

1 AN ACT relating to county audits.

2 ***Be it enacted by the General Assembly of the Commonwealth of Kentucky:***

3 ➔Section 1. KRS 43.070 is amended to read as follows:

- 4 (1) (a) To determine whether any unauthorized, illegal, irregular, or unsafe handling
5 or expenditure of revenue or other improper practice of financial
6 administration has occurred and to assure that all proper items have been duly
7 charged, taxed, and reported, the Auditor shall, ***except as provided in***
8 ***paragraph (b) of this subsection,*** audit annually:
- 9 1. The funds contained in each county's budget; and
 - 10 2. The books, accounts, and papers of all county clerks and sheriffs.
- 11 (b) The Auditor shall not conduct an audit pursuant to this subsection if the fiscal
12 court or the elected official notifies the Auditor that a certified public
13 accountant has been employed to audit the books, accounts, and papers of the
14 county or the fee office, in accordance with KRS 64.810.
- 15 (c) 1. If any county clerk or sheriff meets the criteria established in this
16 subsection and any additional criteria established in administrative
17 regulations promulgated by the Auditor, that county clerk's or sheriff's
18 audit required by this section may, in the discretion of the Auditor, be
19 conducted by an agreed-upon procedures engagement performed by the
20 Auditor. If, in the discretion of the Auditor, an agreed-upon procedures
21 engagement in progress will not provide sufficient oversight of the
22 county clerk's or sheriff's office, the Auditor may at any time convert the
23 engagement to an audit performed under paragraph (a)2. of this
24 subsection. A county clerk or sheriff shall not be eligible for the agreed-
25 upon procedures engagement as allowed in this paragraph for the first
26 audit period after election if the county clerk or sheriff is serving in
27 office for the first time, or is assuming the office after experiencing a

- 1 break in sequential service in that position.
- 2 2. The Auditor and the county clerk or sheriff shall establish specific
3 procedures for any agreed-upon procedures engagement. If the Auditor
4 and the county clerk or sheriff cannot agree to the specific procedures
5 for an agreed-upon procedures engagement, the audit of the county
6 clerk's or sheriff's office shall be conducted under paragraph (a)2. of this
7 subsection for that year subject to the audit.
- 8 3. At a minimum, the county clerk or sheriff shall meet the following
9 criteria in order to be eligible to have the county clerk's or sheriff's
10 annual audit in any particular year conducted using agreed-upon
11 procedures:
- 12 a. The county clerk or sheriff applies to the Auditor to have an
13 agreed-upon procedures engagement for the year subject to the
14 audit on a form provided by the Auditor and by the application
15 deadline established by the Auditor;
- 16 b. The county clerk's or sheriff's office did not have any reported
17 audit comment or finding in its most recent audit report;
- 18 c. The county clerk or sheriff and the Auditor agree to specific
19 procedures for the agreed-upon procedures engagement; and
- 20 d. Any additional criteria that may be determined by the Auditor.
- 21 4. The publication requirements related to an agreed-upon procedures
22 engagement shall be the same as those required for audits of the county
23 clerks and sheriffs performed under paragraph (a)2. of this subsection,
24 except that the Auditor may provide a summary of the agreed-upon
25 procedures engagement report, and publication of the summary shall
26 satisfy the statutory requirements to publish the audit report, opinion
27 letter, and transmittal letter.

- 1 5. The billing and expense provisions of subsection (3) of this section shall
2 apply to any agreed-upon procedures engagement performed under this
3 section.
- 4 6. The Auditor may promulgate administrative regulations that set forth
5 additional criteria to qualify for agreed-upon procedures engagements,
6 the application procedures, and the standards, procedures, guidelines,
7 and reporting requirements for agreed-upon procedures engagements
8 under this section.
- 9 7. In exercising discretion regarding whether a county clerk or sheriff who
10 otherwise meets the minimum requirements may have an agreed-upon
11 procedures engagement in lieu of an audit for any particular year subject
12 to an engagement, and in exercising discretion regarding the proposed
13 procedures for the agreed-upon procedures engagement for any
14 particular year subject to an audit, the Auditor may consider factors
15 including but not limited to past audit comments or agreed-upon
16 procedures engagement findings, assessment of risks, complaints,
17 financial statements, the number of consecutive agreed-upon procedures
18 engagements performed of the county clerk or sheriff, and other factors
19 relevant to oversight of the county clerk's or sheriff's office.
- 20 (2) The Auditor may audit:
- 21 (a) The books, accounts, and papers of all county judges/executive, county
22 attorneys, coroners and constables; and
- 23 (b) The books, accounts, papers, and performance of all special purpose
24 governmental entities as defined in KRS 65A.010. The expense of any audit
25 or examination performed pursuant to this paragraph shall be borne by the
26 entity audited or examined.
- 27 (3) The county shall bear one-half (1/2) of the actual expense of the audit conducted

