

## CHAPTER 10

## ( SB 91 )

AN ACT relating to city financial accountability.

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

➔Section 1. KRS 91A.040 is amended to read as follows:

- (1) Except as provided in subsections (2) and (3) of this section, each city shall, after the close of each fiscal year, cause each fund of the city to be audited by the Auditor of Public Accounts or a certified public accountant. The audits shall be completed by February 1 immediately following the fiscal year being audited. Within ten (10) days of the completion of the audit and its presentation to the city legislative body in accordance with subsection (6)~~((4))~~(e) of this section, each city shall forward an electronic copy ~~for three (3) paper copies~~ of the audit report to the Department for Local Government for information purposes.~~[The Department for Local Government shall make available upon request either an electronic or paper copy of the audit report to the Legislative Research Commission to be used for the purposes of KRS 6.955 to 6.975 or to the Auditor of Public Accounts.]~~
- (2) A city with a population of less than **two thousand (2,000)**~~one thousand (1,000)~~ based upon the most recent federal decennial census shall, after the close of each odd-numbered fiscal year, cause each fund of the city to be audited by the Auditor of Public Accounts or a certified public accountant. **The audit shall include both fiscal years since the prior audit.** The audits shall be completed by February 1 immediately following the fiscal year to be audited. Within ten (10) days of the completion of the audit and its presentation to the city legislative body in accordance with subsection (6)~~((4))~~(e) of this section, the city shall forward an electronic copy ~~for three (3) paper copies~~ of the audit report to the Department for Local Government for information purposes.~~[The Department for Local Government shall make available on request either an electronic or paper copy of the audit report to the Legislative Research Commission to be used for the purposes of KRS 6.955 to 6.975 or to the Auditor of Public Accounts.]~~ After the close of each even-numbered fiscal year, each city subject to the provisions of this subsection shall prepare a financial statement in accordance with KRS 424.220 and **shall, not later than October 1,**~~[immediately]~~ forward one (1) electronic ~~for paper~~ copy to the Department for Local Government~~, which shall make available on request either an electronic or paper copy of the financial statement to the Legislative Research Commission or to the Auditor of Public Accounts.]~~.
- (3) Any city, which for any fiscal year receives and expends, from all sources and for all purposes, less than seventy-five thousand dollars (\$75,000), and which has no long-term debt, whether general obligation or revenue debt, shall not be required to audit each fund of the city for that particular fiscal year. Each city exempted in accordance with this subsection shall annually prepare a financial statement in accordance with KRS 424.220 and **shall, not later than October 1 following the conclusion of the fiscal year,**~~[immediately]~~ forward one (1) electronic ~~or paper~~ copy to the Department for Local Government for information purposes.~~[The Department for Local Government shall make available upon request either an electronic or paper copy of the financial statement to the Legislative Research Commission to be used for the purposes of KRS 6.955 to 6.975 or to the Auditor of Public Accounts.]~~
- (4) **If a city is required by another provision of law to audit its funds more frequently or more stringently than is required by this section, the city shall also comply with the provisions of that law.**
- (5) **The Department for Local Government shall, upon request, make available electronic copies of the audit reports and financial statements received by it under subsections (1) to (3) of this section to the Legislative Research Commission to be used for the purposes of KRS 6.955 to 6.975 or to the Auditor of Public Accounts.**
- (6) Each city required by this section to conduct an annual or **biennial**~~(biannual)~~ audit shall enter into a written contract with the selected auditor. The contract shall set forth all terms and conditions of the agreement which shall include but not be limited to requirements that:
  - (a) The auditor be employed to examine the basic financial statements, which shall include the government-wide and fund financial statements;
  - (b) The auditor shall include in the annual **or biennial** city audit report an examination of local government economic assistance funds granted to the city under KRS 42.450 to 42.495. The auditor shall include a

certification with the annual *or biennial* audit report that the funds were expended for the purpose intended;

