Duties Of Elected County Officials

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Foreword

The past several years have been a time of significant change in county government in the United States, and Kentucky has been no exception. Counties across the country have been experiencing continued growth in population as well as an increasing demand for services, including some that counties have not traditionally supplied. The 1975 Judicial Amendment to the Constitution of Kentucky removed all judicial responsibilities from county government and its officers. A 1977 ruling of the Kentucky Supreme Court on the County Home Rule Act and the General Assembly's subsequent amendment of that statute granted counties increased flexibility in handling their affairs and determining the services they would provide their citizens. Further, the interim joint committee with jurisdiction of local governments has worked in cooperation with several special commissions over the years in reviewing the structure of county government and proposing changes. These activities have had important effects on the activities and offices of county government. Virtually every county office has experienced change. Many traditional duties have been altered, and many new duties have been assumed.

The purpose of this bulletin is to provide an overview of the duties and responsibilities of county government and elected county officials across the commonwealth. It is not intended to supplant the original version of the statutes.

This revision incorporates the laws passed by the 2016 General Assembly.

David A. Byerman
Director

Legislative Research Commission
Frankfort, Kentucky
July 2016

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Chapter 1

Introduction

Use Of This Publication

Reading and understanding the Kentucky Revised Statutes (KRS) is often a challenge for lay readers and attorneys as well, but the task will be easier with some basic points in mind. The reader should be aware, for example, of the statutory definitions of the words *may* and *shall*. In the context of the statutes, *may* permits but *shall* mandates. These terms and others are defined in KRS Chapter 446, which also contains other information essential to understanding the statutes. A prospective reader of the Kentucky Revised Statutes must also make sure of consulting the law's current version, by checking the print edition's pocket supplement or the latest edition of the *Acts of the General Assembly*. The Kentucky Revised Statutes are also available at www.lrc.ky.gov/Statutes/index.aspx. The *Acts of the General Assembly* are available at www.lrc.ky.gov/acts/mainacts.htm. The Legislative Research Commission's website, www.lrc.ky.gov, contains much information about the General Assembly, legislative sessions, and the laws of the commonwealth.

Beyond the sheer number of statutes, their complexity also poses a problem. Many times there is no clear-cut meaning to a statute granting a power or assigning a duty. The law is subject to differences of opinion and continuing legal interpretation. It should therefore be clear that this bulletin cannot be taken as a substitute for legal counsel, the advice of the attorney general, or the findings of the courts.

Each year many county officials seek the written opinions of the attorney general on questions of law pertaining to their powers and duties. The attorney general's interpretations of various statutes have been cited throughout this book. Although such opinions are not law and are not legally binding, they are important as researched and informed views on the meaning of the statutes.

Court rulings have also been cited throughout the following pages and are law until altered or overturned. The reader should recognize, however, that the inclusion of court cases has been selective and does not represent an exhaustive compilation of the cases relating to each statute.

Readers may also wish to consult the companion publication *County Government In Kentucky*, which focuses on the structure and activities of general purpose county government.[1] Electronic versions of LRC's publications are available at www.lrc.ky.gov/lrcpubs/lrcpubs.htm.

Elected County Officials

The elected county officials in Kentucky are below.

- County judge/executive
- Sheriff
- County attorney
- County clerk
- Jailer
- Coroner
- Justice of the peace (commonly called magistrate)
- Constable
- County surveyor
- Property valuation administrator (Ky. Const., sec. 99)

This report summarizes the duties of each official. A chapter on each office sets out its most important duties, as well as its powers, qualifications, compensation, and historical background.

The Judicial Amendment

In 1975, voters ratified an amendment to the Constitution of Kentucky known as the Judicial Article. It established a unified judicial system for the state and replaced the more disjointed judicial system of the 1891 Constitution. The revamped system, fully implemented in January 1978, profoundly affected county government. County judges became judges/executive and lost all judicial duties; justices of the peace also lost judicial powers. County attorneys became part of a statewide prosecutorial system. Quarterly courts, county courts, police courts, and justice courts ceased to function as judicial bodies; new district courts began to exercise jurisdiction over most areas formerly included in judicial duties of county judges and justices of the peace.

County Home Rule

In 1977, the Kentucky Supreme Court ruled on KRS 67.083, the County Home Rule Statute. It provides counties the flexibility of powers to provide and finance operational services. In *Fiscal Court of Jefferson County v. City of Louisville*, the court held that the County Home Rule Statute, with the exception of the grant of taxing power, was an overly broad delegation of legislative power.[2] During the 1978 session, the General Assembly amended KRS 67.083, reflecting this objection and significantly strengthening the legislative authority of the fiscal court. Chapter 3 of this bulletin treats the current powers of the county under KRS 67.083.

Sources Of Officials' Power

Counties and county offices are created by the state, and they exist and act only under authority delegated by the state. Most county offices in Kentucky were established by the constitution, but their duties are derived from laws enacted by the state legislature.

In assigning duties and powers to counties and county officers, the legislature sometimes speaks in terms of a mandate or command; at other times it speaks in terms of permission and discretion. The chapters that follow distinguish between mandatory and permissive powers. They also indicate the statutes that are applicable to some but not all of the 120 counties. Some laws apply only to counties containing an urban-county government, a consolidated local government, or a unified local government; others apply only to a county containing a city of the first class, a county containing a city of a certain population, or a county with a specified minimum population (such as 70,000 or more).

Required County Officials

Section 99 of the Constitution of Kentucky requires each county to elect a

- county judge/executive,
- county clerk,
- county attorney,
- sheriff,
- jailer,
- coroner,
- surveyor,
- property valuation administrator, and
- justice of the peace and one constable in each justice's district.

Other constitutional provisions authorize the legislature to take actions affecting these officials.

The General Assembly may consolidate the offices of sheriff and jailer in any county. In such cases the office of sheriff is retained, and the sheriff assumes the duties of the jailer (Ky. Const., sec. 105). The 1968 General Assembly replaced the office of tax assessor with the office of property valuation administrator (PVA) (KRS 132.370; Ky. Const., sec. 104). Section 144 of the Constitution of Kentucky requires counties to have fiscal courts composed of justices of the peace (magistrates) or commissioners. Section 107 authorizes the creation of additional elective county offices. Section 101 requires the jurisdictions of constables and sheriffs "to be coextensive with the counties in which they reside."

Section 100 establishes residency requirements for these positions. The section also sets qualifications for county attorneys and county clerks.

County Officials In Merged Governments

The Kentucky Revised Statutes allow for the creation of merged governments where a county joins with one or more cities within it. The four types of merged governments are

- charter county government (KRS 67.825 to 67.875),
- unified local government (KRS 67.900 to 67.940),
- urban-county government (KRS Chapter 67A), and
- consolidated local government (KRS Chapter 67C).

The constitution still requires that the county officials named in section 99 of the constitution be elected when these merged governments are created; however, the roles of the executive and legislative officers are subject to change. The county judge/executive, magistrates, and commissioners may no longer serve as the executive and legislative officers of the merged county, but they retain various other powers and authorities either preserved by law or as determined by the merged government under its statutory authority. Each type of merged government designates its own executive and legislative leadership unless the statutes provide otherwise.

Candidates For County Office

Chapter 118 of the Kentucky Revised Statutes governs the conduct of primary and general elections. The usual method of selection of candidates for county office is a primary election (see KRS 118.305 and 118.315 for exceptions). Persons seeking to have their names placed on the ballot for nomination for county offices must file notification and declaration forms with the county clerk not earlier than the first Wednesday after the first Monday in November of the year before the year the office will appear on the ballot, and not later than the last Tuesday in January before the day fixed by law for holding the primary election (KRS 118.125 and 118.165). Kentucky holds primary elections on the first Tuesday after the third Monday in May of each year (KRS 118.025).

Candidates nominated at the primary election are entitled to have their names entered on the ballot for the regular election (KRS 118.305). Regular elections occur on the first Tuesday after the first Monday in November (KRS 118.025).

In both primary and general elections, candidates must observe state law regulating various aspects of political campaigns. Candidates for all county offices must follow the directions of KRS 121.190 regarding political advertising. Political advertisement is defined in an all-inclusive manner, extending to all sorts of handbills, posters, billboards, magazine or newspaper ads, and radio or television advertising, with reference to the support or defeat of candidates for public office. A candidate or a campaign manager who knowingly fails to comply with KRS 121.190 shall be guilty of a Class D felony (KRS 121.990).

Laws governing campaign finance apply to candidates for county office. KRS Chapter 121 places limits on the amounts and kinds of contributions that may be accepted, mandates registration with the Kentucky Registry of Election Finance, and requires periodic reports of expenditures and receipts. Candidates for county office may contact the Kentucky Registry of Election Finance for detailed information on campaign finance procedures. Failure to comply with the law in this area can lead to prosecution for a Class D felony and forfeiture of office (KRS 121.990).

Several specific prohibitions on campaign contributions also apply. KRS 121.025 prohibits contributions by corporations to candidates for public office (see also KRS 121.035). In 2016, the United States District Court for the Eastern District of Kentucky issued an opinion that ordered the Kentucky Registry of Election Finance to no longer enforce the corporate

contribution ban in a way that treats corporations, limited liability companies, or unions unequally. See *Protect My Check v. Dilger, et. al*., C.A. #3:15-42-GFVT for the full court opinion. The Kentucky Registry of Election Finance has procedures in effect complying with the court orders. These orders have implications for KRS 121.025, 121.035, and Section 150 of the Kentucky Constitution. Other requirements in effect prohibit persons who are supervised by or regulated by a candidate from contributing to that candidate's political campaign (KRS 121.045). Candidates for county office are prohibited from agreeing to support any particular measure, thing, or person in exchange for the vote or other support of any person (KRS 121.055).

Prohibitions Against Wrongdoing And Removal From Office

County judges/executive, justices of the peace, sheriffs, coroners, surveyors, jailers, property valuation administrators, county attorneys, and constables are subject to indictment or prosecution for misfeasance, malfeasance, or willful neglect of duty during their terms in office (Ky. Const., sec. 227). Statutes prescribe the manner of indictment and prosecution (KRS 61.170 and 132.370; see also KRS 63.020 to 63.180). Upon conviction of an officeholder, the office becomes vacant, but the actual time of vacancy may be determined by whether the official appeals the court's decision (*Hazelrigg v. Douglass*, 104 S.W. 755 (1907)). Although conviction would not necessarily deprive an officer of the office, an officer may be convicted of official misconduct in either the first or second degree. See KRS 522.020 and 522.030. The property valuation administrator may be removed from office by the county's Circuit Court upon petition of any taxpayer, or by the commissioner of revenue for willful disobedience of any just or legal order of the Department of Revenue, for misfeasance or malfeasance in office or willful neglect in the discharge of official duties, including but not limited to intentional underassessment or overassessment of properties and chronic underassessment of properties (KRS 132.370). The General Assembly is specifically authorized to provide other methods for the vacation of office or the removal from office of any sheriff, jailer, constable, or peace officer for neglect of duty. The legislature may also provide for the method of reinstatement of such officials (Ky. Const., sec. 227).

Other constitutional provisions deal with the wrongdoing of county officials. Section 150 disqualifies any person from holding an office of trust or profit for the elected term after being convicted of procuring election by buying votes. Section 151 requires the General Assembly to provide a suitable means for depriving any person of elective office who has procured nomination or election by the unlawful use of money. An officeholder is also deprived of office if it was obtained by fraud, intimidation, bribery, or other corrupt practice. The officeholder is responsible for acts done by others with the holder's knowledge or instruction. All county officials are susceptible to impeachment for any misdemeanors in office (Ky. Const., sec. 68). All persons who have participated in a duel are disqualified from holding county offices (Ky. Const., secs. 228 and 239). It is a felony for county officials to directly or indirectly receive an interest, profit, or perquisite through the use or loan of public funds raised by their office (Ky. Const., sec. 173).

Officials can be disqualified from holding public office or lose their office as a result of their conduct. Public servants are subject to disqualification from office if convicted of abuse of

public trust under KRS 522.050. If an officer is convicted of selling or letting an office, or prospective office, that officer is prohibited from holding the office (KRS 61.010). In addition to the constitutional prohibitions, a conviction of dueling disqualifies a person from holding office (KRS 61.100). Local officials taking bribes also forfeit their offices (KRS 432.350).

Audits Of County Officials

The state auditor of public accounts must annually audit the funds contained in each county's budget, and the books, accounts, and papers of all county clerks and sheriffs unless the county or the fee officer hires a certified public accountant to perform the audit and notifies the state auditor (KRS 43.070). The state auditor may audit the books, accounts, and papers of all county judges/executive, county attorneys, coroners, and constables. The auditor also has separate annual audit responsibilities concerning the fees and taxes collected by county clerks relating to motor vehicles and motorboats (KRS 43.071).

Any fiscal court, county clerk, or sheriff may employ a certified public accountant to audit the books, accounts, and papers of the county or the office in lieu of the audit conducted by the state auditor, if the state auditor declines to perform the audit or has failed to respond to written notice of intent to employ a certified public accountant within 30 days of receipt of the notice (KRS 43.070 and 64.810). The fiscal court, the county clerk, or the sheriff may also employ a certified public accountant to conduct an emergency audit of the county or the office in the case of a documented emergency to which the state auditor cannot respond by the requested deadline. The state auditor must authorize the use of the certified public accountant, and the audit must be completed by the deadline originally requested of the state auditor (KRS 64.810).

The county pays for half of the state auditor's audit of county budget funds and pays the entire cost of a county official audit performed by the state auditor. If a county clerk or sheriff employs a certified public accountant to perform the audit, the local officer must pay for the audit from funds received or collected (KRS 43.070 and 64.810). If a fiscal court employs a certified public accountant, it shall bear the full cost of the audit (KRS 64.810).

Regardless of the auditing method selected, the audit must be performed according to uniform standards and procedures prescribed by KRS 43.075 and administrative regulations issued by the auditor of public accounts. Similar reporting requirements also apply to both auditing methods. Whether the audit is carried out by the state or by an independent accountant, the audit report is submitted to various state officials and a newspaper in the county of the officeholder; the letter of transmittal accompanying the report must be published in the newspaper (KRS 43.090 and 64.810).

KRS 43.990 sets forth penalties for county officials or any others who attempt to prevent or obstruct audits. If an audit reveals possible illegality, the Office of the Attorney General may perform any necessary investigation and prosecute any violation of law (KRS 15.225).

Code Of Ethics

The governing body of each county must adopt, by ordinance, a code of ethics covering all elected county officials, including the county judge/executive, county clerk, county attorney, sheriff, jailer, coroner, surveyor, constable, and members of the governing body. KRS 65.003 also requires specified candidates for city and county elective offices to comply with the annual financial disclosure statement filing requirements contained in the code of ethics. The code may cover appointed officials as well. Each code must contain standards of conduct, financial disclosure requirements, a policy on nepotism, and the designation of a person or group to handle enforcement. Other provisions may be included. Once a code has been enacted, it may be amended but may not be repealed. Cities and counties may use the Interlocal Cooperation Act to jointly develop their codes. Each county must deliver its ordinance and any amendments to the Department for Local Government.

The state must suspend services and payments to any county that fails to comply with these requirements (KRS 65.003).

County Office Incompatibilities

No person may hold a county office while serving as a state officer, a deputy officer, or a member of the General Assembly. This prohibition does not apply to a notary public or an officer of the military (Ky. Const., sec. 165). Members of Congress or persons holding an office of trust or profit under the United States, a single state, or a foreign power are also ineligible for county offices (Ky. Const., sec. 237). KRS 61.080, enacted in accordance with these constitutional directives, provides, in part, that

- no person shall, at the same time, be a state officer, a deputy state officer or a member of the General Assembly, and an officer of any county, city, or other municipality, or an employee thereof;
- the offices of justice of the peace, county judge/executive, surveyor, sheriff, deputy sheriff, coroner, constable, jailer, and county clerk or deputy court clerk shall be incompatible, the one with any of the others. The office of county judge/executive and county school superintendent are incompatible; and
- no person shall, at the same time, fill a county office and a municipal office.

See KRS 61.080 for the full list of statutory compatibilities and incompatibilities.
In addition to the statutory and constitutional declarations of incompatibility, the courts from time to time rule on the compatibility of offices. Be aware of these common law decisions when determining whether one office is compatible with another.

Vacancies

Vacancies in county offices are filled by appointment. The statutes designate the appointing authorities. Section 152 of the Constitution of Kentucky provides that if the unexpired term ends at the next annual election at which city, town, county, district, or state officers are elected, the office is filled by appointment for the remainder of the term.

When the unexpired term does not end at the next election of local or state officials and 3 months intervene before the election, the vacancy is filled by appointment until election.

If 3 months do not intervene between the occurrence of a vacancy and the next election for local or state officials, the vacancy is filled by appointment until the second succeeding annual election at which local or state officials are elected. If after this period of time any part of the term remains unexpired, the office is filled by election until the regular time for the election to fill such offices.

The county judge/executive fills a vacancy in the office of sheriff, coroner, surveyor, county clerk, county attorney, jailer, or constable (KRS 63.220 and 63.150). In the case of a vacancy in the office of county judge/executive itself, the governor fills it (KRS 67.705). The statutes also recognize the authority of the governor to fill other vacancies under KRS 63.190.

Compensation

Several constitutional provisions affect the compensation of local officials. Sections 161 and 235 prohibit any change in compensation during a current term in office. Section 246 is frequently referred to as the "salary limit section" or "salary limit amendment" and sets the maximum compensation of county officials at $7,200 per year. The section also expresses another limit, $12,000, for officials whose jurisdiction or duties are coextensive with the commonwealth. County judges/executive, county clerks, sheriffs, and jailers operating full-service jails are subject to the $12,000 limit pursuant to KRS 64.5275.

Cases decided by the former Court of Appeals permitted the $7,200 and $12,000 maximums to increase as the purchasing power of the dollar decreased. In its 1962 opinion in *Matthews v. Allen*, the court upheld a salary increase for Circuit judges, stating:

> The net result of our consideration is that the salary provisions of Section 246 of the Constitution may be interpreted and periodically applied to all constitutional officers in terms which will equate current salaries with the purchasing power of the dollar in 1949 when Section 246 was adopted.[3]

Under the provisions of 1998 HB 810, the bill number by which the measure is still commonly referred, the General Assembly significantly changed the manner of compensation for certain county officials, including sheriffs, county clerks, county judges/executive, and jailers who operate a full-service jail. Property valuation administrators are compensated similarly (KRS 132.285 and KRS 132.590).

KRS 64.5275, the core statute in HB 810, establishes a salary schedule for county judges/executive, county clerks, jailers who operate full-service jails, and sheriffs in all counties. The schedule establishes nine levels of salary based on the population of the county in the year before the election of county officials as determined by annual estimates of the US Department of Commerce, Bureau of the Census. To implement the salary schedule, the state Department for Local Government, by November 1 of each year preceding the election of county officials,

certifies for each county the applicable population group based on the most recent estimates. The salary schedule for county judges/executive, county clerks, jailers who operate full-service jails, and sheriffs remains as determined by the Department for Local Government regardless of changes in the population estimates or the actual census count that may occur during the term for which the official has been elected or appointed. The salary schedule provides four steps for yearly increments within each population group. County officers named in this section are paid according to the first step within their population group for the first year or portion thereof they serve in office. On January 1 of each subsequent year, each officer shall be advanced automatically to the next step in the salary schedule until the maximum salary figure for the population group is reached. Before assuming office on the first Monday in January, any person assuming any of the offices for which the salary is determined by this section must certify to the commissioner of the Department for Local Government the total number of years, not to exceed 4, that the person has previously served in the office. The department places the officer in the proper step based on a formula of one incremental step per full calendar year of service. The Department for Local Government adjusts the figures set out in KRS 64.5275 for the annual change in the consumer price index under the provisions of KRS 64.527. Table 1.1 lists the current figures for these officers.

Table 1.1
Salary Schedule For County Judges/Executive, County Clerks, Sheriffs, Jailers Operating Full-Service Jails, And Property Valuation Administrators Adjusted By Change In Consumer Price Index, 2016

Group	Population	Step 1	Step 2	Step 3	Step 4
I	0–4,999	$65,493.82	$67,748.48	$69,463.14	$71,447.80
II	5,000–9,999	71,447.80	73,432.46	75,417.12	77,401.78
III	10,000–19,999	77,401.78	79,386.44	81,371.10	83,355.76
IV	20,000–29,999	80,378.77	83,355.76	86,332.76	89,309.75
V	30,000–44,999	86,332.76	89,309.75	92,286.74	95,263.73
VI	45,000–59,999	89,309.75	93,279.07	97,248.39	101,217.71
VII	60,000–89,999	96,263.73	99,233.05	103,202.38	107,171.70
VIII	90,000–499,999	98,240.72	103,202.38	108,164.03	113,125.68
IX	500,000 and more	104,194.71	109,156.36	114,118.01	119,079.56

Sources: For property valuation administrators, KRS 132.590, Department for Local Government, and Department of Revenue; for all others, KRS 64.5275 and Department for Local Government.

Section 106 of the constitution recognizes that county officials may be allowed fees for services: "The fees of county officers shall be regulated by law." This section and KRS 64.350 also require circuit clerks, county clerks, sheriffs, and jailers in counties containing a population of more than 70,000 to be paid by salary out of the State Treasury. The office expenses and salaries of these officers and their deputies may not exceed 75 percent of the fees collected by the officers. Jailers and circuit clerks are no longer fee officers, but the fees collected by the sheriff and the county clerk must be paid to the Finance and Administration Cabinet. Salaries and expenses of these offices are paid by the state treasurer semimonthly upon the warrant of the Finance and Administration Cabinet made payable to the officer (KRS 64.345). Authorizations for county officials to collect fees are scattered throughout the Kentucky Revised Statutes. The chapters that follow will mention some of the fees county officials may collect for their services.

Elected county officials may be covered by the County Employees Retirement System if their county is participating in the system in accordance with KRS 78.510 and 78.530. Time periods covered under the County Employees Retirement System, the Kentucky State Employees Retirement System, the State Police Retirement System, the Kentucky Teachers' Retirement System, and the Legislators' Retirement System may be consolidated for the computation of retirement benefits (KRS 61.680). County officials are also covered by Social Security (KRS 61.410 to 61.500).

Compensation For Certified Training

In addition to the increases based on service in office, KRS 64.5275 provides each eligible county official an annual incentive of $100 per calendar year for each 40-hour training unit completed. This incentive is increased by the annual consumer price index adjustment. The training incentive is cumulative. Each year an official completes a training unit, the official advances one step to a maximum of four. If an official does not qualify for the training unit one year, he or she will start over at the first step. For 2016, the incentive equates to

- Step 1—$992.15
- Step 2—$1,984.30
- Step 3—$2,976.45
- Step 4—$3,968.60

Chapter 2

County Judge/Executive

Background

Kentucky's Constitutions of 1792 and 1799 did not provide for a county judge. Justices of the peace were the most important local judicial officials during the time these constitutions were in effect. Their duties included responsibility for county administrative matters.[4]

Article IV, section 29, of the 1850 constitution provided for a county judge. During the time this constitution was in effect, the county judge presided over county court, the court of claims, and quarterly court. County court exercised appellate jurisdiction over justices' courts and functioned as the legislative and administrative authority for the county. Court of claims was an aggregation of all of a county's justices of the peace sitting for the purpose of imposing the county tax levy and appropriating county funds. A quarterly court exercised minor civil jurisdiction.[5]

Under the 1891 constitution, the office of judge of the county court combined a number of judicial, legislative, and administrative duties. Sections 139 and 140 made the county judge the chief judicial officer of the county and quarterly courts. The county judge/executive was also made the presiding officer of the fiscal court, the county legislative body (section 144). Over the years, the General Assembly has assigned additional executive and administrative duties to the county judge.[6]

The Office Today

The 1975 Judicial Amendment to the constitution, which reorganized the state's judicial system, stripped the office of the county judge of its judicial powers and responsibilities. Although the county judge was no longer a judicial officer, the Judicial Amendment (Ky. Const., sec. 124) left other aspects of the office intact. Section 124 says "[n]othing ... shall be construed to limit the powers otherwise granted by this Constitution to the county judge as the chief executive, administrative and fiscal officer of the county." Also unchanged were numerous statutory powers and duties that had accumulated over the years.

During the 1976 Extraordinary Session, the General Assembly restyled the office of county judge by enacting legislation that strengthened and clarified its administrative and executive powers (KRS 67.710 and 67.715). The title of the office was changed from county judge to county judge/executive, reflecting the altered nature and duties of the position.

Executive And Administrative Powers

KRS 67.710 designates the county judge/executive as the chief executive of the county. The judge/executive is specifically charged with executing all ordinances and resolutions of the fiscal

court, all contracts entered into by the fiscal court, and all state laws subject to enforcement by the judge/executive or subordinate officers. KRS 67.083 provides that the county judge/executive may exercise all executive powers pursuant to this “home rule” statute.

The county judge/executive has the primary responsibility for the administration of county government. In this regard, the office has the authority to create, abolish, or combine any county department or agency and to transfer functions from one agency or department to another. Any plan for reorganization, however, must be submitted to the fiscal court; unless disapproved within 60 days, the plan becomes effective (KRS 67.715).

KRS 67.715 grants a similar power over special districts created by the fiscal court. The county judge/executive, subject to fiscal court approval, may create, combine, or abolish any special district if the district was created solely by the county judge/executive or the fiscal court.

The preparation and periodic review of the county administrative code are sources of additional administrative duties (KRS 67.710). The administrative code is intended to spell out detailed procedures for the administration of county government and must include provisions for personnel administration, fiscal management, purchasing, and the general administration of county government (KRS 68.005).

The judge/executive is also responsible for keeping the fiscal court informed of the operations of county departments, boards, and commissions (KRS 67.710). Further, the judge/executive must assure the representation of the county on all boards, commissions, special districts, and multicounty programs that call for county participation (KRS 67.715).

Financial Administration

The judge/executive’s responsibilities for the financial administration of county government have expanded substantially in recent years. These responsibilities now include preparation of the county budget, oversight of county funds, financial reports to fiscal court, and fiscal record keeping.

The county budget proposes a broad outline for the expenditure of county funds and details proposed spending by several broad classes of government activities, such as general government, highways and bridges, and health and sanitation. In preparing the budget, the county judge/executive relies on an estimate of property assessment levels, which the property valuation administrator provides by April 1 of each year (KRS 68.245). The county judge/executive must include in the proposed county budget a proposed jail budget, prepared in cooperation with the jailer and the county treasurer (KRS 441.215). The judge/executive must submit a budget proposal and an estimate of receipts from federal, state, and local sources to the fiscal court by May 1 of each year (KRS 68.240).

The fiscal court examines the budget and may amend it as desired before giving tentative approval. After this initial approval, the budget goes to the state local finance officer, who examines it for form and classification. If the budget conforms with state requirements, it returns

to the county for the fiscal court's final approval. Budgets not in the proper form may remain unapproved by the state local finance officer until amended (KRS 68.250).

Once the state local finance officer approves the budget, it is ready for the fiscal court's final approval. Publication of the budget proposal is required at this time, and any taxpayer may ask the fiscal court to make changes in the budget. When the fiscal court meets to adopt the budget, it may change the amount of funds allocated to a specific area but not the form or classification of budget units. The budget must be adopted by July 1 of each year (KRS 68.260). The judge/executive must certify the approval of the budget to the state local finance officer (KRS 68.270).

The judge/executive's responsibility for county financial administration does not end with the final adoption of the budget. The judge/executive must also administer the budget as approved by the fiscal court (KRS 67.710). The judge/executive must present all claims to the fiscal court for review before payment; the court, for good cause shown, may order that a claim not be paid (KRS 68.275). The judge/executive co-signs with the county treasurer all warrants for the payment of funds from the county treasury (KRS 68.020).

As a part of the responsibility for the county's financial administration, the county judge/executive must keep the fiscal court advised of the financial needs and conditions of the county (KRS 67.710). Similarly, the judge/executive must see that elected or appointed county officials whose offices use county funds, as well as all county boards, commissions, and special districts, submit annual financial reports to the fiscal court (KRS 67.710).

Fiscal courts may adopt standing orders for the payment of recurrent monthly payroll and utility expenses only, unless the state local finance officer permits otherwise (KRS 68.275). Such standing orders expire after July 1 of each year unless the fiscal court adopts another standing order. KRS 68.360 more clearly defines the judge/executive's duties for preparing financial reports for the fiscal court. This statute requires the judge/executive to prepare a quarterly report for submission to the fiscal court, the state local finance officer, and the public, showing detailed information on the condition of each fund of the county budget.

The judge/executive must ensure that, during the first half of the fiscal year that begins on July 1 of the last year of his or her term of office, the county does not encumber or expend more than 65 percent of current funds budgeted for that fiscal year (KRS 68.310).

Uniform Financial Reporting

Counties and cities must annually prepare a uniform financial information report. KRS 65.905 allows the Department for Local Government to use information obtained from forms or other reports filed by local governments in lieu of the uniform financial information report. These reports must include information relating to demographics, bonded indebtedness, debt service requirements, lease purchase agreements, tax rates and revenues, licenses, permits, fees, utilities, intergovernmental revenues, miscellaneous revenues, and charges for services. The department must use the uniform financial information report to replace as many as possible of the financial information forms that are required by state or federal government by consolidating the required

information into the uniform report. The department must prescribe the format of the report by administrative regulation (KRS 65.900 to 65.920).

Appointive Powers

County Personnel

Under KRS 67.710, the county judge/executive may appoint, supervise, suspend, and remove county personnel, with fiscal court approval, unless state law provides otherwise. KRS 67.711 authorizes the county judge/executive to appoint a deputy county judge/executive and a reasonable number of other clerical workers and assistants. The fiscal court may limit the number of such personnel and provide for a reasonable salary (KRS 67.711). Table 2.1 lists specific appointments that statutes empower the county judge/executive to make.

Table 2.1
County Judge/Executive Appointments

Position/Group	KRS Citation
Air Board	183.132
Air Pollution Control Board, county containing city of first class or certain home rule cities (KRS 83A.024)	77.070
Alcoholic beverage control administrator, investigator, or clerk	241.110
Building Code Local Appeals Board	198B.070
Cause of death investigator, when coroner is unavailable	213.076
Children's Home Board, Louisville and Jefferson County	201.020
Community Improvement District Board of Commissioners	107.340
County Board of Assessment Appeals	133.020
County Building Commission	67.450
County Cemetery Board	67.680
County Consolidation Commission, when convened	67.240
County Police Force Merit Board	78.410
Custodian of property, for property that is proceeds of crime or otherwise related to law enforcement	67.592
Deputy county judge, emergency	67.735
Deputy county judge, regular	67.730
Deputy Sheriff Merit Board	70.260
Drainage commissioner	269.090, 269.120
Drainage director	267.090
Drainage district commissioner	269.120
Elisor	70.200
Emergency management director, local	39B.020
Emergency Service Board, single- and multi-county	65.666, 65.668
Extension District Board	164.635
Fire district trustee	75.031
Flood Control District Board	104.580

Health Board, county containing city of first class	212.380, 212.390
Hospital District Board	216.323
Housing Authority, city-county	80.266
Housing Authority, county	80.420
Housing Authority, regional	80.430
Industrial Development Authority	154.50-326
Industrial Taxing District Board	68.606
Jail transportation officers, additional	71.065
Levee commissioner	266.100
Library Board of Trustees	173.340
Library, county containing city of first class	173.105
Library District Board of Trustees	173.480, 173.725, 173.730
Mental Health/Persons with Intellectual Disabilities Transfer Appeals Panel, when convened	210.270
Metropolitan Sewer District Board	76.030
Metropolitan Sewer District, certain officers	76.060
Nuisance Hearing Board	82.700
Parking Authority, city-county	94.815(2)
Planning Commission	100.133, 100.137, 100.141
Police, auxiliary county	70.542
Police, county	70.540
Police, county: chief, assistant chief, any officer above rank of captain, county with population of 600,000 or more	78.428
Probation Officer, assistant probation officer, professional and clerical personnel, county containing city of first class or certain home rule cities (KRS 83A.024)	605.050
Processioner	73.180
Public Improvements Finance Board	66.513
Recreation Board	97.030, 97.035
Regional Integrated Waste Treatment and Disposal Facility Siting Board	224.46-820(4)
Regional Jail Authority	441.810
Rescue Squad Taxing District Board	39F.160
Riverport Authority	65.540
Riverport Authority, county containing city of first class, secretary-treasurer	65.570
Road District	184.060
Road engineer	179.020
Sanitation District Board, multi-county	220.140
Sanitation Tax District Board	76.277
Sewer Construction District commissioner	76.315
Subdivision Road District	179.715

Surveyor, deputy	73.030
Tourist and Convention Commission	91A.360, 91A.370, 91A.380
Transit Authority Board	96A.040
Transit Authority, executive director or secretary-treasurer, county containing city of first class	96A.070
Treasurer, county	68.010, 67.710(8) (also OAG 90-46)
Urban Renewal and Community Development Agency	99.350
Urban Services District Board	108.110
Vacancies in office: sheriff, coroner, surveyor, county clerk, county attorney, jailer, or constable; peace officer vacancy created by declaration of governor; road engineer	63.220, 63.150, 179.060
Waste Management District Board	109.115
Water District Board of Commissioners	74.020, 74.361
Waterworks Board, county containing city of first class	96.240
Zoning Board of Adjustment	100.217

Source: LRC staff data using the Kentucky Revised Statutes.

Constraints On Political Considerations In The Appointment Of County Officials And Personnel

The tenure of county employees is at the will of the county judge/executive and fiscal court. Their terms of employment end when the term of the outgoing county judge/executive ends, and the new county judge/executive has the right to hire administration employees, subject to the fiscal court's approval. This interpretation of the Kentucky statutes has been recognized by the state attorney general (OAG 82-63) and a federal Circuit Court (*Christian v. Belcher*, 888 F.2d 410, 6th Circuit 1989).

The US Supreme Court has established, however, that ordinary county employees may not be terminated on the basis of their political activities, because such action violates their constitutional rights to political expression under the First Amendment. The cases determining what counties may or may not do with respect to employee tenure and political activity are *Rutan v. Republican Party of Illinois*, 110 S. Ct. 2729 (1990), which concluded that an employee in a low-level county position for which party affiliation is not an appropriate job requirement may not be hired, fired, promoted, transferred, or recalled based on expression of political opinions; and *Branti v. Finkel*, 100 S. Ct. 1287 (1980), which concluded that whether a position is political depends on whether the hiring authority can demonstrate that party affiliation is an appropriate requirement for the effective performance of the public office involved. These US Supreme Court decisions have placed no restrictions on counties' management of their employees with respect to job performance. County employment is at the pleasure of the county judge/executive and the fiscal court.

It is not always clear which county employees or officials are in positions where partisan affiliation is an appropriate requirement for the performance of duties. In 1989, a federal Circuit Court determined that political loyalty was not essential to performing responsibilities as a floodplain administrator and building inspector (*Christian v. Belcher*, 888 F.2d 410, 414). But in 1992, the Kentucky Court of Appeals determined that the office of county treasurer vests its holder with discretionary power and considerable responsibility, confidence, and supervisory authority, and that therefore the appointment may be made on a political basis (*Garrard Cnty. Fiscal Court v. Layton*, Ky. App., 840 S.W.2d 208 (1992).

