

1 AN ACT relating to public postsecondary educational institutions.

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

3 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO  
4 READ AS FOLLOWS:

5 *(1) As used in this section:*

6 *(a) "Audit" means an official financial examination of accounts conducted by*  
7 *an external auditor in accordance with generally accepted auditing*  
8 *standards;*

9 *(b) "Audit report" means an unqualified assessment based on the auditor's*  
10 *findings;*

11 *(c) "Auditor" means an external auditor or auditing firm possessing the*  
12 *capability to conduct a complete financial examination;*

13 *(d) "Fiscal year" means the period beginning on July 1 of a calendar year and*  
14 *concluding on June 30 of the following calendar year; and*

15 *(e) "Institution" means a state-supported public postsecondary educational*  
16 *institution in the Commonwealth of Kentucky.*

17 *(2) Each institution shall have conducted on an annual basis an audit of its*  
18 *accounts.*

19 *(3) Each institution shall procure the services of an auditor prior to the end of each*  
20 *fiscal year. Each institution's auditor shall begin working on the audit for the*  
21 *prior fiscal year immediately upon the conclusion of the fiscal year.*

22 *(4) The audit report for each prior fiscal year shall be finalized by December 31*  
23 *following the close of the fiscal year. Each institution shall submit the finalized*  
24 *audit report to the Auditor of Public Accounts and the Council on Postsecondary*  
25 *Education no later than January 15 following the close of the fiscal year.*

26 *(5) The Auditor of Public Accounts and the Council on Postsecondary Education*  
27 *shall review the annual audit report for each institution. If the Auditor of Public*

- 1 Accounts and the council agree that an institution's audit report reveals any of  
2 the following issues, then they shall place the institution under a fiscal watch and  
3 submit a report to the Legislative Research Commission informing the  
4 Commission of the placement and the issues that precipitated the action:
- 5 (a) An inability to make timely payments to vendors or retirement  
6 contributions;
- 7 (b) A significant variance between budgeted and actual spending during the  
8 fiscal year; or
- 9 (c) A significant deficit in the operating budget.
- 10 (6) If an institution is placed under a fiscal watch, its board of trustees or board of  
11 regents shall adopt, after consultation with the council, a financial recovery plan  
12 within ninety (90) days of the institution's receipt of notice of being placed under  
13 a fiscal watch. The financial recovery plan shall clearly detail how the institution  
14 will reach fiscal stability within one (1) year of the plan's implementation.
- 15 (7) If an institution is unable to comply with the January 15 deadline set in  
16 subsection (4) of this section, it shall provide written notice to the Auditor of  
17 Public Accounts and the council that sufficiently details the reasons why it is  
18 unable to timely satisfy the requirement. The written notice shall be provided no  
19 later than January 20.
- 20 (8) If the Auditor of Public Accounts and the council both find the letter to be  
21 unsatisfactory, the council shall withhold disbursement of any funds to the  
22 institution and provide written notice to the Legislative Research Commission of  
23 the institution's failure to comply with subsection (4) of this section. Upon  
24 submission of a satisfactory audit report, the council shall disburse any funding  
25 that was withheld due to the failure to timely comply with subsection (4) of this  
26 section.
- 27 (9) An institution shall pay an auditor procured under subsection (3) of this section

1 no more than the total price estimate provided in the original personal services  
2 contract reviewed by the Government Contract Review Committee pursuant to  
3 KRS 45A.705.

4 (10) Any auditor unable to comply with the requirements of subsection (3), (4), or (9)  
5 of this section shall submit written notice to the institution, the Auditor of Public  
6 Accounts, and the council explaining why it is unable to meet the requirements.  
7 The notice shall be provided by December 31 following the close of the fiscal year  
8 and shall include:

9 (a) The number of audit professionals employed by the auditor;

10 (b) The number of audit professionals assigned to the institution's audit;

11 (c) The credentials of the audit professionals assigned to the institution's audit;

12 (d) The date the auditor entered the contract with the institution and the date  
13 the audit began;

14 (e) A detailed summary of the work performed;

15 (f) A detailed summary and explanation of the auditor's invoices;

16 (g) A detailed assessment of the assistance provided by the institution; and

17 (h) A detailed explanation as to why the auditor has been unable to timely  
18 finalize the audit report or why the audit and audit report will cost in excess  
19 of the total price estimate provided in the original personal services contract  
20 reviewed by the Government Contract Review Committee pursuant to KRS  
21 45A.705.

22 (11) If an auditor's delay is not caused by inadequate assistance from the institution,  
23 then the institution shall not be considered noncompliant with the requirements  
24 of subsection (4) of this section and the council shall not withhold disbursement  
25 of funds based on noncompliance.

26 (12) If the Auditor of Public Accounts and the council determine that an auditor's  
27 delay or invoice is unreasonable, the Auditor of Public Accounts and the council

- 1 shall provide written notice of that determination to the institution and the  
2 Government Contract Review Committee. Within fifteen (15) days of this notice,  
3 the institution shall submit to the Government Contract Review Committee an  
4 amendment to the existing contract between the institution and the auditor that  
5 reduces the auditor's fees by one-half (1/2).
- 6 (13) If it is determined pursuant to subsection (12) of this section that an auditor's  
7 delay is unreasonable, the auditor shall agree to the amendment made to its  
8 personal services contract and shall agree to notify the institution's accrediting  
9 bodies of its unreasonable delay.
- 10 (14) This section shall be cited and described in any personal services contract entered  
11 into between an institution and an auditor to conduct the audit required pursuant  
12 to subsection (2) of this section.