

ARKANSAS JUSTICES OF THE PEACE 2018 PROCEDURES MANUAL



Association of Arkansas Counties

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FOREWORD

This Justice of the Peace's procedures manual was compiled by the Association of Arkansas Counties staff and reviewed by AAC staff. It reflects the current law through the 2017 session and includes a description of the duties, responsibilities, and procedures of the Justice of the Peace's office. It is not to be construed as legal advice. It presents the law for your information and guidance, but specific legal questions should be directed to your county attorney.

We hope this procedures manual will be of help to you as you do the day-to-day business of your county.

A handwritten signature in black ink that reads "Chris Villines". The signature is written in a cursive, flowing style.

Chris Villines
Executive Director

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Chapter One - INTRODUCTION TO COUNTY GOVERNMENT

County government is a political subdivision of the state. County government provides services to all of the citizens of the county, and every resident of Arkansas lives in a county. The services that every county must provide include: (1) the administration of justice through the courts; (2) law enforcement protection and the operation of the jail (3) real and personal property tax administration, including assessments, collection, and custody of tax proceeds; (4) court and public records management; and (5) the required services prescribed by state law provided through the various elected county officers or departments of county government such as providing and managing a county road system, elections and financial management just to name a few things. Counties may provide for the establishment of any service or performance of any function that is not expressly prohibited by law. These services and functions include, but are not limited to, things like agricultural extension services; community and rural development services; libraries; park and recreation services; emergency medical services; fire prevention and protection services; solid waste collection and disposal services; public health services; and any other services related to county affairs (ACA 14-14-802).

County government elects nine executive officers and a countywide legislative body called the Quorum Court to provide these various services. The nine elected officials are county judge, sheriff, county clerk, circuit clerk, collector, assessor, treasurer, coroner and surveyor. Some counties combine two of these offices into one, such as county clerk/circuit clerk, sheriff/collector, or treasurer/collector. Also, not all counties elect a surveyor and in the counties that do elect them, this job is usually not a full-time position. The county legislative body is entitled the Quorum Court and is composed of 9-15 members called Justices of the Peace. These justices of the peace are district officers and not county officials because they represent a district within the county.

The chief executive officer for county government in Arkansas is the county judge. As chief executive, the judge authorizes and approves the disbursement of all appropriated county funds, operates the system of county roads, administers ordinances enacted by the quorum court, has custody of county property, accepts grants from federal, state, public and private sources, hires county employees except those persons employed by other elected officials of the county, and presides over the quorum court without a vote, but with the power of veto. (ACA 14-14-1101 - 1102)

All powers not vested in the county judge as the chief executive officer of the county shall continue to be exercised and administered by the county court, over which the county judge shall preside. The county court, in fact, is the county judge sitting in a judicial role.

The county court of each county has exclusive original jurisdiction in all matters relating to:

1. County Taxes: Including real and personal ad valorem taxes collected by county government. The county court's authority in this area includes jurisdiction over the assessment of property, equalization of assessments on appeal, tax levies, tax collections, and the distribution of tax proceeds.
2. Paupers: The court's jurisdiction includes all county administrative actions affecting the conduct of human services programs serving indigent residents of the county where such services are financed in total or in part by county funds.
3. Jurisdiction in each other case that may be necessary to the internal improvement and local concerns of the respective counties including county financial activities and works of general public utility or advantage designed to promote intercommunication, trade and commerce, transportation of persons and property, or the development of natural resources, which are not otherwise transferred to the county judges to be administered in an executive capacity.
4. The county court shall have all other jurisdiction now vested by law in the county court except with respect to those powers formerly vested in the county court under the provisions of Section 28 of Article 7 of the Constitution which were transferred to the county judge under the provisions of Section 3 of Amendment 55 to the Arkansas Constitution, (and those powers removed by Amendment 67 as they pertain to the apprenticeship of minors. (ACA 14-14-1105)

In addition to the duties of the county court, the county judge is responsible for coordinating the day-to-day inter-governmental relations between the various state and federal agencies operating at the county level. The judge must also apply for all federal and state assistance moneys for which the county is eligible, and appoints the members to all administrative and advisory boards in the county, some of which have to be confirmed by the quorum court.

The county sheriff is the sheriff of the courts, maintains public peace, and has custody of the county jail. As chief enforcement officer of the circuit courts, the sheriff's office, which includes the sheriff and deputies, is charged by constitutional and statutory laws with the execution of summons, enforcement of judgments, orders, injunctions, garnishments, attachments, and the making of arrests on warrants issued by the courts. The sheriff also opens and attends each term of circuit court, notifies residents selected to jury duty and assists in handling witnesses and prisoners during a given court term.

The sheriff, or a member of that staff, often prepares and assembles evidence of the Prosecuting Attorney's case against defendants charged with both felonies and

misdemeanors. The sheriff also transports convicted prisoners and others declared by the court to the various penal and mental institutions of the state.

The sheriff in every county has the custody, rule, and charge of the county jail and all prisoners committed in his county (ACA 12-41-502). The sheriff shall be conservator of the peace in his county (ACA 14-15-501). It shall be the duty of each sheriff to quell and suppress all assaults and batteries, affrays, insurrections, and unlawful assemblies; and he shall apprehend and commit to jail all felons and other offenders (ACA 14-14-1301). The sheriff also works with the various local municipal law enforcement officials or other state and federal officials charged with law enforcement.

The county clerk is the official bookkeeper of county government and serves as the clerk for the county, quorum and probate courts.

As clerk of the county court, the clerk has the duty of keeping a regular account between the treasurer and the county. The clerk charges the treasurer with all moneys received and credits the treasurer with all moneys dispersed. In addition, the clerk keeps an accurate account of all financial transactions within the county and files all documents, vouchers, and other papers pertaining to the settlement of any account to which the county is involved. It is the responsibility of the county clerk to prepare all checks on the treasury for moneys ordered to be paid by the county court and to keep complete and accurate records of all these financial transactions ready for the court's inspection at any time (ACA 16-20-402). [An alternate method of the county treasurer issuing checks, allowed by ACA 14-24-204, is used by many counties.]

The county clerk shall serve, unless otherwise designated by county ordinance, as the secretariat of the quorum court. These duties involve keeping a complete permanent record of the proceedings of the Quorum Court including minutes, ordinances, resolutions and an index to provide easy access to the information (ACA 14-14-902 and 14-14-903).

As clerk to the probate court, the clerk files all instruments making them a matter of record in decedent estate cases, and swears in all witnesses in contested estates. The clerk, also in this capacity, maintains all records relative to adoptions and guardianship cases within the county. The county clerk, or the clerk's designee, serves as the secretary of the Board of Equalization and records the minutes of their meetings (ACA 26-27-307). Also, if the clerk is the preparer of tax books for the county, the clerk is responsible for extending the taxes in the information provided by the assessor and the Board of Equalization (ACA 26-28-101 through 26-28-108).

The clerk became the official voter registrar with the adoption of Amendment 51 to the Arkansas Constitution in 1966. The clerk maintains an accurate and up-to-date voter registration list within the office and stores the ballot boxes between elections. In addition, the clerk is the custodian of absentee ballots and is responsible for early voting. It is common

practice in many counties for the county clerk to assist the county election commission in the overall performance of the election process. With the increasing complexity of elections, however, there is an increasing trend towards the hiring of election coordinators to aid the county election commission and the county clerk in their respective election responsibilities. (ACA 7-5-401 et seq.)

The clerk issues marriage licenses (ACA 9-11-201), and keeps a record of all firms in the county which have incorporated (ACA 4-26-1201). The clerk issues special licenses allowing certain activities (ACA 26-76-102).

The circuit clerk is the clerk of the circuit court and juvenile court and usually acts as the ex-officio recorder of the county.

Unless otherwise provided by law, the county recorder is the circuit clerk of the county. In a county that under law has assigned the duties of the county recorder to the county clerk, all Code references to circuit clerk that concern recording functions shall mean the county clerk.

The administrative duties of the circuit clerk are to maintain a record of all proceedings of the circuit courts to enter docket number and name of the defendant and to prepare the dockets for these courts (ACA 16-20-102). The circuit clerk prepares summons, warrants, orders, judgments, and injunctions authorized by the circuit court for delivery by the county sheriff. The circuit clerk also maintains a file of all cases pending in either court, as well as a record of all past court cases and their disposition (ACA 16-20-303 and 16-20-304). The clerk has 20 days before commencement of each of the dockets in all cases. In addition, the circuit clerk acts as a secretary to the jury commission by keeping a list of all prospective jurors (ACA 16-32-101 et seq.)

The circuit clerk is also the ex-officio county recorder; and is responsible for recording deeds, mortgages, liens, and surety bonds, and many other orders and instruments which involve property within the county (ACA 14-15-401 et seq). The circuit clerk maintains a record of many miscellaneous items, and files certain licenses. The circuit clerk also swears in all notaries public and files regulations of state agencies which license trade or professional workers.

The county collector is the collector of taxes for the county and collects municipal, county, school and improvement district taxes and turns them over to the county treasurer. The collector is responsible for collecting all property taxes from the first day of March to the fifteenth day of October during the calendar year after they are assessed. By statute, the collector is required to turn over all tax revenue to the treasurer at least once a month (ACA 26-39-201). The County Depository Board may require the collector and other county officials to settle with the county treasurer more frequently than once a month (ACA 19-8-106). Taxpayers may pay their taxes in installments, with one-fourth of the total being due between March and April, one-fourth being due between April and July, and the remaining one-half between July and October 15 (ACA 26-35-501).

Any real or personal property taxes not paid by the fifteenth day of October, or falling within one of the exceptions to the required that taxes be paid by October 15 of each year (i.e., postmarked prior to October 15 or paid after October 15 if the fifteenth falls on a weekend or holiday), are considered delinquent and the collector extends a 10% penalty against the taxpayer (ACA 26-36-201). Before December 1st of each year, the collector of taxes shall prepare a list of delinquent personal property taxes and deliver a copy of the list to a legal newspaper in the county. Within seven (7) days thereafter, the newspaper shall publish the list. If there is no newspaper in the county or district, the publication shall be in the nearest newspaper having a general circulation in the county or districts for which the list is being published. (ACA 26-36-203) The collector shall, by the fourth Wednesday of October in each year, file with the clerk of the county court a list of taxes levied on real estate that the collector has been unable to collect.

The duty of the county assessor is to appraise and assess all real property between the first Monday of January and the first of July, and all personal property between the first Monday in January and the thirty-first of May. (ACA 26-26-1408 and 26-26-1101). All property in the state shall be assessed according to its value on the first of January except merchants and manufacturers inventory that is assessed at its average value during the year immediately preceding the first of January (ACA 26-26-1201).

The assessor must make an abstract of assessment showing the total assessed value of the county. On August 1st, the assessor turns over to the County Equalization Board his/her Real Property Assessment Book and his/her Personal Property Assessment Book.

The assessor is required to maintain current appraisal and assessment records by securing necessary filed data and making changes in valuations as they occur in land use and improvements. He/she is also charged with staying abreast of all property transactions within the county and keeping a file on all properties updated throughout the year (ACA 26-26-715).

The county treasurer is the disbursement officer of the county, and is the unofficial or quasi comptroller. A few counties do have a county comptroller. The treasurer is responsible for the custody and disbursement of all county funds and school district funds. The treasurer, therefore, receives county property tax collections, county sales tax collections, county turnback funds, grant funds, fees and fines from other county officials and departments, and revenues from various other sources. The treasurer, after receiving this revenue, distributes the money to the various taxing entities and the other units of the county. The county treasurer signs checks, prepared and signed by the county clerk indicating that the expenditure has been authorized by the county court, to pay employees and creditors of the county. A copy of each check serves as a warrant and is filed in the county financial records. ACA 14-24-204 provides for an alternate method whereby the county treasurer prepares and issues the check.

The treasurer must keep an accurate and detailed account of all receipts and disbursements of the county (ACA 14-15-807). The treasurer is required to make a monthly financial report to the quorum court on the fiscal condition of the county (ACA 14-20-105).

The county treasurer is required to charge a two percent commission on all funds coming to his/her office. There are a few exceptions. No commission is allowed for the handling of borrowed money, proceeds of school bond sales, the teacher's salary fund, money collected from insurance on losses, fire protection premium taxes (Act 833 funds for fire departments, but inactive fire departments will not receive funding under this section) and all non-revenue receipts, which is defined as reimbursement of all or a part of a payment made by a county (ACA 21-6-302, 6-17-908, 6-20-221 and 14-284-403). Also, the county treasurer is allowed a smaller commission, 1/4 of 1%, on funds from school districts that employ their own treasurer (ACA 6-13-701) and 1/8 of 1% on funds from municipal improvement districts (ACA 14-90-913). The commission is not kept by the treasurer but is intended to create a source of revenue accruing to the office from which the salary and operation of the office is paid. Any excess treasurer's commission shall be redistributed to the various entities that were charged on a pro-rata basis (AG Opinion #78-112).

The county coroner is charged with the responsibility of determining the cause of death for those deaths properly the responsibility of the coroner. Although the duties of the county coroner are, necessarily, intermittent, the office is a full-time position. The coroner is tasked with the investigation of deaths occurring within the county 24 hours a day, 7 days a week and 365 days per year. At any time the coroner is required to investigate deaths. When a death is reported to the coroner, he shall conduct an investigation concerning the circumstances surrounding the death of an individual and gather and review background information, including but not limited to, medical information and any other information which may be helpful in determining the cause and manner of death. (ACA 14-15-301). These duties are mandated to be completed in very short timeframes.

The county surveyor locates boundaries of specific properties at the request of the assessor, and establishes disputed property lines upon request of the county, circuit or chancery court (ACA 14-15-702). The surveyor is also county timber inspector and determines the amount of timber cut, records the log markings, and prosecutes persons who remove timber from state owned lands (ACA 15-32-201).

A constable is a constitutional township official not a county official as some might think. A constable is charged, by law, to conserve the peace in his township (ACA 16-19-301). In order for a constable to have access to information from the Arkansas Crime Information Center and to carry a firearm, the officer must receive required training. Uniform and vehicle requirements are also mandated for constables in the performance of official duties (ACA 14-14-1314).

The legislative body of county government is called the quorum court and is composed of 9, 11, 13 or 15 members depending on the population of the county. The quorum court members are called justices of the peace and are elected for two-year terms from districts within the county. These district officials meet each month, more often if necessary, to conduct county business and review ordinances and resolutions for passage. The county judge is the presiding officer over the quorum court without a vote, but with the power of veto. This veto can be overridden with a 3/5ths vote of the total membership of the quorum court. (See generally ACA 14-14-801 et seq and 14-14-901 et seq.) As provided by Amendment No. 55 of the Arkansas Constitution, a county government acting through its quorum court may exercise local legislative authority not expressly prohibited by the Constitution or by law for the affairs of the county (ACA 14-14-801). Some limitations are: The quorum court cannot declare any act a felony (felonies are covered by the State Criminal Code); quorum courts may not participate in the day-to-day administration of county executive branch offices and exercise no authority unrelated to county affairs (ACA 14-14-806).

The quorum court may exercise the following powers, but not limited to: A) the levy of taxes in manner prescribed by law; B) appropriate public funds for the expenses of the county in a manner prescribed by ordinance; C) preserve the peace and order and secure freedom from dangerous or noxious activities; provided, however, that no act may be declared a felony; D) for any public purpose, contract, or join with another county, or with any political subdivision or with the United States; E) create, consolidate, separate, revise, or abandon any elected office or offices except during the term thereof; provided, however, that a majority of those voting on the question at a general election have approved said action; F) fix the number and compensation of deputies and county employees; G) fix the compensation of each county officer with a minimum and maximum to be determined by law; H) fill vacancies in elected county offices; I) provide for any service or performance of any function relating to county affairs; J) to exercise other powers, not inconsistent with law, necessary for effective administration of authorized services and functions (ACA 14-14-801).

Chapter Two - DUTIES OF THE OFFICE

The Justice of the Peace is an elected official in county government. The Constitution of the State of Arkansas provides for the election of the Justice of the Peace to a two-year term of office with the requirements that he/she be a qualified elector and resident. In the event of a vacancy in office, the Governor fills the vacancy by appointment, and the appointee serves until the next general election, when a successor is elected. A person appointed to fulfill a vacant or unexpired term of an elective county office shall not be eligible for appointment or election to succeed himself or herself. (ACA 14-14-1310)

Before beginning his/her duties, the Justice of the Peace must take the constitutional oath of office. The Justice of the Peace is entitled to per diem compensation for attending any official, regular, special or committee meetings of the Quorum Court in accordance with county policy, as long as the compensation does not exceed the specified amount for that size county as prescribed by state law for the calendar year. The Justice of the Peace may be paid for one (1) unattended meeting for sick or personal leave. (ACA 14-14-1205 Compensation of township officers.)

The per diem compensation of justices shall be not less than one hundred twenty dollars (\$125) per diem for each regular meeting nor exceed nine thousand eight hundred and thirty dollars (\$9,830) per calendar year in counties having a population of less than seventy thousand (70,000) and shall not exceed eleven thousand six hundred seventy-eight dollars (\$11,678) per calendar year in counties having a population of at least seventy thousand (70,000) and less than two hundred thousand (200,000), and shall not exceed fourteen thousand nine hundred ninety-two dollars (\$14,992) per calendar year in counties having a population of two hundred thousand (200,000) or more. (ACA 14-14-1205)

The Legislative body of county government is called the Quorum Court and is composed of 9, 11, 13, or 15 members

depending on the population of the county. These officers representing districts within the county meet each month, more often if necessary, to conduct county business and review ordinances and resolutions for passage. The county judge is the presiding officer over the Quorum Court without a vote, but with the power of veto. This veto can be overridden with a 3/5 vote of the total membership of the Quorum Court. (ACA 14-14-402, 14-14-904, and 14-14-912)

As provided by Amendment No. 55 of the Arkansas Constitution, a county government acting through its Quorum Court may exercise local legislative authority not expressly prohibited by the Constitution or by law for the affairs of the county. Some limitations are: The Quorum Court cannot declare any act a felony (felonies are covered by the State Criminal Code); Quorum Court may exercise no authority unrelated to county affairs. (ACA 14-14-801)

The Quorum Court may exercise the following powers, but are not limited to: A) the levy of taxes in manner prescribed by law; B) Appropriate public finds for the expenses of the county in a manner prescribed by ordinances; C) Preserve the peace and order and secure freedom from dangerous or noxious activities; provided, however, that no act may be declared a felony; D) for any public purpose, contract, or join with any other county, or with any political sub-division or with the United States; E) create, consolidate, separate, revise or abandon any elected office or offices except during the term thereof; provided ,however, that a majority of those voting on the question at a general election have approved said action; F) fix the number and compensation of deputies and county employees; G) fix the compensation of each county officer with a minimum and maximum to be determined by law; H) fill vacancies in elected county offices; I) provide for any service or performance of any function relating to county affairs; J) to exercise other powers, not inconsistent with law, necessary for effective administration of authorized services and functions. (ACA 14-14-801)

Chapter Three - TIMETABLE

This section was included to assist newly elected Justices of the Peace by outlining the most pertinent activities and placing them in calendar format. This allows the Justice of the Peace to review the major activities of the position

The various activities are listed in the month on which they should take place and the Arkansas Code reference is listed for each.

JUSTICES OF THE PEACE TIMETABLE

JANUARY

The county judge shall act as presiding officer over all regular and special meetings of the Quorum Court, without a vote, but with the power of veto. (ACA 14-14-1101).

The Justices of the Peace elected in each of the several counties shall assemble and organize as a Quorum Court body on the first regular meeting date or a date chosen by the county judge and excepting holidays, after the beginning of the Justices' term in office. If the first meeting is not held on the Quorum Court's established regular meeting day, the Quorum Court may declare the first meeting to be in lieu of the established January meeting. Thereafter, the Justices shall assemble each calendar month in their respective counties to perform the duties of a Quorum Court, except that more frequent meetings may be required by ordinance. The time and place of the initial assembly of Justices shall be designated by written notice of the county judge. The Justices thereafter, shall meet as a Quorum Court at a regular time and place established by ordinance. By declaration of emergency, or determination that an emergency exists and the safety of the general public is at risk, the county judge may change the date, place, or time of the regular meeting of the quorum court upon twenty-four (24) hour notice. If not emergency exists, notice of assembly of a county grievance committee or assembly of less than a quorum of the body may be provided upon oral notice to the members of at least forty-eight (48) hours. (ACA 14-14-904).

The county treasurer should receive highway and general turnback from the state treasurer by the tenth day of each month. (ACA27-70-207(a) and ACA 19-5-602(b)).

The county treasurer shall submit each month to the county Quorum Court a full report and a detailed statement of the county, showing receipts, disbursements, and balance on hand. (ACA 14-20-105).

Fees and fines collected by each county official are to be deposited with county treasurer on the first day of each month and no later than the fifth day of each month. (ACA 21-6-310).

The Assessor is to appraise and assess all real property in the county between the first Monday in January and July 1 of each year. (ACA 26-26-1101).

FEBRUARY

Fees and fines collected by each county official are to be deposited with the county treasurer on the first day of each month and no later than the fifth day of each month. (ACA 21-6-310).

The clerk of the county court shall cause to be published one (1) time in one (1) newspaper published in the county the annual financial report of the county. If no newspaper is published in the county, then the clerk of the county court shall cause the annual financial report of the county to be published one (1) time in the newspaper having the largest circulation in the county.

The county treasurer shall submit each month to the County Quorum Court a full report and a detailed statement of the financial condition of the county, showing receipts, disbursements, and balance on hand.(ACA 14-20-105)

The county treasurer should receive highway and general turnback from the state treasurer by the tenth day of each month. (ACA27-70-207(a) and ACA 19-5-602(b)).

MARCH

The county treasurer shall submit each month to the County Quorum Court a full report and a detailed statement of the financial condition of the county, showing receipts, disbursements, and balance on hand.(ACA 14-20-105).

Fees and fines collected by each county official are to be deposited with the county treasurer on the first day of each month and no later than the fifth day of each month. (ACA 21-6-310).

All taxes levied on real estate and personal property for the county courts of the state, when assembled for the purpose of levying taxes, are due and payable at the county collector's office between the first business day of March and October 15 inclusive. (ACA 26-36-201)

APRIL

The county treasurer should receive highway and general turnback from the state treasurer by the tenth day of each month. (ACA27-70-207(a) and ACA 19-5-602(b)).

The county treasurer shall submit each month to the County Quorum Court a full report and a detailed statement of the financial condition of the county, showing receipts, disbursements, and balance on hand.(ACA 14-20-105).

Fees and fines collected by each county official are to be deposited with the county treasurer on the first day of each month and no later than the fifth day of each month. (ACA 21-6-310).

MAY

The county treasurer should receive highway and general turnback from the state treasurer by the tenth day of each month. (ACA 27-70-207(a) and ACA 19-5-602(b)).

The county judge and the quorum court shall make appointment of the Equalization Board for the term of their expiring members during the month of May. (ACA 26-27-304)

Taxpayers shall annually assess their tangible personal property for ad-valorem taxes during the period from January 1 through May 31. Taxable tangible personal property of new residents and businesses established between January 1 and May 31, and taxable tangible personal property acquired by residents during the period from January 1 through May 31, except property acquired during the period of May 2 through May 31, shall be assessable without delinquency within thirty (30) days following the date of its acquisition. All taxable tangible personal property assessable this period shall be assessed according to its market value as of the first day of January of the year of the assessment; or the date of acquisition if the tangible personal property is acquired during the period of January 2 through May 31 of the year of assessment. (ACA 26-26-1408).

The county treasurer shall submit each month to the County Quorum Court a full report and a detailed statement of the financial condition of the county, showing receipts, disbursements, and balance on hand. (ACA 14-20-105).

Fees and fines collected by each county official are to be deposited with the county treasurer on the first day of each month and no later than the fifth day of each month (ACA 21-6-310).

JUNE

The county treasurer should receive highway and general turnback from the state treasurer by the tenth day of each month. (ACA 27-70-207(a) and ACA 19-5-602(b)).

The county treasurer shall submit each month to the County Quorum Court a full report and a detailed statement of the financial condition of the county, showing receipts, disbursements, and balance on hand. (ACA 14-20-105).

Fees and fines collected by each county official are to be deposited with the county treasurer on the first day of each month and no later than the fifth day of each month. (ACA 21-6-310).

JULY

The county treasurer should receive highway and general turnback from the state treasurer by the tenth day of each month. (ACA 27-70-207(a) and ACA 19-5-602(b)).

The county treasurer shall submit each month to the County Quorum Court a full report and a detailed statement of the financial condition of the county, showing receipts, disbursements, and balance on hand. (ACA 14-20-105).

Fees and fines collected by each county official are to be deposited with the county treasurer on the first day of each month and no later than the fifth day of each month. (ACA 21-6-310).

Deadline for assessing all taxable, tangible personal property acquired after May 31st is July 31st. (ACA 26-26-1408(6)).

AUGUST

On or before August 1st, the assessor must make an abstract of assessments showing the total assessed value of the county. Any changes made by the equalization board are to be contained in a report filed by the county clerk no later than 30 days after final adjustment of the county equalization board. (ACA 26-26-304).

The county treasurer should receive highway and general turnback from the state treasurer by the tenth day of each month. (ACA 27-70-207(a) and ACA 19-5-602(b)).

The county assessor shall, on or before August 1st of each year, deliver to the clerk of the Board of Equalization his completed assessment tax record, showing the total assessment of the county as made by the assessor. He shall also furnish such other information as the board may request of the assessor. (ACA 26-26-1103(a)).

The county treasurer shall submit each month to the County Quorum Court a full report and a detailed statement of the financial condition of the county, showing receipts, disbursements, and balance on hand.(ACA 14-20-105).

Fees and fines collected by each county official are to be deposited with the county treasurer on the first day of each month and no later than the fifth day of each month. (ACA 21-6-310).

Board of Equalization meets as often as necessary between August 1 and October 1 to equalize assessments within the county. (ACA 26-27-309).

SEPTEMBER

The county treasurer should receive highway and general turnback from the state treasurer by the tenth day of each month. (ACA 27-70-207(a) and ACA 19-5-602(b)).

The county treasurer shall submit each month to the County Quorum Court a full report and a detailed statement of the financial condition of the county, showing receipts, disbursements, and balance on hand. (ACA 14-20-105).

Fees and fines collected by each county official are to be deposited with the county treasurer on the first day of each month and no later than the fifth day of each month. (ACA 21-6-310).

OCTOBER

October 15 is the final day to pay current real and personal property taxes without a penalty unless October 15 falls on a Saturday, Sunday, or a holiday observed by the United States Postal Service, in which taxes shall become due and payable the following business day that is not a holiday observed by the United States Postal Service. (ACA 26-36-201).

The county treasurer should receive highway and general turnback from the state treasurer by the tenth day of each month. (ACA 27-70-207(a) and ACA 19-5-602(b)).

The county treasurer shall submit each month to the County Quorum Court a full report and a detailed statement of the financial condition of the county, showing receipts, disbursements, and balance on hand. (ACA 14-20-105).

Fees and fines collected by each county official are to be deposited with the county treasurer on the first day of each month and no later than the fifth day of each month. (ACA 21-6-310).

NOVEMBER

The county treasurer should receive highway and general turnback from the state treasurer by the tenth day of each month. (ACA 27-70-207(a) and ACA 19-5-602 (b)).

The county treasurer shall submit each month to the County Quorum Court a full report and a detailed statement of the financial condition of the county, showing receipts, disbursements, and balance on hand. (ACA 14-20-105)

Fees and fines collected by each county official are to be deposited with the county treasurer on the first day of each month and no later than the fifth day of each month. (ACA 21-6-310).

