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Missouri State Auditor

Holt County

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Findings in the audit of Holt County

Sheriff's Compensation	The County Commission authorized mid-term salary increases to the Sheriff in January 2022 and July 2023, in violation of constitutional provisions. The Sheriff took office in 2021 at the salary level approved by the Holt County Salary Commission. In January 2022, the County Commission increased the Sheriff's salary by \$24,980 instead of spreading the increase out over 5 years in accordance with state statute. The County Commission increased the Sheriff's salary by approximately \$5,600 in July 2023. Both increases violated constitutional provisions that prohibit mid-term salary increases.
Sunshine Law	County officials could not locate minutes for certain closed meetings, did not review and approve minutes of closed meetings, and did not document in the open meeting minutes the specific reasons or sections of law allowing some of the meetings to be closed. The County Commission discussed some items in closed meetings that were not allowable under the Sunshine Law.
Sheriff's Office Bank Accounts	The Sheriff maintains 2 bank accounts - the Investigative Fund and the K-9 Fund - outside the county treasury. There is no statutory authority allowing the Sheriff to maintain these accounts outside the county treasury.
Electronic Communication Policy	The county has not developed a records management and retention policy that includes electronic communication in compliance with the Missouri Secretary of State Records Services Division guidance, as approved by the Missouri Local Records Commission.
Additional Comments	Because counties are managed by several separately-elected individuals, an audit finding made with respect to one office does not necessarily apply to the operations in another office. The overall rating assigned to the county is intended to reflect the performance of the county as a whole. It does not indicate the performance of any one elected official or county office.

In the areas audited, the overall performance of this entity was **Good**.*

*The rating(s) cover only audited areas and do not reflect an opinion on the overall operation of the entity. Within that context, the rating scale indicates the following:

- Excellent:** The audit results indicate this entity is very well managed. The report contains no findings. In addition, if applicable, prior recommendations have been implemented.
- Good:** The audit results indicate this entity is well managed. The report contains few findings, and the entity has indicated most or all recommendations have already been, or will be, implemented. In addition, if applicable, many of the prior recommendations have been implemented.
- Fair:** The audit results indicate this entity needs to improve operations in several areas. The report contains several findings, or one or more findings that require management's immediate attention, and/or the entity has indicated several recommendations will not be implemented. In addition, if applicable, several prior recommendations have not been implemented.
- Poor:** The audit results indicate this entity needs to significantly improve operations. The report contains numerous findings that require management's immediate attention, and/or the entity has indicated most recommendations will not be implemented. In addition, if applicable, most prior recommendations have not been implemented.

Holt County Table of Contents

State Auditor's Report	2
------------------------	---

Management Advisory Report - State Auditor's Findings	1. Sheriff's Compensation.....4 2. Sunshine Law4 3. Sheriff's Office Bank Accounts.....6 4. Electronic Communication Policy.....7
-------------------------------------------------------------	--------------------------------------------------------------------------------------------------------------------------------------------------

Organization and Statistical Information	9
---------------------------------------------	---



SCOTT FITZPATRICK MISSOURI STATE AUDITOR

County Commission
and
Officeholders of Holt County

We have audited certain operations of Holt County in fulfillment of our duties under Section 29.230, RSMo. The scope of our audit included, but was not necessarily limited to, the year ended December 31, 2022. The objectives of our audit were to:

1. Evaluate the county's internal controls over significant management and financial functions.
2. Evaluate the county's compliance with certain legal provisions.
3. Evaluate the economy and efficiency of certain management practices and procedures, including certain financial transactions.

Our methodology included reviewing minutes of meetings, written policies and procedures, financial records, and other pertinent documents; interviewing various personnel of the county; and performing sample testing using haphazard and judgmental selection, as appropriate. The results of our sample testing cannot be projected to the entire populations from which the test items were selected. We obtained an understanding of internal control that is significant to the audit objectives and planned and performed procedures to assess internal control to the extent necessary to address our audit objectives. We also obtained an understanding of legal provisions that are significant within the context of the audit objectives, and we assessed the risk that illegal acts, including fraud, and violations of applicable contract, grant agreement, or other legal provisions could occur. Based on that risk assessment, we designed and performed procedures to provide reasonable assurance of detecting instances of noncompliance significant to those provisions.