1 pursuant to subsections~~[subsection](1)(a)1. of this section and shall bear the total~~
2 ~~actual expense of the audit conducted pursuant to subsections (1)(a)2.]~~ and (2)(a) of
3 this section. No county shall be required to bear the expense for more than one (1)
4 audit of the same fund or office annually pursuant to subsection (1)(a)1. or 2. of this
5 section, except as provided in KRS 64.810(4).

6 (4) Within a reasonable time after the completion and distribution of the audit reports
7 authorized by subsection (1) of this section, the Auditor of Public Accounts shall
8 bill the county for the expenses incurred pursuant to subsection (3) of this section.
9 A copy of this bill shall be forwarded to the secretary of the Finance and
10 Administration Cabinet. Should the fiscal court within sixty (60) days following
11 receipt of said bill determine the charge to be excessive or otherwise improper it
12 shall submit its objection to the secretary of the Finance and Administration Cabinet
13 and to the State Treasurer for resolution of the controversy in accordance with
14 subsection (5) of this section. If the amount billed has not been paid within sixty
15 (60) days from date of billing, and no objection has been filed, the Auditor shall
16 notify the secretary of the Finance and Administration Cabinet and the secretary of
17 revenue who shall cause said amount to be deducted from the next payment or
18 return of moneys provided by KRS 47.110 by the state to the county or counties.
19 Deductions shall continue until the total amount due the Auditor's office has been
20 paid. All moneys received pursuant to this section shall be credited to the trust and
21 agency account of the Auditor of Public Accounts. When an objection to the bill has
22 been filed with the secretary of the Finance and Administration Cabinet and the
23 State Treasurer in accordance with subsection (5) of this section the amount found
24 to be equitable and just shall become payable immediately upon the entry of the
25 final decision.

26 (5) Any controversy over the amount of the bill for the actual expenses incurred shall
27 be submitted by the fiscal court to the secretary of the Finance and Administration

1 Cabinet and the State Treasurer for a decision as to the proper amount. In the event
 2 that these two (2) arbitrators fail to agree, then the controversy shall be submitted to
 3 the Attorney General, whose decision shall be final.

4 **(6) All audits of county officials conducted by the Auditor of Public Accounts shall**
 5 **be completed by August 1 following the calendar year that is the focus of the**
 6 **audit, and all audits of county government budgets conducted by the Auditor of**
 7 **Public Accounts shall be completed by February 1 following the fiscal year that is**
 8 **the focus of the audit.**

9 →Section 2. KRS 64.810 is amended to read as follows:

10 (1) (a) Any fiscal court, county clerk, or sheriff may employ a certified public
 11 accountant to audit the books, accounts, and papers of the county or his or her
 12 office in lieu of the audit conducted by the State Auditor of Public Accounts
 13 required by KRS 43.070 except as provided in paragraph (b) of this
 14 subsection~~[, if the Auditor of Public Accounts declines to perform the audit or~~
 15 ~~has failed to respond to written notice of intent to employ a certified public~~
 16 ~~accountant within thirty (30) days of receipt of the notice].~~ **A fiscal court,**
 17 **county clerk, or sheriff shall give notice to the Auditor of Public Accounts**
 18 **of the intent to employ a certified public accountant to conduct an audit**
 19 **required by Section 1 of this Act at least one hundred twenty (120) days**
 20 **prior to the close of the period to be audited.**

21 (b) **Within thirty (30) days of receipt of the notice in paragraph (a) of this**
 22 **subsection, the Auditor of Public Accounts may notify the fiscal court,**
 23 **county clerk, or sheriff that it will perform the audit in accordance with**
 24 **KRS 43.070 if the fiscal court, county clerk, or sheriff:**

25 **1. Has not been audited by the Auditor of Public Accounts within the**
 26 **preceding three (3) years of the year to be audited;**

