

**CHAPTER 178****( HB 782 )**

AN ACT relating to county attorneys.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 69 IS CREATED TO READ AS FOLLOWS:

- (1) *Beginning on July 1, 2023, a county attorney currently in office shall, within sixty (60) days of the close of a fiscal year, file an annual settlement with the Prosecutors Advisory Council. The settlement shall include an accounting of all funds received, disbursed, or held by the county attorney in his or her official capacity during any portion of the fiscal year.*
- (2) *When the county attorney vacates office, he or she shall, in compliance with KRS 64.830:*
  - (a) *Ensure that the successor to the office receives all books, papers, records, and other property, including unexpended funds held by virtue of the office; and*
  - (b) *File with the fiscal court a statement accounting for all funds received, disbursed, or held by the county attorney in his or her official capacity during his or her term of office, including the transfer of remaining funds to the successor in office as required under paragraph (a) of this subsection.*
- (3) *The Department for Local Government shall promulgate administrative regulations under KRS Chapter 13A to provide standardized forms for a county attorney in preparing the settlements required under this section and KRS 64.830.*

➔Section 2. KRS 66.480 is amended to read as follows:

- (1) The governing body of a city, county, urban-county, charter county, school district (provided that its general procedure for action is approved by the Kentucky Board of Education), or other local governmental unit or political subdivision, may invest and reinvest money subject to its control and jurisdiction in:
  - (a) Obligations of the United States and of its agencies and instrumentalities, including obligations subject to repurchase agreements, if delivery of these obligations subject to repurchase agreements is taken either directly or through an authorized custodian. These investments may be accomplished through repurchase agreements reached with sources including but not limited to national or state banks chartered in Kentucky;
  - (b) Obligations and contracts for future delivery or purchase of obligations backed by the full faith and credit of the United States or a United States government agency, including but not limited to:
    1. United States Treasury;
    2. Export-Import Bank of the United States;
    3. Farmers Home Administration;
    4. Government National Mortgage Corporation; and
    5. Merchant Marine bonds;
  - (c) Obligations of any corporation of the United States government, including but not limited to:
    1. Federal Home Loan Mortgage Corporation;
    2. Federal Farm Credit Banks;
    3. Bank for Cooperatives;
    4. Federal Intermediate Credit Banks;
    5. Federal Land Banks;
    6. Federal Home Loan Banks;
    7. Federal National Mortgage Association; and

8. Tennessee Valley Authority;
  - (d) Certificates of deposit or other interest-bearing accounts issued through a bank or savings and loan institution having a physical presence in Kentucky which are insured by the Federal Deposit Insurance Corporation or similar entity or which are collateralized, to the extent uninsured, by any obligations, including surety bonds, permitted by KRS 41.240(4);
  - (e) Uncollateralized certificates of deposit issued by any bank or savings and loan institution having a physical presence in Kentucky rated in one (1) of the three (3) highest categories by a competent rating agency;
  - (f) Bankers' acceptances for banks rated in one (1) of the three (3) highest categories by a competent rating agency;
  - (g) Commercial paper rated in the highest category by a competent rating agency;
  - (h) Bonds or certificates of indebtedness of this state and of its agencies and instrumentalities;
  - (i) Securities issued by a state or local government, or any instrumentality of agency thereof, in the United States, and rated in one (1) of the three (3) highest categories by a competent rating agency;
  - (j) Shares of mutual funds and exchange traded funds, each of which shall have the following characteristics:
    1. The mutual fund shall be an open-end diversified investment company registered under the Federal Investment Company Act of 1940, as amended;
    2. The management company of the investment company shall have been in operation for at least five (5) years; and
    3. All of the securities in the mutual fund shall be eligible investments pursuant to this section;
  - (k) Individual equity securities if the funds being invested are managed by a professional investment manager regulated by a federal regulatory agency. The individual equity securities shall be included within the Standard and Poor's 500 Index, and a single sector shall not exceed twenty-five percent (25%) of the equity allocation; and
  - (l) Individual high-quality corporate bonds that are managed by a professional investment manager that:
    1. Are issued, assumed, or guaranteed by a solvent institution created and existing under the laws of the United States;
    2. Have a standard maturity of no more than ten (10) years; and
    3. Are rated in the three (3) highest rating categories by at least two (2) competent credit rating agencies.
- (2) The investment authority provided by subsection (1) of this section shall be subject to the following limitations:
  - (a) The amount of money invested at any time by a local government or political subdivision in any one (1) of the categories of investments authorized by subsection (1)(e), (f), (g), (k), and (l) of this section shall not exceed twenty percent (20%) of the total amount of money invested by the local government;
  - (b) The amount of money invested at any one (1) time by a local government or a political subdivision in the categories of investments authorized in subsection (1)(j), (k), and (l) of this section shall not, aggregately, exceed forty percent (40%) of the total money invested unless the investment is in a mutual fund consisting solely of the investments authorized under subsection (1)(a), (b), (c), (h), or (i) of this section, or any combination thereof;
  - (c) No local government or political subdivision shall purchase any investment authorized by subsection (1) of this section on a margin basis or through the use of any similar leveraging technique; and
  - (d) At the time the investment is made, no more than five percent (5%) of the total amount of money invested by the local governments or political subdivisions shall be invested in any one (1) issuer unless:

1. The issuer is the United States government or an agency or instrumentality of the United States government, or an entity which has its obligations guaranteed by either the United States government or an entity, agency, or instrumentality of the United States government;
  2. The money is invested in a certificate of deposit or other interest-bearing accounts as authorized by subsection (1)(d) and (e) of this section;
  3. The money is invested in bonds or certificates of indebtedness of this state and its agencies and instrumentalities as authorized in subsection (1)(h) of this section; or
  4. The money is invested in securities issued by a state or local government, or any instrumentality or agency thereof, in the United States as authorized in subsection (1)(i) of this section.
- (3) The governing body of every local government or political subdivision that invests or reinvests money subject to its control or jurisdiction according to the provisions of subsection (1) of this section shall by January 1, 1995, adopt a written investment policy that shall govern the investment of funds by the local government or political subdivision. The written investment policy shall include but shall not be limited to the following:
- (a) A designation of the officer or officers of the local government or political subdivision who are authorized to invest and oversee the investment of funds;
  - (b) A list of the permitted types of investments;
  - (c) Procedures designed to secure the local government's or political subdivision's financial interest in the investments;
  - (d) Standards for written agreements pursuant to which investments are to be made;
  - (e) Procedures for monitoring, control, deposit, and retention of investments and collateral;
  - (f) Standards for the diversification of investments, including diversification with respect to the types of investments and firms with whom the local government or political subdivision transacts business;
  - (g) Standards for the qualification of investment agents which transact business with the local government, such as criteria covering creditworthiness, experience, capitalization, size, and any other factors that make a firm capable and qualified to transact business with the local government or political subdivision; and
  - (h) Requirements for periodic reporting to the governing body on the status of invested funds.
- (4) Sheriffs, county clerks, *county attorneys*, and jailers, who for the purposes of this section shall be known as county officials, may invest and reinvest money subject to their control and jurisdiction, including tax dollars subject to the provisions of KRS Chapter 134 and 160.510, as permitted by this section.
- (5) The provisions of this section are not intended to impair the power of a county official, city, county, urban-county, charter county, school district, or other local governmental unit or political subdivision to hold funds in deposit accounts with banking institutions as otherwise authorized by law.
- (6) The governing body or county official may delegate the investment authority provided by this section to the treasurer or other financial officer or officers charged with custody of the funds of the local government, and the officer or officers shall thereafter assume full responsibility for all investment transactions until the delegation of authority terminates or is revoked.
- (7) All county officials shall report the earnings of any investments at the time of their annual reports and settlements with the fiscal courts for excess income of their offices.
- (8) The state local debt officer is authorized and directed to assist county officials and local governments, except school districts, in investing funds that are temporarily in excess of operating needs by:
- (a) Explaining investment opportunities to county officials and local governments through publication and other appropriate means; and
  - (b) Providing technical assistance in investment of idle funds to county officials and local governments that request that assistance.
- (9) (a) The state local debt officer may create an investment pool for local governments, except school districts, and county officials; and counties and county officials and cities may associate to create an investment pool. If counties and county officials and cities create a pool, each group may select a

