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Missouri State Auditor

Benton County

Report No. 2025-003

January 2025

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Scott Fitzpatrick
Missouri State Auditor

CITIZENS SUMMARY

Findings in the audit of Benton County

County Financial Controls and Procedures	<p>The County Treasurer does not ensure bank reconciliations are accurately prepared and agree to book balances. The bank reconciliation performed for January 2023 was reviewed, and a significant difference of \$7.4 million was identified between the reconciled bank balance and the book balance. In addition, a review of the bank reconciliations performed for December 2022, November 2023, and December 2023, noted significant differences ranging from \$127,672 to \$586,068 between the reconciled bank balances and the book balances. Neither the County Clerk nor the County Commission adequately review the financial activities of the County Treasurer. The County Treasurer prepares monthly bank reconciliations and monthly settlements and provides them to the County Clerk and County Commission. However, the County Clerk and the County Commission do not review the bank reconciliations and compare them to the monthly settlements. Furthermore, the monthly settlements do not have a documented review. The county has not implemented the recommendation made by the independent auditors who have performed the county's financial statement audits to adequately track cash and fund balances.</p>
Sales Tax Rollback	<p>The county did not sufficiently reduce the property tax levy in its sales tax rollback calculations to offset 50 percent of sales tax money received in 2020 through 2022 by approximately \$200,000. In addition, the county did not properly report the property tax levy reduction to the State Auditor's Office in 2022, did not reduce the tax levy for sales tax collections for 2023, and did not accurately calculate the property tax reduction required for 2024.</p>
Public Administrator's Controls and Procedures	<p>The Public Administrator paid her family's accounting and tax business a total of \$4,075 from the accounts of 38 wards during 2022 and 2023 for tax preparation services. The Public Administrator believes her family's accounting and tax business has the lowest rates in the area for tax preparation services; however, she has no documentation to support her claim. During a review of 25 active cases, chosen judgmentally, with annual settlements due in 2023, the audit found the Public Administrator did not file the annual settlements by the required date for 9 cases tested (36 percent). For 3 of these cases, annual settlements were filed more than 30 days late. One was filed 219 days late, another was filed 211 days late, and the third was filed 85 days late.</p>
Sheriff's Compensation	<p>The County Commission authorized mid-term salary increases totaling \$15,945 to the Sheriff in violation of constitutional provisions.</p>
Sunshine Law	<p>The County Commission did not always comply with the Sunshine Law for open and closed meetings. The County Commission did not document in the open meeting minutes the specific sections of the law allowing the meetings to be closed when voting to go into closed session for 8 of 10 closed meetings. The County Commission discussed some items in closed meetings that were not cited in the open meeting minutes as the reason for closing the meeting. The County Commission discussed some items in closed meetings that were not allowable under the Sunshine Law.</p>

Sales Tax	The county's Road and Bridge department does not charge sales tax on dust control products sold to county residents for gravel roads, and the Sheriff's office does not charge sales tax on electronic cigarettes and nicotine pouches sold to inmates. Pursuant to 12 Code of State Regulations 10-110.955(3)(B), sales by the state of Missouri and its political subdivisions are subject to tax.
County Collector's Controls and Procedures	The county does not report personal commissions received by the County Collector for the collection of city taxes as employee compensation to the Internal Revenue Service. The County Collector paid himself commissions totaling \$7,596 for the collection of city taxes during the fiscal year ended February 29, 2024, outside of the county payroll process. Since the payments for commissions are not processed through the county payroll system, they have not been reported on the employee's W-2 forms, appropriate payroll taxes were not withheld, and the employer's share of payroll taxes was not paid. The County Collector does not prepare a monthly list of liabilities for the tax sale holding account, and consequently, liabilities are not agreed to the reconciled bank balance.
Sheriff's Liabilities	The Sheriff's Deputy Clerk does not prepare a monthly list of liabilities for the general account, and consequently, liabilities are not agreed to the reconciled bank balance. The reconciled bank balance at December 31, 2023, was \$5,886. We identified liabilities consisting of undisbursed fees totaling \$4,214, resulting in \$1,672 in unidentified money in the account.
Senior Citizens' Services Board	The Senior Citizens' Services Board did not enter into written contracts with the not-for-profit (NFP) entities to whom funding was provided.
Electronic Data Security	The County Assessor, County Collector, and Recorder of Deeds have not established adequate password controls to reduce the risk of unauthorized access to computers and data. They also do not have security controls in place to lock computers after a specified number of incorrect logon attempts.
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 **Poor**.*

*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.

