

Fire Department Guidebook

2020



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Foreword

The following is a guidebook on the topic of fire departments and related services in Arkansas. This publication is designed to provide the basics, the steps, the issues, and the relevant case law to assist in the administration of fire services.

The information contained herein is not to be construed as legal advice. Be sure to seek and consult with your county attorney regarding these legal matters/proceedings and forward them a copy of the information provided within this document.

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Fire Departments in Arkansas

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OVERVIEW

Counties, acting through their quorum courts, may provide for the establishment of any service or the performance of any function that is not expressly prohibited by law. Included among these many services and functions is the implementation of fire prevention and protection services. A.C.A. § 14-14-802. Moreover, under certain sections of Arkansas Code, counties may also provide for such services by acting through their county courts. In either case, the county judge – as an administrator-executive and as the county court – is very much involved in these procedures. The county clerk and county collector each play an integral role in department formation and perpetuation, as well.

Of the many goals to be attained through the provision of fire services, perhaps the most integral of these is the initial creation of a fire department to serve a specified area of a county or counties. Fire departments in Arkansas may be organized under any one of several sets of laws. One set of law may be “better” for a given area depending upon factors such as the size/population of the area to be served, the level of fire services (if any) provided by surrounding communities, and the way in which the fire department is desired to be operated.

This guidebook lays out the methods by which a fire department may be established, sources of funding for those departments, and other logistical and/operational concerns. It is intended to help county officials learn and understand the law surrounding fire prevention and protection services, as well as the procedures by which to implement and sustain them. Below, you will find a section dedicated to the following:

- Statutory Methods of Establishment, Assessment, and Operation;
- Funding Sources and Other Financial Procedures;
- Miscellaneous Applicable Statutes;
- Appendix (Sample Documents)

Each section includes excerpts of applicable Arkansas Code and may also include opinions from the Office of the Attorney General and/or relevant Arkansas case law. It is reflective of the law as it stands through the 2019 legislative session.

The information herein is not intended to be construed as legal advice. Rather, it presents the law for your information and guidance. Any specific legal questions should be directed to your county attorney.

I. STATUTORY METHODS OF ESTABLISHMENT, ASSESSMENT, COLLECTION, AND OPERATION

a. FIRE PROTECTION DISTRICTS

The term “fire protection district,” in a legal sense, refers to a type of improvement district created under either A.C.A. § 14-284-101 *et seq.*, or 14-284-201 *et seq.* These subchapters are entitled “Fire Protection Districts – General Provisions” and “Fire Protection Districts Outside of Cities and Towns,” respectively. The boundaries of such districts are fixed in the petition to form the district. *See* A.C.A. §§ 14-284-103(a) and 14-284-206, respectively. These districts are authorized to collect amounts which are either assessed as benefits against property within the district, or levied as flat fees on property within the district. In either case, these amounts are collected along with property taxes. *See* A.C.A. § 14-284-108; § 14-284-212; § 14-284-212(g); § 14-284-112; §§ 14-284-215-216.” Op. Att’y Gen. No. 2008-073.

Each of these subchapters is explored in turn below, beginning with Subchapter 1.

Title 14, Chapter 284, Fire Protection Districts, Subchapter 1 —

General Provisions

A.C.A. § 14-284-101 *et seq.*

Introductory Statutes:

A.C.A. § 14-284-101. Definitions.

(a) As used in this subchapter, unless the context otherwise requires, wherever the words “majority in value” are used, it shall be construed to mean a majority in assessed value as shown by the latest county assessment records for general taxes.

(b) As used in this chapter, unless the context otherwise requires, “contractor” means any person, firm, partnership, copartnership, association, corporation, or other organization, or any combination thereof, who, for a fixed price, commission, fee, or wage, attempts to or submits a bid to construct, or contracts or undertakes to construct, or assumes charge, in a supervisory capacity or otherwise, or manages the construction, erection, alteration or repair, or has or have constructed, erected, altered, or repaired, under his, their, or its direction, any fire station, building, or any other improvement or structure for the benefit or use of a district created under this chapter.

A.C.A. § 14-284-102. Purpose of district.

The purpose of the district shall be the building, equipping, and operating of a fire station or stations equipped with a fire truck or fire trucks, fire hose, chemical fire extinguishers, and other equipment for extinguishing fires. The district may provide other emergency services, like hazardous and toxic materials response, search and rescue, emergency medical, ambulance, and patient transport services, and such

other functions as may be assigned to or reasonably expected of a local fire services agency and which it is trained and qualified to perform.

Method of Establishment:

A.C.A. § 14-284-103. Petition generally.

(a) Upon the petition of majority in value of the owners of real property in any designated area, no part of which is more than three (3) miles, except as provided in subsection (e) of this section, from a lot or plot of ground not exceeding a square acre in area on which the fire station is located or is to be located, the location of which lot or plot of ground must be definitely fixed in the petition, and which area defined in the petition contains not less than one hundred (100) residences, exclusive of garages and other buildings, it shall be the duty of the county court to lay off into an improvement district the territory described in the petition and to name five (5) commissioners of the district who are resident property holders in the district.

(b) Portions of incorporated towns may be included in the districts, provided the town has no equipped firefighting station.

(c) If any part of the district, as defined in the petition therefor or the court order establishing the district, shall be found to be more than three (3) miles from the designated location of the fire station, it shall not affect the validity of the district, but the portion of the district in excess of three (3) miles from the designated location of the fire station shall be excluded.

(d) However, any tract of land not exceeding three hundred thirty square feet (330 sq. ft.) which equals one-sixteenth (1/16) of a section in length and breadth, any part of which shall be within three (3) miles of the fire station of the district, may be included in the district.

(e) A fire protection district having a radius of five (5) miles may be created in any county having a population of not less than fifteen thousand three hundred (15,300) and not more than fifteen thousand five hundred (15,500) according to the 1970 Federal Decennial Census in the same manner and for the same purposes as provided in this subchapter for a fire protection district having a three-mile radius.

(f) The petition shall state the purpose or purposes for which the district is to be formed, and the judgment establishing the district shall give it a name which shall be descriptive of the purpose. The district shall also receive a number to prevent its being confused with other districts for similar purposes.

A.C.A. § 14-284-104. Petition — Notice and hearing.

(a) Upon the filing of the petition, it shall be the duty of the county clerk to give notice of the filing thereof, describing the territory to be affected and calling upon all persons who wish to be heard upon the question of the establishment of the district to appear before the county court on a day to be fixed in the notice.

(1) The notice shall be published one (1) time a week for two (2) weeks in some newspaper published and having a bona fide circulation in the county where the lands affected are situated.

(2) This notice may be in the following form:

“Notice is hereby given that a petition has been filed praying for the formation of an improvement district for the purpose of Said petition is on file at the office of the county clerk of County, where it is open to inspection. All persons desiring to be heard on the question of the formation of said district will be heard by the county court at M., on the day of, 19. The following lands are affected: (Here give description of lands affected; the same may be described by using the largest subdivisions possible).”

(b) Any number of identical petitions may be circulated, and identical petitions with additional names may be filed at any time until the county court acts.

(c) On the day named in the notice, it shall be the duty of the county court to meet and to hear the petition and to ascertain whether those signing the petition constitute a majority in value.

(1) If the county court determines that a majority in value have petitioned for the improvement, it shall enter its judgment laying off the district as defined in the petition and appointing the commissioners.

(2) If it finds that a majority has not signed the petition, the county court shall enter its order denying the petition.

(d) Any petitioner or any opponent of the petition may appeal from the judgment of the county court creating or refusing to create the district, but the appeal must be taken and perfected within thirty (30) days. If no appeal is taken within that time, the judgment creating the district shall be final and conclusive upon all persons.

Board of Commissioners:

A.C.A. § 14-284-105. Board of commissioners — Appointment — Qualifications.

(a) The board of commissioners shall be resident property holders in the district and shall be citizens of integrity and good business ability.

(b)

(1) The commissioners shall be appointed to serve for terms of one (1), two (2), three (3), four (4), and five (5) years respectively, and the length of the term of each commissioner shall be stated in the order of the county court making the appointment.

(2) As the terms of the commissioners expire, the county court shall appoint successors to hold office for a term of five (5) years. The county court may reappoint a commissioner whose term is expiring.

(c) In case of a vacancy on the board of commissioners after the commissioners have organized, the county court shall appoint some resident property holder as his successor who shall qualify in like manner and within a like time.

(d) The commissioners shall serve without compensation and until their successors are appointed and qualified.

14-284-106. Board of commissioners — Proceedings — Officers — Employees — Selection of depository.

(a)

(1) Within thirty (30) days after their appointment, the commissioners shall take and file with the county clerk their oaths of office in which they shall swear to support the Constitution of the United States and the Constitution of the State of Arkansas, to discharge faithfully their duties as commissioners, and that they will not be interested, directly or indirectly, in any contract let by the board.

