from the date the signatures on the petition are validated by the county clerk, or at the next regular election, at the option of the district board of education, the question as to whether the property tax rate shall be levied. If the election is held in conjunction with a regular election, the question shall be submitted to the county clerk not later than the second Tuesday in August preceding the regular election. The cost of a called common school election shall be borne by the school district holding the election. Any called common school election shall comply with the provisions of KRS 118.025.
 - (c) In an election held under paragraph (a) or (b) of this subsection, the question shall be so framed that the voter may by his or her vote answer "for" or "against." If a majority of the votes cast upon the question oppose its passage, the ordinance, order, resolution, or motion shall not go into effect. If a majority of the votes cast upon the question favor its passage, the ordinance, order, resolution, or motion shall become effective.
 - (d) If the ordinance, order, resolution, or motion fails to pass pursuant to an election held under paragraph (a) or (b) of this subsection, the property tax rate which will produce four percent (4%) more revenues from real property, exclusive of revenue from new property as defined in KRS 132.010, than the amount of revenue produced by the compensating tax rate defined in KRS 132.010, shall be levied without further approval by the local governmental entity or district board of education.
- (4) Notwithstanding any statutory provision to the contrary, if a local governmental entity or district board of education has not established a final tax rate as of September 15, due to the recall provisions of this section, KRS 68.245, 132.027, or 160.470, regular tax bills shall be prepared as required in KRS 133.220 for all districts having a tax rate established by that date; and a second set of bills shall be prepared and collected in the regular manner, according to the provisions of KRS Chapter 132, upon establishment of final tax rates by the remaining districts.
 - (5) If a second billing is necessary, the collection period shall be extended to conform with the second billing date.
 - (6) All costs associated with the second billing shall be paid by the taxing district or districts requiring the second billing.

Effective: June 20, 2005

History: Amended 2005 Ky. Acts ch. 121, sec. 1, effective June 20, 2005. -- Amended 2002 Ky. Acts ch. 346, sec. 162, effective July 15, 2002. -- Amended 1996 Ky. Acts ch. 195, sec. 54, effective July 15, 1996. -- Amended 1990 Ky. Acts ch. 48, sec. 83, effective July 13, 1990; and ch. 476, Pt. V, sec. 308, effective July 13, 1990. -- Amended 1980 Ky. Acts ch. 270, sec. 2, effective July 15, 1980; and ch. 319, sec. 7, effective July 15, 1980. -- Created 1979 (1st Extra. Sess.) Ky. Acts ch. 25, sec. 8, effective February 13, 1979.

Legislative Research Commission Note (6/20/2005). 2005 Ky. Acts ch. 121, sec. 6, provides: "The provisions of this Act shall apply to ordinances, orders, resolutions or motions passed after July 15, 2005."

Legislative Research Commission Note (7/13/90). The Act amending this section prevails over the repeal and reenactment in House Bill 940, Acts Ch. 476, pursuant to Section 653(1) of Acts Ch. 476.