

CHAPTER 71**(SB 112)**

AN ACT relating to the finances of county fee officers.

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

SECTION 1. A NEW SECTION OF KRS CHAPTER 64 IS CREATED TO READ AS FOLLOWS:

If a county clerk and sheriff are operating under the procedures applicable to counties equaling or exceeding populations of seventy thousand (70,000), and after the most recent federal decennial census the county population is less than seventy thousand (70,000), the county clerk and sheriff shall continue to operate and shall continue to be treated in the same manner as if the county's population equals or exceeds seventy thousand (70,000).

Section 2. KRS 64.345 is amended to read as follows:

- (1) The county clerk and sheriff of each county having a population of seventy thousand (70,000) or over shall receive an annual salary pursuant to the salary schedule in KRS 64.5275.
- (2) In counties containing a city of the first class and in counties having an urban-county form of government, the amount, if any, allowed for the necessary office expenses of each officer shall be approved by the fiscal court in counties containing a city of the first class and by the legislative body in counties containing an urban-county form of government. This approval shall be signed by the county judge/executive in a county containing a city of the first class and by the executive authority in a county having an urban-county form of government. Approval by the fiscal court or urban-county legislative body under this subsection shall not include oversight of expenditure of the funds. This oversight shall be retained by the Office of the Controller created pursuant to KRS 42.0201. In counties containing a city of the first class, each sheriff's deputy who uses his own automobile in the performance of official duties shall be authorized an allotment for expenses incurred, up to a maximum of three hundred dollars (\$300) per month, to be paid out of the fees and commissions of the sheriff's office. In all other counties with a population of seventy thousand (70,000) or more, the amount, if any, allowed for the necessary office expenses of each officer shall be fixed by the fiscal court by an order entered upon the fiscal court order book no later than January 15 of each year. A certified copy of the orders, and of any subsequent changes made therein, shall, as soon as entered, be forwarded to the Finance and Administration Cabinet.
- (3) Each officer shall, on the first day of each month, send to the Finance and Administration Cabinet a statement, subscribed and sworn to by him, showing the amount of money received or collected by or for him the preceding month as fees or compensation for official duties and shall, with these statements, send to the Finance and Administration Cabinet the amount so collected or received. The Finance and Administration Cabinet may extend the time for filing the statement and making the payment for a period not exceeding ten (10) days in any month.
- (4) The salary of each officer and his deputies and assistants and his office expenses shall be paid semimonthly by the State Treasurer upon the warrant of the Finance and Administration Cabinet made payable to the officer. If seventy-five percent (75%) of the amount paid into the State Treasury in any month by any of such officers is not sufficient to pay the salaries and expenses of his office for that month, the deficit may be made up out of

the amount paid in any succeeding month; but in no event shall the amount allowed by the Finance and Administration Cabinet to any officer for salaries and expenses exceed seventy-five percent (75%) of the amount paid to the Finance and Administration Cabinet by the officer during his official term.

- (5) In counties containing a city of the first class and in counties having an urban-county form of government, the number of deputies and assistants allowed to each officer and the compensation allowed to each deputy and assistant shall be approved at reasonable amounts upon motion of each officer by the fiscal court in counties containing a city of the first class and by the legislative body in counties containing an urban-county form of government. This approval shall be signed by the county judge/executive in a county containing a city of the first class and by the executive authority in a county having an urban-county form of government. Approval by the fiscal court or urban-county legislative body under this subsection shall not include oversight of expenditure of the funds. This oversight shall be retained by the Office of the Controller. In all other counties with a population of seventy thousand (70,000) or more, the number of deputies and assistants allowed to each officer and the compensation allowed to each deputy and assistant shall be fixed at reasonable amounts upon motion of each officer by the fiscal court by an order entered upon the fiscal court order book no later than January 15 of each year. A certified copy of the orders, and of any subsequent changes made therein, shall, as soon as entered, be forwarded to the Finance and Administration Cabinet.
- (6) ***If a county's population that equaled or exceeded seventy thousand (70,000) is less than seventy thousand (70,000) after the most recent federal decennial census, then the provisions of Section 1 of this Act shall apply.***

Section 3. KRS 64.346 is amended to read as follows:

- (1) The fiscal court in counties containing a population of seventy thousand (70,000) or over may authorize and pay out of the general fund of the county for any expenditures which, in its discretion, are deemed necessary for the efficient operation of the offices of the county and Circuit Court clerk, sheriff, and jailer.
- (2) ***If a county's population that equaled or exceeded seventy thousand (70,000) is less than seventy thousand (70,000) after the most recent federal decennial census, then the provisions of Section 1 of this Act shall apply.***

Section 4. KRS 64.350 is amended to read as follows:

- (1) In counties having a population of seventy thousand (70,000) or more, the salaries of the county clerks and sheriffs and of their deputies and all necessary office expenses, including the equipping, furnishing, maintaining, and operation of the offices, shall be paid out of the State Treasury in amounts not to exceed seventy-five percent (75%) of the fees collected by the officers respectively, and received into the treasury; and twenty-five percent (25%) of the fees collected by the officers respectively, and received into the State Treasury shall be paid in the manner provided by law for the payment of other claims against the state to the fiscal courts or urban-county governments of the respective counties. The amount of twenty-five percent (25%) of the fees collected by the jailers during each calendar year shall be paid to the fiscal courts or urban-county governments of the respective counties by April 1 of each year succeeding the calendar year during which the fees were received by the Finance and Administration Cabinet. The amount of twenty-five percent (25%) of the fees collected by the county clerks and sheriffs during each calendar year shall be paid to the fiscal courts

or urban-county governments of the respective counties quarterly no later than April 15, July 15, October 15, and January 15. Each payment shall be for the preceding three (3) months during which fees were received by the Finance and Administration Cabinet. Adjustments necessary to insure that exactly twenty-five percent (25%) of fees collected are returned to the fiscal courts or urban-county governments shall be made in the January 15 payment. After payment of the salaries and expenses specified in this subsection, any remaining balance of the seventy-five percent (75%) of the fees collected by the officers respectively at the end of their official term shall be paid by the State Treasurer to the fiscal courts or urban-county government of the respective counties, subject to the provisions of subsection (2) of this section.

- (2) Notwithstanding the provisions of subsection (1) of this section, all sums received into the State Treasury and representing seventy-five percent (75%) of the fees collected by the sheriffs specified in subsection (1) of this section from any county in which a metropolitan correctional services department has been established shall be expended from the State Treasury for the payment of the salaries and costs specified in subsection (1) of this section, and in Section 106 of the Constitution of Kentucky. After payment of the salaries and costs specified in this subsection, the remaining balance representing fees collected by sheriffs shall be paid by the State Treasury to the fiscal court of the county in which a metropolitan correctional services department has been established by April 1 of each year succeeding the calendar year in which the fees were received by the Finance and Administration Cabinet.
- (3) ***If a county's population that equaled or exceeded seventy thousand (70,000) is less than seventy thousand (70,000) after the most recent federal decennial census, then the provisions of Section 1 of this Act shall apply.***

Section 5. KRS 64.530 is amended to read as follows:

- (1) Except as provided in subsections (5) and (6) of this section, the fiscal court of each county shall fix the compensation of every county officer and employee except the officers named in KRS 64.535 and the county attorney and jailer. The fiscal court may provide a salary for the county attorney.
- (2) For the purposes of this section, justices of the peace and constables in all counties shall be deemed to be county officers and deputies or assistants of county officers shall be deemed to be county employees, but employees of county boards or commissions which are now authorized by law to fix the compensation of their employees shall not be deemed to be county employees for the purposes of this section.
- (3) In the case of officers compensated from fees, or partly from fees and partly by salary, the fiscal court shall fix the maximum compensation that any officer except the officers named in KRS 64.535 may receive from both sources. The fiscal court may also fix the maximum amount that the officer may expend each year for expenses of his office. The fiscal court shall fix annually the maximum amount, including fringe benefits, which the officer may expend for deputies and assistants, and allow the officer to determine the number to be hired and the individual compensation of each deputy and assistant.
- (4) In the case of county officers elected by popular vote and the county attorney, in the event the fiscal court provides him a salary, the monthly compensation of the officer and of his deputies and assistants shall be fixed by the fiscal court, consistent with the provisions of subsection (3) of this section, not later than the first Monday in May in the year in which the officers are elected, and the compensation of the officer shall not be changed during the term

but the compensation of his deputies or assistants may be reviewed and adjusted by the fiscal court not later than the first Monday in May of any successive year upon the written request of the officer. On or before August 1, 1966, the fiscal court shall fix the salary provided herein for the county attorneys for the term commencing in January, 1966, notwithstanding any other provisions of this section which may be inconsistent herewith.