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SCOTT FITZPATRICK
MISSOURI STATE AUDITOR

County Commission
and
Officeholders of Benton County

We have audited certain operations of Benton 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, 2023. The objectives of our audit were to:

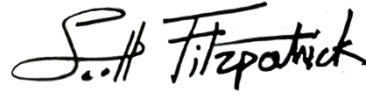
1. Evaluate the county's internal controls over significant management and financial functions.
2. Evaluate the county's compliance with certain legal provisions.
3. Evaluate the economy and efficiency of certain management practices and procedures, including certain financial transactions.

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 this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

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 Benton County.

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

Scott Fitzpatrick
State Auditor

Benton County Management Advisory Report State Auditor's Findings

1. County Financial Controls and Procedures

The county has not established adequate financial controls and procedures. According to the All Funds Summary section of the 2024 budget, receipts for the county totaled approximately \$16.2 million and disbursements totaled approximately \$14.1 million during the year ended December 31, 2023.

1.1 Bank reconciliations

The County Treasurer does not ensure bank reconciliations are accurately prepared and agree to book balances. This condition is similar to the written findings the county has received from its independent auditors in each of its financial statement audit reports issued since the 2 years ended December 31, 2017, audit performed in 2018 (see section 1.3).

The bank reconciliation performed for January 2023 was reviewed, and a significant difference of \$7.4 million was identified between the reconciled bank balance and the book balance. This difference is 55 percent of the book balance. In addition, we reviewed the bank reconciliations performed for December 2022, November 2023, and December 2023, and noted significant differences ranging from \$127,672 to \$586,068 between the reconciled bank balances and the book balances as follows:

	December 2022	January 2023	November 2023	December 2023
Reconciled bank balance	\$ 12,847,576	20,900,672	13,991,437	13,828,399
Book balance	12,261,508	13,452,538	13,863,765	13,470,294
Overage	\$ 586,068	7,448,134	127,672	358,105

At our request, the County Treasurer was able to identify transfers out he had not included as reconciling items in his bank reconciliations. For example, a transfer out on January 31, 2023, for \$7,397,691 did not clear the bank until February 1, 2023. We adjusted the reconciled bank balances for these transfers; however, differences between the reconciled bank balances and the book balances still remain.

After Adjustments:	December 2022	January 2023	November 2023	December 2023
Reconciled bank balance	\$ 12,374,851	13,502,981	13,991,437	13,550,325
Book balance	12,261,508	13,452,538	13,863,765	13,470,294
Overage	\$ 113,343	50,443	127,672	80,031

The County Treasurer indicated the differences are due to the accounting system not correctly recording receipts, which was noted during the county's financial statement audit for the 2 years ended December 31, 2017. The County Treasurer spoke with the accounting system vendor regarding the differences between reconciled bank and book balances in 2016; however, the vendor did not give the county directions to correct the system errors. The County Treasurer also indicated he has not made correcting journal entries due to complications in determining the correct fund balances. The County



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Treasurer could not explain why the differences between the reconciled bank balance and the book balance change each month.

Preparing adequate monthly bank reconciliations and maintaining accurate book balances helps ensure receipts and disbursements have been properly handled and recorded, and increases the likelihood errors will be identified and corrected timely.

1.2 Review of activity

Neither the County Clerk nor the County Commission adequately review the financial activities of the County Treasurer. The County Treasurer prepares monthly bank reconciliations and monthly settlements and provides them to the County Clerk and County Commission. However, the County Clerk and the County Commission do not review the bank reconciliations and compare them to the monthly settlements. Furthermore, the monthly settlements do not have a documented review. As a result, there is less assurance the monthly settlements are complete and accurate, and an increased risk of loss, theft, and misuse of money going undetected. The County Clerk and the Presiding Commissioner indicated they did not review the bank reconciliations because they reviewed the monthly settlements and did not understand the need to review and compare both documents.

Section 51.150.1(1), RSMo, requires the County Clerk to keep regular accounts between the County Treasurer and the county. Section 51.150.1(4), RSMo, requires the County Clerk to balance and display the accounts kept by him as often as required by the County Commission. Section 49.260, RSMo, requires the County Commission, or some commissioner thereof, to examine and verify the money on hand up to the day on which the settlement is made. Such procedures are intended to establish checks and balances related to the collection and disbursement of county money.

