



Auditor of Public Accounts
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Harmon Releases Audit of Jefferson County Clerk's Fee Account

FRANKFORT, Ky. – State Auditor Mike Harmon today released the audit of the 2017 financial statements of Jefferson County Clerk Bobbie Holsclaw. State law requires the auditor to conduct annual audits of county clerks and sheriffs.

Auditing standards require the auditor's letter to communicate whether the financial statements present fairly the receipts and disbursements of the Jefferson County Clerk and the receipts, disbursements, and fund balances of the Jefferson County Clerk's operating fund and county fund in accordance with accounting principles generally accepted in the United States of America. The clerk's financial statements did not follow this format. However, the clerk's financial statements are fairly presented in conformity with the regulatory basis of accounting, which is an acceptable reporting methodology. This reporting methodology is followed for all 120 clerk audits in Kentucky.

As part of the audit process, the auditor must comment on noncompliance with laws, regulations, contracts, and grants. The auditor must also comment on material weaknesses involving internal control over financial operations and reporting.

The audit contains the following comments:

The Jefferson County Clerk is charging a fee and using public equipment and personnel to provide election services to private agencies: This is a repeat comment and was reported in the 2016 audit report as Finding 2016-001. In the 2011 audit exit conference, it was noted that the clerk's Election Center provided election services, for a fee, to private entities, such as unions and churches. The activity continued in 2012, 2013, 2014, 2015, 2016 and 2017. These services included preparation of ballots, delivery of the publicly owned voting machine to the private entity's location, monitoring of the private entity's election by a deputy clerk, tallying the votes and providing election results. The clerk does not have a policy to prohibit the use of public equipment and personnel for private purposes. By continuing this activity, the clerk is allowing

the use of public equipment and personnel for a private entity's private purposes, and is charging a fee for a service where the fee is not authorized by statute. Per KRS 64.410(2)(b), a clerk, as a fee officer, may not receive for her services any fee for services rendered when the law has not fixed a compensation. Further, public equipment and personnel may be used only for a public purpose, and such use by a private entity is prohibited by Ky. Const. Sec. 171, as interpreted in OAG 84-190. We recommend the clerk comply with KRS 64.410 and the Kentucky Constitution and discontinue providing and charging a fee for election services to private entities for the private purposes of those entities.

County Clerk's Response: We disagree with this finding:

The JCCO, the JCAO and the County Board continue to believe voter education, election promotion and training are public purposes, according to OAG 92-87. In that opinion, the Attorney allowed a public office to donate public money to a charitable organization for voter education. OAG 92-87 states "We have no hesitation in concluding that increasing voter education, participation, and registration represent a valid public purpose." OAG 86-23 opines that a public entity may benefit a private entity if the purpose is a public one.

In fact, the Jefferson County Attorney's Office developed a contract that must be signed by their office and the client for the JCCO to provide the service; they also assisted with developing procedures pertaining to the use of the equipment. See example of contract and procedures.

Therefore, election services are still provided for a fee, to private entities, such as unions and churches.

Auditor's Reply: The use of county clerk deputies and voting machines to conduct mock elections for children at school is not the activity at issue in the audit comment. The use of county clerk's deputies and equipment to conduct actual elections for private entities is the activity at issue. Further, the county clerk is violating state law by collecting a fee not mandated in statute as a required fee to be collected by a county clerk.

The county clerk's responsibilities include collecting certain taxes, issuing licenses, maintaining county records and providing other services. The clerk's office is funded through statutory fees collected in conjunction with these duties.

The audit report can be found on the [auditor's website](#).

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