- (5) Nothing in this section shall apply to property valuation administrators or their deputies, assistants, and expenses, in any county, or to the circuit court clerk, county clerk, sheriff, jailer, and their deputies, assistants, and expenses, in counties having a population of seventy thousand (70,000) or more. ***If a county's population that equaled or exceeded seventy thousand (70,000) is less than seventy thousand (70,000) after the most recent federal decennial census, then the provisions of Section 1 of this Act shall apply.***
- (6) Justices of the peace serving on a fiscal court in any county, and county commissioners serving on a fiscal court in any county other than one containing a city of the first, second, third, or fourth class, shall be paid for their services, out of the county treasury, not to exceed the maximum compensation allowable under KRS 64.527. The fiscal court shall fix the amount to be received within the above limit, but no change of compensation shall be effective as to any member of a fiscal court during his term of office. The compensation of county commissioners serving on fiscal courts in counties containing a city of the first class shall not exceed nine thousand six hundred dollars (\$9,600) per year; in counties containing cities of the second class it shall not exceed nine thousand dollars (\$9,000) per year; and in counties containing cities of the third or fourth class it shall not exceed twenty percent (20%) more than the annual compensation paid in the county for the calendar year immediately preceding 1974; and all of said annual salaries shall be payable monthly. Justices of the peace and county commissioners shall not receive any compensation for their services on the fiscal court, other than as provided by this section; provided, however, justices of the peace and county commissioners may receive no more than three thousand six hundred dollars (\$3,600) annually or three hundred dollars (\$300) per month as an expense allowance for serving on committees of the fiscal court. The fiscal court shall fix the amount to be received within the above limit, but no change of compensation except as provided in KRS 64.285 shall be effective as to any member of a fiscal court during his term of office.

Section 6. KRS 64.690 is amended to read as follows:

- (1) Except as provided in KRS 64.610 and in this section, KRS 64.480 to 64.740 are intended to supersede any existing statute, fixing the compensation, or authorizing any public officer or body to fix the compensation, of any public officer or employee covered by KRS 64.480 to 64.740.
- (2) Any public officer or body which has authority to fix the compensation of any state officer or employee covered by KRS 64.640 shall exercise such authority, subject to the schedule and limits of compensation for the particular office or position prescribed in KRS 64.640. The secretary of the Personnel Cabinet shall have the authority to monitor and require compliance with the provisions of this section and KRS 64.640 and 64.475.
- (3) KRS 64.480 to 64.740 are not intended to supersede any existing statute, with respect to the compensation of circuit clerks, county clerks, sheriffs, master commissioners, and receivers, and their deputies and assistants, in counties containing a population of seventy thousand (70,000) or more, or property valuation administrators, their deputies, and assistants, in any county.

- (4) ***If a county's population that equaled or exceeded seventy thousand (70,000) is less than seventy thousand (70,000) after the most recent federal decennial census, then the provisions of Section 1 of this Act shall apply.***

Section 7. KRS 134.215 is amended to read as follows:

- (1) An outgoing sheriff, as soon as his successor has been qualified and inducted into office and his official bond approved, shall immediately vacate his office, deliver to his successor all books, papers, records, and other property held by virtue of his office, and make a complete settlement of his accounts as sheriff, except as otherwise provided in this section.
- (2) All unpaid tax bills and bills upon which partial payments have been accepted in the possession of the sheriff upon the date of expiration of his term shall be turned over to the incoming sheriff, who shall collect and account for them as provided by law. The outgoing sheriff shall take a receipt from the incoming sheriff for the unpaid and partially paid tax bills. This receipt shall show in detail for each unpaid and for each partially paid tax bill the total amount due each taxing district as shown upon the tax bills. Provided, however, in counties containing a population of seventy thousand (70,000) or over, the receipt shall show the total amount due each taxing district as shown upon the unpaid and partially paid tax bills. The receipt shall be signed and acknowledged by the incoming sheriff before the county clerk, filed with the county judge/executive, and recorded in the order book of the county judge/executive in the manner required by law for recording the official bond of the sheriff. A certified copy of the receipt as recorded in the order book of the county judge/executive shall be filed with the Revenue Cabinet. The outgoing sheriff and his bondsmen or sureties shall be relieved in securing his quietus and in the final settlement of his accounts of all responsibility for collecting and accounting for the amounts covered by the receipt, and the incoming sheriff shall be charged with full responsibility for collecting and accounting for these amounts as otherwise provided by law for the collection and accounting for taxes. ***If a county's population that equaled or exceeded seventy thousand (70,000) is less than seventy thousand (70,000) after the most recent federal decennial census, then the provisions of Section 1 of this Act shall apply.***
- (3) Each outgoing sheriff shall make a final settlement with the Revenue Cabinet and the fiscal court and taxing district of his county by March 15 immediately following the expiration of his term of office for all charges of taxes made against him and for all money received by him as sheriff and to obtain his quietus, and immediately thereafter he shall deliver these records to the incumbent sheriff.
- (4) For purposes of accounting for unpaid and partially paid tax bills, either the outgoing sheriff, the incoming sheriff, or both, may, by giving advance notice by publication pursuant to KRS Chapter 424, refuse to accept payment of ad valorem taxes during any or all of that portion of their terms of office from January 1 through January 15. Irrespective of whether the office refuses to accept payment of taxes during any or all of this fifteen (15) day period, both the incoming and outgoing sheriffs shall have working access to the office facilities and to the records and mail of the sheriff's office relating to the payment, collection, and refund of ad valorem taxes on property. Interest shall not be assessed or collected for the period during which payment of taxes is prohibited under the terms of this section.
- (5) The outgoing sheriff shall be allowed and paid in accordance with KRS 64.140 and 64.530 the reasonable expenses actually incurred in preparing the receipt required under this section. Reasonable expenses actually incurred may include office expenses and salaries of

himself, deputies, and employees paid in accordance with the schedule of the previous year or the amount paid an auditor necessary in determining, verifying, and recording the unpaid and partially paid tax bills turned over to the incoming sheriff.

Section 8. KRS 134.310 is amended to read as follows:

- (1) The sheriff shall annually settle his accounts for county and district taxes with the fiscal court after making settlement with the Revenue Cabinet. The fiscal court shall appoint some competent person other than the Commonwealth's or county attorney to settle the accounts of the sheriff for money due the county or district. The cabinet, at the request of the fiscal court or any school district, may conduct the local settlement. If no local settlement has been initiated by July 1 of any year, the cabinet may initiate the local settlement on behalf of the local district. Upon completion of the local settlement, the cabinet may receive reasonable reimbursement for expenses incurred. The report of the state and local settlement shall be filed in the county clerk's office and approved by the county judge/executive no later than September 1 of each year. The settlement shall show the amount of ad valorem tax collected, and an itemized statement of the money disbursed.
- (2) The settlement shall be published pursuant to KRS Chapter 424. The report of the settlement shall be subject to objections by the sheriff or by the county attorney, who shall represent the state and county, and the county judge/executive shall determine the objections. Objections shall be submitted to the county judge/executive within fifteen (15) days of the filing of the settlement in the clerk's office. If no objections are submitted, the settlement will become final.
- (3) If the county judge/executive denies the objections, the sheriff may institute an action in Circuit Court within fifteen (15) days of receipt of the denial for review of the settlement and objections. Upon review, the Circuit Court shall issue its determination and the settlement shall become final. The final settlement shall be subject to correction by audit conducted pursuant to KRS 43.070 or 64.810.
- (4) On the final settlement, the sheriff shall pay to the county treasurer all money that remains in his hands, and take receipts as provided in KRS 134.300, and shall pay any additional amounts charged against him as a result of the settlements. If the sheriff fails to remit amounts charged against him the cabinet may issue bills for the subsequent year and may assume all collection duties in the name of and on behalf of the cities, counties, school districts, and other taxing districts to collect the taxes. In the performance of any tax collection duties undertaken by the cabinet, the cabinet shall have all the powers, rights, and authority for the collection of taxes established in Chapters 131, 132, 133, and 134 of the Kentucky Revised Statutes. The fees and commissions which the sheriff would have been entitled to receive from the taxing districts shall be paid to the cabinet.
- (5) In counties containing a population of less than seventy thousand (70,000), the sheriff shall file annually with his final settlement:
 - (a) A complete statement of all funds received by his office for official services, showing separately the total income received by his office for services rendered, exclusive of his commissions for collecting taxes, and the total funds received as commissions for collecting state, county, and school taxes; and
 - (b) A complete statement of all expenditures of his office, including his salary, compensation of deputies and assistants, and reasonable expenses.

