GENERAL ASSEMBLY
COMMONWEALTH OF KENTUCKY

2016 REGULAR SESSION

SENATE BILL NO. 249

MONDAY, MARCH 21, 2016

The following bill was reported to the House from the Senate and ordered to be printed.

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ALISON LUNDERGAN GRIMES
SECRETARY OF STATE
COMMONWEALTH OF KENTUCKY
BY K. Adler

1 AN ACT relating to fire department reporting standards.

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

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

4 As used in this chapter:

5 (1) "County" means any county, consolidated local government, urban-county
6 government, unified local government, or charter county;

7 (2) "DLG" means the Department for Local Government established by KRS
8 147A.002;

9 (3) "Establishing entity" means the city or county, or any combination of cities and
10 counties, that established a special purpose governmental entity and that has not
11 subsequently withdrawn its affiliation with the special purpose governmental entity
12 by ordinance or other official action;

13 (4) "Federally regulated municipal utility" means a municipal utility governed by the
14 provisions of KRS 96.550 to 96.901, that maintains a wholesale power contract
15 with a federal agency that also serves as its regulatory authority;

16 (5) (a) "Fee" means any user charge, levy, assessment, fee, schedule of rates, or tax,
17 other than an ad valorem tax, imposed by a special purpose governmental
18 entity.

19 (b) "Fee" shall not include the following charges imposed by special purpose
20 governmental entities that provide utility services:

21 1. Any fuel cost adjustment that is:

22 a. Made pursuant to an agreement with a power supplier;

23 b. Amended by the power supplier based on the variable cost of fuel;
24 and

25 c. Passed through to the consumer by the utility pursuant to the
26 agreement between the utility and the power supplier;

27 2. Any power or energy cost adjustment implemented pursuant to a duly

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

1. Exercises less than statewide jurisdiction;
2. Exists for the purpose of providing one (1) or a limited number of services or functions;
3. Is governed by a board, council, commission, committee, authority, or corporation with policy-making authority that is separate from the state and the governing body of the city, county, or cities and counties in which it operates; and
4. a. Has the independent authority to generate public funds; or
   b. May receive and expend public funds, grants, awards, or appropriations from the state, from any agency, or authority of the state, from a city or county, or from any other special purpose governmental entity.

(b) "Special purpose governmental entity" shall include entities meeting the requirements established by paragraph (a) of this subsection, whether the entity is formed as a nonprofit corporation under KRS Chapter 273, pursuant to an interlocal cooperation agreement under KRS 65.210 to 65.300, or pursuant to any other provision of the Kentucky Revised Statutes.

(c) Examples of the types of public services that may be provided by special purpose governmental entities include but are not limited to the following:
1. Ambulance, emergency, and fire protection services;
2. Flood control, drainage, levee, water, water conservation, watershed, and soil conservation services;
3. Area planning, management, community improvement, and community development services;
4. Library services;
5. Public health, public mental health, and public hospital services;
6. Riverport and airport services;

1 7. Sanitation, sewer, waste management, and solid waste services;
2 8. Industrial and economic development;
3 9. Parks and recreation services;
4 10. Construction, maintenance, or operation of roads and bridges;
5 11. Mass transit services;
6 12. Pollution control;
7 13. Construction or provision of public housing, except as set out in
8 paragraph (d)8. of this subsection;
9 14. Tourism and convention services; and
10 15. Agricultural extension services.
11 (d) "Special purpose governmental entity" shall not include:
12 1. Cities;
13 2. Counties;
14 3. School districts;
15 4. Private entities;
16 5. Chambers of commerce;
17 6. Any incorporated entity that:
18 a. Provides utility services;
19 b. Is member-owned; and
20 c. Has a governing body whose voting members are all elected by the
21 membership of the entity;
22 7. Any entity whose budget, finances, and financial information are fully
23 integrated with and included as a part of the budget, finances, and
24 financial reporting of the city, county, or cities and counties in which it
25 operates;~~[or]~~
26 8. Federally regulated public housing authorities established pursuant to
27 KRS Chapter 80 that receive no more than twenty percent (20%) of their

1 total funding for any fiscal year from nonfederal fees, not including
2 rental income***; or***
3 ***9. a. Any fire protection district or volunteer fire department district***
4 ***operating under KRS Chapter 75; or***
5 ***b. Any fire department incorporated under KRS Chapter 273;***
6 ***with the higher of annual receipts from all sources or annual***
7 ***expenditures of less than one hundred thousand dollars ($100,000)***.
8 ➔Section 2. KRS 75.430 is amended to read as follows:
9 (1) Each recognized and certified fire department created pursuant to KRS Chapter 273
10 ***with annual receipts from all sources or annual expenditures of greater than one***
11 ***hundred thousand dollars ($100,000)*** shall comply with the provisions of KRS
12 65A.010 to 65A.090.
13 (2) The governing body of each recognized and certified volunteer fire department
14 created pursuant to KRS Chapter 273 ***or a recognized and certified fire protection***
15 ***district or volunteer fire department district operating under KRS Chapter 75***
16 which, for the year in question, receives from all sources or expends for all purposes
17 less than one hundred thousand dollars ($100,000) shall ***submit financial***
18 ***information to the commission as provided in Section 3 of this Act***[~~prepare a~~
19 ~~financial statement and submit it to the commission by July 31 of each year~~].
20 (3) The governing body of each recognized and certified volunteer fire department
21 created pursuant to KRS Chapter 273 which, for the year in question, receives from
22 all sources or expends for all purposes one hundred thousand dollars ($100,000) or
23 more shall prepare a financial statement and shall employ an independent certified
24 public accountant or contract with the Auditor of Public Accounts to perform a
25 review of the financial statement, and shall submit the reviewed statement to the
26 commission by July 31 of each year.
27 ➔SECTION 3. A NEW SECTION OF KRS CHAPTER 95A IS CREATED TO