The Quorum Court, at its regular meeting in November of each year, shall levy the county, municipal and school taxes for current year; and, before the end of each fiscal year the county shall make appropriations (pass a budget) for the expenses of county government for the following year. Nothing in this section prohibits the Quorum Court from making appropriation amendments at any time during the current fiscal year. (ACA 14-14-904).

DECEMBER

The county treasurer should receive highway and general turnback from the state treasurer by the tenth day of each month. (ACA 27-70-207(a) and ACA 19-5-602(b)).

The county treasurer shall submit each month to the County Quorum Court a full report and a detailed statement of the financial condition of the county, showing receipts, disbursements, and balance on hand. (ACA 14-20-105).

Fees and fines collected by each county official are to be deposited with the county treasurer on the first day of each month and no later than the fifth day of each month. (ACA 21-6-310).

The county collector's final tax settlement is required to be filed with the county court (the county judge in judicial capacity) on or before the fourth Monday in December. It is the duty of the county court to pass upon the final tax settlement of the county collector and to approve, reject or restate it on or before the thirty-first of December. (ACA 26-28-306).

The Quorum Court, at its regular meeting in November of each year, shall levy the county, municipal and school taxes for current year; and, before the end of each fiscal year the county shall make appropriations (pass a budget) for the expenses of county government for the following year. Nothing in this section prohibits the Quorum Court from making appropriation amendments at any time during the current fiscal year. (ACA 14-14-904).

Chapter Four - REVENUE SOURCES

A. Ad Valorem Property Taxes

1. General Purpose Tax Article 16, Sec. 9
2. Road Tax Amend. 61 & §§26-79-101
3. Construction Tax Amends. 62 & §§14-164-301 -- 340
4. Hospital Tax Amend. 32
5. Library Tax Amend. 38 & 72 & §13-2-409
6. Property Tax Relief §§26-26-1118 & 26-26-310

B. Non-Property Taxes

1. Vehicle Tax §§26-78-101 - 120
2. Liquor Tax §§3-4-201, 3-4-202, & 3-4-208
3. Beer Tax §§3-5-101, 3-5-103, & 3-5-201 -- 224
4. Privilege Tax §§26-76-202
5. Privilege Tax §§27-87-101 -- 209
6. Marriage License Tax §§14-20-111
7. Mixed Drink Tax §§3-9-201 -- 219 & 3-9-232
8. Private Club Tax §§3-9-221 -- 225
9. County Sales & Use Tax §§26-74-201 -- 223
10. County Sales Tax for Capital Improvements §§14-164-301 -- 340
11. County Sales & Use Tax §§26-74-401 -- 414
12. Additional County Sales & Use Tax §§26-73-110 -- 113
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C. Ad Valorem Bonds

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D. Revenue Bonds

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& Amend. 65

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E. Fines, Forfeitures - Court Costs

- §§16-92-114, 16-96-403, 16-68-301, 16-84-202 and other codes

F. Fees and Commissions

G. Intergovernmental Transfers

1. State General Turnback §19-5-602
2. State Highway Turnback §27-70-207
3. State Aid/Secondary Roads §27-72-301 -- 321 & 27-72-101
4. State Severance Taxes §§26-58-113 & 26-58-124
5. Sale of Tax Land §26-37-205 & AG Opinion #97-239
6. Revenue-Forest Reserves §19-7-404
7. Sale or Lease of Public Domain §19-7-402 & 19-7-403
8. Revenue from Sale of Lumber on Military Bases §19-7-409
9. Revenue on Federal Lands §19-7-801
10. Payment in Lieu of Taxes (PILT) Chapter 69, Title 31 of the United States Code

H. Miscellaneous

1. Lease of County Property §14-16-110
2. Lease/Sale of Co. Hospital §14-16-105, 14-16-108 & 14-263-106
3. Sale of Property §14-16-105 & 14-16-106
4. Solid Waste Mgmt. Fees §8-6-212

COUNTY GOVERNMENT FINANCE

County government is supported financially from three basic sources federal government, state government and local government.

The federal revenues include payments-in-lieu of taxes (commonly referred to as PILT) on federally owned land in the county, and various federal grant-in-aid programs.

The state revenues include severance taxes, county aid (or general turnback), motor fuel taxes (or road turnback), and various state grant-in-aid programs.

The local revenues include up to 5 mill general property tax, up to 3 mill road tax, fines and costs, fees and commissions. Also, the local option sales and use taxes are considered local revenue.

The reliance on these sources of funding has changed significantly over the past two decades. For instance, in 1971, 54% of the county revenue was collected at the local level, 43% at the state level, and only 3% at the federal level. The county revenue resources in the early eighties were divided approximately 1/3 from the federal level, 1/3 from the state level, and 1/3 from the local level. However, with the demise of federal revenue sharing and the decrease in the percentage of state dollars allocated to local government, the county budget process has taken on a different look today.

The local property tax system in this state is based on the assessment of real and personal property one year and the collection of taxes on that assignment the following year. The collection period is from the first business day in March until October 10th of each year. This seven (7) month tax collection period causes a majority of taxpayers to wait until close to the October 10th deadline to pay their taxes.

The current collection system of local property tax was designed to collect revenue in one year (by October 10) to be appropriated and spent in the next year. This is a good system and has worked well for years, but state mandates and pressure on counties to provide services has caused most counties to utilize a large percentage of these revenues before the next fiscal year. Once a county starts to appropriate and spend these revenues early, it just compounds the problem and causes a more severe cash flow dilemma the next year.

INVESTMENTS

Counties may invest funds in (1) Arkansas Bank certificates of deposit; (2) Arkansas financial institution repurchase agreements, defined as the purchase of permitted government securities as an obligation in which the seller agrees to repurchase at full value plus interest as

determined in the repurchase agreement; and (3) bonds of the United States of America, defined as direct obligations of the United States of America and obligations, the principal and interest on which are fully guaranteed. All of these are insured by the Federal Deposit Insurance Corporation (FDIC) or the "full faith and credit of the Federal Government".

The county judge, the county treasurer and the county collector (sheriff/collector if it is a dual office) make up the County Depository Board. This Board is charged by statute with the responsibility of supervising the deposits of all county funds held by the county treasurer. (ACA 19-8-106).

A comprehensive investment program will generate additional revenues for the involved taxing units. Properly organized, the program will have two facets, one geared to the short-term investment of "working" funds and the other involving longer terms of investment of "idle" funds.

COUNTY REVENUES

A. AD VALOREM PROPERTY TAXES

Ad valorem property taxes are those levied on real and personal property located within the county. Taxes are levied at a fixed rate in terms of mills (one mill equals \$.001) on the assessed value of the property.

Arkansas law provides the assessed value shall not exceed twenty percent (20%) of true and full market or actual value. Further, if assessed value in any county falls below eighteen percent (18%) of true and full market or actual value, State aid or turnback will be withheld from the county in an amount based on the percentage it falls below eighteen percent (18%). (ACA 26-26-303 and 26-26-304)

Whenever the September 15 ratio for the classifications of market value real estate, personal property (business), or personal property (auto and other) or agricultural and timber falls below eighteen percent (18%) or above twenty-two percent (22%) of full fair market value, the county shall be deemed to have failed the ratio study and shall be subject to penalties and corrective actions. (ACA 26-26-304)

Furthermore, when a ratio study determines that the county does not meet the ratio standards found in the International Association of Assessing Officers' standards on ratio studies, the county shall be deemed to have failed the ratio study and shall be subject to the corrective actions.

1. General Purpose Tax

Source: Tax not to exceed five (5) mills on the assessed value of real and personal property within the county.

Use: Support all purposes of county government.

Implementation: Imposed annually by action of the quorum court.

Authority: Constitution of Arkansas, Article 16, Section 9.

2. Road Tax

Source: Tax not to exceed three (3) mills on the assessed value of real and personal property within the county.

Use: For making and repairing of public roads and bridges of the respective counties and for no other purpose. It is permissible to pay up to one-half of the county judges' salary from this fund. (ACA 14-14-811)

One half of the amount collected upon property within the corporate limits of any city or town shall be apportioned back to that city by the county collector for use in making and repairing the streets and bridges in the respective cities or towns (except where a greater amount is authorized by law). (ACA 26-79-104)

Implementation: Since the passage of Amendment 61 in 1982, the quorum court of all counties has the option of levying up to three mills of tax on all real estate and personal property in the County.

Authority: Constitution of Arkansas, Amendment 61 and ACA 26-79-101.

3. Construction Tax

Source: Tax not to exceed five (5) mills on the assessed value of real and personal property within the county or a local sales and use tax in the amount of .125, .25, .50, .75, or 1.0 percent ($\frac{1}{8}$, $\frac{1}{4}$, $\frac{1}{2}$, $\frac{3}{4}$, or 1%) to retire bonds in accordance with law. May levy multiple taxes, but aggregate rate at any one time may not exceed 1%.

Use: For capital improvements of a public nature, as defined by the General Assembly in amounts approved by a majority of those voting on the question.

Implementation: Whenever a legislative body shall determine the need to issue bonds for capital improvement or industrial development purposes, it shall authorize the issuance of such bonds by ordinance specifying the principal amount of bonds to be issued, the purpose or purposes for which the bonds are to be issued and the maximum rate of any ad valorem tax or local sales and use tax for that purpose to be levied and pledged to the retirement of such bonds. The election shall be held no earlier than thirty (30) days after it is called by the legislative body.

If a majority of those voting on the question vote for the "construction" and the "building tax", the quorum court may impose the tax at either annual or special session which tax will remain in effect until sufficient funds are collected to pay off and discharge the cost.

Authority: Constitution of Arkansas, Amendment 62 and ACA 14-164-301 through ACA 14-164-340.

4. Hospital Tax

Source: Tax not to exceed one (1) mill on the assessed value of real and personal property within the county.

Purpose: For operation, maintenance, and support of any public hospital owned by the county or municipal corporation therein, whether operated by the court or municipal corporation or by a benevolent association as the agent or lessee of such county or municipal corporation.

Implementation: By petition of 100 or more electors to the county judge, who then shall submit the question to the voters at a general election. If a majority of those voting on the question vote for a tax, it shall be continually levied until raised, lowered or abolished at a subsequent general election.

Authority: Constitution of Arkansas, Amendment 32.

5. Library Tax

Source: Tax not to exceed five (5) mills for library operations on the assessed value of real or personal property within the county and tax not to exceed three (3) mills for capitol improvements or construction on the assessed value of real and personal property within the county.

Use: For the purpose of maintaining a public county library or a county library service or system to include coordinated services of a city public library and a county public library or coordinated services of libraries of different counties. The construction of or capital improvements to existing county public library for up to the three (3) mills.

Implementation: By petition of 100 or more electors to the county court which shall then submit the question to the voters at a general election. If a majority of those voting on the question vote for a tax, it will be continually levied until raised, lowered, or abolished at a subsequent general election. County quorum court may establish a filing fee not to exceed \$2000 for petitions for special election.

Authority: Constitution of Arkansas, Amendments 38 and 72, ACA 13-2-409

6. Property Tax Relief

Source: Property tax relief funding is actually not an ad valorem property tax but replacement revenue for the reduction of up to \$350 in real property taxes on an individual's homestead. The ad valorem tax reduction is replaced with a $\frac{1}{2}$ cent sales tax levied and collected at the state level and deposited to the State Property Tax Relief Fund for distribution to the counties.

Use: Each tax entity may use the property tax relief funds in the same manner as the property taxes that they supplant.

Implementation: The homestead property tax credit is reflected on the tax bill sent to the property owner by the county collector. The county and taxing units within the county are entitled to reimbursement of the tax reduction

resulting from the homestead property tax credit. The collector, at the proper times, certifies the credits to the State; the State makes a distribution of the Property Tax Relief Fund balance each month on a pro-rata basis to the county treasurer until a county's credits are paid in full.

Authority: ACA 26-26-1118 and 26-26-310

COUNTY REVENUES

B. NON-PROPERTY TAXES

Non-property taxes are taxes imposed in return for the privilege of carrying out some specified activity within the county. While in some instances the tax is imposed because of ownership and use of property, the distinguishing feature is that it is imposed for the privilege of using the property and no tax would be imposed for mere ownership. Taxes are imposed by the counties at a uniform rate within the limits provided in the various sections of the Arkansas Code Annotated. These taxes are also sometimes referred to as license fees. Funds so collected are public funds which must be deposited in the county treasury and may not be withheld by the official effecting collection for salaries, emoluments or expenses.

1. Vehicle Tax

Source: Tax not to exceed five dollars (\$5.00) on owners of vehicles residing within the county for the privilege of using and operating motor vehicles on the public roads and highways of the State. May be upon owners residing anywhere within the county or only upon those residing outside corporate limits of municipalities.

Use: Credited to the County Highway Fund for use, to include securing of bonds, in the maintenance, construction and reconstruction of roads, bridges and other public ways in the county highway system, except that funds collected from persons within the corporate limits of municipalities are remitted to the respective municipalities. Revenues may also be used for providing county ambulance services and for purchasing firefighting equipment.

Implementation: Adopted by resolution of the quorum court and submitted in a special election to the voters (in case tax is on those residing outside municipalities only those are eligible to vote). If a majority of those voting on the question vote for the tax, a tax can be continually imposed annually by the quorum court not to exceed the amount approved by the voters.

Authority: ACA 26-78-101 through ACA 26-78-120.

2. Liquor Tax

Source: Tax on the sale and manufacture of vinous (except wines), spirituous or malt liquors on premises located outside the limits of a municipal corporation. Tax shall not exceed one-half (1/2) of the license fee collected by the Director of Alcoholic Beverage Control for the State of Arkansas.

Use: Support all purposes of county government.

Implementation: By the county court.

Authority: ACA 3-4-201, 3-4-202 and 3-4-208.

3. Beer Tax

Source Tax on the retail sale of light wine and/or beer on premises located outside the corporate limits of municipality. Tax is in form of a license fee not to exceed fifteen dollars (\$15.00) on gross sales not to exceed one thousand dollars (\$1,000.00); twenty dollars (\$20.00) on gross sales not to exceed two thousand dollars (\$2,000.00); and not to exceed five dollars (\$5.00) on each one thousand dollars (\$1,000.00) of gross sales in excess of two thousand dollars (\$2,000.00) of gross sales.

Use: Support all purposes of county government.

Implementation: By the County Court.

Authority: ACA 3-5-201 through ACA 3-5-224, 3-5-101 and 3-5-103.

4. Privilege Tax: Public Exhibitions

Source: Tax in an amount fixed by the county court for each and every public exhibition given by any person or persons, any part of the proceeds of which is for his or her personal profit. Does not apply to theaters and opera houses in cities of the first or second class and incorporated towns where no liquor is sold on premises or by management. Provided further that in cities of twenty thousand (20,000) inhabitants and over, the license for theaters and opera houses where no liquor is sold on the premises shall be one hundred dollars (\$100.00) for county purposes.

Use: Support all purposes of county government.

Implementation: Imposed by county court.

Authority: ACA 26-76-202.

5. Privilege Tax: Ferries

Source: A tax of not less than one dollar (\$1.00) nor more than one hundred dollars (\$100.00) on any person operating any ferry over or across any navigable stream so as to charge any compensation for crossing same.

Use: Support all purposes of county government.

Implementation: ACA 27-87-205.

Authority: ACA 27-87-101 through 27-87-209.

6. Additional Marriage License Tax

Source: A tax not to exceed five dollars (\$5.00) in addition to any other tax on each application for marriage license.

Use: Proceeds of the tax credited to County General Fund and appropriated by the quorum court for use as provided by law.

Implementation: Imposed by the quorum court.

Authority: ACA 14-20-111.

7. Mixed Drink Tax

Source: A license fee and/or supplemental tax on licensed premises within the county if located outside incorporated limits of hotels and restaurants selling alcoholic (other than beer or native wine) beverages for on-premises consumption. Fees shall not exceed:

Hotel having fewer than 100 rooms:\$750.00

Hotel having 100 or more rooms:\$1,500.00

Restaurant having a seating capacity of less than 100 persons:.....\$750.00

Restaurant having a seating capacity of 100 or more persons:\$1,500.00

Large meeting or attendance facility as defined in ACA 3-9-208(8)(B).....\$2,500.00

The county may also levy a supplemental tax of ten percent (10%) upon gross receipts from sale of such beverages.

Use: Support all purposes of county government.

Implementation: ACA 3-9-212, 3-9-213 and county court.

Authority: ACA 3-9-201 through ACA 3-9-219 and 3-9-232.

8. Private Club Tax

In addition to the fee or supplemental tax as levied by the State on a private club, any city or incorporated town or any county in which the permitted premises are located, if located outside the limits of a city or incorporated town, may levy an additional permit fee or supplemental tax or both additional permit fee and supplemental tax not to exceed one-half (1/2) of the amount of the fee or rate levied by the State.

All fees and taxes levied hereunder by any city or county shall be used for city or county general purposes or for city or county economic development purposes. (ACA 3-9-223)

Use: Support all purposes of county government.

Implementation: ACA 3-9-221 through 3-9-225 and county court.

Authority: ACA 3-9-221 through 3-9-225

9. County Sales & Use Tax

Source: In accordance with ACA 26-74-207, a quorum court may call an election for the levy of a .125, .25, .50, .75, or 1.0 percent (1/8, 1/4, 1/2, 3/4 or 1%) countywide sales and use tax. Up to a one percent (1%) tax shall apply on the gross receipts from the sale of retail, within the county, on all items which are subject to the Arkansas Gross Receipts Tax, as set forth in the provisions of ACA 26-52-101 et seq. In counties where a .125, .25, .50, .75, or 1.0 percent (1/8, 1/4, 1/2, 3/4 or 1%) sales and use tax is levied, the tax imposed also applies an excise tax on the storage, use or consumption within such county of tangible personal property purchased, leased or rented from any retailer outside the state after the effective date of the sales and use tax for storage, use or other consumption in such county at a rate of .125, .25, .50, .75, or 1.0 percent (1/8, 1/4, 1/2, 3/4 or 1%) of the sale price of the property or, in the case of leases or rentals, of said lease or rental price, the rate of said use tax to correspond to the rate of the sales tax portion of said tax. Provided that the use tax portion of said local sales and use tax shall be collected according to the provisions of the Arkansas Compensating Use Tax (ACA 26-53-101 et seq.).

Maximum tax limitation on certain items.

(a) Any county general sales or use tax levied pursuant to this subchapter shall be levied and collected only on the first two thousand five hundred dollars (\$2,500) of gross receipts, gross proceeds, or sales price on the sale of motor vehicles, aircraft, watercraft, modular homes, manufactured homes, or mobile homes, and vendors shall be responsible for collecting and remitting the tax only on the first two thousand five hundred dollars (\$2,500) of gross receipts, gross proceeds, or sales price on the sale of motor vehicles, aircraft, watercraft, modular homes, manufactured homes, or mobile homes.

(b)(1) Each vendor who is liable for one (1) or more county sales or use taxes shall report a combined county sales tax and a combined county use tax on his or her sales and use tax report.

(2) The combined county sales tax is equal to the sum of all sales taxes levied by a county under this subchapter or any other provision of the Arkansas Code.

(3) The combined county use tax is equal to the sum of all use taxes levied by a county under this subchapter or any other provision of the Arkansas Code.

(c) This provision applies only to taxes collected by the Director of the Department of Finance and Administration. (ACA 26-74-220)

Use: Support all purposes of county government.

Implementation: The quorum court shall pass an ordinance calling an election that shall be held from thirty (30) days to one hundred and twenty (120) days of the ordinance calling the election. The revenue is distributed to all incorporated cities within the county and the county government based on the portion of the population which a city or the rural population for the county bears to the entire county population, unless an inter-local agreement is entered into by the county and all cities which stipulates a different distribution formula.

Authority: ACA 26-74-201 through 26-74-223

Note: Since the legislation regarding sales and use taxes is complex and complicated, the Association of Arkansas Counties recommends obtaining the services of adequate legal counsel on all county sales and use tax matters.

10. County Sales Tax for Capital Improvements

Source: The county quorum court may call an election for the levy of a .125, .25, .50, .75, or 1.0 percent ($\frac{1}{8}$, $\frac{1}{4}$, $\frac{1}{2}$, $\frac{3}{4}$, or 1%) countywide sales and use tax for capital improvements under the provisions of Arkansas Code Annotated 14-164-301 through 14-164-340. This legislation (as amended) was passed to implement Amendment 62 of the Arkansas Constitution to allow the financing of capital improvements of a public nature and the financing of facilities for the securing and developing of industry. The financing may be done by bonded indebtedness or if a legislative body determines that a .125, .25, .50, .75, or 1.0 percent ($\frac{1}{8}$, $\frac{1}{4}$, $\frac{1}{2}$, $\frac{3}{4}$, or 1%) sales or use tax or any other local tax authorized by law would, if levied for no longer than twenty-four (24) months, and thirty-six (36) months for criminal justice facilities, produce sufficient revenue to finance capital improvements of a public nature without resorting to a bond issue, the legislative body may dispense with the issuance of bonds, levy the tax for no longer than twenty-four (24) months and thirty-six (36) months for criminal justice facilities, and appropriate the resulting revenues, subject to the Arkansas Constitution, Article 12, Section 4, paragraphs 2 through 4.

Use: Support of capital improvements as defined in 14-164-303 and 14-164-340 as amended.

Implementation: The quorum court shall pass an ordinance calling an election that shall be held from thirty (30) days to one hundred and twenty (120) days of the ordinance calling the election. All revenues collected under this sales and use tax for any county are pledged to secure the retirement of bonds authorized by the adoption of this sales and use tax.

Authority: 14-164-301 through 14-164-340.

Note: Since the legislation regarding sales and use taxes is complex and complicated, the Association of Arkansas Counties recommends obtaining the services of adequate legal counsel on all county sales and use tax matters.

11. County Sales and Use Tax

Source: The county quorum court of any county not having a countywide one percent (1%) sales and use tax on March 14, 1991 may call an election for the levy of a one-half percent (0.5%) countywide sales and use tax for any purpose for which the county general fund or county road fund may be used including allocating portions of this tax to the municipalities located therein. The election shall be held within one hundred twenty (120) days of the ordinance calling the election.

The quorum courts shall notify their respective county board of election commissioners that the measure has been referred to the vote of the people and shall submit a copy of the ballot title to their respective boards.

Use: May be used by the counties for any purpose for which the county general fund or county road fund may be used.

Implementation: The quorum court shall pass an ordinance calling an election on the issue. The proceeds of the sales and use tax are to be distributed in the following manner: The Treasurer of State will determine which cities or towns within the county do not levy a local sales tax and remit to those cities or towns a percentage of the tax based upon the population of the city or town versus the population of the county. The remainder of the sales tax will be remitted to the county treasurer for county uses.

Authority: ACA 26-74-401 through 26-74-414.

Note: Since the legislation regarding sales and use taxes is complex and complicated, the Association of Arkansas Counties recommends obtaining the services of adequate legal counsel on all county sales and use tax matters.

12. Additional County Sales and Use Taxes

Other county sales tax options are available to counties in Arkansas. They are:

(1) The "special local sales and use tax" not to exceed one-fourth of one percent for a Public Mass Transportation System and Facilities as set out in ACA 26-73-110, 26-73-111 and 26-73-112; and

(2) The "alternative local sales and use tax" that can be levied in the amount of .25, .50, .75 or 1.0 percent ($\frac{1}{4}$, $\frac{1}{2}$, $\frac{3}{4}$, or 1%) as set out in ACA 26-73-113.

(3) the "economic development tax" to raise revenue for funding economic development projects to stimulate the local economy and to support private sector job creation opportunities as outlined in ACA 14-174-101 through 14-174-109.

13. County Income Tax

Source: A local government may levy a tax upon income of its individual residents, and corporations and individuals owning a business within the boundaries of the local government levying the tax, but no tax shall be levied on the income of corporations or other business entities in any local governmental unit unless a like tax is levied on the income of individual residents of such governmental unit.

Use: Support all purposes of county government.

Implementation: The quorum court shall pass an ordinance calling an election on the issue. Any taxes proposed by ordinance at the quorum court of the county shall be designed to benefit not only the county, but also the municipalities located wholly or partially within the county.

Authority: ACA 26-73-101 through 26-73-109.

COUNTY REVENUES

C. AD VALOREM BONDS

Issuance of bonds is a means by which counties can generate revenues over and above that provided by recurring sources and can incur indebtedness in excess of the revenue from all sources for the current fiscal year, prohibited in general by the Arkansas Constitution, Amendment 10. Two kinds or classes of bonds may be issued which are identified by the means in which the bonds are secured and paid off, ad valorem property taxes and revenues.

1. Construction: Source, Use & Conditions

The legislative body of a county, with the consent of a majority of the qualified electors voting on the question at an election called for that purpose, may authorize the issuance of bonds, to bear interest at a rate not to exceed two percent (2%) per annum above the federal reserve rate at the time of the election authorizing the bonds for capital improvements of a public nature, as defined by the General Assembly (ACA 14-164-303) in amounts approved by a majority of those voting on the question either at an election called for that purpose or at a general election.

A tax is pledged as security for the indebtedness and the tax continually levied by the quorum court at the regular levying session until the indebtedness is discharged or liquidated.

Authority: Constitution of Arkansas, Amendments 62 and 65.

2. Industrial Development: Source, Use & Conditions

In addition to the authority for bonded indebtedness set forth in the above article, any county may, with the consent of the majority of the voters voting on the question at an election held for that purpose, issue bonds in sums approved by such majority at that election for the purpose of financing facilities for the securing and developing of industry within or near the county holding the election.

To provide for payment of principal and interest of the Bonds, the county may levy a special tax not to exceed five (5) mills on the dollar of the taxable real and personal property therein.

Authority: Constitution of Arkansas, Amendment 62.

COUNTY REVENUES

D. REVENUE BONDS

1. Highways

Source: Issuance and sale by county court of bonds bearing interest not to exceed four and one-half percent (4 1/2%)

interest per annum. Such bonds are special obligations and not general obligations of the county.

Use: Alone or with other available revenues for construction and re-construction of roads, bridges and other public ways in the County Highway System.

Conditions: Issuance of bonds and sums to be issued must be approved by a majority of those voting on the question at an election for that purpose. Additionally, a county vehicle tax must have previously been approved by the voters or must be approved at the same time, the proceeds of which will be pledged to liquidate the bonds.

Authority: ACA 26-78-102 through 26-78-120.

2. Hospital, Nursing Home or Rest Home

Source: Issuance and sale by county court of bonds bearing interest. Such bonds shall be special obligations and not general obligations of the county.

Use: For purposes in connection with the county authority to own, acquire, construct, reconstruct, extend, equip, improve, maintain, operate, sell, lease, contract concerning, or otherwise deal in or dispose of any land, buildings or facilities of any and every nature that can be used for a hospital, nursing home or rest home in the county.

Conditions: Issuance of the bonds shall be by order of the county court. Referral to the voters is not required. A statutory mortgage lien on the property will exist in favor of the bondholders.

Authority: ACA 14-265-101 through 14-265-111.

3. Industrial Development – Revenue Bonds.

Source: Issuance and sale by order of the county court or by ordinance of the quorum court of bonds bearing an interest rate as set by the order or ordinance. But in no instance shall the interest for the issue exceed the limits set by Amendment 60.

Use: For purposes in connection with the county authority to own, acquire, construct, reconstruct, extend, equip, improve, operate, maintain, sell, lease, contract concerning, or otherwise deal in or dispose of, any land, building or facilities of any and every nature whatever that can be used in securing or developing industry within the county.