(2) Any commissioner failing to file the oath within that period shall be deemed to have declined the office. The county court shall appoint some resident property holder as his successor who shall qualify in like manner within a like time.

(b) The board shall organize by electing one (1) of its members chairman, and it shall select a secretary.

(c) The board may also employ fire fighters and organize a voluntary fire department, as it deems best, and fix the compensation for paid fire fighters.

(d) Each district shall be a body corporate with power to sue and be sued, and it shall have a corporate seal.

(e) The board shall also select some solvent bank or trust company as the depository of its funds.

A.C.A. § 14-284-107. Board of commissioners — Liability.

No member of the board of improvement shall be liable for any damages unless it shall be made to appear that he had acted with a corrupt and malicious intent.

Assessments:

Provisions regarding fire protection district assessments – a topic often brought up by county officials as a point of concern – are primarily found within A.C.A. §§ 14-284-108 through 113.

A.C.A. § 14-284-108: Plans for Improvement -- Assessors and assessments generally.

(a) Upon their appointment and qualification, commissioners are required to develop plans for the improvements they intend to make and the equipment they intend to purchase. To that end, the board may hire an architect in the event that a fire station is to be built and the board must then file a copy of the plans or specifications with the county clerk. § 14-284-108(a).

(b) The board shall then appoint three (3) assessors to be tasked with assessing the annual benefits which will accrue to the real property within the district from making the improvement and operation of the firefighting equipment. § 14-284-108(b). The board must also fix the compensation of said assessors. §14-284-108(b). Assessors are required to take an oath that they will well and truly assess those benefits noted above. § 14-284-108(b).

(c) The assessors shall proceed to assess the annual benefits to the lands within the district, and shall inscribe in a book each tract of land and shall extend opposite each tract of land the amount of annual benefits that will accrue each year to the land by reason of building and equipping the fire station and operating the fire equipment for the extinguishing of fires, and the keeping in repair of the streets or roads liable to be traversed by the firefighting equipment.

(d) In the case of any reassessment, the reassessment shall be advertised and equalized in the same manner as provided in this section for making the original assessment. The owners of all property whose assessment has been raised shall have the right to be heard and to appeal from the decision of the assessors, as they do in the original assessment.

(e) The assessors shall place opposite each tract the name of the supposed owner as shown by the last county assessment. However, a mistake in the name shall not vitiate the assessment, and the assessors shall correct errors which occur in the county assessment list as they are recognized.

(f) The assessors shall hold their office at the pleasure of the board of commissioners, which can fill any vacancy in the position of assessors.

A.C.A. § 14-284-109: Assessment -- Notice and hearing.

(a) The assessment shall be filed with the county clerk of the county, and the secretary of the board shall give notice of its filing by publication one (1) time a week for two (2) weeks in a newspaper published and having a bona fide circulation in the county. This notice may be in the following form:

“Notice is hereby given that the assessment of annual benefits of District Number has been filed in the office of the County Clerk of County, where it is open for inspection. All persons wishing to be heard on said assessment will be heard by the assessors of said district in the office of the county clerk between the hours of 1 P.M. and 4 P.M., at, on the day of, 20.”

(b) On the day named by the notice, it shall be the duty of the assessors to meet at the place named as a board of assessors and to hear all complaints against the assessment and to equalize and adjust the assessment. Their determination shall be final unless suit is brought in the circuit court within thirty (30) days to review it. If the board is unable to hear all complaints between the hours designated, they shall adjourn over from day to day until all parties have been heard.

(c)

(1) However, in cities of the first class that have two (2) or more full-time volunteer fire protection districts, the assessment is not final until reviewed by the governing body of the city and a resolution is passed that states the assessments have been reviewed.

(2) The city's governing body may return the assessments to the assessors with a request for further review of the assessments by the assessors.

A.C.A. § 14-284-110. Assessment -- Annual reassessment.

(a) The commissioners shall one (1) time a year order the assessors to reassess the annual benefits of the district, provided there have been improvements made or improvements destroyed or removed from one (1) or more tracts of land in the district, making it necessary to have the annual benefits revised.

(b)

(1) It shall be the duty of the assessors to reassess the benefits of the district, and the annual benefits assessed may be raised or lowered as conditions of the property change or as requirements of the fire department change.

(2) However, the annual benefits extended against any piece of property shall not be increased from the annual benefits originally extended unless the original benefits were uniformly assessed against all classes of land in the amount of one dollar (\$1.00) per parcel of vacant land and ten dollars (\$10.00) per parcel of improved land and providing there have been material changes in value or character made from one (1) or more tracts of land in the district since the original assessment of benefits, making it necessary for the assessors to equitably reassess the annual benefits.

A.C.A. § 14-284-111. Assessment -- Order of levy -- Lien.

(a)

(1) The board of commissioners of the district shall, at the same time that the annual benefit assessment is equalized or at any time thereafter, enter upon its records an order. This order shall have all the force of a judgment, providing that there shall be assessed upon the real property of the district, and collected annually, the annual benefit assessment set opposite each tract of land described, which annual benefit is to be paid by the owner of the real property in the district, payable as provided in the order.

(2) However, the commissioners shall, promptly after an entry of an order of levy of annual benefit assessment, publish one (1) time a week for two (2) consecutive weeks in some newspaper having general circulation in the district a notice setting forth the order of levy and warning all persons affected that the order of levy shall become final unless suit is brought to contest it within thirty (30) days of the date of first publication of the notice. No property owner shall be barred from contest of the levy within the thirty-day publication period.

(b)

(1) The uncollected annual benefit assessment as extended shall be a lien upon the real property in the district against which it is extended from the time the same is levied, shall be entitled to preference over all demands, executions, encumbrances, or liens whenever created, and shall continue until the assessment, with any penalty and costs that may accrue thereon, shall have been paid.

(2) Notice of the amount due shall be given, by mail at his last known address to each landowner who fails to pay his assessment on or before the third Monday in April.

(3) The remedy against the annual benefit assessment shall be by suit in chancery, and the suits must be brought within thirty (30) days from the time that the notice is mailed. On the appeal, the presumption shall be in favor of the legality of the annual benefit assessment.

A.C.A. § 14-284-112. Assessment -- Filing and collection.

(a) The original assessment record, or any reassessment record, shall be filed with the county clerk, whose duty it shall be to extend the annual benefit assessment annually upon the tax books of the county until the district is dissolved.

(b) It shall then be the duty of the collector to collect each year the annual benefit assessment extended upon the book along with the other taxes, and the taxes shall be paid by the collector over to the depository of the district at the same time that he pays over the county funds.

(c)

(1) If there is any change in the annual benefits assessed, a certified copy of the revised assessment shall be filed with the county clerk who shall extend the revised assessment annually upon the tax books until a new assessment is made, which shall be extended upon the tax books in a similar manner. The power to reassess and extend the assessment upon the tax books shall be a continuing power as long as the district continues to exist. It shall be the duty of the county collector to collect the taxes so extended.

(2) In lieu of filing the reassessment, the assessors may make the changes in the assessments in red ink on the assessment already on file, or the assessment record may contain many columns, at the head of which the year shall be designated and, in the column, the new annual benefits may be shown in red ink which will indicate any increase or decrease in the original annual benefits extended. When the change is made, a red ink line shall be drawn through the figures showing the original annual benefits extended.

A.C.A. § 14-284-113. Assessment — Time for payment — Failure to pay — Redemption.

(a)

(1) All annual benefits extended and levied under the terms of this subchapter shall be payable between the third Monday in February and the third Monday in April of each year.

(2) If any annual benefit assessments levied by the board in pursuance to this subchapter are not paid at maturity, the collector shall not embrace the assessments in the taxes for which he shall sell the lands, but he shall report the delinquencies to the board of commissioners of the district who shall add to the amount of the annual benefit assessment a penalty of ten percent (10%).

(b) The board of commissioners shall enforce the collection by chancery proceedings in the chancery court of the county in the manner provided by §§ 14-121-426 — 14-121-432.

(c) The owner of property sold for taxes thereunder shall have the right to redeem it at any time within two (2) years from the time when his lands have been stricken off by the commissioner making the sale.

Annual Reporting Requirements:

A.C.A. § 14-284-114. Expenditures — Filing of report.

(a) The depository shall pay out no money save upon the order of the board and upon a voucher check signed by at least two (2) of the commissioners. Every voucher check shall state upon its face to whom payable, the amount, and the purpose for which it is issued. All voucher checks shall be dated and shall be numbered consecutively in a record to be kept by the board of the number and amount of each.

(b)

(1) The board of commissioners shall file with the county clerk in January of each year a certified itemized report showing all moneys received, the date of receipt, and the source from which received. The report shall further show all moneys paid out, the date paid, to whom paid, and for what purpose during the preceding year, together with an itemized list of all delinquent taxes showing the owner, a description of the property, the years for which taxes are delinquent, and the amount of total delinquency.