- (c) All audit information be prepared in accordance with generally accepted governmental auditing standards which include tests of the accounting records and auditing procedures considered necessary in the circumstances. Where the audit is to cover the use of state or federal funds, appropriate state or federal guidelines shall be utilized;
  - (d) The auditor shall prepare a typewritten or printed report embodying:
    1. The basic financial statements and accompanying supplemental and required supplemental information;
    2. The auditor's opinion on the basic financial statements or reasons why an opinion cannot be expressed; and
    3. Findings required to be reported as a result of the audit;
  - (e) The completed audit and all accompanying documentation shall be presented to the city legislative body at a regular or special meeting; and
  - (f) Any contract with a certified public accountant for an audit shall require the accountant to forward a copy of the audit report and management letters to the Auditor of Public Accounts upon request of the city or the Auditor of Public Accounts, and the Auditor of Public Accounts shall have the right to review the certified public accountant's work papers upon request.
- ~~(7)(5)~~ A copy of an audit report which meets the requirements of this section shall be considered satisfactory and final in meeting any official request to a city for financial data, except for statutory or judicial requirements, or requirements of the Legislative Research Commission necessary to carry out the purposes of KRS 6.955 to 6.975.
- ~~(8)(6)~~ Each city shall, within thirty (30) days after the presentation of an audit to the city legislative body, publish an advertisement in accordance with KRS Chapter 424 containing:
- (a) The auditor's opinion letter;
  - (b) The "Budgetary Comparison Schedules-Major Funds," which shall include the general fund and all major funds;
  - (c) A statement that a copy of the complete audit report, including financial statements and supplemental information, is on file at city hall and is available for public inspection during normal business hours;
  - (d) A statement that any citizen may obtain from city hall a copy of the complete audit report, including financial statements and supplemental information, for his personal use;
  - (e) A statement which notifies citizens requesting a personal copy of the city audit report that they will be charged for duplication costs at a rate that shall not exceed twenty-five cents (\$0.25) per page; and
  - (f) A statement that copies of the financial statement prepared in accordance with KRS 424.220, when a financial statement is required by KRS 424.220, are available to the public at no cost at the business address of the officer responsible for preparation of the statement.
- ~~{(7) Any city may utilize the alternative publication methods authorized by KRS 424.190(2) to comply with the provisions of this section.}~~
- ~~(9)(8)~~ ***Any resident of the city or owner of real property within the city may bring an action in the Circuit Court to enforce the provisions of this section.*** Any person who violates any provision of this section shall be fined not less than fifty dollars (\$50) nor more than five hundred dollars (\$500). In addition, any officer who fails to comply with any of the provisions of this section shall, for each failure, be subject to a forfeiture of not less than fifty dollars (\$50) nor more than five hundred dollars (\$500), in the discretion of the court, which may be recovered only once in a civil action brought by any resident of the city ***or owner of real property within the city.*** The costs of all proceedings, including a reasonable fee for the attorney of the resident ***or property owner*** bringing the action, shall be assessed against the unsuccessful party.
- (10) ***In the event of extenuating circumstances that prevent a city from completing and submitting a required audit or financial statement in compliance with the applicable deadlines in subsections (1) to (3) of this section, the city may submit a written request for an extension of time to the Department for Local Government on a form prescribed by the Department for Local Government. The Department for Local***

*Government shall approve the request if it is submitted on or before the applicable deadline, and in the judgment of the Department for Local Government the request is warranted by extenuating circumstances beyond the control of the city. Extensions granted under this subsection shall not exceed nine (9) months from the original due date of the audit or financial statement. If the Department for Local Government approves an extension for a city and the city fails to complete and submit the required audit or financial statement in compliance with that extended deadline, then the provisions of subsection (11) of this section shall apply.*

(11) *If a city fails to complete an audit or financial statement and submit it to the Department for Local Government as required in subsections (1) to (3) and subsection (10) of this section, the Department for Local Government shall notify the Finance and Administration Cabinet that the city has failed to comply with the audit requirements of this section, and that any funds in the possession of any agency, entity, or branch of state government shall be withheld from the city until further notice. The Department for Local Government shall immediately notify the Finance and Administration Cabinet when the city complies with the requirements of subsections (1) to (3) and subsection (10) of this section for all prior fiscal years it has failed to comply with the audit requirements of this section, and the Finance and Administration Cabinet shall direct the reinstatement of payments to the city, including any funds that were withheld due to the noncompliance.*

~~(12)(9)~~ Within a reasonable time after the completion of a special audit or examination conducted pursuant to KRS 43.050, the Auditor shall bill the city for the actual expense of the audit or examination conducted. The actual expense shall include the hours of work performed on the audit or examination as well as reasonable associated costs, including but not limited to travel costs. The bill submitted to the city shall include a statement of the hourly rate, total hours, and total costs for the entire audit or examination.

➔Section 2. KRS 424.220 is amended to read as follows:

- (1) Excepting officers of a city of the first class or a consolidated local government, a county containing such a city or consolidated local government, a public agency of such a city, consolidated local government, or county, or a joint agency of such a city, consolidated local government, and county, or of a school district of such a city, consolidated local government, or county, and excepting officers of a city with a population equal to or greater than twenty thousand (20,000) based upon the most recent federal decennial census or an urban-county government, every public officer of any school district, city, consolidated local government, county, or subdivision, or district less than a county, whose duty it is to collect, receive, have the custody, control, or disbursement of public funds, and every officer of any board or commission of a city, consolidated local government, county, or district whose duty it is to collect, receive, have the custody, control, or disbursement of funds collected from the public in the form of rates, charges, or assessments for services or benefits, shall at the expiration of each fiscal year prepare an itemized, sworn statement of the funds collected, received, held, or disbursed by him during the fiscal year just closed, unless he has complied with KRS 424.230. ~~[Pursuant to subsections (2) and (3) of KRS 91A.040, each city with a population of less than one thousand (1,000) based upon the most recent federal decennial census shall prepare an itemized, sworn statement of the funds collected, received, held, or disbursed by the city which complies with the provisions of this section.]~~
- (2) The statement shall show:
  - (a) The total amount of funds collected and received during the fiscal year from each individual source; and
  - (b) The total amount of funds disbursed during the fiscal year to each individual payee. The list shall include only aggregate amounts to vendors exceeding one thousand dollars (\$1,000).
- (3) Only the totals of amounts paid to each individual as salary or commission and public utility bills shall be shown. The amount of salaries paid to all nonelected county employees shall be shown as lump-sum expenditures by category, including but not limited to road department, jails, solid waste, public safety, and administrative personnel.
- (4) The amount of salaries paid to all teachers shall be shown as a lump-sum instructional expenditure for the school district and not by amount paid to individual teachers. The amount of salaries paid to all other employees of the board shall be shown as lump-sum expenditures by category, including but not limited to administrative, maintenance, transportation, and food service. The local board of education and the fiscal court shall have accessible a factual list of individual salaries for public scrutiny and the local board and the fiscal court shall furnish by mail a factual list of individual salaries of its employees to a newspaper qualified under