Conditions: Issuance of bonds and sums to be issued may or may not have to be approved by the electorate depending on the nature of the improvement being financed. Whenever the governmental body makes the determination as to issuance, certain public hearings, as prescribed by law, must be held.

Authority: ACA 19-9-601 through 19-9-607 and Amendment 65.

4. Parks and Recreational Facilities

Source: Issuance and sale by order of the county court or by ordinance of the quorum court of bonds bearing an interest rate as set by the order or ordinance. But in no instance shall the interest for the issue exceed the limits set by Amendment 60.

Use: For purposes in connection with the county authority to own, acquire, construct, reconstruct, extend, equip, improve, operate, maintain, sell, lease, contract concerning, or otherwise deal in or dispose of, any land, building improvements or facilities of any and every nature necessary or desirable for the developing and providing of public parks and facilities and any leisure time facilities within the county.

Conditions: Issuance of the Bonds shall be by the county court or the quorum court. A statutory mortgage lien on the property will exist in favor of the bondholders. Such bonds shall be special obligations and not general obligations of the county.

Authority: ACA 19-9-601 through 19-9-607 and Amendment 65.

5. Pollution Control Facilities

Source: Issuance and Sale by county court or quorum court of bonds bearing an interest rate not to exceed the provisions of Amendment 60. Such bonds are special obligations and not general obligations of the county.

Use: For purposes in connection with the county authority to own, acquire, construct, reconstruct, extend, equip, improve, operate, maintain, sell, lease, contract concerning, or otherwise deal in or dispose of pollution control facilities for the disposal or control of sewerage, solid waste, water pollution, air pollution, or any combination thereof.

Conditions: Referral to the voters is not required, provided however, no revenue bonds shall be issued by or on behalf of any county if the primary purpose of the bonds is to loan the proceeds of the bonds or to lease or sell the facilities financed with the proceeds of the bonds.

Authority: ACA 19-9-601 through 19-9-607 and Amendment 65.

6. Port Facilities

Source: Issuance of sale by the county court or quorum court of bonds bearing an interest rate not to exceed the provisions of Amendment 60. Such bonds shall be special obligations and not general obligations of the county.

Use: For purposes in connection with the authority of any county in the state which is partially bounded by a navigable stream or through which a navigable stream flows, to independently, or jointly with another county or with one or more municipalities, establish, equip, maintain, and operate a river port or facility.

Conditions: Whenever a governmental unit shall determine the need to issue revenue bonds for capital improvements of a public nature or industrial enterprise, no proclamation order or ordinance shall be entered into by the government body until the governmental unit shall have conducted public hearings in the locality to be affected by the issuance of the bonds.

Authority: ACA 14-16-111 and ACA 14-186-401 through 14-186-417.

7. Solid Waste Management

Source: The Bonds may be sold for such price, including without limitation, sale at a discount, and in such a manner as the county may determine by order or ordinance. Note: The Constitutional limits on interest in Amendment 60 would apply.

Use: For purposes in connection with the collection and disposal of solid wastes and the authority of the county to own, acquire, construct, reconstruct, extend, equip, improve, operate, maintain, sell, lease, contract concerning, or otherwise deal in facilities of any nature necessary or desirable for the control, collection, removal, reduction, disposal, treatment or other handling of refuse.

Conditions: Issuance and sale by order of the county court. Referral to the voters is not required.

Authority: ACA 8-6-201 through 8-6-214 and 14-232-101 through 14-232-116.

8. Tourism

Source: Issuance and sale by the county court or quorum court of bonds bearing an interest rate not to exceed the provisions of Amendment 60. Such bonds shall be special obligations and not general obligations of the county.

Use: For purposes in connection with the authority of the county to own, acquire, construct, reconstruct, extend, equip, improve, operate, maintain, sell, lease, contract concerning, or otherwise deal in or dispose of any lands, buildings, improvements of facilities of any and every nature whatever to secure and develop tourism within the county.

Conditions: Issuance and sale by the county court or quorum court of bonds bearing an interest rate not to exceed the provisions of Amendment 60. Such bonds shall be special obligations and not general obligations of the county.

Authority: ACA 19-9-601 through 19-9-607 and Amendment 65.

Note: Arkansas law provides other means of funding tourism such as City-County Tourist Meeting and Entertainment Facilities as outlined in ACA 14-171-201 through 14-171-218.

COUNTY REVENUES

E. FINES, FORFEITURES AND COURT COSTS

Source: All fines, penalties and forfeitures imposed by any court or board of officers whatsoever, except fines and penalties of city courts and courts of incorporated towns for violations of city and town ordinances, shall be paid into the county treasury.

The assessment, collection and use of court costs was revised in 1995 with the passage of legislation to provide for uniform filing fees and court costs. A large percentage of court costs are remitted to the State Administration of Justice Fund for State use with a smaller designated amount of court costs remaining in the County Administration of Justice Fund only to be used for the following purposes:

- (1) the prosecuting attorney budget;
- (2) the public defender budget;
- (3) the prosecutor's victim-witness program;
- (4) the county law library;
- (5) the county jail fund; and
- (6) the intoxication detection equipment fund.

Use: As defined by court order or Code on that specific fine, forfeiture or court cost.

Implementation: By provisions of the Arkansas Code Annotated.

Authority: ACA 16-92-114, 16-96-403, 16-68-301 and 16-84-202 and other codes.

COUNTY REVENUES

F. FEES AND COMMISSIONS

Fees and commissions represent charges authorized to be made by county officials for providing a specific service. Fees are charges made at a specified rate for a particular act such as a fee authorized to be charged by the county sheriff for serving each warrant of arrest. Commissions are also charges for services rendered but are in terms of a percentage of the amount of funds handled, e.g., the county collector is authorized a percentage commission of taxes collected. Not all fees and commissions represent revenues for the county since some are paid from county funds.

Use: Fees charged for a specific service are to be reported by that county officer once a month and may be appropriated for a general purpose of county government unless restricted by law. Several fees charged by county officials are restricted to certain uses. Commissions allowed to certain officials are deposited in the county treasury for the benefit of the office charging the commission. After the final county tax settlement, when all costs of assessment and collection are reconciled, excess commissions are prorated among the

taxing entities and other accounts from which the commissions came. Excess commissions are the amounts of commission beyond the amounts expended in a given year for the operation of a commissioned office.

COUNTY REVENUES

G. INTERGOVERNMENTAL TRANSFERS

The term Intergovernmental Transfers as used herein, is defined as funds made available to all counties by the State and Federal governments – although not in equal amounts – without specific application being required by the respective counties. Generally, few restrictions are placed on the use of the funds, other than the broad designations of "for all purposes of county government" or "for use to support the county highway system".

Not included herein are the many State and Federal grant-in-aid programs for which specific application must be made on a project-by-project basis with the fund being earmarked for the specific project. Information on the availability of the various grant-in-aid programs, which are constantly changing, is furnished on a regular basis by the Association of Arkansas Counties.

1. State General Turnback

Source: Apportionment to counties of moneys appropriated by the General Assembly annually to the County Aid Fund from State General Revenues. Seventy-five percent (75%) is divided equally among the seventy-five (75) counties of the State; and, twenty-five percent (25%) is divided in the proportion that the population of each county bears to the total population of the State, as shown by the most recent decennial or special federal census.

Use: For general county purposes unless otherwise appropriated by the quorum court.

Authority: ACA 19-5-602.

2. State Highway Revenue Turnback

Source: Apportioned to counties from highway revenues – primarily fees for registration and licensing of motor vehicles and motor fuel taxes.

Funds are apportioned to counties on the following basis:

- a. thirty-one percent (31%) to be divided in proportion that the area of each county bears to the area of the state;
- b. seventeen and one-half percent (17 1/2%) divided in proportion that motor vehicle licenses fees collected in each county;
- c. seventeen and one-half percent (17 1/2%) divided in proportion that the population of each county bears to the total population of the state;

- d. thirteen and one-half percent (13 1/2%) divided in proportion that the rural population of each county bears to the total population of the state; and
- e. twenty and one-half percent (20 1/2%) divided equally among the seventy-five (75) counties.

Use: For maintenance, construction, and reconstruction of roads and bridges in the County Highway System and for other surface transportation. A county may also use these funds to construct and maintain parking for county courthouses, county administration buildings, county health units, and county parks and to construct and maintain sidewalks that serve county courthouses, county administration buildings, county health units, county parks, public schools, and other publicly owned property. These funds may be used to install and maintain traffic signals and these funds may be provided to a regional mobility authority to match federal transportation funds.

Authority: ACA 27-70-207.

3. State Aid to Secondary Roads

Source: Apportioned to counties from State Aid Road Fund of moneys collected from an excise tax of one cent (1¢) per gallon on motor fuel and distillate special motor fuel. For a county to receive funds, they must be matched in the ratio of ninety percent (90%) state aid road funds to not less than ten percent (10%) county matching funds. Funds are apportioned to the counties on the basis of mileage in the state aid system which shall be allocated in the following proportions:

- a. fifty percent (50%) to be divided equally among the seventy-five (75) counties;
- b. twenty-five percent (25%) to be divided in the proportion that the area of each county bears to the area of the state; and
- c. twenty-five percent (25%) to be divided in the proportion that rural population of each county bears to rural population of the state as shown by the most recent decennial federal census.

Use: State Aid Road Funds shall be used for the construction, reconstruction, and improvement of roads on the State Aid Road System. No funds can be spent on any project which shall not culminate directly in a paved, hard surface road and provided not more than twenty-five percent (25%) of a county's annual allotment from the State Aid Road Fund shall be used for the purpose of maintenance on previously constructed hard surface State Aid roads. Counties may also use State-Aid to restore and repair county bridges or roads which are destroyed or suffered extensive damage as a result of tornadoes, heavy rainfall, flooding conditions, or other natural disasters provided that the county has been designated a "disaster county" by the appropriate federal or state official. Roads within the system are by designation of the several county judges with the consent and approval of the State-Aid Engineer and the State Highway Commission.

Authority: ACA 27-72-301 through 27-72-321 and 27-72-101.

4. State Severance Taxes

Source: Twenty-five percent (25%) of amounts collected by the State on certain severance taxes, except those timber products, (which are exclusively for use by the State Forestry Commission) plus three cents (3¢) per ton on stone and crushed products are returned to the respective counties in the proportion that the total severance tax, produced from each county, bears to the total of such taxes produced from all counties. [ACA 26-58-124]

Use: On the twenty-five percent (25%) portion of severance tax, fifty percent (50%) must be apportioned by the county treasurer to the County Highway Fund and fifty percent (50%) credited to the county General School Fund. The revenue derived from the severance tax on stone, crushed stone, and such is divided by the first twenty-five percent (25%) to the County Aid Fund whereas the county treasurer distributes fifty percent (50%) to the County General School Fund and fifty percent (50%) to the County Highway Fund. The balance of seventy-five percent (75%) is considered special revenues and is distributed to the counties for the road fund.

Authority: ACA 26-58-113 and 26-58-124.

Act 4 and Act 5 of the First Extraordinary Session of 2008 increased the severance tax on natural gas. The tax is 1.5% on new discovery gas for the first 24 months; 1.5% on high-cost gas for the first 36 months with a possible extension of 12 additional months; 1.25% on marginal gas; and 5% on all other natural gas. These tax rates are based on market value. Five percent of the tax, interest, and penalties collected are deposited in state general revenues and 95% of the funds are classified as special revenues and distributed pursuant to the Arkansas Highway Revenue Distribution Law. (Distribution is 70% to State, 15% to counties, and 15% to municipalities for highway, road and street use.) The county share of the gas severance tax is restricted for use on county roads and bridges.

Authority: ACA 26-58-124 through 26-58-129

5. State Sale or Redemption of Tax Delinquent Land

Source: Funds received by the State from the sale or redemption of tax delinquent lands are, after deducting the allowed fees and costs, returned to the county in which such tax delinquent lands are situated.

Use: As a general rule, funds received by a county from the State Land Commissioner from the redemption or sale of tax-delinquent lands, including any interest and costs, are to be distributed to the applicable taxing units where the delinquent land is located in the manner and proportion that the taxes would have been distributed if they had been collected in the year due. Those funds accruing to the county from such distribution can be used to support all purposes of

county government. The exceptions to the rule are funds held in escrow from the sale of tax delinquent lands that are not claimed by the former owner. After the required time period has lapsed the escrowed funds escheat to the county in which the property is located. According to an Attorney General opinion, these escheated funds are not distributed to the taxing entities but are county funds with the disposition of such funds a matter to be determined by the quorum court. Most counties place these escheated funds in the county general fund.

Authority: ACA 26-37-205 and AG Opinion #97-239.

6. Revenue from Forest Reserves

Source: Moneys received by the State from the Federal Government which have derived from the Forest Reserves within the state are apportioned to the counties from which such funds are derived.

Use: Twenty-five percent (25%) of the moneys received by the county shall be credited to the County Highway Fund for use for the same purposes as other moneys credited to that fund. The remaining seventy-five percent (75%) shall be apportioned to the public schools.

Authority: ACA 19-7-404.

7. Revenue from Sale or Lease of Public Domain

Source: Moneys received by the State from the Federal Government for sale of public domain lands from the federal Taylor Grazing Act or lease of lands acquired by the United States for flood control purposes, shall be distributed to the counties in which the land is located.

Use: Twenty percent (20%) of the moneys received shall be credited to the County Highway Fund for use for the same purposes as other moneys credited to that fund. The remaining eighty percent (80%) shall be apportioned to the public schools.

Authority: ACA 19-7-402 and 19-7-403.

8. Revenue from Sale of Lumber on Military Bases

Source: Moneys received by the State from the Federal Government from the sale of timber products on U.S. military installations are distributed to the counties in which the land is located.

Use: Seventy-five percent (75%) of the moneys shall be distributed to the public schools. The remaining twenty-five percent (25%) shall be credited to the county road fund.

Authority: ACA 19-7-409.

9. Revenue on Federal Lands

Source: Moneys received by the State from the Federal government for a sale, lease, royalty, bonus or rental of oil,

gas, or mineral lands belonging to the Federal government and located in Arkansas.

Use: Fifty percent (50%) of this revenue is retained by the State with the other 50% distributed to the counties in which the Federal lands that generate the moneys are located. From the county share, sixty percent (60%) is distributed to the school district with a boundary that includes a portion of the Federal lands. If there is more than one school district with a boundary that includes a portion of the Federal lands, then each school district in that county shall receive a share of the money based on the school district's portion of the acreage over the total acreage in all districts in the county. Fifteen percent (15%) of the moneys are distributed to the county road fund and the other twenty-five percent (25%) is distributed to the county general fund and to the respective cities, towns, school districts, community college districts, and county and municipal libraries in the proportion that each taxing unit shares in the real and personal property taxes collected in the county. However, any school district that receives any portion of the 60% distribution does not share in the 25% distribution.

Authority: ACA 19-7-801.

10: Payment in Lieu of Taxes (PILT)

Source: "Payments in Lieu of Taxes" (or PILT) are Federal payments to local governments, mostly counties, that help offset losses in property taxes due to nontaxable Federal lands within their boundaries. The payments are made annually for tax-exempt Federal lands administered by the BLM, the National Park Service, the U.S. Fish and Wildlife Service (all agencies of the Interior Department), the U.S. Forest Service, and for Federal water projects and some military installations. The formula used to compute the payments is based on population, receipt sharing payments, and the amount of Federal land within an affected county. PILT payments are in addition to other Federal revenues that the Federal Government transfers to the States. The PILT program was fully funded in 2008 for the first time in many years and will be fully funded at least through 2012.

Use: Section 6902 of P.L. 97-258 states that PILT payments may be used by recipients (usually counties) for any governmental purpose and are not required to be further distributed by the recipient to other local government units such as school districts or cities. Payments made under sections 6904 and 6905 of the Act must be redistributed proportionally by the recipient to all taxing units, including schools, that lost real property taxes as a result of the Federal acquisition. Recipients may then use the payment for any governmental purpose.

Authority: Chapter 69, Title 31 of the United States Code.

COUNTY REVENUES

H. MISCELLANEOUS

1. Lease of County Property

Source: Revenues may be derived by lease of county real or personal property belonging to the county to nonsectarian educational institutions or any lawfully incorporated nonprofit, nonsectarian Boy's Club or Girl's Club. Terms and conditions of the lease are fixed by the county court.

Use: Support all purposes of county government.

Authority: ACA 14-16-110.

2. Lease or Sale of County Hospital

Source: Revenues may be derived from lease or sale of a county hospital located within the county where there is no outstanding bonded indebtedness. Provided, however, that the quorum court shall approve the conditions of a lease and a sale requires voter approval.

Use: Support all purposes of county government.

Authority: ACA 14-16-105, 14-16-108 and 14-263-106.

3. Sale of County Property

Source: The county court of each county shall have the power to sell any real estate or personal property of the county. Sale of property with an appraised value of less than two thousand dollars (\$2000.00), the property may be sold and conveyed by the county judge, either at public or private sale, for not less than three-fourths (3/4) of the appraised value as shown by the certificate of appraisal filed by the assessor. Sale of property with an appraised value of over two thousand dollars (\$2000.00) must be sold to the highest and best bidder upon sealed bids. The sheriff, the treasurer, and the circuit clerk of the county shall constitute a board of approval for the sales, and the judge shall be the ex-officio chairman of the board without a vote. Such property, when it exceeds the appraised value of two thousand dollars (\$2000.00), shall not be sold for less than three-fourths (3/4) of its appraised value as determined by the certificate of the assessor.

Also, if it is determined by the county judge to be surplus, any personal or real property owned by a county may be sold at public auction to the highest bidder. Notice of the public auction shall be published at least once a week for two (2) consecutive weeks in a newspaper having general circulation in the county. The notice shall specify the description of the property to be sold and the time and place of the public auction. If it is determined by the county judge and the county assessor that any personal property owned by the county is junk, scrap, discarded, or otherwise of no value to the county, then the property may be disposed of in any manner deemed appropriate by the county judge. However, the county judge shall report monthly to the quorum court any property that has been disposed of.

Use: Support all purposes of county government.

Authority: ACA 14-16-105 and ACA 14-16-106.

4. Solid Waste Management Fees

Source: The quorum court has the authority to levy and collect such fees, charges and require such licenses as may be appropriate to discharge the county's responsibility for solid waste management. Fees, charges and licenses shall be based on a fee schedule contained in an ordinance established by the quorum court.

Authority: ACA 8-6-212.

A county government may collect its fees and service charges by using its own system of periodic billing or by entering the fees and service charges on the county tax records and then collecting the fees and service charges annually with the personal property taxes.

Use: Support the county's solid waste management system.

Chapter Five - COUNTY GOVERNMENT OPERATIONS

LEGISLATIVE POWERS OF COUNTY GOVERNMENT

This section of the manual is designed to assist Justices of the Peace, newly elected and experienced, with the basic powers and responsibilities of the legislative branch of county government. Amendment No. 55 to the Arkansas Constitution of 1874, which substantially altered the structure and powers of county government, has been reprinted for your reference.

Also included is information regarding filling vacancies of the Quorum Court and in all county offices, legislative procedures, Quorum Court administration and ethics for county officials.

COUNTY GOVERNMENT OPERATIONS LEGISLATIVE POWERS OF COUNTY GOVERNMENT

The following is a listing of each topic as it appears in this chapter. These were selected because they represent the basic responsibilities and powers of the office of the Justice of the Peace.

Amendment 55

Distribution of Powers	ACA -14-14-502	Quorum Court Administration.....	ACA 14-14-902
Self Government Powers.....	ACA 14-14-801	Quorum Court Record of Proceedings.....	ACA 14-14-903
Legislative Powers of County Government	ACA 14-14-802	County Legislative Procedure.....	ACA 14-14-904
Providing of Facilities.....	ACA 14-14-803	Penalty for Violation of Ordinances	ACA 14-14-906
Regulatory Powers.....	ACA 14-14-804	Ethics for County Officials and Employees	ACA 14-14-1202
Legislative Powers Denied	ACA 14-14-805	Vacancy in County, Quorum Court District and Township Offices	ACA 14-14-1308
Legislative Powers Requiring State Delegation	ACA 14-14-806	Declaration of Vacancies in County, Quorum Court District and Township Offices.....	ACA 14-14-1309
Prohibition on Legislative Powers of a County	ACA 14-14-807	Filling Vacancies in Elective County Offices.....	ACA 14-14-1310
Consistency with State Regulations Required	ACA 14-14-808	Removal of Officer	ACA 14-14-1311
Concurrent Powers	ACA 14-14-809		
Legislative Authority.....	ACA 14-14-901		

**AMENDMENT NO. 55
(REVISION OF COUNTY GOVERNMENT)**

Section 1 Power of Quorum Court.

(a) A county acting through its Quorum Court may exercise local legislative authority not denied by the constitution or by law.

(b) No county may declare any act a felony or exercise any authority not related to county affairs.

(c) A county may, for any public purpose, contract, cooperate, or join with any other county, or with any political subdivision of the State or any other states or their political subdivisions, or with the United States.

Section 2 Composition Quorum Court - Power over elective offices.

(a) No county's Quorum Court shall be comprised of fewer than nine (9) justices of the peace, nor comprised of more than fifteen (15) justices of the peace. The number of justices of the peace that comprise a county's Quorum Court shall be determined by law. The county's Election Commission shall, after each decennial census, divide the county into convenient and single member districts so that the Quorum Court shall be based upon the inhabitants of the county with each member representing, as nearly as practicable, an equal number thereof.

(b) The Quorum Court may create, consolidate, separate, revise, or abandon any elective county office or offices except during the term thereof; provided, however, that a majority of those voting on the question at a general election have approved said action.

Section 3 Power of county judge.

The county judge, in addition to other powers and duties provided for by the Constitution and by law, shall preside over the Quorum Court without a vote but with the power of veto; authorize and approve disbursement of appropriated county funds; operate the system of county roads; administer ordinances enacted by the Quorum Court; have custody of county property; hire county employees, except those persons employed by other elected officials of the county.

Section 4 Powers of Quorum Court.

In addition to other powers conferred by the Constitution and by laws, the Quorum Court shall have the power to override the veto of the county judge by a vote of three-fifths of the total membership; fix number and compensation of deputies and county employees; fill vacancies in elective county offices; and adopt ordinances necessary for the government of the county. The Quorum Court shall meet and exercise all such powers as provided by law.

Section 5 Compensation of county officers fixed by Quorum Court.

Compensation of each county officer shall be fixed by the Quorum court within a minimum and maximum to be determined by law. Compensation may not be decreased during a current term; provided, however, during the interim, from the date of adoption of this Amendment until the first day of the next succeeding month following the date of approval of salaries by the Quorum Court, salaries of county officials shall be determined by law. Fees of the office shall not be the basis of compensation for officers or employees of county officers. Per Diem compensation for members of the Quorum Court shall be fixed by law.

Section 6 Bonding of county officers.

All county officers shall be bonded as provided by law.

Section 7 Effective Date.

Sections 1 and 4 of this Amendment shall be effective January 1, 1977, and all other provisions hereof shall be effective when the Amendment is adopted.

Section 8 Repealer.

All parts of the Constitution of Arkansas in conflict with this Amendment are repealed.

Proposed by the General Assembly and filed in the office of the Secretary of State on April 10, 1973. Voted upon at the General Election, November 5, 1974. Returns For: 242, 419; Against: 230,014.

DISTRIBUTION OF POWERS

The powers of the county governments of the State of Arkansas shall be divided into three (3) distinct departments, each of them to be confined to a separate body, to wit: Those which are legislative to one, those which are executive to another, and those which are judicial to a third department.

(a) LEGISLATIVE. All legislative powers of the county governments are vested in the Quorum Court. The people reserve to themselves the power to propose county legislative measures and to enact or reject them at the polls independent of the Quorum Court. The people also reserve to themselves the power, at their option, to approve or reject at the polls any entire ordinance enacted by a quorum court.

(b) EXECUTIVE. The executive divisions of a county government shall consist of the county judge, who shall perform the duties of the chief executive officer of the county as provided in Section 3 of Amendment 55 to the Arkansas Constitution, and as implemented in Arkansas Code Title 14, Chapter 14, and who shall preside over the Quorum Court without a vote but with the power of veto; one (1) sheriff, who shall be ex-officio collector of taxes, unless otherwise provided by law; one (1) assessor; one (1) coroner; one (1) treasurer, who shall be the ex-officio treasurer of the common school fund of the county; one (1) surveyor; and one (1) clerk of the circuit court, who shall be ex-officio clerk of the county and probate courts and recorder; provided, however, there may be elected a county clerk in like manner as a circuit clerk, and in such cases the county clerk may be

ex-officio clerk of the probate division of circuit court of such county until otherwise provided by the General Assembly.

(c) JUDICIAL. The judicial divisions of a county government are vested in the county court, except with respect to those powers formerly vested in the county court which, by the provisions of Amendment 55, are to be performed by the county judge, and in the respective courts of this state as provided by law.

(d) LIMITATIONS. No person or collection of persons being one of these departments, legislative, executive, or judicial, shall exercise any power belonging to either of the others, except in the instances hereinafter expressly directed or permitted. **(ACA 14-14-502)**

SELF-GOVERNMENT POWERS

As provided by Amendment No. 55, Section 1(a) of the Arkansas Constitution, a county government acting through its Quorum Court may exercise local legislative authority not expressly prohibited by the Constitution or by law for the affairs of the county. These powers include, but are not limited to:

- (a) the levy of taxes in a manner prescribed by law;
- (b) appropriate public funds for the expenses of the county in a manner prescribed by ordinance;
- (c) preserve peace and order and secure freedom from dangerous or noxious activities; provided, however, that no act may be declared a felony;
- (d) for any public purpose, contract, or join with any other county, or with any political subdivision or with the federal government;
- (e) create, consolidate, separate, revise, or abandon any elected office or offices except during the term thereof; provided, however, that a majority of those voting on the question at a general election have approved the action;
- (f) fix the number and compensation of deputies and county employees;
- (g) fix the compensation of each county officer within a minimum and maximum to be determined by law;
- (h) fill vacancies in elected county offices;
- (i) have the power to override the veto of the county judge by a vote of three-fifths (3/5ths) of the total membership of the Quorum Court;
- (j) provide for any service or performance of any function relating to county affairs;
- (k) impose a special assessment reasonably related to the cost of any special service or special benefit provided by county government or impose a fee for the provisions of a service;
- (l) provide for its own organization and management of its affairs; and
- (m) to exercise other powers, not inconsistent with law, necessary for effective administration of authorized services and functions. **(ACA 14-14-801)**

LEGISLATIVE POWERS OF COUNTY GOVERNMENT

(1) A county government, acting through the Quorum Court, **shall** provide through ordinance for the following necessary service for its citizens:

- (a) the administration of justice through the several courts of records of the county;

(b) law enforcement protection services and the custody of persons accused or convicted of crimes;

(c) real and personal property tax administration, including assessment, collection, and custody of tax proceeds;

(d) court and public records management, as provided by law, including registration, recording, and custody of public records; and

(e) all other services prescribed by state law for performance by each of the several elected county officers or departments of county government.

(2) A county government, acting through the Quorum Court **may** provide through ordinance for the establishment of any service or performance of any function not expressly prohibited by the Arkansas Constitution or by law. These legislative services and functions include, but are not limited to, the following services and facilities:

(a) Agricultural services, including: extension services, including agricultural, home economic, and community development; fairs and livestock shows and sales services; livestock inspection and protection services; market and marketing services; rodent, predator, and vertebrate control services; and weed and insect control services.

