

117.305 Recanvass of votes -- Discrepancy or written request -- Statistics sufficient to compel recanvass -- Returns -- Forms for reporting recanvassed vote -- Administrative regulations for recanvass procedures.

- (1) The canvass and returns provided for in KRS 117.275 shall constitute the official returns of the precinct, unless before 4 p.m. on the Tuesday following a primary or regular election, or before 4 p.m. on the day following a special election held for the purpose of filling a vacancy, the county clerk or county board of elections takes notice of a discrepancy in the tally of votes cast in any precinct or number of precincts, or a candidate makes a written request to the county board of elections in the case of a candidate who has filed with the county clerk, or the Secretary of State in the case of a candidate who has filed with the Secretary of State, to check and recanvass the voting equipment, valid federal provisional ballots, valid federal provisional absentee ballots, and absentee ballots of any precinct or any number of precincts involving the candidate's race. A candidate's written request for a recanvass shall be insufficient to compel the recanvass unless the difference between the number of votes received by the requesting candidate and the number of votes received by any other candidate or candidates for the same office is less than one percent (1%) of the total votes which were cast for such office.
- (2) The county board of elections shall, immediately upon notice of any discrepancy as described in subsection (1) of this section, or upon receipt of a request for a recanvass, notify each candidate for the office of the time and place of the recanvass. At the recanvass, each political party represented on the board may appoint a representative there to be its governing body, and also each candidate to be voted for may be present, either in person or by a representative or both. The county board of elections shall authorize representatives of the news media to observe the recanvass of the voting equipment in each precinct.
- (3) After the time period has elapsed and notice is taken as provided under subsections (1) and (2) of this section, the county board of elections shall assemble at 9 a.m. on the Thursday following the filing deadline to request a recanvass under this section, and not sooner, and recheck and recanvass the voting equipment and make a proper return thereof to the county clerk, and the canvass and return shall become the official returns for the primary or election. In making the recanvass, the board shall make a record of the number of the seal or the unique designation upon the voting equipment and, without unlocking the voting equipment, recanvass the vote cast.
- (4) If, after a recanvass, it is found that the original canvass of the returns has been correctly made from the voting equipment, and that there still remains a discrepancy unaccounted for, this discrepancy shall be noted. If, upon recanvass, it appears that the original canvass of the returns by the election officers was incorrect, the returns and all papers being prepared by the board shall be corrected accordingly. Nothing in this section shall prohibit an individual from requesting, in addition to a recanvass, a recount as authorized by KRS Chapter 120.
- (5) The State Board of Elections shall prescribe and furnish the forms to be used by county boards of election to report all recanvassed votes. The form, promulgated through administrative regulations under KRS Chapter 13A, shall include the

following information:

- (a) The name of the county in which the canvass was conducted;
- (b) The date of the report;
- (c) The date of the primary or election;
- (d) The office for which the canvass was conducted;
- (e) The names of each candidate for the office being canvassed; and
- (f) The votes cast at the polls, absentee votes, valid federal provisional votes, valid federal provisional absentee votes, and vote totals for each candidate, as well as write-in votes cast in a regular or special election for candidates whose names did not appear on the ballot.

The report shall be signed by each member of the county board of elections.

- (6) The county board of elections shall file its canvass report as prescribed in administrative regulations promulgated by the State Board of Elections in conformity with KRS Chapter 13A.
- (7) The State Board of Elections shall promulgate administrative regulations in accordance with KRS Chapter 13A to establish the proper procedures for conducting a canvass for each type of voting system approved by the State Board of Elections and in use in Kentucky.

Effective: June 29, 2021

History: Amended 2021 Ky. Acts ch. 197, sec. 38, effective June 29, 2021. -- Amended 2020 Ky. Acts ch. 89, sec. 21, effective July 15, 2020. -- Amended 2000 Ky. Acts ch. 494, sec. 1, effective July 14, 2000. -- Amended 1992 Ky. Acts ch. 296, sec. 5, effective July 14, 1992; and ch. 421, sec. 1, effective July 14, 1992. -- Amended 1990 Ky. Acts ch. 48, sec. 51, effective July 13, 1990. -- Amended 1986 Ky. Acts ch. 470, sec. 16, effective July 15, 1986. -- Amended 1982 Ky. Acts ch. 268, sec. 1, effective July 15, 1982; and ch. 394, sec. 17, effective July 15, 1982. -- Amended 1978 Ky. Acts ch. 384, sec. 250, effective June 17, 1978. -- Amended 1976 Ky. Acts ch. 130, sec. 2, effective June 19, 1976. -- Created 1974 Ky. Acts ch. 130, sec. 44, effective June 21, 1974.