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April 20, 2006

FINANCES FIRE PROTECTION DISTRICTS

SECTION F

OPERATIONAL MANUAL AND LEGAL FORMS COMPENDIUM Jefferson County Fire Chiefs & Trustees Association

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I BUDGET

1. ANNUAL BALANCED BUDGET: Kentucky law requires that the Board of Trustees of every Fire Protection District annually prepare a proposed budget in the same classifications required for county budgets [KRS 68.240(2) to (5)] for the expenditure of all funds [KRS 65.065(1)], including those from local, state or federal sources, which are to be expended by the Fire District. The budget must be based on a fiscal year from July 1 to June 30. Kentucky Constitution §169. The Board of Trustees, at a meeting held prior to June 1 of each year, must make a detailed investigation of each separate activity of the Fire District for which the trustees propose that district funds are to be expended by the Board of Trustees. KRS 68.240(2). Fire Protection Districts must adopt a balanced budget, with budgeted expenditures not exceeding budgeted revenues, cash, and receipts. OAG 80-628.

2. STANDARD BUDGET FORMS: Each Fire Protection District must prepare its budget on a fiscal year basis using the STANDARD BUDGET FORMS prepared by the Kentucky State Local Finance Officer for Fire Protection Districts. KRS 65.065(1).

3. CURRENT BUDGET FORMS: The most recent STANDARD BUDGET FORMS prepared by the Kentucky State Local Finance Officer are available from:

GLENN D. OLDHAM, BRANCH MANAGER
GOVERNOR'S OFFICE FOR LOCAL DEVELOPMENT
1024 Capital Center Drive, 3rd Floor
Frankfort, Kentucky 40601-8204
Glenn.Oldham@ky.gov
Telephone: (502) 573-2382; Toll-Free: (800) 346-5606
Fax: #502-573-2512
Current forms available at: <http://gold.ky.gov/downloads.htm>

MS. TERRI LIVERS, EXECUTIVE FIRE ADMINISTRATOR
JEFFERSON COUNTY FIRE SERVICE
410 S. Fifth Street, #200
Louisville, Kentucky 40202
Terri.Livers@louisvilleky.gov
Telephone: 502-574-5646
Fax: #502-574-4606

The FIRE DISTRICT BUDGET REPORT from the Governor's Office for Local Development is attached as (F#1) at the end of this Section F (an electronic version of the BUDGET REPORT is available at: <http://gold.ky.gov/downloads.htm> and include:

- A. BUDGET SUMMARY: Revenues, Receipts & Cash, and Appropriations (page1).
- B. REVENUES: (1) Taxes; (2) Permits and Licenses; (3) In lieu of Tax Payments; (4) Intergovernmental Revenues; (5) Charges for Services; (6) Other Revenues; (7) Interest Earned; TOTAL REVENUES (pages 2 & 3).
- C. CASH, BORROWED MONEY & TRANSFERS (pages 3 & 4).
- D. APPROPRIATIONS: (1) Personnel; (2) Operating Expense; (3) Administration;(4) Capital Outlay; (5) Debt Service; TOTAL APPROPRIATIONS (pages 4 to 7).
- E. CERTIFICATION OF TRUTH AND ACCURACY: Certification by the treasurer of the Board of Trustees of the Fire Protection District, the District Chief Financial Officer pursuant to KRS 75.031(3), that the budget is true and accurate (page 8).

4. THREE YEARS ON BUDGET: The STANDARD BUDGET FORMS prepared by the Kentucky State Local Finance Officer (F#1) require detailed budget information for three (3) separate fiscal years (July 1 to June 30):

- A. ACTUAL (LAST YEAR): Amounts actually spent in prior fiscal year;
- B. BUDGET (CURRENT YEAR): Amounts budgeted for current fiscal year;
- C. ESTIMATE (NEXT YEAR): Amounts for the next fiscal year beginning July 1.

5. INSTRUCTIONS FOR BUDGET FORMS: The Standard Budget Forms distributed by the State Local Finance Officer contains Instructions (F#2) or an Informational Letter (F#3) for completion of the Budget. Most important: (a) Fire Districts are required to use a July 1 to June 30 fiscal year. Kentucky Constitution §169; (b) Budget must be balanced and appropriations cannot exceed revenues; (c) Fire Districts are instructed not to add categories to the forms and to contact the Governor's Office for Local Development if a Fire District believes that none of the categories cover a category of expenditure.

6. JUNE 1 FILING WITH CABINET FOR PUBLIC PROTECTION: Every Fire District must file its budget by JUNE 1 ["at least thirty (30) days prior to the start of fiscal year"]. KRS 65.065(1). Jefferson County Fire Protection Districts must file their budgets, pursuant to a Louisville Metro Government memorandum dated March 19, 2003 (F#4) [KRS 67C.121] with the Cabinet for Public Protection to be available for public inspection:

CABINET FOR PUBLIC PROTECTION
Louisville Metro Hall, Suite 202
527 West Jefferson Street, Louisville, Kentucky 40202
Telephone: (502) 574-6265
Fax: (502) 574-5339

Kentucky Fire Protection Districts outside Jefferson County are required to file their annual budgets by JUNE 1 with the Fiscal Court of the county in which the Fire District is located to be available for public inspection. A receipt or letter confirming the filing of the budget with the Cabinet for Public Protection (F#5) or Fiscal Court should be completed.

7. NO FILING - NO SPENDING: Kentucky law states "no money can be spent without a budget" and a Fire District budget is NOT "effective until filed" with the Cabinet for Public Protection or fiscal court where the Fire District is located. The Cabinet or Clerk is responsible to submit the budget to the Governor's Office for Local Development," and **NO MONEYS CAN BE SPENT UNTIL THE BUDGET IS FILED**. KRS 65.065(1).

