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Digest of the Laws of County Administration in Kentucky

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DIGEST OF THE LAWS OF COUNTY ADMINISTRATION IN KENTUCKY.

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Outline.

- I Creation of a county.
- II Nature of a county.
 - 1. An arm of the state.
 - 2. A corporation.
 - 3. A quasi corporation.
- III Constitutional provisions regarding the structure of county government.
- IV Legislative development.
 - A. County courts.
 - Aa. Judicial functions of county courts.
 - Ab. Extraordinary functions of the county court.
 - Ac. Administrative functions of county courts.
 - B. County officers.
- V. Summary of system of taxation.

I—CREATION OF A COUNTY.

No new county shall be created by the General Assembly which will reduce the county or counties from which it shall be taken, to less than four hundred square miles. Con. §63. Nor shall any territory be stricken from any county unless a majority of the voters living in such territory shall petition for such division. Con. § 65. Said petition is filed with the county court, and the question is voted upon at an election. Carrol's Statutes, Sec. 919.

II—NATURE OF A COUNTY.

1. A county is a subordinate political division of the State. *Downing vs. Mason Co.*, 87 Ky. 208; *Hite v. Whitley County*, 15 S. W. 57; *Shepard v. Pulaski County*, 18 S. W. 15.
2. A county is a corporation within the meaning of § 242 of the Constitution of the Commonwealth of Kentucky. *Layman v. Beeler*, 113 Ky. 221; *Moore v. Lawrence County*, 143 Ky. 449.
3. A county, for many purposes is a quasi-corporation. *Lawrence County v. Chattaroi Railroad Company*, 81 Ky. 225.

III—CONSTITUTIONAL PROVISIONS REGARDING THE STRUCTURE OF COUNTY GOVERNMENT.

The Constitution of the Commonwealth of Kentucky creates:

1. Certain county courts.
 - a. County court, § 140.
 - b. Quarterly court, § 139.
 - c. Justices courts, § 142.
 - d. Fiscal court, § 144.
2. Certain county offices.
 - a. County Judge, § 140.
 - b. Justice of the Peace, § 142.
 - c. Attorney, § 99.
 - d. Sheriff, § 99.
 - e. Assessor, § 99, with power given the General Assembly to abolish the office, § 104.
 - f. Surveyor, § 99.
 - h. Coroner, § 99.

These are elective offices; the term is four years, § 99, and bond for faithful performance is given by the county judge, clerk, sheriff, and others, as the legislature may provide, § 103.

The constitution vests in the legislature the power to provide for the election or appointment of other county ministerial and executive offices, the term of which shall not exceed four years, § 107. Under this provision the legislature has created the office of county treasurer. *Carroll's Statutes*, Sec. 928.

IV.—LEGISLATIVE DEVELOPMENT OF COUNTY GOVERNMENT.

(Unless otherwise specified, references are to *Carroll's Statutes*.)

A. COUNTY COURTS.

Aa. Judicial Functions.

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1. The County Court.

The county court has jurisdiction,

- a. For the trial of persons in jail for default of bail, charged with misdemeanor. Sec. 1094.
- b. To collect due and unpaid inheritance tax. Sec. 4281n-4.
- c. To determine and ascertain the property, including its value, which taxpayers have refused to list. Sec. 4061.
- d. Exclusive of Circuit Courts in all penal cases, the punishment of which is limited to a fine not exceeding \$20 and concurrent with circuit courts in all penal cases the punishment of which is limited to a fine not exceeding \$100 or imprisonment not exceeding fifty days, or both, and concurrent with circuit courts of all misdemeanors, the punishment of which exceeds a fine of \$100 and imprisonment for fifty days, provided that the provisions of this act do not apply to counties having continuous sessions of circuit court. Chap. 54, Ses. Acts, 1914.

2. Quarterly Court.

The judge of the county court is judge of the quarterly court.

Con. § 139.

