

1 AN ACT relating to conservation district audits.

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

3 ➔Section 1. KRS 65A.010 is amended to read as follows:

4 As used in this chapter:

- 5 (1) "County" means any county, consolidated local government, urban-county
6 government, unified local government, or charter county;
- 7 (2) "DLG" means the Department for Local Government established by KRS
8 147A.002;
- 9 (3) "Establishing entity" means the city or county, or any combination of cities and
10 counties, that established a special purpose governmental entity and that has not
11 subsequently withdrawn its affiliation with the special purpose governmental entity
12 by ordinance or other official action;
- 13 (4) "Federally regulated municipal utility" means a municipal utility governed by the
14 provisions of KRS 96.550 to 96.901, that maintains a wholesale power contract
15 with a federal agency that also serves as its regulatory authority;
- 16 (5) (a) "Fee" means any user charge, levy, assessment, fee, schedule of rates, or tax,
17 other than an ad valorem tax, imposed by a special purpose governmental
18 entity.
- 19 (b) "Fee" shall not include the following charges imposed by special purpose
20 governmental entities that provide utility services:
- 21 1. Any fuel cost adjustment that is:
- 22 a. Made pursuant to an agreement with a power supplier;
- 23 b. Amended by the power supplier based on the variable cost of fuel;
24 and
- 25 c. Passed through to the consumer by the utility pursuant to the
26 agreement between the utility and the power supplier;
- 27 2. Any power or energy cost adjustment implemented pursuant to a duly

- 1 adopted base rate that provides for the periodic adjustment of a
2 component of the rate, including any fuel costs or transmission costs, in
3 accordance with the formula or conditions set forth in the base rate; or
4 3. Any environmental control cost adjustments or surcharges implemented
5 pursuant to a duly adopted base rate that provides for the periodic
6 adjustment of a component of the rate in accordance with a formula or
7 conditions set forth in the base rate;
- 8 (6) (a) "Private entity" means any entity whose sole source of public funds is from
9 payments pursuant to a contract with a city, county, or special purpose
10 governmental entity, including funds received as a grant or as a result of a
11 competitively bid procurement process.
- 12 (b) "Private entity" does not include any entity:
- 13 1. Created, wholly or in part, by a city, county, or combination of cities
14 and counties to perform one (1) or more of the types of public services
15 listed in subsection (9)(c) of this section; or
16 2. Governed by a board, council, commission, committee, authority, or
17 corporation with any member or members who are appointed by the
18 chief executive or governing body of a city, county, or combination of
19 cities and counties, or whose voting membership includes governmental
20 officials who serve in an ex officio capacity;
- 21 (7) "Public funds" means any funds derived from the levy of a tax, fee, assessment, or
22 charge, or the issuance of bonds by the state or a city, county, or special purpose
23 governmental entity;
- 24 (8) "Registry" means the online central registry and reporting portal established
25 pursuant to KRS 65A.020; and
- 26 (9) (a) "Special purpose governmental entity" or "entity" means any agency,
27 authority, or entity created or authorized by statute which:

- 1 1. Exercises less than statewide jurisdiction;
- 2 2. Exists for the purpose of providing one (1) or a limited number of
- 3 services or functions;
- 4 3. Is governed by a board, council, commission, committee, authority, or
- 5 corporation with policy-making authority that is separate from the state
- 6 and the governing body of the city, county, or cities and counties in
- 7 which it operates; and
- 8 4. a. Has the independent authority to generate public funds; or
- 9 b. May receive and expend public funds, grants, awards, or
- 10 appropriations from the state, from any agency, or authority of the
- 11 state, from a city or county, or from any other special purpose
- 12 governmental entity.
- 13 (b) "Special purpose governmental entity" shall include entities meeting the
- 14 requirements established by paragraph (a) of this subsection, whether the
- 15 entity is formed as a nonprofit corporation under KRS Chapter 273, pursuant
- 16 to an interlocal cooperation agreement under KRS 65.210 to 65.300, or
- 17 pursuant to any other provision of the Kentucky Revised Statutes.
- 18 (c) Examples of the types of public services that may be provided by special
- 19 purpose governmental entities include but are not limited to the following:
- 20 1. Ambulance, emergency, and fire protection services;
- 21 2. Flood control, drainage, levee, water, and water conservation services,
- 22 and services provided by watershed conservancy districts~~[,]~~ and soil
- 23 and water conservation districts~~[services]~~;
- 24 3. Area planning, management, community improvement, and community
- 25 development services;
- 26 4. Library services;
- 27 5. Public health, public mental health, and public hospital services;