(b) Community and rural development services, including: economic development services; housing services; open spaces; planning, zoning, and subdivision control services; urban and rural development, rehabilitation and redevelopment services; and watercourse, drainage, irrigation, and flood control services.

(c) Community services, including: animal control services; cemetery, burial, and memorial services; consumer education and protection services; exhibition and show services; libraries, museums, civic center auditoriums, and historical, cultural or natural site services; park and recreation services; and public camping services.

(d) Emergency services, including: ambulance services, civil defense services; fire prevention and protection services; and juvenile attention services.

(e) Human services, including: air and water pollution control services; child care, youth, and senior citizen services; public health and hospital services; public nursing and extended care services and social and rehabilitative services.

(f) Solid waste services, including: recycling services; and solid waste collection and disposal services.

(g) Transportation services, including: roads, bridges, airports and aviation services; ferries, wharves, docks and other marine services; parking services; and public transportation services.

(h) Water, sewer and other utility services, including: sanitary and storm sewers and sewage treatment services; and water supply and distribution services.

(i) Other services related to county affairs.

(j) Job training services and facilities

(ACA 14-14-802)

PROVIDING OF FACILITIES

The power of county government to provide services includes the power to provide necessary and convenient facilities to support the services. **(ACA 14-14-803)**

REGULATORY POWERS

The power of county government to provide services includes the power to exercise regulatory powers in conjunction with the services. (ACA 14-14-804)

LEGISLATIVE POWERS DENIED

Each of the county Quorum Courts in the State of Arkansas exercising local legislative authority is prohibited the exercise of the following:

(a) Any legislative act that applies to or affects any private or civil relationship, except as an incident to the exercise of local legislative authority;

(b) Any legislative act that applies to or affects the provision of collective bargaining, retirement, workers' compensation, or unemployment compensation; provided, however, that subject to the limitations imposed by the Constitution and State law regarding these subject areas, a Quorum Court may exercise any legislative authority with regard to employee policy and practices of a general nature, including, but not limited to, establishment of general vacation and sick leave policies, general office hour policies, general policies with reference to nepotism or general policies to be applicable in the hiring of county employees. Legislation promulgated by a Quorum Court dealing with matters of employee policy and practices shall be applicable only to employees of the county and shall not apply to the elected county officers of the county. Further, such legislation applying to employee policy practices shall be only of a general nature and shall be uniform in application to all employees of the county. The day to day administrative responsibility of each county office shall continue to rest within the discretion of the elected county officials;

(c) Any legislative act that applies to or affects the public school system, except that a county government may impose an assessment, where established by the General Assembly, reasonably related to the cost of any service or specific benefit provided by county government and shall exercise any legislative authority which it is required by law to exercise regarding the public school system;

(d) Any legislative act which prohibits the grant or denial of a certificate of a public convenience and necessity

(e) Any legislative act that establishes a rate or price otherwise determined by a state agency;

(f) Any legislative act that defines as an offense conduct made criminal by state law, or which defines an offense as a felony or which fixes the penalty or sentence for a misdemeanor in excess of a fine of five hundred dollars (\$1000.00) for any one (1) specified offense or violation, or double that sum for repetition of the offense or violation. If an act prohibited or rendered unlawful is in its nature, continuous in respect to time, the fine or penalty for allowing the continuance thereof, in violation of the ordinance, shall not exceed two hundred fifty dollars (\$500.00) for each day that it may be unlawfully continued;

(g) Any legislative act that applies to or affects the standards of professional or occupational competence as prerequisites to the carrying on of a profession or occupation;

(h) Any legislative act of attainder, ex-post-facto law or law impairing the obligations of contract shall not be

enacted, and no conviction shall work corruption of blood or forfeiture of estate;

(i) Any legislative act which grants to any citizen or class of citizens privileges or immunities which upon the terms shall not equally belong to all citizens;

(j) Any legislative act which denies the individual right of property without just compensation;

(k) Any legislative act which lends the credit of the county for any purpose whatsoever or upon any interest-bearing evidence of indebtedness, except such bonds as may be provided for by the Constitution; provided, however, that this provision does not apply to revenue bonds which are deemed not to be a general obligation of the county;

(l) Any legislative act that conflicts with the exercise by municipalities any expressed, implied or essential powers of municipal government.

(m) Any legislative act contrary to the general laws of the State. (ACA 14-14-805).

LEGISLATIVE POWERS REQUIRING STATE DELEGATION

Each county Quorum Court in the state of Arkansas exercising local legislative authority is prohibited the exercise of the following powers unless the power is specifically delegated by the General Assembly:

(a) The legislative power to authorize a tax on income or the sale of goods or services. This section shall not be construed to limit the authority of county government to levy any other tax or establish the rate of any other tax which is not inconsistent with the Constitution or law;

(b) The legislative power to regulate private activities beyond its geographic limits;

(c) The legislative power to impose a duty on or regulate another unit of local government, except that nothing in this limitation shall affect the right of a county to enter into and enforce an agreement of intergovernmental cooperation;

(d) The legislative power to regulate any form of gambling, lotteries, or gift enterprises. (ACA 14-14-806)

PROHIBITION ON LEGISLATIVE POWER OF A COUNTY

A county exercising local legislative power is subject to the following provisions. These provisions are a prohibition on the legislative power of a county acting other than as provided:

(a) All state laws providing for the corporation or disincorporation of cities and towns; for the annexation, disannexation or exclusion of territory from a city or town; and for the creation, abandonment or boundary alteration of counties;

(b) All state laws establishing legislative procedures or requirements for county government;

(c) All laws requiring elections;

(d) All laws which regulate planning or zoning; provided, however, a Quorum Court may in the exercise of its local legislative power, accept, modify or reject recommendations of the County Planning Board. Modifications of the recommendations shall be made by the procedures provided in ACA 14-17-201 et seq.; and provided

further, the Quorum Court is empowered to initiate its own planning and zoning laws.

(e) All laws directing or requiring a county government to carry out any function or provide any service; provided, however, that nothing in this provision shall be construed to prevent counties from abolishing or consolidating an office or offices under the provisions of Amendment No. 55, Section 2(b), nor the reassignment of statutory delegated functions or services which such reassignment is permitted by law; provided that such abolition, consolidation or reassignment is permitted by law; provided that such abolition, consolidation or reassignment shall not alter the obligation of the county to continue providing the services previously provided by the abolished or consolidated office or offices;

(f) All laws regulating finance or borrowing procedures and powers of local government;

(g) All laws governing eminent domain;

(h) All laws governing public information and open meetings; and

(i) All laws governing the vacation of roads, streets, or alleys. **(ACA 14-14-807)**

CONSISTENCY WITH STATE REGULATIONS REQUIRED

(a) A county government exercising local legislative authority is prohibited the exercise of any power in any manner inconsistent with state law or administrative regulation in any area affirmatively subjected by law to state regulation or control.

(b) The exercise of legislative authority is inconsistent with state law or regulation if it establishes standards or requirements which are lower or less stringent than those imposed by state law or regulation.

(c) An area is affirmatively subjected to state control if a state agency or officer is directed to establish administrative rules and regulations governing the matter, or if enforcement of standards or requirements established by statute is vested in a state officer or agency. **(ACA 14-14-808)**

CONCURRENT POWERS

(a) If a county government is authorized to regulate an area which the state by statute or administrative regulation also regulates, the local government may regulate the area only by enacting ordinances which are consistent with state law or administrative regulation.

(b) If state statute or administrative regulation prescribes a single standard of conduct, an ordinance is consistent if it is identical to the state statute or administrative regulation.

(c) If state or administrative regulation prescribes a minimal standard of conduct, an ordinance is consistent if it establishes a standard which is the same as, or higher or more stringent than the state standard.

(d) A county government may adopt ordinances which incorporate by reference state statutes and administrative regulations in areas in which a local government is authorized to act. **(ACA 14-14-809)**

LEGISLATIVE AUTHORITY

The legislative power of county government is vested in the Quorum Court of each of the several counties of the state subject to the limitations imposed by the Constitution and by state law. **(ACA 14-14-901)**

QUORUM COURT ADMINISTRATION

(1) Secretariat.

(a) County Clerk to Serve as Secretariat. The secretariat of the Quorum Court shall be the clerk of the county court of each county unless otherwise provided by county ordinance.

(b) Alternative Designation of Secretariat. A Quorum Court may by county ordinance provide for the establishment of minimum qualifications and an appropriation for the employment of a secretariat of the court; provided, however, that the employee so designated shall be a staff member of the county clerk or county judge as may be specified by the ordinance. Where the separate position of Secretariat is created by ordinance, all legislative duties prescribed Arkansas Code Title 14, Chapter 14 for a county clerk shall thereafter become the duties of such secretariat.

(c) Duties of the County Clerk. Unless otherwise provided for by county ordinance, the clerk or the deputy clerk shall attend all regular and special meetings of the court; shall perform all administrative and record keeping duties prescribed in Arkansas Code Title 14, Chapter 14; and perform all other duties as may be required by the Quorum Court through county ordinance.

(2) Legal Counsel.

(a) Legal Counsel. The prosecuting attorney or his deputy serving each county shall serve as legal counsel of the Quorum Court unless otherwise provided by county ordinance.

(b) Alternative Designation of Legal Counsel. A Quorum Court may by county ordinance provide for the appropriation of county funds for the employment of legal counsel to serve the court.

(c) Duties of Legal Counsel. The legal counsel of a Quorum Court shall attend all regular and special meetings of the court; perform all duties prescribed in Arkansas Code Title 14, Chapter 14; and perform all other duties as may be required by a Quorum Court.

(3) Other Administrative Services.

A Quorum Court may authorize and provide through ordinance for the employment of any additional staff or the purchase of technical services in support of legislative affairs. **(ACA 14-14-902)**.

QUORUM COURT RECORD OF PROCEEDINGS

(1) Minutes. The Quorum Court of each county shall provide for the keeping of written minutes which include the final vote on each ordinance or resolution indicating the vote of each individual member on the question.

(2) County Ordinance and Resolution and Register. There shall be maintained by each Quorum Court a "County Ordinance and Resolution" register for all ordinances, resolutions, and amendments to each, adopted and approved by the court. Entries in this register shall be

sequentially numbered in the order adopted and approved and shall be further designated by the year of adoption and approval; provided, however, that a separate sequential numbering system shall be maintained for both ordinances and resolutions. The register number shall be the official reference number designating an enactment. The County Ordinance and Resolution register shall be maintained as a permanent record of the court and shall contain, in addition to the sequential register number, the following items of information:

- (a) an index number which shall be the originating legislative agenda number of the enactment;
- (b) the comprehensive title of the enactment;
- (c) the type of ordinance or amendment: general, emergency, appropriation, initiative or referendum;
- (d) the date adopted by the Quorum Court;
- (e) the date approved by the county judge, date of veto override; or date enacted by electors;
- (f) the effective date of the enactment;
- (g) the expiration date of the enactment; and
- (h) a recording index number designating the location of the enactments.

(3) Permanent Record of Ordinances and Resolutions. There shall be maintained a permanent record of all ordinances and resolutions in which each enactment is entered in full after passage and approval, except when a code or budget is adopted by reference. When a code or budget is adopted by reference, the date and source of the code shall be entered. The permanent record shall be indexed to provide for efficient identification, location, and retrieval of all ordinances and resolutions by subject, register number, and date enacted. The permanent record indexing may be by book and page.

(4) Codification of Ordinances. At five (5) year intervals, county ordinances of general and permanent nature enacted in each of the several counties shall be compiled into a uniform code and published.

(2)(A) A quorum court may codify county ordinances and revise the codification of county ordinances at other periodic times as it considers necessary.

(B) The county ordinance adopting the codification or revision: (i) Shall be enacted and published in accordance with the requirements for the passage of county ordinances under this subchapter; and (ii) May provide for the repeal of certain county ordinances and parts of county ordinances by the deletion or omission of them from the codification or revision.

(3) A quorum court shall file a code of county ordinances and subsequent revisions to the code of county ordinances with the county clerk under § 14-14-909(b).

(4) A code of county ordinances is prima facie evidence of the law contained within it. **(ACA 14-14-903)**

COUNTY LEGISLATIVE PROCEDURE

(a) TIME AND PLACE OF QUORUM COURT ASSEMBLY.

(1)(A)(i) The justices of the peace elected in each county shall assemble and organize as a county quorum court body on the first regular meeting date after the beginning of the justices' term in office, or the county judge may schedule the biennial meeting date of the quorum court on a date in

January other than the first regular meeting date of the quorum court after the beginning of the justices' term.

(ii) At the first regular meeting, the quorum court shall establish the date, time, and location of meetings of the quorum court.

(iii) The organizational ordinance adopted at the first regular meeting of the quorum court shall be effective upon adoption.

(B) Thereafter, the justices shall assemble each calendar month at a regular time and place as established by ordinance and in their respective counties to perform the duties of a quorum court, except that more frequent meetings may be required by ordinance.

(2) By declaration of emergency or determination that an emergency exists and the safety of the general public is at risk, the county judge may change the date, place, or time of the regular meeting of the quorum court upon twenty-four-hour notice.

(b) LEVY OF TAXES AND MAKING OF APPROPRIATIONS.

(1)(A)(i) The quorum court at its regular meeting in November or December of each year shall levy the county taxes, municipal taxes, and school taxes for the current year.

(ii) Before the end of each fiscal year, the quorum court shall make appropriations for the expenses of county government for the following year.

(B) The Director of the Assessment Coordination Department may authorize an extension of up to sixty (60) days of the date for levy of taxes upon application by the county judge and county clerk of any county for good cause shown resulting from reappraisal or rollback of taxes.

(2) Nothing in this subsection shall prohibit the quorum court from making appropriation amendments at any time during the current fiscal year.

(3) If the levy of taxes is repealed by referendum, the county may adopt a new ordinance levying taxes within thirty (30) days after the referendum vote is certified.

(4) If a county court determines that the levy of taxes by the quorum court is incorrect due to clerical errors, scrivener's errors, or failure of a taxing entity to report the correct millage rate to the quorum court, the county court shall issue an order directing the county clerk to correct the error in order to correct the millage levy.

(5) If a determination is made under this subchapter or § 26-80-101 et seq. that the taxes levied by the quorum court are out of compliance with Arkansas Constitution, Article 14, § 3, as amended by Arkansas Constitution, Amendment 11, Arkansas Constitution, Amendment 40, and Arkansas Constitution, Amendment 74, then upon notice from the Director of the Department of Education, the county court shall immediately issue an order directing the county clerk to change the millage levy to bring the taxes levied into compliance with Arkansas Constitution, Article 14, § 3, as amended by Arkansas Constitution, Amendment 11, Arkansas Constitution, Amendment 40, and Arkansas Constitution, Amendment 74.

(c) SPECIAL MEETINGS OF QUORUM COURT.

(1) The county judge or a majority of the elected justices may call a special meeting of the quorum court upon at least twenty-four (24) hours' notice in such manner as may be prescribed by local ordinance.

(2) In the absence of procedural rules, the county judge or a majority of the elected justices may call a special meeting of

the quorum court upon written notification of all members not less than two (2) calendar days prior to the calendar day fixed for the time of the meeting. The notice of special meeting shall specify the subjects, date, time, and designated location of the special meeting.

(3)(A) Notice of assembly of a county grievance committee or assembly of less than a quorum of the body, referred to under this section as a “regular committee” or “special committee”, may be provided upon oral notice to the members of at least forty-eight (48) hours unless an emergency exists.

(B) If an emergency exists, written notice of at least twenty-four (24) hours stating the basis of the emergency shall be provided.

(d) **PRESIDING OFFICER.**

(1)(A) The county judge shall preside over the quorum court without a vote but with the power of veto.

(B) In the absence of the county judge, a quorum of the justices by majority vote shall elect one (1) of their number to preside but without the power to veto.

(2)(A) The presiding officer shall appoint all regular and special committees of a quorum court, subject to any procedural rules that may be adopted by ordinance.

(B) A regular committee or special committee of the quorum court shall not consist of more than a quorum of the whole body without the consent of the county judge.

(e) **PROCEDURAL RULES AND ATTENDANCE AT MEETINGS.**

(1) Except as otherwise provided by law, the quorum court of each county shall determine at the first regular meeting its rules of procedure, whether by Robert's Rules of Order or otherwise, and may compel the attendance of absent members in such manner and under such penalties as may be prescribed by ordinance.

(2) The determination of rules of procedure under subdivision (e)(1) of this section shall be made at the first regular meeting of the quorum court in its organizational ordinance.

(f) **QUORUM.** A majority of the whole number of justices composing a quorum court shall constitute a quorum and is necessary to conduct any legislative affairs of the county.

(g) **LEGISLATIVE AFFAIRS.** All legislative affairs of a quorum court shall be conducted through the passage of ordinances, resolutions, or motions.

(h) **MAJORITY VOTE REQUIRED.** All legislative actions of a quorum court, excluding the adoption of a motion, shall require a majority vote of the whole number of justices composing a quorum court unless otherwise provided by the Arkansas Constitution or by law. A motion shall require a majority vote of the whole number of justices composing a quorum for passage.

(i) **COUNTY ORDINANCE.** A county ordinance is defined as an enactment of compulsory law for a quorum court that defines and establishes the permanent or temporary organization and system of principles of a county government for the control and conduct of county affairs.

(j) **COUNTY RESOLUTION.** A county resolution is defined as the adoption of a formal statement of policy by a quorum court, the subject matter of which would not properly constitute an ordinance. A resolution may be used whenever the quorum court wishes merely to express an opinion as to some matter of county affairs, and a resolution shall not serve to compel any executive action.

(k) **MOTION.** A motion is defined as a proposal to take certain action or an expression of views held by the quorum court body. As such, a motion is merely a parliamentary procedure that precedes the adoption of resolutions or ordinances. Motions shall not serve to compel any executive action unless such action is provided for by a previously adopted ordinance or state law.

(l) **ORDINANCES.** Ordinances may be amended and repealed only by ordinances.

(m) **RESOLUTIONS.** Resolutions may be amended and repealed only by resolutions.

(n) **INITIATIVE AND REFERENDUM.** All ordinances shall be subject to initiative and referendum as provided for through Arkansas Constitution, Amendment 7.

PENALTY FOR VIOLATION OF ORDINANCES

(a) **Authority to Establish.** A Quorum Court may fix penalties for the violation of any ordinance and such penalties may be enforced by the imposition of fines, forfeitures, and penalties on any person or persons offending against or violating the ordinance. The fine, forfeiture, or penalty shall be prescribed in each particular ordinance or in an ordinance prescribing fines, forfeitures, and penalties in general. A Quorum Court shall have power to provide, by ordinance, for the prosecution, recovery and collection of the fines, forfeitures, and penalties; provided, however, that a Quorum Court shall not have power to define an offense as a felony or to impose any fine or penalty in excess of one thousand dollars (\$1,000.00) for any one (1) specified offense or violation, or double that sum for each repetition of the offense or violation. If an act prohibited or rendered unlawful is, in its nature, continuous in respect to time, the fine or penalty for allowing the continuance thereof, in violation of the ordinance, shall not exceed five hundred (\$500.00) for each day that it may be unlawfully continued.

(b) All fines and penalties imposed for violation of any county ordinance shall be paid into the County General Fund. **(ACA 14-14-906)**

ETHICS FOR COUNTY OFFICIALS AND EMPLOYEES

(a) **PUBLIC TRUST.** The holding of public office or employment is a public trust created by the confidence that the electorate reposes in the integrity of officers and employees of county government. An officer or employee shall carry out all duties assigned by law for the benefit of the people of the county. The officer or employee may not use his office, the influence created by his official position, or information gained by virtue of his position to advance his individual personal economic interest or that of an immediate member of his family or an associate, other than advancing strictly incidental benefits as may accrue to any of them from the enactment or administration of law affecting the public generally.

(b)(1) **OFFICERS AND EMPLOYEES OF COUNTY GOVERNMENT DEFINED.** For purposes of this section, officers and employees of county government shall include:

(A) All elected county and township officers;

(B) All district judicial officers serving a county;

(C) All members of county boards, advisory, administrative, or subordinate service districts; and

(D) All employees thereof.

(2) Officials who are considered to be state officers or deputy prosecuting attorneys are not covered by this subsection.

(c)(1) RULES OF CONDUCT. No officer or employee of county government shall:

(A) Be interested, either directly or indirectly, in any contract or transaction made, authorized, or entered into on behalf of the county or an entity created by the county, or accept or receive any property, money, or other valuable thing, for his use or benefit on account of, connected with, or growing out of any contract or transaction of a county. If in the purchase of any materials, supplies, equipment, or machinery for the county, any discounts, credits, or allowances are given or allowed, they shall be for the benefit of the county. It shall be unlawful for any officer or employee to accept or retain them for his own use or benefit;

(B) Be a purchaser at any sale or a vendor of any purchase made by him in his official capacity;

(C) Acquire an interest in any business or undertaking that he has reason to believe may be directly affected to its economic benefit by official action to be taken by county government;

(D) Perform an official act directly affecting a business or other undertaking to its economic detriment when he has a substantial financial interest in a competing firm or undertaking. Substantial financial interest is defined for purposes of this section as provided in Acts 1971, No. 13, 7 [Repealed]

(2)(A)(i) If the Quorum Court determines it is in the best interest of the county, the Quorum Court by ordinance upon two-thirds (2/3) vote may permit the county to purchase goods, services, commodities, or real property directly or indirectly from a quorum court member, a county officer, or a county employee due to unusual circumstances.

(ii) The ordinance permitting the purchase shall define specifically the unusual circumstances under which purchase is permitted and the limitations of the authority.

(B) A quorum court member having an interest in the goods, services, commodities, or real property being considered under the procedures in this subdivision (c)(2) shall not vote upon the approval of the ordinance permitting the purchase of the goods, services, commodities, or real property.

(C) If goods, services, commodities, or real property are purchased under the procedures in this subdivision (c)(2), the county judge shall file an affidavit, together with a copy of the voucher and other documents supporting the disbursement, with the county clerk certifying that each disbursement has been made in accordance with the ordinance.

(3) No person shall simultaneously hold office and serve as an elected county justice of the peace and hold office and serve as an elected city council member.

(d) REMOVAL FROM OFFICE OR EMPLOYMENT.

(1) COURT OF JURISDICTION. Any citizen of a county or the prosecuting attorney of a county may bring an action in the circuit court in which the county government is located to remove from office any officer or employee who has violated the rules of conduct set forth in this section.

(2) SUSPENSION PRIOR TO FINAL JUDGMENT. Pending final judgment, an officer or employee who has been

charged as provided in this section may be suspended from his office or position of employment without pay. Suspension of any officer or employee pending final judgment shall be upon order of the circuit court, or judge thereof in vacation.

(3) PUNISHMENT. Judgment upon conviction for violation of the rules of conduct set forth in this section shall be deemed a misdemeanor. Punishment shall be by a fine of not less than three hundred dollars (\$300) nor more than one thousand dollars (\$1,000), and the officer or employee shall be removed from office or employment of the county.

(4) ACQUITTAL. Upon acquittal, an officer or employee shall be reinstated in his office or position of employment and shall receive all back pay.

(5) LEGAL FEES. Any officer or employee charged as provided in this section and subsequently acquitted shall be awarded reasonable legal fees incurred in his defense. Reasonable legal fees shall be determined by the circuit court or state Supreme Court on appeal, and such legal fees shall be ordered paid out of the general fund of the county treasury. **(ACA 14-14-1202)**

VACANCY IN COUNTY, QUORUM COURT DISTRICT AND TOWNSHIP OFFICES

A county, quorum court district or township office shall be considered vacant if any one (1) of the following conditions exists:

(1) The incumbent fails to meet the qualifications for office prescribed by law as evidenced by failure to be commissioned;

(2) The incumbent refuses or neglects to take and subscribe to the official oath required by law as evidenced by failure to be commissioned;

(3) The incumbent refuses, neglects, or for any other reason fails to secure an official bond required by law as evidenced by failure to be commissioned;

(4) The incumbent resigns;

(5) The incumbent ceases to meet any residence requirements for office;

(6) The incumbent is removed from office by judicial proceedings;

(7) The election or appointment is declared void by a judicial proceeding;

(8) The incumbent is convicted of a felony, incompetency, corruption, gross immorality, criminal conduct, malfeasance, misfeasance, or nonfeasance in office by judicial proceedings;

(9) The incumbent ceases to discharge the duties of his office for a period of three (3) months, except when prevented by sickness or excused by a Quorum Court through resolution;

(10) The incumbent is declared of unsound mind by judicial proceedings;

(11) The Quorum Court determines that the incumbent has become disabled to the degree that he cannot perform the duties of his office;

(12) The incumbent holds more than one (1) office or position in conflict with the provisions of Article 4, Section 2, or Article 19, Section 6 of the Arkansas Constitution;

(13) The Quorum Court separates elective offices as provided by law; or

(14) The incumbent dies. **(ACA 14-14-1308)**

DECLARATION OF VACANCIES IN COUNTY, QUORUM COURT DISTRICT AND TOWNSHIP OFFICES

(a) **CONDITIONS.** The Quorum Court of each county shall declare a county, Quorum Court district or township office vacant where conditions of vacancy exist as demonstrated in the following manner:

(1) Upon receipt of certification that a condition of vacancy exists as evidenced by failure of an officer to be commissioned or finding of judicial proceedings where such conditions serve as the cause of vacancy;

(2) Upon determination by a Quorum Court that a condition of vacancy exists in all other causes not governed by failure to be commissioned or finding of judicial proceedings. Such determination by a Quorum Court shall be conducted through the process of resolution as prescribed by law; provided, however, that such resolution shall have been published prior to the meeting date in which such resolution is to be considered by the Court.

(b) **APPEAL.** Appeals by the county, Quorum Court district or township officer so affected from a declaration of vacancy by the Quorum Court may be taken to the Circuit Court; provided that such appeal shall be filed within thirty (30) calendar days from the date of publication as required for county resolutions.

(c) **NOTIFICATION OF GOVERNOR.** The Quorum Court shall upon declaration of a vacancy, or within ten (10) calendar days thereafter, in any elective township office cause such declaration to be filed in writing with the Governor. **(ACA 14-14-1309)**

FILLING VACANCIES IN ELECTIVE COUNTY OFFICES

(a)

(1) **County Elective Offices.** Vacancies in all county elective offices shall be filled by the county quorum court through the process of resolution as prescribed by law.

(2) **Eligibility Requirements and Term of Office.**

(A) **Qualifications.** All officers appointed to fill a vacant county elective office shall meet all of the requirements for election to that office.

(B) **Requirements.** All officers appointed by a quorum court shall subscribe to the oath of office, be commissioned, and be bonded as prescribed by law.

(C)

(i) **Persons Ineligible for Appointment.** Any member of the quorum court shall be ineligible for appointment to fill any vacancy occurring in any county office, and resignation shall not remove the ineligibility. Husbands and wives of justices of the peace and relatives of the justices or their husbands and wives within the fourth degree of consanguinity or affinity shall likewise be ineligible.

(ii) Any county elected officer who resigns during a term of office shall be ineligible for appointment to any county elective office during the term for which he or she resigned.

(D) **Term of Office.** All officers so appointed shall serve until their successor is elected and qualified.

(E) **Successive Terms of Appointed Officer Prohibited.** A person appointed to fulfill a vacant or unexpired term of an elective county office shall not be eligible for appointment or election to succeed himself or herself.

(b) **Elective Township Offices.** All vacancies in elective township offices, including justice of the peace offices, shall be filled by the Governor.