- a. The quarterly court has concurrent jurisdictions with justices and city or police courts, of all actions within the county for the recovery of money or personal property where the value in controversy is \$100 or under, exclusive of interest and costs, and concurrent jurisdiction with circuit courts where the value in controversy is over \$50 and not over \$200, exclusive of interest and costs. Sec. 1051.
- b. Quarterly courts have jurisdiction exclusive of circuit courts, but concurrent with justices courts of all penal cases, the punishment of which is limited to a fine not exceeding \$20, and concurrent with circuit courts in penal cases, where the fine does not exceed \$100 or imprisonment for fifty days or both. Quarterly courts may and shall take jurisdiction of all city ordinances in towns of the sixth class, imposing fines and forfeitures imposed by ordinance in which said towns there is no acting or qualified police judge, and shall have power to enforce judgments, said judgments being for the use and benefit of said towns. Sec. 1093.
- c. Appeals may be taken to the quarterly court from all judgments and orders of justices, fiscal, city or police ordinance courts in civil cases. Sec. 1054.
- d. The quarterly court has concurrent jurisdiction with justices courts of motions against constables and their sureties. Sec. 1053.

- e. Within thirty days after the final decision of the board of supervisors in regard to tax assessments, persons may appeal to the quarterly court. Sec. 4128.

3. Justices Court.

- a. Justices courts have jurisdiction concurrent with circuit and quarterly courts, of all actions and proceedings for the recovery of money or property in civil cases, where the amount in controversy, exclusive of interest and costs, does not exceed \$100; and jurisdiction exclusive of circuit courts, but concurrent with quarterly courts in civil actions, for the recovery of money or personal property where the value in controversy is \$50 or under, exclusive of interest and costs; and jurisdiction concurrent with quarterly courts, of motions against constables for failure to discharge their duties. Sec. 1086.
- b. Justices courts have jurisdiction, exclusive of circuit courts, but concurrent with quarterly courts, in all penal cases, wherein the punishment is limited to a fine not exceeding \$20; and jurisdiction concurrent with circuit court in penal cases wherein the fine does not exceed \$100 or imprisonment for fifty days or both. Sec. 1093.

Ab. Extraordinary Functions of the County Court.

1. Administration of Estates.

The county court has jurisdiction,

- a. For the probate of wills, appointment and removal of personal representatives, committees or curators. Sec. 1057.
- b. To make settlement with personal representatives, trustees, assignees, committees, curators and guardians or to appoint a commissioner therefor. Sec. 1062.
- c. To appoint a public administrator. Sec. 3903.

2. Juvenile Court.

The county court has exclusive jurisdiction, in its county of all cases coming within the terms of the act relating to neglected and dependent children, article V, chap 18 of Carroll's Statutes, Secs. 331d-8 and 331e-2 and, in the trial of such cases, may be called The Juvenile Session of the County Court, Sec. 331e-2, and

- a. Appoints probation officers of the Juvenile Court. Sec. 331e-3.
- b. May appoint an advisory board to assist the court. Sec. 331e-19.

Ac. Administrative Functions of County Courts.

1. The County Court.

The county court or county judge,

- a. Fills vacancies temporarily in the county offices of sheriff,

- coroner, surveyor, clerk, jailer, assessor, superintendent of schools and in the fiscal court. Sec. 1526.
- b. Appoints commissioners to assess damages in the case of opening, changing or discontinuing a public road. Sec. 4291.
 - c. Appoints the county board of supervisors, Sec. 4115, who examine the assessor's books, may reduce or increase the assessment, make corrections and list property not listed. Sec. 4120.
 - d. With consent of the fiscal court, appoints a county road engineer. Sec. 48, chap. 110, Ses. Acts, 1912.
 - e. Divides the county into road precincts and appoints a road overseer for each district. Sec. 4309.
 - f. May appoint an inspector of bees. Chap. 75, Ses. Acts, 1910.
 - g. May remove the county superintendent of schools for inability, neglect of duty or malfeasance. Sec. 4420.
 - h. In counties of 75,000 or more population, may, with a majority of the circuit court judges, appoint an indexer of public records every four years. Sec. 908.
 - i. May establish a workhouse, Sec. 4867 and,
 - 1. Appoint a manager thereof. Sec. 4869.
 - 2. Appoint a physician therefor. Sec. 4872.
 - 3. Prescribe rules and regulations for the government of the work house. Sec. 4869.
 - j. May work, on the public roads, prisoners in the county workhouse, and prescribe regulations pertaining to them when at such work. Chap. 89, Ses. Acts, 1914.
 - k. Grants tavern, drug, liquor and peddlers' licenses. Sec. 1057.
 - l. May order rebound any books or records in offices of surveyor, county clerk or quarterly clerk. Chap. 107, Ses. Acts, 1912.
 - m. Supplies text books for indigent children, allowance for same being made by the fiscal court. Sec. 4405.
 - n. Together with the county superintendent of schools and the county attorney, divides the county into educational divisions. Sec. 4426.
 - o. County superintendent of schools settles annually with the county judge, a copy of such settlement being certified by the county clerk and sent to the State superintendent of instruction. Sec. 4409.
 - p. Fixes and may change terms of justices courts. Sec. 1085.
 - q. Divides justices districts into election precincts. Secs. 1443-1444.