(2) Copies of the report shall be made and furnished to the chief of the fire department, who shall keep the reports at the fire station to be handed out on request by property holders of the district.

A.C.A. § 14-284-115. Street and road maintenance.

(a) The board of commissioners may make the necessary repairs upon the streets or roads within the district.

(b)

(1) It is realized that the firefighting apparatus must rush with great speed to the place of the fire and that holes or ruts in the streets or roads which it traverses may result in injury or death to fire fighters and in wrecking the firefighting apparatus.

(2) Therefore, any district organized pursuant to this subchapter is authorized to spend a sum not exceeding two hundred fifty dollars (\$250) per annum in maintaining the streets or roads in a safe condition.

(3) It is realized that the expenditure would be a benefit to all the real property in the district.

(4) The petition for and the court order creating the district shall designate the maximum amount that may be expended for labor and material in any year in maintaining the public thoroughfares of the district, but in no case shall the amount exceed two hundred fifty dollars (\$250) annual expenditure.

District Contracts:

A.C.A. § 14-284-116. Awarding of contracts.

(a)

(1) All contractors shall be required to give bond for the faithful performance of contracts as may be awarded them, with good and sufficient sureties in an amount to be fixed by the board of commissioners.

(2) The board shall not remit or excuse the:

(A) Penalty or forfeiture of the bond; or

(B) Breaches of the bond.

(b)

(1) The board may appoint all necessary agents for carrying on the work and may fix their pay.

(2) The board shall pay a reasonable fee for legal services in organizing the district.

(c)

(1) The board may sell all unnecessary material and implements that may be on hand and which may not be necessary for the completion of the improvement under way or for its operation.

(2) The board may in general make all contracts in the conduct of the affairs of the district as may best serve the public interest.

(d)

(1) The board shall make no contract for the purchase of material or equipment costing ten thousand dollars (\$10,000) or more except upon sealed bids opened in public.

(2) It shall be the duty of the secretary of the district to deliver a news item notice of intention to receive bids on certain equipment to the daily papers in the county and at least one (1) weekly paper.

Issuance of Notes and Prohibition on Issuance of Bonds:

A.C.A. § 14-284-117. Issuance of notes.

(a)

(1) In order to acquire and maintain equipment and facilities and do the work of the fire protection district, the board of commissioners may issue the negotiable notes of the fire protection district signed by the members of the board and bearing a rate of interest not exceeding the maximum rate of interest under § 4-57-104, and the board may pledge and mortgage a portion of the future annual benefit assessments as collected for payment.

(2) The petition for the creation of a fire protection district in the court order creating the fire protection district shall limit the total amount of notes that may be outstanding at any time, but the limits may be increased to the maximum prescribed in subdivision (a)(3) of this section.

(3) Subject to Arkansas Constitution, Amendment 78, if applicable, a fire protection district created under this subchapter shall not have notes outstanding at any one time:

(A) In excess of one hundred fifty thousand dollars (\$150,000); or

(B) With an annual amortized amount that exceeds two (2) times the available cash reserves of the fire protection district.

(b) A fire protection district shall not issue bonds.

Dissolving a District:

A.C.A. § 14-284-118. Dissolution.

(a) The district shall not cease to exist upon the completion of the improvement, but it shall continue to exist for the purpose of operating the firefighting equipment and keeping it in repair until such time as the owners of a majority in value of the real property within the district petition the county court for dissolution of the district.

(b) Publication of the petition for dissolution, as provided for in creating the district, shall be made, and, if the county court finds that a majority in value of the real property in the district have petitioned for the dissolving of the district, the district shall be dissolved.

(c) Parties for or against the dissolution shall have the same right of appeal as in the creation of the district.

Other:

A.C.A. § 14-284-119. Certain suits in public interest.

(a) All cases involving the validity of such districts or the annual benefit assessments and all suits to foreclose the lien of annual benefit assessments shall be deemed matters of public interest and shall be advanced and disposed of at the earliest possible moment.

(b) All appeals therefrom must be taken and perfected within thirty (30) days.

A.C.A. § 14-284-120. Alteration of plans and specifications.

(a) The commissioners may at any time alter the plans and specifications, which shall be filed with the county court. Notice of the filing shall be given by publication for two (2) weeks in some newspaper issued and having a bona fide circulation in the county.

(b) If by reason of a change of plans the board of commissioners deems that the assessment of benefits has become inequitable, it shall direct the assessors to make a reassessment. If any property owner deems that by reason of the change of plans his assessment has become inequitable, he may, within two (2) weeks after the last publication of the notice, petition the board to order a reassessment. The decision of the board upon his petition shall be final unless an appeal is taken within ten (10) days to the county court. In case of a reassessment, the reassessment shall be filed, advertised, and equalized as provided for in the original assessment.

A.C.A. § 14-284-121. Fee of collector and county clerk.

The collector of taxes in any county, in collecting annual benefit assessments in any district created under this subchapter or in collecting taxes in any improvement district created under Acts 1921, No. 660 [repealed] or Acts 1923, No. 126 [superseded], shall deduct one percent (1%) of the annual benefit assessments or taxes so collected, retain one-half of one percent ($\frac{1}{2}$ of 1%) as the fee of the collector for collecting the assessments or taxes, and pay over the remaining one-half of one percent ($\frac{1}{2}$ of 1%) of the assessments or taxes collected to the county clerk of the county as the fee of the county clerk for extending on the assessment records of the county the annual benefit assessments or taxes.

Intergovernmental Cooperation:

A.C.A. § 14-284-122. Authority to contract with other governmental entities to provide fire protection services.

Fire protection improvement districts or fire protection districts organized under this subchapter are authorized to contract with a city, town, county, the state, the federal government, or an existing fire protection improvement district or fire protection district for the provision of fire protection services.

A.C.A. § 14-284-123. Formation in certain towns.

(a) The real property owners in any incorporated town in this state having a population of not less than four hundred twenty-five (425) persons nor more than four hundred thirty-five (435) persons according to the 1970 Federal Decennial Census are authorized to form a fire protection district under the provisions of this subchapter for the purpose of acquiring, maintaining, and operating firefighting equipment and facilities to provide fire protection to the residents of the incorporated town.

(b) A fire protection district formed pursuant to the authority granted in this section shall be formed in the manner and for the purposes prescribed in this subchapter and shall have all powers, authority, and responsibility of other fire protection districts created under it.

District Consolidation:

A.C.A. § 14-284-124. Consolidation — Conditions and procedures.

(a)

(1) Fire protection districts organized under this subchapter may consolidate if:

(A) The districts are geographically contiguous;

(B) Located in the same county; and

(C) No parcel of land in the new district will be more than three (3) miles from an existing fire station.

(2)

(A) Consolidation of fire protection districts may be initiated upon the adoption of a resolution for consolidation by the board of directors of each district.

(B)

(i) Upon adopting a resolution, each fire protection district shall hold a public hearing to be held in the district no sooner than twenty (20) days and no later than forty-five (45) days following the adoption of the resolution.

(ii)

(a) Each district shall publish notice of its hearing in a newspaper of general circulation in the district once a week for two (2) consecutive weeks.

(b) The notice shall include the date, time, place, and purpose of the hearing.

(C)

(i) Following the hearing, the commissioners of the district shall vote on a resolution finding that consolidation of the districts is in the best interest of the landowners of the district.

(ii) If the resolution is adopted by the board of commissioners, a copy of the resolution shall be sent to the county court in the county where the district is located.

(D)

(i) Upon receiving a resolution from each district to be consolidated, the county court shall order the districts consolidated and shall name five (5) commissioners of the new district.

(ii) The new commissioners shall be appointed pursuant to § 14-284-105.

(b)

(1) In cities of the first class that have two (2) or more full-time volunteer fire protection districts, the governing body of the city may refer to the voters in the fire protection districts the option to consolidate the districts.

(2) If a majority of the voters in each district vote in favor of consolidation, the districts shall consolidate as set forth in subsections (c)-(e) of this section.

(c)

(1)

(A) Any fire protection district which is formed by the consolidation of two (2) or more fire protection districts shall consolidate all assets held by it arising from any of the districts and shall also assume all liabilities of the districts.

(B) The assets may be used by the district for any purpose allowed by law, and the liabilities of the district may be paid with funds arising from any source.

(2) All the provisions, rights, securities, pledges, covenants, and limitations contained in the instrument creating a liability shall not be affected by the consolidation, but shall apply with the same force and effect as provided in the original creation of liability.

(d)

(1) The existing assessments of each district consolidated into the new district shall remain in force until the end of the year in which the districts are consolidated.

(2) The commissioners shall order the assessors to reassess the annual benefits of the new district for the following year.

(e)

(1) A consolidated fire protection district shall not have notes outstanding at any one (1) time in excess of one hundred thousand dollars (\$100,000).