KRS 424.120 to publish advertisements for the district, which newspaper may then publish as a news item the individual salaries of school or county employees.

- (5) The officer shall procure and include in or attach to the financial statement, as a part thereof, a certificate from the cashier or other proper officer of the banks in which the funds are or have been deposited during the past year, showing the balance, if any, of funds to the credit of the officer making the statement.
- (6) ~~{(a) —}~~ **Except as provided in subsection (7) of this section**, the officer shall ~~{, except in a city publishing its audit in accordance with KRS 91A.040(6),}~~ within sixty (60) days after the close of the fiscal year cause the financial statement to be published in full in a newspaper qualified under KRS 424.120 to publish advertisements for the city, county, or district, as the case may be. Promptly after the publication is made, the officer shall file a written or printed copy of the advertisement with proof of publication, in the office of the county clerk of the county and with the Auditor of Public Accounts.~~{~~
  - ~~{(b) —}~~ The appropriate officer of a city that has not conducted an annual audit under the provisions of KRS 91A.040(2) or (3) may publish a legal display advertisement meeting the requirements of subsection (7)(b) of this section which shall satisfy the publication requirements set out in paragraph (a) of this subsection.~~}~~
- (7) In lieu of the publication requirements of subsection (6) of this section:~~{,}~~
  - (a) The appropriate officer of a city **required to perform an audit under Section 1 of this Act**, including the appropriate officer of any municipally owned electric, gas, or water system, ~~may{shall}~~ elect to satisfy the requirements of subsection (6) of this section by:
    - 1.~~{(a)}~~ Publishing an audit report in accordance with **subsection (8) of Section 1 of this Act**~~{KRS 91A.040(6)}~~; and
    - 2.~~{(b)}~~ Publishing a legal display advertisement of not less than six (6) column inches in a newspaper qualified under KRS 424.120 that the statement required by subsection (1) of this section has been prepared and that copies have been provided to each local newspaper of general circulation, each news service, and each local radio and television station which has on file with the city a written request to be provided a statement. The advertisement shall be published within ninety (90) days after the close of the fiscal year.
  - (b) **The appropriate officer of a city that has not conducted an annual audit under the exceptions provided under subsections (2) and (3) of Section 1 of this Act may publish the legal display advertisement meeting the requirements of paragraph (a)2. of this subsection.**
- (8) The appropriate officer of a county shall satisfy the requirements of subsection (6) of this section by publishing the county's audit, prepared in accordance with KRS 43.070 or 64.810, in the same manner that city audits are published in accordance with **subsection (8) of Section 1 of this Act**~~{KRS 91A.040(6)}~~.

➔Section 3. KRS 42.460 is amended to read as follows:

Except as provided in **subsection (6)(b) of Section 1 of this Act**~~{KRS 91A.040(4)(b)}~~, any assistance granted under KRS 42.450 to 42.495 shall include an agreement that an independent annual audit shall be conducted and that the audit report shall include a certification that the funds were expended for the purpose intended. A copy of the audit and certification of compliance shall be forwarded to the Department for Local Government, in the case of assistance granted from the local government economic assistance fund or the local government economic development fund as allocated in KRS 42.4592(1)(a) and (b), or to the Cabinet for Economic Development and the Kentucky Economic Development Finance Authority, in the case of assistance granted from the local government economic development fund, within eighteen (18) months after the end of the fiscal year.

➔Section 4. KRS 424.190 is amended to read as follows:

- (1) If a statute gives discretion to a public officer or agency or governmental body as to the method of making an advertisement required by the statute, and if a statute provides that an advertisement may be made either by posting or by newspaper publication, the advertisement shall be made by newspaper publication in accordance with the provisions of this chapter, except as provided in subsection (2) of this section.
- (2) Any city may, when the cost of the newspaper publication exceeds the cost of postage, supplies, and reproduction for the alternative method of publication, in lieu of newspaper publication of advertisement, substitute delivery of a copy of the advertisement by first class mail to each residence within the publication area. Any city electing to use the alternative publication methods authorized by this section shall forward **an electronic copy**~~{three (3) copies}~~ of its audit report or **an electronic**~~{one (1)}~~ copy of its financial statement,

whichever is applicable, to the Department for Local Government in accordance with KRS 91A.040 and 424.220.

**Signed by Governor March 9, 2018.**