- r. Certifies to public auditor, the amount due the county assessor and his deputies. Sec. 4070.
- s. Reports to the fiscal court statements made to him by the county treasurer and at the annual settlement with the county treasurer all papers and vouchers are filed with the county clerk to be disposed of by the fiscal court. Sec. 936.
- t. Convicts on parole report every six months, through the county judge, to the prison commissioners. Sec. 3832.

2. The Fiscal Court.

The fiscal court consists of the judge of the county court and the justices of the peace, or of the county judge and three commissioners elected by the county at large. Con. § 144.

The fiscal court,

- a. Appropriates funds authorized by law to be appropriated. Sec. 1840.
- b. Erects and keeps in repair necessary public buildings, secures a sufficient jail and a convenient place for holding court at the county seat. Id.
- c. Erects and keeps in repair bridges and other structures and superintends same. Id.
- d. Regulates and controls all fiscal affairs and the property of the county. Id.
- e. Makes provision for the maintenance of the poor; provides a poor house and farm; provides for the care, treatment and maintenance of the sick and poor; and provides a hospital for said purpose or contracts with any hospital in the county to do so. Id.
- f. May appropriate county funds to make provisions to secure immigration into the county and to advertise the county. Id.
- g. May appropriate county funds for the benefit of colleges and infirmaries for the sick, located in the county. Id.
- h. Executes orders consistent with the law and within its jurisdiction. Id.
- i. Provides for the good conditions of the highways. Id.
- j. Has the general jurisdiction of roads. Sec. 4306.
- k. Appoints a supervisor of roads. Sec. 4313.
- l. Directs the overseers of roads. Sec. 4311.
- m. May appropriate any surplus money in the treasury to grading, graveling, building or purchasing turnpikes or improving county roads. Sec. 1886.
- n. If a magisterial district or if such districts unite in building a turnpike and the citizens thereof subscribe one tenth of

the cost of the same it is mandatory upon the fiscal court to build same. Sec. 1887.

- o. May sell and convey any land or real estate belonging to the county and may buy land for the use of the county and for the erection of county buildings, or may appoint a commissioner or commissioners to so sell and convey or buy land, subject to its ratification. Sec. 927.
- p. In counties having a city of the first or second class, may levy a tax to meet the expenses of the juvenile court. Sec. 331e-21.
- q. May levy and collect a poll tax of \$1.50, and an ad valorem tax of 50 cents on each one hundred dollars worth of property, to pay off existing current indebtedness and necessary expenses of the county or said poll tax of \$1.50 or less may be applied to maintenance of public roads. Sec. 1882.
- r. May issue bonds, levying a tax to pay the interest thereon and to create a sinking fund for the payment thereof, said tax being collected by the sheriff.