8. PAY ONLY BUDGET CATEGORIES: KRS 65.065 prohibits a Fire District from spending any money from any source whatsoever EXCEPT IN ACCORDANCE WITH THE BUDGET filed with the Cabinet for Public Protection and available for public inspection. If budget categories change, an amended budget must be filed with the Cabinet for Public Protection BEFORE: (a) money can be moved from one to a different category; (b) additional money can be spent in a category; (c) a new category created. KRS 65.065(1).

9. PROSECUTOR MUST STOP FPD UNTIL FILED: If a Fire District does not file its budget by June 1, the Cabinet for Public Protection must immediately notify the County Attorney who is required to immediately:

- A. Notify the Board of Trustees that it has violated Kentucky law;
- B. Take legal action to stop the Fire District from spending any money by taking all "steps necessary to prevent the expenditure of funds by the district until the district is in compliance (with the budget law)." KRS 65.065(1).

Any resident can enforce the budget requirements and obtain a judgment requiring the Fire District to pay all attorney fees and court costs. KRS 65.065(6).

II UNIFORM FINANCIAL INFORMATION REPORT

1. ANNUAL UFIR REPORT: Every Fire Protection District is required to annually, after the close of the fiscal year on June 30, complete a UNIFORM FINANCIAL INFORMATION REPORT (F#6). KRS 65.905(1). Fire Districts are authorized to have the UNIFORM FINANCIAL INFORMATION REPORT completed by the certified public accountant or auditor that performs its annual audit. KRS 65.905(3); KRS 65.065. The information from the report is used for an analysis of the state's overall credit rating, for a database of comparable financial data from all counties, cities, and fire protection and other special taxing districts, for financial impact statements on proposed legislation, and for data collection obligations of the United States Bureau of the Census.

2. NEW UFIR FORMS BY DECEMBER 31: The Kentucky Governor's Office for Local Development is required to distribute copies of the UNIFORM FINANCIAL INFORMATION REPORT to each Fire District no later than December 31. KRS 65.905(4). The forms are based on the United States Bureau of the Census forms and other requirements and may change substantially from year to year. KRS 65.905(4).

3. MAY 1 FRANKFORT FILING: KRS 65.905(1) mandates that a Fire Protection District must file a UNIFORM FINANCIAL INFORMATION REPORT by May 1 with:

GOVERNOR'S OFFICE FOR LOCAL DEVELOPMENT
1024 Capital Center Drive, 3rd Floor
Frankfort, Kentucky 40601-8204
Telephone: (502) 573-2382
Toll-Free: (800) 346-5606
Fax: (502) 573-2512

4. MUST FILE WITH COUNTY CLERK: KRS 65.925 requires that a copy of the UNIFORM FINANCIAL INFORMATION REPORT be filed with the county clerk where the Fire District is located. KRS 65.925. The Governor's Office for Local Development states in the UNIFORM FINANCIAL INFORMATION REPORT (F#6) which it is required by KRS 65.905(4) to develop that the Fire District shall "file a copy with the county clerk." Fire Protection District have accommodated and cooperated with the Governor's Office for Local Development by filing the report with the local County Clerk.

5. COMPLETION OF REPORT: The UNIFORM FINANCIAL INFORMATION REPORT requires information and specific data about the demographics of the Fire Protection District, including tax rate, "HB 44" information, revenues, lease purchase agreements, and other financial data. KRS 65.910. The Governor's Office for Local Development requires the financial data to be compiled on the UNIFORM FINANCIAL INFORMATION REPORT form without any changes, additions or deletions in any category. An addendum is not allowed. All amount must be rounded to the nearest whole dollar amount.

6. FY REVENUE & CALENDAR RATES: The UNIFORM FINANCIAL INFORMATION REPORT must be prepared on a cash, fiscal year basis, July 1 to June 30, as required by the Kentucky Constitution and state law. However, the real estate, personal property and motor vehicle tax rates are reported on a calendar year basis. Thus, rates are on a calendar year assessment and revenue reported on a fiscal year basis.

7. INSTRUCTIONS AND ELECTRONIC VERSION: The Governor's Office for Local Development distributes INSTRUCTIONS for the UNIFORM FINANCIAL INFORMATION REPORT (F#7), and an electronic version of the current UNIFORM FINANCIAL INFORMATION REPORT can be found at: <http://gold.ky.gov/downloads.htm>.

8. GOVERNOR'S OFFICE FOR LOCAL DEVELOPMENT: The Kentucky Governor's Office for Local Development is required to use the UNIFORM FINANCIAL INFORMATION REPORT to replace as many as possible of the financial information forms that Fire Protection Districts are required to file by consolidating the required information into the uniform report. Data supplied by a Fire Protection District will be used by state and federal agencies and a Fire District is not required to complete local government finance reporting forms from the U.S. Bureau of the Census.

9. TERMINATION OF STATE AID: If a Fire District fails to file a UNIFORM FINANCIAL INFORMATION REPORT by May 1 or fails to comply with other requirements, the Governor's Office for Local Development may notify any state agency that provides money to the Fire District of the noncompliance, and those agencies shall immediately suspend all payments to the Fire District until compliance is obtained. KRS 65.920(2). Kentucky Administrative Regulations have been adopted for enforcing compliance with the report requirements, including notifying noncomplying Fire Districts, Legislative Research Commission, and state agencies providing funds to Fire Districts. 109 KAR 13:010. If an incomplete or incorrect report is filed, the Fire District will be notified in writing and given thirty (30) days to complete or correct the report. 109 KAR 13:010, §1(3)(a).