1 READ AS FOLLOWS:

2 *(1) As used in this section, "fire department" means:*

3 *(a) Any fire protection district or volunteer fire department district operating*

4 *under KRS Chapter 75; or*

5 *(b) Any fire department incorporated under KRS Chapter 273;*

6 *with the higher of annual receipts from all sources or annual expenditures of less*

7 *than one hundred thousand dollars ($100,000).*

8 *(2) If a fire department's annual revenues or expenditures equals or exceeds one*

9 *hundred thousand dollars ($100,000) for two (2) consecutive fiscal years, then the*

10 *fire department shall, for the next reporting period and any subsequent reporting*

11 *period for which it exceeds that amount, be considered a special purpose*

12 *governmental entity as defined in KRS 65A.010 and shall comply with KRS*

13 *Chapter 65A until its annual revenues or expenditures are less than one hundred*

14 *thousand dollars ($100,000), whereupon it may again qualify as a fire*

15 *department under this section.*

16 *(3) Each fire department shall for each fiscal year beginning on and after July 1,*

17 *2016, annually submit to the commission the information required by this*

18 *section. The information shall be submitted at the time and in the form and*

19 *format required by the commission. The information submitted shall include at a*

20 *minimum the following:*

21 *(a) Administrative information:*

22 *1. The name, address, and, if applicable, the term and appointing*

23 *authority for each board member of the governing body of the fire*

24 *department;*

25 *2. The fiscal year of the fire department;*

26 *3. The Kentucky Revised Statute and, if applicable, the local government*

27 *ordinance under which the fire department was established; the date*

1 *of establishment; the establishing entity; and the statute or statutes,*
2 *local government ordinance, or interlocal agreement under which the*
3 *fire department operates, if different from the statute or statutes,*
4 *ordinance, or agreement under which it was established;*
5 *4. The mailing address and telephone number and, if applicable, the*
6 *Web site uniform resource locator (URL) of the fire department;*
7 *5. The operational boundaries and service area of the fire department*
8 *and the services provided by the fire department;*
9 *6. A listing of the taxes or fees imposed and collected by the fire*
10 *department, including the rates or amounts charged for the reporting*
11 *period and the statutory or other source of authority for the levy of the*
12 *tax or fee.*
13 *7. The primary contact for the fire department for purposes of*
14 *communication with the commission;*
15 *8. The code of ethics that applies to the fire department, and whether the*
16 *fire department has adopted additional ethics provisions;*
17 *9. A listing of all federal, state, and local governmental entities that have*
18 *oversight authority over the fire department or to which the fire*
19 *department submits reports, data, or information; and*
20 *10. Any other related administrative information required by the*
21 *commission; and*
22 *(b) Financial information including budgets and financial expenditure*
23 *information that are designed to ensure that all public funds received by the*
24 *fire departments are being responsibly used. The commission shall, through*
25 *the promulgation of an administrative regulation, establish the specific*
26 *financial information that shall be filed to meet the requirements of this*
27 *paragraph.*

1 *(4) The commission shall review the reports required by this section and, if the*
2 *commission finds that a report submitted does not comply with the requirements*
3 *established by this section and regulations promulgated hereunder, the*
4 *commission shall notify the fire department in writing. The notification shall*
5 *include a description of the specific deficiencies identified, and shall describe the*
6 *process the fire department shall follow to correct the deficiencies, including the*
7 *time within which a response must be provided.*
8 *(5) If a fire department fails to comply with this section or Section 2 of this Act, then*
9 *the commission may withhold:*
10 *(a) Incentive pay to qualified firefighters under KRS 95A.250;*
11 *(b) Volunteer fire department aid, funds used to purchase workers*
12 *compensation insurance for fire departments, and the low-interest loans*
13 *under KRS 95A.262;*
14 *(c) Funds from the Thermal Vision Grant program under KRS 95A.400 to*
15 *95A.440; and*
16 *(d) Any other funds that the commission controls.*
17 *(6) The commission may report any irregularities relating to the finances or*
18 *operations of a fire department that it identifies to the Attorney General, Auditor*
19 *of Public Accounts, or any other public official with jurisdiction over fire*
20 *departments for further investigation and follow-up.*
21 *(7) The commission may prescribe corrective actions to bring fire departments that*
22 *are, as of the effective date of this Act, not in compliance with KRS Chapter 65A*
23 *into compliance with this section. Any sanctions imposed by the Department for*
24 *Local Government prior to the effective date of this Act, shall be lifted upon*
25 *notification by the commission to the department that the fire department in*
26 *question has complied with the corrective actions prescribed by the commission.*
27 *(8) The information reported by fire departments under this section shall be*

1 *considered public records under KRS 61.872 to 61.884. The commission shall*
2 *prominently post on its Web site the availability of the information required by*
3 *this section and shall provide contact information and procedures for obtaining*
4 *copies of the information.*
5 *(9) The fire commission shall promulgate administrative regulations under KRS*
6 *Chapter 13A as soon as practicable after the effective date of this Act, to*
7 *implement this section and Section 2 of this Act.*
8 *(10) By October 1, 2016, and on or before each October 1 thereafter, the commission*
9 *shall file an annual report with the Legislative Research Commission detailing*
10 *the compliance of the fire departments required to report under this section with*
11 *subsection (3) of this section. The Legislative Research Commission shall refer*
12 *the report to the Interim Joint Committee on Local Government for review.*

President of Senate

Speaker-House of Representatives

Attest: Chief Clerk of Senate

Approved Governor

Date 9 APRIL 2016