- 1 6. Riverport and airport services;
 - 2 7. Sanitation, sewer, waste management, and solid waste services;
 - 3 8. Industrial and economic development;
 - 4 9. Parks and recreation services;
 - 5 10. Construction, maintenance, or operation of roads and bridges;
 - 6 11. Mass transit services;
 - 7 12. Pollution control;
 - 8 13. Construction or provision of public housing, except as set out in
 - 9 paragraph (d)8. of this subsection;
 - 10 14. Tourism and convention services; and
 - 11 15. Agricultural extension services.
- 12 (d) "Special purpose governmental entity" shall not include:
- 13 1. Cities;
 - 14 2. Counties;
 - 15 3. School districts;
 - 16 4. Private entities;
 - 17 5. Chambers of commerce;
 - 18 6. Any incorporated entity that:
 - 19 a. Provides utility services;
 - 20 b. Is member-owned; and
 - 21 c. Has a governing body whose voting members are all elected by the
 - 22 membership of the entity;
 - 23 7. Any entity whose budget, finances, and financial information are fully
 - 24 integrated with and included as a part of the budget, finances, and
 - 25 financial reporting of the city, county, or cities and counties in which it
 - 26 operates;
 - 27 8. Federally regulated public housing authorities established pursuant to

1 KRS Chapter 80 that receive no more than twenty percent (20%) of their
 2 total funding for any fiscal year from nonfederal fees, not including
 3 rental income; or

4 9. a. Any fire protection district or volunteer fire department district
 5 operating under KRS Chapter 75 with the higher of annual receipts
 6 from all sources or annual expenditures of less than one hundred
 7 thousand dollars (\$100,000); or

8 b. Any fire department incorporated under KRS Chapter 273.

9 ➔Section 2. KRS 262.097 is amended to read as follows:

10 (1) The supervisors of the respective soil and water conservation districts shall submit
 11 to the commission such statements, estimates, budgets, and other information at
 12 such time and in such manner as the commission requires.

13 (2) The supervisors of the soil and water conservation districts shall comply with the
 14 provisions of KRS 65A.010, 65A.020, 65A.040, 65A.050, 65A.060, 65A.070,
 15 65A.080, and ~~to~~ 65A.090.

16 ➔Section 3. KRS 262.280 is amended to read as follows:

17 (1) The board shall provide for the keeping of a full and accurate record of all its
 18 proceedings and of all resolutions, regulations, and orders issued or adopted by it.

19 (2) Notwithstanding KRS 65A.030 ~~[For fiscal periods ending prior to July 1, 2014],~~ an
 20 audit of the accounts of each soil and water conservation district shall take place
 21 once every four (4) years unless the soil and water conservation district receives or
 22 expends one million dollars (\$1,000,000) ~~[seven hundred fifty thousand dollars~~
 23 ~~(\$750,000)]~~ or more in any year, in which case the soil and water conservation
 24 district shall provide for the performance of an annual audit. The audit shall be
 25 conducted in accordance with audit standards and requirements stipulated in KRS
 26 65.065(5). ~~[For fiscal periods beginning on and after July 1, 2014, the provisions of~~
 27 ~~KRS 65A.030 shall apply to audits of the accounts of each district.]~~

1 (3) Upon request of the commission, the board shall furnish the commission with
 2 copies of ordinances, regulations, orders, contracts, forms, and other documents
 3 adopted or employed by the board and any other information requested by the
 4 commission concerning the board's activities.

