

### **120.205 Board for determining contest of election of Governor or Lieutenant Governor.**

When the election of a Governor or Lieutenant Governor is contested, a board for determining the contest shall be formed and shall proceed in the following manner:

- (1) On the third day after the organization of the General Assembly that meets next after the election, the Senate shall select three (3) of its members, and the House of Representatives shall select eight (8) of its members, and the eleven (11) so selected shall constitute a board to try the contest, seven (7) of whom shall constitute a quorum. In making the selection, the name of each member present shall be written on a separate piece of paper, every piece being as nearly similar to the other as possible. Each piece shall be rolled up so that the names thereon cannot be seen nor any particular piece ascertained or selected by feeling. The whole, so prepared, shall be placed by the clerk in a box on his table, and after it has been well shaken and the papers therein well intermixed the clerk shall draw out one (1) paper, which shall be opened and read aloud by the presiding officer, and so on until the required number is obtained. If any person so selected swears that he cannot, without great personal inconvenience, serve on the board, or that he feels an undue bias for or against either of the parties, he may be excused by the house from which he was chosen from serving on the board, and if it appears that a person so selected is related to either party, or is liable to any other proper objection on the score of his partiality, he shall be excused. Any deficiency in the proper number so created shall be supplied by another draw from the box. The members of the board so chosen shall be sworn by the Speaker of the House of Representatives to try the contested election, and give true judgment thereon according to the evidence unless dissolved before rendering judgment.
- (2) The board shall, within twenty-four (24) hours after its selection, meet, appoint its chairman, and assign a day for hearing the contest, and may adjourn from day to day as its business requires. If any member of the board willfully fails to attend its sessions he shall be reported to the house to which he belongs, and that house shall thereupon, in its discretion, punish him by fine or imprisonment, or both.
- (3) The board may send for persons, papers and records and issue attachments therefor signed by its chairman or clerk, and may issue commissions for taking proof.
- (4) If it appears that the candidates receiving the highest number of votes given have received an equal number, the right to the office shall be determined by lot, under the direction of the board. If the person returned is found not to have been legally qualified to receive the office at the time of his election, and the first two (2) years of his term have not expired, a new election shall be ordered to fill the vacancy. If a person other than the one returned is found to have received the highest number of legal votes given, he shall be adjudged to be the person elected and entitled to the office.
- (5) No decision shall be made but by the vote of six (6) members of the board. The decision of the board shall not be final nor conclusive, but shall be reported to the two (2) houses of the General Assembly, in joint session, for the further action of the General Assembly. The Speaker of the House shall preside at the

joint session, and the General Assembly shall then determine the contest. If no decision of the board is given during the then session of the General Assembly, it shall be dissolved, unless by joint resolution of the two (2) houses it is empowered to continue longer.

- (6) If a new election is required, it shall be immediately ordered by proclamation of the Speaker of the House, to take place on a day not less than thirty (30) days nor more than six (6) weeks thereafter.
- (7) When a new election is ordered or the incumbent is adjudged not to be entitled to the office, his power shall immediately cease, and if the office is not adjudged to another it shall be deemed to be vacant.

**History:** Created 1974 Ky. Acts ch. 130, sec. 168.