III AUDITS & FINANCIAL STATEMENTS

1. AUDIT IF OVER \$400,000 REVENUE: The Board of Trustees of a Fire Protection District that receives from all sources or expends for all purposes four hundred thousand dollars (\$400,000) or more in a fiscal year shall provide for the performance of an annual audit of the funds in the district budget by an independent certified public accountant (or by contract with the Kentucky Auditor of Public Accounts). KRS 65.065(3) and (4).

2. UNDER \$400,000 REVENUE: If a Fire District receives from all sources or expends for all purposes less than four hundred thousand dollars (\$400,000) in a fiscal year, the Board of Trustees shall annually prepare a financial statement, except that once every four (4) years the Fire District's governing body shall provide for the performance of an audit of the funds in the district budget by an independent certified public accountant (or contract with the Kentucky Auditor of Public Accounts). KRS 65.065(2) and (4).

3. FILE AUDIT WITHIN 30 DAYS RECEIPT: Kentucky law requires each Jefferson County Fire District to submit for review to the Metro Louisville Cabinet for Public Protection a copy of its audit performed on the funds in the district budget within thirty (30) days of the Fire District's receipt of the completed audit. KRS 65.070(2); KRS 67C.121 (F#4). Fire Protection Districts outside Jefferson County must file its annual audit with the fiscal court of each county with territory in the Fire District. KRS 65.070(2). A receipt or letter confirming the filing of the audit with the Cabinet for Public Protection (F#8) or Fiscal Court should be completed.

4. GOVERNMENT AUDIT STANDARDS: The audit required for Fire Districts must conform to the generally-accepted Governmental Auditing Standards issued by the Comptroller General of the United States. KRS 65.065(4)(a). Those standards require that the auditor to obtain reasonable assurance whether the financial statements are free of material misstatement. The standards require an audit to include examining on a test basis evidence supporting the amounts and disclosures in the financial statements, assessing accounting principles used and significant estimates made by management; and, evaluating overall financial statement presentation. The Governmental Accounting Standards Board (GASB) created a new generally accepted accounting principle (GAAP) in 2003 that applies to Fire Districts that is referred to as "GASB 34." The Kentucky State Auditor may require additional reporting, including requesting all related work papers and documents of the independent certified public accountant. KRS 65.065(4)(b).

5. FINANCIAL STATEMENTS: The "financial statement" required for Fire Districts with revenues from all sources or expenditures for all purposes of less than \$400,000 includes: (a) Beginning Cash on hand on July 1; (b) All funds received from all sources during the Fiscal Year; (c) All expenditures of funds for all purposes during the Fiscal Year; (d) Ending Balance as of June 30. Criteria for the preparation of annual financial statements required by KRS 65.065(2) are contained in FINANCIAL STATEMENT PREPARATION , Section J, ELECTED OFFICIALS REFERENCE MANUAL, published by the Kentucky Auditor of Accounts dated September 15, 1999 (F#9).

6. FINANCIAL STATEMENTS FILED BY AUGUST 29: The annual financial statement required by KRS 65.065(2) for a Fire District with revenues of less than \$400,000 must be filed with Fiscal Court by August 29. KRS 65.070(1)(b).

7. SELECTING AN AUDITOR: Fire Protection Districts need to develop comprehensive audit procedures, including (a) handling requests for audit proposals; (b) evaluating audit proposals; and, (c) monitoring auditor performances. The Board of Trustees needs to consider audit requirements and technical standards, balancing audit price and quality, multiple-year audit contracts, audit organization, audit requests, application of evaluation criteria, and monitoring auditor performance.

8. SOLICITING BIDS FOR AUDITS: Although Fire Protection Districts are not required to advertise in the newspaper for competitive bids for certified public accountant services [KRS 424.260(1)], a Fire District may want to solicit bids for accounting services by requesting proposals from local certified public accountants and accounting firms.

9. REQUEST FOR AUDIT PROPOSAL: Fire Protection Districts should request accounting firms to "submit a proposal for contract to perform financial and compliance audits of its financial records for the past fiscal year," and include: (a) pre-bid conference; (b) Evaluation criteria; (c) Specific accounting work to be performed; (d) Scope of audit; (e) Agency's role; (f) Proposal requirements; (g) Format for audit contract; (h) Compensation.

10. ENGAGEMENT LETTER: After a certified public accountant has been chosen, a Fire District should require a written engagement letter (F#10) containing:

- A. Specific audit requirements;
- B. Costs;
- D. Time for making books and records available for audit;
- E. Due date for completing the audit; and,
- F. Contact persons.

11. CONFORMS TO GOVERNMENT STANDARDS: It is very important that the written engagement letter and the audit itself contains within the written text of the audit a certification by the certified public accountant that states:

This audit conforms with the generally-accepted governmental auditing standards, which means those standards for audits of governmental organizations, programs, activities, and functions issued by the Comptroller General of the United States, and the requirements of KRS 65.065.

12. ENFORCE WITH LEGAL FEES: Any resident of the Fire Protection District may enforce the requirements for an audit, financial statement, and other audit requirements by filing a lawsuit in Circuit Court, and, if successful, force compliance for an audit and recover all expenses of the lawsuit, including lawyer fees and court costs. KRS 65.070(4).

IV FIRE DISTRICT CERTIFICATION TO COUNTY CLERK

1. AUGUST 29 FILING: A Fire District must file a Fire District certification with the county clerk by AUGUST 29 of each year (within sixty (60) days of the close of the fiscal year]. KRS 65.070(1). There has been confusion over the certification date because the statutory filing date has been changed five (5) different times over an eight (8) year period.

2. FIRE DISTRICT CERTIFICATION: The certification required to be filed by August 29 must contain the following information "that has changed since the last filing:"

- A. The name of the district;
- B. Map or general description of its service area;
- C. The statutory authority under which it was created, and
- D. The names, addresses and expiration dates of the terms of office for the members of its governing body and chief executive officer.

