

91A.040 Annual and biennial city audits – Exemption -- Attestation engagement -- Financial statement -- Publication -- Contents -- Enforcement action -- Penalties -- Extension -- Withholding of state funds for noncompliance -- Audit expenses to be billed to audited city.

- (1) Except as provided in subsections (2) to (4) 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 audit shall be completed by March 1 immediately following the fiscal year being audited. The city shall forward an electronic copy of the audit report to the Department for Local Government for information purposes by no later than April 1 immediately following the fiscal year being audited.
- (2) In lieu of the annual audit requirements in subsection (1) of this section, a city with a population equal to or less than one thousand (1,000) based upon the most recent federal decennial census may elect to have an audit performed every other fiscal year in the following manner:
 - (a) After the close of each odd-numbered fiscal year, the city shall for that odd-numbered 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 March 1 immediately following the fiscal year to be audited. The city shall forward an electronic copy of the audit report to the Department for Local Government for information purposes by no later than April 1 immediately following the fiscal year being audited; and
 - (b) After the close of each even-numbered fiscal year, the city shall not be required to complete an annual audit but shall forward an electronic copy of its financial statement prepared in accordance with KRS 424.220 to the Department for Local Government by no later than October 1 immediately following the close of the even-numbered fiscal year.
- (3) In lieu of the annual audit requirements in subsection (1) of this section, a city with a population of more than one thousand (1,000) but less than two thousand (2,000) based upon the most recent federal decennial census may elect to have an audit performed every other fiscal year to cover the two (2) fiscal years occurring since the prior audit in the following manner:
 - (a) After the close of each odd-numbered fiscal year, the city shall 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 and shall be completed by March 1 immediately following the fiscal years to be audited. The city shall forward an electronic copy of the audit report to the Department for Local Government for information purposes by no later than April 1 immediately following the fiscal years being audited; and
 - (b) After the close of each even-numbered fiscal year, the city shall not be required to complete an annual audit but shall forward an electronic copy of its financial statement prepared in accordance with KRS 424.220 to the Department for Local Government by no later than October 1 immediately following the close of the even-numbered fiscal year.
- (4) Any city, which for any fiscal year receives and expends, from all sources and for

all purposes, less than one hundred fifty thousand dollars (\$150,000), 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. In addition, each city exempted in accordance with this subsection shall:

- (a) 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, forward one (1) electronic copy to the Department for Local Government for information purposes; and
- (b) If exempted under this subsection for more than four (4) consecutive fiscal years after July 1, 2022, have prepared an attestation engagement covering the fourth fiscal year in which the city qualified for an exemption under this subsection. An attestation engagement completed pursuant to this subsection shall be:
 1. Prepared by an independent certified public accountant or by the Auditor of Public Accounts pursuant to a contract with the city using generally accepted attestation standards as promulgated by the American Institute of Certified Public Accountants and any additional procedures established by the Department for Local Government through administrative regulation;
 2. Completed by no later than March 1 immediately following the conclusion of the fiscal year in which in the attestation engagement is required;
 3. Submitted to the Department for Local Government as one (1) electronic copy no later than April 1 after its completion;
 4. Advertised to the public within thirty (30) days of its completion by causing the publication of a legal display advertisement of not less than six (6) column inches in a newspaper qualified under KRS 424.120 stating that the attestation has been prepared and 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 receive copies of financial statements under KRS 424.220. Any city advertising under this subparagraph shall be exempt from publishing its financial statement under KRS 424.220(6)(b) for any year in which it is required to have an attestation engagement completed; and
 5. Provided to the Auditor of Public Accounts upon request for review of the final report and all related work papers and documents regarding the attestation engagement.
- (5) 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.
- (6) 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 (4) 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.

- (7) Each city required by this section to conduct an annual or biennial 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.
- (8) 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.
- (9) 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 or her 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.
- (10) 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.
- (11) 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 (4) 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 (12) of this section shall apply.
- (12) 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 (4) and (11) 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 (4) and (11) 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.

- (13) 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.

Effective: July 14, 2022

History: Amended 2022 Ky. Acts ch. 103, sec. 2, effective July 14, 2022. -- Amended 2019 Ky. Acts ch. 91, sec. 1, effective June 27, 2019. -- Amended 2018 Ky. Acts ch. 10, sec. 1, effective July 14, 2018. -- Amended 2016 Ky. Acts ch. 17, sec. 2, effective July 15, 2016. -- Amended 2014 Ky. Acts ch. 5, sec. 3, effective July 15, 2014; and ch. 92, sec. 88, effective January 1, 2015. -- Amended 2010 Ky. Acts ch. 117, sec. 68, effective July 15, 2010. -- Amended 2007 Ky. Acts ch. 47, sec. 62, effective June 26, 2007. -- Amended 2006 Ky. Acts ch. 8, sec. 2, effective July 12, 2006. -- Amended 2000 Ky. Acts ch. 89, sec. 1, effective July 14, 2000. -- Amended 1998 Ky. Acts ch. 69, sec. 46, effective July 15, 1998. -- Amended 1992 Ky. Acts ch. 33, sec. 4, effective July 14, 1992. -- Amended 1990 Ky. Acts ch. 52, sec. 1, effective July 13, 1990. -- Amended 1986 Ky. Acts ch. 331, sec. 22, effective July 15, 1986. -- Amended 1984 Ky. Acts ch. 111, sec. 173, effective July 13, 1984. -- Amended 1982 Ky. Acts ch. 393, sec. 45, effective July 15, 1982; ch. 407, sec. 1, effective July 15, 1982; and ch. 430, sec. 1, effective July 15, 1982. -- Created 1980 Ky. Acts ch. 232, sec. 4, effective July 15, 1980.

Legislative Research Commission Note (4/15/2020). 2020 Ky. Acts ch. 91, sec. 73, which applies to fiscal years 2020-2021 and 2021-2022 and expires June 30, 2022 (see 2020 Ky. Acts ch. 91, sec. 80), states the following:

"Publishing Requirements: Notwithstanding KRS 83A.060, 91A.040, and Chapter 424, a county containing a population of more than 90,000 or any city within a county containing a population of more than 90,000, as determined by the 2010 United States Census, may publish enacted ordinances, audits, and bid solicitations by posting the full ordinance, the full audit report including the auditor's opinion letter, or the bid solicitation on an Internet Web site maintained by the county or city government for a period of at least one (1) year. If a county or city publishes ordinances, audits, or bid solicitations on an Internet Web site, the county or city shall also publish an advertisement, in a newspaper qualified in accordance with KRS 424.120, with a description of the ordinances, audits, or bid solicitations published on the Internet Web site, including the Uniform Resource Locator (URL) where the documents can be viewed. Any advertisement required to be published in a newspaper under KRS Chapter 424 shall contain the following statement at the end of the advertisement:

"This advertisement was paid for by [insert the name of the governmental body required to advertise in a newspaper] using taxpayer dollars in the amount of \$[insert the amount paid for the advertisement]."