Bonds,

1. As substitute for outstanding bonds, matured or subject to call, Sec. 1852. The fiscal court may appoint a person or bank to receive the tax levied for these bonds. Sec. 1855.
2. To fund debt incurred in construction, repair or building or remodeling public buildings, bridges or turnpikes, Sec. 1857, said bonds to be sold at private or public sale by the fiscal court. Sec. 1858. Tax limit 50 cents on each \$100 worth of property. Sec. 1859.
3. To build bridges, Sec. 1862, said bonds being sold by a commissioner appointed by the fiscal court, Sec. 1863; the tax for same not to exceed 50 cents on each \$100 worth of property and the bonds not issuable unless approved by the voters at a general election. Sec. 1868.
4. To build, repair or remodel public buildings, Sec. 1872, the same to be sold by a commissioner appointed by the fiscal court, Sec. 1873; and the fiscal court may appoint a commissioner to receive the proceeds from said sale, Sec. 1873, the question of issuing the bonds having first been submitted to the voters. Sec. 1880.
5. To construct turnpikes, the question of issuing bonds therefor being first submitted to the voters, Sec. 1893a; and the fiscal court may appoint a commissioner to sell same, Sec. 1893a-2, and a receiver to receive the pro-

ceeds of such sale from the commissioner and to pay out same, Sec. 1893a-5. The tax for said bonds is limited to 50 cents on each \$100 worth of property. Sec. 1893a-6.

- s. May declare a county a tuberculosis district for the erection and maintenance of a tuberculosis sanitarium, and appropriate funds for the erection of the same or levy a tax therefor, and for the maintenance thereof. Sec. 6, Chap. 111, Ses. Acts, 1912. If the fiscal court refuses to so declare a tuberculosis district the voters may declare same at an election. Id.
- t. Appoints the board of trustees of such sanitarium, hearing recommendations from the state board of tuberculosis commissioners. Sec. 9. Id.
- u. May appoint a county treasurer and remove same for cause; and settlements made by him shall be approved by the fiscal court. Sec. 929.
- v. Allows salaries of
 - 1. County judge. Sec. 1072.
 - 2. County superintendent of schools. Sec. 4419.
 - 3. County treasurer. Sec. 934.
- w. May direct county treasurer, Sec. 931, or county attorney to bring actions. Sec. 127.
- x. Causes annual publication, in one newspaper within the county, of the financial condition of the county. Sec. 1846.

B. COUNTY OFFICERS.

1. County attorney.

The county attorney,

- a. Attends all county and fiscal court sessions and conducts cases and business of said courts touching the rights and interests of the county and opposes any claims not legally presented or which are unjust. Sec. 126.
- b. Prosecutes actions in his county in which the commonwealth or county is interested, and, when directed by the fiscal court, institutes or defends actions before any courts of the commonwealth, in which the county is interested. Sec. 127.
- c. Shall oppose the wrongful opening, alteration or discontinuance of any public road and oppose improper granting of tavern, merchant and drug licenses. Sec. 129.

2. County Clerk.

The county clerk,

- a. Keeps court records. Sec. 374-379.
- b. Notifies the secretary of state of the number and size of election ballots needed. Sec. 1462.

- c. Causes election ballots to be printed. Sec. 1453.
- d. Transmits to the state auditor all public moneys paid to him, Sec. 4242, and in counties of 75,000 population or over, remits monthly to the state auditor. Sec. 1761.
- e. Reports annually to the governor of the state, the number and disposition of cases of delinquent and neglected children brought before the county court, said reports being made upon blanks furnished by the secretary of state. Sec. 331e-2.
- f. Certifies to the county assessor lists of purchase money, notes and mortgages, except those held by banks or trust companies. Sec. 4051-a.
- g. Acts as clerk for the board of supervisors. Sec. 4121.
- h. After the tax books are approved by the board of supervisors, the county clerk recapitulates same and prepares the tax list for the sheriff. Sec. 4239.
- i. Annually tabulates a statement of the sales of real estate within the count, showing the price paid and the assessed value thereof, and sends same to the state auditor for the use of the state board of equalization. Sec. 4273.

3. Sheriff.

- a. Executes and makes return on all notices and processes which may come to and be lawfully executed by him. Sec. 4565.
- b. Collects state, county and district taxes, unless the payment thereof is directed by law, to be made to some other officer. Sec. 4129.
- c. Settles accounts of county and district taxes with the fiscal court. Sec. 4146.
- d. Notifies the county attorney when he has reason to believe that an inheritance tax is due and unpaid. Sec. 42810-15.
- e. Reports to the state auditor the amount of taxes he has collected for the state and pays same immediately. Sec. 4143.
- f. Must not receive or receipt for taxes until a copy of the assessor's books, as approved by the board of supervisors, has been delivered to him. Sec. 4067.
- g. Secures voting places in the election precincts. Sec. 1467.