3. CERTIFICATION FORM: The FIRE DISTRICT CERTIFICATION (F#11) must be filed with the county clerk, In Jefferson County, the district certification must be filed with:

JEFFERSON COUNTY CLERK
Jefferson County Courthouse
527 West Jefferson Street
Louisville, Kentucky 40202
Telephone: (502) 574-5700

4. ENFORCE WITH LEGAL FEES: Any resident of a Fire District may enforce the Fire District certification requirements by filing a lawsuit in Circuit Court, and, if successful, the Court may order the Fire District pay the resident's legal fees. KRS 65.070(4).

V. PUBLICATION & FILING OF FINANCIAL INFORMATION

1. PUBLICATION OF DISTRICT DATA & FINANCIALS: KRS 65.070(1)(c) requires each Fire District to publish the following Fire District data and financial information:

- A. Names and addresses of the Chief and members of the Board of Trustees;
- B. Summary financial statement that includes the location of supporting documents, or the location of the financial records of the Fire Protection District, which may be examined by the public.

2. FINANCIAL SUMMARY MUST BE FILED: KRS 65.070(1)(b) requires that each Fire Protection District file for review a summary financial statement. In Jefferson County, Fire Districts must file the financial information with the Cabinet for Public Protection (F#4). In all other Kentucky counties, the summary financial information is filed with Fiscal Court.

3. SUMMARY FINANCIAL STATEMENT: A Fire Protection District can comply with the legal requirements of KRS 65.010(1)(c) by completing Form (F#12) and publishing the data in the appropriate local newspaper (F#13) in compliance with KRS, Chapter 424.

4. PUBLICATION OF ACCURATE FINANCIAL DATA: Fire Protection Districts with incomes of \$400,000 or more are required to engage certified public accountants to audit their finances to accurately reflect the financial status of the District. Unaudited papers and estimates are not reliable under generally accepted governmental auditing standards. KRS 65.070 requires a Fire District to file its audited financial information within thirty (30) days of receipt. That same standard and requirement necessarily applies to the requirements for filing and publishing summary financial statements. The provision in KRS 65.070(1) that mentions the filing of a summary financial statement within sixty (60) days of the close of the fiscal year are contrary to the generally-accepted accounting practices of certified public accountants in Jefferson County and Kentucky who normally are unable to be complete Fire District audit until October or November. The only reasonable approach is to publish and file the summary financial statement as soon as reliable, accurate data can be obtained from the auditor.

5. ALTERNATIVE TO DETAILED PUBLICATION: The publication of a FINANCIAL SUMMARY is in lieu of the requirements of KRS, Chapter 424, which requires districts to publish in the newspaper "an itemized sworn statement of all funds collected, received, held or disbursed within sixty (60) days of the fiscal year. KRS 65.070(1)(c); OAG 80-627.

6. ENFORCE WITH LEGAL FEES: Any resident of the Fire District may enforce the requirements for the publication and filing of a summary financial statement by filing a lawsuit in Circuit Court. If the Fire District is found to have violated the law, the Court may order the Fire District to publish the financial information and pay all expenses in bringing the legal action, including lawyer's fees. KRS 65.070(4).

VI REAL ESTATE TAX RATES

1. PROPERTY TAX LEVY: A Fire Protection District has authority to levy a tax upon all property subject to county tax within the Fire District for the purpose of defraying the expenses related to the establishment, maintenance and operation of a fire department. KRS 75.040. The process includes:

- A. VALUATION: Property valuation administrator values the property;
- B. RATE: Fire Protection District establishes the tax rate;
- C. COMPUTATION: County Clerk computes the tax on the tax bills; and,
- D. COLLECTION: Sheriff collects the tax for the Fire Protection District.

2. PROPERTY TAX CALENDAR: The basic tax calendar in Kentucky includes:

- (a) Assessment Date [KRS 132.220(1)] January 1;
- (b) Listing Period [KRS 132.220(1)] January 1-March 1;
- (c) PVA Recap to Fire Districts [KRS 133.040(1)] First Monday April;
- (d) Public Inspection Tax Roll [KRS 133.045(1)] 13 Days beg. 1st Monday May;
- (e) Board of Assmt Appeals [KRS 133.120(2)] 5 Days 25 to 35 Days after (d);
- (f) Clerk's Recap to Rev. Cabinet [KRS 133.125(1)] 5 Days After Board Ends;
- (g) Decisions Board Appeals [KRS 133.125(2)] w/i 5 Days Adjourn;
- (h) Revenue Cabinet Certification KRS 132.020(7)] Upon Completion;
- (i) Tax Rates Fire Districts to Clerk [KRS 132.0225] September 1;
- (j) Clerk deliver Tax Bills to Sheriff [KRS 133.220(3)] September 15;
- (k) Pay with 2% Discount [KRS 134.020(2)] November 1;
- (l) Pay without Discount [KRS 134.020(2)] November 2-December 31;
- (m) Tax Bills Delinquent [KRS 134.020(3)] January 1;
- (n) Pay with 2% Penalty [KRS 134.020(5)] January 1-January 31;
- (o) Pay with 10% Penalty. [KRS 134.020(4)] After January 31;
- (p) Sheriff's accounts settlement [KRS 1134.310(1)] October Metro Council Meeting.

KRS, Chapters 132, 133, and 134, and other statutes provide the Revenue Cabinet with authority to extend certain sections of the Kentucky Property Tax Calendar. Real estate assessments in Jefferson County are normally received about March 30 (preliminary), June 16 (certified), and September 13 (final)[2005 dates]. If a House Bill 44 (KRS 132.023) is required, the preliminary figures (later adjusted by the certified) must be used to keep the KRS 132.0225 September 1 requirement for certification to the Jefferson County Clerk.