5 ➔Section 4. KRS 262.763 is amended to read as follows:

6 (1) ~~[(a)]~~ **Notwithstanding KRS 65A.030** ~~[For fiscal periods ending prior to July 1,~~
 7 ~~2014],~~ an audit of the accounts of each watershed conservancy district shall take
 8 place once every four (4) years unless the **watershed conservancy** district receives
 9 or expends **one million dollars (\$1,000,000)** ~~[seven hundred fifty thousand dollars~~
 10 ~~(\$750,000)]~~ or more in any year, in which case the **watershed conservancy** district
 11 shall provide for the performance of an annual audit. The audit shall be conducted
 12 in accordance with audit standards and requirements stipulated in KRS 65.065(5).
 13 The board of directors of each watershed conservancy district shall select to make
 14 the audit certified public accountants who have no personal interest in the financial
 15 affairs of the board of directors or in any of its officers or employees.}]

16 ~~(b) For fiscal periods beginning on and after July 1, 2015, the provisions of KRS~~
 17 ~~65A.030 shall apply to the audit of accounts of each watershed conservancy~~
 18 ~~district.]~~

19 (2) Immediately upon completion of each audit, the accountant shall prepare a report of
 20 his **or her** findings and recommendations. This report shall be to the board of
 21 directors and in such number of copies as specified by the board of directors. The
 22 actual expense of any audit authorized under this section shall be borne by the
 23 watershed conservancy district.

24 (3) The board of directors shall comply with the provisions of KRS 65A.010, **65A.020,**
 25 **65A.040, 65A.050, 65A.060, 65A.070, 65A.080, and** ~~[to]~~ 65A.090.

26 ➔Section 5. KRS 45A.095 is amended to read as follows:

27 (1) For purposes of this section:

- 1 (a) "Emergency condition" means a situation which creates a threat or impending
2 threat to public health, welfare, or safety such as may arise by reason of fires,
3 floods, tornadoes, other natural or man-caused disasters, epidemics, riots,
4 enemy attack, sabotage, explosion, power failure, energy shortages,
5 transportation emergencies, equipment failures, state or federal legislative
6 mandates, or similar events. The existence of the emergency condition creates
7 an immediate and serious need for services, construction, or items of tangible
8 personal property that cannot be met through normal procurement methods
9 and the lack of which would seriously threaten the functioning of government,
10 the preservation or protection of property, or the health or safety of any
11 person; and
- 12 (b) "Sole source" means a situation in which there is only one (1) known capable
13 supplier of a commodity or service, occasioned by the unique nature of the
14 requirement, the supplier, or market conditions.
- 15 (2) A contract may be made by noncompetitive negotiation only:
- 16 (a) For sole source purchases;
- 17 (b) When competition is not feasible, as determined by the purchasing officer in
18 writing prior to award, under administrative regulations promulgated by the
19 secretary of the Finance and Administration Cabinet or the governing boards
20 of universities operating under KRS Chapter 164A;
- 21 (c) When emergency conditions exist; or
- 22 (d) For sponsorships, naming rights, or other advertising or similar considerations
23 for which competition is not feasible.
- 24 (3) Insofar as it is practical, no fewer than three (3) suppliers shall be solicited to
25 submit written or oral quotations whenever it is determined that competitive sealed
26 bidding is not feasible. Award shall be made to the supplier offering the best value.
27 The names of the suppliers submitting quotations and the date and amount of each

- 1 quotation shall be placed in the procurement file and maintained as a public record.
- 2 (4) Competitive bids may not be required:
- 3 (a) For contractual services where no competition exists, such as telephone
4 service, electrical energy, and other public utility services;
- 5 (b) Where rates are fixed by law or ordinance;
- 6 (c) For library books;
- 7 (d) For commercial items that are purchased for resale;
- 8 (e) For interests in real property;
- 9 (f) For visiting speakers, professors, expert witnesses, and performing artists;
- 10 (g) For personal service contracts executed pursuant to KRS 45A.690 to 45A.725;
- 11 (h) For agricultural products in accordance with KRS 45A.645;~~and~~
- 12 (i) For contracts entered into by the president of the Kentucky Horse Park for
13 emergency purchases pursuant to KRS 148.320(5); ***and***
- 14 ***(j) For Kentucky-sourced alternative transportation fuels in accordance with***
15 ***Section 7 of this Act.***
- 16 (5) The chief procurement officer, the head of a using agency, or a person authorized in
17 writing as the designee of either officer may make or authorize others to make
18 emergency procurements when an emergency condition exists.
- 19 (6) The Finance and Administration Cabinet may negotiate directly for the purchase of
20 contractual services, supplies, materials, or equipment in bona fide emergencies
21 regardless of estimated costs. The existence of the emergency shall be fully
22 explained, in writing, by the head of the agency for which the purchase is to be
23 made. The explanation shall be approved by the secretary of the Finance and
24 Administration Cabinet and shall include the name of the vendor receiving the
25 contract along with any other price quotations and a written determination for
26 selection of the vendor receiving the contract. This information shall be filed with
27 the record of all such purchases and made available to the public. Where practical,