1.3 Corrective action

The county has not implemented the recommendation made by the independent auditors, who have performed the county's financial statement audits, to adequately track cash and fund balances. This recommendation has been reported by the independent auditors in every audit since the audit of the 2 years ended December 31, 2017, that was performed in 2018. In addition, the county received qualified opinions¹ on its audited financial statements for the years ended December 31, 2020, 2021, and 2022. The county's independent auditors have indicated in each of their *Independent Auditor's Reports* issued for these 3 years, that the county has not adequately tracked cash and fund balances for all county funds and auditors were unable to verify that the beginning and ending bank balances reconciled to cash and fund

¹ A qualified opinion is an audit opinion that indicates an auditor has identified misstatements or omissions in an entity's financial statements that are material but not pervasive to the financial statements.



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balances at the fund level. In addition, the county's prior independent auditor included a similar finding in its *Independent Auditor's Reports* issued for the 2 years ended December 31, 2017, and for the year ended December 31, 2018. In each of these reports, the county's response indicated the county would correct the issue; however, the finding remained uncorrected as of July 2024.

The independent auditors' findings are similar to section 1.1 of this report. The County Commission, County Clerk, and County Treasurer could not explain why the recommendation to adequately track cash and fund balances has not been implemented.

The failure to timely implement audit recommendations increases the risk of loss, theft, and misuse of money going undetected.

Recommendations

- 1.1 The County Treasurer ensure adequate monthly bank reconciliations are prepared and agreed to book balances that are accurately maintained. The differences identified in the finding should be promptly investigated and resolved.
- 1.2 The County Clerk and County Commission perform documented reviews of bank reconciliations and monthly settlements prepared by the County Treasurer.
- 1.3 The County Commission implement audit recommendations timely.

Auditee's Response

- 1.1 *The County Treasurer indicated at no time was the transaction of \$7.4 million not in a bank account, nor did it miss a day of interest. The County Treasurer's office has made corrections to ensure future bank reconciliations are adequately performed and include all reconciling items.*

In addition, the County Treasurer's office plans to finalize the tracking of the discrepancy that occurred previously due to a software issue and will implement that correction before the end of 2024.

- 1.2 *The County Commission indicated the County Clerk and the County Treasurer complete and balance monthly settlement reports for each fund, reconciling receipts and disbursements. Each fund's month-end total agrees with the County Clerk's Balance Sheet report. Commissioners review this information upon completion, every month at month's end. In addition, bank reconciliation reports will be reviewed by the County Clerk and the County Commission upon receipt from the County Treasurer. The County Commission will ensure all reviews are documented and copies will be kept in the County Clerk's office.*



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1.3 *The County Commission agrees to implement audit recommendations timely and has begun the process to contract with a CPA firm to review the bank reconciliation issue in an effort to resolve these issues.*

2. Sales Tax Rollback

The county did not sufficiently reduce the property tax levy in its sales tax rollback calculations to offset 50 percent of sales tax money received in 2020 through 2022 by approximately \$200,000. In addition, the county did not properly report the property tax levy reduction to the State Auditor's Office (SAO) in 2022, did not reduce the tax levy for sales tax collections for 2023, and did not accurately calculate the property tax reduction required for 2024.

Section 67.505, RSMo, requires the county to reduce property taxes based on the percentage of sales taxes collected. Benton County voters enacted a 1/2 of 1 percent general sales tax with a provision to reduce property taxes by 50 percent of sales taxes collected. The county is required to estimate the annual property tax levy to meet the 50 percent reduction requirement based on estimated sales tax collections of the current year, and in the following year calculate any excess property taxes collected based upon actual sales taxes collected. Any excess should be included as an adjustment in the next year's property tax levy calculation to ensure property taxes are reduced in the subsequent year by the amount of the excess calculation.

For 2022, the county incorrectly reported the sales tax reduction as a voluntary reduction instead of as a sales tax reduction. The county is required to certify to the SAO the annual property tax levy including the amount the levy is reduced for sales tax collections, as well as any voluntary reductions. Section 137.073.5(4), RSMo, provides that a voluntary reduction taken in a non-reassessment year (even year) results in a reduced tax rate ceiling during the subsequent reassessment year (odd year). As a result, the tax rate ceiling for the county's General Revenue Fund was reduced by this amount for 2023. For 2023, due to the decreased tax ceiling, the county did not include a sales tax reduction when setting the tax rate, although including sales tax reductions is required each year. The Presiding Commissioner, County Clerk, and County Treasurer indicated the property tax rate assessed in 2020 through 2022 was higher than allowed because the county is conservative and wanted to ensure enough property tax money was available to fund county programs and services. However, this was not allowed by law.