3. MAXIMUM TAX 10¢ PER \$100: KRS, Chapter 75, establishes the maximum real property tax rate as ten (\$.10) per one hundred dollars (\$100) of valuation as assessed for county taxes. KRS 75.015(6); KRS 75.040(1).

4. COMPENSATING TAX RATE: KRS 132.023 establishes specific limits on tax rates that Fire Districts can levy, in addition to the limitation of \$.10 per \$100 of valuation mandated by KRS 75.040. OAG 82-323. The KRS 132.23 limitations ["House Bill 44"(Lt. Governor Thelma Stovall; 1979)] are based upon the "compensating tax rate" defined as:

"Compensating tax rate" means that rate which, rounded to the next higher one-tenth of one cent (\$0.001) per one hundred dollars (\$100) of assessed value and applied to the current year's assessment of the property subject to taxation by a taxing district, excluding new property and personal property, produces an amount of revenue approximately equal to that produced in the preceding year from real property. However, in no event shall the compensating tax rate be a rate which, when applied to the total current year assessment of all classes of taxable property, produces an amount of revenue less than was produced in the preceding year from all classes of taxable property. For purposes of this subsection, "property subject to taxation" means the total fair cash value of all property subject to full local rates, less the total valuation exempted from taxation by the homestead exemption provision of the Constitution and the difference between the fair cash value and agricultural or horticultural value of agricultural or horticultural land." KRS 132.010(6).

5. HB 44 APPLICATION TO FIRE DISTRICTS: KRS 132.023 applies to "taxing districts" that includes KRS 75 Fire Protection Districts. KRS 65.180; KRS 75.010. A Fire District must comply with the statutory requirements set forth in KRS 132.017 and 132.023 in order to raise its tax rate from the preceding year's rate, according to an Opinion of the Attorney General. OAG 82-323. A Circuit Court in Bullitt County and another in Jefferson County have held that the language "the rate set in this subsection [\$0.10 per \$100 valuation] shall apply, notwithstanding the provisions of KRS 132.023" contained in KRS 75.040(1) does not subject KRS 75 Fire Protection District to KRS 132.023 requirements. Those two court decisions do not necessarily affect any other Circuit Court in the Commonwealth of Kentucky. Because of tremendous financial and personal liability issues that are involved in these legal issues, it is extremely important that any Fire District considering not following KRS 132.017 obtain a written legal opinion from legal counsel before disregarding the clear requirements of KRS 132.023. This section of the Legal Compendium applies KRS 132.023 to KRS, Chapter 75 Fire Protection Districts.

6. "HOUSE BILL 44" DEFINITIONS: Important definitions required to understand and calculate the compensating tax rate include the following definitions in KRS 132.010:

"REAL PROPERTY" includes all lands within this state and improvements thereon.

"PERSONAL PROPERTY" includes every species and character of property, tangible and intangible, other than real property.

"RESIDENT" means any person who has taken up a place of abode within this state with the intention of continuing to abide in this state; any person who has had his actual or habitual place of abode in this state for the larger portion of the twelve (12) months next preceding the date as of which an assessment is due to be made shall be deemed to have intended to become a resident of this state.

"NEW PROPERTY" means the net difference in taxable value between real property additions and deletions to the property tax roll for the current year.

"REAL PROPERTY ADDITIONS" shall mean:

(i) Property annexed or incorporated by a municipal corporation, or any other taxing jurisdiction; however, this definition shall not apply to property acquired through the merger or consolidation of school districts, or the transfer of property from one school district to another;

(ii) Property, the ownership of which has been transferred from a tax-exempt entity to a nontax-exempt entity;

(iii) The value of improvements to existing nonresidential property;

(iv) The value of new residential improvements to property;

(v) The value of improvements to existing residential property when the improvement increases the assessed value of the property by fifty percent (50%) or more;

(vi) Property created by the subdivision of unimproved property, provided that when such property is reclassified from farm to subdivision by the property valuation administrator, the value of such property as a farm shall be a deletion from that category;

(vii) Property exempt from taxation, as an inducement for industrial or business use, at the expiration of its tax exempt status;

(viii) Property, the tax rate of which will change, according to the provisions of KRS 82.085, to reflect additional urban services to be provided by the taxing jurisdiction, provided, however, that such property shall be considered "real property additions" only in proportion to the additional urban services to be provided to the property over the urban services previously provided; and,

(ix) The value of improvements to real property previously under assessment moratorium.

"REAL PROPERTY DELETIONS" are limited to the value of real property removed from, or reduced over the preceding year on, the property tax roll for the current year.

7. CALCULATING COMPENSATING TAX RATE: The Governor's Office for Local Development annually distributes a Rate Calculation Worksheet form (F#14) and procedural information on House Bill 44 Public Hearings (F#15) and Recall Vote requirements (F#16) under KRS 132.023 that are applicable to Fire District taxes. An electronic version of the real property rate calculation worksheet for Fire Protection Districts can be found at: <http://gold.ky.gov/downloads.htm>.

8. PROPOSED TAX RATE RESOLUTION: If a Fire Protection District proposes to levy a tax rate that exceeds the compensating tax rate, the Board of Trustees should vote on the proposed resolution subject to House Bill 44 hearing and recall procedures.

9. PUBLIC HEARING REQUIREMENTS: A Fire District cannot levy a tax rate which exceeds the compensating tax rate defined in KRS 132.010 until the Fire District has complied with the following requirements of KRS 132.023(2) for a public hearing:

(1) No taxing district, other than the state, counties, school districts, cities, and urban-county governments, shall levy a tax rate which exceeds the compensating tax rate defined in KRS 132.010, until the taxing district has complied with the provisions of subsection (2) of this section.