- (6) At the time he files the statements required by subsection (5) of this section, the sheriff shall pay to the fiscal court any fees, commissions, and other income of his office, including income from investments, which exceed the sum of his maximum salary as permitted by the Constitution and other reasonable expenses, including compensation of deputies and assistants. The settlement for excess fees and commissions and other income shall be subject to correction by audit conducted pursuant to KRS 43.070 or 64.810, and the provisions of this subsection shall not be construed to amend KRS 64.820 or 64.830.
- (7) ***If a county's population that equaled or exceeded seventy thousand (70,000) is less than seventy thousand (70,000) after the most recent federal decennial census, then the provisions of Section 1 of this Act shall apply.***

Section 9. KRS 18A.370 is amended to read as follows:

For the purposes of KRS 18A.375 to 18A.385, the term "state employee" shall mean all persons, including elected public officials, who are regularly employed by the executive, judicial, and legislative departments of government, except employees of the Transportation Cabinet and the University of Kentucky who have their own self-insurance fund. The term "state employee" shall also include volunteer firefighters and volunteer ambulance personnel; persons who are regularly employed by the Fayette County Health Department; and persons who are regularly employed by court clerks and sheriffs of counties with a population of seventy thousand (70,000) or more. ***If a county's population that equaled or exceeded seventy thousand (70,000) is less than seventy thousand (70,000) after the most recent federal decennial census, then the provisions of Section 1 of this Act shall apply.***

Section 10. KRS 64.121 is amended to read as follows:

- (1) "Incapacity" means a condition under which a sheriff or his or her personal representative may apply to the Circuit or District Judge that presides over the sheriff's county for an order to determine that the sheriff is physically or mentally unable to discharge the duties of his or her office. The application to the Circuit or District Judge shall include and be supported by an affidavit by the sheriff's physician documenting the sheriff's incapacitating condition.
- (2) If a sheriff in a county containing a population of less than seventy thousand (70,000) dies or is incapacitated during his or her term of office, the fiscal court of that county shall on or before the first day of March of the year following the death or date of incapacity of the sheriff pay to the sheriff or to the personal representative of the sheriff sufficient money to reimburse the sheriff or his or her estate for the salaries of his deputies and assistants and other necessary expenses of his or her office that were paid by the sheriff during the year of his or her death or incapacity. Additionally, for each month that the sheriff or his or her personal representative performed the duties of sheriff during the year of his or her death or incapacity, the fiscal court shall pay to the sheriff or to the sheriff's personal representative a sum of money equal to one-twelfth (1/12) of the total salary received by the county's sheriff in the year prior to the year of the death or incapacity. The sheriff's salary and all fees and commissions paid to the sheriff during the year of his or her death or incapacity shall be deducted from the amount that the sheriff or his or her personal representative is to receive by this section.
- (3) ***If a county's population that equaled or exceeded seventy thousand (70,000) is less than seventy thousand (70,000) after the most recent federal decennial census, then the provisions of Section 1 of this Act shall apply.***

Section 11. KRS 64.355 is amended to read as follows:

- (1) It is hereby declared to be the intent of the General Assembly that all fees of the office of county clerk and sheriff in counties having a population of seventy thousand (70,000) or more that are paid into the State Treasury pursuant to the provisions of Section 106 of the Constitution of Kentucky are the property of the respective county, and these fees along with those collected by the circuit clerk shall be computed as part of the county's total tax effort for the purpose of determining credit for any federally funded program.
- (2) *If a county's population that equaled or exceeded seventy thousand (70,000) is less than seventy thousand (70,000) after the most recent federal decennial census, then the provisions of Section 1 of this Act shall apply.*

Approved March 26, 2002