

1 AN ACT relating to audits of county officers.

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 audit annually:

- 8 1. The funds contained in each county's budget; and
- 9 2. The books, accounts, and papers of all county clerks and sheriffs.

10 (b) The Auditor shall not conduct an audit pursuant to this subsection if the fiscal  
11 court or the elected official notifies the Auditor that a certified public  
12 accountant has been employed to audit the books, accounts, and papers of the  
13 county or the fee office, in accordance with KRS 64.810.

14 **(c) 1. If any county clerk or sheriff meets the criteria established in this**  
15 **subsection and any additional criteria established in administrative**  
16 **regulations promulgated by the Auditor, that county clerk's or**  
17 **sheriff's audit required by this section may, in the discretion of the**  
18 **Auditor, be conducted by an agreed-upon procedures engagement**  
19 **performed by the Auditor. If, in the discretion of the Auditor, an**  
20 **agreed-upon procedures engagement in progress will not provide**  
21 **sufficient oversight of the county clerk's or sheriff's office, the Auditor**  
22 **may at any time convert the engagement to an audit performed under**  
23 **paragraph (a)2. of this subsection. A county clerk or sheriff shall not**  
24 **be eligible for the agreed-upon procedures engagement as allowed in**  
25 **this paragraph for the first audit period after election if the county**  
26 **clerk or sheriff is serving in office for the first time, or is assuming the**  
27 **office after experiencing a break in sequential service in that position.**

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

1 shall apply to any agreed-upon procedures engagement performed  
2 under this section.

3 6. The Auditor may promulgate administrative regulations that set forth  
4 additional criteria to qualify for agreed-upon procedures  
5 engagements, the application procedures, and the standards,  
6 procedures, guidelines, and reporting requirements for agreed-upon  
7 procedures engagements under this section.

8 7. In exercising discretion regarding whether a county clerk or sheriff  
9 who otherwise meets the minimum requirements may have an agreed-  
10 upon procedures engagement in lieu of an audit for any particular  
11 year subject to an engagement, and in exercising its discretion  
12 regarding the proposed procedures for the agreed-upon procedures  
13 engagement for any particular year subject to an audit, the Auditor  
14 may consider factors including but not limited to past audit comments  
15 or agreed-upon procedures engagement findings, assessment of risks,  
16 complaints, financial statements, the number of consecutive agreed-  
17 upon procedures engagements performed of the county clerk or  
18 sheriff, and other factors relevant to oversight of the county clerk's or  
19 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 subsection (1)(a)1. of this section and shall bear the total actual expense  
2       of the audit conducted pursuant to subsections (1)(a)2. and (2)(a) of this section. No  
3       county shall be required to bear the expense for more than one (1) audit of the same  
4       fund or office annually pursuant to subsection (1)(a)1. or 2. of this section except as  
5       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.