We conducted our audit in accordance with the standards applicable to performance audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States. Those standards require that we plan and perform our audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe the evidence obtained provides such a basis.

The accompanying Organization and Statistical Information is presented for informational purposes. This information was obtained from the county's management and was not subjected to the procedures applied in our audit of the county.

For the areas audited, we identified (1) deficiencies in internal controls, (2) noncompliance with legal provisions, and (3) the need for improvement in management practices and procedures. The accompanying Management Advisory Report presents our findings arising from our audit of Holt County.

A handwritten signature in black ink that reads "Scott Fitzpatrick". The signature is written in a cursive style with a large initial "S" and "F".

Scott Fitzpatrick
State Auditor

Holt County Management Advisory Report State Auditor's Findings

1. Sheriff's Compensation

The County Commission authorized mid-term salary increases to the Sheriff in January 2022 and July 2023, in violation of constitutional provisions. The Sheriff took office in 2021 at the salary level approved by the Holt County Salary Commission.

Section 57.317.1(2), RSMo, enacted in 2021, states the sheriff shall receive an annual salary computed based on a percentage of the compensation of an associate circuit judge of the county, with the percentage determined by a statutory schedule using the county's current assessed valuation level. The law indicated if the increase to the Sheriff's salary is less than \$10,000, the increase shall take effect January 1, 2022, but if the increase in salary is more than \$10,000, the increase shall be paid equally over a 5-year period. However, Article VII, Section 13, of the Missouri Constitution prohibits an increase in compensation for state, county, and municipal officers during their term of office. Court cases have concluded that to receive additional compensation during a term of office there must be: 1) no existing compensation for the office; 2) new or additional duties extrinsic or not germane to the office; or 3) the mid-term increase must result from the application of a statutory formula for calculating compensation that was in place prior to the individual being elected or taking office. None of those circumstances exist; therefore, the increase to the Sheriff's salary should be effective only for any Sheriff elected and sworn into office after the new salary schedule was authorized.

The County Commission did not seek a written legal opinion on these matters and authorized the salary increase for the Sheriff. In January 2022, the County Commission increased the Sheriff's salary by \$24,980 instead of spreading the increase out over 5 years. In addition, in July 2023 the County Commission approved increasing the Sheriff's salary approximately \$5,600 due to increases in pay for Associate Circuit Judges during 2022 and 2023. The County Commission indicated it was unaware the provision calling for the increase to be spread out over 5 years was mandatory. The County Commission indicated it was aware of the constitutional provision preventing mid-term salary increases, but felt required to increase the Sheriff's salary due to the change in state statute.

Recommendation

The County Commission discontinue the mid-term salary increases and consider various methods for possible recoupment of money already paid.

Auditee's Response

We will discuss this recommendation with the Sheriff and our attorney. We will take this recommendation under advisement and determine the best course of action to take.

2. Sunshine Law

The county's procedures for complying with the Sunshine Law need improvement.



Holt County
Management Advisory Report - State Auditor's Findings

Meeting minutes

County officials could not locate minutes for closed meetings of the County Commission held on April 11, 2022, and August 1, 2022. The County Clerk indicated she could not locate all meeting minutes when she took office in January 2023.

In addition, the County Commission did not review and approve minutes of closed meetings, and the closed meeting minutes, consisting of handwritten notes, were not signed by the preparer to ensure their accuracy. The County Clerk indicated she was unaware of the requirements for closed meetings. The County Clerk subsequently prepared typed meeting minutes for closed meetings held during 2023, and signed and presented them to the County Commission for approval.

Section 610.020.7, RSMo, requires minutes of open and closed meetings be taken and retained by the public governmental body. Having the meeting minutes signed by the preparer and subsequently approved by the County Commission provides an independent attestation that the minutes are a correct record of the matters discussed and actions taken during the meetings.