Section 137.073.6(3), RSMo, allows the county to submit amended tax rate forms to the SAO if clerical errors occurred; however, the county did not identify the error in reporting the voluntary reduction in 2022 or contact the SAO. The county, upon realization of the error, held a public hearing in August 2024 and adopted a resolution to increase its previously reduced tax rate ceiling as allowed by Section 137.073.5(4), RSMo.



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Despite this attempt to correct the tax rate ceiling, the county did not accurately calculate the property tax reduction required for 2024. The county used the reinstated ceiling in performing its 2024 sales tax reduction calculation and when setting the county's property tax levy for 2024; however, the county did not calculate and include the adjustment required for sales tax reductions not taken in 2020 through 2023.

To ensure property tax levies are properly set and property tax rate ceilings are maintained, property tax levy reductions must be accurately calculated, reported, and certified.

Recommendation

The County Commission and County Clerk properly calculate property tax rate reductions including the adjustment required for sales tax reductions not taken in prior years, accurately report property tax rate reductions (sales tax or voluntary), and develop a plan to correct for the accumulation of prior years' over collections of property taxes. During the tax rate setting process, the County Commission and County Clerk should ensure tax information reported back to the county in the State Auditor's Office certification letter is consistent with expectations and, if not, promptly follow up on any discrepancies.

Auditee's Response

The county did not rollback the property tax rate sufficiently due to the extreme uncertainty related to the COVID-19 pandemic. We were concerned that we might have to lay off employees due to the revenue loss from local business entities struggling to survive. The County Commissioners, County Clerk, and County Treasurer met continuously during this period to ensure normal services for county taxpayers were maintained and made the decisions we felt were necessary to permit the county to survive the effects of the pandemic and to provide needed services.

The county recognizes the need for adjustment of property tax rates required for sales tax revenues, and adjustments were made in 2024 which resulted in a decrease in the tax levy for that purpose. Adjustments will continue in future years in order to comply with the rollback requirements.

Auditor's Comment

The County Commission does not have the legal authority to assess and collect more property taxes than allowed by state law. Benton County voters enacted a 1/2 of 1 percent general sales tax with a provision to reduce property taxes by 50 percent of sales taxes collected. Consequently, the County Commission must follow the requirements of Section 67.505, RSMo, to ensure the taxpayers are taxed properly, even during periods of economic uncertainty.



3. Public Administrator's Controls and Procedures

Controls and procedures in the Public Administrator's office need improvement. The Public Administrator is the court-appointed personal representative for wards and decedent estates of the Circuit Court, Probate Division (court). The Public Administrator's office was responsible for the financial activity of 65 wards and estates with assets totaling approximately \$1.1 million as of December 31, 2023.

3.1 Related party transactions

The Public Administrator paid her family's accounting and tax business a total of \$4,075 from the accounts of 38 wards during 2022 and 2023 for tax preparation services. The Public Administrator paid her family's accounting and tax business \$2,300 during 2023 from 33 wards' accounts and \$1,775 during 2022 from 32 wards' accounts for these services. The Public Administrator believes her family's accounting and tax business has the lowest rates in the area for tax preparation services; however, she has no documentation to support her claim. In addition, the Public Administrator has not submitted Requests for Compensation for Services Provided forms for tax preparation services to the court for the judge's approval since 2017, as agreed to in an approval letter signed by a former Associate Circuit Judge.

The Public Administrator has a fiduciary responsibility to protect wards' personal assets and bank accounts, and make decisions for the benefit of her wards. The appearance of conflicts of interest creates a situation that could prevent the Public Administrator from objectively performing her duties. To avoid conflicts of interest or the appearance of conflicts of interest, the Public Administrator needs to consult the Circuit Judge, Probate Division when she is planning to have her family's business provide services to wards for compensation. In addition, it is essential that documentation, including proposed fee amounts, be maintained of the consideration of vendors other than her family's business for these services.

3.2 Annual settlements

The Public Administrator does not always file annual settlements timely. In addition, the court did not have procedures to notify the Public Administrator of annual settlements due.

During our review of 25 active cases, chosen judgmentally, with annual settlements due in 2023, we found the Public Administrator did not file the annual settlements by the required date for 9 cases tested (36 percent). For 3 of these cases, annual settlements were filed more than 30 days late. One was filed 219 days late, another was filed 211 days late, and the third was filed 85 days late. The Public Administrator indicated she believed she had been filing annual settlements by the due date. The Public Administrator also indicated she prioritizes which job duties to perform first and filing annual settlements is not her first priority.