Boards, Commissions, And Administrative Positions

KRS 67.710 provides in part that the county judge/executive may "[w]ith the approval of the fiscal court, make appointments to or remove members from such boards, commissions, and designated administrative positions as the fiscal court, charter, law or ordinance may create." This statute grants no exceptions for other statutes that may provide for a different appointing authority. However, KRS 67.710 also provides, "The requirement of fiscal court approval must be designated as such in the county administrative code or the county charter."

In *Fiscal Court Commissioners v. Jefferson County Judge/Executive* (614 S.W.2d 954), the Kentucky Court of Appeals held that the requirement of fiscal court approval of appointments made by a county judge/executive to boards, commissions, and designated administrative positions was effective despite noncompliance with that portion of KRS 67.710 requiring that such fiscal court approval be made part of the county administrative code or county charter.[7]

KRS 67.710 further directs the county judge/executive in counties containing a city of the first class to appoint to a board or commission an equal number of members from each district, as defined in KRS 67.045, into which the authority of the board or commission extends, excluding any seats subject to a prior qualification. The county judge/executive must make the best efforts to balance representation on boards and commissions from various interested groups and backgrounds. Table 2.1 identifies appointments that the county judge/executive makes.

Tiebreaking In The Appointment Process

KRS 67.040 provides that, when there is a tie vote in the fiscal court in the selection of any officer or employee, and a deadlock continues for 15 days, the county judge/executive enters the facts of the matter into the minutes of the fiscal court and makes the appointment. If the fiscal court consists of three commissioners, the procedure is similar except that the fiscal court receives a final opportunity to select the officer or employee just before the county judge/executive makes an appointment (KRS 67.070).

County Alcoholic Beverage Administrator

The county judge/executive becomes county alcoholic beverage administrator when the fiscal court of a county where the sale of alcoholic beverages is permitted decides to supplement the

regulations of the state Alcoholic Beverage Control Board. The judge/executive may assume this duty or may appoint an alternate (KRS 241.110).

County Police Force

Two statutory sections authorize a county police system. The fiscal court may, by order, establish a county police force merit system administered by a merit board (KRS 78.405). The board consists of the county judge/executive and four persons appointed by the county judge/executive, subject to the approval of fiscal court (KRS 78.410). The county police may organize for collective bargaining in any county with a population of 300,000 or more (KRS 78.470). In other counties, the fiscal court may recognize collective bargaining agreements (OAG 82-79 and 82-141).

The second procedure for organizing a county police force is found in KRS 70.540, which authorizes the county judge/executive to appoint the members. Appointments by the county judge/executive are for 1 year only, after which they may be renewed.

In addition to a county police force, an auxiliary police force may be formed (KRS 70.542). The county judge/executive appoints auxiliary county police officers, who perform duties set by the fiscal court. The officers may receive reimbursement for expenses but are not otherwise compensated.

Welfare Duties Of The County Judge/Executive

Relief of the poor is one of the oldest county functions. At one time, all poor relief in Kentucky was under the direction of the county court or fiscal court.[8] With the passage of the 1935 federal Social Security Act and the subsequent establishment of the state-federal categorical assistance programs (aid to the blind, needy, aged, dependent children, and later the totally disabled), virtually all of Kentucky's relief to the poor has shifted to the state and federal governments.

County Jail And Prisoners

The county judge/executive has several responsibilities related to the county jail and prisoners and may inspect the jail at any reasonable time (KRS 441.045). If the jailer has submitted a written policy relating to prisoners working on community service projects, and if the fiscal court has approved that policy, the jailer may permit certain prisoners to work on those projects. The director of the entity for which the prisoner will be performing services must also approve the prisoners' assistance. The physical and mental ability of the prisoners must be taken into consideration, and they should not be assigned to unduly hazardous work. A prisoner may decline to work for a valid medical reason (KRS 441.125).

Board Memberships

The statutes direct that the county judge/executive be a member of various boards and commissions, a few of which have already been mentioned. All county judges/executive are members of their respective county health boards except in Fayette County, where the mayor assumes the duties of the county judge/executive on the board (KRS 212.020, 212.380, 212.640, and Lexington-Fayette Urban County Government Charter, 7.16). KRS 100.137 requires the county judge/executive, or a designee, to be a member of the planning commission in counties having a population of 300,000 or more. In a consolidated local government, the mayor fills that role. The county judge/executive also serves in a limited capacity on the police force merit board (KRS 78.410).

Consolidated Local Government Boards

In a consolidated local government, which pertains only to Jefferson County and Louisville, the mayor assumes all appointment authority for boards and commissions (KRS Chapter 67C). The county judge/executive and fiscal court are still elected, and their salaries and duties are determined by the mayor and legislative council through ordinance.

Special Districts

Recent sessions of the General Assembly have resulted in growth of the supervisory and administrative powers of elected county officials over special districts. The county judge/executive in particular has come to play a larger part in such oversight. KRS 67.715(2) gives the judge/executive a general power to create, combine, or abolish any special district that the judge/executive or the fiscal court has created, subject to fiscal court approval. Other statutes make specific grants of authority.

Some special districts are governed by boards appointed wholly or in part by the judge/executive. In most cases, the fiscal court must also approve the appointments. When a judge/executive has the power to appoint district board members, he or she generally also may remove such members (KRS 65.007), again subject to fiscal court approval.

Water Districts

The county judge/executive has duties relating to water districts, including appointing the board of commissioners (KRS 74.020) and setting hearings on and determining the necessity of adding or striking territory from a water district (KRS 74.110). KRS Chapter 74 lists all of the judge/executive's responsibilities toward water districts.

Fire Districts

The county judge/executive appoints three of the trustees of a fire district (KRS 75.031) and plays an important role in the annexation or striking of territory by a fire district (KRS 75.020).

When regular members of the fire department in a district exercise law enforcement powers, they are subject to the orders of the county judge/executive (KRS 75.160).

Metropolitan Sewer Districts

The county judge/executive has a number of procedural responsibilities relating to metropolitan sewer districts, sanitation tax districts, and sewer construction districts. KRS 76.030 to 76.375 describe these responsibilities.

The mayor of a consolidated local government has all appointment authority for boards and commissions. Jefferson County/Louisville is the only consolidated local government in the state (KRS 76.030 to 76.060).

Miscellaneous Executive Duties

Marriages

County judges/executive may perform marriage ceremonies. They may also authorize justices of the peace and fiscal court commissioners in their respective counties to perform marriages (KRS 402.050). In the absence of the county clerk, the county judge/executive may issue a marriage license (KRS 402.240).

Taxes

At least once each month, the county judge/executive receives a report of the state and county taxes collected by the sheriff. The sheriff pays the county taxes to the county treasurer when the report is made. The treasurer provides a receipt for the amount paid and files a copy of the receipt with the county judge/executive (KRS 134.191).

The county judge/executive has responsibilities related to property assessment and assessment appeals, including

- appointing members of the county Board of Assessment Appeals (KRS 133.020);
- convening the board to hear and determine any appeals from emergency assessments (KRS 132.660); and
- certifying to the Department of Revenue and the sheriff the assessment of property omitted from assessment and its value, and the amount of penalty and cost of assessment so that taxes, penalties, and costs may be collected (KRS 132.340).

Upon written recommendation of the county judge/executive, the county Board of Assessment Appeals may review and change any assessment made by the property valuation administrator. An appeal may be filed, and the Department of Revenue may be present at any hearing and present evidence pertaining to the appeal (KRS 133.120).

National Guard

The governor may order the commanding officer of the National Guard to report to a county judge/executive to complete a specific task (KRS 37.240).

Deductions From County Attorney's Salary

KRS 61.120 provides for deductions from the county attorney's salary if the county attorney fails or neglects to perform required duties. These deductions are enforced by order of the county judge/executive. Before enforcement of the order, notice and a hearing are required. A hearing commissioner may be appointed to conduct the hearing. The county attorney may appeal to the Court of Appeals.

Oaths

KRS 62.020 permits the county judge/executive to administer oaths of office. Oaths may be administered to several different officials. For example, the county judge/executive may administer the oath to a sheriff (KRS 70.010) and administers the oath to each member of the fire department in a fire protection district (KRS 75.170).

Election Duties

A county judge/executive receives petitions calling for elections on local questions and is responsible for setting the dates for these elections. For example, petitions calling for elections on changing the composition of the fiscal court from the magisterial system to the commissioner system or vice versa (KRS 67.050) and elections to consolidate one county with another (KRS 67.190 to 67.310) are filed with the county judge/executive. After they are filed, the judge/executive sets an election date as provided by statute. The county judge/executive, among others, may request that the Kentucky State Police patrol voting precincts in the county during the hours the polls are open on election day, for the purpose of maintaining order and enforcing election laws (KRS 117.237).

Creation Of Commissioner Districts

If the voters of the county have voted in favor of a fiscal court composed of the county judge/executive and three commissioners (KRS 67.050), then the county judge/executive is responsible for dividing the county into three districts as nearly equal in population as practicable, so that each district is an unbroken area not split by another commissioner district (KRS 67.060).

Striking Territory From The County

Upon receipt of a petition signed by a majority of the voters living in a parcel of county territory, the county judge/executive must call an election on the question of striking that territory from the county (KRS 67.030).

Land Condemnation For Road Purposes

The county judge/executive, acting with the fiscal court, may condemn land for county road purposes, under the provisions of KRS 178.110, by proceeding under the Eminent Domain Act of Kentucky, which is KRS 416.550 to 416.670 (KRS 416.100).

Thistle Control

The county judge/executive must take action to control and eradicate Canada thistles and nodding thistles on all lands, rights-of-way, and easements occupied or controlled by the county (KRS 249.195).

Places Of Entertainment

The county judge/executive has the power to issue a permit for the operation of a place of entertainment outside the corporate limits of a city (KRS 231.020) and to fix reasonable hours of operation (KRS 231.100).

Fireworks Display

The county judge/executive may grant permits for supervised public displays of fireworks outside cities in the county (KRS 227.710).

Legislative Functions

Section 144 of the constitution establishes the county judge/executive as a member and presiding officer of the fiscal court. The courts have held that, as a member of the fiscal court, the county judge/executive has all the power of any other member of the court, including the right to vote on all matters coming before it.[9] Chapter 3 contains a more complete discussion of the powers and duties of the fiscal court and its members. The fiscal court is required by law to hold a regular meeting each month at dates set by the county judge/executive. The judge/executive may also call special meetings of the fiscal court at any time (KRS 67.090).

Qualifications

Age and residence requirements are the only constitutional qualifications for the office of judge/executive: a minimum age of 24 years, Kentucky citizenship, residency in the state for 2 years, and residency in the county of the office for 1 year (Ky. Const., sec. 100). Before assuming office, a judge/executive takes the constitutional oath of office (Ky. Const., sec. 228).

Section 103 of the constitution requires the county judge/executive to give bond before taking office. KRS 67.720 prescribes the manner of executing bond, directing the judge to execute a bond of a minimum of $10,000 with sureties approved by the fiscal court for the faithful performance of duties. Premiums on the judge/executive’s bond are paid from county funds.

Salary

KRS 64.5275 establishes the compensation for county officials, including the county judge/executive. For additional salary information, refer to Table 1.1 in Chapter 1.

The provisions of KRS 64.5275 do not apply to a county judge/executive in a county that has established a consolidated local government pursuant to KRS Chapter 67C.

Expense Allowance

The county judge/executive receives an annual expense allowance of $3,600 for fulfilling the responsibilities of administering the local county road program. Payment is made quarterly in a lump-sum amount of $900 (KRS 67.722). The county judge/executive is not required to submit any receipts or proof of expenses for the receipt of these funds, as noted by at least one attorney general's opinion (OAG 78-244).

Vacancy

The governor fills vacancies in the office of the county judge/executive (KRS 67.705). When a vacancy occurs, the county clerk is responsible for notifying the governor that the office is vacant (KRS 63.210). A county judge/executive (or any elected officer, for that matter) appointed to fill a vacancy serves in accordance with section 152 of the Kentucky constitution.

Deputy County Judge/Executive

The county judge/executive may appoint a deputy. This appointment does not require the approval of the fiscal court. The deputy county judge/executive may take on all the administrative powers and responsibilities of the judge/executive but does not act for the judge/executive at meetings of the fiscal court (KRS 67.711).

According to an opinion of the attorney general, a deputy county judge/executive has no authority to solemnize a marriage (OAG 82-145).

KRS 67.730 to 67.745 deal with the absence or disability of the county judge/executive during extraordinary situations. These statutes provide a line of succession during emergencies.

Restrictions And Penalties

Penalties may be imposed on the county judge/executive for receiving a personal benefit from contracts let by the fiscal court. KRS 61.210 provides that

> No county judge/executive ... shall, directly or indirectly, receive any benefits or emoluments from, furnish any material or other thing of value to be used in, or be

> interested in any contract let by the fiscal court or consolidated local government for, the construction of any roads, bridges, or parts thereof, or any other public or internal improvement.

For violating this law, a judge/executive may be fined $50 to $200, be imprisoned in the county jail for 10 to 40 days, or both. The judge/executive must also forfeit office (KRS 61.210).

A judge/executive, upon becoming directly or indirectly interested in any contract for work to be done or material to be furnished for the county or any district of the county or becoming interested in any claim against the county or state, may be fined $500 to $5,000 for each offense. If a judge/executive is by the same act guilty of a violation of this law and KRS 61.220, "he shall be punished as provided in KRS 61.210" (KRS 61.220).

If a fiscal court willfully fails to perform any duty required by KRS Chapter 178 or 179 relating to the construction and maintenance of county roads, the Circuit Court of the county may impose a fine of $10 to $100 on every member of the fiscal court concurring in the failure (KRS 178.990 and 179.990).

As a member of the fiscal court, the county judge/executive is subject to fines and small jail sentences for violating specified provisions of the county budget law (KRS 68.210 to 68.360). These penalties are listed in KRS 68.990. If the county judge/executive fails to perform the duties required when the county issues general obligation bonds for the construction of county buildings, he or she may be fined up to $500, may be jailed, or both. Upon conviction, the office is declared vacant (KRS 66.990).

Any county judge/executive who willfully neglects to perform a duty specified under the election laws, for which no other penalty is provided, or who willfully performs such a duty in a way that hinders the objects of the election laws, shall be guilty of a Class B misdemeanor (KRS 119.265).

Chapter 3

Justices Of The Peace, Magistrates, And County Commissioners: The Fiscal Court

Background

The office of justice of the peace was established in Kentucky while it was still a part of Virginia. These early justices were appointed. The first legislature after Kentucky achieved statehood in 1792 continued the practice of appointing justices.[10]

Initially, the Constitution of Kentucky provided for justices of the peace to be appointed (1792, Art. V, sec. 6; and 1799, Art. IV, sec. 6). The position became an elected office with the 1850 Constitution (Art. IV, sec. 34).

Today, section 144 of the Kentucky constitution requires that each county have a fiscal court with either the county judge/executive and three to eight justices of the peace, or the county judge/executive and three county commissioners. The most important difference in the two types of fiscal courts is the manner of election of their members: Justices of the peace are elected in districts, but commissioners are elected by the county at large. The legislature has enacted procedures for allowing the voters of a county to choose their form of fiscal court (KRS 67.050).

Counties with a justice of the peace form of fiscal court far outnumber counties with the county commissioner form. In 105 counties, the fiscal court is made up of justices of the peace. Although only 15 counties out of 120 have adopted the commissioner form, their total population, as computed from 2012 US Census estimates, accounts for approximately one-fifth of the population of Kentucky.

According to information from the Department for Local Government and the US Census Bureau, these counties have adopted the commissioner form of government: Bath, Boone, Boyd, Breathitt, Campbell, Clark, Daviess, Graves, Greenup, Johnson, Kenton, Marshall, Mason, McCracken, and Montgomery.

Urban-County Governments

The structure of local government in Fayette County is unique in the commonwealth. There the city and county governments have merged, as permitted by KRS Chapter 67A, to form an urban-county government, and the Lexington-Fayette Urban County Council has assumed the local legislative duties.

KRS 67.712 provides that statutory grants of rights, powers, and responsibilities to the fiscal court are to be considered grants to the legislative body of the urban-county government in counties operating under KRS Chapter 67A.

Consolidated Local Governments

The structure of a consolidated local government is different from a county form of government in that instead of being governed by a fiscal court and county judge/executive, the consolidated local government has a mayor elected at large and a legislative council composed of 26 members who are nominated and elected by district. The legislative council must annually select a presiding officer by a majority vote of the council (KRS 67C.103).

Members of the fiscal court and a county judge/executive are still elected because they are constitutional officers, but the new legislative council determines their duties and salaries by ordinance.

Justices Of The Peace/Magistrates

In counties with a magisterial form of fiscal court, the most important function of the justice of the peace or magistrate is service on the fiscal court. The terms *justice of the peace* and *magistrate* are synonymous (OAG 85-30). However, the office of justice of the peace or magistrate, unlike that of county commissioner, is a constitutionally required office that must be filled regardless of the form of the fiscal court. Although the constitution mandates their election, justices in counties with a commissioner form of fiscal court have few duties. Before 1978, magistrates possessed important judicial duties, but the Judicial Amendment to the constitution abolished the magisterial courts and stripped magistrates of their judicial duties. In counties with a county commissioner form of fiscal court, magistrates' few remaining duties include the solemnization of marriages and the acceptance of applications for notaries public. Justices of the peace or magistrates may perform marriages if so authorized by the governor or the county judge/executive (KRS 402.050).

Qualifications

To qualify for the office of justice of the peace or magistrate, one must be at least 24 years of age at the time of election, a citizen of Kentucky, a resident of the state for at least 2 years immediately preceding election, and a resident of the pertinent county and district for at least 1 year immediately before election (Ky. Const., sec. 100). Justices of the peace or magistrates also must continue to reside in the district they represent during their term of office (Ky. Const., sec. 142).

Election And Term

The constitution requires that each county be divided into three to eight districts in a manner determined by the General Assembly. One justice of the peace or magistrate must be elected from each district (Ky. Const., sec. 142). Justices of the peace or magistrates serve 4-year terms (Ky. Const., sec. 99).

Reapportionment

KRS 67.045 provides for the reapportionment of districts in counties with magisterial fiscal courts and those with county commissioners. Districts must be drawn so that they are compact and contiguous, and the population of districts must be as nearly equal as is reasonably possible.

The fiscal court must initiate reapportionment proceedings in May of the first year after the decennial census of the United States. The fiscal court may review district boundaries at other times and initiate reapportionment if necessary, but there can be no reapportionment during the period beginning 30 days before the last date to file for county office and ending with the regular election for county office (KRS 67.045).

To initiate reapportionment, the fiscal court must publish notice in accordance with KRS Chapter 424 and appoint three competent citizens and the county clerk as reapportionment commissioners. The county clerk serves as a nonvoting member. The other reapportionment commissioners must be at least 21 years old and must reside in different districts (KRS 67.045).

In counties with a magisterial fiscal court, the reapportionment commissioners may reapportion the county into three to eight magistrates' districts. In counties with the commissioner form of government, there are three commissioners' districts. When necessary, precinct lines must be redrawn in accordance with KRS 117.055. No precinct can be in more than one magistrates' or commissioners' district (KRS 67.045). According to the attorney general's office, magistrates' districts are the same as commissioners' districts in a county with the commission form of government (OAG 93-40).

In counties where the fiscal court consists of the county judge/executive and three county commissioners, the magistrates' districts are the same as the three county commissioner districts.

The reapportionment commissioners must lay off the boundary lines of the districts within 60 days after their appointment. They must file a written report showing the boundary line and estimated population of each district with the office of the county clerk and with each member of the fiscal court. The fiscal court must consider the report of the commissioners within 60 days of receipt and establish the districts by adopting or amending the report (KRS 67.045).

Within 20 days of the establishment of the districts, any registered voter of the county who believes that the fiscal court has not complied with KRS 67.045 may bring an action in Circuit Court to enforce compliance. If the Circuit Court finds that the fiscal court has violated the provisions of the statute, it remands the matter to the fiscal court. The court may allow a reasonable attorney's fee, paid from the county treasury, to a citizen who brings such a suit and prevails in court (KRS 67.045).

Compensation

Justices of the peace or magistrates are among the county officials included in KRS 64.527 whose maximum compensation is computed by applying the change in the consumer price index to the 1949 compensation base of $7,200 set by section 246 of the constitution. For 2016, the

Department for Local Government has determined the compensation of magistrates and justices of the peace to be $71,447.80.

The attorney general has cautioned that in counties where the justices of the peace work only part time in their official capacity, they may not qualify for the "rubber dollar" maximum salary and that the compensation of magistrates should be adjusted according to the number of hours devoted to county business during a normal week. Only where magistrates work full time at county business can the maximum salary be justified (OAG 77-774 and 82-16).

The compensation of justices of the peace must be set by the first Monday in May in the year they are elected and may not be changed during their terms of office (KRS 64.530; Ky. Const., sec. 235). However, their salary may be adjusted according to the rubber dollar adjustment formula, to reflect changes in the consumer price index.

Fiscal courts may pay justices of the peace an additional amount of up to $300 per month (or $3,600 annually) as an expense allowance for serving on committees of the fiscal court (KRS 64.530).

KRS 64.5275 allows magistrates, except in counties that contain an urban-county form of government, to be eligible for training approved and certified by the Department for Local Government, and an increase in compensation of $100 per 40-hour unit successfully completed for no more than four units a year. This dollar amount is adjusted annually by the change in the consumer price index. For 2016, the value is $992.15 for the first step, $1,984.30 for the second step, $2,976.45 for the third step, and $3,968.60 for the fourth step.

County Commissioners

County commissioners are elected only in counties where a majority of the voters have adopted a commissioner form of fiscal court at an election held pursuant to KRS 67.050. County commissioners hold no other powers or duties beyond those held as members of the fiscal court, except that they may perform marriages if authorized by the governor or the county judge/executive (KRS 402.050).

Qualifications

To be eligible for the office of county commissioner, a person must be at least 24 years of age, a Kentucky citizen, a resident of the county for 2 years preceding the election, and a resident of the pertinent district for at least 1 year immediately preceding the election. Further, a commissioner must continue to reside within the pertinent district or forfeit the office (KRS 67.060).

Election And Term

Primary Elections. In the primary, candidates for county commissioner seeking the nomination of a political party run exclusively in the district they seek to represent, except in counties

containing a city or cities with a population of 8,000 or more but not a city of the first class. In these counties, commissioners are elected in primaries from the county at large (KRS 67.060).

General Elections. In all counties except those containing a city of the first class, all three commissioners are elected by the voters of the entire county at the regular election for county officials (KRS 67.060). In counties containing a city of the first class, the commissioners' districts are designated A, B, and C for purposes of identification. The commissioners from each district run every 4 years in staggered years (KRS 67.060).

Compensation

Under KRS 64.527, county commissioners working full time on county business are eligible for a maximum salary in 2016 of $71,447.80. A proportionately smaller salary could be justified for commissioners working only part time on county business (OAG 77-774 and 82-16). Salaries of county commissioners are payable monthly.

The attorney general takes the view that KRS 64.527 should govern the compensation of county commissioners (OAG 79-189).

County commissioners may receive an expense allowance of up to $300 per month for serving on committees of the fiscal court (KRS 64.530).

Reapportionment

County commissioners' districts must be reapportioned under KRS 67.045 in the same manner as magistrates' districts.

Within 20 days of the establishment of the districts, any registered voter of the county who believes that the fiscal court has not complied with KRS 67.045 may bring an action in Circuit Court to enforce compliance. If the Circuit Court finds that the fiscal court has violated the provisions of the statute, it remands the matter to the fiscal court. The court may allow a reasonable attorney's fee, paid from the county treasury, to a citizen who brings such a suit and prevails in court (KRS 67.045).

Vacancy

When a vacancy occurs in the office of magistrate, justice of the peace, or county commissioner, the governor appoints a replacement (KRS 63.190).

Fiscal Court

The fiscal court consists of the county judge/executive and either the justices of the peace or the county commissioners. The county judge/executive is a member and the presiding officer of the fiscal court by virtue of section 144 of the constitution. The courts have consistently held that, as a member of the court, the judge/executive has the same powers as any other fiscal court

member, including the right to vote on all matters coming before the court. The county judge/executive also has numerous other executive duties and powers independent of membership on the fiscal court. Chapter 2 provides a full discussion of the office of county judge/executive. By contrast, the other fiscal court members have official power only when fiscal court is in session. When the fiscal court is adjourned, magistrates or commissioners possess no administrative or executive power in relation to county government (OAG 78-402 and 78-529). Magistrates and commissioners may solemnize marriages when authorized by the governor or their county judge/executive (KRS 402.050).

Laws Governing The Fiscal Court

The General Assembly has provided that, except as specifically provided by law, the laws governing fiscal courts composed of justices of the peace are applicable to fiscal courts composed of county commissioners (KRS 67.070). Exceptions to this rule are procedures for calling special meetings of the fiscal court and the method of breaking tie votes in the selection of officers and employees. If the county judge/executive is unable to call a special session or refuses to do so on the request of two commissioners, two commissioners can call the session if they believe the need exists (KRS 67.070). In the case of tie votes in the selection of an officer or employee, the fiscal court composed of commissioners must be given a last chance to resolve the deadlock before the appointment by the county judge/executive (KRS 67.070).

General Powers And Duties

KRS 67.080 establishes an outline of the fiscal court's responsibilities. Under this statute, the fiscal court may appropriate county funds for lawful purposes, buy and sell county property, supervise the fiscal affairs of the county and county officers, and exercise all other corporate powers of the county. Further, the fiscal court may investigate all activities of county government and establish appointive offices and define their duties (KRS 67.080).

This statute also mandates certain fiscal court duties. The fiscal court must appropriate county funds for various purposes required by law. Additionally, the fiscal court is responsible for the construction, operation, and maintenance of county buildings, roads, and other property, and for the incarceration of prisoners. Incarceration of prisoners may be accomplished either by maintaining a jail or by contracting with another county to provide jail space. The fiscal court is also directed to adopt an administrative code for the county (KRS 67.080).

KRS 67.083 outlines additional powers of the fiscal courts. See the following section for specific powers of the fiscal court under that statute. In addition, LRC's publication "County Government In Kentucky" outlines the powers and functions of fiscal courts in Kentucky.

Specific Powers Under County Home Rule Law

Historically, the fiscal court has served as the administrative and legislative body of county government. However, its administrative and legislative powers have depended on specific delegations of authority by the General Assembly, and these have often been limited and narrowly defined.

A clearer definition and a significant strengthening of the fiscal court's powers were provided by a 1978 amendment to KRS 67.083, frequently called the "County Home Rule Statute," which recognized the fiscal court's powers to "carry out governmental functions necessary for the operation of the county" and granted the fiscal court the authority to enact ordinances, issue regulations, levy taxes, issue bonds, appropriate funds, and employ personnel in the performance of the following public functions:

- Control of animals, and abatement of public nuisances
- Regulation of public gatherings
- Public sanitation and vector control
- Provision of hospitals, ambulance service, programs for the health and welfare of the aging and juveniles, and other public health facilities and services
- Provision of corrections facilities and services, and programs for the confinement, care, and rehabilitation of juvenile law offenders
- Provision of parks, nature preserves, swimming pools, recreation areas, libraries, museums, and other recreational and cultural facilities and programs
- Provision of cemeteries and memorials
- Conservation, preservation, and enhancement of natural resources including soils, water, air, vegetation, and wildlife
- Control of floods
- Facilitating the construction and purchase of new and existing housing; causing the repair or demolition of structures that present a hazard to public health, safety, or morals or are otherwise inimical to the welfare of residents of the county; causing the redevelopment of housing and related commercial, industrial, and service facilities in urban or rural areas; providing education and counseling services and technical assistance to present and future residents of publicly assisted housing
- Planning, zoning, and subdivision control under KRS Chapter 100
- Adoption, by reference or in full, of technical codes governing new construction, renovation, or maintenance of structures intended for human occupancy
- Regulation of commerce for the protection and convenience of the public
- Regulation of the sale of alcoholic beverages under KRS Chapters 241 through 244
- Exclusive management of solid wastes by ordinance or contract or by both and disposition of abandoned vehicles[11]
- Provision of public buildings, including armories, necessary for the effective delivery of public services
- Cooperation with other units of government and private agencies for the provision of public services, including but not limited to training, educational services, and cooperative extension service programs
- Provision of water and sewage and garbage disposal service (but not gas or electricity) including management of onsite sewage disposal systems
- Licensing or franchising of cable television
- Provision of streets and roads, bridges, tunnels and related facilities, elimination of grade crossings, provision of parking facilities, and enforcement of traffic and parking regulations
- Provision of police and fire protection
- Regulation of taxis, buses, and other passenger vehicles for hire

- Provision and operation of air, rail, and bus terminals; port facilities; and public transportation systems
- Promotion of economic development of the county, directly or in cooperation with public or private agencies, including the provision of access roads, land, and buildings, and promotion of tourism and conventions
- Preservation of historic structures (this power may be exercised only with the voluntary written consent of the owner of the structure)
- Regulation of establishments or commercial enterprises offering adult entertainment and adult entertainment activities

KRS 67.083 permits these enumerated powers, except for the power to tax, to be exercised cooperatively by two or more counties, or by a county with a city, special district, or the commonwealth, through joint contracts, joint ownership of property, the exchange of services (including personnel and equipment), or other means. In cooperative provision of public service, benefits to the participating governmental units must be relative to costs. Where one governmental unit provides personnel or equipment to another, the provider must receive full compensation through reciprocal services or monetary reimbursement.

In addition to the general powers and duties assigned to the fiscal court by KRS 67.080 and 67.083, state law permits and directs fiscal court activity in a number of areas.

County Fiscal Affairs

The fiscal court has the authority to control and supervise most aspects of the financial affairs of the county, including the county budget, tax levies, payments from the county treasury, and bond issuances.

County Budget. Through its approval power over the county budget, the fiscal court controls the appropriations to various programs and activities of county government. A proposed county budget, prepared by the county judge/executive, must be submitted to the fiscal court for comment, before it is sent to the state local finance officer for initial approval and classification of expenditures into budget units. The fiscal court may change the budget proposal at this time (KRS 68.240).

After approval by the state local finance officer, the budget proposal returns to the fiscal court for final approval. The fiscal court may at this time amend the amount appropriated to a given fund but may not alter the form or classifications of the budget (KRS 68.260). The fiscal court may also provide for the expenditure of unanticipated revenue (KRS 68.280) and, by ordinance, transfer money from one budget fund to another to provide for emergencies or increases or decreases in county employment (KRS 68.290). KRS 68.260 requires the passage of a county budget by July 1.

County Treasury

The county treasurer handles routine financial transactions of receipts and disbursements and financial record keeping for the fiscal court. The fiscal court appoints a county treasurer during

its June term every 4 years (KRS 68.010). The county treasurer is responsible for receiving money due the county and for disbursing county funds in a manner and for purposes authorized by the fiscal court. The treasurer may invest the funds of the county pursuant to KRS 66.480 and must invest such funds if directed to do so by the fiscal court. The treasurer must keep a detailed accounting of receipts and expenditures and report to the fiscal court at least annually (KRS 68.020).

Bonding Authority

The fiscal court may issue bonds for county buildings, county roads, and the construction of public buildings as authorized by statute.

Road Construction And Maintenance

The fiscal court is responsible for the county road program and may "open, establish or alter" roads (KRS 178.115) and appropriate county funds for road work (KRS 67.080; OAG 80-368). The fiscal court may condemn land for this purpose, if necessary, using the provisions of KRS 416.540 to 416.670, the Eminent Domain Act of Kentucky (KRS 178.120). The fiscal court may provide for construction of roads either by the county or by contract. Contracts must be awarded to the "lowest and best" bidder (KRS 178.140).

A number of roads are constructed and maintained in each county using funds under the control and supervision of the Department for Local Government and the Department of Rural and Municipal Aid. Money from these funds is allocated among the counties according to a statutory formula (KRS 179.410 and 177.360). Each year, the Department of Rural and Municipal Aid and the fiscal court, by agreement, plan the road construction and maintenance to be done during the year with the funds appropriated to the county (KRS 177.330).

Planning And Zoning

Approval of the fiscal court is necessary before a county joins or establishes any planning unit.

KRS 100.117 provides that a county that desires to establish a planning unit must invite the cities within its boundaries to participate. If the cities refuse, the county may establish an independent planning unit. KRS 100.121 provides for the establishment of a joint city-county planning program by legislative bodies of the cities and the fiscal court. The legislative bodies of the cities and counties that make up two or more adjacent planning units may form a regional planning unit. The agreement to form a regional planning unit may permit the continuation of the joint units and their planning commissions or may serve to replace them (KRS 100.123).

KRS 100.121 specifies that if a planning unit includes a county and a city of the first class or a consolidated local government, then all other cities in the county must be parts of the planning unit.

Except in counties containing a consolidated local government, the mayor of each city is entitled to appoint one or more members, and the county judge/executive of each county is entitled to appoint the members of the planning commission with the approval of their respective legislative

bodies (KRS 100.141). Fiscal courts may also appropriate money to planning commissions for expenses and accommodations (KRS 100.177).

County Jail

If the county maintains a jail, responsibility for maintaining and operating the jail, as with other county buildings and properties, falls to the fiscal court (KRS 67.130). Although the jailer operates the jail on a daily basis, the fiscal court may, as the county governing body, prescribe rules for the jail and the treatment of prisoners, as long as such rules are consistent with state law. The Department of Corrections is responsible for setting minimum standards for jails, including standards relating to health, fire safety, administration, care and treatment of prisoners, and medical care (Kentucky Administrative Regulations, Title 501).

Public Advocate

County governments must provide for the representation of indigent persons who are subject to proceedings involving crimes, who are detained in connection with crimes, or who have mental states that may result in their incarceration or confinement (KRS 31.050 and 31.065). Each county, urban-county, charter county, and consolidated local government with a judicial circuit containing 10 or more Circuit judges, excluding judges of family court divisions as designated by the Supreme Court, must establish and fund an office of public advocate (KRS 31.060).

The fiscal courts or legislative bodies of all other smaller county governments may provide for the representation of needy persons. Alternatives for providing this permissive representation include

- establishing an office of public advocacy,
- contracting with outside legal counsel, or
- a combination of the first two options.

If the county establishes the office, it must appoint the public advocate and the assistant public advocates and determine their qualifications, terms of office, and salaries. Also, the county must provide maintenance and support of the office. If a county government fails to provide legal representation after electing to provide representation, the court will assign an attorney and require the county to pay attorney's fees. KRS 31.071 requires the county to pay these court-ordered expenses and fees from the funds of the Department of Public Advocacy. If these county governments do not submit a plan for representation or if the public advocate denies the plan, the public advocate may provide for a local public advocacy system for a county containing fewer than 10 Circuit judges, or for a group of counties, by contracting with outside counsel or by providing an office of public advocacy (KRS 31.065 and 31.071). Different forms of local governments may join together to provide this representation (KRS 31.065).