Reasons for closed meetings

The County Commission did not document in the open meeting minutes the specific reasons or sections of law allowing the meetings to be closed for 3 of the 14 closed meetings held between January 1, 2022, and June 2, 2023. In addition, some meeting notices and agendas included a statement that a closed meeting would be held, but the statement did not include the specific section of law allowing the closed meeting, although it generally indicated the same list of potential discussion matters. The current County Clerk indicated she was not aware of the requirements for closed meetings.

Section 610.022, RSMo, requires public bodies to announce the specific reasons allowed by law for going into a closed meeting and to enter the vote and reasons into the minutes, and also limits discussion topics and actions in closed meetings to only those specifically announced prior to closure. Section 610.020.1, RSMo, requires public entities to give notice of the time, date, and place of each meeting, and its tentative agenda, to advise the public of matters to be considered.

Allowable topics

The County Commission discussed some items in closed meetings that were not allowable under the Sunshine Law. For example, the County Commission discussed a change for Sheriff's deputies from earning compensatory time to overtime pay, funding related to the police dog for the Sheriff's office, and an insurance claim for a county vehicle. Minutes of one open meeting indicated the meeting was closed per Section 610.021(5), RSMo, for non-judicial mental or physical health proceedings. However, the closed meeting minutes discussed a citizen complaint related to a Sheriff's deputy that did not pertain to mental or physical health. The County Clerk indicated they are now only discussing allowable topics in closed meetings.



Holt County
Management Advisory Report - State Auditor's Findings

Section 610.021, RSMo, provides that the discussion topics and actions in closed meetings should be limited to only those specifically allowed by law.

Recommendation

The County Commission ensure specific reasons for closing a meeting are documented in the open minutes, meeting notices, and agendas; and only topics allowed by state law are discussed in closed meetings. In addition, ensure meeting minutes are prepared and retained for all closed meetings; and ensure closed meeting minutes are reviewed and approved, and signed by the preparer.

Auditee's Response

We agree and this recommendation has been implemented. The current County Clerk has ensured specific reasons for closing meetings are properly documented and works with us to ensure only allowable topics are discussed. She is also preparing formal minutes for all open and closed sessions timely and presenting them to us for approval after she has signed the minutes as the preparer.

3. Sheriff's Office Bank Accounts

The Sheriff maintains 2 bank accounts outside the county treasury. The Investigative Fund bank account was opened in January 2022 with money from the Sheriff's Revolving Fund. The K-9 Fund bank account was opened in May 2021 with donations. According to the Sheriff and bank records obtained, money deposited into these funds since opening the accounts included:

Receipts by Type	Amount
Investigative Fund:	
Check from Sheriff's Revolving Fund	\$ 1,500
K-9 Fund:	
Community donations	4,051
Fundraisers	685
Medication refund	6
Total	\$ 6,242

The Sheriff indicated he maintains these accounts to fund investigations performed by the office and to pay for training and care of the police dog. He stated the opening of the Investigative Fund and the K-9 Fund bank accounts were discussed with the County Commission in advance and the County Commissioners authorized these accounts to be opened. The Sheriff and County Commission indicated they were not aware of any restrictions on holding accounts in this manner.

During 2022, the Sheriff's office made a \$200 cash withdrawal from the Investigative Fund bank account and spent \$144 on investigative costs, with \$56 remaining as cash on hand. The balance of this account at December 31, 2022, was \$1,300. Disbursements during 2021 and 2022 from the K-9 Fund



Holt County
Management Advisory Report - State Auditor's Findings

bank account totaled \$3,307 and were for training, food, and care for the police dog. The balance of this account at December 31, 2022, was \$1,435.

There is no statutory authority allowing the Sheriff to maintain these accounts outside the county treasury. Section 50.370, RSMo, requires every county official who receives any fees or other remuneration for official services to pay such money to the County Treasurer. In addition, Attorney General's Opinion 45-1992 (April 23, 1992) states sheriffs are not authorized to maintain a bank account for law enforcement purposes separate from the county treasury.

