

1 KENTUCKY COMMUNITY AND TECHNICAL COLLEGE SYSTEM

2 Kentucky Fire Commission

3 (Amendment)

4 739 KAR 2:140. Fire [~~Volunteer fire~~] department reporting requirements.

5 RELATES TO: KRS Chapter 65A, KRS 75.430, KRS Chapter 95A

6 STATUTORY AUTHORITY: KRS 95A.055(13), KRS 95A.050(3)

7 NECESSITY, FUNCTION, AND CONFORMITY: KRS 95A.055(13) requires the  
8 Commission to promulgate administrative regulations to implement KRS 75.430 and KRS  
9 95A.055. This administrative regulation establishes fire department reporting requirements.

10 Section 1. Definitions. (1) "Commission" means the Commission on Fire Protection  
11 Personnel Standards and Education established in KRS 95A.020 [~~Chapter 95A~~].

12 (2) "Reporting fire department" means "fire department" as [is] defined by KRS  
13 95A.055(1) which is obligated to report to the commission.

14 Section 2. Reporting Requirements. Each reporting fire department shall comply with KRS  
15 95A.055(~~3~~2) and shall:

16 (1) Submit a list of [List] the elected or appointed members of the board of the reporting  
17 fire department, if applicable;

18 (2) Submit the budget adopted by the reporting fire department, if applicable; and

19 (3) Submit current year budget estimates, prior year amendments or transfers, and prior  
20 year end actual financial data for the following categories:

- 1 (a) Revenue calculations for the following categories:
- 2 1. Taxes;
- 3 2. Permits and licenses;
- 4 3. Payments made to governmental authorities in lieu of taxes;
- 5 4. Intergovernmental revenues;
- 6 5. Charges for services;
- 7 6. Other revenues; and
- 8 7. Interest earned;

9 (b) Receipts and cash calculations for the following categories:

- 10 1. Carryover cash from the prior reporting year;
- 11 2. Bonded debt;
- 12 3. Transfers to other funds;
- 13 4. Transfers from other funds;
- 14 5. Borrowed funds;
- 15 6. Government Leasing Act funds; and
- 16 7. Loans obtained from the commission[s]; and

17 (c) Appropriations calculations for the following categories:

- 18 1. Personnel;
- 19 2. Operations;
- 20 3. Administration and reserves;
- 21 4. Capital outlay; and
- 22 5. Debt service.

23 Section 3. Reporting Procedure. (1) Each reporting fire department shall, on or before

1 August 31 of each calendar year [~~last day of each fiscal year~~], complete and submit an updated  
2 Financial Disclosure Report to [~~the office of~~] the commission electronically via website access, by  
3 regular U.S. Mail, or through electronic mail to fdstateaid@kctcs.edu.

4 (2) Upon receipt of a reporting fire department’s Financial Disclosure Report, [~~the office~~  
5 ~~of~~] the commission shall review the Financial Disclosure Report for accuracy and compliance with  
6 the requirements set forth in this administrative regulation and in KRS 95A.055. If the commission  
7 finds that a reporting fire department’s Financial Disclosure Report does not comply with the  
8 requirements set forth in this administrative regulation or in KRS 95A.055, the commission shall  
9 notify the reporting fire department in writing. The written notification shall describe [~~of~~] the  
10 specific deficiencies identified and the process and timeframe for correcting [~~timeline that the~~  
11 ~~reporting fire department shall follow to correct~~] the deficiencies.

12 (3) On or before [~~By~~] October 1 of each calendar year, [~~the office of~~] the commission shall  
13 produce a cumulative report of all reporting fire departments’ actual revenues, receipts, and  
14 appropriations and their averages, as reported on the reporting fire departments’ Financial  
15 Disclosure Reports for that year, and of [~~This report shall detail~~] the compliance of the reporting  
16 fire departments with the requirements of this administrative regulation and KRS 95A.055(3).[~~7~~]  
17 This report also shall be filed with the Legislative Research Commission[~~7~~] and shall be published  
18 on the commission’s website [~~Web site~~] within seven (7) days of [~~immediately upon~~] its  
19 production.

20 Section 4. Financial Reviews and Audits. (1) At least once every four (4) years, every  
21 reporting fire department shall be subject to a financial review that includes procedures developed  
22 by the commission and approved by the Auditor of Public Accounts.

23 (2) The commission may require reporting fire departments with the higher of annual

1 receipts from all sources or annual expenditures equal to or greater than \$100,000 but less than  
2 \$500,000 to undergo an independent audit in the manner specified in KRS 65A.030(2) once every  
3 four (4) years.