(2) (a) A taxing district, other than the state, counties, school districts, cities, and urban-county governments, proposing to levy a tax rate which exceeds the compensating tax rate defined in KRS 132.010, shall hold a public hearing to hear comments from the public regarding the proposed tax rate. The hearing shall be held in the principal office of the taxing district, or, in the event the taxing district has no office, or the office is not suitable for a hearing, the hearing shall be held in a suitable facility as near as possible to the geographic center of the district.

(b) The taxing district shall advertise the hearing by causing to be published as least twice in two (2) consecutive weeks, in a newspaper of largest circulation in the county, a display type advertisement of not less than twelve (12) column inches, the following:

1. The tax rate levied in the preceding year, and the revenue produced by that rate;
2. The tax rate proposed for the current year, and the revenue expected to be produced by that rate;
3. The compensating tax rate, and revenue expected from it;
4. The revenue expected from new property and personal property;
5. The general areas to which revenue in excess of the revenue produced in the preceding year is to be allocated;

6. A time and place for the public hearing which shall be held not less than seven (7) days, nor more than ten (10) days, after the day that the second advertisement is published;

7. The purpose of the hearing; and

8. A statement to the effect that the General Assembly has required publication of the advertisement and the information contained therein.

10. PUBLIC HEARING: A NOTICE OF PUBLIC HEARING (F#17) must be advertised in the appropriate local newspaper (F#18"). The hearing shall be open to the public, and all persons desiring to be heard shall be given an opportunity to present oral testimony. A Fire Protection District may establish reasonable time limits for testimony.

11. TAX RATE ADOPTION: After a full public hearing, the Board of Trustees of the Fire Protection District should vote on a REAL ESTATE TAX RATE RESOLUTION (F#19) and a PERSONAL PROPERTY TAX RATE RESOLUTION (F#20). If the tax rate adopted by the Board of Trustees exceeds the compensating tax rate but does not exceed the four percent (4%) over the amount of revenue produced by the compensating tax rate, there is no requirement for any further public notice or publication in the newspaper. If the new tax rate exceeds the compensating tax rate and is four percent (4%) over the amount of revenue produced by the compensating tax rate, a NOTICE OF ADOPTION OF TAX RATE must be published (see subsection 13 below).

12. RECALL VOTE OR RECONSIDERATION: That portion of a tax rate levied by the Board of Trustees of a Fire Protection District that produces revenue from real property, exclusive of revenue from new property, more than four percent (4%) over the amount of revenue produced by the compensating tax rate shall be subject to a recall vote or reconsideration by the Fire District, and must be advertised. KRS 132.023(3) states:

(3) (a) That portion of a tax rate levied by an action of a tax district, other than the state, counties, school districts, cities, and urban-county governments which will produce revenue from real property, exclusive of revenues from new property, more than four percent (4%) over the amount of revenue produced by the compensating tax rate defined in KRS 132.010 shall be subject to a recall vote or reconsideration by the taxing district, as provided for in KRS 132.017, and shall be advertised as provided for in paragraph (b) of this subsection.

(b) The taxing district, other than the state counties, school districts, cities, and urban-county governments shall, within seven (7) days following adoption of an ordinance, order, resolution, or motion to levy a tax rate which will produce revenue from real property, exclusive of revenue from new property as defined in KRS 132.010, more than four percent (4%) over the amount of revenue produced by the compensating tax rate defined in KRS 132.010, cause to be published, in the newspaper of largest circulation in the county, a display type advertisement of not less than twelve (12) column inches the following:

1. The fact that the taxing district has adopted a rate;
2. The fact that the part of the rate which will produce revenue from real property, exclusive of new property as defined in KRS 132.010, in excess of four percent (4%) over the amount of revenue produced by the compensating tax rate defined in KRS 132.010 is subject to recall; and
3. The name, address, and telephone number of the county clerk of the county in which the taxing district is located, with a notation to the effect that official can provide the necessary information about the petition required to initiate recall of the tax rate.

13. NOTICE OF ADOPTION OF TAX RATE: If a Fire District tax rate exceeds the compensating tax rate, it must publish a NOTICE OF ADOPTION OF TAX RATE (F#21) in the appropriate local newspaper (F#22).

(1) (a) That portion of a tax rate levied by an ordinance, order, resolution, or motion of a county fiscal court, district board of education or legislative body of a city, urban-county government or other taxing district subject to recall as provided for in KRS 68.245, 132.023, 132.027 and 160.470, shall go into effect forty-five (45) days after its passage. If during the forty-five (45) days next following the passage of the order, resolution, or motion, a petition signed by a number of registered and qualified voters equal to ten percent (10%) of the voters voting in the last presidential election is presented to the county clerk or his authorized deputy protesting against passage of the ordinance, order or resolution, or motion, the ordinance, order, resolution, or motion shall be suspended from going into effect until after the election referred to in subsection (2) of this section. When the petition is presented to the county clerk or his authorized deputy, the officer shall immediately notify the presiding officer of the appropriate fiscal court, district board of education, or legislative body of a city or urban-county government or other taxing district, as the case may be. Each sheet of the petition shall contain the names, residence addresses, and Social Security numbers or dates of birth of voters in but one (1) voting precinct, and each sheet shall state the name, number, or designation of the precinct and, where applicable, the name, designation, or number of the district or ward wherein the precinct is situated. The county clerk shall make the conclusive determination of whether the petition contains enough signatures of qualified voters to suspend the effect of the order or resolution.