(2) The limitation of the excess outstanding note balance under subdivision (e)(1) of this section shall not apply to a consolidation of fire protection districts in a city of the first class that has two (2) or more full-time volunteer fire protection districts that have received funding from the city.

Overlapping District Boundaries:

A.C.A. § 14-284-125. Boundaries of overlapping districts.

The State Forestry Commission shall have authority to adjust the boundaries of fire protection districts having overlapping boundaries. The commission shall adjust the boundaries of overlapping fire districts upon the request of either district. The commission shall adjust the boundaries so that each district receives approximately fifty percent (50%) of the area that is within the boundaries of both districts.

b. FIRE PROTECTION DISTRICTS OUTSIDE OF CITIES AND TOWNS

Title 14, Chapter 284, Fire Protection Districts, Subchapter 2 —

Fire Protection Districts Outside of Cities and Towns

A.C.A. § 14-284-201 *et seq.*

Seeking to provide additional procedures by which the many rural areas of Arkansas might avail themselves of fire protection services, the General Assembly passed this subchapter of laws in order to encourage counties and/or local fire protection districts to better organize their efforts to develop and provide such services. Accordingly, the provisions of Subchapter 2 are supplemental to any other laws and procedures for the establishment, funding, and operation of fire protection districts and are not to be construed to modify, amend, supersede, or otherwise affect other laws and procedures. A.C.A. § 14-284-202.

Fire protection districts established under this subchapter generally cover only territory within the county, or within the defined district, outside the corporate limits of cities and towns. A.C.A. § 14-284-201. However, similar to the provisions of Subchapter 1, if any city or town within the district does not have an organized or volunteer fire department and desires to be included within the fire protection district, upon the adoption of an ordinance by the governing body of the city or town and addressed to the county judge and quorum court, the area covered by the fire protection district shall be extended to provide fire protection within the city limits of the city or town by ordinance adopted by the quorum court. A limited fire protection district shall be established by county ordinance upon the petition adopted by ordinance addressed to the county judge and quorum court from a city or town fire department that serves an area outside the city or town for the purpose of contracting for the collection of assessments under this subchapter. *Id.*

Slightly more specific in purpose than those established under Subchapter 1, fire protection districts under this subchapter are to be established for fire protection “in rural areas for buildings, structures, and other man-made improvements and may provide other emergency services, including hazardous and toxic materials response, search and rescue services, emergency medical services, ambulance services, patient transport services, and other functions as may be assigned.” *Id.*

While similar in form to Subchapter 1, this subchapter provides three separate ways to establish a fire protection district: (1) by petition (effected through the action of the quorum court); (2) by election (effected through the action of the county court); and (3) by resolution of a suburban improvement district (effected through the action of the county court). A.C.A. § 14-284-203.

Moreover, Subchapter 2 provides significantly more detailed guidance with respect to applicable procedures than does Subchapter 1. The following information is set out verbatim from the Arkansas Code and organized sequentially, with topical labels (Introductory, Methods of Establishment, Assessments, etc.).

For a discussion regarding the effects of certain changes made to this subchapter of law over the last two legislative sessions, please see Op. Ark. Att’y Gen. No. 062 (2016) and Op. Ark. Att’y Gen. No. 032 (2019), immediately following the below statutes.

Introductory Statutes:

A.C.A. § 14-284-201. Applicability.

(a)

(1) Fire protection districts established under this subchapter shall cover only territory within the county, or within the defined district, outside the corporate limits of cities and towns.

(2)

(A) However, if any city or town within the district does not have an organized or volunteer fire department and desires to be included within the fire protection district, upon the adoption of an ordinance by the governing body of the city or town, addressed to the county judge and quorum court, the area covered by the fire protection district shall be extended to provide fire protection within the city limits of the city or town by ordinance adopted by the quorum court.

(B) A limited fire protection district shall be established by county ordinance upon the petition adopted by ordinance addressed to the county judge and quorum court from a city or town fire department that serves an area outside the city or town for the purpose of contracting for the collection of assessments under this subchapter.

(b) A fire protection district under this subchapter shall be established for fire protection in rural areas for buildings, structures, and other man-made improvements and may provide other emergency services, including hazardous and toxic materials response, search and rescue services, emergency medical services, ambulance services, patient transport services, and other functions as may be assigned.

(c) This subchapter does not relieve the Arkansas Forestry Commission of responsibility for providing fire protection for forest lands.

A.C.A. § 14-284-202. Provisions supplemental.

The provisions of this subchapter are supplemental to any other laws and procedures for the establishment, funding, and operation of fire protection districts and shall not be construed to modify, amend, supersede, or otherwise affect other laws and procedures.

Methods of Establishment:

A.C.A. § 14-284-203. Methods of establishment.

Fire protection districts may be established to serve all or any defined portion of any county in any of the following ways:

- (1) By ten percent (10%) of the qualified electors in the proposed district's petitioning the quorum court to hold a public hearing and to form a district, and by the quorum court's adopting an ordinance calling for notice and a public hearing within the district;
- (2) By the county court pursuant to an election of the qualified electors of the proposed district initiated, called, and conducted as provided in this subchapter; or
- (3) By the county court pursuant to a resolution of a suburban improvement district, approved by unanimous vote of its board of commissioners, to convert to a fire protection district to be administered under this subchapter.

A.C.A. § 14-284-204. Establishment by petition and adoption of ordinance (As authorized by subdivision (1) above).

(a)

(1)

(A) If petitions containing a description of the territory for a proposed fire protection district, along with an accurate map of the proposed fire protection district boundaries, and containing the signatures of ten percent (10%) or more of the qualified electors within the proposed fire protection district are filed with the county quorum court of a county in which the proposed fire protection district is to be located to request a public hearing and the establishment of a fire protection district in the county, then the county quorum court or quorum courts, if the proposed fire protection district is located in more than one (1) county, shall conduct a public hearing to determine the support for the proposed fire protection district.

(B)

(i) A petition shall be certified by the quorum court within sixty (60) days of receipt of the petition under subdivision (a)(1)(A) of this section.

(ii) The quorum court shall respond in writing to the petitioners within the sixty-day period under subdivision (a)(1)(B)(i) of this section if there are issues or questions the quorum court would like addressed in the petition, but in no event shall the quorum court delay the sixty-day period under subdivision (a)(1)(B)(i) of this section.

(2)

(A) The quorum court shall set the time for the hearing to be held not less than thirty (30) days nor more than sixty (60) days after the petitions are certified and shall set the place for the hearing to be held within the boundaries of the proposed fire protection district.

(B) When a time and place for the hearing are set, the quorum court shall publish notice of the hearing in a newspaper of general circulation in the county.

(3)

(A) Before setting the initial hearing on the adoption of an ordinance to establish a fire protection district, petitions filed with the county quorum court shall be sent to the county clerk of the county where the proposed fire protection district is to be located.

(B) It shall be the duty of the county clerk or clerks, as the case may be, to determine the sufficiency of the signatures and to certify the sufficiency in writing to the quorum court.

(C) The petitions shall indicate the elector's name, address, and signature and shall contain a verification of the signatures pursuant to § 7-9-109.

(b)

(1) After the petitions are certified and the initial public hearing held, the county quorum court shall adopt an ordinance to establish the fire protection district, to levy assessments on property or the landowners, or both, and to call for a public hearing on the ordinance.

(2) The ordinance shall set the time and place for a public hearing on the ordinance to be held within the boundaries of the proposed fire protection district.

(c)

(1)

(A) When an ordinance is adopted by the quorum court establishing a fire protection district, the quorum court shall publish notice of the adoption of the ordinance in a newspaper of general circulation in the county.

(B) The notice shall include a copy of the ordinance and shall prescribe a time and place within the proposed district for a public hearing on the ordinance.

(2)

(A) A public hearing shall be held at some large public facility within the boundaries of the proposed district at least sixty (60) days and not more than ninety (90) days after the date of publication of the notice.

(B) If at the hearing a majority of the qualified electors in the proposed district appear in person to oppose the establishment of the district or if petitions opposing the establishment of the district and containing the signatures of a majority of the qualified electors in the proposed district are filed at or before the public hearing, the ordinance creating the district shall be void.

(C)

(i) If a majority of the qualified electors of the proposed district do not object to the establishment of the district in person or by petition within the time prescribed in this subsection, the ordinance shall be valid and the district shall be established.

(ii) The board of commissioners for the district shall be appointed and serve, and the levy of assessed benefits to support the district may be made, in the same manner as is provided in this subchapter for fire protection districts established pursuant to a vote of the electors.

(d)

(1) A fire protection district established by ordinance of the quorum court without a vote of the electors of the district shall have no authority to issue bonds and to pledge assessed benefits of the district to secure bonds, unless the question of the issuance of bonds by the district is first submitted to, and approved by, a majority of the qualified electors of the district voting on the issue.