manager to administer their pool and invest the assets. Each county and each county official and each city may invest in a pool created pursuant to this subsection. Investments shall be limited to those investment instruments permitted by this section. The funds of each local government and county official shall be properly accounted for, and earnings and charges shall be assigned to each participant in a uniform manner according to the amount invested. Charges to any local government or county official shall not exceed one percent (1%) annually on the principal amount invested, and charges on investments of less than a year's duration shall be prorated. Any investment pool created pursuant to this subsection shall be audited each year by an independent certified public accountant, or by the Auditor of Public Accounts. A copy of the audit report shall be provided to each local government or county official participating in the pool. In the case of an audit by an independent certified public accountant, a copy of the audit report shall be provided to the Auditor of Public Accounts, and to the state local debt officer. The Auditor of Public Accounts may review the report of the independent certified public accountant. After preliminary review, should discrepancies be found, the Auditor of Public Accounts may make his or her own investigative report or audit to verify the findings of the independent certified public accountant's report.

- (b) If the state local debt officer creates an investment pool, he or she shall establish an account in the Treasury for the pool. He or she shall also establish a separate trust and agency account for the purpose of covering management costs, and he or she shall deposit management charges in this account. The state local debt officer may promulgate administrative regulations, pursuant to KRS Chapter 13A, governing the operation of the investment pool, including but not limited to provisions on minimum allowable investments and investment periods, and method and timing of investments, withdrawals, payment of earnings, and assignment of charges.
  - (c) Before investing in an investment pool created pursuant to this subsection, a local government or county official shall allow any savings and loan association or bank in the county, as described in subsection (1)(d) of this section, to bid for the deposits, but the local government or county official shall not be required to seek bids more often than once in each six (6) month period.
- (10) (a) With the approval of the Kentucky Board of Education, local boards of education, or any of them that desire to do so, may associate to create an investment pool. Each local school board which associates itself with other local school boards for the purpose of creating the investment pool may invest its funds in the pool so created and so managed. Investments shall be limited to those investment instruments permitted by this section. The funds of each local school board shall be properly accounted for, and earnings and charges shall be assigned to each participant in a uniform manner according to the amount invested. Charges to any local school board shall not exceed one percent (1%) annually on the principal amount invested, and charges on investments of less than a year's duration shall be prorated. Any investment pool created pursuant to this subsection shall be audited each year by an independent certified public accountant, or by the Auditor of Public Accounts. A copy of the audit report shall be provided to each local school board participating in the pool. In the case of an audit by an independent certified public accountant, a copy of the audit report shall be provided to the Auditor of Public Accounts, and to the Kentucky Board of Education. The Auditor of Public Accounts may review the report of the independent certified public accountant. After preliminary review, should discrepancies be found, the Auditor of Public Accounts may make his or her own investigative report or audit to verify the findings of the independent certified public accountant's report.
- (b) The Kentucky Board of Education may promulgate administrative regulations governing the operation of the investment pool including but not limited to provisions on minimum allowable investments and investment periods, and methods and timing of investments, withdrawals, payment of earnings, and assignment of charges.
- (11) As used in this section, "competent rating agency" means a rating agency certified or approved by a national entity that engages in such a process. The certification or approval process shall include but not necessarily be limited to the following elements the subject rating agency must possess:
- (a) A requirement for the rating agency to register and provide an annual updated filing;
  - (b) Record retention requirements;
  - (c) Financial reporting requirements;
  - (d) Policies for the prevention of misuse of material nonpublic information;
  - (e) Policies addressing management of conflicts of interest, including prohibited conflicts;

- (f) Prohibited acts practices;
- (g) Disclosure requirements;
- (h) Any policies, practices, and internal controls required by the national entity; and
- (i) Standards of training, experience, and competence for credit analysts.

