

65A.040 Failure to submit information or submitting noncompliant information -- Notice -- Withholding of funds -- Audit or special examination -- Distribution of funds upon compliance -- Action to enforce reporting requirements.

- (1) The provisions of this section shall apply when any special purpose governmental entity fails to submit information or submits noncompliant information under KRS 65A.020.
- (2) If a special purpose governmental entity fails to submit information in a timely manner or submits noncompliant information, the DLG shall, within thirty (30) days after the due date of the information, notify the special purpose governmental entity and the establishing entity in writing that:
 - (a) Either:
 1. The required information was not submitted in a timely manner; or
 2. The information submitted was noncompliant and the reason for noncompliance;
 - (b) The special purpose governmental entity shall have thirty (30) days from the date of the notice to submit the information; and
 - (c) Failure to submit compliant information:
 1. Will result in:
 - a. Any funds due the entity and in the possession of any agency, entity, or branch of state government being withheld by the state government entity until the report or information is submitted; and
 - b. Publication of a notice of noncompliance in a newspaper having general circulation in the area where the special purpose governmental entity operates; and
 2. May result in the Auditor of Public Accounts or the auditor's designee performing an audit or special examination of the special purpose governmental entity at the expense of the entity.
- (3) Upon the failure of a special purpose governmental entity to submit information in response to the notice sent under subsection (2) of this section, the DLG shall, within fifteen (15) days after the passage of the thirty (30) day period:
 - (a) Notify in writing the Auditor of Public Accounts, the establishing entity, and any entity having oversight or responsibility of the special purpose governmental entity at the state level. The notice shall include at a minimum the name, mailing address, and primary contact name for the special purpose governmental entity, as well as details about the information that is past due;
 - (b) Notify the Finance and Administration Cabinet that the special purpose governmental entity has failed to comply with the reporting requirements of KRS 65A.010 to 65A.090, and that any funds in the possession of any agency, entity, or branch of state government shall be withheld until further notice; and
 - (c)
 1. Cause to be published in the newspaper having general circulation in the area where the special purpose governmental entity operates

a notice of noncompliance. The notice shall meet the requirements of KRS Chapter 424 and shall include:

- a. Identification of the special purpose governmental entity;
 - b. A statement that the special purpose governmental entity failed to comply with the reporting requirements established by KRS 65A.020;
 - c. The names of the board members of the special purpose governmental entity;
 - d. The name and contact information of the individual provided as the contact for the special purpose governmental entity; and
 - e. Any other information the DLG may require.
2. The cost of publication of the notice shall be borne by the special purpose governmental entity. If the notice includes more than one (1) special purpose governmental entity, the cost shall be divided equally among the entities included in the notice.
- (4) Upon receipt of notification under subsection (3)(b) of this section, the secretary of the Finance and Administration Cabinet shall, within ten (10) days after receipt of the notice, notify all state agencies, entities, and branches of state government to withhold any funds due the noncompliant special purpose governmental entity.
- (5) (a) The Auditor of Public Accounts shall, within thirty (30) days after the receipt of information from the DLG under subsection (3)(a) of this subsection, notify in writing the special purpose governmental entity that the entity may be subject to an audit or special examination at the expense of the special purpose governmental entity.
- (b) The Auditor of Public Accounts may initiate an audit or special examination of any special purpose governmental entity any time after sending the notice required by paragraph (a) of this subsection. Any audit or special examination initiated pursuant to this subsection shall be at the expense of the special purpose governmental entity.
- (c) Once commenced, an audit or special examination may be completed regardless of whether the special purpose governmental entity subsequently submits the required information.
- (d) The audit or special examination shall be prepared and submitted as required by KRS 65A.020 and 65A.030.
- (6) Upon receipt of all required information from a noncompliant special purpose governmental entity, the DLG shall notify in writing the Auditor of Public Accounts, the establishing entity, and the Finance and Administration Cabinet, and the secretary of the Finance and Administration Cabinet shall notify all state agencies, entities, and branches of state government that funds withheld may once again be distributed to the special purpose governmental entity.
- (7) Any resident or property owner of the service area of a special purpose governmental entity may bring an action in the Circuit Court to enforce the provisions of KRS 65A.020. The Circuit Court, in its discretion, may allow the prevailing party, other than the special purpose governmental entity, a reasonable attorney's fee and court costs, to be paid from the special purpose

governmental entity's treasury.

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