(c) **Emergency Vacancies.** (1) (A) During a declaration of an emergency or circumstances that warrant a declaration of an emergency under § 12-75-107 or § 12-75-108, a vacancy in the office of county judge due to death or disability to the degree of inability to perform the duties of office shall be temporarily filled by executive order of the county judge issued prior to the incapacity of the county judge, designating three (3) persons in succession to fill the vacancy of the office of county judge on an interim basis until such time as the vacancy is filled by the quorum court as provided by this chapter or the disability of the county judge is abated.

(B) Persons so designated shall be listed in succession and may be identified by title or position.

(C) The death or disability of a person in the line of succession shall result in disqualification of the person and appointment of the next successive person.

(2)

(A) During a declaration of an emergency or circumstances that warrant a declaration of emergency under § 12-75-107 or § 12-75-108, a vacancy in the office of sheriff due to death or disability to the degree of inability to perform the duties of office shall be temporarily filled by a policy statement of the sheriff issued prior to the incapacity of the sheriff and adopted by resolution of the quorum court, designating three (3) persons in succession to fill the vacancy in the office of sheriff on an interim basis until such time as the vacancy is filled by the quorum court as provided by this chapter or the disability of the sheriff is abated.

(B) Persons so designated by the sheriff shall be listed in succession and may be identified by title or position.

(C) The death or disability of a person in the line of succession shall result in disqualification of the person and appointment of the next successive person.

(D) The sheriff shall affix his or her signature to the policy statement and to the resolution of the quorum court to signify that the line of succession for the office of sheriff is in accordance with his or her authority.

(3)

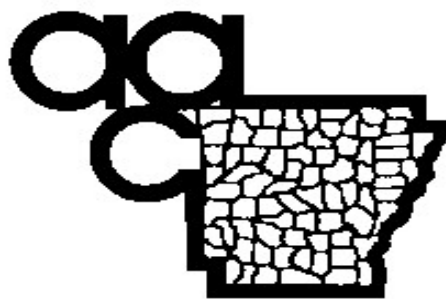
(A) The county judge and the sheriff shall file the executive order and the resolution with policy statement under subdivisions (c)(1) and (2) of this section with the county clerk, and a file-marked copy shall be provided to the Director of the Arkansas Department of Emergency Management no later than sixty (60) days from the beginning of the elected term of office.

(B) Members of the quorum court are not eligible to fill the vacancy in the office of county judge or sheriff under this section. **(ACA 14-14-1310)**

REMOVAL OF OFFICER

The circuit court shall have jurisdiction upon information, presentment, or indictment to remove any county or township officer from office for incompetence corruption, gross immorality, criminal conduct, malfeasance, misfeasance, or nonfeasance in office. **(ACA 14-14-1311)**

Chapter Six
PROCEDURAL GUIDE FOR ARKANSAS COUNTY QUORUM COURT
MEETINGS
(Revised Edition)



University of Arkansas
Division of Community Affairs
Division of Continuing Education
and the
Association of Arkansas Counties

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PREFACE

Act 742 of 1977, as amended, implements the provisions of Amendment 55 to the Arkansas Constitution. Act 742 (ACA 14-14-904) provides "The justices organize as a quorum court body on a date chosen by the county judge and held within five (5) days, excepting holidays, after the beginning of the justices' term in office. If the first meeting is not held on the quorum court's established regular meeting day, the quorum court may declare the first meeting to be in lieu of the established January meeting. Thereafter, the justices shall assemble each calendar month in their respective counties to perform the duties of quorum court, except that more frequent meetings may be required by ordinance. The time and place of the initial assembly of the justices shall be designated by written notice of the county judge. The justices, thereafter, shall meet as a quorum court at a regular time and place specified by ordinance."

Special meetings of the quorum court may also be called by the county judge or a majority of the elected justices upon at least twenty-four (24) hours notice in such manner as may be prescribed by local ordinance. In the absence of procedural rules, the county judge or a majority of the elected justices may call a special meeting upon written notification of all members not less than two (2) calendar days prior to the calendar day fixed for the time of such meeting. Such notice must specify subject(s), date, time, and location of such meeting.

In the event of emergency or special meetings, the person calling such a meeting shall notify the representatives of the newspapers, radio stations and television stations, if any, located in the county in which the meeting is to be held and which have requested to be so notified of such emergency or special meetings, of the time, place and date at least two (2) hours before such a meeting takes place in order that the public shall have representatives at the meeting (ACA 25-19-106)

NOTE: At these regular and special meetings, following the rules of procedure that have been adopted will assure orderly conduct and encourage clear, efficient discussion. Roberts' Rules of Order is the most widely used parliamentary procedural book and may be adopted by quorum courts subject to modification or development of their own rules. This manual is adapted from Roberts' Rules of Order to

provide a concise summary of the more important rules sufficient to conduct business without becoming involved in technicalities. It is intended for use at the regular and special meetings of the quorum court that are legislative sessions. At public hearings of the quorum court or its committees, less structured rules may be used to encourage a free exchange of ideas between justices and the public.

I. QUORUM

Act 742 (ACA 14-14-904) provides that a majority of the whole number of justices shall be necessary to constitute a quorum for the transaction of business. Further, quorum court may compel the attendance of absent members in such a manner and under such penalties as may be prescribed by ordinance.

A quorum is the number of members entitled to vote who must be present in order that business can legally be transacted. The "quorum" refers to the number of members actually present, not to the number who vote on a particular question. Whenever a quorum fails to be present the quorum court will have to adjourn.

After calling the meeting to order, the presiding officer should ask the county clerk to "call the roll". The clerk will call each justice by name and the names of those present and absent will be subsequently recorded in the Journal of Proceedings. This procedure will permanently document that the business of the meeting was carried out by a "legal" quorum (or the meeting was adjourned for lack of a "legal" quorum). Such a record may also be used to substantiate payment of per diem and travel compensation to attending justices.

II. THE PRESIDING OFFICER

A. THE COUNTY JUDGE AS PRESIDING OFFICER

Act 742 (ACA 14-14-904) provides, "The county judge shall preside over the quorum court without a vote but with the power of veto". The presiding officer shall appoint all regular and special committees of the quorum court subject to any procedural rules that may be adopted by ordinance.

The county judge is the county chief executive official and presiding officer, but not a member of the quorum court. He/she rules on motions and guides debate according to the rules of procedure, but cannot make motions nor participate in the debate, although members of the quorum court may certainly solicit his/her views.

B. JUSTICE OF THE PEACE PRESIDING OFFICER

Act 742 (ACA 14-14-904) provides that "in the absence of the county judge a quorum of the justices, by majority vote, shall elect one of their number to preside, but without the power to veto".

When due to the absence of the county judge, a justice is elected to the office of presiding officer. That justice forfeits the right to propose motions and to participate in debate. However, it is important to note that while the county judge has no vote as presiding officer, when a justice presides he/she does not lose the right to vote on matters before the assembly.

C. RESPONSIBILITIES OF THE PRESIDING OFFICER

As in the national and state legislative bodies, the presiding officer of the quorum court has both wide discretion and substantial responsibility. The person presiding must serve as leader, administrator, and catalyst in any given situation.

Among the duties of the presiding officer are the following:

1. Insure that the proper order of business is carried out.
2. Guard against violations of the rules of procedure.
3. Protect the rights of all members.
4. Insure that motions, resolutions, and ordinances are worded and phrased to carry out the intent of the assembly.
5. Maintain fairness and avoid prejudicial treatment of either motions or individuals.

A presiding officer must attempt to strike the difficult balance between patient courtesy on the one hand and firm decisiveness on the other. He/she cannot allow the time of the assembly to be wasted on worthless discussion or needless actions, but must try to preserve the rights of all members to participate in the discussion of issue and formulate decision.

III. ORDER OF BUSINESS

Orderly discussion is facilitated by following an established pattern for the business of the assembly. The pattern usually used in parliamentary bodies is as follows:

- Call to order
- Reading, correction, and disposition of minutes
- Reports of committees
- Unfinished business
- New business
- Announcements
- Adjournment

In order that members may anticipate when particular questions will be considered, the order of business should be followed whenever possible. However, the order is not prescribed by law and may be deviated from when circumstances dictate. Deviation from the order of business is accomplished either by a motion to suspend the rules or by general consent. To secure a change in the order of business by general consent, the presiding officer states that there will be a change if no member objects.

A. CALL TO ORDER AND ROLL CALL

The presiding officer calls the meeting to order at the scheduled time by rapping the gavel and announcing, "The meeting will please come to order." He/she then asks the clerk to call the roll.

B. READING AND DISPOSITION OF MINUTES

The first business is the minutes of the previous meeting. The presiding officer directs, "The minutes will be read". By unanimous consent a reading of the minutes may be dispensed with, as when they have been prepared and sent to each member. When the minutes have been read the presiding officer asks, "Are there any corrections or additions to the minutes?" If there are no corrections, the minutes are approved as read. When corrections are suggested, they may be approved by general consent. If consent to corrections is not unanimous, the presiding officer allows debate and takes a vote on the corrections proposed. The minutes are approved by his saying, "If there are no corrections, (or no further corrections), the minutes stand approved as read."

C. REPORTS OF COMMITTEES

Reports from standing committees are called for by the presiding officer, asking each chairman if he/she has a report. This is followed by the reports of chairmen of any special committees that have been appointed, in the order of their creation. The reports of committees are usually filed but not voted upon. If a chairman makes a recommendation in giving a report, the chairman should not move its implementation, but a member of the quorum court may make such a motion. Recommendations are considered either immediately after the report or under new business as the quorum court chooses.

D. UNFINISHED BUSINESS

The presiding officer indicates that discussion under this section is appropriate by a statement to the effect that "Unfinished business is now in order." Unfinished business consists of all business which was pending at the conclusion of the last meeting. It is the duty of the presiding officer to present any item of unfinished business that some other member does not present. This is done by stating, "We will now consider the motion proposed at our last meeting..."

E. NEW BUSINESS

Upon completion of all unfinished business, the presiding officer opens the floor for the presentation of new business by the statement, "New business is now in order." New business includes any motion, proposal or other consideration that a member may wish to present to the assembly. If new business is presented and the presiding officer knows of matters that should be considered, he informs the governing body of these matters and asks if any member wishes to propose a motion dealing with them.

F. ANNOUNCEMENTS

To prevent encumbering the meeting with periodic interruptions for various announcements, it is generally thought preferable to have a regular place in the order of business for such announcements and to require that they be made only at that time. The presiding officer usually calls for announcements from the members first and concludes with any that he/she may wish to make.

G. ADJOURNMENT

To adjourn means to close the meeting. A meeting can be adjourned only after a motion to adjourn has been made, seconded and carried; and the presiding officer has formally announced the adjournment. If no member moves to adjourn, the presiding officer may suggest that if there is no further business, some member move to adjourn. The presiding officer cannot, however, adjourn the meeting without a vote unless a quorum ceases to be present.

H. COMMENTS OR QUESTIONS FROM THE PUBLIC

Regular legislative sessions of the quorum court are to be distinguished from public hearings, which are held for the purpose of providing an opportunity for the public to express opinions on particular subjects. However, since public interest and attendance are to be encouraged, it may be desired to include in the order of business a time for brief comments or questions from members of the public. The public should be given a meaningful opportunity to comment before an item is voted on.

I. AGENDA

The specific nature of matters to be considered at quorum court meetings should be indicated in an agenda prepared and furnished members of the quorum court in advance of the meeting. By knowing explicitly what they will be called upon to decide, efficiency of the quorum court is increased, and members will come to each meeting better prepared for decision making. Since the quorum court members primarily set the agenda, procedures must be established covering agenda preparation. Procedures should include: Identification of the office or individual, e.g., county clerk, to whom quorum court members will submit items they wish to be included on the agenda for the next meeting; the deadline for submitting agenda items; and, the deadline for having the completed agenda in the hands of the quorum court members and the county judge.

An important consideration is giving the public due notice of matters likely to be considered at any meeting in order that

they may communicate their views to their respective representatives and/or attend the meeting. Since such information is generally distributed through the mass media (newspapers, radio, and TV), the completed agenda should also be furnished them in a timely manner and also posted prominently in the courthouse. While it is not always possible, the introduction and consideration of significant items of new business not on the agenda should be avoided since this tends to alienate citizens who may have an interest in this issue.

IV. HOW MOTIONS ARE HANDLED

A motion is a formal statement or proposition presented to an assembly for consideration and action. It is the primary means by which the body formulates policy and carries out ideas. Presenting and disposing of a motion follows this pattern:

- Addressing the presiding officer
- Recognition by the presiding officer
- Statement of the motion by the member
- Seconding the motion
- Statement of the motion by presiding officer
- Discussing the motion
- Voting on the motion

A. ADDRESSING THE PRESIDING OFFICER

As long as he/she complies with the rules on precedence of motions, any member of the quorum court has the right to present a motion. To present a motion, a member addresses the presiding officer as "Mr. Chairman" or "Madam Chairman" (Official title is also appropriate). Addressing the presiding officer indicates that the member wishes to obtain the floor for the purpose of presenting a motion or discussing a motion already presented.

B. RECOGNITION BY THE PRESIDING OFFICER

The presiding officer recognizes a member by name or by otherwise indicating that the member has the floor. Once a member has been recognized, he/she is entitled to speak or propose a motion.

C. STATEMENT OF THE MOTION BY THE MEMBER

A motion proposes that the assembly take an action or agree on an expression of sentiments. It should be stated in this form:

"I move..." followed by the proposal which is to be considered.

This form for proposing a motion is most clear and correct because it establishes as a definite motion the proposal introduced. Such introductory phrases as "I suggest" or "My proposal is to..." or "I so move" are less desirable.

Discussion or debate usually is not permitted until a motion has been made, and seconded, and stated by the presiding

officer, though a brief introductory comment may be made by the person making the motion. If a general discussion is desired before a motion is formulated, a member may move to consider the subject informally.

D. SECONDING MOTIONS

When a member has offered a motion, another member must second it in order to be considered. This is done by another member saying, "I second the motion".

If there is no second, the presiding officer should ask, "Is there a second to the motion that..." and state the motion again, to be sure that the motion has been understood by all the members. If, at this point, no second is made, the presiding officer states that, "the motion dies for lack of a second".

To second a motion indicates that the person seconding wants to have the motion discussed and considered by the quorum court. The seconder may not necessarily intend to vote for the motion, but usually at least favors further deliberations along the lines proposed in the motion.

E. STATEMENT OF THE MOTION BY THE PRESIDING OFFICER

When a motion has been properly moved and seconded, it is the responsibility of the presiding officer to state the motion clearly to the assembly. Until the motion is so stated, the maker of the motion controls it and can modify or withdraw it if he wishes. Once the motion is stated to the quorum court, it is in the control of that body to do with as it chooses.

If a proposed motion is vague, misleading or overly complicated in form, the presiding officer has the duty either to request that the member rephrase the motion or to rephrase it himself. If the presiding officer rephrases the motion, every effort should be made not to change its meaning and the presiding officer should ask the member whether the rephrased motion as it was stated correctly expresses the member's proposal.

If a motion proposes action which is contrary to law or to the rules of the quorum court, if its purpose is obviously dilatory (having a clear purpose of delaying business) or is unsuitable for consideration by the quorum court, the presiding officer should rule it out of order by saying, "The chair rules that your motion is out of order because..."

F. DISCUSSING THE MOTION

Fundamental to both parliamentary law and to democratic society is the belief that the best decision flows from a free discussion and exchange of ideas. Parliamentary rules of debate are not designed to inhibit discussion, but rather to insure that each member has an equal opportunity to contribute ideas.

When the presiding officer has restated the motion of a member, discussion begins usually by the member who made the motion. After that member has had an opportunity

to speak, any other member may discuss the motion after obtaining the floor. In recognizing members, the presiding officer should try to alternate between proponents and opponents of a motion whenever possible by asking if there is anyone wishing to speak against the motion. The proposer of the motion is always given the opportunity to have the last word by making a closing statement.

Discussion must relate to the merits of a motion before the quorum court. A member has the floor only for the purpose of discussing the pending motion, and if he/she departs from the subject, is out of order. The presiding officer or another member may interrupt a speaker who has strayed from the matter being considered.

Speakers should address their remarks to the chair in a courteous manner. While a speaker may attack a motion for any reason, he/she should never attack the motives, character or personality of the member who made the motion. It is the duty of the presiding officer to stop any member whose discourse drifts to the merits of any individual rather than to the merits of the motion.

G. VOTING ON THE MOTION

When it appears to the presiding officer that all the members who wish to speak have done so, he/she asks, "Is there any further discussion?" This serves to notify all members that debate will cease unless some member claims the floor. If no one responds to the call of the presiding officer, the question is put to a vote by saying, "The question is on the adoption of the motion that... (Repeating or clearly identifying the motion)". The vote may be taken in one of the following ways:

1. Roll Call Vote

When this form of voting is used, the clerk calls the names of each member in alphabetical order. The member votes for or against the proposition when called upon, or if he/she does not wish to vote, answers, "Present" or "Abstain".

Given the size of the body and the requirements of law, the roll call is the form of voting which will be used most, except for incidental motions. Act 742 (ACA 14-14-905) requires that, "On the passage of every ordinance or an amendment to an existing ordinance the yeas and nays shall be called and recorded." Roll call votes will be required for passage of ordinances, resolutions, use of the emergency clause, and for suspension of the rules.

2. Voice Vote

This form of voting allows the presiding officer to determine the results by the volume of the voices for and against the proposition. For example, the chair would say, "The question is on the motion to adjourn. All those in favor say aye (pausing for response)... Those opposed, say no." When the vote is fairly evenly divided or the presiding officer is uncertain of the result, he may call for the vote again or he may call for a more certain method of voting such as a show of hands.

3. Show of Hands

Motions which do not require a roll call vote, such as a motion to refer a matter to a committee, or clarification of an inconclusive voice vote may be made by a show of hands. The presiding officer calls first for those in favor of the motion to raise their hands, then those opposed. When a member desires a more precise count or that the vote of each member be made a matter of record, he/she may demand a roll call vote.

4. Vote by Unanimous Consent

When the matter in issue is noncontroversial or ministerial in nature for example to dispense with the reading of the minutes, the presiding officer may declare, "It has been moved and seconded that... Is there any objection?" If there is no objection, the motion passes by unanimous consent or acclamation. If any member does object, then a vote must be taken on the motion.

V. PASSING ORDINANCES OR AMENDMENTS TO ORDINANCES (EXCEPT EMERGENCY OR APPROPRIATION)

A. REQUIREMENTS FOR PASSAGE

Act 742 (ACA 14-14-905) requires that on the passage of every ordinance or amendment to an existing ordinance the yeas and nays shall be called and recorded. A concurrence by a majority of the whole number of members elected to the quorum court shall be required to pass any ordinance or amendment.

All ordinances or amendments to existing ordinances of a general or permanent nature shall be fully and distinctly read on three (3) different days, unless two-thirds (2/3) of the members comprising the quorum court (not just of those present if less than full membership) shall dispense with the rule. This shall not serve to:

- (1) Require a vote after each individual reading, but a vote only after the third and final reading;
- (2) Require the ordinance or amendment to be read in its entirety on the first, second, or third reading; or
- (3) Restrict the passage of emergency, appropriation, initiative, or referendum measures in a single meeting as provided by law.

No ordinance shall contain more than one (1) comprehensive topic. Further, no ordinance or amendment to an existing ordinance other than an emergency ordinance or appropriation ordinance shall be effective until thirty (30) calendar days after publication has appeared.

B. PROCEDURES TO ADOPT AN ORDINANCE IN LESS THAN THREE DIFFERENT DAYS

In order to adopt an ordinance in one meeting the procedure would be:

1. First reading.

2. Motion to suspend the rule and put the ordinance on second reading, roll call vote on suspension, approval by two-thirds of the whole number.

3. Second reading. Can be by title only.

4. Motion to suspend the rule and put the ordinance on third reading, roll call vote on suspension, approval by two-thirds of the whole number.

5. Third reading (can be by title only), roll call vote on the ordinance, approval by majority of the whole number.

To adopt an ordinance in two different meetings requires the measure to either: be placed on second reading (under suspension of the rules) at the first meeting with approval taking place at the second meeting or at the second meeting to be placed on third and final reading under suspension of the rules.

C. AMENDMENTS OFFERED ON PROPOSED ORDINANCE ON SECOND OR THIRD READING

As indicated above, all ordinances must be fully and distinctly read on three (3) different days. This requirement also applies to any amendment made to a proposed ordinance. In effect, this means proposed ordinances can only be amended on first reading.

Occasionally, a member or members may wish to amend an ordinance that is on second or third reading. To meet the requirements of the law for full and distinct readings on three separate days requires that the proposed ordinance be placed back on first reading.

The member(s) wishing to make an amendment would move to place "The proposed ordinance back on first reading for purpose of amendment". Such a motion would require a second and approval of a majority present. Before voting on the motion, the body would most likely ask the member to state his proposed amendment. If they object to the amendment they can defeat it simply by failing to approve the motion to place the proposed ordinance back on first reading. However, if they approve placing the ordinance back on first reading for purpose of amendment, this does not constitute adoption of the amendment. The amendment would have to be adopted as a separate motion and vote.

D. REFERRAL TO VOTERS

A quorum court may, at the time of or within thirty (30) days of adoption and prior to the effective date of an ordinance, refer such ordinance to the electors for their acceptance or rejection (Act 742, ACA 14-14-905) Such referral shall be in the form of a resolution and shall require a three-fifths (3/5) affirmative vote of the whole number of justices comprising the quorum court.

Such action of the quorum court shall not be subject to veto. It shall constitute a referendum measure and from that point the procedure of election shall be as required by Amendment 7 to the Arkansas Constitution and by law.

VI. PASSAGE OF APPROPRIATION AND EMERGENCY ORDINANCES

A. APPROPRIATION ORDINANCES

An appropriation ordinance is a measure by which the quorum court designates a particular fund, or sets apart a specific portion of county revenue in the treasury to be applied to some general object of expenditure or some individual purchase or expense of the county. An appropriation ordinance may be adopted without separate readings or publication prior to passage, provided publication shall be initiated within two (2) calendar days after approval by the county judge (Act 742, ACA 14-14-907)

An appropriation ordinance or amendments enacted without separate readings shall require a two-thirds (2/3) vote of the whole number of justices comprising a quorum court. On the passage the yeas and nays shall be called and recorded. An appropriation ordinance or amendment adopted in this manner is effective immediately upon approval by the county judge. (ACA 14-14-907)

B. EMERGENCY ORDINANCES

An emergency ordinance may be enacted only to meet public emergencies affecting life, health, safety or property of the people (ACA 14-14-908). The ordinance must contain a declaration that an emergency exists and define the emergency.

An emergency ordinance or an emergency amendment to an existing ordinance does not require separate readings or prior publication provided; however, that publication shall be initiated within seven (7) calendar days, excepting holidays, after approval by the county judge.

The passage of an emergency measure shall require two-thirds (2/3) majority of the whole number of justices comprising the quorum court. On the passage of every emergency measure, the yeas and nays shall be called and recorded. An emergency measure is effective immediately upon approval by the county judge.

VII. VETO

A. EXERCISE OF BY COUNTY JUDGE

ACA 14-14-911 provides that, "The county judge of each county shall preside over the quorum court with the power of veto." The law further provides that:

1. Power of veto is limited to the total text of an ordinance or an amendment to an existing ordinance. Veto of a single part, section or line item is not permitted.
2. Veto must be exercised within seven (7) calendar days after passage.
3. It shall be authenticated by the county judge and demonstrated by filing a written statement of the reason of veto with the county clerk.

4. Written notification of a veto shall immediately be provided to each member of the quorum court by the county clerk and the county clerk shall provide each with a copy of the veto statement filed by the county judge.

5. The power of veto shall not apply to measures enacted through initiative or referendum.

The power of veto extends only to ordinances and amendments to existing ordinances. The power of veto shall not apply to resolutions or amendments to resolutions. (Act 742, ACA 14-14-913)

B. VETO OVERRIDE BY QUORUM COURT

Act 742 () provides that, "The quorum court of each county shall have the power to override the veto of the county judge." The law further provides that:

1. An affirmative vote of three-fifths (3/5) of the total membership of a quorum court shall be required to override the veto. On consideration the yeas and nays shall be called and recorded.
2. The veto override power must be exercised at the next regular session of the quorum court following written notification of veto.
3. Failure to override a veto in a single vote of the quorum court shall constitute a confirmation of the veto.

VIII. PASSAGE OF RESOLUTIONS

A resolution is defined as the adoption of a formal statement of policy by a quorum court. A resolution may be used whenever the quorum court wishes merely to express an opinion as to some matter of county affairs. It shall not serve to compel any executive action.

Resolutions or amendments to existing resolutions may be introduced and adopted in a single meeting on a single reading. All resolutions are effective immediately unless a delayed date is specified. Resolutions or amendments to resolutions are not subject to veto. (ACA 14-14-913)

IX. GLOSSARY OF MOTIONS MOST OFTEN USED

Robert's-Rules-of-Order lists and defines some 82 separate and distinct motions. The text devotes the better part of five hundred pages to the explanation of procedural technicalities. While Robert's treatise is probably the foremost in the field of parliamentary law, it is not necessary to attempt to master its entire contents. More useful is a basic understanding of the principle motions which can be made and their effect on the deliberations of the quorum court.

A. THE MAIN MOTION

A main motion is the means by which meetings are conducted. It is the vehicle for the transaction of business.

Understandably then, a main motion should be as clear and concise as possible. It should be as brief as its substance permits. The presiding officer may request that the motion be rephrased if it is ambiguous or too long.

Generally, main motions should be drafted to avoid the inclusion of negative statements. Thus, it is preferable to draft a motion stating, "We oppose..." rather than a motion phrased in terms of, "We do not support..." This prevents confusion and increases clarity of what the member is proposing.

The procedure for discussion and disposition of a main motion has been discussed previously.

B. PRIVILEGED MOTIONS

These motions are considered so important that they are given priority over other motions. They are questions that must be decided before the pending question. They relate to the members and to the deliberative body rather than to the main motions.

There are three privileged motions essential to conducting business:

1. Motion to Adjourn – As is obvious from its title, this motion is used to terminate a meeting. Under Act 742, the Quorum Court is to meet at least once a month at a regular time and place established by ordinance. Therefore, there is no need for a justice to qualify his motion to adjourn by stipulating a time for the next meeting.

When a motion to adjourn is passed before all business is completed, the matters which are left pending are brought up at the next meeting under the subject of unfinished business.

2. Motion to Recess – This motion is used to effect a short intermission in the proceedings of the assembly. It does not close the meeting and after the time for recess has expired, the meeting reconvenes and proceeds to consider business at the same point at which it recessed. A motion to recess is generally used to allow short conferences between members, to acquire information, or accomplish other ministerial acts.

3. Question of Privilege – During the course of a meeting a situation may arise which involves the comfort, convenience, rights or privileges of an individual member or of the assembly at large. In such a situation a member may, without waiting for recognition by the presiding officer, declare "I raise a question of privilege affecting the assembly" (if the matter concerns the group as a whole) or "I raise a question of personal privilege" (if only the individual member is concerned). Questions of privilege relating to the assembly usually involve such things as heating, lighting, noise and seating of members. Questions of personal privilege usually pertain to rights, convenience, reputation or conduct of an individual member.

C. SUBSIDIARY MOTIONS

The seven subsidiary motions are alternative methods of changing or disposing of the main motion. Because their purpose is to expedite deliberation of a main motion, they can be proposed only when a main motion is before the quorum court.

