

CHAPTER 27**(HB 377)**

AN ACT relating to special purpose governmental entities.

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

➔Section 1. KRS 65A.020 is amended to read as follows:

- (1) The DLG shall:
 - (a) On or before March 1, 2014, make the necessary reporting and certification forms, online reporting portal, and online central registry available for reporting by special purpose governmental entities. The portal and registry shall serve as a unified location for the reporting of and access to administrative and financial information by special purpose governmental entities; and
 - (b) On or before October 1, 2014, make available online public access to administrative and financial information reported by special purpose governmental entities.
- (2) (a) For each fiscal period beginning on or after July 1, 2014, all special purpose governmental entities shall annually submit to the DLG the information required by this section. The information shall be submitted in accordance with this section, at the time, and in the form and format required by the DLG. The information submitted shall include at a minimum the following:
 1. Administrative information:
 - a. The name, address, and, if applicable, the term and appointing authority for each board member of the governing body of the entity;
 - b. The fiscal year of the entity;
 - c. The Kentucky Revised Statute and, if applicable, the local government ordinance and interlocal agreement under which the entity was established; the date of establishment; the establishing entity; and the statute or statutes, local government ordinance, or interlocal agreement under which the entity operates, if different from the statute or statutes, ordinance, or agreement under which it was established;
 - d. The mailing address and telephone number and, if applicable, the Web site uniform resource locator (URL) of the entity;
 - e. The operational boundaries and service area of the entity and the services provided by the entity;
 - f.
 - i. A listing of all the most significant taxes or fees imposed and collected by the entity, including the rates or amounts charged for the reporting period and the statutory or other source of authority for the levy of the tax or fee.
 - ii. As used in this subdivision, "most significant taxes or fees" means the five (5) taxes or fees levied by the entity that produce the most tax and fee revenue for the entity, provided that if the top five (5) revenue-producing taxes and fees do not produce at least eighty-five percent (85%) of all tax and fee revenues received by the entity, additional taxes and fees shall be listed until the taxes and fees listed produce at least eighty-five percent (85%) of all tax and fee revenues of the entity. If an entity levies fewer than five (5) taxes and fees, the entity shall list all taxes and fees levied;
 - g. The primary contact for the entity for purposes of communication from the DLG;
 - h. The code of ethics that applies to the entity, and whether the entity has adopted additional ethics provisions;
 - i. A listing of all federal, state, and local governmental entities that have oversight authority over the special purpose governmental entity or to which the special purpose governmental entity submits reports, data, or information; and

- j. Any other related administrative information required by the DLG; and
2. Financial information:
- a.
 - i. The most recent adopted budget of the entity for the upcoming fiscal year;
 - ii. After the close of each fiscal year, a comparison of the budget to actual revenues and expenditures for each fiscal year, including any amendments made throughout the fiscal year to the budget originally submitted;
 - iii. Completed audits or attestation engagements as provided in KRS 65A.030; and
 - iv. Other financial oversight reports or information required by the DLG.
 - b. In lieu of the submissions required by subdivision a.i., ii., and iv. of this subparagraph:
 - i. A federally regulated municipal utility shall submit, after the close of each fiscal year, the monthly balance, revenue, and expense report required by the federal regulator, which constitutes year-end data; and
 - ii. A public utility established pursuant to KRS 96.740 that is not a federally regulated municipal utility shall submit after the close of each fiscal year a report that includes the same information, in the same format as is required for federally regulated municipal utilities under subpart i. of this subdivision.
- (b) The provisions of KRS 65A.040 shall apply when a special purpose governmental entity fails to submit the information required by this section in a timely manner, or submits information that does not comply with the requirements and standards established by this section and the DLG. To facilitate the enforcement of these provisions, the DLG shall establish and maintain an online list of due dates for the filing of reports, audit certifications, and information for each special purpose governmental entity.
- (c) The provisions of this subsection shall be in addition to, and shall not supplant or replace any reporting or filing requirements established by other provisions of the Kentucky Revised Statutes.
- (3) (a) The DLG shall, by administrative regulation adopted pursuant to KRS Chapter 13A, develop standard forms, protocols, timeframes, and due dates for the submission of information by special purpose governmental entities. All information shall be submitted electronically; however, the DLG may allow submission by alternative means, with the understanding that the DLG shall be responsible for converting the information to a format that will make it accessible through the registry.
- (b) In an effort to reduce duplicative submissions to different governmental entities and agencies, during the development of the forms, protocols, timeframes, and due dates, the DLG shall consult with other governmental entities and agencies that may use the information submitted by special purpose governmental entities, and may include the information those agencies and entities need to the extent possible.
- (c) As an alternative to completing and submitting any standard form developed by the DLG for the reporting of financial information, federally regulated municipal utilities and public utilities established pursuant to KRS 96.740 that are not federally regulated municipal utilities may elect to satisfy the reporting requirements established by subsection (2)(a)2. of this section for the public power components of their operations by reporting the financial information related to their electric system accounts in accordance with the Federal Energy Regulatory Commission's Uniform System of Accounts.
- (4) (a) Beginning October 1, 2014, all information submitted by special purpose governmental entities under this section shall be publicly available through the registry. The registry shall be updated at least monthly, but may be updated more frequently at the discretion of the DLG. The registry shall include a notation indicating the date of the most recent update.
- (b) The registry shall be in a searchable format and shall, at a minimum, allow a search by county, by special purpose governmental entity name, and by type of entity.
- (c) To the extent possible, the registry shall be linked to or accessed through the Web site established pursuant to KRS 42.032 to provide public access to expenditure records of the executive branch of state government.