(2) The question of the issuance of bonds by a fire protection district established by ordinance of the quorum court may be submitted to the electors of the district at an election called by the county court either at the request of the board of commissioners of the district or upon petition signed by ten percent (10%) of the electors of the district as determined by the number of votes cast by the electors of the district for all candidates for Governor at the last preceding general election.

A.C.A. § 14-284-205. Establishment by election (As authorized by subdivision (2) above).

(a) When petitions are filed with the county court of any county wherein the fire protection district to be established is located in a single county or if the fire protection district is to be located in more than one (1) county and the petitions are filed with the county courts of all counties wherein the fire protection district is to be established, and the petitions contain the signatures of ten percent (10%) or more of the qualified electors within the proposed fire protection district boundaries, as determined by the number of votes cast by the qualified electors within the proposed fire protection district boundaries for all candidates for Governor at the last preceding general election, requesting the establishment of a fire protection district in the county or a designated portion thereof and requesting that assessments be made on the property or assessments be made on the landowners, or assessments be made both on the property and the landowners located in the district to finance the operation of the district, the county court, or county courts if the fire protection district is located in more than one (1) county, shall call a special election in accordance with § 7-11-201 *et seq.* within the proposed fire protection district to determine whether a fire protection district shall be established for the area.

(b)

(1) The county court or county courts, if the proposed fire protection district is located in more than one (1) county, shall call a special election in accordance with § 7-11-201 *et seq.* to submit the question of the establishment and financing of a fire protection district to the electors of a proposed district.

(2) The special election shall be held within ninety (90) days after the filing of the petitions requesting the election.

(3) If the proposed fire protection district is located within more than one (1) county, the county courts shall set the date of the election on the same date and set the places of the election within the proposed fire protection district boundaries.

(4) At the election, the question of establishing and financing the district shall be placed on the ballot in substantially the following form:

“FOR the establishment of a fire protection district in(county),
.....(designated area), and the levy of assessed benefits on real property in the
district to finance the district[].

AGAINST the establishment of a fire protection district in(county),
.....(designated area), and the levy of assessed benefits on real property in the
district to finance the district.....[].”

A.C.A. § 14-284-206. Definition of area in petition.

(a) Petitions filed under § 14-284-203 shall specifically define the area proposed to be included in a fire protection district and shall specify the maximum assessed benefits that may be levied against property within the district for the support of the district.

(b) The maximum assessed benefits may be reassessed using the procedures under this subchapter.

A.C.A. § 14-284-207. Quorum court to establish fire protection service area — Furnishing of maps.

(a)

(1) The quorum court of each county wherein is located a fire protection district formed for fire protection purposes shall establish the service area of the fire protection districts to not exceed a radius of five (5) miles from each fire station.

(2) For the purpose of this subsection, five (5) miles means a distance of five (5) miles by straight line, not road or highway miles.

(b) The quorum courts shall furnish the fire protection organizations with a map indicating their service area.

Board of Commissioners:

A.C.A. § 14-284-208. Order for establishment — Board of commissioners — Appointment — Compensation.

(a)

(1) If at an election a majority of the qualified electors voting on the question vote “FOR” the establishment of the proposed fire protection district and the levy of assessed benefits to support the district or if an ordinance of the quorum court establishing a district is sustained or if the board of commissioners of a suburban improvement district votes unanimously to convert to a fire protection district, the county court shall enter an order establishing the district as described in the petitions or ordinance and shall appoint five (5) qualified electors of the district as a board of commissioners for the district, unless it is otherwise provided for by law.

(2)

(A) Two (2) members of the commission shall be appointed for terms of two (2) years and three (3) members of the commission shall be appointed for terms of three (3) years.

(B) All successor members shall be appointed by the county court for terms of three (3) years.

(C) All appointments shall be subject to confirmation by the quorum court of the county.

(b) The members of the boards of commissioners of fire protection districts formed after July 3, 1989, or converted from suburban improvement districts, under this subchapter shall be elected at a public meeting called by the county court. The commissioners shall be elected by the qualified electors residing within the district.

(c) Vacancies occurring on the board because of resignation, removal, or otherwise shall be filled by the county court for the unexpired term.

(d) The members of the board shall serve without compensation but shall be entitled to actual expenses incurred in attending meetings in an amount not to exceed fifty dollars (\$50.00) per month for each member of the board as authorized by the quorum court of the county.

(e) Members of the board may be removed from office by the county court for good cause shown.

(f)

(1) If the district includes territory from more than one (1) county, the board of commissioners shall be composed of seven (7) members.

(2) The members of the board of commissioners of multicounty fire protection districts formed after July 3, 1995, under this subchapter shall be residents of the fire protection district and elected at a public meeting as agreed upon by the county courts in order to establish the time of the meeting and the place of the meeting being within the district. The commissioners shall be elected by the qualified electors residing within the district.

(3) The members of the board of commissioners shall serve staggered terms.

(4) Vacancies occurring on the board due to resignation, removal, or otherwise shall be filled by the remaining board members for the unexpired term.

(5)

(A)

(i) Members of the board may be removed by a special election to be held within ninety (90) days after the presentation of a special election removal petition signed by ten percent (10%) of the assessed landowners or the assessed per parcel or per acre owners, with the removal of the board member to be determined by the majority votes of the votes cast in person by the assessed landowners or the assessed per parcel or per acre property owners.

(ii) Each assessed landowner or assessed parcel or acre property owner shall have one (1) vote per paid assessment.

(B) The election for the removal of board members shall be held at a meeting at a designated location within the fire protection district

A.C.A. § 14-284-209. Board of commissioners — Officers and employees.

(a) The board shall annually choose from among its members a chairman and a secretary-treasurer. The chairman and secretary-treasurer shall furnish bonds, conditioned upon faithful performance of their duties, in the amount of five thousand dollars (\$5,000) each. The cost of securing and maintaining the bonds shall be paid from funds of the district.

(b) The board may employ a director and such other employees as it deems necessary to carry out the purposes of the district. Employees of the board shall have such responsibilities and receive such compensation, if any, as may be prescribed by the board.

A.C.A. § 14-284-210. Board of commissioners — Proceedings — Meeting and office space.

(a) The county in which any district is located shall cooperate with and assist the board by providing suitable office space and meeting facilities for the board and its staff if facilities and space are available.

(b) The board shall meet at least quarterly and at such other times as it may deem necessary to properly carry out its responsibilities.

- (c) Meetings shall be called by the chairman or a majority of the members of the board.
- (d) Three (3) members of the board shall constitute a quorum, and any substantive action of the board shall require an affirmative vote of at least three (3) members.

A.C.A. § 14-284-211. Board of commissioners — Power and authority.

The board of commissioners of any district created pursuant to this subchapter shall have the power and authority to:

- (1) Execute contracts and other instruments for and in behalf of the district;
- (2) Cooperate with any other fire protection district, municipal fire department, or any political subdivision or agency of this state or the United States in carrying out the purposes of the district;
- (3) Establish rules and regulations for the transaction of the district's business and for carrying out the purposes of the district;
- (4) Make assessments of benefits against real property in the district benefited by fire protection services of the district and provide for the collection of the assessments;
- (5) Issue bonds as provided in this subchapter to finance the district and its purposes. However, districts established by ordinance of the quorum court shall have no authority to issue bonds unless the question is first submitted to and approved by the electors of the district as provided in §§ 14-284-204 and 14-284-205; and
- (6) Do any and all other actions necessary or desirable to enable the board to carry out its responsibilities and to accomplish the purposes of the district.

Assessments:

A.C.A. § 14-284-212. Preparation of plans — Assessors and assessments generally.

- (a) As soon as is practical after its establishment, the board shall prepare plans for providing fire protection services and for acquiring the property and equipment necessary to carry out the purposes of the district.
- (b) They shall thereupon appoint three (3) assessors to assess the annual benefits which will accrue to the real property within the district from the providing of fire protection services and shall fix their compensation. The assessors shall take an oath that they will well and truly assess all annual benefits that will accrue to the protected landowners of the district by the providing of fire protection services.
- (c) The assessors shall thereupon proceed to assess the annual benefits to the lands within the district and shall inscribe in a book each tract of land and extend opposite the inscription of each tract of land the amount of annual benefits that will accrue each year to that land by reason of the services.
- (d) The original assessment of benefits and any reassessment shall be advertised and equalized in the same manner as provided in this subchapter, and owners of all property whose assessment has been raised shall have the right to be heard and to appeal from the decision of the assessors, as hereinafter provided.
- (e) The assessors shall place opposite each affected tract the name of the supposed owner as shown by the last county assessment, but a mistake in the name shall not void the assessment, and the assessors shall correct errors which occur in the county assessment list.
- (f) The commissioners shall have the authority to fill any vacancy in the position of assessor, and the assessors shall hold office at the pleasure of the board.

(g)

(1)

(A) The elected board of commissioners of a fire protection district formed after July 3, 1995, under this subchapter may assess a flat fee per parcel of land or per acre of land located within the district or assess a flat fee per landowner who owns land located within the district, as an alternative to assessing benefits.