When the main motion is pending, there are several alternatives to voting on it directly in order to dispose of the motion.

1. Postpone Temporarily - The effect of this motion is to temporarily set aside a pending main motion so that it can be considered at any time during the same meeting by a motion to resume consideration. This motion is generally used to postpone consideration of a question until some more urgent business which has arisen has been considered.

2. Vote Immediately (Previous Question) - For one reason or another, debate may continue even after everything of relevance has been said. The motion to vote immediately serves to expedite the business of the quorum court by shutting off further debate and bringing the issue in question to a vote. A motion to vote immediately is not a privileged motion. The practice of calling, "Question, Question!" is not correct and should be ignored by the presiding officer.

3. Limit Debate - When the assembly has several matters to consider or when extended discussion would serve no valid purpose, a member may wish to move to limit debate. Debate may be limited in several ways. The motion may intend to restrict the number of speakers who can participate on each side of the question, or it may attempt to limit the time allotted to each speaker, or it may specify the total time allotted for discussion.

4. Postpone Definitely - This motion, like the motion to postpone temporarily, delays consideration of a pending main motion. The distinction between the two is that a motion to postpone definitely fixes a further specified time for the motion to be considered, while a motion to postpone temporarily does not.

5. Refer to a Committee - Referral of a pending motion to a committee may serve several useful functions. If the proposal is a complicated one or one that requires further investigation, reference to a committee for study and recommendation may be desirable. Committee may also be used to provide a public hearing on a particular proposal, to conserve the time of the quorum court by allowing a smaller group to recommend decisions or act on a proposal, or to postpone consideration of the issue until a more favorable time.

6. Amend - The major purpose of a motion to amend is to modify or change a pending motion so that it is better suited for what is needed. Amendment may be accomplished by inserting additional terms, by striking out inappropriate terms or by substituting entirely new language for that used in the original motion. An amendment, however accomplished, must be germane to the pending question. It must be relevant to or have a direct bearing on the proposal in issue.

A series of rules dealing with priority of amendments to a question and of amendments to amendments has been developed. Discussion of those rules is beyond the scope of this guide and usually beyond the scope of most meetings. Should the necessity for their consideration arise, Robert's Rules should be consulted. However, basic to parliamentary procedure is that once an amendment has been proposed it must be disposed of prior to action on the main motion.

7. Postpone Indefinitely - Actually the title of this motion is misleading. Its effect is not to postpone consideration of a pending motion at all. Rather it serves to indirectly defeat or kill the main motion. This motion is often used by opponents of a proposal to learn who favors and who opposes it, without running the risk of having the motion adopted by calling it to vote.

D. INCIDENTAL MOTIONS

These motions arise out of the business pending before the quorum court. They have been developed to handle procedural problems that have come up in consideration of other questions, or concerning rights and privileges of members. To settle these problems so that the main business may proceed, incidental motions are used.

Incidental motions may be proposed at any time and must be decided at the time they arise. They are not, therefore, included in the list of precedence. The most frequently used incidental motions are:

1. Appeal - An appeal from a decision of the chair allows a member who believes that the presiding officer has erred in making a particular ruling to have questions decided by the whole quorum court. Any decision by the presiding officer involving his/her judgment is subject to appeal. However, the mere statement of a fact, such as the absence of certain members or the result of a vote, is not appealable. When a ruling is appealed to the assembly, the presiding officer must state the motion in a fair manner.

2. Point of Order - The primary purpose of parliamentary procedure is to insure order in the discussion of issues and the formulation of policy. Without a means of calling attention to a violation of procedural rules, the parliamentary scheme would be of little value. When a member raises a point of order, the member is bringing what is believed to be an error in procedure to attention so that business can be conducted correctly. As soon as a member raises a point, the presiding officer must rule that it is either "well taken" or "not well taken".

3. Parliamentary Inquiry - As with the point of order, this motion is designed to give members an opportunity to insure the correctness of proceedings. A member who is uncertain as to the appropriateness of a particular action always has the right to inquire. A parliamentary inquiry is usually directed to the presiding officer. However, it may be directed to the proposer of a motion if it concerns the parliamentary development or effect of that motion.

4. Withdraw a Motion - It may occur that a motion has been proposed without thorough consideration of its possible ramifications or that more urgent business than what is under consideration arises. In such a situation, a motion to withdraw may be appropriate. A member has a right to withdraw a motion before it has been seconded and restated to the assembly by the presiding officer. However, once it has been stated by the presiding officer to the assembly, the member must secure the consent of that assembly before being allowed to withdraw the motion. Withdrawal of a motion also withdraws all motions adhering to it.

5. Suspend Rules - In rare instances, circumstances may command a deviation from the set rules of the quorum court. This is the function of the motion to suspend. It is important to remember that a motion to suspend can only be applied to procedural rules. Where substantive rights are involved, the motion to suspend is improper. Thus, the rules cannot be suspended regarding the presence of a quorum, the number of votes required to pass an ordinance, etc. Furthermore, rules may be suspended only for a particular purpose and for the length of time necessary to accomplish that purpose. A motion "to suspend the rules for the next five meetings" would obviously be improper.

6. Objection to Consideration - This motion should seldom be used. However, in those instances where the proposed motion is beyond the scope of the authority of the quorum court, devoid of reason, proposed for the purpose of harassment or delay or is otherwise obviously improper, an objection to the consideration of the motion may be made. By its nature the motion to object to consideration applies only to main motions.

7. Division of the Question - A motion to divide the question may be proper when the motion before the quorum court presents two or more separate and distinct ideas or when a member realizes that the motion cannot pass in its entirety, but a divisible portion of it might succeed. A motion to divide the question must state clearly how the question is to be divided.

Other motions may arise incidentally during deliberation on another motion. As an example, if the quorum court were considering an appointment as a main motion, one member might move that it be voted on by ballot. This would be incidental to the main motion and would be voted on immediately.

At another time without a main motion pending, a motion that all future appointments be voted on by ballot would not be an incidental motion but a main motion. The classification of motions may vary with the situation in which they arise. Further examples of motions that may arise incidentally are: to consider an ordinance paragraph by paragraph; to excuse a member from voting; to close nominations.

E. PRECEDENCE OF MOTIONS

Since there may be more than one motion pending (a main motion and secondary motion), motions are given rank or precedence based on the degree of their urgency. Precedence assures that each motion is attended to in its proper turn. The more important motions are arranged in the order of their precedence in this list:

1. Adjourn
2. Recess
3. Question of privilege
4. Postpone temporarily ("lay on the table")
5. Vote immediately ("previous question")
6. Limit debate
7. Postpone definitely
8. Refer to committee
9. Amend
10. Postpone indefinitely
11. The main motion

There are two important rules of precedence:

1. When a motion is pending, any motion of a higher rank may be proposed, but no motion of lower rank is in order. The motion to adjourn (No. 1) has the highest rank, and a main motion (No. 11) has the lowest. If a main motion (No. 11) is pending, any motion of a higher rank (No. 10 to 1) can be proposed. If No. 8 is pending, No. 7 to 1 can all be proposed, but No. 9 or No. 10 cannot.

2. Motions are considered and voted upon in reverse order to the order of their proposal, the last one proposed being considered and disposed of first. For example, if motions No. 11, 10, 7, and 2 were proposed in that order, they would be considered and voted upon in the following order: No. 2, 7, 10, and 11.

TABLE OF RULES GOVERNING MOTIONS

Order of precedence Amendable? Vote	Can interrupt		Requires	Debatable?	
	Speaker?	a second?			
Required?					
I. Privileged Motions					
1.	Adjourn	no	yes	no	majority
2.	Recess	no	yes	no	majority
3.	Question of privilege	yes	no	no	no vote
II. Subsidiary Motions					
4.	Postpone Temporarily	no	yes	no	majority
5.	Vote Immediately	no	yes	no	two-thirds
6.	Limit Debate	no	yes	no	two-thirds
7.	Postpone Definitely	no	yes	yes	majority
8.	Refer to Committee	no	yes	yes	majority
9.	Amend	no	yes	yes	majority
10.	Postpone Indefinitely	no	yes	yes	majority
III. Main Motions					
11.	General Main Motion	no	yes	yes	majority
IV. Incidental Motion					
12.	Appeal	yes	yes	yes	no tie or majority
13.	Point of Order	yes	no	no	no vote
14.	Parliamentary Inquiry	yes	no	no	no vote
15.	Withdraw a Motion	no	no	no	no vote
16.	Suspend Rules	no	yes	no	two-thirds
17.	Object to Consideration	yes	no	no	two-thirds negative
18.	Division of a Question	no	no	no	no vote
19.	Division of Assembly	yes	no	no	no vote

DEFINITIONS OF TERMS

Adjourn - To end a meeting officially.

Adopt - To approve, to put into effect.

Adopt a Report - The formal acceptance of a report. Adoption commits the assembly to everything included in the report.

Affirmative Vote - A "yes" vote to a question being considered by an assembly.

Agenda - The official list of business to be considered at a meeting.

Amend - To change, by adding, deleting, or substituting words or provisions.

Amendment to an Amendment - Also called a secondary amendment. Only one primary and one secondary amendment are permitted at a time.

Annul - To void or cancel an action previously taken.

Appeal - To request that a decision of the presiding officer be referred to the assembly for its determination.

Bill of Attainder - A legislative act that declares the guilt of the accused and metes out punishment without judicial trial. Forbidden by the constitution.

Code - A compilation of laws in force, classified according to subject matter.

Debatable - Capable of being discussed.

Division of Question - Separation of main motion into two or more independent parts each of which is capable of standing alone.

General Consent - An informal method of disposing of routine and generally favored proposals. Consent is assumed unless objection is raised. Also called unanimous consent.

Incidental Motions - Motions relating to questions that arise incidentally out of business being considered by the assembly.

Journal of Proceedings - A bound book maintained by the county clerk, in which the proceedings of the meetings of the quorum court and recorded votes are kept.

Lay on the Table - To postpone a motion until a later but as yet undetermined time.

Limit Debate - To place restrictions of the time to be devoted to debate on a question or the number of speakers or the time allotted each.

Main Motion - A motion presenting a subject to an assembly for discussion and decision. Also see substitute motion.

Ministerial Duty - An act prescribed by law, done without exercise of discretionary judgment.

New Business - Any business other than unfinished or "Old Business" which may properly be brought before an assembly.

Object to Consideration - To oppose discussion and decision on a main motion.

Order of Business - The formal program of sequence of different items or classes of business arranged in the order in which they are to be considered.

Ordinance - Law made by legislative body of a county.

Pending Question - A question, or motion, before the assembly which has not yet been voted upon.

Postpone Definitely - To defer consideration of a motion or report until a specific time.

Postpone Indefinitely - To kill a motion or report by deferring consideration of it indefinitely.

Postpone Temporarily - To defer consideration of a report or motion until the assembly chooses to take it up again.

Precedence - The right of prior proposal and consideration of one motion over another, or the order or priority of consideration.

Privileged Motions - The class of motions being the highest priority.

Question of Privilege - Request or motion affecting the comfort or convenience of the assembly or one of its members.

Reconsider - Motion to cancel the effect of a vote so that the question may be reviewed and redecided.

Referendum - Referral of an ordinance or resolution to a vote for approval or rejection by the electorate.

Refer to Committee - Motion to delegate work to a small group of members for study, decision, or action.

Resume Consideration - To take up for consideration a motion which has been postponed temporarily. The old form of the motion was "take from the table".

Special Committee - A committee appointed to accomplish a particular task and to submit a special report. It ceases to exist when its task is completed.

Special Meeting - One called for a time other than the regularly scheduled.

Standing Committee - A committee to handle all business on a certain subject which may be referred to it, and usually having a term of service corresponding to the term of office of the officer of the organization.

Substitute Motion - An amendment which puts an entire new text of the main motion in place of the pending version.

Unfinished Business - Any business deferred by a motion to postpone to a definite time, or any business which was incomplete when the previous meeting adjourned. Unfinished business has a preferred status at the following meeting.

Vote Immediately - Motion to close debate, shut off subsidiary motion, and take a vote at once.

Withdraw - Motion by a member to remove his motion from consideration by the assembly.

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Chapter Seven – County Lines Articles and FAQs

County Lines Articles:

Smooth, Effective Meetings

They don't just happen!

By: Eddie A. Jones

County Government Consultant

Most likely you've sat in dismay – maybe you've even been appalled or, depending on your position, embarrassed while a meeting tumbled off into nowhere. You know what happened: stories, side issues, chit chat and “stuff” overran the good intentions of those who were trying to accomplish something.

It may be that the Chair and/or the participants were not properly prepared for the meeting. However, the meeting may have started with a clear goal with a real agenda and with at least a majority of the participants prepared. But somehow it ended up a failure. Why? The reason is that a meeting can be led or misled from any chair in the room. Individual contributions, or the lack thereof, determine the net result produced in a public meeting – or a meeting of any kind.

During my thirty-plus years in county government work I have attended literally hundreds of quorum court meetings and I have chaired dozens of meetings in various capacities. I have seen the good, the bad and the ugly. Let's take a look at what it takes to have smooth effective meetings. We are talking in particular about quorum court meetings or other county government public meetings. But, most of what we say will be applicable to almost any kind of meeting where business is being conducted. We are going to be looking from both sides of the table. It takes not only a competent and prepared Chair – but participants that are prepared and ready to take care of business in a professional manner.

One of the most difficult tasks for an elected official is being called upon to run a public meeting, be it a County Quorum Court meeting, a Committee thereof, or some other type of county government public meeting or hearing. In Arkansas you must understand not only the Open Meetings Law (Freedom of Information Laws ACA 25-19-101, et seq), but also your own rules of order. Many people are under the misconception that Roberts Rules of Order are the mandatory rules of order in Arkansas county government – but that is not so. Every quorum court in Arkansas is authorized under ACA 14-14-801(b)(12) and ACA 14-14-904(e) to provide for their own organization and management and to determine their own rules of procedure, except as otherwise provided by law. Most counties do find that Roberts Rules of Order is a good starting point and an adequate default in the event that its own adopted rules of procedure do not address an issue. In that case it is imperative that the county actually have a copy of Roberts Rules of Order on hand to serve as a reference and guide.

According to Arkansas law, specifically ACA 14-14-904(d), the county judge is the presiding officer, or Chair, of the quorum court without a vote but with the power of veto. However, in the absence of the county judge, a quorum of the justices by majority vote shall elect one of their number to preside or chair the meeting but without the power of veto. A justice retains the right to vote on a measure even though he or she is serving as Chair. So, it behooves the county judge and each member of the quorum court to be prepared and ready to conduct a great meeting – smooth and effective.

The legalities of the Open Meetings Law and your own rules of procedure are not everything you need to know. There is a part of presiding over a meeting that is not in a law or rule. For lack of a better term it amounts to *style*. American Poet, Robert Frost defined style as “*the mind skating circles around itself as it moves forward*”. Even the most competent elected official armed with a complete knowledge of the Open Meetings Law (FOIA) and Roberts Rules or Order can find themselves on the verge of panic while trying to chair a meeting. One word of advice can aid in avoiding this public calamity – RESPECT. Let me further expand on the term “respect” by using an acrostic.

- R** – Responsibility – The Chair is Responsible for implementing the rules that have been established. Responsibility lies with the Chair to clarify roles and rules, to follow the agenda, to be fair but firm and to keep the meeting moving.
- E** – Ethics – Rightly or wrongly the Chair is always held to a higher standard than the other members of the body, and projecting the air of a higher Ethical standard is crucial to a cooperative environment.
- S** – Succinct – Often less is more and making comments and rulings in a direct and Succinct manner helps avoid the sin of sermonizing to members of the body.
- P** – Predictability Principal – Prior Proper Planning Prevents Poor Performance – A successful meeting does not just happen, but rather requires, above all, that the Chair be prepared for what is to come.
- E** – Engage – The Chair is responsible for Engaging ALL of the stakeholders in any public meeting. Leaving any of the stakeholders out of the process is a recipe for discord and disaster.
- C** – Coordinate not Control – The proper goal of the Chair is to Coordinate the rules with the competing interest, not to Control the outcome of the meeting. A controlling Chair will

invite stern and vocal opposition and impair the ability of the meeting to accomplish any of its goals.

- T** – Time – In short, starting a meeting late and wasting time during a meeting are both rude. It's rude to your colleagues, citizens and staff. The Chair has the primary responsibility to call the meeting to order on time and to make sure that the meeting moves forward in a timely manner. Don't wait on the perpetual tardy. Suggest a new motto: **5 minutes early is the new on-time.** Start every meeting promptly and people will soon realize that you mean what you say.

Following these suggestions will foster respect both for the Chair and for the body as a whole. Ralph Waldo Emerson said, "Men are respectable only as they respect."

What if you're a participant and not the Chair – in this case a quorum court member not acting as Chair? Here's how to make sure that your participation contributes to an effective meeting.

1) Focus on the issue.

Avoid stories, jokes, and unrelated topics. These waste time, distract the attendees, and sometimes mislead. Save the fun and trivia for social events when it's more appropriate and will be appreciated.

2) Take a moment to organize your thoughts before speaking.

Then express your idea simply, logically and concisely. People are more receptive to ideas they understand – plus long complex explanations bore people.

3) Use positive comments in the meeting.

Negative comments create defensive reactions or even retaliations that take people away from solutions. Negative comments also make you appear mean, uncooperative, weak, or even incompetent.

4) Test your comments.

Before speaking, ask yourself, "Does this contribute to an effective meeting?" If you sense it subtracts, keep your mouth shut.

5) Respect others.

Different views force us to think. After all, if we were all the same, they would need only one of us. So, accept what others say as being valid from their viewpoint. Work to understand why others are expressing ideas that you find disagreeable.

6) Take a rest.

If you notice that you are speaking more than anyone else in a meeting, stop and let others talk. You're either dominating the meeting with monologues or conducting a conversation with a minority of the participants. In either case, you're preventing the other attendees from participating.

These are but a few of the things you can do as a quorum court member to contribute to a productive meeting.

I want to discuss a few other things that I have not yet touched on. These tips are primarily for the Chair of the meeting. But, remember that could be a member of the Quorum Court in the absence of the County Judge.

- **Summarize** – After each agenda point, summarize the key decisions, opinions and actions. It's your job to make sure those decisions and actions are clearly understood and that they are moving in the right direction to accomplish the meeting's objectives. It is also a good idea, especially when there has been lengthy discussion on a complicated issue, for the Chair to summarize with clarity the question being voted on.
- **Don't be afraid to say you don't know** – Hopefully, you'll have done your research before the meeting starts but there's always a chance that someone will hit you with an issue you know nothing about. If this happens, remain calm. Use the old trick of repeating the question or using a phrase such as "that's a very interesting point". This gives you a few seconds to get your answer straight in your mind, reducing the possibility of stuttering or sounding unsure. If you don't know the answer, admit it. Say, "I wasn't aware of that particular issue, does anyone else here have any knowledge about it?" If nobody else speaks up, ask the questioner to see you after the meeting to give you some background. It could well be something important and even if it's not, you'll look good in front of your audience.
- **Thank your audience** – Always thank attendees once the meeting is finished. It is common courtesy and people appreciate it.

Here is something else that is very important – keeping a good and accurate record of the meeting. We call it "taking minutes". It's a boring job but someone's got to do it. Under Arkansas law the secretary of the Quorum Court is the County Clerk unless the court, through ordinance, decides to hire someone else from the staff of either the County Clerk or the County Judge [ACA 14-14-902(a)(1)(2)(3)(A)(B)(C)].

Taking minutes may not be the most glamorous job in the world but it's absolutely necessary to avoid conflict and mixed messages later on. Here's how to produce a good set of minutes.

Minutes need to be:

- Accurate. They must be a true record of what occurred. That means no drifting off during finer points of discussion.
- Clear and unambiguous. Minutes cannot be open to interpretation or discussion. Otherwise, they're pointless.

- Consistently structured. Decide on a structure (bullet points or numbers are the most common) and stick to it. Your minutes will be a lot easier to read and they will look a lot more professional.
- Brief. You should summarize discussions and decisions rather than attempt to get them down verbatim.

It's also vital that whoever takes the minutes understands the subject. A confused note taker will produce confused minutes. If something is not clear, ask for clarification from the speaker or the Chair. It could save a lot of time, confusion or disagreement later on.

The Association of Arkansas Counties has a Justice of the Peace Procedural Manual on their web site under "publications" that contains a Procedural Guide for Arkansas County Quorum Court Meetings. This guide is found in Chapter 6 of the manual and is recommended reading and study for every Quorum Court Justice and every County Judge.

I leave you with this last thought for a smooth and effective public meeting. The "attitude" and "temper" should be checked at the door. Arthur Gordon relates this personal story, "At a turbulent meeting once I lost my temper and said some harsh and sarcastic things. The proposal I was supporting was promptly defeated. My father who was there, said nothing, but that night, on my pillow I found a marked passage from Aristotle: Anybody can become angry – that is easy, but to be angry with the right person and to the right degree and at the right time and for the right purpose, and in the right way – that is not within everybody's power and is not easy."

Debate – The Lost Art!
By: Eddie A. Jones
County Government Consultant

Many types of debate exist – parliamentary debate, Oxford-style debate, public debate, policy debate, classic debate and the list continues. And there is a different set of ground rules for every style of debate. For this article, as it relates to good county government, I want you to think of debate in its general context – which is a method of interactive and representational argument. And, I don't use the term "argument" in a negative way but in the manner of properly and professionally discussing the various sides of an issue. Oh, by the way, there are always multiple sides to an issue and there is nearly always more than one way to solve a problem. When I have learned it has been from those who have disagreed with me. You never learn from those who always agree with you.

How many times have you seen this scenario? A citizen approaches a county justice or a county judge and asks what future action the county quorum court is going to take on a particular issue. When the elected official expressed his or her position on the issue, a position that was contrary to the citizen's, the citizen walked away. Many probably think that is the way it should work – the official's way is "the way" come what may. But, is that the way we really want it? This scenario simply reminds me that far too often many of us would prefer to only hear answers that align with or affirm our own thoughts and positions, rather than engage in a thoughtful discussion about the issue in order to understand and consider opposing views. It also reminds me of the Aesop quote, "He that always gives way to others will end in having no principles of his own."

Today's fast-paced culture helps promote a less-engaged citizenry – or at best, engaged citizenry without full knowledge of the facts. E-mail, Twitter, Facebook and news channels with constant scrolling tickers at the bottom of every television screen allow us to scan and receive information quickly, but not with in-depth knowledge about the subject matter. The truth of the matter is our fickle brains favor this simplicity by arranging information into categories to save us thinking time.....just another result of our fast-paced life style. These shortcuts that we use to make sense of the world shape our perception of it. When it comes to understanding issues, this can lead citizens, as well as elected officials, to reach conclusions about issues even when they have not been exposed to the "facts".

Here's an example: A recent sampling of the public in one area of the state showed strong opposition to studying the consolidation of 911 dispatch. This sampling of public sentiment indicated a service citizens clearly value. But it also points out that an opinion was formed prior to any in-depth dialogue about the study, which could provide an opportunity to consider options in how the service is provided.

Many issues are not fully understood by citizens or there is no immediate concern. For instance, a decision to build a law enforcement center complex and jail may elicit more citizen response, positive or negative, because it is immediate and may appear to be a simple, straightforward decision. In contrast, discussion of a long-range strategic plan that provides guidance to the county officials may appear to be too complex or too far off in the future to be of interest to the public. The lack of interest does not diminish the need for a county long-range strategic plan – but serves as an admonition to county leaders to develop a way to garner the interest and input of the citizenry. The French moralist and essayist, Joseph Joubert said, "It is better to debate a question without settling it than to settle a question without debating it."

The most interesting and influential thinker of the fifth century was Socrates, the classical Greek Athenian philosopher. He sought genuine knowledge by asking questions of his fellow citizens. He knew that these questions were hard to answer, and he thought it would be better to have people discuss the answers together, so that they might come up with more ideas. If I have learned anything in life, it is – that to ignore the facts does not change the facts. And the fact is, some people outside the county courthouse have good ideas and they need to be incorporated into the discussion when making decisions that affect all your citizens.

Deep and profound debate, as was the case in the time of Socrates, may be hard to achieve in today's world, but county government officials need to continue to encourage proper citizen participation. One of the benefits of citizen participation is an increased understanding of problems and possible solutions leading to better decisions being made. In addition, citizens need to communicate with their elected representatives with an open mind. When we are open, we give people room to release their fixed positions and consider alternatives. Remember, "There is no conversation more boring than the one where everybody agrees."

Public Speaking is a Necessity for County Officials!

By: Eddie A. Jones

County Government Consultant

Speech is power; speech is to persuade; to convert, to compel – so said Ralph Waldo Emerson many years ago.

Public speaking is looked upon with dreadful fear by the vast majority – even those who really need to use the medium. It's the last thing on earth that many want to do.

During my years of maturing in public office when I was faced with that fear I liked to tell myself: "I don't feel like it, I don't want to – but I'm going to do it anyway." There is something about recognizing our lack of motivation and then choosing to be responsible that helps us follow through. We have an important county message to share – both to the public and in testimony before legislative committees!

For the past 45 years the Association of Arkansas Counties has served as the statewide official voice for Arkansas county government. But, you – the county elected officials are the voice for county government in your county and many times during legislative sessions. That's why it is so important for county officials to take every opportunity given or even make your own opportunity to spread the "county message".

We need more county officials willing to go to the podium and "proclaim the message". County government has a great cause and a great message to tell. And when people understand what county government does and how it relates to them they are more willing to help.

Many times elected officials find themselves wanting to take the back seat and let someone else drive because of fear of taking the political risk of getting behind the wheel and taking the lead. If you find yourself thinking that way try to keep in mind the words of William Penn, an early champion of democracy and religious freedom. Mr. Penn said, "Right is right, even if everyone is against it, and wrong is wrong, even if everyone is for it." There is always a tactful approach even for the most controversial issues. As a county leader – you need to step forward.

Many of you probably feel that you are not capable of conveying your thoughts in a manner that would achieve the results you desire. The fact is, you will improve with practice – but you have to start first. Someone once made the profound statement, "It's not what you say but how you say it". And there's a lot of truth to it. Until you get better at the "what" at least be good at the "how". Be passionate about county government.

Of course, we should be good at the "what", too. I believe in the importance of researching the subject and then clearly and precisely making the point when the opportunity presents itself. Being a county official affords you the privilege to speak at many programs and functions – and even before legislative committees. Each opportunity to speak gives you the chance to get better at the art of public speaking.

I have had many opportunities to hone my speaking skills. Although I studied speech and public speaking in school; completed communication skills classes; spent 30 years in broadcasting interacting with a radio audience; and have given dozens of speeches during my 32 years in county government - I am rarely satisfied with my presentation. "There are always three speeches for every one you actually gave. The one you practiced, the one you gave, and the one you wish you gave." I want to learn how to better present county government. I want to be clear and concise. How about you?

You are strong and confident in other areas of your life, and you can be strong and confident as a speaker, too. You can develop skills and even learn to have fun giving engaging presentations on county government that inform, motivate and yes - even entertain.

Inspirational author Barry Neil Kaufman once wrote, "A loud voice cannot compete with a clear voice." Our success in county government does not depend on what we say or how often we say it, but rather on what our people and our legislators hear. Public speaking is vital for county officials.

Being an Effective Public Speaker

No doubt your ability to communicate more effectively will be enhanced if you know how to gather and organize information for your speech; if you learn the proper structure of a presentation; how to improve your vocal variety; how to gesture more effectively; proper body movement, facial expressions, eye contact and walking patterns; how to handle questions; and maybe as important as anything – overcoming speaker anxiety. That's quite a list – and yes, there is a lot to learn to be a good and effective public speaker. But, you have to start if you ever want to arrive.