- (5) (a) To offset the costs incurred by the DLG in maintaining and administering the registry, the costs incurred in providing education for the governing bodies and employees of special purpose governmental entities as required by KRS 65A.060, and the costs incurred by the DLG and the Auditor of Public Accounts in responding to and acting upon noncompliant special purpose governmental entities under KRS 65A.040, excluding costs associated with conducting audits or special examinations, each special purpose governmental entity shall pay a registration fee to the DLG on an annual basis at the time of registration under this section.
- (b) The initial annual fee shall be as follows:
1. For special purpose governmental entities with annual revenue from all sources of less than one hundred thousand dollars (\$100,000), twenty-five dollars (\$25);
 2. For special purpose governmental entities with annual revenues from all sources of at least one hundred thousand dollars (\$100,000) but less than five hundred thousand dollars (\$500,000), two hundred fifty dollars (\$250); and
 3. For special purpose governmental entities with annual revenues of five hundred thousand dollars (\$500,000) or greater, five hundred dollars (\$500).
- (c) If the costs of administering and maintaining the registry, providing education, and enforcing compliance change over time, the fee and tiered structure established by paragraph (b) of this subsection may be adjusted one (1) time by the DLG through the promulgation of an administrative regulation under KRS Chapter 13A. The rate, if adjusted, shall be set at a level no greater than a level that is expected to generate sufficient revenue to offset the actual cost of maintaining and administering the registry, providing education for the governing bodies and employees of special purpose governmental entities, and enforcing compliance.
- (d) The portion of the registration fee attributable to expenses incurred by the Auditor of Public Accounts for duties and services other than conducting audits or special examinations shall be collected by the DLG and transferred to the Auditor of Public Accounts on a quarterly basis. Prior to the transfer of funds, the Auditor of Public Accounts shall submit an invoice detailing the actual costs incurred, which shall be the amount transferred; however, the amount transferred to the Auditor of Public Accounts under the initial fee established by paragraph (b) of this section shall not exceed the annual amount agreed to between the DLG and the Auditor of Public Accounts.
- (e) 1. In determining the annual fee due from a special purpose governmental entity, the DLG may exclude revenues received by the special purpose governmental entity if:
- a. The revenues constitute nonrecurring, nonoperating grants for the purpose of capital asset acquisition, capital construction, disaster recovery efforts, or other one (1) time purposes as determined by the DLG; and
 - b. The special purpose governmental entity requests, in writing to the DLG and for each fiscal year it receives the revenue in question, that the revenues in question not be included in determining its annual revenues.
2. ***In determining the annual fee due from a special purpose governmental entity that is a public use airport operating under KRS 183.132 to 183.160, the DLG may exclude revenues received by that public use airport if the revenues constitute nonoperating or recurring grants for the purpose of capital asset acquisition, capital construction, disaster recovery efforts, or other one (1) time purposes as determined by the DLG.***
3. Any receipts excluded under this paragraph shall still be reported as required under subsection (2)(a)2. of this section.
- (6) By October 1, 2014, and on or before each October 1 thereafter, the DLG shall file an annual report with the Legislative Research Commission detailing the compliance of special purpose governmental entities with the provisions of KRS 65A.010 to 65A.090. The Legislative Research Commission shall refer the report to the Interim Joint Committee on Local Government for review.
- ➔Section 2. KRS 65A.030 is amended to read as follows:
- (1) For fiscal periods beginning on or after July 1, 2014, requirements relating to audits and financial statements of special purpose governmental entities are as follows:

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- (a) Every special purpose governmental entity with the higher of annual receipts from all sources or annual expenditures of less than one hundred thousand dollars (\$100,000) shall:
 - 1. Annually prepare a financial statement; and
 - 2. Once every four (4) years, contract for the application of an attestation engagement as determined by the DLG, as provided in subsection (2) of this section;
- (b) Every special purpose governmental entity with the higher of annual receipts from all sources or annual expenditures equal to or greater than one hundred thousand dollars (\$100,000) but less than five hundred thousand dollars (\$500,000) shall:
 - 1. Annually prepare a financial statement; and
 - 2. Once every four (4) years, contract for the provision of an independent audit as provided in subsection (2) of this section; and
- (c) Every special purpose governmental entity with the higher of annual receipts from all sources or annual expenditures equal to or greater than five hundred thousand dollars (\$500,000) shall:
 - 1. Annually prepare a financial statement; and
 - 2. Be audited annually as provided in subsection (2) of this section.
- (2) (a) To provide for the performance of an audit or attestation engagement as provided in subsection (1)(a) to (c) of this section, the governing body of a special purpose governmental entity shall employ an independent certified public accountant or contract with the Auditor of Public Accounts to conduct the audit or attestation engagement unless the provisions of subsection (3) of this section apply.
- (b) The audit or attestation engagement shall be completed no later than twelve (12) months following the close of the fiscal year subject to the audit or the attestation engagement.
- (c)
 - 1. The special purpose governmental entity shall submit for publication on the registry the audit or attestation engagement, in the form and format required by the DLG.
 - 2. A federally regulated municipal utility may comply with the requirements of this section for the public power component of its operations by submitting an audit that conforms to the requirements imposed by the federal agency with which it maintains a wholesale power contract.
 - 3. A public utility established pursuant to KRS 96.740 that is not a federally regulated municipal utility may comply with the requirements of this section for the public power component of its operations by submitting a copy of its annual audit performed under KRS 96.840.
- (d)
 - 1. The audit or attestation engagement shall conform to:
 - a. Generally accepted governmental auditing or attestation standards, which means those standards for audits or attestations of governmental organizations, programs, activities, and functions issued by the Comptroller General of the United States;
 - b. Generally accepted auditing or attestation standards, which means those standards for all audits or attestations promulgated by the American Institute of Certified Public Accountants; and
 - c. Additional procedures and reporting requirements as may be required by the Auditor of Public Accounts.
 - 2. Rather than meeting the standards established by subparagraph 1. of this paragraph, the audit submitted by a federally regulated municipal utility or a public utility established pursuant to KRS 96.740 that is not a federally regulated municipal utility with regard to the public power component of the utility's operations shall conform to KRS 96.840 and the financial standards of the Federal Energy Regulatory Commission's Uniform System of Accounts.
- (e) Upon request, the Auditor of Public Accounts may review the final report and all related work papers and documents of the independent certified public accountant relating to the audit or attestation engagement.
- (f) If a special purpose governmental entity is required by another provision of law to audit its funds more frequently or more stringently than is required by this section, the special purpose governmental entity

shall comply with the provisions of that law, and shall comply with the requirements of paragraph (c) of this subsection.