The court does not timely notify the Public Administrator prior to the filing deadline for the annual settlements or follow up on settlements not filed by



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the required date. For 8 of the 9 cases for which annual settlements had been filed late, the court did not send a notice of the late filing. The Probate Clerk indicated the court's notification system had incorrect due dates for the cases tested.

Sections 473.540 and 475.270, RSMo, require the Public Administrator to file an annual settlement with the court for each ward or estate. Timely filing of annual settlements is necessary for the court to properly oversee the administration of cases and reduce the possibility that errors, loss, theft, or misuse of funds will go undetected. In addition, Sections 473.557 and 475.280, RSMo, require the clerk of the court to notify the conservator or guardian (Public Administrator) of the deadline for the annual settlement. Failure to receive the notice does not excuse the conservator or guardian from filing the settlements as required by law.

Similar conditions
previously reported

Similar conditions to sections 3.1 and 3.2 were noted in our prior audit report of the Public Administrator's office, *Benton County Public Administrator*, Report No. 2017-022, issued in April 2017, and a condition similar to section 3.2 was noted in a prior audit report of the county, *Benton County*, Report No. 2012-118, issued in October 2012. Report No. 2017-139, *Follow-up Report on Audit Findings, Benton County Public Administrator*, issued in November 2017, reported the statuses, at that time, as implemented.

Recommendations

The Public Administrator:

- 3.1 Avoid the appearance of conflicts of interest that could prevent her from objectively performing her duties. The Public Administrator should also ensure documentation is maintained of the consideration of vendors other than family members for services provided to wards.
- 3.2 File annual settlements timely.

Auditee's Response

- 3.1 *The Public Administrator will meet with Circuit Judge to get an updated letter of approval prior to the 2024 tax year returns.*
- 3.2 *The Public Administrator will check the annual filing dates and ensure annual settlements are filed timely.*

**4. Sheriff's
Compensation**

The County Commission authorized mid-term salary increases totaling \$15,945 to the Sheriff in violation of constitutional provisions. The Sheriff was re-elected in 2020 at the salary level approved by the Benton 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



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statutory schedule using the county's current assessed valuation level. The law indicates if the increase to the Sheriff's salary is less than \$10,000, the increase shall take effect January 1, 2022, but if the salary increase 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 the 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 implemented the raise on July 1, 2022. The County Clerk indicated the county did not implement the raise until that time because that is the date the new fiscal year began for associate circuit judges, upon which the Sheriff's salary is based. The total increase was calculated at \$20,610, to be paid over a 5-year period with an annual increase of \$4,122. The County Commission authorized additional salary increases in July 2023, and July 2024 based on increases given to associate circuit judges. As of July 2024, the Sheriff received salary increases totaling \$15,945 during his term. The County Clerk and County Commission indicated they believed what they did complied with state law and had not considered constitutional implications.

Recommendation

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

Auditee's Response

The County Commission respectfully disagrees with the State Auditor's finding and notes that no court decision has addressed the constitutional issue raised in the finding regarding the application and interpretation of Section 57.317.1(2). However, the County Commission will take this recommendation under advisement and determine the best course of action.

Auditor's Comment

"The compensation of state, county and municipal officers shall not be increased during the term of office" per Article VII, Section 13, Missouri Constitution. The County Commission has not offered any authority to conclude the constitutional barrier to mid-term compensation increases contained in Article VII, Section 13 of the Missouri Constitution is not applicable to county sheriffs. In multiple cases, the Supreme Court of Missouri has addressed the constitutional prohibition on mid-term increases. See e.g., *State ex rel. George v. Verkamp*, 365 S.W.3d 598 (Mo. banc. 2012);



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Laclede County v. Douglass, 43 S.W.3d 826 (Mo. 2001); and *Mooney v. County of St. Louis*, 286 S.W.2d 763 (Mo. 1956).

5. Sunshine Law

The County Commission did not always comply with the Sunshine Law for open and closed meetings. We identified the following concerns for the meetings held from January 1, 2023, through July 18, 2024.