4 (3) Every reporting fire department with the higher of annual receipts from all sources or  
5 annual expenditures equal to or greater than \$500,000 for two (2) consecutive fiscal years shall be  
6 audited annually in the manner specified in KRS 65A.030(2) until its annual revenues or  
7 expenditures are less than \$500,000.

8 (4) If a reporting fire department is audited under this section, it shall submit a copy of the  
9 audit report and all related documents to the commission within seven (7) days of receiving the  
10 completed audit report.

11 Section 5 [4]. Penalties. (1) If the commission identifies any irregularities relating to the  
12 finances or operations of a reporting fire department, it shall report them to the Attorney General  
13 and Auditor of Public Accounts. The commission may also notify any other public official with  
14 jurisdiction over fire departments for further investigation and follow-up action.

15 (2) If a reporting fire department fails to comply with the requirements of this  
16 administrative regulation, KRS 95A.055, or KRS 75.430, the commission may, for substantial  
17 noncompliance or abuse, withhold [take] one (1) or more of the following [actions]:

18 (a) [(1) Withhold] Incentive [incentive] pay to qualified firefighters under KRS 95A.250;

19 (b) [(2) Withhold] Volunteer [volunteer] fire department aid, funds used to purchase  
20 workers compensation insurance for fire departments, and low-interest loans under KRS 95A.262;

21 (c) [(3) Withhold] Thermal Vision Grant program funds under KRS 95A.400 to 95A.440;

22 and

23 (d) [(4) Withhold] Any [any] other funds controlled by the commission. [;]

1           ~~[(5) Report any irregularities identified by the office of the commission relating to the~~  
2 ~~finances or operations of a reporting fire department to the Attorney General, Auditor of Public~~  
3 ~~Accounts, or any other public official with jurisdiction over fire departments for further~~  
4 ~~investigation and follow-up action; or]~~

5           ~~[(6) Prescribe corrective actions to bring a reporting fire department that is not in~~  
6 ~~compliance with KRS Chapter 65A or this administrative regulation as of July 15, 2016 into~~  
7 ~~compliance.]~~

8           Section 6 [5]. Incorporation by Reference. (1) "Financial Disclosure Report," (2019[4/16]  
9 edition), Kentucky Fire Commission, is incorporated by reference.

10           (2) This material may be inspected, copied, or obtained, subject to applicable copyright  
11 law, at the Office of the Kentucky Fire Commission, 118 James Court[~~Ct.~~], Lexington, Kentucky  
12 40505, Monday through Friday, 8 a.m. to 4:30 p.m.

APPROVED:

---

Andrew Scott, Interim Chairperson  
Kentucky Fire Commission

---

Date

## PUBLIC HEARING AND PUBLIC COMMENT PERIOD

A public hearing on this administrative regulation shall be held on January 27, 2020 at 1:00 p.m. Eastern Standard Time at 118 James Court, Lexington, KY 40505. Individuals interested in being heard at this hearing shall notify this agency in writing by 5 workdays prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through January 31, 2020. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

Contact Person: Jonathan L. Gay, Counsel for the Kentucky Fire Commission, phone (859) 225-4714, fax (859) 225-1493, email: [administrativeregulations@wgmfirm.com](mailto:administrativeregulations@wgmfirm.com)

## REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

739 KAR 2:140

Contact Person: Jonathan L. Gay, Counsel for the Kentucky Fire Commission, phone (859) 225-4714, fax (859) 225-1493, email: [administrativeregulations@wgmfirm.com](mailto:administrativeregulations@wgmfirm.com)

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the process and requirements for annual financial and administrative reporting by those fire protection districts or volunteer fire department districts operating under KRS Chapter 75 with the higher of annual receipts from all sources or annual expenditures of less than \$100,000 and all fire departments incorporated under KRS Chapter 273.

(b) The necessity of this administrative regulation: This administrative regulation is mandated by KRS 95A.055(13), which requires the Commission to promulgate administrative regulations to implement KRS 75.430 and 95A.055. With this amendment, the Commission has deleted language relating to old policy and procedures, as well as updated language to follow legislation enacted in 2018.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to KRS 95A.055 by establishing which fire departments, fire protection districts, and volunteer fire department districts are required to report annually to the Commission and the process and requirements for so doing.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation will assist in the effective administration of the statutes by specifying the manner in which reporting fire departments, fire protection districts, and volunteer fire department districts are required to provide annual financial and administrative information to the Commission.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: New language has been inserted pursuant to legislation passed in 2018 to clarify reporting and auditing requirements.

(b) The necessity of the amendment to this administrative regulation: Inserted language updates existing regulation to align with newly enacted legislation and provides direction to reporting fire departments, fire protection districts, and volunteer fire department districts on current policies and procedures for submitting annual reports to the Commission.