(B) The elected board of commissioners of a fire protection district formed after July 3, 1995, under this subchapter may establish a different flat fee for the classification of property as commercial property other than for residential property and a different flat fee for the classification of property as unimproved property.

(C) The elected board of commissioners may determine if a parcel of property or acre is to be classified as commercial, residential, or unimproved property.

(D) If the elected board of commissioners of a fire protection district formed after July 3, 1995, under this subchapter assesses the flat fee per landowner and also establishes different flat fee classifications per parcel or per acre, and if a landowner owns more than one (1) parcel or one (1) acre of property within the fire district with different flat fee classifications, the landowner is to be annually assessed one (1) time the highest flat fee classification assessment.

(2)

(A) If the elected board of commissioners of a fire protection district formed after July 3, 1995, under this subchapter assesses an increase in the flat fee per parcel or per acre classification or an increase in the assessment per landowner or an increase in the assessment for both parcel or acre classification and landowner, the increased assessment must be approved in an election by a majority vote of the votes cast in person by the assessed landowners or the assessed per parcel or per acre property owners.

(B) The election called by the elected board of commissioners for an increase in the flat fee assessment shall be held within ninety (90) days after the board of commissioners' meeting that approves the assessment increase.

(C) Notice of the election must be published at least three (3) times by insertion in a newspaper of general circulation within the fire protection district and by a public notice posted at the fire stations within the fire protection district.

(D) The election for the assessment increase shall be held at a designated location within the fire protection district.

(E) Each assessed landowner or assessed parcel or acre property owner shall have one (1) vote per paid assessment.

(3)

(A)

(i) On and after March 6, 2015, the elected board of commissioners of a fire protection district shall assess timberland at a rate not to exceed twenty-five percent (25%) of the forest fire protection tax under § 26-61-103.

(ii) The current assessment rate on timberland in effect on March 6, 2015, may stay the same but shall not be increased beyond the rate under this subdivision (g)(3).

(B) As used in this section, "timberland" means the same as defined in § 26-61-102.

A.C.A. § 14-284-213. Assessments — Notice and hearing.

(a) The assessment or reassessment shall be filed with the county clerk of the county, and the secretary of the board shall thereupon give notice of its filing by publication once a week for two (2) weeks in a newspaper having a bona fide circulation in the county. This notice may be in the following form:

"Notice is hereby given that the assessment of annual benefits of District Number has been filed in the office of the County Clerk of County, where it is open for inspection. All persons wishing to be heard on said assessment will be heard by the assessors of said district in the office of the County Clerk between the hours of 1 P.M. and 4 P.M., at, on the day of, 20."

(b) On the day named by the notice, it shall be the duty of the assessors to meet as a board of assessors at the place named to hear all complaints against the assessment or reassessment and to equalize and adjust the same. Their determination shall be final unless suit is brought in the chancery court within thirty (30) days to review it. If the board is unable to hear all complaints between the hours designated, they shall adjourn over from day to day until all parties have been heard.

A.C.A. § 14-284-214. Assessments — Annual reassessments.

(a) The board of commissioners shall once a year order the assessors to reassess the annual benefits of protected property in the fire protection district if there have been improvements made or improvements destroyed or removed from one (1) or more tracts of land in the fire protection district, making it necessary to have the annual benefits revised.

(b)

(1)

(A) Whereupon, it shall be the duty of the assessors to reassess the benefits of the fire protection district, and the annual benefits assessed may be raised or lowered as fire protection services benefiting the property change.

(B) If the annual benefits assessed exceed one hundred dollars (\$100) per parcel, the quorum court of the county in which the fire protection district lies shall review and approve or disapprove the reassessment.

(2) If the board of commissioners determines that there have been no significant changes in improvements on the lands in the fire protection district, the board of commissioners may direct that assessed benefits remain the same as the benefits assessed the preceding year.

A.C.A. § 14-284-215. Assessments — Filing and collection.

(a) The original benefit assessment or flat fee assessment or any reassessment shall be filed with the county clerk of each county within which the district is located, and it shall be the duty of the county clerk to extend the annual benefit assessment or flat fee assessment annually upon the tax books of each county for the property within the fire protection district as located within that county until the district is dissolved.

(b) It is the duty of the collector each year to collect the annual benefit assessment, flat fee assessment, or reassessment so extended, along with the other taxes.

(1) The collector shall deduct three percent (3%) of the assessments collected, shall retain one-half (½) thereof as his fee for collecting the benefits, and shall pay over the remaining one-half (½) of this amount to the clerk of the county, or to the appropriate county official who extended the assessment, as his fee for extending the assessments on the assessment records.

(2) The collector shall remit the remainder of the assessments collected to the secretary-treasurer of the district at the same time the collector remits tax collections to the county treasurer.

(3) Upon receipt of the assessed benefits, the secretary-treasurer of the district shall execute a receipt for the funds, deliver it to the county collector, and shall deposit the funds so received in a bank or banks that are located within the district or a bank or banks designated by the board of commissioners if no bank or banks are located within the district, with said funds to be used solely and exclusively for district purposes.

(c)

(1) If there is any change in the annual assessments, a certified copy of the revised assessment shall be filed with the county clerk, who shall extend the revised assessment annually upon the tax books until a new assessment is made, which shall be extended upon the tax books in like manner. The power to reassess and extend the assessment upon the tax books shall be a continuing power as long as the district continues to exist. It shall be the duty of the county collector to collect the taxes so extended.

(2) In lieu of filing the reassessment, the assessors may make the changes in the assessment in red ink on the assessment already on file, or the assessment record may contain many columns, at the head of which the year shall be designated, and, in the corresponding column, the new annual assessment may be shown in red ink which will indicate any increase or decrease in the original annual assessment extended. When the change is made, a red ink line shall be drawn through the figures showing the previous annual assessment extended.

A.C.A. § 14-284-216. Assessments — Time for payment — Failure to pay.

(a)

(1)

(A) All annual assessments extended and levied under this subchapter are payable at the time ad valorem real property taxes are payable.

(B) The county shall list the fire protection district assessments as an involuntary collection beginning with the next ad valorem real property tax statement.

(2) A property owner shall pay the assessments under this subchapter as a prerequisite to paying his or her ad valorem real property taxes.

(3) The collector shall report delinquent assessments annually to the board of commissioners of the fire protection district for informational purposes.

(4)

(A) The collector shall add to the amount of the delinquent assessment a penalty of ten percent (10%) and shall collect the delinquent assessment in the same manner as delinquent ad valorem real property taxes.

(B)

(i) The collector may certify delinquent assessments for collection after January 1 each year.

(ii) A delinquent assessment that existed before January 1, 2020, is deemed uncollectible.

(b) The board of commissioners shall enforce the collection by proceedings in the circuit court of the county in the manner provided by §§ 14-121-426 — 14-121-432.

(c)

(1) The collector may retain in reserve up to ten percent (10%) of monthly remittances to a fire protection district for a period of no more than sixty (60) days.

(2) The reserve shall be refunded at the end of the sixty (60) days without interest, and the reserve fund may accompany a dues remittance payment.

A.C.A. § 14-284-217. Expenditures — Public proceedings and transactions — Filing of report.

(a) Funds of the district shall be expended only upon the order of the board and upon a voucher check signed by the chairman and secretary-treasurer of the board. Every voucher check shall state upon its face to whom it is payable, the amount, and the purpose for which it is used. All voucher checks shall be dated and shall be numbered consecutively in a record to be kept by the board of the number and amount of each.

(b) All proceedings and transactions of the board shall be a matter of public record and shall be open to the inspection of the public.

(c) The board shall file with the county clerk in January of each year a certified itemized report showing all moneys received, the date of receipt, and the source from which received. The report shall further show all moneys paid out, the date paid, to whom paid, and for what purpose during the preceding year, together with an itemized list of all delinquent taxes, showing the owner, a description of the property, the years for which taxes are delinquent, and the amount of total delinquency.

Issuance of Bonds:

A.C.A. § 14-284-218. Bonds and certificates of indebtedness generally.

(a) The board of any fire protection district established pursuant to a vote of the electors as authorized in this subchapter, and the board of any fire protection district established by ordinance of the quorum court when so authorized by a vote of electors in the district as authorized in this subchapter, and the board of fire protection district converted from a suburban improvement district shall have the authority to issue negotiable bonds or certificates of indebtedness to secure funds for the expenses of the district, including office supplies and salaries and the purchase of land, buildings, equipment, facilities, chemicals, and such other items as may be necessary to carry out the purposes of the district.

(1) Bonds issued by the board shall be for a term of not more than twenty (20) years.

(2) To secure the bonds, the board may pledge all or a portion of the benefits assessed against benefited real property in the district.

