

200 KAR 38:050. Advancements to sheriffs.

RELATES TO: KRS 64.140

STATUTORY AUTHORITY: KRS 42.0201(3)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 42.0201(3) requires the state controller to be responsible for all aspects of accounting policies and procedures, financial accounting systems, and internal accounting control policies and procedures. KRS 64.140 provides for advancements to county sheriffs to defray official expenses. This administrative regulation provides for advancement to sheriffs of counties with a population of less than 70,000.

Section 1. Definitions.

- (1) "Branch" means the County Fee Systems Branch.
- (2) "Cabinet" means the Finance and Administration Cabinet.
- (3) "Secretary" means the secretary of the Finance and Administration Cabinet.

Section 2. Application. Sheriffs of counties containing a population of less than 70,000 may make application to the State Treasurer to be advanced monies to operate their offices during those periods of the year when the fees of the office are inadequate to provide for operational expenses. Application shall be in the form of a letter addressed to the Finance and Administration Cabinet, Office of the Controller, Division of Local Government Services, County Fee Systems Branch, signed by the sheriff, and notarized by a notary public in and for the Commonwealth of Kentucky. The application shall state:

- (1) The fees received by the sheriff are insufficient to provide the necessary funds for the operation of the office;
- (2) The sheriff desires to receive an advancement of funds from the State Treasury to defray office expenses;
- (3) The sheriff agrees to comply with this administrative regulation; and
- (4) The documents filed with the application are true and correct statements of fact.

Section 3. Accompanying Documents. The following documents shall accompany a letter of application:

- (1) A copy of the sheriff's settlement with the fiscal court of the sheriff's county for the year immediately preceding the year in which application for an advancement is made, certified as true and correct by the county court clerk. If the sheriff's settlement with the fiscal court has not been filed, the sheriff may substitute an affidavit setting out the actual fees of the office for the immediate preceding year.
- (2) A copy of the last quietus from the state, certified by an authorized representative of the Finance and Administration Cabinet, Department of Revenue.
- (3) A detailed budget for the sheriff's office, approved by fiscal court, for the year in which the advancement is to be made. The budget statement shall contain detailed breakdowns of monthly expenditures and receipts.
- (4) A detailed statement, approved by fiscal court, of the amount to be advanced in each month.
- (5) An affidavit setting out receipts for the year up to and including the last day of the previous month and actual expenses to the last day of the month in which application is made, if the sheriff first requests an advance in a month other than January.
- (6) A bond in favor of the commonwealth for an amount not to exceed the total advance requested for the year. The bond shall be:
 - (a) Issued by a surety company authorized to do business in the Commonwealth of Kentucky;
 - (b) Conditioned upon the full repayment by the sheriff of all monies advanced by the commonwealth;

- (c) In addition to any other bonds required by statute;
 - (d) Approved by the fiscal court; and
 - (e) Prepared in duplicate, with the original to be filed with the branch and a copy with the county court clerk of the sheriff's county.
- (7) Any other document, report, or information which:
- (a) Describes or facilitates understanding of the fiscal condition, history, or management of the sheriff's office; and
 - (b) Is requested by the cabinet to enable it to adequately evaluate the advisability of making advancement.

Section 4. Initial Advancement; Procedure. Upon receipt of an application for advancement to a sheriff, the branch manager shall examine the application for compliance with this administrative regulation. If the request and supporting documents are found to be in proper order, the branch manager shall recommend to the secretary that an advance be made and a suggested amount. The branch manager shall be guided by the following considerations in making a recommendation:

- (1) If the first advance is requested for the month of January, the branch manager shall recommend that the cabinet issue a warrant for the lesser of:
 - (a) The sheriff's request; or
 - (b) The estimated expenditures minus receipts for the month of January as set out in the sheriff's budget; except that the monthly advance shall not exceed the lesser of \$60,000 or one-twelfth (1/12) of the sheriff's receipts for the previous year.
- (2) If the first advance request is for a month other than January, the branch manager shall add the expenses of the sheriff for the months of the year preceding the application as set out in the affidavit to the estimated expenses for the month in which the advance is requested, subtract the receipts of the office, and recommend that a warrant be issued for the lesser of:
 - (a) The figure representing the difference between the sum of the actual expenses and the estimated expenses for the month of the advance and the receipts of the office; or
 - (b) The amount requested; except that the recommendation shall not exceed \$60,000 or one-twelfth (1/12) of the sheriff's receipts of the previous year, whichever is the lesser.

Section 5. Subsequent Advancements.

- (1) After receiving an initial advancement, a sheriff may receive subsequent advancements upon filing with the cabinet a request for advancement accompanied by an affidavit setting out the receipts and expenditures of the sheriff's office through the previous month.
- (2) Upon receipt of a request for a subsequent advancement, the branch shall add the actual expenditures to date to the estimated expenditures for the current month, subtract the actual receipts of the office, and cause a warrant to be issued for the lesser of:
 - (a) The difference; or
 - (b) The amount requested; except that the warrant shall not exceed the lesser of \$60,000 or one-twelfth (1/12) of the sheriff's receipts for the previous year.

Section 6. Refund Procedure.

- (1) A sheriff who has received an advancement of funds shall, on or before the tenth day of November, December, and January, file with the cabinet an affidavit stating the actual receipts and expenditures of the office for the preceding month. The affidavit shall be accompanied by a check made payable to the Treasurer of the Commonwealth of Kentucky in the amount that the receipts exceed the expenditures for the previous month; except that the total amount of money payable to the commonwealth shall not exceed the total of the advancements made to the sheriff during the preceding year.

(2) If the payment submitted as provided in Section 6(1) of this administrative regulation is less than the amount advanced to the sheriff during the preceding year, the sheriff shall, on or before January 15 of the year following the year in which the advancements are made, forward a check made payable to the Treasurer of the Commonwealth of Kentucky in the amount of the unpaid balance.

(3) An advancement shall not be made to a sheriff unless the total amount advanced in the previous year has been repaid to the commonwealth.

(31 Ky.R. 1918; Am. 32 Ky.R. 51; eff. 7-27-05; Crt eff. 2-10-2020.)