



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

FRANKFORT, Ky. – State Auditor Mike Harmon today released the audit of the 2016 financial statements of Daviess County Clerk David “Oz” Osborne. 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 Daviess County Clerk and the receipts, disbursements, and fund balances of the Daviess 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 comment:

The county clerk failed to pay employees for hours actually worked: This is a repeat finding and was included in the prior year audit report as Finding 2015-001. During calendar year 2016, the county clerk treated the bookkeeper and other supervisor employees as salary exempt. These employees were informed they would not be paid for overtime worked since the clerk considered the bookkeeping and supervisory employees to be exempt from overtime requirements. The supervisors perform the same work as the employees they supervise. The bookkeeping employees are recording transactions and make no financial decisions.

Furthermore, the county clerk paid another employee for time not worked when the employee was allowed to leave early without using leave time. This same employee worked over during the same week and was paid overtime. Overtime could not be recomputed properly since the hours worked did not agree to hours paid.

The county clerk did not get a decision by wage and labor as to the applicability of salary exempt status to his supervisory and bookkeeping employees. This was recommended to the county clerk in the previous year's audits. Additionally, the county clerk did not realize the effects on overtime computations when he allowed employees to leave early but compensated the same employees for a full day's work.

Supervisory and bookkeeping employees may have been denied wages due for overtime worked, which would be noncompliant with state law. One employee was paid for time not worked or overtime not earned, which is a waste of county resources. This employee could be required to repay amounts paid to them but not earned.

KRS 337.285 states, "(1) [n]o employer shall employ any of his employees for a work week longer than forty (40) hours, unless such employee receives compensation for his employment in excess of forty (40) hours in a work week at a rate of not less than one and one-half (1-1/2) times the hourly wage rate at which he is employed." Additionally, according to Funk vs. Milliken, 317 S.W.2d 499 (Ky. 1958), Kentucky's highest court ruled that county fee officials' expenditures of public funds will be allowed only if they are necessary, adequately documented, reasonable in amount, beneficial to the public, and not primarily personal in nature.

We recommend the county clerk keep an accurate record of hours worked by all employees and compensate employees only for actual hours worked (or taken off in the form of paid leave time). Employees should be only paid for overtime actually worked. If the county clerk wishes to question the salary exempt status of employees, the county clerk should contact the federal wage and labor board and get a written ruling as to the actual status of each employee in the clerk's office. The county clerk should follow the Funk vs. Milliken ruling to determine if a payments to employees in excess of amounts owed for hours worked or leave taken are necessary, adequately documented, reasonable in amount, beneficial to the public, and not primarily personal in nature.

County Clerk's Response: Corrective action taken; In compliance 2017

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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