(b) The county fiscal court, district board of education, or legislative body of a city, urban-county government or other taxing district may cause the cancellation of the election by reconsidering the ordinance, order, resolution or motion and amending the ordinance, order, resolution or motion to levy a tax rate which will produce no more revenue from real property, exclusive of revenue from new property as defined in KRS 132.010, than four percent (4%) over the amount of revenue produced by the compensating tax rate defined in KRS 132.010 from real property. The action by the county fiscal court, district board of education, or legislative body of a city, urban-county government or other taxing district shall be valid only if taken within fifteen (15) days following the date of the presentation of the petition.

(2) (a) If an election is necessary under the provisions of subsection (1) of this section, the county fiscal court or legislative body of a city, urban-county government, or other taxing district shall cause to be submitted to the voters of the county, district, or urban county at the next regular election, the question as to whether the property tax rate shall be levied. The question shall be submitted to the county clerk not later than the second Tuesday in August preceding the regular election. The question shall be so framed that the voter may by his vote answer "for" or "against". If a majority of the votes cast upon the question oppose its passage, the order, resolution or motion shall not go into effect. If a majority of the votes cast upon the question favor its passage, the order, resolution or motion shall go into effect.

[Section related to school district elections deleted]

(3) Notwithstanding any statutory provision to the contrary, if a city, county, school district, or other taxing district has not established a final tax rate as of September 15, due to the recall provisions of KRS 68.245, 132.017, 132.027 or 160.470, regular tax bills shall be prepared as required in KRS 133.220 for all districts having a tax rate established by that date; and a second set of bills shall be prepared and collected in the regular manner, according to the provisions of KRS Chapter 132, upon establishment of final tax rates by the remaining districts.

(4) If a second billing is necessary, the collection period shall be extended to conform with the second billing date.

(5) All costs associated with the second billing shall be paid by the taxing district or districts requiring the second billing.

14. RATE WITHIN 45 DAYS OF CERTIFICATION: A Fire District that sets a tax rate not subject to a recall vote shall establish a final rate within 45 days of Revenue Cabinet Certification of Assessments. KRS 132.017. Any Fire District that fails to meet that due date shall be required to use the prior year's compensating tax rate. KRS 132.0225.

15. NEGLIGENT PENALTIES: Property valuation administrator who neglects to perform any KRS 132 duty shall be fined up to \$500 per offense. KRS 132.990(2). County clerk who neglects to perform any KRS 132 duty shall be fined up to \$50 per offense. KRS 132.990(3). Any county clerk who fails to deliver tax bills to the Sheriff by September 15 shall pay a penalty of \$10 for each day's delay. KRS 133.990(2).

VII LEGAL ADVERTISEMENTS

1. PUBLICATIONS: Fire Districts are required to publish certain information, including a financial summary, notice of public hearing on House Bill 44 hearing, adoption of tax rate, and advertisement for bids under certain circumstances. See: PURCHASING AND ADVERTISING - COMPETITIVE BIDDING, Section E, of this Legal Compendium.

2. QUALIFICATION OF NEWSPAPER: Kentucky law allows any legal advertisement required to be published in a certain area, including a Fire District, may be published in the zoned edition of a qualified newspaper within the publication area. KRS 424.120. "Zoned edition" is defined as "a newspaper edition published at least once a week, distributed in a specific geographic region of the newspaper's circulation area, and containing reporting and advertising of interest to subscribers in that geographic region." KRS 424.110(3).

3. NEIGHBORHOODS SECTIONS: The Neighborhoods Sections published in the Courier-Journal in Jefferson County qualify as "zoned editions." The advertisement cost for the zoned editions of the Courier-Journal may be approximately twenty-five percent (25%) of the legal advertisement rates charged for the regular Courier-Journal.

VIII CERTIFICATION OF TAX RATES

1. REAL ESTATE TAX CERTIFICATION: The new real estate tax rate (F#23) must be certified to the County Clerk by SEPTEMBER 1 [KRS 132.0225], and sent to:

JEFFERSON COUNTY CLERK
Room #573, Urban Government Center
810 Barrett Avenue
Louisville, Kentucky 40204
Telephone: (502) 574-6064
Fax: 502-574-8144

2. PERSONAL PROPERTY TAX RATES: A Fire Protection District may levy separate tax rates for real property and for personal property. OAG 80-545; KRS 132.024. If the tax rate applicable to real property will produce a percentage of revenue from personal property less than the percentage increase in revenue from real property, a Fire Protection District may levy a tax rate applicable to personal property that will produce the same percentage increase in revenue from personal property as the percentage increase in revenue from real property. KRS 132.024. The tax rate applicable to personal property levied by a Fire Protection District under those provisions shall not be subject to the hearing and recall procedures of House Bill 44. See: NOTES ON PERSONAL PROPERTY TAX RATE CALCULATIONS (F#24) and RATE CALCULATION FORMULA (F#25).

3. PERSONAL PROPERTY TAX CERTIFICATION: The tax rate on personal property adopted by the Board of Trustees of a Fire District must be certified to the County Clerk by SEPTEMBER 1. The certification of personal property tax rate resolution (F#26) should be sent to JEFFERSON COUNTY CLERK (F#27) at the address given above in subsection 1.

4. MOTOR VEHICLE TAX RATES: Tax rates on motor vehicles and watercraft adopted by a Fire District must be certified to the Kentucky Revenue Cabinet no later than OCTOBER 1. If a Fire District that fails to timely submit the motor vehicle tax rate by October 1, the rates for the previous year remain in effect. KRS 132.487(2). The certification of tax rate (F#28) for motor vehicles and watercraft must be sent to:

DEPARTMENT OF PROPERTY TAXATION
Division of State Valuation
330 Versailles Road, Suite #6
Frankfort, Kentucky 40620
Telephone: (502) 564-8180

IX BOND ON TREASURER

1. TREASURER OF BOARD: Kentucky law provides that the affairs of a Fire Protection District are conducted by a seven (7) member Board of Trustees, and that the trustees shall elect from their number a chairman, a secretary and a treasurer. KRS 75.031.