- The County Commission did not document in the open meeting minutes the specific sections of the law allowing the meetings to be closed when voting to go into closed session for 8 of 10 closed meetings. For 3 of these 8 closed meetings no reason was given for the closure of the meeting. The County Clerk indicated she was not aware the specific subsection of law had to be cited in the open minutes and it is hard for her to determine the reason for going into closed session.
- The County Commission discussed some items in closed meetings that were not cited in the open meeting minutes as the reason for closing the meeting. For example, the February 13, 2023, open meeting minutes indicated a closed meeting would be held to discuss "specifications for competitive bidding. . . and sealed bids and related documents." However, the closed meeting minutes documented discussion regarding courthouse security, but did not document discussion of specifications for competitive bidding or sealed bids and related documents. The County Clerk indicated it is sometimes difficult for her to determine the reason for going into a closed meeting.
- The County Commission discussed some items in closed meetings that were not allowable under the Sunshine Law. For example, the County Commission discussed increasing the Assistant Prosecutor's salary, information received about the Local Government Employees Retirement System, and road repairs. The Presiding Commissioner indicated he did not want these discussions to be public knowledge and believed these topics were allowed to be closed under the Sunshine Law. The Sunshine Law limits discussions to specific topics and those topics do not include employee compensation and retirement systems or planned road work.

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 610.021, 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 the specific reasons for closing meetings are documented in the open minutes, only topics allowed by state law are



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discussed in closed meetings, and discussions are limited to the specific reasons cited for closing the meetings.

Auditee's Response

The County Commission will ensure the specific reasons for closing meetings are documented in the open meeting minutes, only topics allowed by state law are discussed in closed meetings, and discussions are limited to the specific reasons for closing the meetings.

6. Sales Tax

The county's Road and Bridge department does not charge sales tax on dust control products sold to county residents for gravel roads, and the Sheriff's office does not charge sales tax on electronic cigarettes and nicotine pouches sold to inmates. No sales tax is remitted by the county to the Department of Revenue (DOR). The County Clerk indicated she was not aware sales tax needed to be charged and collected on sales of dust control products. The Sheriff indicated discussions with other sheriffs and also the Assistant Prosecuting Attorney indicated collection of sales tax was not necessary. However, a written legal opinion was not obtained.

Pursuant to 12 Code of State Regulations (CSR) 10-110.955(3)(B), sales by the state of Missouri and its political subdivisions are subject to tax. Section 144.080, RSMo, requires sales tax collections be remitted to the DOR on a monthly, quarterly, or annual basis, depending on the amounts collected. Therefore, the Road and Bridge department and the Sheriff's office should be charging and collecting sales tax and remitting tax collections to the DOR.

Recommendation

The Road and Bridge department and the Sheriff contact the DOR for guidance on establishing procedures for charging and collecting sales tax, and ensure sales tax collections are remitted to DOR.

Auditee's Response

The County Commission provided the following response:

The Road and Bridge department will no longer offer dust control products to home owners so no tax liability will be incurred.

The Sheriff provided the following response:

I agree that the county should be collecting sales tax on products they are selling to the public such as dust control products and plat maps. The key is selling to the public. The products we offer are to incarcerated people who are not free. The public has no ability to walk in and purchase products. We are a tax exempt, not-for-profit organization and the monies collected are used to benefit those same incarcerated people saving our public their tax dollars. I revisited the email I sent with the case the assistant prosecutor sent out for an example. The legal opinion is still attached to the previous email sent on July 8, 2024.



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I intend to follow up with a tax attorney for another legal opinion. The Benton County Sheriff's Office has no intention of conducting business in an unlawful capacity and always intends to be an exemplary example of professionalism. At the same time, we do not want to add more cost to our detainees who often receive products at no cost due to being indigent.

Auditor's Comment

The Sheriff's response refers to a legal opinion his office obtained from the Benton County Assistant Prosecuting Attorney in July 2024 to support his disagreement with our finding. The legal opinion refers to a Supreme Court of Missouri case, *St. John's Medical Center, Inc. v. Missouri Director of Revenue*, 510 S.W.2d 417 (Mo. 1974). In that case, 4 hospitals organized as not-for-profit (NFP) were found to be exempt from collecting and remitting sales tax to the DOR in part because of their NFP status. The Sheriff indicates in his response that his office is a NFP, and therefore, his office is similarly exempt; however, it is not. The Sheriff's office is part of a Missouri political subdivision and the sales tax exemption for NFPs does not apply to the Sheriff's office. As noted in the finding, pursuant to 12 CSR 10-110.955(3)(B), sales by the state of Missouri and its political subdivisions are subject to tax.

7. County Collector's Controls and Procedures

Controls and procedures in the County Collector's office need improvement. The County Collector's office collected approximately \$21 million in property taxes and other receipts during the year ended February 29, 2024.