Funds to support representation of indigent persons come from state appropriations, court costs, DUI service fees, and partial payments, determined by the court, of the person who needed a public defender. The Department of Public Advocacy receives 3.5 percent of all court costs, to a maximum of $1.75 million. These funds do not lapse (KRS 42.320). Additionally, the department receives 20 percent of the DUI service fee of $375 (KRS 189A.050).

Miscellaneous Powers

Statutes delegate to the fiscal court a variety of other powers. KRS 64.530 provides authority to set the salaries of county officials and county employees other than the county attorney and jailer and those exempted by KRS 64.535. A resolution of the fiscal court is necessary to set salaries of county road employees, county park employees, and county firemen. In any county containing a city of the first class in which the offices of sheriff and jailer have been consolidated, the fiscal court may establish a metropolitan correctional services department (KRS 67B.010 to 67B.080). In any county containing an urban-county government in which the offices of sheriff and jailer have been consolidated, the legislative body may establish a correctional services division (KRS 67A.028). Unless precluded by a vote of its citizens against the establishment of a county department of health, the fiscal court may, by resolution, establish the department (KRS 212.060). Fiscal courts of all counties within geographical boundaries established by the state Cabinet for Health and Family Services may unite to establish a district health department (KRS 212.840 and 212.850). County governments may also expend funds or enter into associations to provide liability and property insurance for county officers and employees (KRS 65.150, 67.180, and 67.186).

The powers cited above are but a few of the many delegated to the court. Specific delegations of power are scattered throughout the Kentucky Revised Statutes.

Fiscal Court Meetings And Procedures

Sessions of the fiscal court are held at the county seat or sometimes at other government centers in the county, after required public notice. The law requires the fiscal court to meet at least once each month at dates set by the county judge/executive, who may also call special meetings of the fiscal court at any time (KRS 67.090).

A majority of the members of a fiscal court composed of magistrates may call a special term of the court if the county judge/executive will not or cannot call the court in session (KRS 67.090). Where the fiscal court is made up of county commissioners, two commissioners may call a special meeting if the judge/executive is unable or unwilling to do so (KRS 67.070).

Meetings of the fiscal court are within the scope of the Open Meetings Law (KRS 61.805 to 61.850) and are under most circumstances open to the public. Under this law, closed meetings are permitted for only a limited number of situations listed in KRS 61.810. In addition to permitting access, the open meetings statutes require the fiscal court to make a schedule of regular meeting dates available to the public and to give public notice of called special meetings (KRS 61.820 and 61.823). The courts may render void any actions taken by a fiscal court in a session in violation of the Open Meetings Law (KRS 61.848).

Quorum

A majority of the members of the fiscal court constitutes a quorum for the transaction of business (Ky. Const., sec. 144). A majority of the quorum is sufficient to take most types of action, but only a majority of the full fiscal court may enact a county ordinance (KRS 67.078).

Records And Documents

The fiscal court is a court of record. Minutes must be kept of its meetings and submitted for approval at the next meeting. The county budget, county ordinances, and other official actions of the fiscal court are a part of the permanent records of the county and must be kept in the office of the county clerk (KRS 67.100).

As a rule, the records of the fiscal court and other county agencies and offices are open to public inspection. KRS 61.835 opens the minutes of the fiscal court to such inspection, and the Open Records Law (KRS 61.870 to 61.884) applies. These statutes apply broadly to public agencies, including the fiscal court, and open most records to the public as a matter of right, provided that certain limits of reasonableness and agency procedures are observed (KRS 61.872 and 61.876). However, some records of a confidential nature, such as personal matters and trade secrets, are accessible only upon court order (KRS 61.878).

Tie Votes

The statutes provide methods for resolving tie votes in the selection of county employees but are silent as to deadlocks over other matters. Where the fiscal court is composed of magistrates, tie votes on personnel matters continuing longer than 15 days are resolved by the judge/executive's appointment of the employee (KRS 67.040). The procedure is identical for the county commission form, except that the fiscal court must be given a last chance to resolve the deadlock before the appointment by the judge/executive (KRS 67.070).

County Ordinances

By statutory definition, a county ordinance is an official written action of the fiscal court that is general and lasting in effect or that is an appropriation of money (KRS 67.075). State law sets forth procedural rules for enacting fiscal court ordinances. These procedures do not apply to counties that have adopted the urban-county, consolidated, or charter county form of government (KRS 67.077).

Proposed ordinances must be in writing and must contain a title and an enacting clause (KRS 67.076). No ordinance may be enacted until it has been read on two separate days, but it may be read by title and summary only. Publication of ordinances in full or in summary is required both before and after passage (KRS 67.077). KRS Chapter 424 governs publication requirements. The notice published before an ordinance is acted on must indicate the time, date, and place where the ordinance will be considered for passage. If ordinances are published in summary only, the notice must indicate a place in the county where the full text of the ordinance is available for inspection (KRS 67.077).

An ordinance proposal before the fiscal court may be amended after its first reading and before its adoption. Amendments must be proposed in writing and by setting out in full each amended section. Amendments to proposed ordinances must also be published (KRS 67.077). After an ordinance has been enacted, it can be amended only by another ordinance (KRS 67.076).

Fiscal Court Clerk

Except in counties containing a city of the first class or a consolidated local government, the county clerk has the option of serving as the clerk of the fiscal court (KRS 67.120). Consolidated local governments and counties containing a city of the first class employ a dedicated clerk (KRS 67.120). A full discussion is provided under the duties of county clerks in Chapter 5.

In counties where the county clerk declines to serve as fiscal court clerk, the fiscal court appoints its own clerk, who serves at its pleasure. It may also appoint a deputy clerk and a stenographer who also serve at the will of the court. These employees must attend the meetings of the court, keep a full and correct record of its proceedings, and perform such other duties as it may prescribe (KRS 67.120).

County Administrative Code

Under KRS 68.005, the fiscal court must adopt a county administrative code that includes but is not limited to procedures and designation of responsibility for

- general administration of the office of county judge/executive, county administrative agencies, and public authorities;
- administration of county fiscal affairs;
- personnel administration;
- county purchasing and awarding of contracts; and
- delivery of county services.

The fiscal court must review the county administrative code annually in June and may amend the code by a two-thirds majority of the entire fiscal court. The county judge/executive may at other times prepare and submit amendments to the code for the approval of a majority of the fiscal court (KRS 68.005).

Limitations And Penalties

Members of the fiscal court are subject to a number of statutes that impose limits on their actions. Failure to observe such limits may make the members of the fiscal court liable for fines or jail sentences. Most of these limitations and penalties are related to the fiscal court's responsibilities for county funds.

KRS 61.210 prohibits justices of the peace who serve on the fiscal court from holding a personal interest in contracts let by the county for road work or any internal improvements. This statute specifically forbids magistrates to work on, supervise work on, or furnish materials for roads or bridges. Violations of this statute are punishable by fine, jail term, and forfeiture of office. Similarly, KRS 61.220 prohibits personal interest in county contracts by fiscal court members, mayors, and council members of a consolidated local government; it also provides that any direct or indirect interest in a contract for work, material, or claim against the county is punishable by a fine of $500 to $5,000.

Fiscal court members and other public servants are forbidden to take a monetary interest, speculate, or aid another to take an interest in transactions based on confidential information obtained in their official capacity. Misuse of confidential information is a Class D felony (KRS 522.040).

Fiscal court members may also be liable for violations of several statutes pertaining to the levy of county taxes and the expenditure of county funds. KRS 68.100 directs that each order or resolution that imposes a county tax must state the purpose of the tax. Failure to comply with this statute invalidates the tax. Additionally, expenditure of funds for a purpose other than that stated may make any fiscal court member who voted for the expenditure jointly and severally liable for the money expended. Criminal prosecution may also be pursued.

The fiscal court may not spend in excess of county revenue (KRS 68.110). Violations of this statute may incur fines of up to $500 and jail sentences of up to 12 months (KRS 68.990). The state local finance officer may investigate and examine the accounts and operations of county governments and may revise the county budget system if the system violates state law or does not conform to accepted accounting practices (KRS 68.210).

Members of the fiscal court may also incur fines or jail sentences for failure to follow the steps outlined by the statutes for the preparation and approval of the county budget. KRS 68.990 lists penalties for violations of budget procedures.

KRS 178.990 and 179.990 establish penalties for members of fiscal courts who fail to lawfully discharge their responsibilities relating to county roads.

KRS 61.170 provides that justices of the peace and other county officials convicted of misfeasance or malfeasance in office or willful neglect in the discharge of official duties shall be fined and must vacate their office. This broad statutory prohibition encompasses the doing of wrongful acts (malfeasance), the performance of a lawful act in an unlawful manner (misfeasance), and willful failure to carry out official duties. The failure of a fiscal court member to attend 50 percent of the regular terms of the fiscal court within a 6-month period or two consecutive terms of the fiscal court, without good cause, will result in a charge of neglect of office; upon conviction, the member of the fiscal court shall forfeit the office. Criminal fines may be imposed.

Chapter 4

County Attorney

Background And Qualifications

The office of county attorney was first made a constitutional office under the Kentucky Constitution of 1850 (Art. VI, sec. 1). The present constitution requires the election of a county attorney in each county for a term of 4 years (Ky. Const., sec. 99). An eligible candidate must be at least 24 years of age, a citizen of Kentucky, a resident of the state for 2 years, a resident of the county 1 year before election, and a licensed practicing attorney for 2 years before election (Ky. Const., sec. 100).

In 1976, the General Assembly modified the office of county attorney so that it became part of the unified and integrated prosecutorial system under the direction of the attorney general (KRS 15.700). Further, the county attorney became an ex officio special prosecutor of the commonwealth required to perform duties coextensive with the commonwealth, as directed by the attorney general (KRS 15.730). Although the nature of the office has changed, the duties remain substantially of the same classification: the prosecutorial function, civil adviser to county government, and miscellaneous duties for the state and county.

Prosecutorial Duties

The county attorney must attend the District Court in his or her county and prosecute all violations of criminal and penal law in the court's jurisdiction. Further, the county attorney and the commonwealth's attorney must cooperate in the enforcement of laws and, when necessary, assist each other in prosecution within their respective courts. They may agree to share or redistribute their prosecutorial duties in the Circuit and District Courts (KRS 15.725).

KRS 69.210 directs the county attorney to carry out prosecutorial duties for the commonwealth in the juvenile session of District Court in proceedings pursuant to KRS Chapter 610.

The attorney general may take action to disqualify a county attorney in a particular case and may direct any county attorney to act as a special prosecutor in cases that would normally be outside his or her jurisdiction (KRS 15.715, 15.730, and 15.735). The *Rules of Criminal Procedure*, promulgated by the Supreme Court of Kentucky, contain specific guidelines for the conduct of the county attorney's prosecutorial duties.

Along with the attorney general and the commonwealth's attorney, the county attorney possesses the jurisdiction to investigate and prosecute violations of the election laws and must notify the Registry of Election Finance of such investigations or prosecutions (KRS 15.242). The county attorney must, when requested by the attorney general, give all possible assistance to the attorney general in the enforcement of election laws (KRS 15.243). When challenged at the polls, a voter must sign an oath as to qualifications before voting. The county attorney and commonwealth's

attorney must investigate these oaths and summon before the grand jury the witnesses they deem proper (KRS 117.245).

The county attorney must bring action in the District Court to determine paternity when a request is made by the mother, putative father, child, or person or agency substantially contributing to the support of the child. If paternity has been determined, the county attorney or the Cabinet for Health and Family Services must bring action to enforce liabilities upon the request of an authorized complainant (KRS 406.021).

The county attorney is responsible for distributing to crime victims and witnesses a pamphlet, prepared by the attorney general, that explains how the criminal justice system works, how the victim or witness may increase protection from intimidation, and how the victim or witness can be notified of the release of a person from a juvenile detention facility, jail, or prison (KRS 15.245 and KRS Chapter 196).

If a coroner declines to order an autopsy and the county attorney believes the decedent may have died as a result of a criminal act, the county attorney may petition the District or Circuit Court to order an autopsy (KRS 72.445).

Unified And Integrated Prosecutorial System

The office of county attorney is a member of the unified and integrated prosecutorial system, established to promote uniform enforcement of the criminal law of the commonwealth (KRS 15.700). As the chief law enforcement officer of the commonwealth, the attorney general directs the system, and it is administered by the Prosecutors Advisory Council, composed of commonwealth's attorneys, county attorneys, non-attorney citizens, and the attorney general (KRS 15.705). The council may direct the county attorney to submit written reports as necessary (KRS 15.720).

County Legal Adviser

County attorneys serve as legal counsel for county government. Their general duties in this capacity are to attend the fiscal court and conduct all business of that body touching the rights or interests of the county. When the fiscal court so directs, the county attorney must conduct civil actions in which the county is a party before any of the courts of the commonwealth (KRS 69.210).

The county attorney must also give legal advice to the fiscal court and county officers in all matters concerning county business (KRS 69.210).

In addition to providing services for general county government and its officers, the county attorney acts as legal representative to many county boards, commissions, and special districts. A county attorney must furnish the legal services needed by the board of county drainage commissioners if the board fails to hire an attorney to represent itself (KRS 267.410). If a proposed sanitation district in the county is called into Circuit Court on a hearing concerning its

creation, or if an existing sanitation district is involved in a protest against annexation of land into the district, the county attorney will represent the district in Circuit Court (KRS 220.100 and 220.537).

County housing commissions may secure legal aid from the county attorney (KRS 80.450). A county attorney acts as counsel for a sewer construction district (KRS 76.385). If requested, the county attorney of a county that includes a fire protection district must advise and represent the district's board of commissioners (KRS 75.250). County attorneys must also advise and represent the board of a subdivision road district at the request of the board (KRS 179.730). When a county has activated a local air pollution control district, the county, commonwealth, and city attorneys must prosecute enforcement actions taken by the district (KRS 224.20-130). The county attorney also represents the watershed conservancy district board of directors in upholding the validity of proposed bond issues (KRS 262.778) and assessments (KRS 262.748).

Fiscal Duties

KRS 69.210 requires the county attorney to supervise the payment of claims against the county treasury. When the fiscal court approves claims, the county attorney is responsible for opposing payment of illegal or unjust bills. In fact, the county attorney must oppose all illegal or unjust claims. When fee officers owe the county excess fee money, the fiscal court must direct the county attorney to bring suit, if necessary, to collect the funds (KRS 64.820).

The fiscal court levies all county taxes by order or resolution; the resolution levying the tax must specify the purpose for the tax (Ky. Const., sec. 180). If any county tax revenue is expended for a purpose other than that for which the tax was levied, each officer, agent, or employee who, by refusal to act, could have prevented the expenditure, and each member of the fiscal court who voted for the expenditure, shall be jointly and severally liable to the county for the amount of county tax revenue so expended. The county attorney must prosecute to recover all such actions; if he or she fails to do so for 6 months after the money is expended, any taxpayer may prosecute such action for the use and benefit of the county (KRS 68.100).

If the fiscal court decides to ask for a review of the Department of Revenue's aggregate equalization of any class or subclass of property, it must direct the county attorney to prosecute an appeal to the Kentucky Board of Tax Appeals (KRS 133.170).

Miscellaneous Duties

The county attorney, commonwealth's attorney, attorney general, or any three citizens may petition in equity for the removal of a nonelective peace officer who is serving in violation of the statutes (KRS 63.180).

No place of entertainment may be operated outside the corporate limits of a city unless its owner or manager has a permit, issued by the county judge/executive in the county where the place of entertainment is located, granting the privilege to operate in that county (KRS 231.020). When application is made to the county court to operate the place of entertainment, the county attorney must investigate the applicant and file a written report with the county judge/executive. The

report should set forth the facts revealed by thorough investigation and recommend granting or denying the permit (KRS 231.070). If a permit is denied and the applicant appeals to Circuit Court, the county attorney must resist the appeal and represent the county judge/executive granting a permit in any court proceedings (KRS 231.090).

If any building or structure is or is proposed to be erected, constructed, reconstructed, relocated, remodeled, altered, repaired, maintained, or used in violation of any reasonable regulations adopted pursuant to the enforcement of building standards, the county attorney of the affected county, or any property owner or occupant who would be damaged by such violation, may, in addition to other remedies provided by law, seek injunction, mandamus, abatement, or other appropriate action to prevent the unlawful action (KRS 67.420).

The county attorney must bring civil action in the name of the county to recover possession of, or seek damages for injury to, county property (KRS 67.130).

The commonwealth's attorney, the county attorney, or a private citizen may maintain an action in the name of the state to enjoin any house of prostitution or any person owning or maintaining such a place (KRS 233.030).

A commonwealth's attorney or county attorney may bring suit for the forfeiture of property or a vehicle used for the purpose of unlawfully selling, transporting, or possessing intoxicating liquors in a dry territory (KRS 242.310 and 242.320).

If the county judge/executive is considering adopting a particular method of indexing mortgages, wills, marriage records, and other public documents, the county attorney is one of the persons responsible for a report to the judge/executive on the accuracy of the proposed index. The county attorney, the county clerk, and a licensed attorney appointed by the judge/executive make up a commission that inspects the proposed index and reports to the judge/executive on the accuracy of the index (KRS 382.205).

Before any accumulations from a county sinking fund that has been created to retire county road bonds can be lent by the fiscal court on first-mortgage real estate security, the county attorney must check all titles to the affected property (KRS 178.200). When the fiscal court must condemn land for county roads, the county attorney must assist in condemnation proceedings (KRS 178.120 and 416.110). The county attorney must oppose the wrongful opening, alteration, or discontinuance of any public road (KRS 69.230).

If the county clerk refuses to issue a license for a going-out-of-business sale or fire sale and the applicant asks for a hearing, the county attorney must appear in opposition to the issuance of the license (KRS 365.435). Similarly, if the county clerk refuses to issue a transient business permit and the applicant asks for a hearing in District Court, the county attorney must appear in opposition to the issuance of the permit (KRS 365.685). The county attorney or the attorney general may enforce the law relating to transient merchants and business by civil action for injunctive relief (KRS 365.690).

No solid rubber or rubber-compounded tire on any vehicle other than a vehicle being used in the construction or maintenance of a highway may be less than 1 inch thick, measured from the steel flange of the rims. A person violating this regulation is civilly liable for any damage done to any state or county highway. The county attorney of the county where the damage is done must institute action necessary to reimburse the state or county for the damage suffered (KRS 189.190).

For each election, the county attorney and the county clerk must prepare a sufficient number of instruction cards containing a diagram showing the front of the voting machine as it will appear on the day of the election. The card must also contain instructions as to the proper method of voting with the machine (KRS 117.175). The county attorney must attend training sessions for county election officers conducted by the county board of elections to assist in explaining duties and penalties for failure to perform (KRS 117.187).

Duties For State Agencies

State administrative agencies may call on the county attorney for legal assistance. Sometimes the authorizing statutes permit the agency to receive legal assistance from the attorney general, commonwealth's attorney, or county attorney. A few of these statutes specify only the county attorney.

Department Of Revenue

KRS 131.130 authorizes the Finance and Administration Cabinet to employ attorneys, whom the attorney general must approve under KRS 15.020, to prosecute violations of the revenue and taxation laws. These attorneys have all the powers of prosecuting attorneys for these purposes (KRS 131.130). In the event of the incapacity of cabinet attorneys or at the request of the secretary of the Finance and Administration Cabinet, the attorney general or a designee may perform these prosecutions (KRS 131.130).

KRS 131.130 permits the Department of Revenue to "require the Commonwealth's attorneys and county attorneys to prosecute actions and proceedings and perform other services incident to the enforcement of laws assigned to the department for administration." Other sections of the statutes authorize the county attorney to perform specific duties for the Department of Revenue. The county attorney must prosecute or assist in the prosecution of cases involving the assessment of omitted property (KRS 132.350). The county attorney may contract with the Department of Revenue to collect on certificates of delinquency and delinquent personal property tax bills and is entitled to a commission of 10 percent of the amount of state and county taxes assessed and collected pursuant to the judgment. The county attorney must handle, for the state treasurer, the legal actions essential to recover property that did not pass to heirs (KRS 393.180). The county attorney represents the Department of Revenue in all hearings before the county Board of Assessment Appeals and all appeals from its decisions (KRS 133.120).

Transportation Cabinet

The county attorney may perform many services for the Transportation Cabinet. When the Transportation Cabinet must condemn land for a bridge or bridge approach, the attorney general, assisted by the county attorney, handles the condemnation proceedings (KRS 180.030). If the cabinet must institute condemnation proceedings to obtain a ferry, the cabinet is represented by the attorney general and by the county attorney of the county where the proceedings are filed (KRS 180.270). After the Transportation Cabinet designates the route, location, or relocation of a highway, limited access highway, bridge, roadside park, borrow pit, quarry, garage, or other property or structure deemed necessary for construction, reconstruction, or maintenance of an adequate system of highways, it may, if unable to purchase the land or materials, condemn them (KRS 177.081). The cabinet may direct the county attorney or any attorney authorized to represent the commonwealth to institute the condemnation proceedings. If an attorney other than the county attorney institutes the proceedings, the county attorney must prosecute or assist in the prosecution of the action (KRS 177.082).

Upon request of the Department of Vehicle Regulation, the attorney general, commonwealth's attorney, or county attorney must represent the department within their jurisdictions in any action or proceeding relating to the Kentucky law regulating motor carriers (KRS 281.800).

State Property And Buildings Commission

The Property and Buildings Commission may condemn any land or any interest in land within areas designated by the United States for park sites. The state attorney general brings this action in the Circuit Court where the property lies. The county attorney of that county, at the direction of the attorney general, must assist in the prosecution of the action in the courts (KRS 148.121).

Cabinet For Health And Family Services

The county attorney, commonwealth's attorney, and attorney general, within their respective jurisdictions, must represent the Cabinet for Health and Family Services and local boards of health in all matters relating to the enforcement of health and medical laws. However, when the secretary deems it necessary, the cabinet may employ at its discretion special attorneys and inspectors to assist the county and commonwealth's attorneys (KRS 212.270).

The attorney general, commonwealth's attorney, and county attorney must assist the Kentucky Board of Pharmacy in enforcing the laws and regulations on pharmacists, pharmacies, and drugs (KRS 315.230). The county and commonwealth's attorneys and the attorney general must assist with enforcing controlled substances laws (KRS 218A.240).

The officials in charge of the enforcement of the pure-food laws of the commonwealth, the Cabinet for Health and Family Services, the local health officers, and the duly appointed agents of these officials and boards must enforce the Kentucky laws regulating food establishments. If a person fails to comply with the orders of persons authorized to enforce such laws and does not request a hearing on the violation, the facts of the violation are certified to the commonwealth's attorney or the county or city attorney in whose jurisdiction the violation occurred. If the

violation is certified to the county attorney, he or she must proceed against the person for abatement of the nuisance and for applicable fines and penalties (KRS 217.380).

It is the duty of each commonwealth's attorney, county attorney, or city attorney to whom the Cabinet for Health and Family Services or its agents report any violation of KRS 217.005 to 217.215 (the Kentucky Food, Drug and Cosmetic Act) to institute appropriate proceedings in the proper courts without delay and to prosecute in the manner required by law. The person against whom such proceeding is contemplated may be given appropriate notice and an opportunity to present his or her views before the cabinet or its designated agent, either orally or in writing, in person, or by an attorney, with regard to such contemplated proceeding before being reported to the commonwealth's attorney, county attorney, or city attorney for the institution of a criminal proceeding (KRS 217.185).

Unless he or she declines, the county attorney is considered the designee of the Cabinet for Health and Family Services for recovering child support payments (KRS 205.712).

County and commonwealth's attorneys must enforce the provisions of the Kentucky Manufactured Home, Mobile Home, and Recreational Vehicle Community Act of 2002, when the Cabinet for Health and Family Services or local department of health report violations to them (KRS 219.380).

Education And Workforce Development Cabinet

All criminal actions for violation of any provision of the Kentucky Unemployment Compensation Law or any rules or regulations issued under it are prosecuted by the attorney general or, at the attorney general's request and direction, by the county attorney or commonwealth's attorney of the county where a violator resides, has a place of business, or has filed a claim (KRS 341.570).

Board Of Podiatry

County attorneys, commonwealth's attorneys, and the attorney general must prosecute all violations of the penal provisions of Kentucky law regulating the practice of podiatry. When requested, they must represent the state Board of Podiatry (KRS 311.495).

Department Of Kentucky State Police

If an investigation conducted by the Department of Kentucky State Police reveals that a fire was caused by arson or a related offense, the State Police commissioner must request the county attorney of the county where the fire took place, or the commonwealth's attorney in that district, to institute such criminal proceedings as the evidence warrants (KRS 227.290).

Kentucky Board Of Education

Upon finding mismanagement, misconduct, violation of law, wrongful and improper use of any district or state school fund, or neglect in the performance of duty on the part of any official, the

chief state school officer must report the violation to the Kentucky Board of Education. The board, through the chief state school officer or an assistant, must call on the county attorney or the commonwealth's attorney in the district where the violation occurred to assist in the indictment, prosecution, and conviction of the accused (KRS 156.210).

Department For Natural Resources

If the Department for Natural Resources orders a mine closed for safety reasons and the owner of the mine appeals this decision to the Circuit Court, then the attorney general, the commonwealth's attorney of the Circuit Court district, or the county attorney of the county in which the mine is situated must appear for the state and defend the action (KRS 352.430).

Energy And Environment Cabinet

When any action is instituted on behalf of the Energy and Environment Cabinet, the county and commonwealth's attorney must represent it in the county where the action is brought (KRS 149.070).

County or commonwealth's attorneys must initiate and prosecute appropriate abatement proceedings by injunction, or otherwise, for the prevention or correction of any condition constituting or threatening to constitute a violation of KRS 149.360 to 149.430, which are designed to protect forests (KRS 149.410).

The county attorney must represent the secretary of the Energy and Environment Cabinet in Circuit Court when the secretary is named a defendant in a petition opposing the creation of a water district (KRS 104.540).

Department Of Fish And Wildlife Resources

All county attorneys and commonwealth's attorneys must prosecute violations of the Kentucky Fish and Wildlife Law and the regulations adopted under it (KRS 150.130).

Department Of Agriculture

After receiving reports of criminal violations of the laws regulating commercial feeds, a county attorney must institute prosecutions without delay (KRS 250.601).

Workers' Compensation Board

If requested by the Workers' Compensation Board, the attorney general may institute and prosecute, or may direct the commonwealth's or county attorney to institute and prosecute, an action necessary for the enforcement of the state Workers' Compensation Law. These officials must defend all actions or proceedings brought against the board, the members of the board, or administrative law judges in their official capacity (KRS 342.425).

Consumer Protection, Office Of The Attorney General

The attorney general is responsible for enforcing laws relating to consumer protection in the commonwealth and may request the assistance of the county attorney. Commonwealth's attorneys have the same duties under the Consumer Protection Act (KRS 367.300).

Department Of Housing, Buildings And Construction

County, city, and commonwealth's attorneys and the attorney general must represent the department, within their respective jurisdictions, in the enforcement of the state plumbing code (KRS 318.180).

Miscellaneous State Duties

The county attorney must investigate the condition of all unsatisfied judgments in the county in favor of the commonwealth and must take all necessary steps to collect unsatisfied judgments and cause them to be paid into the State Treasury (KRS 69.240).

The county attorney must assist the person seeking the appointment of a conservator or guardian in court proceedings. The county attorney is also directed to represent the interest of the commonwealth and to aid the court's inquiry by the presentation of evidence (KRS 387.560).

In counties containing a city of the first class or certain home rule cities (KRS 83A.024) and in counties with an urban-county government or consolidated local government, the county attorney has additional duties. In these counties, the county attorney shall "attend all civil cases and proceedings in his or her county in which the Commonwealth is interested" and "advise the collector of money due the Commonwealth in the county or consolidated local government in regard to motions against delinquent collecting officers for failing to return executions, and shall prosecute the motions" (KRS 69.210).

County attorneys, as well as commonwealth's attorneys, city attorneys, and the state attorney general, within their respective jurisdictions, must represent the local health department in the enforcement of the State Tuberculosis Control Act of 1996 (KRS 215.580).

If a person charged with or convicted of a crime in Kentucky has left the state, either a commonwealth's attorney or a county attorney may petition the governor of Kentucky for extradition of the convicted or accused person (KRS 440.370).

The attorney general must issue regulations developed in conjunction with several state agencies concerning child sexual abuse, elder abuse, or spousal abuse or neglect (KRS Chapters 209 and 209A). Commonwealth's attorneys and county attorneys may serve on multidisciplinary teams with law enforcement officers, social workers, and related professionals to carry out these regulations. Local protocols must be developed in each county to specify how the state plans will be carried out. If adequate personnel are available, each commonwealth's attorney's office and each county attorney's office must have a child abuse or elder abuse specialist (KRS 209.180 and

431.600). Commonwealth's attorneys and county attorneys must take an active part in interviewing and protecting children and adults who are alleged to have been abused (KRS 209.180 and 431.600). Each commonwealth's attorney and county attorney must attend training on child abuse, crimes against the elderly, and related issues (KRS 15.718).

Compensation

State law requires that the county attorney receive a salary paid out of the State Treasury for performance of prosecutorial duties. The state salary must be at least equal to the compensation received by the county attorney in calendar year 1976, but no less than $20,000. However, the annual state salary of each county attorney shall be equal to that of each commonwealth's attorney who is not prohibited from the private practice of law, as provided in KRS 15.755 (KRS 15.765).

At its discretion, the fiscal court may compensate the county attorney for legal advice to county government (KRS 64.530). No minimum compensation is set by statutes. A maximum level of compensation from the county exists, in that the salary from the county plus the county attorney's state salary may not exceed $119,079.66 in 2016 as established by section 246 of the Kentucky constitution and KRS 15.765. County attorneys may engage in the private practice of law in addition to the performance of their official duties (KRS 15.765). Commissions earned by the county attorney for tax collection work pursuant to KRS 134.504 may be used only for the payment of operating expenses (KRS 134.545).

The state must reimburse a county attorney who personally suffers financial loss, unreimbursed from any source, from a court judgment for monetary damages involving an act or omission in the course of duty (KRS 15.753).

Expense Allowances And Office Expenses

Each county attorney is entitled to a monthly expense allowance of $500 to be paid out of the State Treasury for expenses incurred in performing duties for the state (KRS 15.765).

The state must pay any office expenses that the county attorney incurs in the performance of duties as criminal prosecutor. The fiscal court or the urban-county council pays office expenses that the county attorney incurs in the performance of duties as the county's legal adviser (KRS 15.750). The Prosecutors Advisory Council may purchase liability insurance on behalf of county attorneys and their employees to insure them against malpractice claims or other claims related to their official duties (KRS 15.750).

The county attorney must perform various duties in relation to the collection of delinquent taxes and may receive a fee for that work (KRS 134.504, and 134.545). Such fees are to be used for the payment of the county attorney's office operating expenses. Additionally, if the holder of a check asks a county attorney to issue a notice to the writer of that check, which cannot be processed because of lack of funds, the county attorney may charge the holder $50 if the check is

paid (KRS 514.040). The county attorney may use this fee only for office operating expenses; on June 30 of each year, the county attorney must turn over excess fees to the county treasurer for use by the fiscal court.

Budget

Each county attorney must submit a proposed office budget to the Prosecutors Advisory Council to then be submitted as part of the budget of the Office of Attorney General in accordance with KRS Chapter 48 (KRS 15.750). The statute regulating the budget submission does not prevent local governments from providing additional financial support to the county attorney.

Assistants And Staff

Each county may, with the approval of the Prosecutors Advisory Council, appoint one assistant county attorney for every District judge (in excess of one) in the judicial district. The council has the power to approve more assistants, if needed. These assistant county attorneys are not prohibited from engaging in the private practice of law (KRS 15.770).

The number of assistant county attorneys, and stenographic, secretarial, clerical, and other personnel positions is determined with the advice and consent of the Prosecutors Advisory Council on the basis of “real need” (KRS 15.770). The State Treasury pays for all staff positions to the extent that they assist in state prosecutorial duties (KRS 15.770). Assistant county attorneys may be removed at the discretion of the county attorney (KRS 15.770).

A county attorney may employ one or more detectives to assist in the preparation of criminal cases. These detectives may serve civil process in certain circumstances (KRS 69.360). County detectives hired by county attorneys in counties containing a consolidated local government have the power of arrest in the county and the right to execute process statewide. County detectives with these powers must be certified in accordance with KRS 15.380 to 15.404. Certified county detectives in other counties also have the right to execute process statewide.

Any county attorney who employs persons paid from a funding source that is not subject to the control of the fiscal court must participate as an employer in the County Employees Retirement System or the Kentucky Employees Retirement System (KRS 78.5302).

Vacancy

A vacancy in the office of county attorney is filled by the county judge/executive or by the mayor in a consolidated local government as provided in section 152 of the constitution and KRS 63.220. The attorney general or designee performs the duties of the office until the county judge/executive makes the appointments (KRS 15.715).

Penalties And Restrictions

Kentucky law sets penalties for misconduct by the county attorney and other public officials (KRS 519.030, 521.030, and 521.040; KRS Chapter 522). Also, any county attorney failing to prepare a notice concerning tax delinquency, provided for in KRS 134.504(4), is to be fined $10 to $100 (KRS 134.990). Any county attorney who purchases or speculates in any claim allowed by the fiscal court of the county is to be fined twice the amount of the purchase or speculation (KRS 61.240). For failure to prosecute any officer who has failed to levy an execution, the county attorney may be fined from $10 to $500 (KRS 135.990). Deductions may be made from the county attorney's salary for neglect of duty (KRS 61.120).

A county attorney who fails to take action regarding unsatisfied judgments within 60 days must forfeit all rights to the fines and penalties otherwise paid (KRS 69.990). If the county attorney has an interest in a contract in which the fiscal court takes part, or has gained benefits from any project that the fiscal court supervises, the county attorney shall be fined $50 to $200 or imprisoned for 10 to 40 days, or both. In such case, the county attorney must also forfeit office (KRS 61.210).

Any county attorney who willfully conceals or destroys any record with the intent to violate the provisions of KRS Chapter 61 relating to open records shall be guilty of a Class A misdemeanor for each violation. Any official of a public agency who fails to produce any record after entry of final judgment directing that such records be produced shall be guilty of contempt (KRS 61.991).

Any county attorney who willfully neglects to perform a duty imposed under the election laws, for which no other penalty is provided, or who willfully performs such duty in a way that hinders the objects of the election laws, is guilty of a Class B misdemeanor (KRS 119.265).

If a duly impaneled state or federal grand jury indicts a county attorney or an assistant county attorney on any felony charge, the charge shall result in the immediate disqualification from further acting as a prosecuting attorney during the pendency of the action in any state or federal court. Such charge or charges shall in no way limit the right to practice civil law, unless the right to do so would violate some other statute or existing canon of legal ethics, nor shall the charge alone prevent the attorney from receiving the usual salary or allowances for expense of the office, that would otherwise be payable (KRS 15.734).