It is a common misconception that certain people are born good speakers. Yes, some people have a gift of gab and seem natural at it. But make no mistake: Becoming a confident public speaker is achieved only by the desire to become a better speaker, followed by focused effort and a lot of practice.

Professional speakers NEVER stop practicing and honing their speaking skills. If you are like most people, you did not have a great first-time public speaking experience, and the thought of speaking in front of people scares you to death. Well, according to the Book of Lists, public speaking is the greatest of all fears – number 1 on the list! The fear of dying is number seven on the list. So, apparently most people would rather die than get up in front of a group of people to speak.

If you feel this way, you're not alone. Many professional speakers and famous presenters will freely admit to nervousness and stage fright. In fact, you need just a bit of "nervousness" to be your best – to keep you sharp and on your toes. But you have to be in control – not your nerves. Learning specific techniques to improve your public speaking can help eradicate your fear and help you succeed.

Here are some proven tips on how to control your butterflies and give better presentations:

1. **Know your material.** Know more about your subject than you include in your speech or presentation – over prepare. You may need the additional information if you open up for questions and answers. Not only should you know your material – but convey the material in an interesting way so that people retain some of what you said. Three ways to do that is use conversational language (it flows better), use humor and personal stories. Well executed humor and stories hold the power to deliver messages in an entertaining fashion and can jolt us into seeing things from a broader perspective. It can even enliven dull topics, diffuse tense situations and help the speaker connect with the audience. Once you get people laughing they're listening and you can sell your message. Just make sure your humor and stories are appropriate.
2. **Practice!** There is no magic formula for becoming a polished public speaker. Those of you who play a musical instrument know you do not become proficient without practice. I used to roll my eyes when my mom told me to practice the piano for an hour after school before I did anything else. I later came to appreciate her instruction and the time spent in practice. To learn to play the piano, you have to play the piano. To learn to speak, you have to speak. You know the old cliché "How do you get to Carnegie Hall? – Practice, practice, practice." Public speaking demands the same level of practice. And yes, you rehearse out loud. That way you hear yourself and it is easy to detect what needs to be changed.
3. **Know your audience.** Greet some of the audience members as they arrive. It is easier to speak to a group of friends than to strangers – or at least to people to whom you have made some kind of connection.
4. **Know the room.** Arrive early, walk around the speaking area and practice using the microphone and any visual aids you may be using in the presentation. [Now you know why you can greet the audience as they arrive – because you're already there checking things out.....trying to minimize any mishaps.]
5. **Relax.** Easier said than done – but RELAX! The four things I have already mentioned should help you relax. But there are additional relaxation techniques such as slow deep breathing; possibly a brisk walk to loosen up your entire body and get your blood flowing; positive self-talk; and there are many others. The very best thing in my opinion is BE PREPARED. Preparation is key to any good speech.
6. **Realize that people want you to succeed.** Audiences don't want to be bored to death. They want you to be interesting, stimulating, informative and entertaining. They're rooting for you.
7. **Don't apologize for being nervous.** Most of the time your nervousness will not show. If you don't refer to it, most won't notice. "There are only two types of speakers in the world anyway – the nervous and liars."
8. **Concentrate on your message – not the medium.** Your nervous feelings dissipate when you focus your attention away from your anxieties and concentrate on your message and your audience, not yourself.
9. **End with a memorable conclusion.** The conclusion is the final component of your speech or presentation. A speech is structured with an introduction, the body, and the conclusion. The conclusion needs to serve as a review of your message. Those listening tend to remember the last words they hear you say, so it's vital that your key message is restated in your conclusion. As you put the finishing touches on your speech, make sure your presentation comes full circle by relating your conclusion back to your introduction – tie it together. And close with a quote or a story leaving the audience with a visual image of your message. Although your conclusion is short, its significance is important. This is your last chance to drive your message home and leave a lasting impression.

Big Public Speaking Mistakes

Why is it that intelligent people end up boring their audiences? They fail to recognize that public speaking is an acquired skill that improves with practice and honest feedback. Let me share with you some of the biggest public speaking mistakes.

- **Starting with a whimper.** Do not start with a whimper – a start like the "dead-fish handshake". Start with a bang! Give the audience a startling statistic, an interesting quote, a news headline, a funny story – something powerful that will get their attention immediately.
- **Attempting to imitate other speakers.** Be yourself – although in an enthusiastic way. Authenticity is lost when you are not yourself.

- **Failing to “work” the room.** If you don’t take time to mingle before the presentation, you lose an opportunity to enhance your credibility with your listeners.
- **Failing to use relaxation techniques.** If you’re nervous and tense do whatever it takes – listening to music, breathing deeply, shrugging your shoulders – to relieve and release nervous tension.
- **Speaking without passion.** The more passionate you are about your topic, the more likely your audience will act on your suggestions.
- **Ending a speech with questions and answers.** It is fine and many times appropriate to have a segment of questions and answers – but, as the speaker, always have the last word. After the Q and A, tell a story that ties in with your main theme, or summarize your key points. Conclude with a quote or call to action.
- **Failing to prepare.** If you don’t leave a good impression you have hurt your credibility and failed. So over prepare and rehearse well enough to ensure you’ll leave a good impression! “If you don’t know what you want to achieve in your presentation your audience never will.” [Harvey Diamond]

Testifying in a Legislative Committee or Speaking One-on-One to Legislators

Much of what I have said already concerning Public Speaking is apropos and can be used, with some obvious modification, in testifying before a legislative committee.

The first thing to remember is that “you are the expert”. If you’re testifying before a legislative committee on a county government bill – you will probably know more about the subject than anyone sitting on the committee. That should reduce the “fear factor” – but don’t let it make you over confident.

Here are a few things to remember when testifying before a committee at the Capitol:

- Don’t speak until recognized by the chair. Once recognized introduce yourself, your office and your county. This is required and will become a part of the committee record.
- Be over prepared on the subject matter. Chance favors the prepared mind – so be prepared.
- Don’t talk the bill to death. Adequately cover the merits of your bill – or the demerits if you’re speaking against a bill. Remember to include a brief introduction, the body or main points pro or con, and a “zinger” but short conclusion – something for them to remember you by.....but don’t take too much time.
- Committee members will many times have questions concerning the bill. Answer all questions fully and truthfully.
- In making your presentation before a committee only speak about the bill itself. Stay away from public policy debates. It is the legislature’s prerogative to set and establish state policy.
- Don’t argue with members or become publicly angry if they toss a few spears your way. Just catch them and go on. That works much more to your advantage. Continue to press your points in a positive manner.
- Gauge the pulse of the committee before testifying. Get to the committee room early. Talk to as many of the committee members as possible. They should know who you are and your mission before you ever sit down to testify.
- Be courteous. Yes, always be courteous – even when you are not treated with the same courtesy.
- When you’re finished be sure to thank the Chair and members of the committee for the opportunity to testify.

Earlier I quoted Ralph Waldo Emerson – “Speech is power; speech is to persuade; to convert, to compel.” And that is exactly what you want and need to do as county elected officials when you’re making a speech; testifying before committee; or simply talking to your constituents or to legislators individually. Use you power to persuade, convert and compel them to understand county issues and to adopt them as priorities.

How do you do that? You know your stuff – and it takes time and study to get there. Remember – (1) Know your material; (2) Practice; (3) Know your audience; (4) Relax; (5) Concentrate on your message; and (6) End with a bang! Always end with a memorable conclusion!

In 1961 Oklahoma’s powerful Senator Bob Kerr asked President Kennedy if he could have a few minutes of his time. Kerr was upset that JFK was going to veto the recently passed bill to bar the importation of zinc. Kerr was strongly supported by zinc manufacturers in western Oklahoma. Kennedy received him at the Oval Office with aide Mike Feldman and Ted Sorensen and said, “Bob, I’m sorry but it’s a bad bill.”

Mr. President, could I speak to you privately? There are a few things you may not understand about the legislation.”

“Sure, Bob, but it’s not going to change my mind. I’ve been briefed pretty thoroughly by Ted and Mike.”

When Sorensen and Feldman left the room, Kerr drawled, “Mr. President, you are my leader and I will abide by your decision.”

“Bob, I appreciate that.”

“But, Mr. President, my people were pretty mad when Ike vetoed that same bill, and I’ll have to go back to Oklahoma and spend full-time defending your action.”

Again the President said, “I really appreciate that.”

“But, Mr. President, you understand that means if I’m away in Oklahoma, your tax bill, which lies in the Finance Committee which I chair, will never come to the floor.”

“Well, Bob – this is the first time anyone ever really explained the zinc bill to me – I’ll sign it.”

Like Bob Kerr, I think it is time for county officials to “really explain” the facts – proclaim the county message. You do that through confident speaking. And you become confident by doing it over and over – practice, practice, and practice some more. You persevere and become that dazzling diamond. And we all know that a diamond is simply a piece of coal that stuck to the job! It became something it did not start out to be – and you can, too. You can be a confident speaker! “Aspire to inspire before you expire!”

Leadership - The Learned Art

A shared point of view –

By: Eddie A. Jones

County Government Consultant

I have heard so many county officials say, “I’m not a politician and I’m not a leader.” Whether you realized it or not – when you took on the mantle of county constitutional officer you shouldered the responsibility of leadership! That’s right, leadership for a certain segment of county government and because of your elected status – leadership as a community leader. Dwight D. Eisenhower, President of the United States when I was a kid in the 50’s, said, “Leadership is the art of getting someone else to do something you want done because he wants to do it”. Leadership is a “learned art”. Leadership is mostly the art of doing simple things very well, including the ability to generate the desire in other people to do their best because of your leadership style.

1. County Constitutional Officers are the elected leaders of their counties.

As elected leaders, you are first and foremost expected to lead. After being elected, one quickly learns that leadership in the public sector is different than leadership in the private sector. Leadership in the public sector is truly a team effort. Getting elected to office is one thing – being an effective public sector leader is another.

It is imperative to lead with courage! That means speaking of the “unmentionables” – even taxes or cut backs; making the hard decisions that are known to be politically charged; and speaking the truth about everything.

Followers want leaders who will make the tough decisions and not procrastinate by studying everything to death. They want leaders of principle who take risks to stand for what is right. And they want a climate where truth is not an aberration but is the norm and is not only encouraged but expected. They want leaders who will appreciate such honesty, even about themselves.

2. Modern day government is complex, demanding, and changing.

Modern day county government is big business. Serving in public office is very challenging. The needs and demands for services are growing and the resources available are very limited. The laws, rules and regulations are complex and changing. The jobs of County Judge, Sheriff, County Clerk, Circuit Clerk, Treasurer, Assessor, Collector, and Coroner can be complex, demanding, changing, time consuming and often times frustrating. I believe county officials need all the help they can get.

To support and assist county officials in their complex role as leaders, over the years more and more counties have created the positions of Administrative Assistant, or Chief Deputy. One of the main functions of these positions is to help counties function more effectively.

An elected county official should be very deliberate in choosing the “second in command” for their office. Choosing a person with education in public administration and / or years of practical experience in management roles in both the public and private sector will be a great asset to the county.

It is extremely important to be able to trust your “next in command” and all those on your work force. In fact, if you cannot trust the people who work for you – you don’t need them. However, if you trust people, they usually prove you’re right. Breaking out of our natural distrust of people to trust the people who work for us will prove to be a useful and progressive change. It will let us unleash people with talent and let them rise to levels that no one had expected, simply by challenging them.

3. Leadership starts with a positive attitude.

Leaders deal with possibilities and hope. The first essential of leadership is to have the desire to lead and make a positive impact. A leader needs self-confidence that he or she can make a positive difference. A leader must have integrity. Like professionals who excel in other fields, I believe leaders need to study leadership to improve their overall effectiveness.

No one is born a leader. Leadership is a learned skill. Learning leadership is easier for some than for others. To quote the scripture of St. Matthew, “If the blind lead the blind, both shall fall into the ditch”. Take the time to learn through reading, through application, through leadership classes and through continuing education offered for your office in county government. Learning helps produce the confidence that every leader needs.

Most of us carry around a satchel full of childhood insecurities. You, as the leader carry that satchel of insecurities and so do those that work for you. How do you want to be treated? I think I know the answer. So, instead of tearing them down to make them into robots – show them that you trust and believe in them. Show me a leader who ignores the power of praise, and I’ll show you a lousy leader. Praise is infinitely more productive than punishment. Ovid, the Roman poet said, “A ruler [leader] should be slow to punish and swift to reward.”

Recall how you feel when your own boss (the electorate) tells you, “Good job.” Do your people and yourself a favor. Say it in person. Press the flesh. When your employees do a good job – tell them. Be an encourager. It is not only good for them, it’s good for you, too. Little things make big successes! Bill Bradley, a professional basketball player when I was in high school and later a U.S. Senator, said, “Leadership is unlocking people’s potential to become better.”

4. Leadership simplified.

It’s been said that most organizations are overly managed and under led. Leadership in the simplest form is moving the organization, county, or department forward from Point A to Point B. Point A being the current situation – i.e. facing reality. Where are we today? What’s working well? What’s not working well? What are we not doing we should be doing? What are we currently doing we should not be doing? What are our strengths, weaknesses, opportunities, and threats? Point B being where do we want to go? What is our mission and what are our goals?

Leadership in counties can also be looked at by referencing different levels of leadership:

- Level 4 is looking at the “big picture”: the county’s vision, goals and values, and overall culture.
- Level 3 is developing overall strategy and allocating resources to achieve the goals.
- Level 2 is the overall management of the workforce and day-to-day activities.
- Level 1 is the daily actions of the county’s employees.

Counties need leadership, energy and commitment at all levels. The best leaders take complexity and bring simplicity to it. Let’s call it focus or prioritization, but it is a quality that county leaders need to have.

5. Running a county is a team effort.

All effective teams have three elements in common. Let’s call them the ABC’s of an effective team.

- A. They have clearly defined goals.
- B. They have clarified roles, responsibilities, and expectations.
- C. They have positive working relationships.

Getting results in a well-run organization consists of three steps. Step 1 is defining the goals to be achieved. Step 2 is developing action plans to achieve the goals. And, Step 3 is implementing the plans.

Who gets all this done – the leader or the team? It takes the leader and the others – which make the team. Credit should not normally go to one person. Jealousy and envy are powerful emotions and, if acted upon, can cause serious problems. Leaders must always watch out for them. A jealous leader may behave in ways that inhibit and paralyze his or her subordinates, who eventually turn off, tune out and shut down. The antidote lies in making the people who work for you know they are needed and highly valued. Help them believe in that wonderful old truism, “A rising tide lifts all boats.” A county’s success is a collective achievement.

6. Improving the effectiveness of the county team.

We are all a work in progress. Improving the effectiveness of county government requires a team effort. The County Judge (the Chief Executive of the county), the other county constitutional officers (the rest of the Executive team), and the Quorum Court (the legislative arm of county government and guardian of the public purse) need to do a better job of clarifying goals and roles, and working together as a team.

The Quorum Courts need to spend more time on major issues and less time on minor issues. More time being visionary and looking at the big picture developing consensus on goals and collaborating with other units of government, and less time micromanaging.

County Constitutional Officers, Chief Deputies, and Department Heads all need to continually work on broadening leadership knowledge and improving leadership skills and focusing on carrying out policy and delivering service as determined by the state and county legislative bodies.

7. Leaders have certain competencies.

The very best leaders possess two competencies: **a resolute and unflinching focus on the purpose of the organization [county] coupled with a deep sense of humility** – according to Jim Collins in his widely acclaimed book *Good to Great*. That’s all. The leadership competency that is valued above all others is that of discipline – self-discipline and organizational discipline to understand and to keep focused on the purpose of county government in general and your office in particular and to resolutely eschew arrogance in favor of humility. Arrogant self-promotion in a leader will always be a stumbling block for results.

Although I have talked much about the “team effort” and the “county team” – there are a couple of things that the leader needs to focus on being competent at that no one else can do. One is to **grow the next generation of leaders** for county government. Putting people in challenging and different work situations and coaching them is something only a leader can do. Be a mentor, be a teacher, and above all things be an example.

The leader should also **shape the culture of the office**. The basic assumptions of how things work here, what is important, what is valued, what differences there are between the values espoused and actually lived out by the leader – these are all elements of organization culture. It is the leader’s job to understand what the workplace culture is, how to change it if necessary, and then use that culture toward excellent performance for the service of others. The workplace culture either makes or breaks the organization. A good culture provides the impetus for employees to give their all and do their best.

8. Skills and attributes of the leader.

A long list of skills and attributes of the real leader could be developed. Any list would probably include things like: consensus builder; team builder and mentor; change agent; facilitator; bearer of ethical standards; and champion of new technologies. I must mention something that many would leave off the list – but that I believe to be of utmost importance.

General Bill Creech who revolutionized the Air Force approach to quality expressed his view of how to lead people by one simple maxim: ***let your people know that you care about them, that you love them.*** With it, you have great latitude for forgiveness; without it, nothing else is important in leading people. Take interest in your workers as real people – not just employees. The point is have the self-discipline to express sincere care about others. Be the kind of leader that people would follow voluntarily; even if you had no title or position.

As you answer the challenges of leadership in your county and as you continue to develop yourself as a leader, remember the words of John Maxwell, “A leader is one who knows the way, goes the way, and shows the way.” This type of leader produces other leaders by leaving behind other men and women with the conviction and will to carry on. Best of success with your journey toward improved leadership and county effectiveness.

That’s my point of view!

Fraud and Ethical Lapses – There’s No Place for It

By: Eddie A. Jones

County Government Consultant

Working for the People is a Public Trust

Government fraud, in essence, refers to illegal acts that intentionally divest the government of funds through deception or scams. When the government gets swindled, taxpayers pay the price.

In my opinion, government fraud is a serious crime and should be pursued to the fullest extent of the law. In many government fraud cases, both criminal and civil charges are brought against the defendant. As Thomas Jefferson said, “When man assumes a public trust he should consider himself a public property.”

In the past couple of years ethics violations, criminal investigations and criminal charges have become more common in Arkansas government – both at the state and local levels. This should not be! As elected officials and employees of government you are keepers of the public trust – a public trust created by a strict code of conduct that is a part of law.

Since I have a county government background, most of what I say in this article is directed toward county officials and employees – but, in many cases would be applicable to other levels of government.

Arkansas Code Annotated 14-14-1202 establishes in law “ethics for county government officers and employees.” The initial sentence of that law simply says, “The holding of public office or employment is a public trust created by the confidence which the electorate reposes in the integrity of officers and employees of county government.” So, not only are county officials bound by an ethics code – but employees are, too.

This law goes on to set forth the “Rules of Conduct” and establishes the procedure for removal from office or employment. In my opinion, the breach of this “public trust” by an elected official should cause an immediate rendering of a resignation.

There is no place in government, at any level, for anything but the highest ethical standards, a strong work ethic, and a heart for service.

Fraud Increases during an Economic Downturn

One of the most recent reports released by the Association of Certified Fraud Examiners (ACFE) estimated that U.S. organizations lose 5% of their annual revenues to fraud. Workplace fraud schemes occur across all types of organizations including corporations, small businesses, not-for-profit organizations and government.

I do not believe internal fraud or employee theft is widespread in Arkansas county government – because I believe that for the most part county elected officials and county employees are people of integrity. However, sadly it is not uncommon anymore to read the morning paper or hear a news report concerning an elected official or employee who has been charged with some type of fraud crime.

As a county constitutional officer, the last thing you want to have happen under your watch is theft of county funds. Some think, “It would not happen in our community.” Unfortunately, *it* happens. And, when it does occur, it can be traumatic for the community where it occurs. Therefore, to be proactive and prevent theft and fraud, it is important to have sound internal controls in place.

In an economic downturn, studies show that there is an increase in fraud. County officials play an important role in ensuring that proper internal control policies and procedures are developed and consistently implemented to protect tax dollars. You want to implement procedures that reduce the risk of theft and increase the chance of early detection. A county official that has no desire or sees no need in implementing proper internal control policies will bear watching.

It is bad enough when an employee commits fraud – but when an elected official commits fraud it is the epitome of hypocrisy. A person who runs for office has actually asked the public to vote for them – to put their trust in them. You have

both a moral and legal obligation to serve with integrity. Your constituents deserve officials they can trust and depend on to always do the right thing.

Types of Theft and What to Watch For

The most commonly reported offenses in the government and public administration sector, according to ACFE, were billing schemes, skimming, theft of non-cash assets, theft of cash on hand, procurement fraud, payroll fraud and expense reimbursement fraud. Sound familiar?

- In billing schemes, the person causes the government to issue a payment by submitting invoices for fictitious goods or services, inflated invoices, or invoices for personal purchases. An example would include “phantom vendors” – where a person creates a shell company and bills the employer for nonexistent services.
- “Skimming” involves taking cash before it is recorded on the books and records. An example would be an official or employee accepting payment from a customer but not recording the payment and keeping the cash.
- “Theft of cash on hand” cases refer to taking cash kept at the government office.
- “Theft of non-cash assets” include the taking or use of county property for personal use. This would include taking office supplies, janitorial supplies, equipment, postage, and the list goes on. If it is county property it is not the property of an official or employee for personal use or personal gain.
- An example of “procurement fraud” is a company using bribes to win a contract even when it did not make the lowest or best bid. Or it could include billing the county for incomplete work, inflating the cost of labor or supplies, and issuing kickbacks. [These schemes can get rather elaborate and do not seem to be as prevalent as they were in years past.]
- “Payroll fraud” includes claims of overtime or comp time for hours not actually worked, or the addition of “ghost employees” to the payroll. Payroll fraud can get very complicated and creative. There are counties that can vouch for the creativeness of payroll fraud.
- Expense reimbursement cases include filing false expense reports, claiming nonexistent meals, mileage, etc.

Theft and fraud may take several forms. It may be as simple as an official or employee writing a check to himself/herself, but recording in the county records that the check was written to a vendor. It may involve a failure to deposit all county funds into county accounts. It may involve submitting personal expenses as employee expenses, or altering invoices presented to the county for payment. The most common fraud for small organizations involves check tampering. This occurs when only one individual has access to the checkbook and also the responsibility for recording payments and/or reconciling the bank statements. Small office operations, where a limited staff can make it difficult to segregate duties, can be particularly susceptible to this type of fraud.

You may think these types of things don’t really happen – but they do! Sometimes they happen because – frankly some people are not honest. Others are in dire straits financially and they think they’ll just “borrow” a little for a while. Of course, even these normally trustworthy people have a lapse in “honesty” or they would not steal. As George Knight said, “Dishonesty is never impulsive.”

It has been said many times that we almost force our local and state officials to be dishonest because we pay them so little for what we expect from them. While this may be true anecdotally and low pay in many areas should be addressed – this situation should never be the reason for doing wrong.

How Fraud Happens

An ACFE study confirmed that in fraud, the more authority a person has, the greater the loss. This makes sense because a person with more authority has greater access to resources and the greater ability to override controls in order to conceal the fraud.

The study also found a direct correlation between the length of time an employee has been employed and the size of the loss. An employee’s tenure is likely related both to trust and to opportunity. The more trust placed in an employee, the greater the person’s opportunity to commit fraud. Long-term employees may also be the most familiar with gaps in the office operations and controls, which may help them avoid detection more easily.

Of course, every organization wants to have some long-time, trusted employees – but when the public trust is at stake everyone must be accountable.

Procedures to Reduce the Risk of Theft

To reduce the risk of theft, every county should implement basic safeguards. *An environment of accountability should be created.*

Segregation of Duties. Simply put, no official or employee should be in a position to commit an irregularity and then conceal it. To help prevent that from happening, responsibilities in financial transactions should be divided amongst more than one person, or segregated. An example of segregation of duties taken from everyday life is a movie theater, where one person sells tickets and another person collects the tickets. This separation of duties helps prevent the person selling the tickets [the one handling the money] from: (1) collecting the price of the ticket, but allowing entry without a ticket – allowing the ticket seller to pocket the ticket payment without being detected; or (2) allowing entrance without the purchase of a ticket.

Examples of incompatible duties that should be performed by separate individuals are:

- Receipting collections, posting collections and making bank deposits;
- Signing checks and reconciling the bank accounts.

Even with personnel cuts, financial duties should remain segregated. Counties may need to be creative and segregate duties by involving employees who have not previously played a role in financial transactions. For those offices with only two employees – the official and one employee – regularly switch office duties and look over each other’s work. With offices with only one person – well, just remember you have been entrusted to do what is right. Don’t mess it up!

Internal Control Procedures. Many internal control procedures are common-sense methods used to track county funds. Here are a few procedures that may help prevent thefts or allow earlier detection of thefts:

- Have checks written to the county;
- Endorse checks for deposit as they are received;
- Make daily deposits;
- Reconcile receipts with deposits;
- Contact your bank or banks to: prohibit cash withdrawals and check cashing from the county account, and be sure authorized signatures are up-to-date;
- Do not pre-sign any checks;
- Reconcile bank statements regularly. With on-line banking you can do it daily in a matter of minutes; and
- Require detailed original receipts for the reimbursement of employee expenses.

And remember, under Arkansas law, financial institutions must provide government entities either the cancelled checks or optical images of both the front and back of the checks. By comparing the cancelled checks with your financial records, discrepancies may be detected.

Internal control procedures help reduce the opportunity for fraud to be committed.

Red Flags in Detecting Theft and Fraud

Theft can result from poor segregation of duties. Possible indicators of theft, or “red flags”, include instances when an employee:

- Takes records home;
- Takes on duties that should be segregated;
- Works hours when others are absent;
- Refuses to take vacations or time off.

Theft can also result from noncompliance with internal control procedures. Some red flags to watch out for:

- Submitting copies, rather than original invoices for payment, may indicate that an altered document is being submitted;
- Deposits are late;
- Receipts are not reconciling with deposits;
- Checks are written out of sequence.

Most fraudsters in government are first time offenders with clean employment histories. The vast majority of fraudsters in county government had never before been charged or convicted of a fraud-related offense and had never been punished or terminated by an employer for fraud-related conduct. It is noteworthy that most who are charged with some type of theft or fraud displayed one or more behavioral red flags that are often associated with fraudulent conduct. The most commonly observed behavioral warning signs are these:

- Living beyond means;
- Financial difficulties;
- Unusually close association with vendors or customers; and
- Excessive control issues.

Situations involving cash transactions present special risks and require extra diligence. Even small offices or departments must implement basic safeguards to reduce theft.

Exposing Fraud

Frauds are generally ongoing crimes that can continue for months or even years before they are detected. According to the report issued by the ACFE frauds reported lasted a median of 18 months before being detected. Some of you may remember an incident in Arkansas county government that happened a number of years ago. A county official took a large amount of money on a year-end transaction for ten years in a row before being detected by the Division of Legislative Audit. An audit procedure was put in place after that which keeps that type of fraud from going undetected.

The most common method of detecting fraud is by a tip or complaint – when another person becomes suspicious of fraudulent activity and notifies someone. Frauds are also detected by internal and external audit, internal controls, and even by accident. While external audits, such as the ones Arkansas counties are subject to by the Division of Legislative Audit, serve an important purpose and can have a strong preventive effect on potential fraud, their usefulness as a means of uncovering fraud is somewhat limited. In other words, don’t rely on the audit as your primary fraud detection method. Among the most effective internal controls a workplace can employ are job rotation and mandatory vacation.

