

Section 3 Under current law at KRS 514.040 (5) fees collected by the county attorney's office ("bad check" fees) pursuant to that statute are to be used for payment of the county attorney's office operating expenses. Any excess bad check fees held by the county attorney's office on June 30 are to be turned over to the county treasurer for use by the fiscal court. **Section 3** would amend KRS 514.040 (5) to remove the duty of the county attorney to turn over excess fees collected pursuant to that statute.

The fiscal impact of HB 782 HCS 1 is mixed and generally minimal.

Section 1 of HB 782 HCS 1 would have a moderate negative fiscal impact on county attorney offices in the first reporting period, and a minimal fiscal impact thereafter. While there may be some additional expense for reviewing records and preparing the annual report, the Kentucky County Attorneys Association (KCAA) believes there should be no additional staff required.

Section 2 should have an indeterminable positive fiscal impact on county attorney offices. It is unknown how much money a county attorney would collect each year above what is needed for office operations, and what would be the rate of return, or possible loss, on investment of any excess funds. While it is possible such investments could lose money, county officials are required to make conservative investments.

Section 3 would have a minimal negative fiscal impact on those fiscal courts that actually take receipt of excess fees collected by county attorneys' offices. For example, in 2021 the Henderson Fiscal Court accepted the amount of \$3,181.63 in excess fees from the Henderson County Attorney's office. The KCAA reported to the Auditor of Public Accounts that the amount of fees to county attorneys from cold check collections under KRS 514.040(5) is declining and no longer a significant amount of revenue for most, if not all, county attorneys. For county attorneys who still operate a cold check program, at least some utilize all of the funds internally and do not generate an "excess fee" to remit. In a 2020 Special Examination report from the Auditor of Public Accounts, auditors discovered numerous counties where the fiscal court passed an ordinance authorizing the county attorney to retain these funds. In other instances, the Auditor of Public Accounts understands the fiscal courts routinely return these excess fees to the county attorney's office. HB 782 HCS 1 doesn't change the amount of funding collected or expended by local government, but would, for those counties where the county attorney does remit fees, change the public officer charged with expending those excess fees from the county judge/executive to the county attorney.

Part III: Differences to Local Government Mandate Statement from Prior Versions

Part II applies to HB 782 HCS 1. HB 782 as introduced would have no fiscal impact on local governments. HCS 1 was adopted by the committee and would have a generally minimal fiscal impact on local governments.

HCS 1 makes the following changes to HB 782 as introduced:

- imposes a duty on county attorneys to file an annual settlement of funds received, disbursed, or held by his or her office with the Prosecutors Advisory Council and with the fiscal court;

- includes county attorneys within the term “county official” and authorizes them to invest and reinvest money within their control and jurisdiction; and

- eliminates the county attorney’s duty to turn over excess fees to the county treasurer.

Data Source(s): Kentucky County Attorney's Association; Auditor of Public Accounts; LRC staff

Preparer: Mary Stephens (KS) **Reviewer:** KHC **Date:** 3/17/22