Upon certification of disqualification by the Circuit judge or District judge of the jurisdiction in which the county attorney has been elected, the attorney general shall name an attorney to serve as special prosecutor for the commonwealth for the duration of that disqualification. This attorney need not be a county attorney or commonwealth's attorney, as provided in KRS 15.730 (KRS 15.734).

Nothing in KRS 15.734 prohibits the county attorney from being a candidate for reelection if the election will be held during the period of disqualification, as long as the county attorney has not been found guilty of a felony or entered a plea of guilty to a felony at the initial trial level. A final conviction or a plea of guilty to a felony bars a candidacy for reelection (KRS 15.734).

Chapter 5

County Clerk

Kentucky's Constitution of 1850 was the first to mention the office of county court clerk, providing for a clerk's election in each county for a term of 4 years (Art. VI, sec. 1). The current constitution requires the election of a county court clerk in each county for a term of 4 years (Ky. Const., sec. 99).

Before the institution of the unified state court system, the county court clerk served as the clerk of the juvenile, county, and quarterly courts. Since the time when the District Court replaced these courts, the clerk has no longer had judicial duties, and the name of the office has been abbreviated to county clerk to more accurately reflect the nature of the office.

The duties of the county clerk fall into the general categories of clerical duties of the fiscal court: issuing and registering, recording and keeping various legal records, registering and purging voter rolls, conducting election duties, and conducting tax duties.

Fiscal Court Clerk

In all counties except those containing a city of the first class or a consolidated local government, the county clerk has the option of serving as the clerk of the fiscal court. A county clerk who chooses to serve in this capacity must attend all meetings of the fiscal court and keep a complete record of its proceedings, with an index. For these services, the county clerk receives an annual salary set by the fiscal court and paid in monthly installments from the county treasury (KRS 67.120).

Regardless of whether the county clerk serves as the clerk of the fiscal court, the office serves as a repository for various fiscal court documents. KRS 67.100 requires that the minutes of the fiscal court and the county ordinances, including the county budget ordinances, be stored in the office of the county clerk.

Notary Power

The county clerk possesses the power of notary public in the exercise of the official functions of the office of clerk within the county (KRS 423.010). The county clerk may delegate the power of notary to a deputy (KRS 61.035).

State Licensing

Under KRS Chapters 186 and 186A, the clerk must register all motor vehicles owned by persons residing in the county, issue automobile licenses to residents of the county, and make reports to

the Transportation Cabinet; however, it is the circuit clerk who is responsible for issuing drivers' licenses (KRS 186.400 and 186.410).

KRS Chapter 186A requires the Transportation Cabinet to equip each county with a video telecommunications terminal and associated devices that will enable county clerks to produce certificates of registration in their office and certificates of title in Frankfort. All vehicles, including motorcycles, are on an annual registration schedule, based on the birth month of the owner (KRS 186A.035).

All watercraft used as a residence or a business on any navigable waterway in Kentucky must obtain a license from the county clerk of the county of the residence or business (KRS 182.140). The county clerk also issues annual motorboat registrations and licenses (KRS 235.050 and 235.060). Motorboat registration fees are prorated, at a rate of one-twelfth of the appropriate annual registration fee set out in KRS 235.090 per month of the remaining registration period, if an application for title and registration is filed with the county clerk before the annual registration date established by the Transpiration Cabinet.

If a county or consolidated local government imposes the alcoholic beverage license fee permitted by KRS 243.060, those fees are paid to the county clerk (KRS 243.600).

No proprietor, lessee, or manager of a public grain warehouse may transact any warehouse business before obtaining a grain warehouseman's license for the current year from the county clerk (KRS 359.050).

The county clerk acts as an agent of the Department of Fish and Wildlife Resources for selling hunting and fishing licenses. A clerk may be exempted from this duty, however, by applying in writing to this department (KRS 150.195).

The county clerk issues marriage licenses (KRS 402.080) and files and records all marriage certificates (KRS 402.220 and 402.230). Military discharges may also be recorded in the county clerk's office (KRS 422.090). On or before the 10th day of each month, the county clerk reports to the state registrar of vital statistics all marriage licenses issued and all marriage certificates returned (KRS 213.116). Each county clerk must furnish each applicant for a marriage license with a copy of a marriage manual to be prepared and printed by the Human Resources Coordinating Commission of Kentucky (KRS 402.270).

County Licensing

State law permits county government to regulate certain types of retail and entertainment establishments through licensing. The county clerk receives applications for such licenses. The fiscal court of any county may impose a license fee on restaurants, retail soft drink and ice cream outlets, billiard rooms, bowling alleys, and places where tobacco is sold at retail. These licenses are purchased from the county clerk (KRS 137.115).

Permits to operate a roadhouse or fortune-telling business outside the corporate limits of a city must be obtained through the county clerk's office (KRS 231.040 and 231.050). The clerk must

advertise this application pursuant to KRS Chapter 424. If the county judge/executive rules favorably on the application, the clerk must grant the permit (KRS 231.080 and 231.090).

Recording And Keeping Permanent Records Of Legal Instruments

County clerks record a number of documents relating to real estate, liens, and use of personal property as collateral. Every county clerk must record all presented deeds, real estate mortgages, and powers of attorney that are properly certified or that are acknowledged or proven as required by law (KRS 382.300). The county clerk records real estate options (KRS 382.090); contracts for the sale of real property (KRS 382.100); affidavits of descent (KRS 382.120); leases (KRS 382.080); and maps, surveys, and plats (KRS 73.250). The clerk must keep an alphabetical cross-index of the deeds, mortgages, and leases recorded (KRS 382.200). The clerk must record and index instruments containing clauses of a mortgage under the name of the person causing it to be recorded (KRS 382.295).

The county clerk is prohibited from receiving or permitting the recording of instruments that affect the title to or an interest in real estate by conveyance, grant, assignment, or otherwise, unless the instrument contains the mailing address of the grantee or assignee. The instrument must also comply with the official indexing system of the county. Recently installed indexing systems must allow computer searches of the county clerk's records. If a clerk requires parcel identification numbers on written instruments, the clerk must make a computer terminal available to the public at no charge (KRS 382.335).

No clerk may record any deed that does not list the mailing addresses of the grantor and grantee and a statement of the full consideration, except that KRS 382.135 lists certain exceptions to this requirement for a statement of full consideration. In the case of a transfer other than by gift or with nominal or no consideration, the grantor and grantee must sign a sworn, notarized certificate that the consideration reflected in the deed is the full consideration paid for the property. If the transfer is by gift or with nominal or no consideration, the grantor and grantee must sign a sworn notarized certificate setting forth the estimated fair cash value of the property. If the transfer is an exchange of properties, the fair cash value of the property being exchanged must be stated in the body of the deed. If the transfer is by will or by intestate succession, the personal representative of the estate must file an affidavit with the clerk of each county in which any of the property is located containing the names and addresses of the persons receiving each property and the full or fair market value of each property if estimated or established (KRS 382.135).

Also filed with the county clerk are mechanics' liens—liens that give security for those who have contributed labor or materials for improvement of property and that run against the land as well as the improvements on the land where the labor was performed or the material furnished (KRS 376.080, 376.230, and 376.440); federal tax liens and other federal liens (KRS 382.480); lis pendens, notice of lien on real estate (KRS 382.460); and financing statements affecting a motor vehicle (KRS 186.045). When liens by deed or mortgage are satisfied, the clerk must record their satisfaction either on the margin of the record or in a separate marginal entry record that shall be linked to referenced instruments in the indexing system for the referenced instruments, or the clerk prepares and files a separate written release (KRS 382.360).

KRS 355.9-710 outlines the filing and indexing duties of the county clerk related to the Uniform Commercial Code relating to secured transactions (KRS 355.9-101 to 355.9-809).

One of the three copies of all documents filed with the secretary of state must then be filed with the county clerk in the county of the corporation's registered office (KRS 271B.1-200). KRS Chapter 271B requires the filing of a number of corporate documents, including articles of incorporation (KRS 271B.2-010), articles of amendment (KRS 271B.10-060), restated articles of incorporation (KRS 271B.10-070), articles of merger or share exchange (KRS 271B.11-050), and articles of dissolution (KRS 271B.14-030). KRS 64.012 specifies the filing fees to be paid to the county clerk. Nonstock, nonprofit corporations must make similar filings (KRS 273.252 and 273.368).

County clerks receive and store petitions for a number of types of districts, including petitions for the creation of special districts. Petitions for a referendum for the dissolution of some districts are filed with the county clerk (KRS 65.170).

Registration And Election Responsibilities

The county clerk has an important role in administering the election laws and registering and purging voters within the county.

County Board Of Elections

The county clerk serves as chair of the county board of elections. The county clerk may vote on matters before the board and, in case of a tie, may cast an additional vote (KRS 117.035). In addition to the clerk, the board consists of the sheriff and two appointed members designated by the State Board of Elections. The appointed members must be at least 21 years of age, must be qualified voters in the county from which they are appointed, and must not have been convicted of any election law offense. The sheriff may not serve on the board in any year in which he or she is a candidate and must recommend to the board a temporary replacement. A county clerk can decide whether to serve on the board during a year as a candidate. A county clerk who decides not to serve must recommend a temporary replacement (KRS 117.035). The two appointed members are selected from lists of five names submitted by the county executive committee of each of the two political parties that polled the largest number of votes in the last preceding election for presidential electors (KRS 117.035).

Records of the board are public and must be kept at the office of the county clerk. The board must meet at least once a month and may meet more frequently if necessary. The board must stay in session on election days to correct clerical errors and rule on questions regarding voter registration, and it may make to the election officers such certifications as may be necessary. Appeals from decisions of the board may be made to the Circuit judge, but a ruling of the board shall be reversed only upon a finding that it was arbitrary and capricious. In counties containing cities of the first class and certain home rule cities (KRS 83A.024), the board may employ a bipartisan staff to carry out its duties (KRS 117.035).

Voter Registration

The county clerk receives applications for voter registration (KRS 116.045), maintains custody of voter registration records (KRS 116.095), and enters registrations into the statewide voter registration system (KRS 116.045).

Any person may register to vote or may change party affiliation in person, by mail, or by such other methods of registration or reregistration as approved by the State Board of Elections, including the use of voluntary interested groups and political parties, under the proper supervision and directions of the county board of elections. Any group or individual shall have access to a reasonable number of registration forms, including mail-in application forms prescribed by the Federal Elections Commission, in the county clerk's office (KRS 116.045).

Completed forms are returned to the county clerk for official registration. The county board of elections closes registration from the fourth Tuesday preceding any primary or general election through the first Monday following it, as well as from 28 days before any special election through 7 days after it. County clerks may process voter registration applications received while the voter rolls are closed. Voters making such applications are prohibited from voting in the upcoming election, except for voters who have changed their place of residence from one precinct to another in the same county (KRS 116.025, 116.045, and 116.085).

After giving public notice, the county clerk may maintain branch offices for receiving voter registrations, transfers, or changes of party affiliation (KRS 116.045).

To comply with the National Voter Registration Act of 1993, Kentucky has declared that applications for drivers' licenses also serve as applications for voter registration if they are properly signed. The voter-registration portion of the application must be sent to the applicant's county clerk within 10 days after the circuit clerk accepts it (KRS 116.0455).

As the federal Act requires, Kentucky also designates other locations for voter registration:

- Offices that implement federal programs for Temporary Assistance for Needy Families, Medicaid, food stamps (Supplemental Nutrition Assistance Program), and Special Supplement Food for Women, Infants, and Children
- Armed Forces recruitment centers
- Other offices providing public assistance as determined by the secretary of state
- Other offices that implement state-funded programs primarily serving persons with disabilities, as determined by the secretary of state (KRS 116.048)

The county clerk must provide voter registration forms to public high schools, to area vocational schools, and, upon request, to private schools for registration programs at the schools (KRS 116.046).

Verification Of Application

Each applicant for registration, change of affiliation, transfer of registration, or absentee ballot must be verified by a written declaration made under penalty of perjury (KRS 116.065).

Transfer Of Registration

When a voter changes place of residence to another location in the county, the clerk, upon application of the voter in person, by mail, or through a circuit clerk, must transfer the voter's registration record to the proper precinct. If such a voter moves after the registration books have closed, he or she may vote at the new location by signing an affidavit, signing the precinct list, and confirming address and identity. When the boundaries of a precinct are changed and a voter is placed in another precinct, the clerk must automatically transfer the voter's registration record to the proper precinct and mail the voter a notice of the change. Any voter who changes his or her name may indicate the change at the precinct on election day by completing the form supplied by the state board. The precinct officer must return the form to the county clerk (KRS 116.085).

Copying Registration Records

The county clerk must let any citizen, at any reasonable hour, inspect or make copies of any registration record, without cost. The county clerk must, upon request, furnish to any person a copy of the registration records, for which the county clerk may charge necessary duplicating costs not to exceed 50 cents per page. The clerk redacts any Social Security numbers that may appear on these records before the records are copied or otherwise inspected (KRS 116.095).

An individual who desires copies of precinct lists for voters may obtain them, within certain restrictions, from the State Board of Elections for a reasonable price. The board may not furnish precinct lists for commercial use (KRS 117.025).

Election Duties For Constitutional Amendments

When the General Assembly has proposed an amendment to the constitution, the secretary of state must certify the substance of the amendment to each county clerk. The certification must occur not later than the second Monday after the second Tuesday in August before the next regular election at which members of the General Assembly are to be chosen in a year in which there is not an election for president and vice president of the United States, or not later than the Thursday after the first Tuesday in September preceding a regular election in a year in which there is an election for president and vice president of the United States. The clerk must indicate the substance of the amendment, as certified, on the voting machines (KRS 118.415).

Election Duties For Election Of Judges

KRS Chapter 118A provides for the election of judges under the Judicial Article. This chapter outlines specific duties and responsibilities.

The county clerks print ballot labels for the voting machines with the names of candidates for offices in the court of justice. Titles, ranks, or "spurious phrases" are not to be printed on the ballots as part of the candidate's name. However, nicknames, initials, and contractions of given names may be acceptable (KRS 118A.060, 118A.100). No clerk may knowingly print on the ballot labels or absentee ballots the name of a candidate for an office of the court of justice who

has not been certified in the manner specified in KRS Chapter 118A (KRS 118A.150). If, after certification of candidates who will appear on the ballot, any candidate whose name appears on the ballot withdraws or dies, the county clerk shall provide notices to the precinct election officers, who shall see that a notice is conspicuously displayed at the polling place advising voters of the change and advising that votes for that candidate will not be tabulated or recorded (KRS 118A.150).

After a primary or regular election, the board of elections of each county must make out duplicate certificates of the total number of votes received by each candidate, by circuit or district and numbered division (if divisions exist), and deliver the certificates to the county clerk, who must keep one certificate and, within 3 days of their receipt, forward the other certificate by mail to the secretary of state, who shall deliver it to the State Board of Elections (KRS 118A.190).

City Election Duties

General election laws prescribing duties of county clerks and KRS 83A.170 and 83A.175 set forth the basic responsibilities of county clerks for nonpartisan city elections. KRS 83A.045 requires that nominating papers for candidates for city offices in partisan elections be filed with the county clerk no earlier than the first Wednesday after the first Monday in November of the year preceding the year in which the office will appear on the ballot and no later than the last Tuesday in January before the day fixed by KRS Chapter 118 for holding a primary election for the office sought. If the city is contained in more than one county, however, the papers are filed with the county clerk for the county in which the candidate resides (KRS 83A.047). Other provisions of KRS Chapters 83A and 116 to 121 control partisan elections of city officers.

Primary Elections

Candidates for offices to be voted for by the electors of one county or of a district less than one county, except members of Congress and members of the General Assembly, must file their nomination papers with the county clerk no earlier than the first Wednesday after the first Monday in November of the year preceding the year in which the office will appear on the ballot and no later than the last Tuesday in January preceding the primary election (KRS 118.165). The secretary of state or county clerk must examine the notification and declaration form of each candidate to determine whether it is regular on its face. If there is an error, the proper official must notify the candidate by certified mail within 24 hours of filing (KRS 118.165).

The county clerk must keep a book titled “Register of Candidates for Nomination in the Primary Election” and enter on different pages for different political parties the title of the office sought and name and residence of each candidate and the date the candidate’s nomination papers were received. The book must be kept so that the names of all candidates of the same political party are on the same or successive pages and the names of candidates of no two political parties appear on the same page. The books are public records (KRS 118.205).

KRS 118.215 specifies the order in which the various county offices appear on the ballot. Candidates for county and local state offices are listed in the following order: commonwealth’s

attorney, circuit clerk, property valuation administrator, county judge/executive, county attorney, county clerk, sheriff, jailer, county commissioner, coroner, justice of the peace, and constable.

For all offices for which nomination papers and petitions are filed with the county clerk, the order in which the names of candidates appear on the ballot is determined by lot at a public drawing in the county clerk's office at 2 p.m., standard time, on the Thursday following the last Tuesday in January before the primary election, or on the Thursday following the second Tuesday in August preceding the general election (KRS 118.225).

If a candidate is unopposed, the officer with whom the papers have been filed must immediately issue and file in his or her office a certificate of nomination and send a copy to the candidate (KRS 118.185).

Candidates for offices to be voted for by the electors of more than one county and for congressional and General Assembly seats must file their nomination papers with the secretary of state no earlier than the first Wednesday after the first Monday in November of the year preceding the year the office will appear on the ballot, and no later than the last Tuesday in January preceding the primary election (KRS 118.165).

Under KRS 64.012, the county clerk receives a fee of $50 for the filing of most notifications, declarations, and petitions. In the case of candidates for candidates for conservation district boards, and candidates for boards of education, the clerk receives a fee of $20.

Regular Elections

KRS 118.365 contains the time for filing with the county clerk certificates and petitions of nomination issued by the county board of elections. County clerks must preserve in their respective offices all certificates and petitions of nomination filed therein for 6 months after the election for which the nominations were made (KRS 118.385).

At least 3 days before a primary or regular election, the county clerk must publish "in a newspaper a copy of the face of the voting machines, or where an electronic or electromechanical voting system is used, a copy of the ballot cards or supplementary material on which appear the names of the candidates or issues to be voted upon." If the voting machine faces differ for various precincts within the county, the county clerk shall publish only one voting machine face with notations showing the differences (KRS 424.290).

For regular elections, KRS 118.305 requires the county clerk to have printed for the voting machines and on absentee ballots the names of all candidates

- who have received certificates of nomination at the preceding primary election,
- who have been nominated for an unexpired term in a manner determined by the governing authority of the party,
- who have been nominated by the governing authority of the party to fill a vacancy in the candidacy of a person nominated at the preceding primary election,
- who have been nominated by petition,
- who are independent and nominated by petition,

- who are successful nominees of all nonpartisan primaries,
- who have filed a petition of candidacy to fill a vacancy,
- who are replacement candidates and need to be added to the ballot,
- who are candidates for city office for which no nonpartisan primary has been conducted in a city that requires nonpartisan elections,
- who are candidates for president and vice president of the United States,
- who are candidates for soil and water district supervisors who have been nominated by petition, and
- who are candidates for city office for which no nonpartisan primary has been conducted in a city that requires nonpartisan city elections.

All campaign treasurers of candidates, slates of candidates, campaign committees, or political issues committees who accept or expend more than $3,000 in any one election, and all fundraisers who secure contributions in excess of $3,000 in any one election, must file periodic campaign finance reports with the Registry of Election Finance (KRS 121.180). The candidate or executive committee in the county in which the candidate resides must file a duplicate copy of the reports with the county clerk. County clerks must maintain these reports for public inspection for 1 year from the date the last report must be filed (KRS 121.180). Treasurers whose campaigns accept or expend no more than $3,000 are exempted from filing the preelection finance reports that KRS 121.180 requires. Campaigns that accept or expend no more than $1,000 are exempt from filing postelection finance reports that KRS 121.180 requires.

Voting Machines

The county clerk must retain custody of all voting machines acquired by the county except when they are in use at an election or when they are in the custody of a court or court officer during an election contest. The clerk is charged with seeing that the machines are properly protected and preserved from damage or unnecessary deterioration and that unauthorized persons are not permitted to tamper with them (KRS 117.135).

At least 15 days before any special election and at least 50 days before any primary or regular election, the county clerk must have printed and ready for use ballot labels for each candidate and each question to be voted on in the election. Each county clerk shall also have printed paper absentee ballots of a sufficient number, and the ballot stubs shall be consecutively numbered. Absentee ballots are used for voting by absent voters; by precinct officers who have been assigned to a precinct other than their own; by members of a county board of elections; by voters unable to appear at the polls because of disability from age, infirmity, or illness; and for voting in an emergency situation. The county clerk must equip voting machines with the necessary supplies for write-in votes no later than the Friday preceding a special or regular election (KRS 117.145).

When the printed ballot labels are received, the county clerk must place them in the ballot frames of the voting machines in accordance with the arrangement that the secretary of state prescribes. The clerk must see that the counters are set at 0 and lock the machines and the devices protecting the counters and ballot labels. The clerk must keep a record identifying the number of each precinct with the number of the machine used for that precinct (KRS 117.155). When the

preparation of the machines has been completed, and not later than the Thursday before election day, the county clerk must notify the members of the county board of elections that the machines are ready for use. If, after examination, the board finds the machines to be in proper order, the members must endorse their approval on the county clerk's record, and the clerk must deliver all of the keys to the machines to the county board of elections, taking from the board a receipt for the keys (KRS 117.165).

The county clerk, with the county attorney, is responsible for preparing a sufficient number of instruction cards. The cards must contain a diagram showing the front of the voting machine as it will appear on election day. The county board of elections must examine and approve the cards when the voting machines are examined. The county clerk then delivers the cards to each election clerk when other election supplies are delivered (KRS 117.175).

At least 1 hour before the opening of the polls, the county clerk must deliver each machine to the clerk of the precinct where it is to be used. The operating device and mechanism and the device covering the registering counters of the voting machines must be securely locked, and the county clerk must take a receipt for each machine delivered. In polling places where machines for multiple precincts are located, the county clerk shall post a sign near each machine identifying the precinct for which the machine has been designated (KRS 117.195). If the machine indicates that it has been operated or if the ballot labels are not arranged as specified on the printed instruction cards, the election officers shall not unlock the operating devices but shall immediately secure the attendance of the county clerk and one member of the county board of elections, who shall reset the counters to 0 and relock the device or properly arrange the ballot labels (KRS 117.205).

If no member of the county board of elections is available to reset and relock the machine, the election officers must notify the county clerk and obtain a reserve voting machine (KRS 117.205).

The county clerk must also furnish a reserve machine when, during the conduct of an election, a voting machine becomes inoperable (KRS 117.215). If an emergency arises during the conduct of an election, the county clerk must provide supplemental paper ballots for use at the precinct and a ballot box, locked with two locks, in which to deposit the voted ballots (KRS 117.215).

County clerks and deputy county clerks may enforce the election laws and maintain law and order at the polls and within 300 feet of the entrance to any building where voters are using voting machines (KRS 117.235).

If the county board of elections certifies that a voter requires assistance, the voter may select a person to assist in voting; if the voter does not do so, two precinct judges will assist the voter.

After the completion of the vote count, the county clerk must have the voting machines properly boxed or covered and removed to a secure place for storage (KRS 117.275).

The returns provided in KRS 117.275 are the official precinct returns, unless within the time allowed in statute the county clerk notices a discrepancy in the tally of votes, or a candidate

makes a written request to the appropriate entity for a check and recanvass of the voting machines and ballots in one or more precincts. If it appears that the original canvass was incorrect, the returns must be corrected. Election officials must follow the recanvass procedures that the State Board of Elections has established by administrative regulation (KRS 117.305).

Paper Ballots

If the number of certified candidates is larger than the voting machine ballots used by the county can accommodate, the county clerk must notify the State Board of Elections by the last Tuesday in February before the primary or the last Tuesday in August before the general election. Upon receiving that notice, the State Board of Elections must meet within 5 days to review the ballot conditions and to determine whether supplemental paper ballots are necessary. Upon approval of the State Board of Elections, supplemental paper ballots may be used for nonpartisan candidates or slates of candidates for an office or offices and for public questions submitted for a yes or no vote. All candidates or slates of candidates for a particular office must be voted for in the same way. The ballot position of a candidate or slate of candidates must not change after the county clerk has designated the position (KRS 118.215).

When supplemental paper ballots have been approved, the voting instruction cards, prepared by the county clerk and the county attorney, must indicate the offices, candidates, and questions that will appear on the paper ballots and the instructions for marking and depositing the ballots (KRS 117.175). Supplemental paper ballots may also be used in a small precinct as provided in KRS 117.066 (KRS 118.215).

The county clerk must have the paper ballots published in a newspaper at the same time the face of the voting machine is published (KRS 424.290).

When supplemental paper ballots are to be used in an election, the county clerk must deliver to each precinct enough paper ballots for each voter and sufficient voting booths for voting paper ballots. These ballots must have consecutively numbered stubs (KRS 117.145). The county clerk must supply string and rubber stamps for marking “spoiled” and “unused” ballots and a locked ballot box for each precinct. The clerk must take a receipt for the number of ballots issued and the ballot box for each precinct. The county clerk must retain the keys to all ballot boxes (KRS 117.195).

The two precinct judges must return the locked ballot box, all ballot stubs, spoiled ballots, and unused ballots, to the county clerk’s office after the closing of the polls. The county clerk then must issue a receipt for the number of ballot stubs, unvoted ballots, spoiled ballots, and the ballot box. After the county board of elections certifies the results of the election, the county clerk must retain the paper ballots for 60 days, after which the county board of elections must destroy them so as to render them unreadable, if no contest or recount action has been filed (KRS 117.275).

Oaths Of Challenged Voters

When the qualifications of a voter are challenged at the polls, the voter may be required to sign a written oath regarding qualifications before being permitted to vote. The subscribed oaths are

returned to the county clerk, who must deliver them to the commonwealth's attorney. The commonwealth's attorney and county attorney must investigate the oaths and bring them before the grand jury. The foreman of the grand jury is responsible for returning to the county clerk all oaths upon which no indictments were found, and the clerk must keep them as office records and make them available to any subsequent grand jury when required (KRS 117.245).

Absentee Ballots And Early Voting

Some persons who cannot be present at the polls on election day may cast votes by mail-in absentee ballot.

The following types of voters may apply to cast votes by mail-in absentee ballot if the application is received not later than the close of business hours 7 days before the election:

- Voters permitted to vote by absentee ballot pursuant to KRS 117.075
- Kentucky residents who are covered voters as defined in KRS 117A.010
- Voters who are students who temporarily reside outside the county of their residence
- Voters incarcerated in jail who have been charged with a crime but not convicted
- Voters who change their place of residence to a different state while the registration books are closed in the new state of residence before an election of electors for president and vice president of the United States, who shall be permitted to cast an absentee ballot for electors for president and vice president of the United States only
- Voters who temporarily reside outside the state but who are still eligible to vote in the state
- Voters who are prevented from voting in person at the polls on election day and from casting an absentee ballot in person in the county clerk's office on all days absentee voting is conducted before election day because their employment location requires them to be absent from the county all hours and all days absentee voting is conducted in the county clerk's office
- Voters who are program participants in the secretary of state's crime victim address confidentiality protection program as authorized by KRS 14.312

To receive an absentee ballot, any voter listed above, except one with a medical emergency, must apply to the county clerk at least 7 days before the election. The request for an application may be transmitted by telephone, by fax machine, by mail, or in person (KRS 117.085).

The members of the county board of elections may serve as precinct election officers, without compensation, during absentee voting. If the members of the county board of elections do not serve in this capacity, the county clerk must do so (KRS 117.085).

County clerks must prepare and compile absentee ballots according to rules in KRS 117.085 and 117.086. Each ballot must be marked by the voter, sealed in an inner envelope, and then placed in an outer envelope. Those returned by mail must be received by the time set for closing the polls, not including any extension permitted to accommodate people who are waiting in line at closing time. Upon receipt, ballots, still in their outer envelopes, must be placed in a ballot box with three locks. The box must remain locked until the ballots are counted.

Some people may vote before election day. Any qualified voter who will be absent from the county on election day, but who is not permitted to vote by absentee ballot, may be permitted to vote at any time during normal business hours on one of the 12 or more working days before the election. The voter must apply in person to the county clerk and must vote on a machine in the county clerk's office or in some other place designated by the county board of elections and approved by the State Board of Elections (KRS 117.085). A county board of elections may permit absentee voting to be conducted on a voting machine for a period longer than 12 working days before the election.

Certain election workers may also vote early. This privilege is granted to members of the county board of elections, precinct election officers appointed to serve outside their home precincts, and alternate precinct election officers (KRS 117.085).

The county clerk must keep a list of all persons who return their absentee ballots by mail or who vote early. The list must be sent to the State Board of Elections after election day. The county clerk and the secretary of state must keep a record of the number of these votes as part of the official returns of the election (KRS 117.086).

Absentee ballots returned by mail and votes cast before election day are counted and challenged according to instructions in KRS 117.087.

Absentee ballots must be counted beginning at 8 a.m. on election day. The absentee ballot results cannot be disclosed to the public before 6 p.m. on election day (KRS 117.087).

Retention Of Election Records And Materials

KRS 117.027 empowers the State Board of Elections to promulgate administrative regulations and procedures governing the nature, manner, place, and time for retaining election records and materials. Records must be retained no less than 22 months (KRS 117.027).

Grand Jury Materials

The county clerk must present to the grand jury, on the first day it convenes after each election, all voter assistance forms and all applications for absentee ballots from that election. The county clerk may submit certified photocopies instead of originals (KRS 117.365).

Tax Duties

Reports To The Property Valuation Administrator

A county clerk has several duties in connection with property tax administration. The county clerk makes various reports to the property valuation administrator and makes a monthly report of real estate conveyances (KRS 132.480).

Preparation Of Tax Bills

After the Department of Revenue has certified assessments completed by the property valuation administrator, the county clerk must prepare the county tax bills. The Department of Revenue must furnish each clerk with enough tax bill forms to cover the taxable property on the rolls. After receiving the forms, the clerk must prepare, for the use of the sheriff or collector, a correct tax bill for each taxpayer in the county (KRS 133.220). The completed tax bill forms must be delivered to the sheriff or collector by September 15 of each year. When the bills are delivered, the clerk must take a receipt showing the number of bills and the total amount of tax due each taxing district. The sheriff or collector must sign and acknowledge the receipt, which is then filed with the county judge/executive and recorded in the order book in the manner required by law (KRS 133.220).

KRS 133.220 requires that all notices returned as undeliverable be submitted no later than the following workday to the property valuation administrator. The property valuation administrator shall correct inadequate or erroneous addresses, if the information to do so is available and, if the property has been transferred, determine the new owner and current mailing address. The property valuation administrator shall return the corrected notices to the sheriff or collector daily as corrections are made, but not later than 15 days after receipt.

Upon receipt of a certification of omitted property by the property valuation administrator, or by the Department of Revenue, the clerk must make out a tax bill for the omitted taxes. The county clerk must deliver the bill to the sheriff or collector (KRS 133.230).

Clerk Of The County Board Of Assessment Appeals

The county Board of Assessment Appeals hears the complaints of landowners pertaining to the inclusion of property on the tax rolls or the assessed value of their property if the landowner has conferred with the PVA and is still dissatisfied with the valuation. The county clerk, or an authorized deputy, serves as a clerk for this board, maintaining records that show the name of the objecting party, the property and assessment levels, and any adjustments made by the board.

A taxpayer who is aggrieved by an assessment may, after a conference with the property valuation administrator, file a petition with the county clerk stating the reasons for the appeal and the taxpayer's opinion of the fair cash value of the property. The appeal must be filed no later than 1 workday after the conclusion of the inspection period provided in KRS 133.045. The county clerk must notify the Department of Revenue of all assessment appeals and of the dates and times of the hearings (KRS 133.120). The county clerk must give the property valuation administrator a copy of each appeal and a summary of appeals filed within 3 working days of the expiration of the inspection period provided in KRS 133.045 (KRS 133.125). A copy certified by the board's chair and attested by the county clerk must be filed with the property valuation administrator and the Department of Revenue within 5 days after the board adjourns (KRS 133.125).

The clerk is paid out of the State Treasury for these services (KRS 133.125).

Clerk's Recapitulation

When the Department of Revenue has completed its action on the assessment of property, it must immediately certify to the county clerk the assessment and the amount of taxes due. The clerk affixes the certification to tax books and enters it in the order books. This action is the sheriff's or collector's warrant for the collection of taxes (KRS 133.180). The clerk must correct the tax books to comply with any changes made by the Department of Revenue in its certification of the assessment (KRS 133.181).

Tax Collection Duties

The county clerk collects a use tax on every motor vehicle not exempted under KRS 138.470. The clerk collects the tax when collecting the fees for registering and licensing the vehicle the first time it is registered in this state and each time ownership of a previously registered vehicle is transferred (KRS 138.460). The use tax is remitted to the Department of Revenue on forms provided by the department and on such forms as the department may prescribe (KRS 138.460). The county clerk may retain an amount equal to 3 percent of the tax collected and accounted for.

The county clerk collects several other taxes. KRS Chapter 142 imposes a small tax on certain legal processes and legal instruments. The county clerk collects the tax on processes issued by the county clerk and on documents recorded in the clerk's office set out in KRS 142.010 (KRS 142.015). The county clerk is responsible for collection of the real estate transfer tax. The tax is based on the value of property transferred and must be imposed at a rate of 50 cents per $500 of value or fraction thereof. The clerk must impose the tax before the recording of the deed and must certify the date and the amount of the tax collected. The county clerk retains 5 percent of the tax as a collection fee. Every 3 months, the remainder must be transferred to the county treasurer for deposit in the county general fund (KRS 142.050).

In connection with their duty to record tax liens and take receipt of lien payments, clerks collect delinquent taxes on motor vehicles and mobile homes. At the time of the sheriff's annual settlement of the accounts with the fiscal court, clerks receive a list of taxpayers who have not paid their motor vehicle or trailer tax. The clerk then files a lien against each such vehicle on behalf of the various taxing authorities. KRS 134.800 requires the county clerk to be the collector of all state, county, city, consolidated or urban-county government, school, and special taxing district ad valorem taxes on motor vehicles. The clerk may accept payment of taxes due by any commercially acceptable means, including credit cards. These taxes will be due and payable on or before the earlier of the last day of the month in which law requires registration renewal for a motor vehicle or the last day of the month in which a vehicle is transferred (KRS 134.810). The clerk will receive a commission of 4 percent of all taxes he or she collects (KRS 134.805).

If a motor vehicle ad valorem tax bill becomes delinquent, the state and each local taxing unit have a lien on all motor vehicles owned or acquired by the person who owned the particular motor vehicle when tax liability arose; the lien, however, does not attach to a vehicle transferred while taxes are due on it (KRS 134.810). This lien is filed and released through the automatic entry of data into the computerized, statewide vehicle registration system. A $2 fee is added to

the delinquent tax account on affected vehicles, and the county clerk who collects the delinquent tax receives this amount (KRS 134.810).