7.1 City commissions

The county does not report personal commissions received by the County Collector for the collection of city taxes as employee compensation to the Internal Revenue Service (IRS). The County Collector has written agreements with 4 cities for property tax collection services that provide for him to withhold and personally retain a commission on all city tax collections. The commission varies depending on the city and if the taxes collected are current or delinquent. The County Collector paid himself commissions totaling \$7,596 for the collection of city taxes during the fiscal year ended February 29, 2024, outside of the county payroll process. The County Clerk indicated she will not include the city commissions in county payroll because the compensation comes from the cities and not the county.

Since the payments for commissions are not processed through the county payroll system, they have not been reported on the employee's W-2 forms, appropriate payroll taxes were not withheld, and the employer's share of payroll taxes was not paid. IRS regulations require individuals treated as employees to have all compensation reported on W-2 forms. To ensure all compensation is properly reported and taxed, all compensation needs to be paid through the normal county payroll process. The failure to properly report



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and tax all wages could result in penalty and interest charges assessed against the county.

7.2 Liabilities

The County Collector does not prepare a monthly list of liabilities for the tax sale holding account, and consequently, liabilities are not agreed to the reconciled bank balance. The reconciled bank balance as of February 29, 2024, was \$3,537. The County Collector provided us a list of liabilities for Collector's deed recording fees as of July 2, 2024, totaling \$3,105, and a report of recording fees refunded from March 1 through July 1, 2024, totaling \$432. Therefore, we were able to determine liabilities at February 29, 2024, totaled \$3,537, which agrees to the reconciled balance. The County Collector indicated he did not understand the importance of preparing and agreeing a monthly list of liabilities to the reconcile bank balance.

Monthly lists of liabilities that are agreed to the reconciled bank balance are necessary to ensure records are in balance, errors are detected and corrected timely, and sufficient cash is available for the payment of all liabilities. Prompt follow up on discrepancies is necessary to resolve errors and ensure money is properly disbursed.

Recommendations

The County Collector:

- 7.1 Work with the County Commission and County Clerk to ensure all compensation is paid through the county's normal payroll process, properly taxed, and reported to the IRS as employee compensation.
- 7.2 Prepare monthly lists of liabilities and reconcile the lists to the available cash balances. Any differences should be promptly investigated and resolved.

Auditee's Response

- 7.1 *The County Collector will talk to some other counties who run their commissions through payroll to see how they process the commissions. The County Collector will then work with the County Clerk to develop a plan to implement the recommendation.*
- 7.2 *The County Collector will develop a way to identify all of the recording fees that we are holding so we have an accurate list of all liabilities. We will print and retain the listing and will investigate and resolve any differences between the listing and the reconciled bank balance.*

8. Sheriff's Liabilities

The Sheriff's Deputy Clerk does not prepare a monthly list of liabilities for the general account, and consequently, liabilities are not agreed to the reconciled bank balance. The reconciled bank balance at December 31, 2023, was \$5,886. We identified liabilities consisting of undisbursed fees totaling \$4,214, resulting in \$1,672 in unidentified money in the account. The Deputy



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Clerk indicated she did not understand the importance of preparing and agreeing a monthly list of liabilities to the reconciled bank balance.

Monthly lists of liabilities that are agreed to the reconciled bank balance are necessary to ensure records are in balance, errors are detected and corrected timely, and sufficient cash is available for the payment of all liabilities. Prompt follow up on discrepancies is necessary to resolve errors and ensure money is properly disbursed.

A similar condition regarding the Sheriff's liabilities was noted in our 3 prior audit reports.

Recommendation

The Sheriff prepare monthly lists of liabilities and reconcile the lists to the available cash balances. Any differences should be promptly investigated and resolved.

Auditee's Response

The Sheriff provided the following response:

We stand by our previous explanation. We maintain a monthly spreadsheet listing all incoming receipts and any third-party payments paid out. We are a 24/7/365 agency. Our liabilities consist of bond payments that are collected and then paid to various courts; and refunds to attorneys, or private citizens, if the civil paper service mileage is less than their original \$20.00 mileage deposit. With this being said, we cannot predict when a refund or bond may come in. For example, we close our month by making a deposit on the last working day of that month. After the deposit is made, there may still be civil papers served in the late afternoon or evening, which results in a refund to the attorney or private citizen. These would technically be a liability; however, we would not receive the return paperwork until the new month, and had no way of knowing that a refund would need to issued until we received the papers. The same can happen with a detainee being brought in and then bonding out after the end of month deposit was made. All other money received is forwarded to the County Treasurer each month. So basically, to sum it up, every dollar brought in is receipted and logged; every payment going out is accounted for as well. It all boils down to the timing.

