

### **160.597 Levy recall procedure.**

Any school tax authorized by KRS 160.593 to 160.597, 160.601 to 160.633, and 160.635 to 160.648 may be recalled as follows:

- (1) (a) The order or resolution levying any of the school taxes designated in this section shall go into effect not less than forty-five (45) days nor more than ninety (90) days after its passage.
- (b) During the forty-five (45) days immediately following the passage of the order or resolution, any five (5) qualified voters who reside in the school district levying the tax may commence petition proceedings to protest the passage of the order or resolution 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 order or resolution. 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 school board or combined taxing district.
- (c) The petition shall be filed with the county clerk within forty-five (45) days of the passage of the order or resolution. 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, except in consolidated local governments, where the petition shall be signed by a number of registered and qualified voters equal to

at least five percent (5%) 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 order or resolution shall be suspended from going into effect for that district until after the election provided for in subsection (2) 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 school board or combined taxing district that the petition has been received and shall, within thirty (30) days of receipt of the petition, make a determination of whether the petition contains enough signatures of qualified voters to place the order or resolution before the voters.
  - (f) If the county clerk finds the petition to be sufficient, the clerk shall certify to the school board or combined taxing district and the petition committee 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 order or resolution 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 school district or combined taxing district levying the tax 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 school district 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 school district 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.
- (2) If the petition is sufficient, the county clerk shall, at the option of the district board of education, either submit the question to the voters of the school district at the next regular election or submit the question to the voters of the school district at a called common school election, which is to be held 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. Any called common school election shall comply with the provisions of KRS 118.025. If the election is to be 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 question shall be so framed that the voter may by his vote answer, "for" or "against." If a majority of the votes cast in a district or combined taxing district oppose its passage, the order or resolution shall not go into effect in that district or combined taxing district. If a majority of the votes cast in a district or combined taxing district

upon the question favor its passage, the order or resolution shall go into effect in that district. If the election is to be held in more than one (1) school district within a county, the votes shall be counted separately. The cost of a called common school election shall be borne by the school district causing the election to be held.

- (3) If any statute in existence on June 17, 1978, is found to be in conflict with any provision of this section, the provisions of this section shall prevail.

**Effective:** June 20, 2005

**History:** Amended 2005 Ky. Acts ch. 121, sec. 4, effective June 20, 2005. -- Amended 1996 Ky. Acts ch. 195, sec. 58, effective July 15, 1996. -- Amended 1990 Ky. Acts ch. 48, sec. 85, effective July 13, 1990; and ch. 476, Pt. V, sec. 456, effective July 13, 1990. -- Amended 1982 Ky. Acts ch. 48, sec. 1, effective March 3, 1982; ch. 217, sec. 4, effective July 15, 1982; and ch. 360, sec. 50, effective July 15, 1982. -- Amended 1980 Ky. Acts ch. 114, sec. 25, effective July 15, 1980; and ch. 188, sec. 118, effective July 15, 1980. -- Amended 1978 Ky. Acts ch. 345, sec. 1, effective June 17, 1978. -- Amended 1976 Ky. Acts ch. 127, sec. 10. -- Amended 1974 Ky. Acts ch. 125, sec. 6. -- Amended 1972 Ky. Acts ch. 203, sec. 21. -- Created 1966 Ky. Acts ch. 24, Part III, sec. 3.

**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."