The clerk must report and pay to the appropriate taxing authorities, by the 10th of each month, all the motor vehicle taxes collected during the preceding month. Before making payment, the clerk deducts the collection fee (KRS 134.815). Each county clerk must make an annual settlement with each taxing authority by January 31 for all the ad valorem taxes on motor vehicles collected during the prior tax period (KRS 134.820).

The county clerk is prohibited from issuing a replacement plate, decal, or registration certificate or a registration for renewal to a person who on January 1 of any year owned a motor vehicle with delinquent ad valorem taxes. A person other than the owner may pay delinquent taxes on a motor vehicle when applying with the county clerk to transfer the vehicle's registration (KRS 186.021).

The clerk may not transfer registration on a vehicle unless evidence of payment of all excise taxes is presented, except where the transferor is a dealer, as defined by KRS 190.010 (KRS 186.192). Nor may the clerk transfer registration on any motor vehicle or trailer on which a tax lien has been filed but not released (KRS 186.232). The clerk is also prohibited from issuing or transferring a registration for any motor vehicle that is not insured in compliance with KRS 304.39-080 (KRS 186.021, 186.232, and 186.190). Each applicant for registration or transfer must present proof of compliance to the county clerk in a manner prescribed in regulations issued by the Department of Insurance.

Except in cases involving a single-family dwelling or where proceeds are less than $10,000, an insurer must pay off any existing tax liens on real property damaged by fire before making payments to the policyholder. The insurer inquires of the county clerk whether any liens exist and the clerk must, within 15 days, notify the insurer of any liens. The clerk's notice is to be conclusively relied on by an insurer and ends the tax lienholder's claim to the insurance proceeds (KRS 304.20-210).

Miscellaneous Duties

County clerks have a number of duties that do not fit into any of the previously mentioned categories. Some examples of these duties are discussed below.

Numerous statutes charge the county clerk with the duty of giving public notice. Notice may relate to purgation of voters and elections, fiscal court actions, the county budget, and other items. Each notice requirement is covered not only by its particular law but also generally by KRS Chapter 424 relating to publication of legal notice. This chapter sets forth what matters must be published and how they must be published in newspapers.

The fiscal court in counties having a population less than 75,000 and an assessed valuation of more than $100 million and containing certain home rule cities (KRS 83A.024) may in its discretion direct the county clerk to have made general indexes of all records in the office of

county clerk according to a system approved by the fiscal court. The county clerk shall keep the indexes up to date by indexing the records of all property within 1 month from the date they are lodged for record (KRS 382.225).

A person doing business under an assumed name must file the name in the office of the county clerk of each county where business will be conducted or transacted under that name. The certificate of assumed name for a general or limited partnership, business trust, or corporation must be filed with the secretary of state and with the county clerk of each county where business will be conducted or transacted under that name. The certificate must include the assumed name under which the business will be conducted or transacted; the real name of the person, partnership, business trust, or corporation; and an address, including street and number (KRS 365.015).

A petition for a referendum on consolidating city and county governments or their services must be filed with the county clerk, with the sole exception of consolidated local governments under KRS Chapter 67C where KRS 67C.137 commanded that the question be placed before the voters (KRS 67.830, 67.904, and 67A.020).

A county clerk must make several reports to the state and county. Many of these reports are in connection with tax duties. The county clerk must report to the Department of Revenue the legal process tax that has been collected (KRS 142.010).

The county clerk must report and remit each Monday to the Department of Revenue all motor vehicle usage tax money collected during the previous week, with a duplicate of all receipts issued during that period. The clerk must deposit motor vehicle usage tax collections not later than the next business day after receipt in a Department of Revenue account in a bank designated as a depository for state funds. The clerk may be required to then cause the funds to be transferred from the local depository to the State Treasury in the manner and time prescribed by the secretary of the Department of Revenue. Failure to forward duplicates of all receipts issued during the reporting period or failure to file the weekly report of money collected is punishable by a penalty of 2 1/2 percent of the amount of money collected during the reporting period for each month until the documents are filed. Failure to deposit collections or to transfer receipts, if required, is punishable by a penalty of 2 1/2 percent of the amount not deposited for each day until the collections are deposited. The Department of Revenue may, in its discretion, grant a county clerk a reasonable extension of time to file the report or make the deposits (KRS 138.464).

The county clerk must see that the provisions of KRS 186.005 to 186.260 (licensing and registration of motor vehicles) are enforced (KRS 186.230) and must report to the Transportation Cabinet all motor vehicles that have been registered (KRS 186.230).

In a county that must have a vehicle emissions control program, the clerk must ensure that all persons registering a vehicle have proof of program compliance or an exemption certificate at the time of registration (KRS 186.290).

When the term of a county clerk expires in counties of 75,000 population or more, or when the county clerk dies, resigns, or is removed from office, the clerk or his or her personal representative, trustee, or committee shall deliver to the successor in office all accounts, claims, and fees due. The successor shall have such fees, claims, and accounts collected, or the Department for Local Government may, in its discretion, when the accounts, fees, and claims are delivered to the successor, appoint a person to collect them. If a collector is appointed, the successor shall at once, or when demanded by the collector, deliver all accounts, fees, and claims uncollected. Sixty days after receiving such accounts, fees, and claims, the successor or collector shall report to the Department for Local Government, under oath, the amount so collected, and at the same time pay to the department the amount so collected, and shall continue to so report for 3 years, unless the accounts, fees, and claims are sooner collected (KRS 64.050).

Qualifications

To qualify for the office of county clerk, a person must be at least 21 years of age, a citizen of Kentucky, a resident of the state for 2 years, and a resident of the county in which he or she is a candidate for 1 year preceding election. The candidate must also procure from a judge of the Court of Appeals, or from a judge of the Circuit Court, a certificate that he or she has been examined by the clerk of the court under the judge's supervision and is qualified for the office (Ky. Const., sec. 100). Before assuming the duties of office, the county clerk must take the oath of office prescribed by section 228 of the constitution and execute bond as required by KRS 62.055.

Compensation

KRS 64.5275 establishes the compensation for county officials, including county clerks. For additional salary information, refer to Chapter 1 of this publication (Table 1.1).

More Than 70,000 Population

Under section 106 of the Kentucky constitution and KRS 64.345, county clerks in counties having a population of 70,000 or more receive an annual salary paid out of the State Treasury in accordance with the provisions of the previously mentioned salary schedule, the same as any other county clerk. However, the county clerks of these larger counties must send all fees and compensation collected for official duties to the Finance and Administration Cabinet, where the State Treasurer remits them to the clerk upon the clerk's warrant. The amount allowed the clerks for their salaries, deputy clerks' salaries, and office expenses may not exceed 75 percent of the amount paid to the department by the clerks during their official terms.

Any of the 75 percent not spent for expenses of the office reverts to the State Treasury and is added to the remaining 25 percent of fees remitted to the Finance and Administration Cabinet. This sum is then returned to the county from which it came and becomes part of the county's general fund (KRS 64.350).

The amount (if any) allowed for necessary office expenses of each officer must be approved by the fiscal court in counties containing a city of the first class, by the legislative council in a consolidated local government, or by the legislative body in counties containing an urban-county form of government. This approval must be signed by the county judge/executive in a county containing a city of the first class, by the legislative council in a consolidated local government, and by the executive authority in a county having an urban-county form of government. Approval by the fiscal court, legislative council, or urban-county legislative body does not include oversight of expenditure of the funds. This oversight is retained by the Office of the Controller created pursuant to KRS 42.0201.

In all other counties with a population of more than 70,000, the fiscal court fixes the amount allowed for office expenses (KRS 64.345).

If a sheriff and county clerk are operating under the procedures applicable to counties with more than 70,000 in population, they shall continue to do so if the population is less than 70,000 after the next federal census.

Less Than 70,000 Population

Although KRS 64.5275 still controls the clerk's salary (see Table 1.1 of this publication), under KRS 64.530, the fiscal court in a county of fewer than 70,000 inhabitants must annually fix the maximum amount, including fringe benefits, that the clerk may expend for deputies and assistants. The clerk determines the number of deputies or assistants to be hired and their individual compensation.

The county clerk in these smaller counties must annually pay the fiscal court any income of the office, including investment income, that exceeds the sum of his or her maximum salary and other reasonable office expenses, including compensation of deputies and assistants. This settlement for excess fees is subject to correction by audit (KRS 64.152).

Fees

KRS 64.012 lists many of the fee amounts collected by county clerks for specified administrative duties. Additional statutory fees of the county clerk are scattered throughout the statutes. The legislature raised numerous clerks' fees in 1994, and it made further changes to the fee schedule in 2006. County clerks must maintain in their offices a permanent notice stating that the Kentucky County Clerks Association requested the fee increases made in 2006 (KRS 186.245).

The county clerk receives fees in connection with property tax administration duties. The clerk receives 15 cents for computing the amount each taxpayer owes (KRS 132.550), 30 cents for preparing each tax bill (KRS 133.240), and $1 for preparing omitted tax bills (KRS 133.240). The county pays half of the amount for computing tax bills, and the state pays the other half. For reporting records of real estate conveyances to the property valuation administrator, the clerk receives "reasonable" sums fixed by the fiscal court (KRS 132.480). The clerk receives 5 percent of the amount collected for each instance of collecting a legal process tax (KRS 142.015). The county clerk receives the same compensation per day that he or she receives for serving as clerk

of the Board of Assessment Appeals to make corrections in the tax books after equalization. The state pays half of this amount and the county pays half for as many days as necessary, not to exceed 10 days (KRS 133.181).

Fee Pooling

In counties with 70,000 or more people, all fees collected by county clerks, sheriffs, and deputies are paid directly into the State Treasury. In return, the salaries and office expenses of the officers and their deputies are paid out of the State Treasury. The total amount paid the officers in salaries and office expenses may not exceed 75 percent of the fees collected by the officer. The other 25 percent is paid by the state to the fiscal courts, urban-county governments, or consolidated local governments of the counties on April 15, July 15, October 15, and January 15 for the preceding 3 months' collections; any adjustments necessary to make the four quarters equal 25 percent of the fees collected by the officeholder are made in the January 15 payment. If a county's population drops below 70,000 and the offices fee pooled, they must continue to do so (KRS 64.350). If a county fee pools, the state treasurer pays the charges that are presented to the state by the officers. The internal state process starts with the Finance and Administration Cabinet approving the budgets of each officer. The respective fiscal court has already submitted and approved the budget. By the 10th of each month, the officer must turn over the fees collected to the Finance and Administration Cabinet. At that point, the officer presents the bills to the cabinet for payment to each vendor. Counties that fee pool settle accounts at the end of the officer's term, rather than at the end of the budget year as in the case of non-fee-pooling counties' officers. A fee pooling officer may run at a deficit for 4 years.

In counties with fewer than 70,000 people, the officer may receive the maximum compensation established by the constitution and by statute, plus office expenses, including compensation of deputies and assistants (Ky. Const., section 246; KRS 64.152 and 134.192). Any revenue derived from fees in excess of the officer's compensation and expenses is transferred to the county (KRS 64.152 and 134.192).

County clerks and sheriffs may invest funds temporarily in excess of operating needs in specified financial instruments and institutions. County officials must report these earnings at the time of their annual reports and settlements with the fiscal court for excess income of their offices (KRS 66.480).

Expense Allowance

In addition to other lawful expense payments, KRS 64.017 authorizes the county clerk to receive a maximum annual expense allowance, not to exceed $3,600, to be paid from the fees collected by the office. If the fees collected will not fund the full amount of the expense allowance, the fiscal court may, at its discretion, pay a portion of the clerk's expense allowance.

Office Administration

Deputies And Office Expenses

The number of deputies, their salaries, and the amount allowed for office expenses must be approved by the fiscal court in counties containing a city of the first class, by the legislative council in a consolidated local government, and by the legislative body in counties containing an urban-county form of government. This approval must be signed by the county judge/executive in a county containing a city of the first class, by the mayor in a consolidated local government, and by the executive authority in a county having an urban-county form of government. Approval by the fiscal court, legislative council, or urban-county legislative body does not include oversight of expenditure of the funds; the Office of the Controller retains this oversight (KRS 64.345).

Necessary office expenses in counties having a population of 70,000 or more, counties containing a city of the first class, and an urban-county or consolidated local government shall include discretionary funds as specified and authorized by the approving authority (KRS 64.345).

In counties of less than 70,000, the fiscal court must fix a maximum amount for office expenses and a maximum amount for personnel expenses, including fringe benefits. The county clerk must determine the number of deputies or assistants to be hired and the amount of compensation each will receive (KRS 64.530).

Health Insurance For Deputies

KRS 61.405 permits the county clerk to purchase health insurance or health maintenance organization coverage for employees by using excess fees if the county does not provide coverage. The clerk may use a combination of excess fees and employee contributions to purchase coverage if excess fees are not sufficient and may cooperate with other governmental units under KRS 79.080.

The attorney general has advised that KRS 61.405 is unconstitutional because it arbitrarily divides county employees into different classes and treats them unequally (OAG 92-108).

Liability For Deputies

KRS 62.210 makes the office of the county clerk, rather than the individual officeholder, liable for the acts or omissions of deputy clerks. A deputy is liable to the clerk for damages and costs for any acts or omissions discharged by the clerk.

Branch Offices

County clerks in counties with a land area of more than 750 square miles may maintain a branch office in any incorporated or unincorporated city of the county other than the county seat, if the fiscal court authorizes such an office by resolution. The clerk may appoint deputies for the branch offices. The branch offices may be used for the same purposes as those at the county seat,

but all records must be kept at the county seat. The provision also applies to sheriffs (KRS 67.035).

The county clerk may maintain branch offices in each legislative district for the purpose of issuing motor vehicle registration plates. The branch offices may be located in buildings used for a public purpose (KRS 186.014).

After providing public notice, the county clerk may maintain branch offices for voter registration (KRS 116.045).

Vacancy

A vacancy in the office of the county clerk is filled by the county judge/executive or by the mayor in a consolidated local government, until a successor is elected, as provided in section 152 of the Kentucky constitution (see KRS 63.220).

Penalties

The county clerk is forbidden to have a partnership for the practice of law (KRS 61.098).

Any clerk who knowingly issues a marriage license in violation of KRS Chapter 402 shall be guilty of a Class A misdemeanor. Any clerk who knowingly issues a marriage license to any persons prohibited by KRS Chapter 402 from marrying shall be fined $500 to $1,000 and removed from office by the judgment of the court in which convicted (KRS 402.990).

Any county clerk who violates any of the provisions of KRS 137.115 relating to county license taxes, or any regulation of the Department of Revenue, shall be fined $50 to $1,000 for each offense (KRS 137.990).

For failure to report and pay over to the state all funds collected for the state, the county clerk must apply a penalty of 10 percent on all funds not paid (KRS 46.990). If a clerk fails to use the books, blanks, and records supplied by the Department for Local Government, he or she is subject to indictment in the Franklin Circuit Court and, upon conviction, may be fined $25 to $500 for each offense (KRS 46.990).

Any county clerk who purchases or speculates in any claim allowed by the fiscal court of that county may be fined a sum twice the amount purchased or speculated in by the clerk (KRS 61.240).

Any county clerk who willfully fails to perform any of the voter registration duties will be fined $50 to $100 for each offense. Each day’s failure to carry out the duties as prescribed by law constitutes a separate offense (KRS 116.995).

Any officer who willfully or neglectfully fails to prepare or furnish ballot labels or absentee ballots or fails to allow a qualified voter to cast a vote on the machine as required by law will be guilty of a Class A misdemeanor (KRS 117.995).

Any county clerk who knowingly causes to be printed on such ballot labels or absentee ballots the name of any candidate of a political party who has not been nominated in the manner provided in the primary election laws will be guilty of a Class D felony (KRS 118.995).

Any county clerk who tampers with or disarranges a voting machine in any way; unlawfully opens such machine; prevents or attempts to prevent its correct operation; or causes it to be used, or consents to its being used, for any election, knowing that the machine is not in proper order, will be guilty of a Class D felony (KRS 119.115).

Any county clerk who knowingly and willfully violates any of the provisions of the regulation of election laws in KRS Chapter 117 shall be guilty of a Class D felony (KRS 117.995).

Any county clerk who knowingly and willfully opens any ballot box and removes any ballot, or destroys or tampers with a ballot box or ballots left in his or her care and custody, or permits any person to do so, during the period the boxes are in his or her office will be guilty of a Class D felony (KRS 119.195).

Any county clerk who refuses to permit an inspector designated under KRS 117.275 and 117.315 to exercise free and full action in witnessing the count of ballots or interferes with the right of such an inspector to have a free and full opportunity to witness the count of ballots will be guilty of a Class A misdemeanor (KRS 119.225).

Any county clerk who willfully neglects to perform a duty imposed under the election laws, for which no other penalty is provided, or who willfully performs such duty in a way that hinders the objects of the election laws, will be guilty of a Class B misdemeanor (KRS 119.265).

Any county clerk who fails to make out, for the sheriff or collector, the books of tax bills and stubs and deliver them by September 15 of each year must pay a penalty of $10 for each day's delay (KRS 133.990). A county clerk may also be fined for failure to return to the Department of Revenue copies of any books, papers, or records it requires (KRS 133.990).

Any county clerk who willfully records any deed upon which a real estate tax should be imposed without collecting the proper amount of tax and certifying the date and amount of collection on the deed may be fined $50 for each offense (KRS 142.050).

Any county clerk who willfully conceals or destroys any record with the intent to violate the provisions of KRS Chapter 61 relating to public records will be guilty of a Class A misdemeanor for each violation. Any official of a public agency who fails to produce any record after entry of final judgment directing that such records be produced shall be guilty of contempt (KRS 61.991).

Chapter 6

Property Valuation Administrator

The office of property valuation administrator is a successor in Kentucky to the office of county tax commissioner and the office of county assessor. The office of county assessor first became a constitutional office in the Kentucky Constitution of 1850 (Art. VI, sec. 11). The assessor was elected for a term of 4 years and had the power to appoint such assistants as were "necessary and proper."

The present constitution also provides for the election of a county assessor every 4 years (section 99). However, it includes a provision allowing the General Assembly to abolish the office of assessor (section 104). It is apparent from remarks found in the Constitutional Debates of 1890 that this provision was included for the sake of those who favored a system by which the justices of the peace would take over the duties of the assessor.[12]

The General Assembly abolished the office of county assessor in 1918 and replaced it with the office of county tax commissioner, apparently to get around the constitutional provision against two consecutive terms for the county assessor (section 104), rather than to effect a change in the system such as certain delegates envisaged at the 1890 Constitutional Convention.[13]

The 1968 General Assembly changed the title of "county tax commissioner" to "property valuation administrator," or PVA, effective December 1, 1969 (KRS 132.370).

There has been some controversy over the exact classification of this officer. The Kentucky Court of Appeals has classified the PVA as a divisional officer of the Department of Revenue and therefore a state officer.[14] Others have contended, however, that for all practical purposes the PVA is a county officer, since election by county voters makes the PVA amenable to local control.[15] Both views have merit, and a PVA may be viewed as both a state and local official. In 1988, the General Assembly added language to KRS 132.370(1) expressly providing that "[p]roperty valuation administrators shall be state officials."

Elections And Qualifications

A property valuation administrator assumes office on the first Monday in December, after winning election in November, and continues in office for 4 years (KRS 132.370). After completion of the term in office, the property valuation administrator is eligible for reelection (KRS 132.370).

To be eligible for election as property valuation administrator, a person must be at least 24 years old, a citizen of Kentucky, a resident of the state for 2 years, and a resident in the county of candidacy for 1 year preceding election (Ky. Const., sec. 100).

Before a candidate's name may be placed on the ballot, the candidate must be examined by the Department of Revenue and awarded a certificate verifying qualification to fill the office of property valuation administrator. This requirement applies to primaries and general elections but does not apply to candidates attempting to succeed themselves in office. Certificates are issued only upon successful completion of written examinations and expire 1 year from the date of issuance. The Department of Revenue holds such examinations in each Supreme Court district during November in the year immediately preceding the year in which property valuation administrators are to be elected. Special examinations may be held whenever there is a vacancy in the office (KRS 132.380). The county attorney and the Department of Revenue post notice of an examination. The department may post notice on the Internet. All such examinations are given and graded in accordance with the rules of the Department of Revenue (KRS 132.380).

Kentucky law sharply limits contributions to the political campaigns of property valuation administrators (KRS 121.045).

The property valuation administrator must execute a performance bond before taking office. The bond must be executed with a surety to be approved by the Department of Revenue. A $100,000 bond must be executed in counties that contain a city of the first class or a consolidated local government. In counties containing certain home rule cities (KRS 83A.024), the bond must be $50,000. In all other counties, the bond must be $20,000 (KRS 132.400).

Powers And Duties

Subject to the direction, instruction, and supervision of the Department of Revenue, a property valuation administrator must make the assessment of all property in the county, prepare property assessment records, and perform other duties relating to assessment as the law or the Department of Revenue may prescribe (KRS 132.420).

The property valuation administrator assesses property for the state, the county, and other districts. Any city may elect to use the annual county assessment for property situated in the city, except for levying and collecting ad valorem taxes on motor vehicles, in which case cities must use the assessment completed under the supervision of the Department of Revenue pursuant to KRS 132.487 (KRS 132.285).

Taxable Property

The Kentucky constitution provides that all property not exempted by the constitution itself is subject to taxation (section 172).

All intangible personal property of a corporation organized under Kentucky law (unless it has acquired a business site outside the boundaries of the state) and property assessed at its fair cash value is taxable (KRS 132.190). However, real property qualifying for an assessment moratorium shall not have its fair cash value assessment changed unless the assessment moratorium expires or is canceled or revoked (KRS 132.452).

The Bank Franchise and Local Deposit Tax Act (KRS 136.500 to 136.575) repealed the bank shares tax and imposed a new framework for local taxation of all banking institutions doing business in Kentucky. The franchise tax is in lieu of all local taxes except the real estate transfer tax, real property and tangible personal property tax, utility taxes, and the local franchise tax. The act sets the franchise tax rate at 1.1 percent of net capital, after apportionment. Cities and counties may levy a tax on the deposits located in the jurisdiction at a rate not to exceed 0.025 percent of the deposits. Urban-counties may levy a tax at a rate not to exceed 0.050 percent (KRS 136.575).

Section 170 of the Kentucky constitution lists the following exemptions from taxation:

- Public property used for public purposes
- Places of religious worship
- Parsonages or residences owned by a religious society and occupied as the home of their minister
- Institutions of purely public charity
- Nonprofit educational institutions
- Public libraries
- Household goods of a person used in the home
- Places of burial not held for profit
- Crops grown in the year an assessment is made and in the hands of the producer
- Bonds of state, county, municipality, taxing and school districts
- Single-unit residential property maintained by an owner 65 years of age or older, or by an owner classified as totally disabled under a program authorized or administered by an agency of the United States government, or by any retirement system either within or outside of Kentucky, up to $6,500 of the assessed valuation

Section 170 of the Kentucky constitution permits the General Assembly to exempt any class of personal property from taxation.

Mobile homes and manufactured houses qualify for the homestead exemption, as do recreational vehicles if classified as real property under KRS 132.751. The exemption is adjusted every 2 years if the cost-of-living index of the US Department of Labor has changed by 1 percent (KRS 132.810). For the 2015 and 2016 tax years, the homestead exemption amount is $36,900 as published by the Office of Property Valuation in the Department of Revenue.

Assessment Levels

The property valuation administrator must make every possible effort to assess property at fair cash value (KRS 132.450).

Section 172A of the Kentucky constitution provides for the assessment of agricultural and horticultural land according to its fair cash value for such uses, instead of its full fair cash value for nonagricultural uses. The effect of this amendment is to protect farm owners from high assessments resulting from rises in real estate value and thus to perpetuate the use of property for farming.

KRS 132.450 and 132.454 carry out the mandate of section 172A. If land is classified as agricultural, this classification remains on the tax rolls until the property is transferred or its use changes. When the land use is no longer agricultural, the taxpayer is liable for taxes on the fair cash value.

Controversy arose in 2015 and 2016 relating to the application of agricultural valuation procedures stemming both from the transition of farmland to nonfarm commercial use, and from the relationship of residential uses of land within a property tract that is classified as agricultural to the overall qualification of the tract of land in its valuation designation as agricultural. The Department of Revenue issued guidance to PVAs relating to these topics on June 6, 2016, in an attempt to standardize practice and procedures among PVAs.

Section 172B of the Kentucky constitution permits the General Assembly to provide by general law for counties, cities, and urban-county governments to declare assessment or reassessment moratoriums for up to 5 years for qualifying units of real property for the purpose of encouraging the repair, rehabilitation, or restoration of existing structures. This constitutional provision is implemented in KRS 99.595 through 99.605, KRS 132.010, and 132.190, which allow a city, county, charter county, consolidated local government, or urban-county government to accept applications for property assessment or reassessment moratorium certificates from owners of residential property and owners or lessees of commercial property. The property valuation administrator and the administering agency for the local government must maintain a record of all applications, and the property valuation administrator must reassess the property within 30 days of such application (KRS 99.605).

Listing Of Property And Valuation

Between January 1 and March 1 of each year, all persons owning or having any interest in any real property taxable in the commonwealth must list the property with the PVA of the county where it is located (KRS 132.220). Tangible personal property must be listed no later than May 15. All real property exempt from taxation by section 170 of the constitution must also be listed with the property valuation administrator during the prescribed period. The property valuation administrator must keep an inventory of such tax-exempt property but does not place it on the tax rolls. A copy of the tax-exempt inventory must be filed annually with the Department of Revenue. The law requires property valuation administrators, under the direction of the Department of Revenue, to review annually the real property claimed as exemptions under section 170 of the constitution and to place on the tax rolls those properties that are not expressly exempted (KRS 132.220).

When an owner lists property, the property valuation administrator or deputies must read and administer the following oath: “You swear that the list of taxable property given by you contains a full and complete list of all of your property and of all the property in your possession which is not otherwise listed as of the assessment date, and that a fair cash value has been placed on all such property required to be valued” (KRS 132.440).

The property valuation administrator assesses the property at its fair cash value, unless otherwise specified, as of January 1. The PVA must assess all property in the office’s jurisdiction, even if

the owner fails to list the property, and the PVA may swear witnesses in order to ascertain the person in whose name to make the list (KRS 132.220).

The property valuation administrator must annually revalue each parcel of real property at its fair cash value. Additionally, at least once in every 4 years the property valuation administrator or the office's assessors must physically examine each parcel of real property in the county for revaluation. They may physically inspect and revalue land and buildings in the absence of the owner or resident. The property valuation administrator must establish an assessment schedule and submit it to the Department of Revenue. The PVA must also maintain a record for each parcel of real property in order to document physical examinations and revaluations by specifying the dates of inspections (KRS 132.690).

PVAs have used digital imaging technology to capture overhead pictures of parcels of land. These pictures can be used to determine changes in property use or the footprint of structures upon parcels of land over time. Questions regarding the appropriateness of this technology arose in 2015. The Attorney General has opined that the use of this technology meets the statutory requirements found in KRS 132.690 (OAG 16-003).

The property valuation administrator may at any time list and assess any real property that may have been omitted from the regular assessment. The PVA must notify the taxpayer of the amount of assessment immediately upon such listing and assessing (KRS 132.310).

Kentucky law forbids the property valuation administrator from assessing the property of any person at a lower or higher relative value than the PVA assesses the same class of property of another person. Exceptions exist for agricultural and horticultural assessments (KRS 132.450) and for property assessed to encourage rehabilitation, pursuant to section 172B of the constitution. Any "grossly" discriminatory valuation is considered intentional discrimination (KRS 132.450).

The property valuation administrator must assess his or her own property and that of deputies in the same manner as the property assessment of other taxpayers. The county Board of Assessment Appeals has review power in relation to the assessment of that property (KRS 132.470).

At the order of the Department of Revenue, emergency assessments may occur under certain extraordinary circumstances, such as the absence of a regular valuation, the destruction of records, or the finding of grossly inequitable assessments. In such instances, any existing assessment is voided and the Department of Revenue is empowered to appoint persons to make the assessments (KRS 132.660).

Upon assessing any property at a greater value than that listed by the taxpayer or assessing unlisted property, the property valuation administrator must notify the taxpayer by first-class mail or as provided in the *Kentucky Rules of Civil Procedure* (KRS 132.450).

An informality or irregularity in the making of an assessment or tax bill does not void the assessment or tax bill. Failure of the PVA to call on each taxpayer for an assessment list or to finish the assessments or other duties on time also does not void the assessment (KRS 132.650).

Motor Vehicle Tax

Property valuation administrators assess motor vehicles, recreational vehicles, and mobile homes for taxation by the state, county, city, and other taxing authorities.

The Department of Revenue administers a centralized ad valorem tax system for all motor vehicles as defined in KRS 186.010. The Transportation Cabinet provides access to all records of motor vehicle registrations to the Department of Revenue and the property valuation administrators. The property valuation administrator has the responsibility, under the supervision of the Department of Revenue, for assessing all motor vehicles other than those assessed under KRS Chapter 136 as part of public service companies. The property valuation administrator, by December 1 of each year, must provide the Department of Revenue a recapitulation of motor vehicles to be assessed as of January 1 of the next year (KRS 132.487).

Timberland Assessment

Any owner of timberland within the county must list such property with the PVA in the same manner as other listings of real property. The property valuation administrator must include on the regular property tax roll an accurate record of the acreage of timberland listed in the name of each owner (KRS 149.550 and 149.560).

Fire Protection District Assessment

In counties where the trustees of a fire protection district or a volunteer fire prevention district have levied a tax for the operation of a fire department and an emergency ambulance service, the property valuation administrator must note on the tax rolls the taxpayers and valuation of the property subject to such assessment (KRS 75.040).

Mobile Homes And Recreational Vehicles

Every person providing rental space for parking mobile homes and recreational vehicles must report to the local property valuation administrator, by February 1 of each year, the name of the owner and type and size of all such units not registered in this state under KRS 186.655 on the premises on the prior January 1 (KRS 132.260).

The PVA may make a personal inspection and investigation of the premises on which mobile homes and recreational vehicles are located, for the purpose of assessing such property. No person in charge of such property may refuse to permit the inspection (KRS 132.260).

Estimate Of Assessed Valuation

By April 1 of each year, the property valuation administrator must submit an official estimate of real and personal property and new property assessment, as defined in KRS 132.010, to the county judge/executive. The judge/executive uses this estimate as a measure of anticipated receipts in preparing the county budget (KRS 68.245).

County Clerk To Provide PVA With Tax Assessments

The county clerk must, on or before the 15th day of each month, provide the PVA a copy of all conveyances transferring real property made during the preceding month (KRS 132.480).

Tax Rolls

The property valuation administrator must prepare the property tax rolls in legible form according to taxing districts. The PVA must make additions to each column to show the aggregate amount, value, and number of each column on the tax rolls and must prove the accuracy of such rolls before returning them for collection purposes (KRS 132.530).

The property valuation administrator must complete the tax roll of all real property in the county before the first Monday in April of each year, in accordance with Kentucky law, and on or before that date must file with the Department of Revenue, on department forms, a recapitulation of all property assessed on the tax roll with the official certificate attached. This listing must show the assessment of property by types and by taxing districts. Within 15 calendar days after receiving the recapitulation and schedules, the Department of Revenue must direct the property valuation administrator to make any changes that are necessary to correct the assessment. After the PVA has made the necessary corrections, the Department of Revenue photographically preserves all recapitulations for 7 years from the assessment date (KRS 133.040).

When filing the recapitulation with the Department of Revenue, a PVA must also file copies of such records with the county judge/executive, officers of special districts, and school district superintendents (KRS 133.040).

The Department of Revenue must investigate any PVA who has not submitted an acceptable recapitulation by the first Monday in August. The department may conduct its own emergency assessment and, if the failure to submit was not reasonably justified, may suspend the PVA's compensation. The PVA may appear before the commissioner of revenue during an investigation and may request an administrative hearing if compensation is to be suspended. All hearings must be conducted in accordance with KRS Chapter 13B (KRS 133.040).

After submission of the final real property recapitulation or personal property certification, the property valuation administrator may correct clerical, mathematical, or procedural errors in assessments. These changes are subject to review by the Department of Revenue and may not be based on appraisal methodology or opinion of value (KRS 133.110).

A person who claims to have been charged with tax on property he or she does not own may offer evidence to the PVA, who may release the person from payment of the improperly charged tax. The PVA must then assess the property against the rightful owner (KRS 133.130).

The real property tax roll must be open for inspection in the property valuation administrator's office for 13 days, beginning on the first Monday in May of each year. The Department of Revenue, in cases of necessity, may order a reasonable extension of time for inspection or it may order that the inspection period be held at a different time. Law requires the inspection period to

cover 6 days in each of 2 weeks, including holding the office open on one Saturday. The final day of the inspection period may not be Saturday, Sunday, or a legal holiday (KRS 133.045).

During the week preceding the first Monday in May, the property valuation administrator must arrange for published notice of the forthcoming inspection period. The notice should contain information on the dates and times of the inspection period and procedures for taxpayer appeals of assessments. The fiscal court bears the expense of this publication. In addition to published notice, notice must be posted on the courthouse door (KRS 133.045).

The county Board of Assessment Appeals hears objections to assessments. Review of assessments may originate with a real property owner or with the Department of Revenue, county judge/executive, or the official of other taxing authorities seeking an increase in assessments. To bring an appeal, a taxpayer must request a conference with the property valuation administrator or a deputy. After the conference, the taxpayer may file an appeal, but it must be filed no later than 1 workday after the 13-day inspection period. The appeals board holds public hearings, gathers evidence, and makes a determination regarding objections to assessments (KRS 133.120). When facing questions about the taxability of property, the county Board of Assessment Appeals must obtain and follow the advice of the Department of Revenue, but the board has full authority to set the fair cash value of property (KRS 133.123).

The county clerk must provide the property valuation administrator with a summary of the appeals filed with the county Board of Assessment Appeals. Within 3 days after receiving this summary, the PVA must submit to the Department of Revenue a final recapitulation of the real property tax roll (KRS 133.125). The Department of Revenue then equalizes assessments between counties by comparing data from each county on land sale prices, assessed values and other information. The department may increase or decrease aggregate assessments of various counties in equalizing assessments and seeking fair cash value (KRS 133.150). After the disposition of any appeals of the department's actions, the assessment and amount of taxes due are certified to the county clerk (KRS 133.170 and 133.180). On receipt of this certification, local taxing authorities may set their tax rates and begin preparation of tax bills (KRS 133.185).

City Use Of County Assessment

Any city may by ordinance choose to use the annual county assessment for property within the city as a basis of ad valorem tax levies. A city making such choice must notify the Department of Revenue and the property valuation administrator before the next assessment to be used for city levies. Each city that chooses to use the county assessment must annually appropriate and pay to the office of the property valuation administrator one-half of 1 cent for each $100 of assessment. The sums paid may not be less than $250 nor more than $40,000 in a city having an assessment of less than $2 billion, or more than $50,000 in a city having an assessment of more than $2 billion. Cities that choose to use county assessments for ad valorem taxes in 1996 and subsequent years must pay the property valuation administrator the same amount as paid in 1995 or the amount the property valuation administrator would have otherwise received, whichever is greater (KRS 132.285). For purposes of the levy and collection of ad valorem taxes on motor vehicles, cities must use the assessment pursuant to KRS 132.487.