2. BOND REQUIRED: KRS 75.031 requires the treasurer of the Board of Trustees to give bond in such amount as shall be determined by the county judge/executive, conditioned upon the faithful discharge of the duties of the treasurer's office, and the faithful accounting for all funds which may come into his/her possession as such treasurer. The premiums on such bonds shall be paid out of the funds of the district.

3. BOND ESTABLISHED: In Jefferson County, the Metro Mayor issued on July 9, 2003, a directive stating that, "Based upon advice from the Metro Risk Management Division, I am recommending that the amount of the bond be not less than thirty percent (30%) of the revenue of the local fire district." (F#29).

4. PUBLIC OFFICIAL BOND: KRS 75.031 requires a "public official bond" covering the "well and faithful performance of all and singular duties incumbent upon the treasurer by reason of his/her election and accounting for all moneys coming into his/her hands according to law". Most bonds require that, upon discovery of any fact or circumstances indicating a possible claim under the bond, the Fire Protection District must immediately give written notice to the insurance company containing all details then known.

X FINANCIAL CALENDAR & OPERATIONS MANAGEMENT

1. FINANCIAL CALENDAR: Each Fire Protection District should maintain a detailed financial calendar scheduling the legal obligations of the treasurer, secretary and Board of Trustees for each of its required monthly meetings. KRS 75.260(2). Failure to comply with applicable financial reporting laws may subject the Fire District and individual members of the Board of Trustees to: (a) lawsuit and damages (KRS 65.065; KRS 65.070); (b) governmental sanctions or penalties (KRS 65.065(1); KRS 65.920(2)); (c) personal liability under application of KRS 273.214 standards; (d) spurious and false newspaper articles (January 2, 2005, later retracted). A FINANCIAL CALENDAR for Fire Protection Districts under present Kentucky law is attached as (F#30).

2. FINANCIAL OPERATIONS MANAGEMENT: The Jefferson County Fire Service has established a coordinated financial operations management program under Executive Fire Administrator Terri Livers (502): 574-5646; email: Terri.Livers@louisvilleky.gov; that ordinates for the eighteen (18) Jefferson County Fire Protection Districts:

- (a) Prompt filing of monthly minutes for each of the eighteen Fire Districts;
- (b) Timely filing of seven (7) major financial reports with state, county and local agencies;
- (c) Proper publication of financial report and certification with local newspaper;
- (d) "Filed stamped" copy of each of the nineteen required documents to each Fire District;
- (e) Weekly notices, reminders, and forms for all Fire District statutory filing requirements;
- (f) Regular status reports to all Fire Districts in regard to all financial and District filings;
- (g) Prompt response to any request for forms, information, data, or filing requirements;
- (h) Updated Legal Compendium of forms and information on all filing requirements.

XI FINANCIAL MANUALS FOR GOVERNMENT OFFICIALS

- 1. GOVERNMENT FINANCIAL MANUAL by Kentucky Auditor of Public Accounts.
- 2. INTERNAL CONTROLS & FRAUD PREVENTION by Auditor of Public Accounts.
- 3. BUDGET MANUAL by Kentucky Governor's Office for Local Development.
- 4. FTA LEGAL COMPENDIUM: Other sections on Fire District finances include:

- (a) Section B, BOARD OF TRUSTEES & BYLAWS;
- (b) Section E, PURCHASING & ADVERTISING;
- (c) Section H, CONFLICTS OF INTEREST & ETHICS;
- (d) Section R, INVESTMENT OF DISTRICT FUNDS.

XII FINANCE FORMS FOR FIRE DISTRICTS

(F#1)	Fire District Budget Report [page 4]
(F#2)	Gov. Office Local Dev. Budget Instructions [page 5]
(F#3)	Local Finance Officer Budget Instructions [page 5]
(F#4)	Jefferson County Filing Directions [page 5]
(F#5)	Confirmation of Budget Filing with Cabinet [page 5]
(F#6)	Uniform Financial Information Report [page 6]
(F#7)	Instructions UFIR [page 7]
(F#8)	Confirmation of Filing Audit with Cabinet [page 8]
(F#9)	Auditor Financial Statement Instruction [page 8]
(F#10)	Request CPA Engagement Letter [page 9]
(F#11)	Fire District Certification [page 10]
(F#12)	Publication Summary Financial Statement [page 10]
(F#13)	Fax Financial Summary to newspaper [page 10]
(F#14)	Real Property Tax Calculation Worksheet [page 13]
(F#15)	HB 44 Public Hearing Information [page 13]
(F#16)	HB 44 Recall Vote Information [page 13]
(F#17)	Notice of Public Hearing [page 14]
(F#18)	Fax Notice Public Hearing to newspaper [page 14]
(F#19)	Real Estate Tax Rate Resolution [page 15]
(F#20)	Personal Property Tax Rate Resolution [page 15]
(F#21)	Notice of Adoption of Tax Rate [page 16]
(F#22)	Fax Notice Adoption Tax Rate to newspaper [page 16]
(F#23)	Certification Real Estate Property Tax Rate [page 18]
(F#24)	Notes Personal Property Tax Calculations [page 18]
(F#25)	Personal Property Tax Calculation Worksheet [page 18]
(F#26)	Certification Personal Property Tax Rate [page 18]
(F#27)	Fax Tax Certification to County Clerk [page 18]
(F#28)	Motor Vehicle & Watercraft Tax Certification [page 18]
(F#29)	Minimum Fidelity Bond on Treasurer [page 19]
(F#30)	Fire District Financial Calendar [page 19]