4. Assessor.

- a. The assessor lists and values real and personal property in separate lists, Secs. 4049-4050; and fixes the value of all real estate so listed at its fair cash value, estimated at the price it would bring at a fair voluntary sale. Sec. 4053.
- b. The assessor classifies assessments according to books and schedules supplied by the state auditor. Sec. 4051a.

- c. The assessor returns books and schedules to the county clerk by January 1st, of each year. Sec. 4059.
- d. The assessor, when making lists of taxable property, ascertains and records in separate lists all births, marriages and deaths during twelve months preceeding, Sec. 2484. See act relating to vital statistics, Chap. 37, Ses. Acts, 1910.

V. SUMMARY OF TAXATION SYSTEM.

1. The county clerk certifies to the county assessor lists of purchase money, notes and mortgages, except those held by banks or trust companies. Sec. 4051-a.
2. The assessor lists and values real and personal property in separate lists, Secs. 4049-4050; and fixes the value of all real estate so listed at its fair cash value, estimated at the price it would bring at a fair voluntary sale. Sec. 4053.
3. The assessor classifies the assessments in books and according to schedules supplied by the state auditor. Sec. 4058.
4. The assessor returns the tax books and schedules to the county clerk by January first of each year. Sec. 4059.
5. The board of supervisors examine the assessor's books and may increase or reduce the assessments, make corrections and list property not listed, Sec. 4120, reconvening to hear persons on their individual assessments. Sec. 4123.
6. Within thirty days after the final decision of the board of supervisors, persons may appeal to the quarterly court. Sec. 4128.
7. After the tax books are approved by the board of supervisors, the county clerk recapitulates the lists and makes out tax lists for the sheriff. Sec. 4239.
8. The state auditor, state treasurer and secretary of state constitute a state board of valuation and assessment, to fix the value of franchises of corporations exercising such franchise or special privilege, and the state auditor notifies the county clerk of the amount of such valuation. Sec. 4077.
9. The county clerk annually makes a statement to the state auditor for the use of the state board of equalization showing the sales of real estate, the price paid and the assessed value thereof. Sec. 4273.
10. The state board of equalization is appointed by the governor and consists of one representative from each appellate district, and the state auditor, who is a member ex-officio. Sec. 4268.

The state board of equalization fixes the percentage of the assessed value of real property at its fair cash value, raising same for counties whose average list is below and lowering same for counties whose average list is above such value, reporting their action to the county judge so that witnesses may be heard before the action is made final. Sec. 4274. The state board of equalization equalizes personal property assessments. Sec. 4275.

11. The state auditor makes a certificate showing the action of state board of equalization, which he sends to the county clerk to be, by him, affixed to the assessor's books. Sec. 4281-14.
12. When the sheriff has reason to believe that an inheritance tax is due and unpaid he notifies the county attorney. Sec. 42810-15.
13. The county court takes steps to collect due and unpaid inheritance tax. Sec. 42811-14.
14. If taxpayers refuse to give a complete list of their property, the county court proceeds to determine and ascertain the property and its value. Sec. 4061.
15. The state auditor may appoint a revenue agent in each county and not more than four revenue agents at large and a state supervisor of revenue agents. It is the duty of the revenue agent and the sheriff to cause to be listed for taxation all property omitted by the assessor, board of supervisors, state board of valuation and assessment or railway commission for any year or years. Secs. 4258 and 4260, amended Chap. 116, Ses. Acts, 1912.
16. A revenue agent is not permitted to collect any moneys due the state or county without the written permission of the state auditor. Sec. 4260c.
17. It is the duty of the revenue agent to investigate accounts, books and records of all officers whose duty it may be to receive or collect money due the state or county and report to the state auditor all delinquent officers, also, to report same to the fiscal court. Sec. 4262.