(b) Bonds of the district shall be authorized by resolution of the board and may be coupon bonds, payable to bearer, or may be registrable as to principal only or as to principal and interest, and may be made exchangeable for bonds of another denomination, may be in such form and denomination, may have such date or dates, may be stated to mature at such times, may bear interest payable at such times and at such rate or rates, may be payable at such places within or without the State of Arkansas, may be made subject to such terms of redemption in advance of maturity at such prices, and may contain such terms and conditions, all as the board shall determine. The bonds shall have all the qualities of negotiable instruments under the laws of the State of Arkansas, subject to provisions as to registration, as set forth above.

(c)

(1) The authorizing resolution may contain any of the terms, covenants, and conditions that are deemed desirable by the board, including, without limitation, those pertaining to the maintenance of various funds and reserves, the nature and extent of the security, the issuance of additional bonds and the nature of the lien and pledge, whether parity or priority, in that event, the custody and application of the proceeds of the bonds, the collection and disposition of revenues, the investing and reinvesting in securities specified by the board of any moneys during periods not needed for authorized purposes, and the rights, duties, and obligations of the district, the board, and the holders and registered owners of the bonds.

(2) The authorizing resolution may provide for the execution by the district of a trust indenture with a bank or trust company within or without the State of Arkansas. The trust indenture may contain any terms, covenants, and conditions that are deemed desirable by the board, including, without limitation, those pertaining to the maintenance of various funds and reserves, the nature and extent of the security, the issuance of additional bonds and the nature of the lien and pledge, whether parity or priority, in that event, the custody and application of the proceeds of the bonds, the collection and disposition of assessments and of revenues, the investing and reinvesting, in securities specified by the board, of any moneys during periods not needed for authorized

purposes, and the rights, duties, and obligations of the board and the holders and registered owners of the bonds.

(d) The bonds shall be sold at public sale on sealed bids or may be sold and negotiated in any market either at a public or private sale, as may be determined by the board.

(1) If the bonds are sold at public sale on sealed bids, notice of the sale shall be published one (1) time a week for at least two (2) consecutive weeks in a newspaper having a general circulation throughout the State of Arkansas, with the first publication to be at least twenty (20) days prior to the date of sale, and may be published in such other publications as the director may determine.

(2) The bonds may be sold at such price as the board may accept, including sale at a discount.

(3) The award, if made on sealed bids, shall be to the bidder whose bid results in the lowest net interest cost.

(e)

(1) The bonds shall be executed by the manual signature of either the chairman or secretary-treasurer of the board or by the manual signature of an officer of the trustee for the bonds if the trustee certifies in writing to the authenticity of the bonds. The coupons attached to the bonds shall be executed by the facsimile signature of the chairman of the board.

(2) In case any of the officers whose signatures appear on the bonds or coupons shall cease to be officers before the delivery of the bonds or coupons, their signatures shall, nevertheless, be valid and sufficient for all purposes.

(f) The district shall adopt and use a seal in the execution and issuance of the bonds, and each bond shall be sealed with the seal of the district.

A.C.A. § 14-284-219. Bonds — Security — Liability of board for bonds and contracts.

(a) It shall be plainly stated on the face of each bond that it has been issued under the provisions of this subchapter, that the bonds shall be obligations only of the district, and that in no event shall they constitute any indebtedness for which the faith and credit of the state or any county or municipality, or any of the revenues of the state or any county or municipality, are pledged.

(b) No member of the board shall be personally liable on the bonds or for any damages sustained by anyone in connection with any contracts entered into in carrying out the purposes and intent of this subchapter unless he shall have acted with corrupt intent.

(c)

(1) The principal of, interest on, and paying agent's fees in connection with the bonds shall be secured by a lien on and pledge of, and shall be payable from, the assessments levied against the benefited real property within the district.

(2) The right to issue subsequent issues of bonds, if the district so determines, can be reserved in any authorizing resolution or trust indenture on either a parity or subordinate lien basis and upon

such terms and conditions as the district may determine and specify in the particular authorizing resolution or trust indenture.

A.C.A. § 14-284-220. Bonds — Refunding of obligations.

- (a) Bonds may be issued for the purpose of refunding any bonds issued under this subchapter.
- (b) Refunding bonds may be either sold or delivered in exchange for the bonds being refunded.
- (c) If sold, the proceeds may be either applied to the payment of the bonds being refunded or deposited in trust and there maintained in cash or investments for the retirement of the bonds being refunded, as shall be specified by the district in the resolution or trust indenture securing the bonds.
- (d) The resolution or trust indenture securing the refunding bonds may provide that the refunding bonds shall have the same priority on assessments or revenues pledged for their payment as was enjoyed by the bonds refunded.
- (e) Refunding bonds shall be sold and secured in accordance with the provisions of this subchapter pertaining to the sale and security of the bonds initially issued.

A.C.A. § 14-284-221. Bonds — Tax exemption.

Bonds issued under the provisions of this subchapter and the interest thereon shall be exempt from all state, county, and municipal taxes, including ad valorem, income, inheritance, and estate taxes.

District Dissolution:

A.C.A. § 14-284-222. Dissolution.

- (a) A fire protection district created pursuant to this subchapter may be dissolved upon a vote of a majority of qualified electors of the district, and the question of dissolution of the district may be submitted to the electors in the same manner as is prescribed in this subchapter for submitting the question of the establishment of the district.
- (b) However, if any district having outstanding bonds or other indebtedness is dissolved, the assessed benefits being levied at the time of dissolution shall continue to be levied and collected until the outstanding bonds or other indebtedness are paid.
- (c) No election on the question of dissolution of a fire protection district may be held within the first three (3) years after the establishment of the district.

Intergovernmental Cooperation:

A.C.A. § 14-284-223. Authority to contract with other governmental entities to provide fire protection services.

Fire protection improvement districts or fire protection districts organized under this subchapter are authorized to contract with a city, town, or county, the state, the federal government, or an existing fire protection improvement district or fire protection district for the provision of fire protection services

Annexation:

A.C.A. § 14-284-224. Petition to annex territory to an existing district — Special election.

(a)

(1)

(A) When petitions are filed with the board of commissioners of a fire protection district created pursuant to this subchapter containing the signatures of at least ten percent (10%) of qualified electors of a portion of the unincorporated area of the county, as determined by the number of votes cast by the qualified electors of that portion of the county for all candidates for Governor at the last preceding general election, requesting the annexation of the territory to an existing fire protection district created under this subchapter and requesting that assessed benefits be made on the property located within the area to be annexed to help finance the operation of the district, the board of commissioners shall conduct a public hearing on the petition.

(B) If the board determines the annexation to be desirable, the board shall notify the quorum court, and the quorum court may at its discretion call a special election within the area of the existing fire protection district and the area proposed to be annexed to determine whether the annexation should occur.

(2) No annexation shall occur except pursuant to an election under subsection (b) of this section or by ordinance under subsection (d) of this section.

(b)

(1) The special election called by the quorum court to submit the question of the annexation and financing of the fire protection district to the electors of the district and the area to be annexed shall be held no later than ninety (90) days after the proclamation of a special election in accordance with § 7-11-201 *et seq.*

(2) At the election, the question of annexing the area to the district and the financing of the district shall be placed on the ballot in substantially the following form:

“FOR the annexation of (description of area to be annexed), and the levy of assessed benefits on real property within the area to be annexed to help finance the district [].”

AGAINST the annexation of (description of area to be annexed), and the levy of assessed benefits on real property within the area to be annexed to help finance the district [].”

(c) If a majority of those voting at the election who reside within the area to be annexed and a majority of those voting at the election who reside within the existing district vote in favor of the annexation, the

area shall be deemed annexed and shall become a part of the fire protection district and governed accordingly.

(d)

(1) As an alternative to an election on the annexation issue, if the board of commissioners of a fire protection district is in favor of the annexation, the board may refer the petitions to the county quorum court that may then accomplish the annexation by enactment of a county ordinance providing for the annexation.

(2)

(A)

(i) However, the ordinance shall not go into effect until sixty (60) days after its enactment.

(ii) During that time, if petitions calling for a referendum on the ordinance are presented to the quorum court and the petitions are signed by the number prescribed in subsection (a) of this section, the quorum court shall call a special election in accordance with § 7-11-201 *et seq.* on the issue of the annexation.

(B) The election shall be conducted as prescribed in subsection (b) of this section.

(C) Unless at least a majority of those voting at the election who reside within the area to be annexed and a majority of those voting at the election who reside within the existing district vote in favor of the annexation, the annexation shall not occur.

(3) If the petitions are filed within sixty (60) days after enacting the ordinance, the ordinance shall not go into effect until and unless the annexation is approved at the election provided for in this section.

(e) An attempt at annexation under this section, whether successful or not, shall in no way reduce the bonding authority of the fire protection district, nor shall the failure of the attempt at annexation have any effect on the existing fire protection district.

(f) No area shall be annexed under this section if it is located within the service area of another fire protection district or a nonprofit fire protection corporation.