Appeals To The County Board Of Assessment Appeals

Any taxpayer desiring to appeal an assessment on real property must request a conference with the PVA or a deputy. A taxpayer still aggrieved after the conference may appeal to the county Board of Assessment Appeals by filing in person or sending a letter and stating to the county clerk the taxpayer's opinion of the fair cash value of the property. The county clerk shall notify the Department of Revenue of the dates and times of the assessment appeals.

The Board of Assessment Appeals may review and change any assessment made by the PVA upon recommendation of the Department of Revenue, the county judge/executive, the mayor of a city using the county assessment, or the superintendent of any school district in which the property is located.

Any real property owner who has listed property at fair cash value may ask the county Board of Assessment Appeals to review the assessments of properties believed to be assessed at less than fair cash value but may not request a blanket review of properties.

The Board of Assessment Appeals shall hold a public hearing for each individual taxpayer appeal and, after hearing all the evidence, shall fix the assessment at its fair cash value. The Department of Revenue may be present at the hearing and may present evidence pertaining to the appeal. The taxpayer must provide factual evidence to support the appeal.

The Board of Assessment Appeals shall report to the PVA any real property omitted from the tax roll. The PVA must assess the property, specifying a date when the board will hear the taxpayer, if the taxpayer desires, in protest of the action of the PVA (KRS 133.120).

Any individual aggrieved by a decision of the board, the PVA, or the Department of Revenue may appeal a decision of the county Board of Assessment Appeals to the Kentucky Board of Tax Appeals (KRS 131.340 and 133.120). Appeals of the decisions of the state board are heard by the Franklin Circuit Court or the Circuit Court of the county where the taxpayer resides or has a place of business, in accordance with KRS Chapter 13B (KRS 131.370).

The PVA or an authorized deputy must attend all hearings before the county Board of Assessment Appeals and before the Kentucky Board of Tax Appeals relative to the assessment. The PVA or deputy must fully disclose any information he or she may have (KRS 132.460).

The PVA is prohibited from divulging any information of the affairs of any person or a person's business, or information regarding tax schedules, returns, or reports required to be filed with the Department of Revenue. This prohibition does not extend to information required in prosecutions for infractions of the tax laws, as well as specified other instances (KRS 131.190).

Compensation

KRS 132.590 guides the calculation of compensation for PVAs. For additional information, refer to Table 1.1 in Chapter 1 of this publication, which lists the 2016 salary schedule.

A PVA who for any reason vacates the office in any year of office shall be paid only for calendar days actually served (KRS 132.590).

The property valuation administrator of each county is paid one-twelfth of annual compensation each month from the State Treasury. The Department of Revenue computes this compensation as provided in KRS 132.590 (KRS 132.645).

PVAs can face sanctions for poor assessments or for deviating from the requisites of the law. Whenever the county Board of Assessment Appeals, the Kentucky Board of Tax Appeals, or a court of competent jurisdiction determines that a PVA has made an unauthorized or excessive assessment, the Department of Revenue is authorized to recover from the PVA all compensation paid for the assessment. In addition, if the PVA fails to render the required services or performs any duties in such a manner as to fail to comply with the requirements of the law, the PVA is required to pay a sum that will reasonably compensate the commonwealth for its costs in rendering those services (KRS 132.620). As a result, any sum that is due from the property valuation administrator may be deducted from any amount that the commonwealth is obliged to pay the PVA, or it may be collected from a bondsman (KRS 132.620).

The property valuation administrator is entitled to reimbursement from the county for any expenses incurred in official business outside the boundaries of the county. If the Department of Revenue directs the property valuation administrator to perform official duties outside the county, the cabinet must pay the incurred expenses (KRS 132.460).

Fiscal courts pay the PVA to use the assessment for the collection of the property taxes the fiscal court itself assesses. The amount is based in part on the total value of the property in the county and is subject to a maximum expenditure by the fiscal court. The amount appropriated and paid by each county fiscal court to the office of the property valuation administrator must be equal to the amount paid in 1995 or to the amount that would have otherwise been received in 1996, whichever is greater (KRS 132.590). See “Funding of Office and Office Administration” in this chapter for further information.

The PVA must attend an annual conference of all property valuation administrators, conducted by the Department of Revenue. The conference provides instruction in the fair and just valuation and assessment of property. The local Circuit Court may remove from office any PVA who willfully fails to attend the conference. If the property valuation administrator participates in all sessions of the conference, the state pays half of the expenses of attending, and the county pays the other half (KRS 131.140).

Expense Allowance And Training Requirement

The property valuation administrator of each county receives an annual expense allowance of $3,600, to be paid from the State Treasury in monthly installments of $300 (KRS 132.597). The PVA must use this expense allowance for official expenses incurred. The allowance provides the necessary funds for payment of all the PVA’s expenditures not directly associated with the assessment of property in the county.

Each property valuation administrator must, within each calendar year, participate in a minimum of 30 classroom hours of professional instruction conducted by the Department of Revenue. This requirement is reduced to 15 hours for any property valuation administrator who has earned the "senior Kentucky assessor" professional designation. Any property valuation administrator failing to meet the department's requirements for any calendar year shall not receive the $3,600 annual expense allowance for the subsequent calendar year (KRS 132.597).

Retirement And Insurance Benefits

Property valuation administrators and full-time deputies and assistants are eligible for participation in state programs for life and health insurance (KRS 18A.205), public employees deferred compensation and annual salary increment plans (KRS 18A.230 to 18A.355), and the Kentucky Employees Retirement System (KRS 61.510 to 61.705) (KRS 132.370).

Annual And Compensatory Time

Property valuation administrators and their deputies receive lump-sum payments for accrued annual leave and compensatory time when separated from employment (KRS 132.370).

Funding Of Office And Office Administration

The Department of Revenue must prepare a biennial budget request for staffing PVA offices. This is based on comparative assessment work units and provides for an equitable allocation of employee positions statewide (KRS 132.590). Assessment work units are based on parcel count per employee. The PVA must prepare and submit a budget request for the office by June 1 each year based on the number of allocated employees and other factors, and the cabinet must return an approved budget by July 1 (KRS 132.590). Each fiscal court must appropriate and pay its cost for use of the assessment (KRS 132.280). KRS 132.590 requires counties to pay amounts determined as follows:

Table 6.1
Fiscal Court Payment Schedule To Office Of Property Valuation Administrator

Assessment Subject To County Tax	Amount County Fiscal Court Must Pay
$0–<$100 million	$0.005 for each $100 of the first $50 million; $0.002 for each $100 over $50 million
$100 million–<$150 million	$0.004 for each $100 of the first $100 million; $0.002 for each $100 over $100 million
$150 million–<$300 million	$0.004 for each $100 of the first $150 million; $0.003 for each $100 over $150 million
$300 million+	$0.004 for each $100

Source: KRS 132.590.

KRS 132.590 limits the total sum the fiscal court must pay to the PVA's office.

Table 6.2
Limits On Fiscal Court Payments
To Office Of Property Valuation Administrator

Assessment Subject To County Tax	Maximum Payment
$0–<$700 million	$25,000
$700 million–<$1 billion	35,000
$1 billion–<$2 billion	50,000
$2 billion–<$2.5 billion	75,000
$2.5 billion–<$5 billion	100,000
$5 billion+	175,000

Source: KRS 132.590.

This allowance shall be based on the assessment as of the previous January 1 and shall be used for deputy and other personnel allowances; supplies, maps, and equipment; travel allowance for the property valuation administrator, deputies, and other authorized personnel; and other authorized expenses of the office (KRS 132.590).

After the county's annual appropriation of funds required for the use of the PVA's assessment and no later than August 1, the property valuation administrator must file a claim with the county for the amount specified in his or her budget for the compensation of deputies and assistants, including the employer's share of Federal Insurance Contributions Act tax and state retirement. The county must pay this amount into the State Treasury by September 1 or must pay this amount to the PVA, who must submit it to the State Treasury by September 1. The Department of Revenue must expend these funds only for the compensation of deputies and assistants. Money not expended from this fund must be returned to the county (KRS 132.590).

The remainder of the county assessment for use for office expense not related to personnel is due in four equal quarterly payments from the fiscal court on or before September 1, December 1, March 1, and June 1. Any unexpended funds at the close of a fiscal year may be retained, except as provided by KRS 132.601. During county election years, no more than 40 percent of the allowances available to a PVA office from county funds may be spent during the first 5 months of the fiscal year in which the general election is held (KRS 132.590).

The fiscal court of each county may purchase and supply to the property valuation administrator any maps, lists, charts, materials, supplies, equipment, or instruments that are reasonably necessary for a complete and accurate assessment of property in the county. The Department of Revenue may also purchase and lend any PVA such maps, lists, charts, materials, supplies, equipment or instruments that are urgently needed (KRS 132.605).

When an urban-county government is formed through the merger of existing city and county government as provided in KRS Chapter 67A, the annual county assessment will be presumed to have been adopted as if the city had exercised the option to adopt as provided in KRS 132.285.

Businesses sometimes use the services of the PVA. The Department of Revenue has been charged with determining a schedule for compensating the PVA's office for personnel time costs for persons seeking assistance and information for commercial purposes (KRS 133.047).

Financial Control And Audits

KRS 132.601 allows the PVA to maintain a bank account to manage local funds received by the PVA office. Any funds in excess of the greater of the total local annual appropriation for the ending fiscal year or $5,000 must be returned proportionately to affected local governments by August 1. Funds below this amount may be retained and carried over to the next fiscal year.

Nonpersonnel expenses from local funds must comply with the county procurement code that KRS 68.005 requires. The fiscal court may not question the necessity of expenditures included in the budget approved by the Department of Revenue. Audit responsibility for locally appropriated funds rests with the auditor of public accounts, not the Department of Revenue (KRS 132.601).

The Department of Revenue must conduct a biennial performance audit of each office and must prepare a report on the equity and quality of each county's assessment, based on this audit (KRS 131.140).

Deputies

The property valuation administrator may appoint deputies to assist with the duties of the office. A deputy must be more than 21 years of age. The PVA fixes the salaries of deputies and other authorized personnel in accordance with the grade classification system established by the Department of Revenue, and the salaries are subject to the approval of the department. The Department of Revenue may examine any deputy PVA employed, or promoted to a higher position, in accordance with standards of the Personnel Cabinet for the position to which the deputy is being appointed or promoted. No state funds available to the PVA office as compensation for deputies and other authorized personnel may be paid without authorization of the Department of Revenue, before their employment. Deputies serve at the pleasure of the property valuation administrator (KRS 132.590).

KRS 64.530 permits fiscal courts to review and adjust the annual compensation of deputies and assistants of elected county officials every year, under certain conditions. This statute, however, does not apply to the deputies or assistants of property valuation administrators. In this respect, property valuation administrators and all of their employees are considered employees of the state.

Office Hours And Space

The county fiscal court must provide the property valuation administrator with suitable space and furniture at the county seat. The property valuation administrator's office serves as storage for all records pertaining to the assessment of property, except for records required by law to be placed in the custody of other officials (KRS 132.410).

The PVA must engage in official duties at least 5 days a week during regular working hours and keep scheduled office hours at least 5 days a week (KRS 132.410).

Vacancy

A vacancy in the office of property valuation administrator is initially filled by appointment by the commissioner of revenue with a qualified Department of Revenue employee, until the vacancy is filled by gubernatorial appointment or by election. The department employee appointed to fill the vacancy shall be compensated from the Department of Revenue in the same manner and rate as he or she was compensated before the appointment and is entitled to receive necessary expenses, including travel. The appointee shall have all the powers and be subject to all regulations applying to property valuation administrators (KRS 132.375).

Penalties And Removal From Office

A property valuation administrator may be removed from office by the local Circuit Court upon petition of any taxpayer or by the commissioner of revenue for willful disobedience of any just or legal order of the Department of Revenue, for misfeasance or malfeasance in office, for willful neglect in the discharge of official duties, for intentional underassessment or overassessment of properties, or through a finding by the Department of Revenue of chronic underassessment of property (KRS 132.370).

Chronic underassessment is defined as a widespread pattern and practice of assessing property at levels substantially below fair market value that persists for a period of 2 or more years. The Department of Revenue must conduct a special audit to determine whether underassessment has occurred in a county when sales-assessment ratio studies conducted under KRS 133.250 indicate a ratio below 80 percent for 2 consecutive calendar years.

If the Department of Revenue finds that a property valuation administrator's failure to submit an acceptable recapitulation was not justified, the department must suspend the PVA's compensation. The property valuation administrator may request a hearing and must be repaid with interest if the hearing officer finds that the failure was justified. The department will investigate a property valuation administrator who does not submit an acceptable recapitulation by the first Monday in August (KRS 133.040). The department may declare an emergency assessment if its investigation finds that the PVA's failure to submit an acceptable recapitulation was not reasonably justified (KRS 132.660).

Any officer or other person authorized to assess property for taxation purposes who willfully commits an error in the performance of duty will be deemed guilty of misfeasance and, upon conviction of such an act, will forfeit office. The officer may also be otherwise punished as provided by law (Ky. Const., section 172).

Any property valuation administrator who willfully fails or neglects to perform any legal duties may be fined up to $500 for each offense (KRS 132.990).

Any property valuation administrator who willfully conceals or destroys any record with the intent to violate the provisions of KRS Chapter 61 relating to public records shall be guilty of a Class A misdemeanor for each violation. Any official of a public agency who fails to produce

any record after entry of final judgment directing that such records be produced shall be guilty of contempt (KRS 61.991).

A property valuation administrator who violates the restrictions concerning political campaign contributions of KRS 121.055 is guilty of a Class D felony (KRS 121.990).

In addition to these penalties, a PVA removed from office pursuant to KRS 132.370 shall be ineligible to serve in the office at any future date and shall forfeit any and all certification from the Department of Revenue pertaining to the office (KRS 132.370).

A PVA may appeal removal from office pursuant to KRS 132.370. Upon appeal, the PVA has the right to an administrative hearing.

Chapter 7

Sheriff

Background

Under the first Kentucky Constitution in 1792, the office of sheriff was elective and the term of office was 3 years (Art. VI, sec. 1).

Under the second constitution, the sheriff was nominated by the county court and appointed by the governor from the court's list of nominees. The term of office was 2 years (1799, Art. III, sec. 31).

In 1850, under the third constitution, the sheriff's office was again made elective and the term of office was 2 years (Art. VI, sec. 4).

Qualifications And Term

The present constitution requires the election of a sheriff in each county to a 4-year term. The constitution also requires the sheriff to be at least 24 years of age, a citizen of Kentucky, a resident of the state for 2 years, and a resident of the county of election 1 year before election (section 100). Before taking office, the elected sheriff must execute bond as provided in KRS 70.020, and 134.230. The bond required by KRS 70.020 must be for a minimum of $10,000 and relates to the faithful performance of all of duties. The bond required by KRS 134.230 and KRS 62.156 relates to the faithful performance of a sheriff's tax collection duties. The county should pay the premium on this bond, according to the attorney general's office based on language in KRS 62.156 (OAG 83-293). The fiscal court may require the sheriff to enter into an additional bond also under the authority of KRS 134.230. The sheriff must also take the constitutional oath of office (section 228) and a statutory oath of office (KRS 70.010).

Powers And Duties

The sheriff's duties fall into four categories: tax collection, election duties, services to courts, and law enforcement. A sheriff spends the most time on civil duties, as opposed to criminal or law enforcement duties.[16]

Law Enforcement

Sheriffs and three other types of elected county officials—coroners, jailers, and constables—are peace officers who possess law enforcement powers (KRS 446.010). These powers include a broad grant of authority to make arrests. Under KRS 431.005, any peace officer may make an arrest

- in obedience to a warrant;
- without a warrant when a felony is committed in the peace officer's presence;

- without a warrant when the peace officer has probable cause to believe the person arrested has committed a felony;
- without a warrant when a misdemeanor (as defined in KRS 431.060), harassment, criminal trespass in the third degree, or certain traffic violations are committed in the peace officer's presence;
- without a warrant if the officer has probable cause to believe that a person is driving under the influence of alcohol or any other substance that may impair his or her driving ability;
- without a warrant if the peace officer is certified under KRS 15.380 and has probable cause to believe that the person has intentionally or wantonly caused physical injury to a family member or member of an unmarried couple; and
- without a warrant if the peace officer is certified under KRS 15.380 and has probable cause to believe that the person is a sexual offender who has failed to comply with the Kentucky Sex Offender Registry requirements based on information received from the Law Information Network of Kentucky.

In addition to the instances cited above, certain peace officers, including sheriffs and full-time paid deputy sheriffs, may make warrantless arrests in some narrowly defined cases of domestic abuse, to include individuals dating, not only spouses and partners (KRS 431.005).

When a misdemeanor has been committed in an officer's presence, the officer shall issue a citation instead of making an arrest if the officer has reasonable grounds to believe the person cited will appear in court (KRS 431.015). Citations may be issued in lieu of a physical arrest for violations committed in the presence of an officer. The officer may make a physical arrest for a violation committed in his or her presence if the officer has reasonable grounds to believe the defendant will not appear in court or if the violation is one of the several set out in KRS 431.015 or in KRS 431.005. A warrant for arrest may be issued if the defendant does not appear (KRS 431.015).

Offenses are violations, misdemeanors, or felonies, depending on the nature and length of punishment that may be prescribed. KRS 431.060 defines these terms.

When in actual pursuit of a law violator, a peace officer may cross corporate or county lines for the purpose of making an arrest (KRS 431.045).

In actual practice, powers of arrest are exercised only by the sheriff and constable. Jailers and coroners rarely make arrests.

The law specifically authorizes sheriffs and constables to carry concealed deadly weapons when necessary for their protection in discharging their duties (KRS 527.020).

Kentucky law requires or permits peace officers, the definition of which includes sheriffs, to perform specific duties.

- All peace officers must seize untaxed cigarettes and notify the state commissioner of revenue that they have done so (KRS 138.165).
- Peace officers and deputy sheriffs must enforce all controlled substances laws (KRS 218A.240).

- Peace officers must arrest and return any children who have escaped from a reform institution (KRS 440.060).
- Upon request from the Kentucky Board of Agriculture, a peace officer must aid in destroying diseased livestock (KRS 246.210).
- Any Kentucky peace officer may destroy a suffering, abandoned, or diseased animal (KRS 257.100).
- The officer must also impound unlicensed dogs (KRS 258.215).
- A peace officer may order held the funds derived from the sale of an animal of questionable ownership until ownership is established (KRS 253.070).
- Peace officers must enforce all truck weight limit and size laws (KRS 189.223).
- They must seize any automobile transporting alcoholic beverages in dry territory and make all necessary arrests (KRS 242.360).
- Peace officers must serve any subpoena that the state parole board issues (KRS 439.390).
- On being informed or having reason to believe that an unlawful boxing, kickboxing, mixed martial arts, or wrestling show or exhibition is about to take place, peace officers must prevent the show or exhibition (KRS 229.240).
- All peace officers must cooperate with the Justice Cabinet in fingerprinting and identifying prisoners (KRS 17.115).
- A peace officer may apprehend military personnel if the officer has probable cause to believe that the subject committed a crime (KRS 35.035).
- The sheriff has the traditional power of commanding a *posse comitatus*: "Any sheriff, deputy sheriff or other like officer may command and take with him the power of the county, or a part thereof, to aid him in the execution of the duties of his office, and may summon as many persons as he deems necessary to aid him in the performance thereof" (KRS 70.060).
- If a riot or insurrection occurs, the governor may call any part of Kentucky militia or the National Guard to active service and may order these military forces to report to certain local officials, including the sheriff, who may advise the commanding officer regarding the specific objectives to be accomplished by the forces, although tactical command must remain in the control of the military (KRS 37.240 and 38.030).
- As a peace officer, the sheriff may seize and destroy any gambling instruments, with or without a warrant (KRS 528.100).

In executing the laws of the state, the sheriff is specifically set out to be responsible for certain duties.

- The sheriff is responsible for selling property used for unlawful sale, transportation, or possession of alcoholic beverages in dry territory (KRS 242.330 and 242.360).
- Although any peace officer must enforce laws relating to motor vehicles (KRS 281.765), the sheriff and deputies have the following specific duties:
    - They must patrol all public roads in the county and direct the traffic on such roads so as to maintain maximum safety.
    - They must investigate all accidents and wrecks on the road and record their observations and findings.
    - When a person is injured or killed or there is reason to believe that criminal negligence caused an accident, the sheriff must take affidavits from witnesses, subpoena them, and return the affidavits and the resulting report to the county attorney (KRS 70.150).

  - The sheriff or the sheriff's deputies must make monthly inspections of each public place that permits music or dancing, sells intoxicating beverages, or furnishes rooms for lodging. Reports of these inspections must be sent to the county attorney and the county clerk (KRS 70.160).
  - Sheriffs and county police must visit places of entertainment regularly. The sheriff may arrest the owners or managers for violations of law committed in his or her presence (KRS 231.130).
  - The sheriff must designate vehicle inspectors, certified by the Department of Vehicle Regulation, who will inspect vehicles brought into Kentucky and required to be titled in Kentucky, before submission of an application for title to the county clerk (KRS 186A.115).
- The sheriff may arrest
  - violators of federal laws (KRS 35.035, 35.045, and 35.050);
  - those illegally transporting or holding liquor (KRS 242.370); and
  - those promoting illegal gambling, gambling machines, or games (KRS 528.020 through 528.080).

A cooperative effort exists among the Department of Juvenile Justice, the Administrative Office of the Courts, the Cabinet for Health and Family Services, and the Department of Corrections to maintain a centralized criminal history record information system. The effort is under the direction, control, and supervision of the commissioner of the Department of State Police (KRS 17.151). Sheriffs participate in this system (KRS 17.150).

Citizens applying for a permit to carry a concealed deadly weapon may obtain an application from the sheriff's office and submit the completed application to that office (KRS 237.110).

Tax Collection And Investment Of Idle Funds

Kentucky sheriffs collect property taxes for the state, county, school districts, and sometimes cities if the sheriff has contracted with them for this service. In addition, almost every sheriff collects taxes for some other special taxing district or special function, such as a fire protection district, a library, or a county health unit.

Table 7.1 lists many of the statutes pertaining to collection of special taxes and summarizes information on the time and manner of collection and any commission the sheriff receives.

Table 7.1
Taxing District And Special-Function Taxes Collected By Sheriffs

KRS Citation	Levied By	Manner Of Collection	Delivered To	Commission
39F.160	Rescue squad taxing district	County taxes	District board	4 percent
68.604	Industrial taxing district	State and county taxes	Board or fiscal court	*
75.040	Fire protection or volunteer fire department district trustees	State and county taxes	Treasurer of district	1 percent
76.278	Sanitation tax district	State and county taxes	Board of sanitation tax district	1 percent
104.670	Flood control district directors	State and county taxes	County treasurer	None
107.350	Fiscal court when sought by community improvements district board	County taxes	Board of community improvement district	*
108.100	Ambulance service district	County taxes	Ambulance service district board of directors	4 percent
147.660	Area planning commission	State and county taxes	City treasurers	May not exceed 4 percent
149.580	Fiscal court—county forest fire protection	State and county taxes	**	*
160.500	Board of education—school tax	Local taxes	Depository selected by board of education	Equal to expenses, but 1.5 percent–4 percent of school taxes collected plus 4 percent of any interest earned
165.175	Certain home rule cities (KRS 83A.024)	State and county taxes	College board of trustees	May not exceed 4 percent
173.470	Library district	County taxes	Library district board of trustees	*
173.720	Petition for library district	County taxes	Library district board of trustees	*
178.200	Fiscal court—road bond retirement	State and county taxes	**	*
178.210	Fiscal court—special road construction tax	State and county taxes	As fiscal court directs (178.230)	1 percent (178.230)

KRS Citation	Levied By	Manner Of Collection	Delivered To	Commission
179.720	Subdivision road district trustees	State and county taxes	District treasurer	4 percent
183.134	Fiscal court levies on behalf of local air board	Unspecified	Local air board	*
210.480	Community board for mental health or individuals with intellectual disability	County taxes	Community mental health board	*
212.725, 212.755	Public health taxing district resolution	County taxes	County or city-county board of health	*
216.317	Hospital district	County taxes	Board of hospital district	*
220.360	Sanitation district	State and county taxes	County treasurer	None
262.770, 262.775	Watershed conservancy district, board of directors	State and county taxes	District treasurer	May not exceed 4 percent
266.150	Levee district, board of commissioners	County taxes	Board treasurer	*
268.180	Drainage, levee and reclamation district, board of commissioners	Preliminary tax payable when levied; delinquent after Dec. 1	Board treasurer	*
268.420, 268.470	Drainage, levee and reclamation district board of commissioners	Assessment collected with state and county taxes	District treasurer	4 percent
269.050	Board of county drainage commissioners	State and county taxes	District treasurer	4 percent

* No compensation specified. Preparation of tax bills is the duty of the county clerk. The county clerk must deliver completed tax bills to the sheriff before September 15. The sheriff is then responsible for mailing notice to each taxpayer, showing the amount of tax due the taxing authority and the amount of discount available for early payment (KRS 133.220).
** In all instances where no person has been specified to receive certain taxes, the sheriff is to deliver these taxes either to the fiscal court or to a person designated by the fiscal court.
Source: Data compiled by LRC staff from Kentucky Revised Statutes.

State, county, and district taxes, unless otherwise provided for by law, are due before December 31. The sheriff must allow anyone who pays these taxes by November 1 a 2 percent discount. All such state, county, and district taxes become delinquent on January 1 after the assessment, unless otherwise provided by law (KRS 134.015).

Property owners make payments of their tax bills to the sheriff. The payment of the tax is recorded on the sheriff's books (KRS 134.160).

The sheriff may invest money subject to his or her control, including tax dollars, in investments permitted by KRS 66.480. When distributing taxes to schools, the sheriff must also distribute the earnings from school taxes, but may keep up to 4 percent of the monthly school investment income, in addition to the commission for collecting taxes, for administrative costs. In those counties where the sheriff is funded in whole or in part by fees and commissions, the sheriff may keep and use for office expenses the investment earnings from other taxes until the annual settlement with the fiscal court. In counties where the sheriff pays the fees and commissions to the county and the salaries and office expenses are paid by the county, the sheriff must pay investment earnings to the county treasurer along with the monthly distribution of taxes. Investment of idle funds is optional for the sheriff (KRS 134.140).

By the 10th day of each month, the sheriff must pay to the county treasurer and report to the judge/executive all county taxes and other money collected. The judge/executive may require more frequent reports and payments, if necessary for bonding requirements (KRS 134.191).

A settlement of the sheriff's accounts occurs on or before September 1. At that time, the sheriff makes a report showing total ad valorem tax collections and disbursements to a person appointed by the fiscal court. Upon final settlement, the sheriff must pay to the county treasurer all money that remains in his or her hands and take receipts as provided in KRS 134.160 and 134.192.

In counties of less than 70,000 population, the sheriff files annually with the final settlement a complete statement of all funds received, including tax collection commissions and income for other services rendered. The sheriff must also provide a statement of all office expenditures, including salaries and reasonable expenses. The sheriff must pay to the fiscal court any fees, commissions, and other income of the office, including income from investments that exceed the sum of his or her maximum salary, as permitted by the constitution, and other reasonable expenses, including compensation of deputies and assistants. The settlement for excess fees and commissions and other income is subject to correction by an audit conducted pursuant to KRS 43.070 or 64.810.

In counties of 70,000 or more population, all the sheriff's fees are paid to the State Treasury. The salaries of the sheriff, deputies, and the sheriff's necessary office expenses are paid out of 75 percent of these fees. The other 25 percent is paid to the fiscal court. A settlement of any excess in the 75 percent of fees allowable for operation of the sheriff's office is made at the end of the sheriff's term of office, when the State Treasurer pays the excess to the fiscal court, urban-county government, or consolidated local government (KRS 64.350).

The sheriff must transmit unpaid tax bills to the county clerk on April 15 or 3 months and 15 days from the date the taxes were due under an alternative collection schedule (KRS 134.122).

Election Duties

The sheriff performs several important election duties. The sheriff is a member of the county board of elections (KRS 117.035), which appoints election officers and certifies elections, among other duties also set out in KRS 117.045. A sheriff who is a candidate for office is disqualified from these election duties. When, for any cause, the sheriff cannot act as a member of the board, the sheriff recommends a commissioner to serve during the period of the sheriff's ineligibility unless the office is declared vacant (KRS 117.035).

The county sheriff publishes and advertises special elections to fill vacancies in the General Assembly (KRS 118.730 to 118.750) and vacancies in the US House of Representatives (KRS 118.720).

Some of the other special or local elections the sheriff advertises include elections held to consider a county road construction tax (KRS 178.240), elections for removal of a county seat (KRS 67.020), elections for changing county boundaries (KRS 67.030), and local option elections (KRS 242.040). Laws concerning publication of legal notice cover required newspaper advertisements (KRS Chapter 424).

Service To Courts

The sheriff is an officer of the courts and renders administrative services to them. The sheriff or one of the sheriff's deputies must attend and keep order in the fiscal court and any court of the Court of Justice and must obey court orders (KRS 70.140). The sheriff provides deputies and ordinary equipment that the chief Circuit judge deems necessary to supply security to the Circuit Court and provides the same service to District Court unless District Court is held in city facilities (KRS 23A.090, 24A.140).

Sheriffs receive an allotment derived from the court distribution fund. This fund provides a central account into which court costs collected by circuit clerks must be paid. The Finance and Administration Cabinet administers this fund and makes monthly disbursements according to a schedule set out in KRS Chapter 42. The schedule requires 10.1 percent of each court cost, up to $5,050,000, that is deposited in the fund to be paid to the local county sheriff (KRS 42.320 and 64.092).

The sheriff or sheriff's deputy must convey all persons to the penitentiary or juvenile facility and must execute the sentence of the court in other criminal and penal cases (KRS 70.130). The sheriff must transfer prisoners to a jail in another county whenever ordered by a judge to do so (KRS 441.530).

If there is no personal representative, public administrator, or guardian, the sheriff must administer the estate of a decedent (KRS 395.390).

Another way the sheriff serves the courts is through process service. Many types of process the sheriff can serve, or is otherwise required to serve, are listed subsequently.

The sheriff must execute and make due return of all notices and processes received (KRS 70.070) and may empower, by writing, any person to execute a process (KRS 70.050). However, if the sheriff is a party to any civil proceeding, the process must be directed to the coroner, jailer, constable, or other person the court appoints (KRS 454.140 and 454.145). It is the duty of the sheriff or one of the sheriff's deputies to go to the clerk's office daily to receive any process that may be issued (KRS 70.075).

The sheriff must endorse every summons to indicate when it was received (KRS 70.076). An example of the processes directed to the sheriff is orders of attachments, which are legal orders authorizing seizure of property in payment of a debt. A sheriff having an order of attachment may enter any building or enclosure containing the property to take it and may break in, if necessary, after having first publicly demanded the property (KRS 70.077). The sheriff may break in and enter a building to execute an order of arrest (KRS 70.078). The sheriff may not return any process on the grounds that he or she was prevented by force from executing it (KRS 70.079). Neither may the sheriff return any process because the defendant was not found within the county, unless the sheriff has actually been to the defendant's residence (KRS 70.080). The sheriff must execute all processes and sentences of military courts when so directed (KRS 38.400).

A writ of possession is directed to the sheriff. The writ requires the sheriff to search for and seize specific property (KRS 425.046 and 425.091).

An order of garnishment is served in accordance with the *Rules of Civil Procedure*. The sheriff shall serve orders of attachment or garnishment of earnings on the employer in triplicate (KRS 425.501 and 425.506).

The sheriff has responsibilities with respect to the service of process on nonresident motorists (KRS 188.030) and on nonresident owners or operators of watercraft (KRS 454.270).

Property Custodian

In most counties, the sheriff serves as the custodian of property. This includes all property taken from the person of a prisoner; lost and abandoned property taken into the custody of any member of the sheriff's office, the county police, or the courts; property taken from persons supposed to be insane, intoxicated, or otherwise incapable of taking care of themselves; confiscated or forfeited property, except for property subject to forfeiture under the Kentucky Controlled Substances Act; or property obtained through or used in criminal activity. Such property, on being taken into custody, must be delivered to a property clerk or deputy clerks appointed by the sheriff. The fiscal court may prescribe regulations relating to the duties of the property clerk (KRS 67.592).

KRS 67.594 and 500.090 set forth procedures for holding property in custody, disposing of property through public sale, and distributing the assets of such sales.

As an alternative to having the sheriff serve in this capacity, the county judge/executive may designate the chief of the county police as property custodian. Regardless of whether it is the

sheriff or the county police chief serving, the county property custodian has countywide jurisdiction, unless incorporated cities opt to appoint a city custodian (KRS 67.592 and 95.845).

Miscellaneous Duties

The sheriff has various other duties. When commanded by the District judge, the sheriff must prevent obstructions to mining surveys (KRS 352.500). At the order of the state fire marshal, the sheriff is to act as a deputy fire marshal for the county (KRS 227.230). The sheriff may attend the execution of condemned persons from the county (KRS 431.250) and accept or seize revoked alcoholic beverage licenses (KRS 243.530).

Compensation

KRS 64.5275 establishes the compensation for county officials, including sheriffs. Sheriffs are among the county officers whose duties have been declared to be coextensive with the state. As such, they are paid pursuant to the matrix established by KRS 64.5275 that references county population size and the sheriff's years of service (up to 4). For additional salary information, refer to Chapter 1 of this publication (Table 1.1). The figures in the matrix in this publication are adjusted to account for inflation since 1949 and are the actual salaries the officials currently receive. These figures are adjusted by the Department for Local Government in February of each year.

Counties Of More Than 70,000 Population

Section 106 of the Kentucky constitution and KRS 64.350 require sheriffs in counties with a population of 70,000 or more to be paid a salary out of the State Treasury. Fees collected by sheriffs in these counties are sent to the Finance and Administration Cabinet. Up to 75 percent of the fees sent to the cabinet may be used for expenses of the sheriff's office, such as the sheriff's salary, deputies' salaries, and office expenses. The remaining 25 percent returns to the county fiscal court and becomes part of the county general fund. Any of the 75 percent not spent for office expenses at the end of the term of office reverts to the county's fiscal court, the consolidated local government, or the urban-county government (KRS 64.350 and 64.345).

Necessary office expenses for sheriffs in counties with a population of more than 70,000, counties containing a city of the first class, and an urban-county or consolidated local government includes discretionary funds as specified and authorized by the approving authority (KRS 64.345).

Counties Of Less Than 70,000 Population

In counties of less than 70,000 population, office expenses and deputies' salaries are paid directly from fees and commissions collected. Money remaining after payment of such expenses makes up the sheriff's compensation. In many smaller counties, this amount may fall short of the maximum allowable salary.[17]

Fees And Commissions

Sources of revenue for the sheriff's office are as many and varied as the duties of the office.