Auditor's Comment

The Sheriff's response indicates his disagreement with the finding because he believes all receipt and disbursement activity is documented and accounted for. However, the monthly spreadsheet the Sheriff references does not include a list of liabilities that can be agreed to the available cash balance. As a result, errors cannot be detected and corrected timely, and sufficient cash may not be available for the payment of all liabilities.

9. Senior Citizens' Services Board

The Senior Citizens' Services Board (SCSB) did not enter into written contracts with the not-for-profit (NFP) entities to whom funding was provided. The SCSB disbursed approximately \$122,000 to 4 NFP entities



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during the year ended December 31, 2023. The SCSB Board President indicated the SCSB has not entered into written contracts because the SCSB obtains budgets and year-end settlement reports from the NFP entities. Funding amounts and budgets are approved at SCSB meetings for each NFP entity prior to making any payments.

Section 432.070, RSMo, requires government contracts to be in writing. Written agreements are necessary to ensure all parties are aware of their duties and responsibilities.

Recommendation

The Senior Citizens' Services Board enter into written agreements as required by state law.

Auditee's Response

Moving forward, the Board will comply with the auditor's recommendation to enter into written agreements as required by state law.

10. Electronic Data Security

Controls over county computers are not sufficient. As a result, county records are not adequately protected and are susceptible to unauthorized access or loss of data.

10.1 Passwords

The County Assessor, County Collector, and Recorder of Deeds have not established adequate password controls to reduce the risk of unauthorized access to computers and data. Employees in these offices are not required to change passwords regularly and are not required to have a minimum number of characters for each password. The County Assessor indicated his office does not have password controls because the county's information technology (IT) vendor does not require them. The County Collector indicated he does not have password controls because he did not think they were necessary. The Recorder of Deeds indicated that she does not have password controls because her recording system vendor does not require them.

Passwords are necessary to authenticate access to computers. However, since passwords are not periodically changed or required to contain a minimum number of characters, there is less assurance they are effectively limiting access to computers and data files to only those individuals who need access to perform their job responsibilities.

10.2 Security controls

The County Assessor, County Collector, and Recorder of Deeds do not have security controls in place to lock computers after a specified number of incorrect logon attempts. The County Assessor indicated the computers in his office do not have this control in place because the county's IT vendor does not require it. The County Collector indicated the computers in his office do not have this control in place because he did not think it was necessary. The Recorder of Deeds indicated she did not implement this control because her recording system vendor does not require it.



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Logon attempt controls lock the capability to access a computer after a specified number of consecutive invalid logon attempts and are necessary to prevent unauthorized individuals from continually attempting to logon to a computer by guessing passwords. Without effective security controls, there is an increased risk of unauthorized access to computers and the unauthorized use, modification, or destruction of data.

Recommendations

The County Commission work with other county officials to:

- 10.1 Require each employee to use a password with a minimum number of characters that is periodically changed.
- 10.2 Require county computers to have security controls in place to lock each computer after a specified number of incorrect logon attempts.

Auditee's Response

The County Commission will work with the officeholders to implement the recommendations.

Benton County

Organization and Statistical Information

Benton County is a county-organized, third-class county. The county seat is Warsaw. The county's population was 19,394 in 2020, according to the U.S. Census Bureau.

Benton 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 92 full-time employees and 11 part-time employees on December 31, 2023.

County operations also include the Senior Citizens' Services Board.

Elected Officials

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

Officeholder	2024	2023
Steve Daleske, Presiding Commissioner	\$	45,479
D. Scott Harms, Associate Commissioner		42,941
Larry G. Berry, Associate Commissioner		42,941
Carla J. Brown, Recorder of Deeds		64,391
Susan Porterfield, County Clerk		64,391
Rod Richardson, Prosecuting Attorney		154,245
Eric Knox, Sheriff		71,578
Rick Renno, County Treasurer		64,391
J. Weston Miller, County Coroner		23,620
Lori Schroder, Public Administrator		64,391
David Brodersen, County Collector (1), year ended February 29,	72,731	
James H. Hansen II, County Assessor, year ended August 31,		64,391
Jesse Wininger, County Surveyor (2)		

(1) Includes \$7,596 of commissions earned for collecting city property taxes.

(2) Compensation on a fee basis.