(c) How the amendment conforms to the content of the authorizing statutes: KRS 95A.055(13) requires the Commission to promulgate administrative regulations to implement KRS 75.430 and 95A.055. The amendments to this regulation align with 18RS HB122, which modifies which fire departments, fire protection districts, and volunteer fire department districts are required to report annually to the Commission. Additionally, this amended regulation articulates the process and requirements for the annual reports.

(d) How the amendment will assist in the effective administration of the statutes: The amendments to this regulation clarify which fire departments, fire protection districts, and volunteer fire department districts are required to report annually to the Commission and specifies the procedure and requirements for submitting annual reports.



(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: The Commission and all fire protection districts or volunteer fire department districts operating under KRS Chapter 75 with the higher of annual receipts from all sources or annual expenditures of less than \$100,000 and all fire departments incorporated under KRS Chapter 273.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: Reporting fire departments will be required to supply administrative and financial information annually to the Commission. No new actions are required of reporting fire departments.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There will be no cost to any entity identified in question (3).

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): All entities will benefit from the transparency of reporting fire departments' financial condition.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation: There will be no cost to the administrative body to implement this administrative regulation initially or in the future.

(a) Initially: The above paragraph is accurate for initial costs. This administrative regulation will not add any further cost to the administrative body.

(b) On a continuing basis: The above paragraph is accurate for continuing costs. This administrative regulation will not add any further cost to the administrative body.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The Commission is a state agency that receives its annual budget from the state government. The implementation and enforcement of this administrative regulation will be funded through the Commission's general funds.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No increase in fees or funding will be necessary.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: This administrative regulation did not establish any fees.

(9) TIERING: Is tiering applied? Tiering is not applied in this administrative regulation because all fire departments in the Commonwealth are required to meet the standards mandated by this administrative regulation, regardless of certification level.

## FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

739 KAR 2:140

Contact Person: Jonathan L. Gay, Counsel for the Kentucky Fire Commission, phone (859) 225-4714, fax (859) 225-1493, email: [administrativeregulations@wgmfirm.com](mailto:administrativeregulations@wgmfirm.com)

(1) What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? This administrative regulation will impact the Commission as well as any fire protection districts or volunteer fire department districts operating under KRS Chapter 75 with the higher of annual receipts from all sources or annual expenditures of less than \$100,000 and all fire departments incorporated under KRS Chapter 273.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 95A.055(13) requires the Commission to promulgate administrative regulations to implement KRS 75.430 and 95A.055. Additionally, KRS 95A.050(3) obligates the Commission to “promulgate reasonable administrative regulations relating to fire protection personnel.” No federal statutes necessitate this administrative regulation.

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? This administrative regulation will generate no revenue for the first year.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? This administrative regulation will generate no revenue for subsequent years.

(c) How much will it cost to administer this program for the first year? This administrative regulation will not impose any costs on state or local government.

(d) How much will it cost to administer this program for subsequent years?

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation. This administrative regulation will not impose any costs on state or local government.

Revenues (+/-): This administrative regulation will not generate revenue.

Expenditures (+/-): This administrative regulation will not impose any costs on state or local government.

Other Explanation: These proposed amendments create no fiscal impact.

## SUMMARY OF MATERIAL INCORPORATED BY REFERENCE

The "Financial Disclosure Report," (2019 edition), Kentucky Fire Commission" is the 2-page report of financial and administrative information that reporting fire departments are required to file annually with the Kentucky Fire Commission. KRS 95A.055 requires reporting fire departments to provide annual administrative and financial information to the Kentucky Fire Commission in the form and manner prescribed by the Fire Commission.

## SUMMARY OF CHANGES TO MATERIAL INCORPORATED BY REFERENCE

The "Financial Disclosure Report," (2019 edition), Kentucky Fire Commission" is the 2-page report of financial and administrative information that reporting fire departments are required to file annually with the Kentucky Fire Commission. The Financial Budget Information page was amended to reformat and simplify the required information to be more user-friendly. The Fire Commission has been advised that the categories listed in the "Description" column of the previous form is often inapplicable and confusing to smaller fire departments. The amended form therefore includes clearer instructions for calculating total revenues, receipts and cash, and appropriations for the prior year amendments/transfers, prior year-end actuals, and the current year budget estimates, and lists the categories previously listed in the "Description" column in a box under each heading as examples rather than requiring totals for each. The amended form also includes minor technical edits and a space for reporting fire departments to report any changes to the departmental boundaries.

Contact Person: Jonathan L. Gay, Counsel for the Kentucky Fire Commission, phone (859) 225-4714, fax (859) 225-1493, email: [administrativeregulations@wgmfirm.com](mailto:administrativeregulations@wgmfirm.com)