1 standard specifications shall be followed in making emergency purchases. In any
2 event, every effort should be made to effect a competitively established price for
3 purchases made by the state.

4 (7) Subsection (6) of this section shall not apply to emergency purchases made
5 pursuant to KRS 148.320(5).

6 ➔Section 6. KRS 45A.630 is amended to read as follows:

7 As used in this section and KRS 45A.035, 45A.095, and 45A.645:

8 (1) "Agricultural product" means any unprocessed farm product raised or produced as a
9 result of being in the business of "agriculture", as defined ~~in~~^{by} KRS 246.010.
10 "Agricultural product" does not include tobacco;~~and~~

11 (2) **"Alternative transportation fuels" has the same meaning as in KRS 152.715;**

12 (3) "Kentucky-grown agricultural product" means any agricultural product raised or
13 produced in Kentucky; **and**

14 (4) **"Kentucky-sourced alternative transportation fuels" means any alternative**
15 **transportation fuel that utilizes a Kentucky-grown agricultural product in its**
16 **production.**

17 ➔Section 7. KRS 45A.645 is amended to read as follows:

18 (1) (a) If purchasing agricultural products, state agencies, as defined by KRS
19 45A.505, shall purchase Kentucky-grown agricultural products if the products
20 are available and if the vendor can meet the applicable quality standards and
21 pricing requirements of the state agency.

22 (b) **If purchasing alternative transportation fuels, state agencies, as defined in**
23 **KRS 45A.505, shall purchase Kentucky-sourced alternative transportation**
24 **fuels if such fuel is available and if the vendor can meet the applicable**
25 **quality standards and pricing requirements of the state agency.**

26 (c) All state agencies that purchase agricultural products **or alternative**
27 **transportation fuels** shall, on or before January 1 of each year, provide a

1 report to the Legislative Research Commission and to the Department of
2 Agriculture describing the types, quantities, and costs of each product
3 purchased. The report shall be completed on a form provided by the
4 department.

5 (2) (a) Prospective vendors of Kentucky-grown agricultural products may apply to
6 the Kentucky Department of Agriculture for marketing assistance for the
7 authorized use of logos or labeling statements to be used on Kentucky-grown
8 agricultural products under KRS 260.017, the Kentucky Proud™ Program.

9 (b) Before a state agency may purchase Kentucky-grown agricultural products,
10 the vendor shall be required to participate in the Kentucky Proud™ Program
11 established by KRS 260.017, and shall provide to the purchasing officer
12 written certification that the agricultural products under consideration for
13 purchase meet the definition of Kentucky-grown agricultural product.

14 (c) All state agencies that purchase Kentucky-grown agricultural products shall,
15 on or before January 1 of each year, provide a report to the Legislative
16 Research Commission and to the Department of Agriculture describing the
17 types, quantities, and costs of each product purchased. The report shall be
18 completed on a form provided by the department.

19 (3) If a contract is awarded to a vendor that supplies agricultural products that are
20 raised or produced outside the United States or its territories, the vendor shall be
21 required to identify the country in which the agricultural product was raised or
22 produced if the vendor is the producer or packager of the product or if the vendor is
23 not the producer or packager, provided the information is available to the vendor
24 from the producer or packager of the product. The producer or packager shall
25 clearly label that information on any containers or packages holding the product.