➔Section 3. KRS 514.040 is amended to read as follows:

- (1) A person is guilty of theft by deception when the person obtains property or services of another by deception with intent to deprive the person thereof. A person deceives when the person intentionally:
  - (a) Creates or reinforces a false impression, including false impressions as to law, value, intention, or other state of mind;
  - (b) Prevents another from acquiring information which would affect judgment of a transaction;
  - (c) Fails to correct a false impression which the deceiver previously created or reinforced or which the deceiver knows to be influencing another to whom the person stands in a fiduciary or confidential relationship;
  - (d) Fails to disclose a known lien, adverse claim, or other legal impediment to the enjoyment of property which the person transfers or encumbers in consideration for the property obtained, whether the impediment is or is not valid or is or is not a matter of official record; or
  - (e) Issues or passes a check or similar sight order for the payment of money, knowing that it will not be honored by the drawee.
- (2) The term "deceive" does not, however, include falsity as to matters having no pecuniary significance or puffing by statements unlikely to deceive ordinary persons in the group addressed.
- (3) Deception as to a person's intention to perform a promise shall not be inferred from the fact alone that he or she did not subsequently perform the promise.
- (4) For purposes of subsection (1) of this section, a maker of a check or similar sight order for the payment of money is presumed to know that the check or order, other than a postdated check or order, would not be paid, if:
  - (a) The maker had no account with the drawee at the time the check or order was issued; or
  - (b) Payment was refused by the drawee for lack of funds, upon presentation within thirty (30) days after issue, and the maker failed to make good within ten (10) days after receiving notice of that refusal. Notice of the refusal may include a citation to this section and a description of this section's criminal penalties and shall be deemed properly addressed when mailed to the address printed or written on the check or sight order or provided by the drawer or maker upon issuance of the check or sight order. The notice, if mailed, shall be deemed received by the addressee seven (7) days after it is placed in the United States mail. The notice may be sent by first-class mail if supported by an affidavit of service setting out the contents of the notice, the address to which the notice was mailed, that correct postage was applied, and the date the notice was placed in the United States mail. A maker makes good on a check or similar sight order for the payment of money by paying to the holder the face amount of the instrument, together with any merchant's posted bad check handling fee not to exceed fifty dollars (\$50) and any fee imposed pursuant to subsection (5) of this section.
- (5) If a county attorney issues notice to a maker that a drawee has refused to honor an instrument due to a lack of funds as described in subsection (4)(b) of this section, the county attorney may charge a fee to the maker of fifty dollars (\$50), if the instrument is paid. Money paid to the county attorney pursuant to this section shall be used only for payment of county attorney office operating expenses~~[- Excess fees held by the county attorney on June 30 of each year shall be turned over to the county treasurer before the end of the next fiscal year for use by the fiscal court of the county].~~
- (6) A person is guilty of theft by deception when the person issues a check or similar sight order in payment of all or any part of any tax payable to the Commonwealth knowing that it will not be honored by the drawee.
- (7) A person is guilty of theft by deception when the person issues a check or similar sight order in payment of all or any part of a child support obligation knowing that it will not be honored by the drawee.

- (8) Theft by deception is a Class B misdemeanor unless:
- (a) The value of the property, service, or the amount of the check or sight order referred to in subsection (6) or (7) of this section is five hundred dollars (\$500) or more but less than one thousand dollars (\$1,000), in which case it is a Class A misdemeanor;
  - (b) The value of the property, service, or the amount of the check or sight order referred to in subsection (6) or (7) of this section is one thousand dollars (\$1,000) or more but less than ten thousand dollars (\$10,000), in which case it is a Class D felony;
  - (c) A person has three (3) or more convictions under paragraph (a) of this subsection within the last five (5) years, in which case it is a Class D felony. The five (5) year period shall be measured from the dates on which the offenses occurred for which the judgments of convictions were entered; or
  - (d) The value of the property, service, or the amount of the check or sight order referred to in subsection (6) or (7) of this section is ten thousand dollars (\$10,000) or more, in which case it is a Class C felony.
- (9) If any person commits two (2) or more separate offenses of theft by deception within ninety (90) days, the offenses may be combined and treated as a single offense, and the value of the property in each offense may be aggregated for the purpose of determining the appropriate charge.

**Signed by Governor April 8, 2022.**