- (g) Notwithstanding any provision of the Kentucky Revised Statutes to the contrary, a unit of government furnishing funds directly to a special purpose governmental entity may require additional audits at the expense of the unit of government furnishing the funds.
 - (h) All audit reports, attestation engagement reports, and financial statements of special purpose governmental entities shall be public records.
- (3) (a) Any board, commission, or agency established by statute with regulatory authority or oversight responsibilities for a category of special purpose governmental entities may apply to the Auditor of Public Accounts to be approved to provide an alternative financial review of the special purpose governmental entities it regulates or oversees that are required by subsection (1)(a) of this section to submit an attestation engagement. The application shall be in the form and format determined by the Auditor of Public Accounts.
- (b) The Auditor of Public Accounts shall review the application and if the auditor determines that the board, commission, or agency has the resources and capacity to conduct an acceptable alternative financial review, the auditor shall notify the DLG that the board, commission, or agency is approved to provide an alternative financial review of the special purpose governmental entities it regulates or oversees that are required by subsection (1)(a) of this section to submit an attestation engagement.
- (c) The Auditor of Public Accounts shall advise the DLG and the board, commission, or agency regarding modifications to the proposed alternative financial review procedures necessary to obtain the Auditor of Public Accounts' approval.
- (d) Any board, commission, or agency approved to provide alternative financial reviews shall reapply to the Auditor of Public Accounts for approval to continue to provide alternative financial reviews at least every four (4) years. The Auditor of Public Accounts may require more frequent approvals.
- (e) The Auditor of Public Accounts or the DLG may withdraw any approval granted under this subsection if the board, commission, or agency fails to conduct alternative financial reviews using the procedures and including the terms and components agreed to with the DLG.
- (f) Any board, commission, or agency approved to provide alternative financial reviews shall notify the Auditor of Public Accounts and the DLG if an irregularity is found in the alternative financial review.
- (g) Any special purpose governmental entity subject to regulation or oversight by a board, commission, or agency that obtains approval to provide an alternative financial review under this subsection shall have the option of having an alternative financial review performed by the board, commission, or agency, or may contract for the application of an attestation engagement as provided in subsection (1)(a) of this section.
- (4) The DLG shall determine which procedures conducted under attestation standards will apply to special purpose governmental entities meeting the conditions established by subsection (1)(a) of this section. The DLG may determine that additional procedures be conducted under attestation standards for specific categories of special purpose governmental entities or for specific special purpose governmental entities, as needed, to obtain the oversight and information deemed necessary by the DLG.
- (5) Based on the information submitted by special purpose governmental entities under KRS 65A.020 and 65A.090, the DLG shall determine when each special purpose governmental entity was last audited, and shall notify the special purpose governmental entity of when each audit or attestation engagement is due under the new standards and requirements of this section.
- (6) (a) In determining the requirements relating to audits and financial statements of special purpose governmental entities under subsection (1) of this section, the DLG may exclude annual receipts received by the special purpose governmental entity if:
1. The receipts constitute nonrecurring, nonoperating grants for the purpose of capital asset acquisition, capital construction, disaster recovery efforts, or other one (1) time purposes as determined by the DLG; and

2. The special purpose governmental entity requests, in writing to the DLG and for each fiscal year it receives the revenue in question, that the revenues in question not be included in determining its annual revenues.
 - (b) *In determining the requirements relating to audits and financial statements under subsection (1) of this section of special purpose governmental entities that are public use airports operating under KRS 183.132 to 183.160, the DLG may exclude annual receipts received by those public use airports if the receipts constitute nonoperating or recurring grants for the purpose of capital asset acquisition, capital construction, disaster recovery efforts, or other one (1) time purposes as determined by the DLG.*
 - (c) Any receipts excluded under paragraph (a) *or* (b) of this subsection shall still be reported as required under KRS 65A.020(2)(a)2.
- (7) The DLG may promulgate administrative regulations pursuant to KRS Chapter 13A to implement the provisions of this section.

Signed by Governor March 24, 2020.