A portion of the sheriff's fees is derived from law enforcement duties. KRS 64.060 sets out fees for peace officers generally:

- Apprehending a person charged with a felony or a fugitive from justice charged with a felony—$10
- Executing a process of contempt in a criminal case when the court excuses the contempt—$1.60
- Executing a summons upon a witness on behalf of the commonwealth in a felony case—$3
- Summoning and attending a jury in a case of felony—$2.50

KRS 64.090 establishes two schedules. The first (listed below) allows sheriffs, upon request, to charge and collect the fees from the state and any of its agencies, including the State Police, when the source of payment is not otherwise specified:

- Executing and returning process—$20
- Serving an order of court and return—$3
- Summoning or subpoenaing each witness, fee to be paid by requester to sheriff before service—$10
- Summoning an appraiser or reviewer—$2
- Attending a surveyor, when ordered by a court, per deputy or sheriff assigned—$20
- Taking any bond that the sheriff is authorized or required to take in any action—$5
- Collecting money under execution or distress warrant, if the debt is paid or the property sold, or a delivery bond given and not complied with, 6 percent on the first $300 and 3 percent on the residue; when the sheriff levies an execution or distress warrant, and the defendant replevies the debt, or the writ is stayed by legal proceedings or by the order of the plaintiff, half of the above commissions, to be charged to the plaintiff and collected as costs in the case
- Taking a recognizance of a witness—$3
- Levying an attachment—$5
- When property attached is sold by an officer other than the officer levying the attachment, the court shall, in the judgment, make the officer an additional and reasonable allowance for levying the attachment, and the fee of the officer selling the property shall be lessened by that sum. Reasonable charges for removing and taking care of attached property shall be allowed by order of court
- Summoning a garnishee—$3
- Summoning a jury in a misdemeanor case, attending the trial, and conducting the defendant to jail, to be paid by the party convicted—$8
- Serving process or arresting the party in misdemeanor cases, to be paid by the plaintiff—$30
- Serving an order or process of reviver—$3
- Executing a writ of possession against each tenant or defendant—$7
- Executing a *capias ad satisfaciendum*, the same commission as collecting money on execution. If the debt is not paid, but stayed or secured, half commission
- Summoning and attending a jury in a case of forcible entry and detainer, besides fees for summoning witnesses—$8
- Collecting militia fines and fee-bills, 10 percent, to be deducted out of the fee-bill or fine

- Levying for a fee-bill—$3
- Serving a notice—$2
- Serving summons, warrants, or process of arrest in cases of children born out of wedlock—$6
- Serving a civil summons in a nonsupport case—$10
- Serving each order appointing surveyors of roads, to be paid out of the county levy—$5
- Serving each summons or order of court in applications concerning roads, to be paid out of the county levy if the road is established, and in all other cases to be paid by the applicant—$5
- Like services in cases of private passways to be paid by the applicant—$5
- Executing each writ of habeas corpus, to be paid by the petitioner—$3
- All services under a writ issued under KRS 381.460 to 381.570—$10
- Fingerprinting persons for professional, trade, or commercial purposes, or for personal use, per set of impressions—$10
- Taking or copying photographs for professional, trade, or commercial purposes, or for personal use, per photograph—$5
- For services in summoning grand and petit jurors and performing duties under KRS Chapter 29A the sheriff shall be allowed, for each person so summoned, and paid out of the State Treasury for constructive service the sum of $1.50 and for personal service the sum of $3

The second schedule in KRS 64.090 allows sheriffs to charge and collect a fee of $40 from any person not requesting the service of the sheriff on behalf of the commonwealth, any of its agencies, or the Department of State Police for the services provided in this statute where a percentage, commission, or reasonable fee is not otherwise allowed. If a percentage, commission, or reasonable fee is allowed, that amount shall be paid. If payment is specified from a person other than the person who requested the service, then the person specified shall be responsible for payment.

For transporting prisoners to the state penitentiary and for moving persons charged with felonies, the sheriff receives actual expenses plus a mileage allowance (KRS 64.070). A $3,600 allowance, payable out of the State Treasury in $300 monthly allotments, is paid to the sheriff for patrolling public roads and inspecting roadhouses and dance halls. By statute, this sum is to be considered an expense allowance and not part of the compensation of the office (KRS 70.170).

Several statutes authorize compensation for court-related duties. KRS 64.090 pertains to fees for a number of such functions. KRS 64.092 determines compensation rates for attending court.

Sheriffs also receive fees for the service of process for the courts. In civil cases, in District Court (KRS 24A.170), and Circuit Court (KRS 23A.200), the fee for service of process is $20.

Sheriffs receive the greater part of their compensation through commissions for tax collection. Because taxes are collected at the end of the calendar year and expenses are incurred from the beginning, the sheriff may sometimes have insufficient funds to meet expenses before taxes are collected. In this case, the sheriff may apply for an advance from the secretary of the Finance and Administration Cabinet. The sheriff may not borrow during any month more than one-twelfth of the total fees collected during the preceding year, and in no case more than $60,000 per month. The sheriff must repay an advance at the end of the calendar year (KRS 64.140).

As compensation for collecting property taxes, the sheriff shall be paid

- 4.25 percent of the amount collected on behalf of the commonwealth (KRS 134.119);
- 4.25 percent of the amount collected on behalf of the counties (KRS 134.119);
- as provided by law or as negotiated, if permitted, for collecting taxes on behalf of any taxing district;
- as provided in KRS 160.500 for collecting school district taxes; and
- as provided in KRS 91A.070 when collecting on behalf of cities (KRS 134.119).

By law (KRS 160.500) the sheriff may not make a profit from collecting school taxes. Instead, the commission is only to meet expenses and is in no instance to be less than 1 1/2 percent nor more than 4 percent of the amount of taxes collected.

When a sheriff in a county of less than 70,000 population dies or is incapacitated while holding office, the fiscal court shall pay to the personal representative of the sheriff sufficient sums to reimburse his or her estate for the salaries of the deputies and assistants and other necessary office expenses that the sheriff paid during the year of death or incapacitation. The fiscal court shall also pay a sum of money for each month that the sheriff or his or her personal representative performed the duties of sheriff during the year of death or incapacity. This payment shall be equal to one-twelfth of the total salary received by the sheriff in the year prior to the year of death or incapacity (KRS 64.121).

Fee Pooling

In counties of more than 70,000 population, all fees collected by county clerks, sheriffs, and their deputies are paid directly into the State Treasury. In return, the salaries and office expenses of officers and deputies are paid out of the State Treasury. The total amount paid the officers in salaries and office expenses may not exceed 75 percent of the fees that the officer collected. The state pays the other 25 percent to the fiscal courts or urban-county governments on April 15, July 15, October 15, and January 15 for the preceding 3 months' collections; any adjustments necessary to make the four quarters equal 25 percent of the fees collected by the officeholder are made in the January 15 payment (KRS 64.350). If a county's population drops below 70,000 and the offices fee pooled, they continue to do so (KRS 64.368). If a county fee pools, the state treasurer pays the charges that the officers present to the state. The internal state process begins with the Finance and Administration Cabinet approving the budgets of each officer. (The respective fiscal court will have already submitted and approved the budget.) The budget presented to the Finance and Administration Cabinet may be as little as a three-line budget consisting of operating expenses, capital expenses, and personnel expenses. By the 10th of each month, the officer must turn over the fees collected to the cabinet. At that point, the officer must present the bills to the cabinet for payment to each vendor. Each officer may keep an imprest cash account. If an expense is incurred, the cabinet will pay the amount and replenish the account to return it to the amount limit. One difference for counties that fee pool is that the accounts are settled at the end of an officer's term rather than at the end of the budget year, as in the case of officers in counties that do not fee pool. A fee pooling officer may run at a deficit for 4 years.

In counties of less than 70,000 population, the officer may receive the maximum compensation established by the constitution and by KRS 64.5275, plus office expenses, including

compensation of deputies and assistants (section 246 and KRS 64.152 for clerks; KRS 134.192 for sheriffs). Any revenue derived from fees in excess of the officer's compensation and expenses is transferred to the county (KRS 64.152 and 134.192).

Sheriffs, as well as county clerks, may invest funds temporarily in excess of operating needs in specified financial instruments and institutions. County officials must report these earnings at the time of their annual reports and settlements with the fiscal court for excess income of their offices (KRS 66.480).

Kentucky Law Enforcement Foundation Program Fund

Sheriffs and their deputies may participate in the Kentucky Law Enforcement Foundation Program fund (KLEFPF) (KRS 15.410 to 15.510). Deputies are required to be certified under KRS 15.380 under the Peace Officer Professional Standards statutes (KRS 15.380 to 15.404), but sheriffs are not, because their qualifications are set out in the constitution. Sheriffs and deputies completing the requirements of the KLEFPF program receive a $4,000 yearly salary supplement (KRS 15.460). The statute specifies $3,000, but the executive branch budget allocates the difference.

Consolidation Of The Offices Of Sheriff And Jailer

Section 105 of the constitution permits the General Assembly to consolidate the offices of jailer and sheriff in any county. In the event of consolidation, the office of sheriff is retained and the sheriff must perform the duties of jailer. KRS 71.110 requires the consolidation of the offices of sheriff and jailer in counties containing a consolidated local government, counties containing a city of the first class, and urban-counties.

The fiscal court in counties containing a city of the first class or a consolidated local government may create a metropolitan correctional services department. Upon creation, all the duties and authority of jailers and sheriffs pertaining to the county jail or corrections transfer to the correctional services department (KRS 67B.030). The sole remaining duty of the sheriff pertaining to jails is an annual inspection and report on county correctional facilities (KRS 67B.070). KRS 67B.050 lists the responsibilities and powers of a metropolitan correctional services department.

The legislative body of any urban-county government may create a correctional services division. (The only urban-county government in Kentucky, Lexington-Fayette Urban County Government, has created such a division.) Upon creation, the division is responsible for all duties, responsibilities, and debts of the sheriff and jailer. The sheriff is responsible for conducting an annual inspection and providing a written report to the legislative body of the urban-county government and to the commissioner of the Department of Corrections (KRS 67A.028).

Vacancy

The county judge/executive or the mayor in a consolidated local government appoints the replacement to fill a vacancy in the office of sheriff. Section 152 of the Kentucky constitution governs the length of the appointment (KRS 63.220).

Deputies And Employees

The sheriff may appoint one or more deputies, as well as certified court security officers, to serve at his or her pleasure (KRS 70.030). Sheriffs may require deputies to reside in the county in which they serve (KRS 61.300). In a county containing a consolidated local government or a city of the first class with a deputy sheriff merit board, the term of office of a deputy must continue from sheriff to sheriff unless a deputy is removed according to the provisions of KRS 70.260 to 70.273. KRS Chapter 70 requires merit boards to employ a chief examiner, who is responsible for the design, administration, and evaluation of written tests required for promotion, and to require the examiner to select a panel to administer oral examinations. The sheriff shall select a candidate for promotion from a list of no more than three candidates who obtained the highest combined scores on the written and oral examination, including any seniority points, and who demonstrate the physical fitness to serve in their new capacity. The deputies may perform any duties the sheriff may perform (KRS 61.035). The sheriff is liable for the acts or omissions of the deputies, but the liability is that of the office of sheriff and not the individual (KRS 70.040). Liability is limited to a deputy's official act or an act done by virtue of the office.[18]

Approval of the number and reasonable compensation of deputy sheriffs is given by the fiscal court in counties containing cities of the first class, by the legislative council in a consolidated local government, and by the legislative body in a county with an urban-county government.

In all other counties having a population of 70,000 or more, the fiscal court, upon motion of the sheriff, fixes the number and compensation of deputy sheriffs (KRS 64.345).

In counties of less than 70,000 population, the fees and commissions that the sheriff collects are used to pay deputies' salaries. Each year, the fiscal court must set the reasonable maximum amount, including fringe benefits, that the sheriff may expend for deputies and assistants. Subject to this reasonable maximum, the determination of the number of deputies and assistants and their individual compensation is left to the sheriff (KRS 64.530).

The sheriff may appoint, have sworn in, and have entered on the county clerk order book one special deputy for each 2,500 residents or part thereof in the county to assist with general law enforcement and maintenance of public order in counties with populations of at least 10,000. Sheriffs serving in counties of less than 10,000 may appoint a special deputy for every 1,000 residents (KRS 70.045). The sheriff may appoint additional special deputies to assist in preparation for or during emergency situations. These special deputies cannot receive monetary compensation (KRS 70.045).

A sheriff may also appoint nonsworn clerical, technical, professional, and support personnel to serve at the pleasure of the sheriff (KRS 70.030). KRS 70.030 allows a sheriff's office, upon written request of the sheriff, to participate in the Kentucky Law Enforcement Foundation Program fund as authorized by KRS 15.410 to 15.510, without the county establishing a deputy sheriff merit board. Certified court security officers employed by the sheriff may not participate in the program fund.

If the sheriff's employees do not receive health insurance coverage from the county, the sheriff may use excess fees earned by the office to purchase health insurance for them. The type and extent of the coverage is determined by the sheriff, who may be included under the plan. If the excess fees are not sufficient, in the sheriff's judgment, to provide a reasonable amount of insurance, employee contributions may supplement the premiums (KRS 61.405). However, the attorney general has opined that the statute allowing the sheriff to purchase employee health insurance from excess fees is unconstitutional (OAG 92-108).

Deputy Sheriff Merit Boards

Any county may enact an ordinance creating a deputy sheriff merit board consisting of five members: two appointed by the county judge/executive (or by the chief executive officer if the county has an urban-county government or chief executive officer of a consolidated local government), two appointed by the county sheriff, and one elected by the deputy sheriffs of the county (KRS 70.260). In a county that adopts the board, no deputy may receive or solicit contributions or gifts for a candidate or a political party (KRS 70.267). No deputy may be disciplined or threatened for failing to make contributions for political purposes. Deputy sheriff merit boards in all counties may exclude policy-making deputies from merit coverage (KRS 70.260).

After an initial appointment or a promotional appointment, no deputy sheriff in a county with a merit board may be suspended or removed unless the sheriff furnishes a written statement of the reason, except during the first year of employment (KRS 70.267 and 70.270). The merit board may review dismissals and reductions in pay at the requests of deputies. It may also review the sheriff's investigations of citizens' complaints against deputies. The board may remove or discipline a deputy, but only after a hearing at which the deputy has the right to confront witnesses. In a county containing a consolidated local government or a city of the first class with a deputy sheriff merit board, a deputy's term of office will continue from sheriff to sheriff (KRS 70.030).

Deputy sheriffs employed by a county that adopts a merit board must complete, within 1 year after their hiring or the creation of the board, at least 640 hours of training approved by the Kentucky Law Enforcement Council. Training approved by the council and received before the creation of the merit board may satisfy all or part of this requirement (KRS 70.263). A deputy sheriff who provides court security satisfies the training requirement by taking a course approved by the Administrative Office of the Courts.

No sheriff whose county has adopted a merit board may appoint an immediate family member as a deputy. Members of the sheriff's immediate family are also prohibited from serving on a deputy sheriff merit board (KRS 70.030 and 70.260 to 70.273).

Deputy sheriffs in any county containing a city of the first class that has adopted a deputy sheriff merit system pursuant to KRS 70.260 to 70.273 may bargain collectively through a representative of their choice. A sheriff shall not be required to bargain over matters of inherent managerial policy (KRS 70.262).

Branch Offices

Sheriffs in counties with a land area of more than 750 square miles may maintain a branch office in any incorporated or unincorporated city of the county, other than the county seat, if authorized by fiscal court resolution. The sheriff may appoint deputies for the branch office. The branch offices may be used for the same purposes as the one at the county seat, but all records must be kept at the county seat. This provision also applies to county clerks (KRS 67.035).

Penalties

Statutes provide penalties for neglect of duty or other illegal acts that the sheriff performs. Generally, a sheriff may be indicted for misfeasance or malfeasance in office, or for the willful neglect of any duties. If convicted, a sheriff may be fined from $100 to $1,000 and must vacate the office. Kentucky law is broad in this respect and is designed to cover all illegal or neglectful acts for which penalties are not provided (KRS 61.170).

Several penalties are provided for specific wrongful acts. A sheriff who fails to renew the bond required in KRS 70.020, when ordered to do so by the county judge/executive, may be suspended by the court until coming into compliance. A sheriff who fails to keep order in the Circuit Court or fiscal court is guilty of a violation. A sheriff who knowingly makes a false or illegal return on any process is guilty of a Class A misdemeanor and liable for triple the amount of damage caused (KRS 70.990).

A sheriff who refuses to execute process and sentence directed by a military court shall be fined a maximum of $50 for each offense (KRS 38.990). Any sheriff who accepts compensation other than from public funds from any person while performing duties as sheriff or for participating in a labor dispute in off-duty hours may be removed from office, upon conviction, and may be fined $500 to $5,000, may be confined in jail for a maximum of 1 year, or both (KRS 61.310).

If the sheriff is given a writ of execution and fails without a reasonable excuse to return it to the office from which it was issued within 30 days, he or she is liable to the plaintiff for the amount of the execution plus 30 percent damages (KRS 426.350). If found to be interested in or to be speculating in any public works or improvements in which the county or state is interested, the sheriff may be fined $500 to $2,000 (KRS 61.230).

If a sheriff fails to enforce KRS 242.020 to 242.990 (dealing with alcoholic beverages in dry territories) after hearing of information or knowing information concerning a violation, he or she may be fined from $50 to $200 and must vacate the office (KRS 61.170).

A sheriff who willfully violates any of the provisions of the regulation of election laws in KRS Chapter 117 shall be guilty of a Class D felony (KRS 117.995).

A sheriff who refuses to permit an inspector designated under KRS 117.275 and 117.315 to exercise free and full action in witnessing the count of ballots, or who interferes with the right of such an inspector to have a free and full opportunity to witness the count of ballots, shall be guilty of a Class A misdemeanor (KRS 119.225).

A sheriff who willfully neglects to perform a duty imposed under the election laws, for which no other penalty is provided, or who willfully performs such a duty in a way that hinders the objects of the election laws shall be guilty of a Class B misdemeanor (KRS 119.265).

By September 1 of each year, the sheriff shall annually settle accounts with the Department of Revenue, the county, and any district for which the sheriff collects taxes (KRS 134.192). The annual settlement of the sheriff shall be audited in accordance with KRS 43.070 and 64.810. Sheriffs failing to follow the provisions of KRS Chapter 134 will face the penalties set out in KRS 134.990, which consist of a series of fines. These fines can be from $100 to $500, or a percentage of the fees derived from the taxes collected by the sheriff for failure to properly keep tax collection records.

A sheriff who willfully conceals or destroys any record with the intent to violate the provisions of KRS Chapter 61 relating to public records shall be guilty of a Class A misdemeanor for each separate violation. Any official of a public agency who fails to produce any record after entry of final judgment directing that such records be produced shall be guilty of contempt (KRS 61.991).

Chapter 8

Jailer

Background

Section 99 of Kentucky's constitution provides for the election of a jailer in each county. Section 105 permits the legislature to consolidate the offices of sheriff and jailer in any county, if the office of sheriff is retained and the sheriff assumes the jailer's duties. This provision results from a compromise between two factions of the 1890 Constitutional Convention, one wanting to abolish the office of jailer, and the other urging retention of the offices of sheriff and jailer.[19]

The Kentucky constitutional provisions relating to the office of jailer are unique. No other state constitution refers to jailers.[20] In most states, the sheriff or a sheriff's deputy would perform the duties of jailer.[21]

Qualifications

The constitution prescribes a jailer's qualifications. The jailer must give bond as required by law, must be at least 24 years of age, and must have 2 years' residence in the state and 1 year in the county of candidacy (sections 100 and 103). Before assuming office, a jailer must execute bond before the judge/executive and must take the oath prescribed by the constitution (section 228). The fiscal court approves sureties for this bond for a minimum of $10,000, and the bond must be filed in the county clerk's office. No coroner, sheriff, sheriff's deputy, county judge/executive, Circuit judge, county or circuit clerk, or attorney may be a surety for the bond (KRS 71.010).

Vacancy

A vacancy in the office of jailer is filled by the county judge/executive's appointment or by the mayor's appointment in a consolidated local government. Section 152 of the Kentucky constitution and KRS 63.220 govern the length of appointment.

County Jail System

Each fiscal court must provide for the incarceration of prisoners arrested in the county or sentenced or held by order of the courts in the county. This responsibility may be met in several ways. The fiscal court may provide and maintain a jail or may contract with another county or a city for the incarceration and care of prisoners. If the fiscal court contracts with another county or city, it must provide for the transportation of prisoners, including vehicles, drivers, and guards. A county may provide facilities for holding prisoners for limited periods and contract with another county or a city for longer periods. A county may also enter into an interlocal agreement, pursuant to KRS 65.210 to 65.300, to provide or use jail facilities (KRS 441.025).

A county has the flexibility to maintain its own jail, to contract with another county or a city for the use of its facilities, or to participate in a regional jail system if such a system is established.

Providing for the incarceration of prisoners is an expensive undertaking for counties. County jails will become more expensive as Kentucky seeks to upgrade them, pursuant to its own standards and regulations, and as a part of a nationwide response to federal court mandates for better jail facilities and correctional programs.

Under KRS 441.206, money appropriated for county jails must at least equal the amount for fiscal year 1983–1984 or, in the case of certain counties, the amount that should have been paid in 1983–1984. Any additional amounts must be allocated on the basis of the following formula:

- 60 percent based on the 1983–1984 funding each county received, or should have received;
- 10 percent based on each county's ranking of median household income in inverse order, using the 1980 federal census; and
- 30 percent "based on the proportion of each county's age at risk population (ages 18–34) to the state total," using the 1980 federal census.

No county may receive less than $24,000 from the State Treasury for the care and maintenance of prisoners charged with or convicted of violations of state law (KRS 441.206). The state will also provide training for jailers and their deputies through the Department of Corrections; a jailer's expense allowance of $300 a month helps defray the cost of the participation in the training program (KRS 441.115).

The county may receive revenue from the federal government, cities, or other counties for holding prisoners for those units of government (KRS 441.025 and 441.035). In addition, a Class D felon who is sentenced to an indeterminate term of 5 years or less, or who has less than 5 years left on a longer term, may serve that term in a county jail. Class D and Class C felons sentenced to terms longer than 5 years may serve that time in county jails under the conditions set out in KRS 532.100.

The commissioner of the Department of Corrections will grant a waiver to counties that choose not to house felons (KRS 532.100). Counties that house felons will receive a per diem for housing them (KRS 431.215). A county may require county jail prisoners to reimburse the county for expenses incurred. This includes a $50 per diem for room and board as well as the cost for medical treatment incurred during incarceration (KRS 441.265).

Prisoners in work release status may be charged up to 25 percent of gross daily wages, a minimum of $12 and a maximum of $40 per day, for the costs of their imprisonment (KRS 439.179). The money must be paid to the jailer (KRS 534.045).

Medical Expenses

KRS 441.045 sets out the applicable law on health care in county jails. The county must pay for the cost of providing necessary medical, dental, and psychological care for indigent prisoners, or prisoners without health insurance, from the county jail budget. The cost of providing necessary

medical, dental, or psychological care for prisoners held as part of a contractual agreement with another county or a city is paid as provided by that contract. If the cost of care for a prisoner exceeds $1,000, as calculated by using the maximum allowable costs to similar persons or facilities for the same or similar services under the Kentucky Medical Assistance Program, the state must reimburse the county for that portion of the costs that exceeds $1,000. The state reimbursement is subject to the following terms and conditions:

- The care is necessary, meaning it is nonelective and cannot be delayed until after confinement without jeopardizing the life or health of the prisoner. The attending physician must certify that the care is necessary.
- The prisoner is indigent or uninsured.
- State reimbursement to the county for care provided by health care providers cannot exceed the maximum payments allowed for these services under the Kentucky Medicaid program, except as otherwise provided by law.

Jail Standards And Inspections

The Department of Corrections established minimum standards for jails of counties that elect to house state prisoners. These standards include provisions for

- health and safety conditions;
- fire safety;
- jail operations, record keeping, and administration;
- curriculum of basic and continuing annual training for jailers and jail personnel;
- custody, care, and treatment of prisoners;
- medical care; and
- jail equipment renovation and construction (KRS 441.055).

The Department of Corrections provides technical assistance to local governments to help them comply with the standards (KRS 441.055). The department must also adopt the standards of the Jail Standards Commission and promulgate regulations for those counties that elect not to hold state prisoners. However, these standards must be limited to health and life safety conditions. The county governing body must “prescribe rules for the government, security, safety, and cleanliness of county jails and the comfort and treatment of prisoners” if the rules are consistent with state laws (KRS 441.045).

The Department of Corrections must employ jail inspectors to inspect each jail holding state prisoners at least twice a year. The jailer must allow the department inspectors access to the jail or any part of the jail at any reasonable time, as well as access to all books, records, and data pertaining to the jail that the department deems necessary to fulfill its jail regulation responsibilities (KRS 441.064). The department must submit an annual report of its inspections to the jailer and the fiscal court. The county judge/executive may also inspect the jail at any reasonable time (KRS 441.045).

If the Department of Corrections finds violations of state law pertaining to jails housing state prisoners, the commissioner or a designee must order that the violations be corrected. The commissioner may order that a jail or a part of a jail be closed, that the jail not house certain

types of prisoners, that a county contract with another county for the incarceration of prisoners, or that the jail cease housing state prisoners (KRS 441.075). A report of violations of the health and life safety regulations in any jail by the department to the commissioner will result in an order for immediate correction. The commissioner may order the jail closed until the violations are corrected.

Training For Jailers And Jail Personnel

The Department of Corrections conducts a jail staff training program to instruct personnel in implementing state jail standards. Jailers must serve with professionals in jail administration on a curriculum advisory committee to advise the department on training needs. The state will provide each jailer with a $300 monthly expense allowance to help pay for training. To qualify for this allowance, the jailer must complete a basic training course within 1 year of taking office and must complete annual continuing training (KRS 441.115). However, to receive the expense allowance during their first year in office, jailers who have been elected to the office for the first time must, before taking office, successfully complete the basic jailer training program. Accommodations are permitted for illness (KRS 441.115).

KRS 64.5275 allows jailers who operate life safety jails, who transport prisoners, and who act as court bailiffs to be eligible to participate in the training and training incentive benefits available to jailers operating full-service jails. This is a separate incentive from the training requirements in KRS 441.115.

Powers And Duties

Keeping The Jail

Each county jailer has “custody, rule and charge of the jail in his county” and “all persons in the jail” (KRS 71.020). If there is a residence in the jail, either the jailer or one of the deputies may live in it (KRS 71.020). The jail must be kept warm, clean, and free from vile odors. Prisoners confined in the jail must have sufficient bed clothing paid by the county (KRS 71.030).

At the time of booking, the jailer must receive and keep in jail any person committed to custody until discharge, unless the prisoner needs emergency medical attention, in which case the arresting officer must obtain medical attention for the prisoner before delivery to the jail. The jailer must treat each prisoner humanely and furnish food and lodging. If a prisoner dies, the jailer must deliver the body to friends, if requested, or have the person decently buried at the county’s expense (KRS 71.040).

Transportation Of Prisoners

KRS Chapter 441 requires each fiscal court to provide for the transportation of prisoners, as necessary, from the jail budget. All vehicles used for transporting prisoners must have security screens and two-way radios. The fiscal court is not required to provide for the transportation of

prisoners on work release or of prisoners being held out of the county at the time of their release (KRS 441.505). KRS 441.510 establishes the procedures for the transportation of prisoners.

Jail Budget

The county jailer has statutory responsibilities in preparing the jail budget. Working with the county judge/executive and treasurer, the jailer develops and provides to the fiscal court, by April 1, a proposed line-item budget and an estimate of revenues from all sources (KRS 441.215). The fiscal court must consult with the jailer before changing the jail budget, and only the fiscal court may transfer funds between line items (KRS 441.215). A jailer who feels that a proposed or amended budget is inadequate must send a written notice to the fiscal court and, if the jail holds state prisoners, to the Department of Corrections (KRS 441.215).

KRS 441.235 requires the county treasurer to keep books of accounts of all receipts and disbursements from the jail budget and to make reports as required by the state local finance officer. The county treasurer, in cooperation with the jailer, must make a monthly report to the fiscal court on

- all purchases from the jail account for the preceding month for final fiscal court approval; and
- the current condition of the jail account, including all jail revenues received, expenditures for the month, expenditures for the year to date, and unexpended balances by line item (KRS 441.235).

Reports

Under KRS 441.105, the jailer must report monthly in electronic format to the Department of Corrections the following information on each prisoner, whether or not the jail houses state prisoners:

- Whether the charge is for a felony or misdemeanor
- The statute or ordinance involved
- The unit of government whose law has allegedly been violated
- Whether the prisoner is awaiting trial or has been convicted
- The age and sex
- The county responsible for incarceration

The jailer must also report quarterly to the fiscal court on the condition of the jail, the number of personnel, and personnel needs (KRS 441.105). This fiscal court can require the jailer to report additional information.

Court Services

The jailer is an officer of the Circuit and District Courts of the county. In any county where there is no jail and the jailer does not transport prisoners, the jailer must serve as a bailiff to the Circuit and District Courts (KRS 71.050). A summons or order for provisional remedy in a civil action or proceeding may be directed to the jailer at the request of the party for whom it is issued, provided the jailer is not an interested party (KRS 454.140).

Responsibility For County Buildings

The fiscal court is responsible for maintaining and operating all county buildings, grounds, and other properties. The county judge/executive has the duty of carrying out or executing fiscal court policy in relation to county buildings and property. With agreement by the jailer, the fiscal court may hire the jailer as the superintendent of any buildings or properties at the county seat (KRS 67.130).

Jail And County Property. The jailer must take charge of furniture, bedding, and property belonging to the jail and any other county property for which the jailer may act as superintendent. The jailer may be liable on official bond for any property lost or destroyed by reason of the jailer's negligence (KRS 67.170).

Jailer's Residence. If the county owns the jailer's residence, the fiscal court must make an annual appropriation sufficient to maintain it in clean, comfortable, and presentable condition. Funds appropriated for the jailer's residence must be expended by the jailer (KRS 67.130).

Jail Canteen

The jailer may operate a canteen for the benefit of the prisoners. The jailer may assign jail employees or prisoners to work in the canteen. The jailer must maintain accounts on the receipts and disbursements of the canteen and must report annually to the county treasurer on the canteen account. Profits from the canteen must be used for the benefit or well-being of the prisoners. The fiscal court must transfer to the canteen sufficient funds based on the total number of prisoners (KRS 441.135).

Preparing Bail Bond

With the approval of the fiscal court, the jailer may prepare a bail bond pursuant to KRS 30A.060. The jailer must collect a fee of $5 from the defendant and provide a receipt. The jailer must pay bonding fees to the county treasurer by the 10th day of each month. The treasurer must deposit the bonding fees in the jail fund (KRS 431.5305).

Work And Educational Release For Misdemeanants

To persons sentenced to jail for a misdemeanor, nonpayment of a fine, forfeiture, or contempt of court, the court may grant the privilege of leaving the jail during reasonable hours for the purpose of seeking employment, working, conducting business, attending school, obtaining medical treatment, or in the case of a woman, attending to the needs of her family. The jailer shall advise the court in establishing criteria to determine a prisoner's eligibility for work release. The jailer must notify the Office for Employment and Training in the Department for Workforce Investment, which endeavors to secure employment for unemployed prisoners. Every prisoner gainfully employed must pay for the cost of board in the jail up to 25 percent of gross daily wages, not to exceed $40 per day. The jailer may refuse to let the prisoner leave the jail for any breach of discipline or other violation of jail regulations, for a period not to exceed 5 days (KRS 439.179).

Community-Service-Related Work

A defendant who has been convicted of a crime and sentenced to the county jail may be required to work at a community-service-related project in the county, such as a task for the state, county, city, special district, or an agency of one of these units, or a task for a non-religious-sponsored nonprofit, charitable, or service organization (KRS 441.125). The jailer must write a policy governing prisoners working on community service projects, and the fiscal court must approve the policy. The jailer must consider the physical and mental ability of each prisoner and the security of the jail and the public when assigning work. The jailer must not assign any prisoner to unduly hazardous work or to work that would endanger others. Any prisoner with a valid medical excuse may decline to work at community-service-related projects without penalty or punishment (KRS 441.125).

Deputies

Deputies have the same powers as jailers and are subject to the same penalties (KRS 71.060). The jailer is liable on official bond for the conduct of deputies. This statute also gives the jailer the responsibility for appointing and removing jail personnel. The jailer may dismiss deputies at any time with cause. The fiscal court sets the number of jail personnel in the jail budget. The fiscal court must establish education and training requirements for deputies as permitted by administrative regulations adopted by the Department of Corrections pursuant to KRS 441.055.

If the county has no jail and the jailer does not serve as a transportation officer under KRS 441.510, the jailer is not entitled or permitted to appoint any jail personnel (KRS 71.065). Where the county has no jail and the jailer serves as a transportation officer, the county judge/executive with fiscal court approval can employ persons to serve as transportation officers to assist the jailer. These additional transportation officers possess peace officer powers only during transportation and while otherwise maintaining custody of prisoners (KRS 71.065).

Deputy jailers are compensated by a salary set by the fiscal court. Deputies' salaries must be initially set by the first Monday in May of the year in which county officials are elected, but the fiscal court may, by the first Monday in May of successive years, review and adjust such salaries on the request of the jailer (KRS 64.530).

Federal, State, And City Use Of The County Jail

The federal government and any city in the county may use the county jail. A jailer must receive and confine in jail, until lawfully discharged, persons committed under US laws or ordinances of any city in the county (KRS 441.035). The jailer must receive persons ordered into confinement before trial and persons committed to confinement by a court-martial (KRS 35.285 and 35.055).

A prisoner being moved from one state to another may be lodged in the county jail. The jailer must receive and safely keep the prisoner until the person having custody is ready to proceed. The officer having custody of the prisoner must present written evidence showing that the prisoner's extradition has been ordered. Expenses of keeping the prisoner are charged to the officer responsible (KRS 440.260).

Transfer Of Prisoners

A Circuit judge may, for security reasons, transfer prisoners from one county jail to another or to the penitentiary most convenient to the county (KRS 441.520 and 441.540). When the Circuit judge is not in the county, the District judge may order such transfers.

When the sheriff receives an order to transfer prisoners, the sheriff must make the transfer. The sheriff must deliver with the prisoners a copy of the transfer order and take from the receiving jailer a receipt for the prisoners (KRS 441.530).

An order directing transfer is conclusive evidence that the transfer is proper and to the correct jail. Such an order justifies the jailer's holding of any prisoner and protects the jailer in any action for false imprisonment (KRS 441.530).

Duties Of A Jailer On Going Out Of Office

Upon leaving office, a jailer must deliver to the successor the custody of the jail and all confined prisoners. The jailer must give the incoming jailer all official papers by which prisoners were committed to custody or released from custody (KRS 71.100).