Recommendation

The County Commission and the Sheriff ensure the Sheriff does not maintain bank accounts outside the county treasury, and ensure all money is disbursed to the County Treasurer timely.

Auditee's Response

The County Commission provided the following response:

We did discuss these accounts with the Sheriff prior to opening and gave our approval. We were unaware maintaining these accounts in this manner was unallowable.

The Sheriff provided the following response:

This recommendation has been implemented and these accounts have been transferred to the County Treasurer.

4. Electronic Communication Policy

The county has not developed a records management and retention policy that includes electronic communication in compliance with the Missouri Secretary of State Records Services Division guidance, as approved by the Missouri Local Records Commission. This guidance recommends government entities have a policy on electronic messaging, including text messages, email, and other third party platforms.

Section 109.270, RSMo, provides that all records made or received by an official in the course of his/her public duties are public property and are not to be disposed of except as provided by law. Section 109.255, RSMo, provides that the Local Records Board issue directives for the destruction of records. The guidelines for managing electronic communications records can be found on the Secretary of State's website.¹

¹ Missouri Secretary of State Records Services Division, *Electronic Communications Records Guidelines for Missouri Government*, May 14, 2019, is available at <<https://www.sos.mo.gov/CMSImages/LocalRecords/CommunicationsGuidelines.pdf>>, accessed July 21, 2023.



Holt County
Management Advisory Report - State Auditor's Findings

Development of a written policy to address the use of electronic communications is necessary to ensure all documentation of official business of the county is retained as required by state law. The Commission indicated it was unaware of the record retention requirements and the electronic communications guidelines.

Recommendation

The County Commission work with other county officials to develop a written records management and retention policy to address electronic communications management and retention to comply with Missouri Secretary of State Records Services Division electronic communications guidelines.

Auditee's Response

We agree and will work with other county officials to develop a policy that complies with the Secretary of State's guidelines.

Holt County

Organization and Statistical Information

Holt County is a county-organized, third-class county. The county seat is Oregon, Missouri. The county's population was 4,223 in 2020, according to the U.S. Census Bureau.

Holt County's government is composed of a three-member county commission and separate elected officials performing various tasks. All elected officials serve 4-year terms. The county commission has mainly administrative duties in setting tax levies, appropriating county funds, appointing board members and trustees of special services, accounting for county property, maintaining county roads and bridges, and performing miscellaneous duties not handled by other county officials. Principal functions of these other officials relate to law enforcement, property assessment, property tax collections, conduct of elections, and maintenance of financial and other records important to the county's citizens. In addition to elected officials, the county employed 46 full-time employees and 5 part-time employees on December 31, 2022.

County operations also include the Health Department, Emergency 911, Senior Citizens Board, drainage and levee districts established by the County Commission, neighborhood improvement districts, and the Johnson Grass Board.

Elected Officials

The elected officials and their compensation paid for the year ended December 31 (except as noted) are indicated below:

Officeholder	2023	2022
Tom Bullock, Presiding Commissioner	\$	31,285
Carla Markt, Associate Commissioner		29,082
David Carroll, Associate Commissioner		29,082
Vicki Book, Circuit Clerk and Ex Officio Recorder of Deeds (1)		
Angie Gamache, County Clerk		44,064
Robert R. Shepherd, Prosecuting Attorney		51,775
Steve Portman, Sheriff		72,500
Gay Quick, County Treasurer (2)		49,908
Susan Lentz, County Coroner		13,219
Velvet Sommer, Public Administrator		22,032
Cindy Wohlford, County Collector (3), year ended February 28,	67,047	
LaDonna Jones, County Assessor, year ended August 31,		43,765

- (1) Compensation is paid by the state.
- (2) Includes \$5,844 of commissions earned as Treasurer for the levee districts.
- (3) Includes \$22,691 of commissions earned for collecting city, levee, and drainage district property taxes.