The study and report also showed that over half of the tips were from fellow employees. This reinforces the need for county government to maintain open channels of communication so employees are comfortable bringing forward their concerns. I do understand, however, that when the fraud is being perpetrated by the county official the willingness of the employee to come forward is somewhat dampened – but it is still the right thing to do.

Fraud is preventable and can be stopped through strong internal controls and internal and external audits. Fostering an atmosphere of open communication with county staff can also be a strong measure to prevent and detect fraud. I have always heard “honesty pays” – but, according to Kin Hubbard, “it doesn’t pay enough to suit some people.” And because of that it behooves us all in government to spend the extra time and make the special effort to guard the public treasury in order to preserve the public trust.

A Special Note to County Officials

I served as an elected county official for many years, so I understand the gargantuan responsibility – the load you must bear. Many times without proper compensation for the job and too many times without a sufficient appropriation to properly carry out the functions of your office. But you have sworn to carry out the duties of your office and to uphold the laws of this country, this state and your county. To do that you must know what the laws are.

The laws governing Arkansas county government are expansive and to know the law it takes relentless study. Learning the law and applying the law are two different things. Learning the law is attained knowledge – but it takes wisdom to apply it correctly and efficiently and impartially. It takes effort, but seek wisdom – search for it. Wisdom is simply the proper application of knowledge. Knowing the law that governs you and the laws that you are to administer in the operation of your office will keep you from making ethical missteps and be a reminder of the public trust reposed in you. As Davis Starr Jordan, founding president of Stanford University said, “Wisdom is knowing what to do next; virtue is doing it.”

Serving as an elected county official is a sacred responsibility and your personal and professional integrity should be paramount. Even if you don’t get caught doing wrong – you have still done wrong and broken the trust the people have placed in you. And, as the old saying goes, “Men are not punished for their sins, but by them.” No truer words have ever been spoken than the words of Martin Luther King, Jr. when he said, “The time is always right to do what is right.”

“Every job is a self-portrait of the person who does it. Autograph your work with excellence.”

FAQ Positions and Topics

This section presents the FAQs (Frequently asked questions) in general and specifically for each elected position. Please refer to the Association of Arkansas Counties website for the complete answers to the questions presented.

(<http://www.arcounties.org/faq/general-faqs>)

General FAQs:

Do county elected officials and county employees receive retirement credit for a bonus or lump sum payment?

Who in county government is responsible for maintaining custody of the titles to county owned vehicles and equipment?

Is county government exempt from paying sales taxes?

Is a county liable for paying the normal fees to a county employee for serving as a juror or a prospective juror? If so, is the county allowed to deduct those fees from the regular salary of the county employee? Does the county have to bear all of the cost?

May a retiring county official or employee keep county health care insurance coverage upon and during retirement? Can they keep dependent coverage and is it mandatory for the county to allow retirees continued health care insurance coverage?

County Judge FAQs:

Why do counties of Arkansas pay workers compensation premiums for volunteer firefighters since they are not employees of the county?

Is it correct that a county can only appropriate 90% of the anticipated revenues of the county each year and, if so, why? What happens to the 10% of the revenue that is not appropriated?

Can 911 revenues be used for anything other than equipment and salaries?

On what property can a county levy taxes? Is there a maximum amount of tax that a county can levy? Do the registered voters of a county have to approve the tax levy?

Who in county government is responsible for maintaining custody of the titles to county owned vehicles and equipment?

What does Arkansas law say about the establishment and use of the County Clerks Cost Fund?

What is the proper procedure for the establishment and use of the County Collectors Automation Fund?

Is it a requirement of law for a county to fund a county jail operation and what are some of the main sources of revenue for county jail operations?

Real property reappraisals are required to be conducted on a cyclical basis by county governments in Arkansas. What is the history of these reappraisals and how are the reappraisals paid for under current law?

What sources of revenue are produced by the Sheriff and identify any Special Revenue Funds that are used for the Sheriffs operation and how the revenue is generated for these special revenue funds?

How many years can a county legally go back to make a refund of property taxes paid in error?

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Counties are sometimes told they cannot pay late charges or a penalty on overdue bills. Is it true that counties cannot pay penalties on bills that are past due?

The District Court system is one for which both counties and municipalities have financial responsibilities. What is the financial responsibility of county government as it concerns District Court?

What is a county's financial responsibility in the cost of the operation of a public defender's office?

Since County General funds are transferred to other county funds to supplement the operations of particular county funds, such as the Road and Bridge Fund is it legal to transfer Road and Bridge funds or money from other county funds to County General to supplement general operations?

Does the Quorum Court have any authority to add extra duties to the established duties of county constitutional officers and if so is there any limitation on that authority?

Can a quorum court set salaries of elected county officials as long as the salary is between the minimum and maximum set by the legislature even they choose to decrease the salaries?

County Clerk FAQs:

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Is it a requirement of state law that the County Clerk and County Treasurer jointly reconcile the expenditures of the county each month?

Circuit Clerk FAQs:

Is a county liable for paying the normal fees to a county employee for serving as a juror or a prospective juror? If so, is the county allowed to deduct those fees from the regular salary of the county employee? Does the county have to bear all the cost?

What is the proper method for the establishment and operation of the County Recorders Cost Fund?

Treasurers FAQs:

What is excess commission and is the term actually found in Arkansas code? If so, what is the basis for calculating and distributing excess commission and who is responsible for seeing that the task is performed?

When a county receives unclaimed property proceeds from the Auditor of States office, which county fund should it be receipted to, how can the money be used, and does the county have any future liability for the unclaimed proceeds?

What funds are devoted to the Treasurers Automation Fund and what are considered legal expenditures from this fund?

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Is it a requirement of state law that the County Clerk and County Treasurer jointly reconcile the expenditures of the county each month?

Assessor FAQs:

On what property can a county levy taxes? Is there a maximum amount of tax that a county can levy? Do the registered voters of a county have to approve the tax levy?

Assessors in Arkansas receive funding from the end-of-the-year certified excess funds in the State Property Tax Relief Fund. How should these funds be handled at the county level? If the county level fund has a balance at the end of the year does it carry over?

Real property reappraisals are required to be conducted on a cyclical basis by county governments in Arkansas. What is the history of these reappraisals and how are the reappraisals paid for under current law?

Sheriff FAQs:

Can 911 revenues be used for anything other than equipment and salaries?

Is it a requirement of law for a county to fund a county jail operation and what are some of the main sources of revenue for county jail operations?

What sources of revenue are produced by the Sheriff? Identify any Special Revenue Funds that are used for the Sheriff's operation and how the revenue is generated for these special revenue funds?

County Lines FQAs:

How do I subscribe to County Lines Magazine?

How do I submit news and story ideas for County Lines, the AAC's quarterly magazine?

Justice of the Peace FAQs:

On what property can a county levy taxes? Is there a maximum amount of tax that a county can levy? Do the registered voters of a county have to approve the tax levy?

Is it correct that a county can only appropriate 90% of the anticipated revenues of the county each year and, if so, why? What happens to the 10% of the revenue that is not appropriated?

Can a Justice of the Peace be paid a monthly salary for serving the county as a district official? In addition to serving as Justice of the Peace, can a Justice be paid for serving as an employee of the county or for any other service performed for the position?

What does Arkansas law say about the establishment and use of the County Clerks Cost Fund?

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Does the Quorum Court have any authority to add extra duties to the established duties of county constitutional officers and if so, is there any limitation on that authority?

Can a quorum court set salaries of elected county officials as long as the salary is between the minimum and maximum set by the legislature even if they choose to decrease the salaries?

County Collectors FAQs:

On what property can a county levy taxes? Is there a maximum amount of tax that a county can levy? Do the registered voters of a county have to approve the tax levy?

What is excess commission and is the term actually found in Arkansas code? If so, what is the basis for calculating and distributing excess commission and who is responsible for seeing that the task is performed?

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How many years can a county legally go back to make a refund of property taxes paid in error?

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Do personal property taxes have to be collected at the same time that real estate taxes are collected? If so, are there any exceptions?

May a newspaper charge for other parts of the required publication of delinquent taxes, such as headers and etc., in addition to the legal fees of \$1.50 per tract per insertion for delinquent real estate and \$1.25 per name per insertion for delinquent personal?

Chapter Eight – ATTORNEY GENERAL OPINIONS

The Attorney General’s Office has created a body of opinions concerning the Freedom of Information Act (“FOIA”) in application to county offices and public records of county officials. The subject of the request and the published opinion by number are provided below. These opinions may greatly assist the office in your county in making decisions concerning the FOIA. You may review and retrieve the entire opinion identified by going to the Attorney General’s website: <http://www.arkansasag.gov/opinions/>. Additionally, this section provides other helpful Attorney General opinions regarding the elected position discussed in this manual.

FOIA Generally

See Ops. Att’y Gen. 2003-006 (Application of ACA 25-19-108 to counties)
See Ops. Att’y Gen. 2005-298 (Response to absence of records)
See Ops. Att’y Gen. 2008-162 (Digital pictures of records)
See Ops. Att’y Gen. 99-134 (Records on county web site/fees)
See Ops. Att’y Gen. 2000-096 (Discussion of "meetings" under FOIA)
See Ops. Att’y Gen. 2001-382 (Location/Access to meetings)
See Ops. Att’y Gen. 2002-092 (Meetings)

FOIA – Personnel Records Generally

See Ops. Att’y Gen. 1999-398 (Job applications and resumes)
See Ops. Att’y Gen. 2000-058 (Harassment complaints)
See Ops. Att’y Gen. 2000-201 (Internal affairs investigatory files)
See Ops. Att’y Gen. 2000-242 (Suspension letters)
See Ops. Att’y Gen. 2001-130 (Access)
See Ops. Att’y Gen. 2001-368 (Employee objections to release)
See Ops. Att’y Gen. 2002-043 (Payroll, status change, benefits package information)
See Ops. Att’y Gen. 2003-055 (Privacy interests)
See Ops. Att’y Gen. 2003-352 (Time cards)
See Ops. Att’y Gen. 99-168 (Notification to subject of records)

Other Attorney General Opinions

Attorney General Opinion No. 2013-086: The AG clarified that Act 320 of 2009 established a cost of living increase to the minimum and maximum for salaries for “county officials” does not apply to justices of the peace. The AG noted the expressed sections of existing code enumerating the various “elected county officers” in county government in Arkansas; and the express sections of code identifying justices of the peace as “district officials”. The AG explained that the General Assembly has consistently and meticulously differentiated between county officers, district and township officers and county employees throughout the statutes that apply to county government in Arkansas.

Attorney General Opinion No. 2010-146: The Quorum Court has the authority to establish an election coordinator as a salaried employee (full-time or part-time) or to appropriate funds for a contract. The election commission has no authority to create a position for an election coordinator or to execute a contract to bind the county. The county judge is vested with the responsibility to hire or fire an election coordinator. The county judge may delegate the supervisory authority over an election coordinator to the election commission. The Attorney General further determined that all three of the election commissioner are entitled to be informed and their meetings are subject to the sunshine provisions of the Freedom of Information Act.

Attorney General Opinion No. 2012-117: A custodian or requesting party seeking to ascertain whether a custodian’s decision is consistent with the FOIA under ACA 25-19-105(c) must supply the AG with: (a) a copy of the request or what records specifically are being requested; (b) what records, if any, the custodian intends to release; and (c) what factual determinations went into both the custodian analysis or the requesting party’s position. Frequently, the AG is not provided any of the foregoing necessary information and is unable to determine whether the decision of the custodian is consistent with the FOIA. Similarly, under Attorney General Opinion No. 2012-113 the AG was unable to determine if the custodian was acting consistent with the FOIA because no party supplied the documents or information required as explained by Attorney General Opinion No. 2012-117, above. There was apparently blanket request to the former employer for the release of the entire employment file of a former employee. There was apparently a blanket response by the employee that the request was an

unwarranted invasion of privacy. Parties seeking rulings by the AG under must supply the necessary information. Under Attorney General Opinion No. 2012-115 the custodian supplied the proper documents and information and was deemed correct in releasing the interview questions submitted to applicants. However, the public has an interests in knowing the most qualified applicant was hired and therefore the scores of the person hired to the interview questions should be released and not redacted. Attorney General Opinion No. 2012-123 the AG determined from submission of the necessary information that the custodian's decision to not release an employee evaluation that did not according to the custodian play a part in the subject termination. Under Attorney General Opinion No. 2012-144 the AG agreed with the custodian's decision to release a transcription of two emails by a former employee, one to department heads and one to the employees generally, tendering his resignation. However, the Ag found that the redactions made by the custodian were inconsistent with the FOIA. Resignation letters are generally subject to release under the FOIA, however, the custodian may be able redact certain information as an unwarranted invasion of privacy. Because the two resignation letters were not provided and the release of information to the requesting party was a transcription of the two emails, the AG could not determine that the custodian acted inconsistent with the FOIA. At a minimum the amount of information deleted shall be indicated on the released portion of the record, and if feasible at the place the redaction was made. The use of a transcription was inconsistent with these methods of disclosure and redaction under the FIOA.

Attorney General Opinion No. 2012-081: The Attorney General explained that the levy of a special sales tax to support Public Mass Transportation and Facilities may be put to the vote of the people in accordance with 26-73-110 through 112 by majority vote of the Quorum Court to call a special election for a special mass transit sales tax. ACA 14-14-905 which allows the Quorum Court to refer matters to the voters by 3/5ths super majority vote simply does not apply to the levy of a special mass transit sales tax. Also, there is it is likely unnecessary in the referral of a mass transit sales tax in accordance with 26-73-110 through 112 to recite the rebate provisions set forth under Act 1273 of 2003 and other Streamline Sales Tax laws because these provisions are instilled by law. However, the AG noted some legislative clarification may be warranted.

Attorney General Opinion No. 2012-112: Upon request, it is the duty of the Attorney General to determine if a decision of a custodian is consistent with the FOIA. The AG says that records generated as part of an investigation may be considered employee evaluations or job performance records and may be exempt from release under the FOIA and may constitute an unwarranted invasion of privacy. The Attorney General's office and commentators have typically classified that personnel files typically include: employment applications, school transcripts, payroll-related documents such as re-classifications, promotions, demotions, transfer records, health and life insurance forms, performance evaluations, recommendation letters, etc. However, notwithstanding the exemption, ACA 25-19-105(c)(1) provides that employee evaluations may be subject to release upon final administrative resolution of any suspension or termination at which the records form a basis for the decision to suspend or terminate the employee and there is a compelling public interest. Compelling public interests involve violations of public trust or gross incompetence; the existence of a public controversy; and the employees position within the agency. Custodians may consistent with the FOIA clearly withhold employee evaluations of low level employees not suspended or terminated. However, in the context of law enforcement officers, the level or ranking of the employee has less weight and the public interest is greater. Whether or not an employee was directly or indirectly involved in an incident is relevant and may turn on whether there are allegations of a single event or multiple events. See also: Attorney General Opinions 2012-105.

Attorney General Opinions: 2012-111, 2012-110, 2011-156 and 2011-058: Reflect disclosure of the names of county employees or list of county employees is generally not protected. The AG has explained that the General Assembly has refrained from establishing a protection from releasing an employee's name on the basis of "harassment exception" or "increased risk of harm exception".

Attorney General Opinion No. 2012-143: The Workers Compensation Commission determines whether an employer qualifies as an "extra-hazardous" employer. ACA 11-10-314 provides an exemption for disclosure of the confidential data filed with the Workforce Services Commission concerning "extra-hazardous" employer status. This exception is located under a separate section of the Arkansas Code from the FOIA, Freedom of Information Act, ACA 25-19-101 et seq. The AG noted that in 2009 the General Assembly attempted to mandate that creation of any new record or public meeting exceptions to the FOIA after July 1, 2009 must explicitly state that the record or meeting is exempt from the FOIA, ACA 25-19-101 et seq. The exception to the FOIA under ACA 11-10-314 is clearly valid since it was adopted prior to July 1, 2009. However, the AG noted that attempts by the legislature to bind subsequent legislatures are called "entrenchment rules"; and that the validity of the 2009 entrenchment rule on the FOIA is questionable.

During the 2013 regular session Act 411 of 2013 explicitly amended the FOIA, Freedom of Information Act, ACA § 25-19-105(b)(13), concerning examination and copying of public records to protect the personal contact information of nonelected government employees. The amendment specifically exempts from disclosure home or mobile telephone numbers, personal

email addresses, and home addresses of nonelected county or government employees. Act 411 seeks to protect privacy of nonelected employees and is effective August 16th as per ATTORNEY GENERAL OPINION NO. 2013-049.

Attorney General Opinion No. 2013-008: The Attorney General concluded that A.C.A 14-20-108 operates to give a Quorum Court the ability “to pass an ordinance that reports the amount of the fee (fire membership fees or dues) and that requires the fee to be paid”. However, the law does not give the authority to the Quorum Court to determine the amount of the membership fees or dues for a volunteer fire department service area (for any type of fire department). Only the fire department itself has the ability to set the amount due by its members. However, all types of fire department can upon adoption of a measure by the Quorum Court hold a special election to allow the County Collector to collect the fees within the fire departments service district. If the ballot measure carries then all residents and all businesses with an occupiable structure within the fire departments service district are subject to collection of the fee by the County Collector.

VOLUNTARY TAXES Attorney General Opinion Nos: 1991-015; 1991-077;1991-082; 1994-003; 19996-069; AND 1999-231: The Attorney General has stated in numerous opinions that the collection of a voluntary tax paid by the county to a private non-profit corporation violates the Arkansas Constitution, Article 12, § 5, which prescribes: “No county, city, town or municipality shall become a stockholder in any company, association or corporation; or obtain or appropriate money for, or loan its credit to, any corporation, association, institution or individual”.

A quorum court may appropriate funds from a voluntary tax for a grant to a public entity such as a conservation district. See: AG Opinions Nos. 1992-083 and 1994-003. In some instances the specific facts may allow for voluntary tax proceeds to be turned over to a public entity or a private entity that is performing a community service grant. In Gordon v. Woodruff, 217 Ark. 653 (1950) the Supreme Court upheld an appropriation for a grant to a county fair association was made to aid the construction of buildings on county property. Likewise, a grant to a community college foundation spent to aid a public community college may be considered legal. See AG Opinion No. 1991-082.

Appropriations to a private non-profit corporation for charitable and laudable purposes such as operating shelters, such as shelters for animals or shelters juveniles, are considered illegal. See: AG Opinion No. 1991-015. Appropriations for a non-profit private corporation to a learning center with contracts with the state are not governmental functions of city or county government. See: AG Opinion No. 1992-019. The county collection of money for the benefit of private corporations is a violation of the Arkansas Constitution, Article 12, § 5. See AG Opinion No. 1996-069. Attorney General Opinion No. 1999-231 explains that a quorum court may repeal voluntary taxes; and that taxes voluntarily paid under the common law doctrine of voluntariness precludes refunds of voluntary taxes voluntarily paid.

Attorney General Opinion No. 2011-087: Under the Arkansas Constitution and laws of Arkansas, the County Judge, not the Quorum Court, has the authority to hire and fire the county attorney. The Arkansas Constitution, Amendment 55, § 3, vests the county judge with the authority to hire and fire county employees, except those persons employed by other elected officials of the county. Likewise, ACA 14-14-1102 vests the power to hire independent contractors, employ necessary personnel or purchase labor or services for the county with the county judge. The Quorum Court has the authority to make appropriations for employee positions or contract services but is prohibited by separation of powers from making employee hiring decisions or designating specific vendors or contract awards.

Attorney General Opinion No. 2010-169: The Attorney General made clear that under the Freedom of Information Act a county assessor or public official may not charge citizens of Arkansas for access and copies to public records on a website maintained by the assessor and not charge county residents. The plan of the custodian to eliminate the fee based solely on whether the persons making the request are in-county residents is inconsistent with the Freedom of Information Act.

Attorney General Opinion No. 2011-010: ACA 14-14-1202(c) was amended in 2005 to make explicit that a person may not simultaneously serve as a member of the city council and the quorum court. In the event, a person is elected to both positions and simultaneously serving in both offices, the remedy is removal from office under circuit court proceeding in accordance with subsection (d) of ACA 14-14-1202

Attorney General Opinion No. 2007-059: Is Ark Code § 21-5-107 prohibiting dual elective office holders from deriving compensation from both offices, lawful and constitutional? Yes.

Ark Code § 21-5-107 prohibits dual elective office holders from receiving compensation from both offices. The law requires the elected officer to select the office to provide compensation. The question was posed as a result of an elected justice of the

peace that is serving as an elected city attorney. The Attorney General concluded there is no violation of the constitution, the State Minimum Wage Act, or the Fair Labor Standards Act. While the law does classify, it is deemed not to discriminate in violation of the equal protection clause.

The Attorney General opined the intent behind the law may be to avoid duplication of insurance benefits or to avoid seeking dual offices for purely pecuniary gain. Are elected officials or dual-officer holders prohibited from duplicate compensation in the form of inclusion on the health plan of more than one political subdivision?

Attorney General Opinion No. 2008-032: Can a Justice of the Peace legally charge a fee for performing a marriage ceremony?

“No”, concludes the Attorney General. As a general matter, fees are collectible by public officers only to the extent they are authorized by law. See *Logan County v. Trimm*, 57 Ark. 487, 22 S.W. 164 (1893); *Cole v. White County*, 32 Ark. 45 (1877); *Standford v. Wheeler, Auditor*, 28 Ark. 144 (1873) and *Crittenden County v. Crump*, 25 Ark. 235 (1868). No state statute authorizes the charging of such a fee. Also, Amendment 55, § 5 of the Arkansas Constitution, in all likelihood prohibits the General Assembly or a county from authorizing this action. Finally, A.C.A. § 21-6-301 provides: “fees of the office shall not be the basis of compensation for officers or employees of county offices” and “[a]ll compensation, including salary, hourly compensation, expense allowances, and other remunerations allowed to any county officer or employee shall be made only on specific appropriation by the quorum court”.

The specific inquiry was not in regard to whether a justice of the peace may legally accept any payment or “donation” for such service. The Attorney General noted that such a question should be addressed to the Arkansas Ethics Commission, which has jurisdiction and authority to issue advisory opinions on statutes relevant to that issue under A.C.A. § 7-6-217(g)(2).

Can a former Justice of the Peace legally charge a fee for performing a marriage ceremony?

Ark. Code § 9-11-213 provides for other officials to solemnize marriages, including: the Governor, justices and judges of a court of record, mayors and justices of the peace, etc. Is it lawful for those officials to charge a fee or to accept a gift for performing a discretionary function of performing a marriage ceremony? The Attorney General concludes that whether a former justice of the peace may charge a fee is unclear under current law. Because former justices of the peace are no longer public officers, the common law principle that fees may not be charged by public officers without statutory authorization would not appear to apply. Similarly, the applicable constitutional and statutory restrictions on the compensation of such officers would be inapplicable, as would the ethical proscriptions generally applicable to public servants. He found no basis for concluding that a former justice charging a fee would be unlawful. However, since the former justice of the peace derives this power from his or her former elected service, legislative or judicial clarification is warranted.

Chapter Nine - GLOSSARY OF TERMS

These definitions are everyday terms that are used by the Justices of the Peace. These terms are defined and referenced to the various codes that describe them.

BRIDGE - All structures erected over a river, creek, ditch, or obstruction in a public roadway. (ACA 27-86-101 through ACA 27-86-306)

COMMODITIES - All supplies, goods, material, equipment, machinery, facilities, personal property, and services, other than personal services, purchased for or on behalf of the county. (ACA 14-22-101)

COUNTY COURT - County court has exclusive original jurisdiction in all matters relating to county taxes, paupers, and jurisdiction in each other case that may be necessary to the internal improvement and local concern of the county. The county court, in fact, is the county judge sitting in a judicial role. (ACA 14-14-1001 – 14-14-1003 and 14-14-1105)

COUNTY EQUALIZATION BOARD - A board composed of qualified electors of the county who are real estate owners for at least one year. The board is responsible for equalization of assessments in the county. (ACA 26-27-301 through 26-27-305)

COUNTY OR SUBDIVISION THEREOF - A county is a political subdivision of the state for the more convenient administration of justice and the exercise of local legislative authority related to county affairs and is defined as a body politic and corporate operating within specified geographic limitations established by law. All departments, except departments administratively assigned to other elected officials of the county, boards and subordinate service districts are created by county ordinance. (ACA 14-14-102)

FISCAL YEAR - Every level of government has a different fiscal year. They are as follows:

County fiscal year - January 1 - December 31

State fiscal year - July 1 - June 30

Federal fiscal year - October 1 - September 30

FORMAL BIDDING - The procedure to be followed in the solicitation and receipt of sealed bids, wherein: 1) notice shall be given of the date, time, and place of opening bids, and the names or a brief description and the specifications of the commodities for which bids are to be received, by one (1) insertion in a newspaper with a general circulation in the county, not less than ten (10) days nor more than thirty (30) days prior to the date fixed for opening such bids; 2) the furnishing, not less than ten (10) days in advance of the date fixed for opening the bids, of notice and bid forms to all eligible bidders on the bid list for the class of

commodities on which bids are to be received, and the furnishing of notices and bid forms to all others requesting the same; and 3) by posting in a conspicuous place in the county courthouse, at least ten (10) days in advance of the date fixed for opening bids, a copy of the notice of invitation to bid. (ACA 14-22-101)

HOSPITAL BOARD OF GOVERNORS - The board charged with the responsibility of the management, control and operation of the county hospital. (ACA 14-263-103)

OPEN MARKET PURCHASES - Those purchases of commodities by a purchasing official in which competitive bidding is not required. (ACA 14-22-101)

PURCHASE - Shall include not only the outright purchase of commodity but also the acquisition of commodities under rental-purchase agreements or lease-purchase agreements or any other type of agreements whereby the county has an option to buy the commodity and to apply the rental payment on the purchase price thereof. (ACA 14-22-101)

PURCHASING OFFICIAL - Any county official, individual, board or commission, or his or its lawfully designated agent, with constitutional authority to contract or make purchases in behalf of the county. (ACA 14-22-101)

PURCHASE PRICE - The full sale or bid price of any commodity, without any allowance for trade-in. (ACA 14-22-101)

RURAL DEVELOPMENT AUTHORITY - Public corporations created for the improvement of the designated rural area under the order of the county court. (ACA 14-188-103)

STATE AID ROADS - The classification of county roads, including bridges and ferries, composing the major collector and minor collector routes feeding into local trade areas or into the state highway system, which are not designated as state highways, and particularly those essential to the conservation and development of natural resources, of economic and social value and encouraging desirable land utilization, having in addition one or more of the following characteristics:

- (a) They extend to the larger communities including all incorporate towns;
- (b) They connect with road of major importance in adjoining counties;
- (c) They connect with the state highways to form a complete network of main feeder roads;

(d) They carry heavy volumes of traffic serving major business and agricultural interest of the county; and

(e) They collect traffic at reasonable intervals from several local roads. (ACA 27-72-301)

TRADE IN PURCHASES - All purchases where offers must be included with the bids of each bidder for trade-in allowance for used commodities. (ACA 14-22-101)

USED OR SECONDHAND EQUIPMENT OR MACHINERY - Any motor vehicles, equipment or machinery that is at least two years in age from the date of original manufacture or that has had at least 500 working hours prior use or 10,000 miles prior use. Any purchase of used motor vehicles, equipment or machinery shall be accompanied by a statement in writing from the vendor on the bill of sale or other document that the motor vehicle, equipment, or machinery is at least 2 years in age from the date of original manufacture or has been used a minimum of 500 hours or driven a minimum of 10,000 miles. The statement shall be filed with the county clerk at the time of purchase. (ACA 14-22-101)