Compensation

KRS 64.5275 establishes the compensation for county officials, including a jailer who operates a full-service jail. For additional salary information, refer to Table 1.1. In addition, jailers who do not operate a full-service jail receive a salary established by the fiscal court, but that salary cannot exceed the maximum constitutional salary limit. The minimum salary is $20,000 or the previous calendar year's salary, whichever is greater, as authorized by KRS 441.245.

Consolidation Of The Offices Of Sheriff And Jailer

Section 105 of Kentucky's constitution grants the legislature the authority to consolidate the offices of jailer and sheriff in any county, with the sheriff performing the duties of the jailer. The legislature has consolidated the offices of sheriff and jailer in counties containing a city of the first class, consolidated local governments, and urban-county governments (KRS 71.110).

Consolidated Local Government Jail

In counties containing a city of the first class or consolidated local government in which the offices of jailer and sheriff have been consolidated, KRS Chapter 67B authorizes fiscal courts to create a metropolitan correctional services department. Upon the creation of a department, all the duties and authority of jailers and sheriffs in relation to the county jail or corrections transfer to the department (KRS 67B.030). The remaining duty of the sheriff pertaining to jails is an annual

inspection of and report on county correctional facilities (KRS 67B.070). KRS 67B.050 lists the responsibilities and powers of a metropolitan correctional services department.

Urban-County Jail

In any urban-county government in which the offices of sheriff and jailer have been consolidated, KRS Chapter 67A grants the legislative body the power to create a correctional services division. The division is responsible for all duties, responsibilities, and liabilities of the sheriff and jailer with reference to the operation and maintenance of the county jail. The sheriff is responsible for an annual inspection and written report, to be given to the legislative body of the urban-county government and to the commissioner of the Department of Corrections (KRS 67A.028).

Penalties And Restrictions

A jailer may be indicted in the county in which he or she resides for misfeasance or malfeasance in office and for willful neglect in the discharge of official duties. If convicted, the jailer may be fined $100 to $1,000. Upon a judgment of conviction, the jailer must vacate the office (KRS 61.170).

If a jailer is convicted of denying the United States or a city within the county the use of the jail, or charging these jurisdictions any fees not authorized by law, the jailer shall be guilty of a Class A misdemeanor (KRS 441.990).

The office of jailer is incompatible with other county offices (KRS 61.080). No jailer may be a state or city officer or employee while serving as jailer (KRS 61.080). A jailer must vacate the office upon acceptance of an incompatible position (KRS 61.090).

For failing to take custody, rule, and charge of the jail and all persons in it, a jailer is subject to conviction for misfeasance in office. The District Court may fine the jailer, or the grand jury may indict the jailer (KRS 71.990).

A jailer is liable to the county through official bond for the value of any county property in the jailer’s charge that is lost or destroyed by reason of his or her negligence or fault. The county may enforce this liability by notice and motion in the District Court (KRS 67.170).

Any jailer who willfully conceals or destroys any record with the intent to violate the provisions of KRS 61.870 to 61.884 relating to public records shall be guilty of a Class A misdemeanor for each separate violation. Any official of a public agency who fails to produce any record after entry of final judgment directing production shall be guilty of contempt (KRS 61.991).

Chapter 9

Coroner

Background

In Kentucky, the office of coroner was elective under the first constitution in 1792 (Art. VI, sec. 1). Under the second constitution in 1799, the governor was allowed to appoint the coroner (Art. IV, sec. 8). In 1850, the coroner's office was again made elective (Art. VI, sec. 1). Section 99 of Kentucky's present constitution establishes the office of coroner as an elected county office with a 4-year term.

Qualifications

The coroner must be at least 24 years of age at the time of election, a citizen of Kentucky, a resident of the state for at least 2 years preceding election, and a resident for at least 1 year in the county of election (section 100). The constitution also requires the coroner to take an oath of office (Ky. Const., sec. 228; KRS 72.010) and execute bond insuring the proper discharge of duties (Ky. Const., sec. 103; KRS 72.010). Premiums on the bond of the coroner may be paid from county funds when appropriated by the fiscal court. The bond must be in a minimum amount of $10,000 (KRS 72.010). A coroner must possess a current certificate of continuing education in order to perform a postmortem examination (KRS 72.405).

Vacancy

A vacancy in the office of coroner must be filled by the county judge/executive (or by the mayor in a consolidated local government). Section 152 of the Kentucky constitution governs the length of the appointment, which will be until the successor is elected (KRS 63.220).

Powers And Duties

Coroners and their deputies have the full power and authority of peace officers, including the power to arrest, to bear arms, and to administer oaths. In performing investigations, the coroner or a deputy may enter public or private property; seize evidence; interrogate persons; and require the production of medical records, documents, or evidence. The coroner may impound vehicles involved in fatal accidents. The coroner may employ special investigators and photographers in making an investigation and expend funds in carrying out official duties (KRS 72.415).

Determination Of The Cause Of Death

A principal duty of the coroner is to determine the cause of death. In the case of deaths occurring from natural circumstances, the extent of inquiry into the death is left to the discretion of the

coroner, who may authorize the physician or advanced practice registered nurse of record to sign the death certificate (KRS 72.465). However, when a death meets the definition of a coroner's case, the coroner must perform an investigation (KRS 72.410) and sign the death certificate (KRS 72.465).

KRS 72.025 specifies when a coroner must conduct a post-mortem examination.

In the performance of duties, the coroner must take possession of any objects, medical specimens, or articles that may be helpful in establishing the cause of death. If a criminal prosecution arises, the coroner must retain all such objects and articles and resulting examination reports until the prosecuting authority or the court requires them (KRS 72.020).

When attempting to determine the cause of death in a coroner's case, the coroner may order an autopsy, hold an inquest, and request the assistance of the district medical examiner and the Office of the Kentucky State Medical Examiner (KRS 72.410).

Coroners must submit a monthly report to the Department for Public Health if a child under the age of 18 years has died in the county during the preceding month (KRS 72.029). When a coroner's case involves a child, the coroner must expediently notify the local office of the Department for Community Based Services, law enforcement agencies with local jurisdiction, and the local health department to determine the existence of relevant information concerning the case (KRS 72.410).

Autopsies

A coroner must order postmortem examinations in any coroner's case and in several other instances.

In the event of deaths not meeting the criteria of a coroner's case, consent to an autopsy must be obtained from the decedent (signed and acknowledged before his or her death), the decedent's spouse, the next of kin, or the person taking possession of the body (KRS 72.425).

Upon receipt of an affidavit stating that a person who is dead and buried may have died of illegal causes, the coroner may order the body exhumed and an autopsy performed (KRS 72.440). If, upon receipt of such an affidavit, a coroner refuses to order an autopsy or to have a body exhumed, the county or commonwealth's attorney may petition the District or Circuit Court with jurisdiction to order an autopsy (KRS 72.445).

Pathologists, toxicologists, chemists, and other authorized personnel are not required to inquire about the coroner's authority to order an autopsy. Such medical technicians, when performing an autopsy at the request of the coroner, have immunity from any civil liability (KRS 72.430).

When a death certificate has been previously filed and an autopsy is performed, the coroner must notify the Cabinet for Health and Family Services' Vital Statistics Branch of any necessary changes in the death certificate (KRS 72.465). Generally, the fiscal court pays costs of autopsies; however, the Division of Kentucky State Medical Examiners Office of the Justice Cabinet may,

to the extent that its budget permits, contract with pathologists, toxicologists, and chemists and pay the cost of autopsies (KRS 72.460).

Inquests

Inquests, or investigations into the causes and circumstances of a death, may be ordered in any coroner's case at the discretion of the coroner. A coroner's jury, consisting of six reputable citizens selected and sworn by the coroner, conducts the inquest. The coroner may issue subpoenas and subpoenas *duces tecum* (subpoenas in which the person subpoenaed is to produce materials and other items to be used as evidence in a proceeding) in an inquest. If a witness fails to appear, the coroner may apply to the Circuit Court for punishment by contempt for failure to answer the subpoena (KRS 72.420).

If the coroner's jury returns a verdict of manslaughter, murder, or other criminal act, the coroner must either arrest the named individual or notify the appropriate law enforcement authority. A copy of the verdict of the coroner's jury must be filed with the Circuit Court clerk (KRS 72.420).

Notification Of The Coroner

Any person, hospital, or institution finding or having possession of the body of any person whose death occurred under any of the first 12 circumstances listed in KRS 72.025 must immediately notify the coroner or a coroner's deputy and a law enforcement agency. These persons must report to the scene within a reasonable time. No person shall remove the body or anything from the body until directed to do so by the coroner or a deputy after law enforcement has arrived. If the law enforcement agency fails to arrive within a reasonable period of time, the coroner or deputy may order the removal of the body and its effects (KRS 72.020).

When a licensed embalmer, funeral director, or ambulance service attendant is the first person at the scene of death, he or she shall notify the coroner and, if the death appears to fall within the first 12 categories of coroner's cases, must also notify a local law enforcement agency (KRS 72.020).

If the law enforcement officer at the scene has probable cause to believe that the death falls within the first 12 categories of coroner's cases but the coroner refuses to order a postmortem examination, the officer must immediately notify the county or commonwealth's attorney (KRS 72.020). The county or commonwealth's attorney may then petition the District or Circuit Court to order an autopsy (KRS 72.445).

Miscellaneous Duties

Unclaimed Bodies. When in possession of a body, the coroner must make a bona fide attempt to locate the spouse or next of kin. If unable to do so, the coroner may arrange for the body to be buried at the expense of the county or the coroner may, in accordance with KRS 311.300 to 311.350, deliver the body to a state medical school. Any money or other property found on the body must be delivered to the fiscal court, consolidated local government, or urban-county

government, whichever is appropriate, to help defray burial expenses. Any excess funds shall go to the governmental unit 1 year later (KRS 72.450).

Death Certificate. The funeral director, or person acting as such, who first takes custody of a dead body is responsible for filing the certificate of death. He or she must, within 5 days of the death, present the certificate to the attending physician, health officer, or coroner as directed by the state registrar of vital statistics, for the medical certificate of the cause of death. Upon receiving a certificate, the coroner must complete and sign it within 5 days after receiving results of the inquiry required by KRS 72.400 to 72.475 and return it to the funeral director. Death certificates are filed electronically with the cabinet using the Kentucky Electronic Death Registration System (KRS 213.076).

The coroner must note on the death certificate if diabetes was an underlying cause of death or a contributing condition.

Cremation. Bodies may not be cremated or transported for cremation without a permit from the coroner stating the cause of death and authorizing the cremation. A permit is not required in the case of cremation of fetal death remains if there is no indication of a criminal act (KRS 213.081).

Anatomical Gifts. When in possession of a decedent who is defined as a coroner's case or upon whom an autopsy has been ordered, the coroner may permit the removal of the decedent's cornea or corneal tissue for use in a transplant operation, provided several conditions are met. There must have been a request from an authorized recipient of an anatomical gift, such as a physician, hospital, medical school, or others as set forth in KRS 311.1961 and 311.1963. Such removal cannot be made if it would interfere with an autopsy or alter the decedent's facial appearance. Removal of the cornea cannot be permitted if the coroner has knowledge of objections by the next of kin. If these conditions are met, the coroner is absolved of criminal or civil liability for a corneal removal (KRS 311.1961 and 311.1963).

Compensation

KRS 64.185 provides that coroners must be paid monthly out of the treasury of the county, consolidated local government, charter county government, urban-county government, or unified local government. Rates vary according to whether the coroner possesses a certificate of continuing education issued jointly by the Department of Criminal Justice Training and the Division of Kentucky State Medical Examiners Justice Cabinet. The fiscal court sets the rates, which are subject to the minimums listed in Table 9.1.

The maximum allowable compensation for coroners is $71,447.80 in calendar year 2016, as computed by the Department for Local Government pursuant to KRS 64.527.

Fiscal courts may also pay coroners and deputy coroners an additional amount of up to $300 per month as an expense allowance (KRS 64.185).

Table 9.1
Monthly Minimum Compensation Schedule For Coroners

	Compensation	
County Population	**Without Certificate Of Continuing Education**	**With Certificate Of Continuing Education**
≤10,000	$200	$400
10,001–20,000	300	500
20,001–40,000	350	650
40,001–60,000	400	750
60,001–100,000	450	850
100,001–150,000	800	1,100
150,001+	1,000	1,300

Source: Compiled by LRC staff from the Kentucky Revised Statutes.

Continuing Education

The initial course of continuing education consists of 40 hours of basic training prescribed by the Justice Cabinet. Coroners must attend and successfully complete at least 18 hours of approved training each year to maintain the certificate of continuing education (KRS 64.185).

Deputies

Every coroner may appoint deputy coroners. Deputy coroners must execute a bond according to the same provisions as the coroner (KRS 72.010). Every deputy coroner must be a high school graduate and, except for deputies who are licensed physicians, must complete the basic training course during the first year in office and annually complete at least 18 hours of continuing education. Deputies who fail to complete or participate in the continuing education course become ineligible to perform duties and their compensation is suspended until they are in compliance (KRS 72.415).

Deputy coroners possess all of the powers of the coroner (KRS 72.410 to 72.475). The office of the coroner, rather than the individual holder of the office, is liable for acts or omissions of deputy coroners. When a deputy coroner fails to act or acts in such a way as to render the coroner responsible, and the coroner discharges such responsibility, the deputy shall be liable to the coroner for all damages and costs caused by the deputy's act or omission (KRS 72.045).

Under KRS 64.185, deputy coroners who meet continuing education requirements must receive monthly compensation that is no less than the amounts listed in Table 9.2.

The number of deputy coroners in a county must not exceed one for each 25,000 inhabitants or fraction thereof, on the basis of the most recent federal census. However, every coroner may, subject to the approval of the legislative body of the county, consolidated local government, charter county government, or unified local government, appoint additional deputy coroners regardless of population (KRS 64.185).

Table 9.2
Minimum Monthly Compensation Schedule For Deputy Coroners Who Meet Continuing Education Requirements

County Population	Compensation
≤10,000	$200
10,001–20,000	250
20,001–40,000	275
40,001–60,000	300
60,001–100,000	400
100,001–150,000	900
150,001+	1,100

Source: Compiled by LRC staff from the Kentucky Revised Statutes.

Expenses

The fiscal court, consolidated local government, or urban-county government must pay all reasonable expenses incurred by the coroner and the coroner's deputy in carrying out their responsibilities under the provisions of KRS 72.410 to 72.470 (KRS 72.415). The statutes specifically require the county to pay for employing stenographic services for inquests (KRS 72.420), transporting or exhuming bodies (KRS 72.435), burying unclaimed bodies (KRS 72.450), conducting a search for a body (KRS 72.455), and performing an autopsy (KRS 72.460).

Penalties

Any coroner who willfully conceals or destroys any record with the intent to violate the provisions of KRS Chapter 61 relating to public records will be guilty of a Class A misdemeanor for each separate violation. Any official of a public agency who fails to produce any record after entry of final judgment directing that such records be produced will be guilty of contempt (KRS 61.991).

Any coroner or deputy coroner who fails to perform a postmortem examination when death occurs under the circumstances outlined in KRS 72.025 or who fails to enforce or violates the conditions of KRS 72.020 will be fined a maximum $1,000 or be removed from office, or both (KRS 72.992).

Any person who fails to notify the coroner when necessary (KRS 72.020) or who interferes with the coroner in the lawful performance of duties will be fined a maximum of $250 or be confined in jail for a maximum of 90 days, or both (KRS 72.992).

Chapter 10

Constable

Background

Constables were first made constitutional officers under Article VI, section 5, of the 1850 constitution. Section 99 of the present constitution requires the election of one constable in each justice of the peace district. The number of districts varies from county to county; each county has from three to eight (section 142).

The main function of the constable was to render service to the old justice courts before the 1975 Judicial Article established District Courts. Today, constables are defined as peace officers and possess the same law enforcement powers as sheriffs, coroners, and jailers and are eligible for the same police training provided to other peace officers.

Qualifications

Constitutional provisions prescribe constables' qualifications. A constable must be at least 24 years of age, a Kentucky citizen, a resident of the state for 2 years, and a resident of the county and district 1 year prior to election (section 100). Before taking office, constables must execute bond at a minimum amount of $10,000, approved by the fiscal court. This bond is renewed biennially or more often if required by the fiscal court (KRS 70.310). A constable's term in office is 4 years.

Vacancy

The county judge/executive makes an appointment in the case of a vacancy in the office of constable. In a consolidated local government, the mayor must fill the vacancy. Section 152 of the Kentucky constitution governs the length of the appointment, which shall be until the successor is elected (KRS 63.220).

Powers And Duties

Law Enforcement

Constables are peace officers with broad powers of arrest and authority to serve court processes. They may execute warrants, summonses, subpoenas, attachments, notices, rules, and orders of the court in all criminal, penal, and civil cases (KRS 70.350). Any constable may, upon approval of the county fiscal court, equip vehicles used as emergency vehicles with flashing, rotating, or oscillating blue lights and a siren, whistle, or bell (KRS 189.950). Chapter 7 includes a more extensive description of the powers of peace officers.

Service Of Court Process

As with sheriffs, any process handed to a constable must be carried out unless the constable is unable to find the person named (KRS 70.360). Executions, fee bills, orders of witnesses' attendance, distress warrants, and attachments are carried out according to the priority of time in which they are received. The time of receipt must be written on each process (KRS 70.370). If action is taken against a constable for not serving a process, he or she cannot use as a defense the excuse that the execution was delayed, unless a stay of execution was authorized in writing by the plaintiff or by the plaintiff's agent or attorney (KRS 70.380).

Constables in their home counties may execute any and all processes except those in which they are personally interested. However, they may not levy on or sell land. They may not be compelled to receive any fee-bill, order for witness attendance, or other claim against a person known to live outside their judicial district, unless the precept is in the name of the commonwealth of Kentucky or against property in their district. If a constable accepts such a claim, the constable and his or her sureties are responsible for it (KRS 70.350).

Fee Collection

Constables may seize personal property for the collection of fees due them, or they may place fee-bills due them in the hands of other officers for collection (KRS 64.400). They are authorized to go outside their district, but only in their county, to collect claims owed for services performed (KRS 70.350).

Jurisdiction

Section 101 of the Kentucky constitution states: "Constables shall possess the same qualifications as Sheriffs, and their jurisdictions shall be coextensive with the counties in which they reside." The attorney general has opined that "a city council cannot ban or limit the service of the constable within the city limits" (OAG 40-776).

The constable must, at the end of the term of office, execute and return all processes or precepts in his or her hands and may relevy or collect all executions and fee-bills then in his or her hands (KRS 70.340).

Special Duties In Counties Of 250,000 Population Or More

KRS 70.430 requires all constables in counties with a population at least 250,000 (currently, only Jefferson and Fayette Counties) to make reports to the county clerk listing the duties they and their deputies have performed. These reports must show the sessions of court they have attended and the number of hours attended. Listed under civil matters is the total number of each kind of civil process and order received and whether they were returned executed, returned unexecuted, or unreturned and unexecuted (KRS 70.430).

Listed under criminal matters in the report are the names and addresses of all persons for whom warrants have been issued, as well as the name of the officer issuing the warrant. The warrants

are listed in three categories: returned executed, returned unexecuted, and unreturned and unexecuted. In addition, all places for which search warrants have been issued must be listed, as well as all other acts performed for any authority, or under the color of authority (KRS 70.430).

Constables must swear to their listing reports. Copies of the reports are sent to the county judge/executive, the county attorney, and the commonwealth's attorney (KRS 70.430).

Compensation

In all counties except Jefferson and Fayette, constables are compensated from the fees they collect. Under KRS 64.190, constables may receive the same fee allowed sheriffs for similar services. (See the discussion on sheriffs' fees in Chapter 7.)

Constables, along with other peace officers, may also receive fees from the State Treasury, under KRS 64.060, for providing the following services:

- Apprehending a person on charge of felony, or a fugitive from justice charged with a felony in this state—$10
- Executing a process of contempt in a criminal case when the court excuses the contempt—$1.60
- Executing a summons upon a witness on behalf of the commonwealth in a felony case—$3
- Summoning a jury, on order of a court, in a county other than that in which the action is pending—a reasonable allowance set by the court
- Summoning and attending a jury in a case of felony—$2.50

Constables receive mileage and expenses for taking or assisting in taking adult prisoners to the penitentiary or another jail (KRS 64.070).

Compensation Of Jefferson And Fayette County Constables

Jefferson and Fayette County constables, as constables in counties with more than 250,000 population, receive a salary of $9,600 per year to be paid out of the county treasury in equal monthly installments. Constables deliver daily to the recorder of their justice district all fees collected during the day and obtain receipts for this amount. Each month the recorders file with the fiscal court statements of all fees that the constables turn over to them. The money delivered is deposited in the county treasury (KRS 64.200). Jefferson County constables and deputies who use their own cars for official duties receive an additional $200 per month from the county treasury (KRS 64.210).

The $9,600 salary has become a point of contention. The attorney general has stated in OAG 77-257 that section 3 of the Kentucky constitution and KRS 64.410 prohibit the county from paying constables who do not perform a service:

> In simple words, a person cannot be paid out of the public treasury for work not performed. To the extent that any salary paid out in 1978 and thereafter to constables under KRS 64.200 (which requires a $9,600 yearly salary for constables in Jefferson County) would not reflect payment for service rendered, such payment would be unconstitutional and in violation of KRS 64.410.

Compensation Of Constables In Urban-County Governments

KRS 64.527 requires that the salary for constables in counties having an urban-county form of government will increase at the rate of inflation, as computed by the Department for Local Development by the second Friday in February of every year.

Deputies

In the counties containing cities of the first class and certain home rule cities, constables may appoint one or more deputies with the approval of the county judge/executive (KRS 70.320). Each deputy constable in counties containing a consolidated local government or city of the first class will be compensated by a salary set by the consolidated local government or fiscal court and paid out of the levy of the consolidated local government or county. As a nonelective peace officer, each deputy constable must be an American citizen, must be at least 21 years of age, and must have resided in the county for 2 years. A constable may not have been a watchman, night guard, or a detective for 2 years preceding this employment. A person convicted of a crime involving moral turpitude, or under indictment for such a crime, is also ineligible for the position of deputy (KRS 61.300). Constables are liable for all acts and omissions of their deputies and may remove them by filing a written direction with the county judge/executive or with the mayor in a consolidated local government (KRS 70.320).

Penalties

If constables fail to renew bond or to give additional security when the county judge/executive so orders, they may be forced to vacate office. For executing any process in which they are personally involved, other than a fee-bill for their own service, constables shall be guilty of a violation. They may also be guilty of a violation for failing to collect or return a claim as explained in KRS 70.390. A plaintiff may recover $5 from a constable for failure to return a process by the specified date. Constables failing (without a reasonable excuse) to return a process within 20 days after the return date may be fined the amount of the process plus a 10 percent penalty (KRS 70.990).

In a county having a population in excess of 250,000, any constable making a false entry in official books or records with intent to cheat or defraud the state, the county, or any person shall be guilty of a Class D felony (KRS 70.990).

Constables may be indicted in the county in which they reside for misfeasance or malfeasance in office or willful neglect in the discharge of official duties. If convicted, they shall be fined $100 to $1,000 and removed from office (KRS 61.170).

Any constable who willfully conceals or destroys any record with the intent to violate the provisions of KRS 61.870 to 61.884 relating to public records shall be guilty of a Class A misdemeanor for each separate violation. Any official of a public agency who fails to produce any record after entry of final judgment directing that such records be produced shall be guilty of contempt (KRS 61.991).

Chapter 11

County Surveyor

Background

The primary duty of the surveyor is making land surveys and determining boundary lines and corners, when ordered to do so by the courts or upon the request of individual landowners. The 1799 Constitution of Kentucky was the first to mention the office of surveyor. It provided for the appointment of a surveyor for any county when needed (Art. IV, sec. 8). The 1850 constitution called for the election of a surveyor for each county for a term of 4 years (Art. VI, sec. 1). The present constitution also calls for the election of a surveyor in each county for a term of 4 years (section 99).

Qualifications

To be eligible for the office, a person must be at least 24 years of age, a citizen of Kentucky, a resident of the state for 2 years, and a resident of the county of election for 1 year (Ky. Const., sec. 100). Before taking office, the county surveyor must give bond with sureties approved by the fiscal court (KRS 73.010). The county surveyor must also file with the county clerk evidence of holding a Kentucky license as a professional land surveyor in accordance with KRS 322.020 and 322.045 (KRS 73.020).

Powers And Duties

The county judge/executive, on recommendation of the county surveyor, may appoint one or more deputy surveyors. The surveyor is answerable for the conduct of the deputies and may remove them at his or her discretion (KRS 73.030).

A number of statutes describe the powers and duties of surveyors. A county surveyor must perform any business in the civil engineering profession that any court in the county lawfully orders him or her to do. The county surveyor may select assistants to aid in carrying out the orders of the court (KRS 73.040). Courts may direct orders of surveys to any person, but in considering an application for the appointment of some other surveyor for a special work, the courts must give preference to the county surveyor (KRS 73.050). The county surveyor must promptly and faithfully execute every order of survey made by any court in the county. The county surveyor must make out and return a true plat (map) and certificate of the survey, accompanied by explanatory notes (KRS 73.060).

KRS 73.070 describes how a surveyor conducts surveys. Every survey must be made by horizontal measurement. In resurveying lands, the surveyor must execute the survey by the magnetic meridian. The surveyor must certify and show in the plat the degree of variation in the magnetic needle from the true meridian at the periods of original survey and of the resurvey, if it

can be done (KRS 73.070). The surveyor must attach to the field notes of every survey the date of the survey and the variations of the needle from the true meridian at the time of making the survey (KRS 73.080).

The county surveyor must be made a member of committees or commissions appointed by the courts to locate, inspect, care for, and report on bridges and other public improvements. The county surveyor also may be made a commissioner to divide land; lay off dower or homestead; or open, alter, or close a public road, or open or close a private passway (KRS 73.090). The surveyor or a deputy may administer oaths to commissioners appointed to divide land; to lay off dower or homestead; or to open, alter, or close a public road or a private passway (KRS 73.100).

The county judge/executive must appoint three processioners for a term of 4 years (KRS 73.180). Processioners, at the request of any person producing the appropriate title papers, go around the land, or the designated part, and re-mark it, taking care that the new marks are on the old lines (KRS 73.190). The county surveyor may accompany processioners when they mark land boundaries. The surveyor must make out a plat and certificate of the land of the applicants (KRS 73.210).

The county surveyor, if qualified, may be employed as county road engineer or as county road supervisor. For services as engineer or supervisor, the surveyor may receive a salary in addition to fees allowed by law for services as county surveyor (KRS 179.020). The county surveyor must keep a record of plats and explanatory notes of all surveys made. Copies certified by the surveyor may be used as evidence in court (KRS 73.120).

Office And Records

The county is not required to provide the county surveyor with an office but may elect to do so. Records of the county surveyor are county property and must be kept in the office of the surveyor or in the office of the county clerk (KRS 73.110).

Vacancy

The county judge/executive or mayor in a consolidated local government will appoint a person to fill a vacancy in office (KRS 63.220). Section 152 of the constitution guides the length of such appointment. When the office of county surveyor is vacant, the county clerk, by order of the fiscal court, takes charge of the books and papers of the office and may certify, for the appropriate fee, copies of those records to be used as evidence in court (KRS 73.140).

Compensation

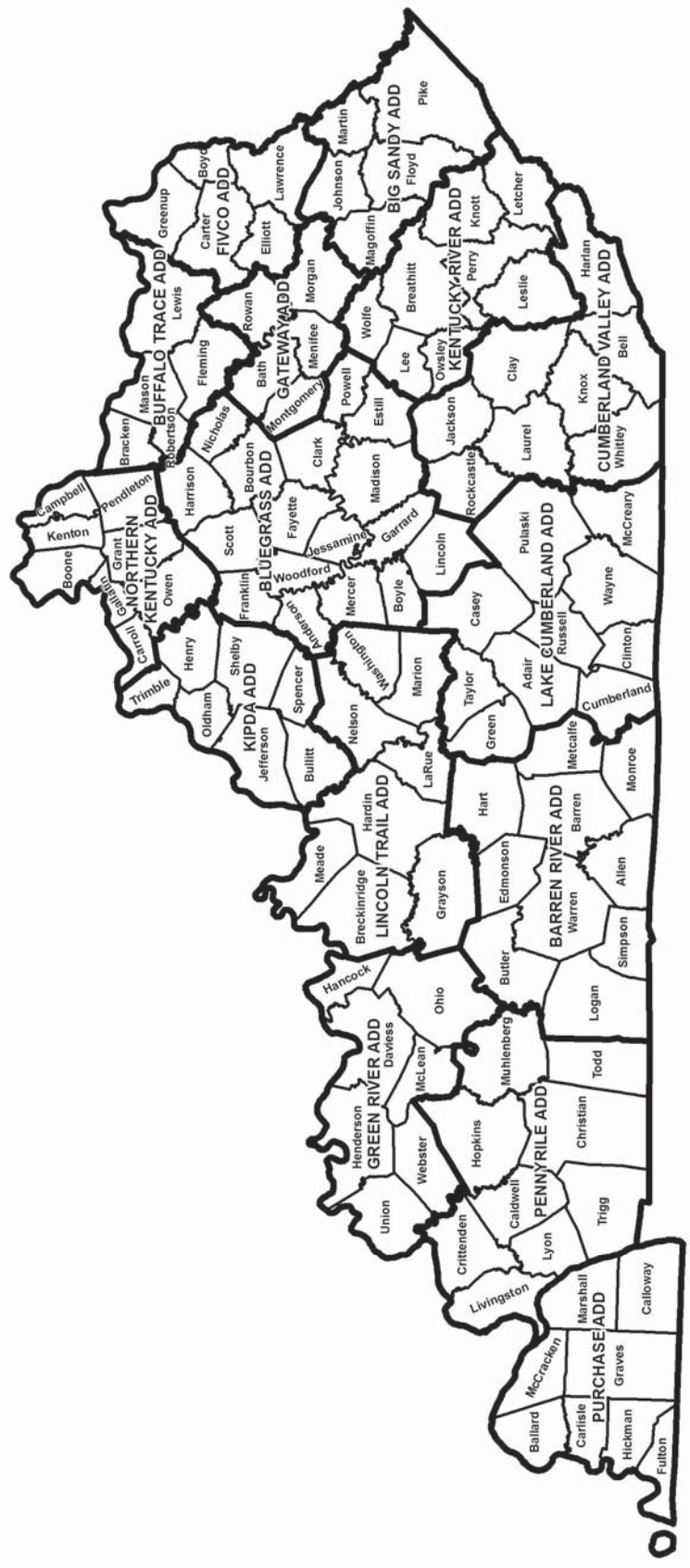
A fiscal court pays or orders payment of reasonable compensation for any services it orders the county surveyor and his or her agents to perform (KRS 64.320). Unlike the frequent situation with other elected officials, no fee schedule is employed.

Penalties

Any surveyor or deputy surveyor who does not faithfully execute every order of survey must forfeit $20 to the person injured and is jointly and severally liable, with his or her sureties, to an action on his or her bond for damages (KRS 73.060). Any surveyor or deputy surveyor who does not conduct a survey in the manner prescribed in KRS 73.070 forfeits $15 to the injured person and is liable, with his or her sureties, to the injured party for damages and costs (KRS 73.990).

Any surveyor who willfully conceals or destroys any record with the intent to violate the provisions of KRS 61.870 to 61.884 relating to public records will be guilty of a Class A misdemeanor for each separate violation. Any official of a public agency who fails to produce any record after entry of final judgment directing that such records be produced will be guilty of contempt (KRS 61.991).

Appendix
Area Development Districts, June 2016



Source: Kentucky Division of Geographic Information.

Endnotes

[1] Kentucky. Legislative Research Commission. *County Government In Kentucky*, Informational Bulletin No. 115. Frankfort: LRC, 2016. For a description of the duties of city officials, see Kentucky. Legislative Research Commission. *Kentucky Municipal Statutory Law*, Informational Bulletin No. 145. Frankfort: LRC, 2016.
[2] *Fiscal Court of Jefferson County v. City of Louisville*, Ky., 559 S.W.2d 478 (1977).
[3] *Matthews v. Allen*, Ky., 360 S.W.2d 135, 139 (1962).
[4] Kentucky. Legislative Research Commission. *Historical Development of Kentucky's Courts*, Research Report No. 63. Frankfort: LRC, 1958.
[5] Kentucky. Legislative Research Commission. *Historical Development of Kentucky's Courts*, Research Report No. 63. Frankfort: LRC, 1958. Chapters 2 and 3.
[6] For an account of the office of county judge before the Judicial Amendment, see Gillenwater, James E. *My Job ... As I See It: The County Judge.* Bowling Green: Western Kentucky State College, 1961.
[7] *Fiscal Court Comm'rs. v. Jefferson Cnty. Judge/Executive*, Ky. App., 614 S.W.2d 954 (1981).
[8] Curris, Constantine. "State Welfare Administration in Kentucky," unpublished master's thesis. University of Illinois: 1965. Pp. 184-191.
[9] *Bath Cnty. v. Daugherty*, 68 S.W. 436 (1902); *Walker v. Fox*, 216 Ky. 33, 287 S.W. 228 (1926).
[10] Kentucky. Legislative Research Commission. *Justice of the Peace*, Informational Bulletin No. 26. Frankfort: LRC, 1959; Kentucky. Legislative Research Commission. *Historical Development of Kentucky's Courts*, Research Report No. 63. Frankfort: LRC, 1958.
[11] KRS 109.041 states: "[I]n the implementation, acquisition, financing, and maintenance of solid waste management facilities, and in the enforcement of their use, counties will be performing state functions duly delegated to them for the public welfare."
[12] Constitutional Convention of 1890-1891. *Proceedings and Debates of the Convention*, Vol. 3. Frankfort: E. Polk Johnson, 1890. Pp. 4,116-4,125.
[13] Leland, Simeon E. "Taxation in Kentucky." *Studies in Economics and Sociology* 3.1 (March 1920): 35.
[14] *Jefferson County Fiscal Court v. Trager*, 302 Ky. 361, 194 S.W.2d 851 (1946).
[15] Vanlandingham, Kenneth E. *The Fee System in Kentucky Counties.* Lexington: Bureau of Government Research, University of Kentucky, 1951.
[16] *Kentucky Law Journal*, 52.1 (1963-64): 15-17.
[17] *Commonwealth v. Hesch*, Ky., 395 S.W.2d 362 (1965).
[18] *Commonwealth v. Vincent*, 282 Ky. 95, 137 S.W.2d 1091 (1940).
[19] Constitutional Convention of 1890-1891. *Proceedings and Debates of the Convention*, Vol. 3. Frankfort: E. Polk Johnson, 1890. P. 4,035.
[20] Legislative Drafting Research Fund of Columbia University. *Index Digest of State Constitutions.* New York: Columbia University, 1959. P. 158.
[21] Wager, Paul. *County Government Across the Nation.* Chapel Hill: University of North Carolina Press, 1950, P. 15.