27 **2. Received an adverse, disclaimed, or qualified opinion in the audit of**

1 *the year immediately preceding the year to be audited for reasons*
2 *other than being based upon an accounting basis prescribed or*
3 *permitted by the Department for Local Government and the laws of*
4 *the Commonwealth of Kentucky; or*

5 *3. The audit of the year immediately preceding the year to be audited was*
6 *not completed within the times specified by subsection (3) of this*
7 *section.*

8 (c) In the case of a documented emergency requiring an immediate audit which
9 the Auditor of Public Accounts cannot complete within the requested
10 deadline, the Auditor of Public Accounts shall authorize the fiscal court, the
11 county clerk, or sheriff to engage a certified public accountant to complete the
12 emergency audit. A certified public accountant may be engaged to conduct an
13 emergency audit only after guaranteeing in writing to the Auditor of Public
14 Accounts that the audit and audit report will be finished within the deadline
15 originally requested of the Auditor of Public Accounts. The fiscal court shall
16 bear the full cost of any county audit conducted pursuant to this paragraph.
17 The county clerk or the sheriff shall bear the full cost of any audit of his office
18 conducted pursuant to this paragraph, from funds received or collected by
19 him, and the cost of the audit shall be construed as an expense of his *or her*
20 office. Audits conducted pursuant to this paragraph shall be subject to the
21 provisions of subsections (4) and (5) of this section.

22 (2) A fiscal court which has elected to employ a certified public accountant pursuant to
23 subsection (1)(a) of this section shall notify the State Auditor in writing by July 31
24 following the fiscal year to be audited of the name of the certified public accountant
25 it has employed. The fiscal court shall bear the full cost of any audit conducted
26 pursuant to this section. An elected official who has elected to employ a certified
27 public accountant pursuant to subsection (1)(a) of this section shall:

- 1 (a) Notify the fiscal court and the State Auditor in writing by January 30
2 following the calendar year to be audited of the name of the certified public
3 accountant employed by said official to audit the books, accounts, and papers
4 of his or her office; and
- 5 (b) Bear the cost of the audit from funds received or collected by him or her, and
6 the cost of the audit shall be construed as an expense of his office.
- 7 (3) Any contract with a certified public accountant entered into pursuant to subsection
8 (1)(a) of this section shall specify the following:
- 9 (a) The audit of a county official shall be completed by August 1 following the
10 calendar year being audited, and the audit of a county budget shall be
11 completed by February 1 following the fiscal year being audited;
- 12 (b) The certified public accountant shall forward a copy of the fee officer audit
13 report and management letters to the county official, fiscal court of the county,
14 and the Auditor of Public Accounts upon completion of the audit, and no later
15 than August 1 following the calendar year being audited;
- 16 (c) The certified public accountant shall forward a copy of the county budget
17 audit report and management letters to the fiscal court of the county and the
18 Auditor of Public Accounts upon completion of the audit and no later than
19 February 1 following the fiscal year being audited; and
- 20 (d) The Auditor of Public Accounts shall have the right to review the certified
21 public accountant's work papers before and after the release of the audit.
- 22 (4) After preliminary review of the certified public accountant's work papers, should
23 discrepancies be found, the Auditor of Public Accounts shall notify the fiscal court
24 or fee official of the discrepancies. Should the certified public accountant not
25 correct such discrepancies prior to the release of the audit, the Auditor's office may
26 conduct its own audit to verify the findings of the certified public accountant's
27 report. If such audit is conducted, the expenses to said county or county official, as

1 directed by KRS 43.070(4) shall be construed as an allowable expense of office. If
2 the audit conducted by the Auditor of Public Accounts discloses discrepancies in
3 the audit by the certified public accountant, the findings of the Auditor of Public
4 Accounts shall be deemed official for purposes of collection of money owed the
5 county pursuant to KRS 64.820.

6 (5) No later than February 1 following the fiscal year being audited, or August 1
7 following the calendar year being audited, the fiscal court or county official shall
8 submit the accountant's written report to the Governor, the General Assembly, the
9 Attorney General, the State Librarian, and county attorney of his ***or her*** county. In
10 addition the fiscal court or the official shall send the report to the newspaper having
11 the largest paid circulation in the county, and the letter of transmittal accompanying
12 the report shall be published in said newspaper in accordance with the provisions of
13 KRS Chapter 424.

14 (6) This section shall not be construed as eliminating the requirement that the books,
15 accounts, and papers of the above-named officials be audited yearly.