A.C.A. § 14-284-225. Assessment — When annexed into a municipality.

No property located within the bounds of a municipality shall be assessed, taxed, or required to pay fees to any fire protection district after March 29, 1995, unless:

(1) There is a mutual, formal agreement between the municipality and the fire protection district to provide fire protection services to the property; or

(2) Bonded indebtedness for fire protection equipment or facilities was incurred by the fire protection district prior to the date of annexation of such property and the indebtedness incurred before annexation has not been retired.

Conversion from Fire Department to Fire Protection District:

A.C.A. § 14-284-226. Conversion to fire protection district.

(a) The governing body of a fire department that seeks to become a fire protection district shall make the request by petition to the quorum court of the county, or counties if the fire department serves more than one (1) county.

(b)

(1)

(A) Upon the request by petition in subsection (a) of this section, the quorum court shall grant the petition to convert the fire department to a fire protection district within sixty (60) days of receipt of the petition.

(B) The quorum court shall respond in writing to the fire department within the sixty-day period under subdivision (b)(1)(A) of this section if there are issues or questions the quorum court would like addressed in the petition, but in no event shall the quorum court delay the sixty-day period under subdivision (b)(1)(A) of this section.

(2) The fire protection district assessments shall be listed annually beginning with the next ad valorem real property tax statement and collected under § 14-284-216.

Attorney General Opinion(s):

OPINION NO. 2016-062

August 26, 2016

QUESTION

You have requested my opinion on the following questions regarding Act 1234 of 2015, which amended a section of the Arkansas Code concerning fire protection districts outside cities and towns:

1. Does the additional language in Act 1234 of 2015 apply to fire protection districts that were established prior to this amendment of April 2015 and specifically in 1982?
2. Does the new language give the board of a fire protection district formed in 1982 under Act 35 of 1979 by petition and election the authority to raise the "maximum assessable levy" or cap without requiring another vote of the people of the district?

3. Can a fire protection district board, created by Act 35 of 1979 in 1982 by a vote of electors in the district which required a petition stating a maximum assessable levy, raise the maximum assessable levy with new legislation?

4. Does the board of a fire protection district formed in 1982 operate under changes and additions made to the code after its establishment?

5. Do changes made to Act 35 of 1979 after the establishment of the district affect [*2] its operational procedures?

OPINION

RESPONSE

The answer to each of your first three questions is "yes." The answer to both Questions 4 and 5 is "generally yes," with the understanding that the legislature might limit the applicability of some changes or additions to only those fire protection districts formed after the enactment of a particular law.

DISCUSSION

Question 1: Does the additional language in Act 1234 of 2015 apply to fire protection districts that were established prior to this amendment of April 2015 and specifically in 1982?

Act 1234 of 2015 amended Ark. Code Ann. § 14-284-206 regarding maximum assessed benefits in fire protection districts established outside cities and towns. Section 14-284-206 applies to districts established upon petition of the qualified electors within the proposed district's boundaries. Prior to the 2015 amendment, section 14-284-206 stated:

Petitions filed pursuant to § 14-284-203 shall [*3] specifically define the area proposed to be included in a fire protection district and shall specify the maximum assessed benefits that may be levied against property within the district for the support of the district.

Act 1234 of 2015 amended section 14-284-206 to add the following subsection authorizing a reassessment of the maximum benefits specified in petitions to form a fire protection district:

The maximum assessed benefits may be reassessed using the procedures under this subchapter.

You have asked whether the above-emphasized provision authorizing a reassessment of the maximum benefits applies to districts established prior to the enactment of Act 1234 of 2015. In my opinion, the answer to this question is "yes." Nothing in Act 1234 indicates that its applicability is restricted to fire protection districts created after the Act's effective date.

The first rule of statutory interpretation is to construe the statute just as it reads, giving the words their ordinary and usually accepted meaning in common [*4] language. Courts will construe the statute so that no word is left void, superfluous, or insignificant; and meaning and effect will be given to every word in the statute if possible. When the statutory language is plain and unambiguous, the meaning of the statute must be determined from the plain meaning of the language used. Our courts will not resort to a strained

construction of statutory language for the purpose of restricting or expanding the plain meaning of a statute. Finally, nothing is taken as intended by the legislature that is not clearly expressed.

In this regard, the plain language of Act 1234 of 2015 makes no reference to when a particular fire protection district is, or was, created. When the legislature has intended to apply a new law only to districts created after a certain date, it has stated as much in express terms. For instance, under Act 648 of 1989, members of the board of [*5] commissioners of "fire protection districts *formed after July 3, 1989*" must be elected by the district's qualified electors. And under Act 766 of 1995, the board of a "fire protection district *formed after July 3, 1995*" may assess a "flat fee" either "per parcel" or "per landowner" as an alternative to assessing benefits.

Act 1234 of 2015 contains no such language. In my opinion, the language of section 14-284-206(b) on its face applies to fire protection districts created both before and after the passage of the 2015 act. This would include a district fanned in 1982.

Question 2: Does the new language give the board of a fire protection district formed in 1982 under Act 35 of 1979 by petition and election the authority to raise the "maximum assessable levy" or cap without requiring another vote of the people of the district?

In my opinion, "yes," so long as the statutory reassessment procedures are followed.

Before the enactment of Act 1234 of 2015, the board of commissioners of a fire protection district formed under Ark. Code Ann. § 14-284-201 *et seq.* lacked authority to increase the "maximum assessed benefits" specified in the petition to form the district. This body of law has always provided that assessments may be "raised or lowered as fire protection services benefiting the property change." But in the absence of statutory authority to exceed the assessment caps stated in the petition, any increase in the caps likely required voter approval.

The law in this regard was clearly changed by Act 1234 of 2015 when it added subsection (b) to Ark. Code Ann. § 14-284-206. The 2015 act authorized a reassessment of the "maximum assessed benefits"--which I take to be authority to raise the specified assessment caps. To your question regarding another vote of the people, Act 1234 does not include a vote [*7] requirement; and with the exception of an increase in the flat fee authorized by legislation in 1995, there is no other provision in Ark. Code Ann. § 14-284-201 *et seq.* requiring voter approval of the amount of assessments. The requirement of voter approval applies only to the district's formation and the grant of authority to the district to impose assessments upon its members.

In sum, Ark. Code Ann. § 14-284-206(b) is unequivocal in establishing the board 's authority to raise assessments without a vote of district members.

It may be helpful to note in this regard that in the case of certain improvement districts, Article 19, section 27 of the Arkansas Constitution requires that voters must approve any increase in a limitation on assessments specified in the petition. Article 19, section 27 provides:

Nothing in this Constitution shall be so construed as to prohibit the General Assembly from authorizing assessments on real property *for local improvements, in towns and cities*, under such regulations as may be prescribed by law; [*8] *to be based upon the consent of a majority in value of the property-holders owning property* adjoining the locality to be affected; but such assessments shall be ad valorem and uniform.

This constitutional directive applies to improvement districts situated wholly within cities and towns. As interpreted by the Arkansas Supreme Court, it is a guarantee to property owners in cities and towns that

their property will not be assessed for local improvements without the consent of a majority in value of those affected. It has prompted the Arkansas Supreme Court to observe that the petition to form the district is the "foundation" of such local improvements:

The basis for the formation of local improvement districts in cities and towns is the consent of the majority in value of the owners therein, so the petition is the foundation for the improvement. When the petition is signed by the majority in value of the property owners and filed with the city council, [*9] that body must consider it with reference to the statutes then existing in order to carry out the intention of the Constitution.

Because the petition is the foundation of the improvement, the Court has further held that the property owners must consent to additional burdens imposed by amendatory statutes:

When the consent of the property owners was first obtained the petition signed by them should have been construed with reference to the existing laws on the subject. If the laws carrying into effect the provision of the Constitution are subsequently changed so as to increase the burden of the taxpayers a new petition must be filed as required by the Constitution. Of course, the statute might be amended in regard to the details of carrying out the improvement, *but an additional burden cannot be imposed upon the citizens by increasing the tax limit without getting up a new petition and obtaining a majority in value of the owners of real property in the proposed district.*

While the Court's reasoning in this regard is clear, it is equally clear that the reasoning is limited to improvement districts inside cities and towns. It does not apply to improvement districts like those formed under Ark. Code Ann. § 14-284-201 *et seq.* that cover territory outside cities and towns, i.e., rural improvement districts. The Court has observed that "there is no constitutional requirement that the creation of local improvement districts outside of cities and towns shall be based upon the consent of a majority in value of the property owners." The Court has also noted that the legislature can dispense with a requirement that the property owners sign a petition for the creation of a rural improvement district.

It thus seems clear from the case law regarding Ark. Const. art. 19, § 27 that the petition to form a fire protection district under Ark. Code Ann. § 14-284-201 *et seq.* is not the foundation for the improvement, such that art. 19, § 27 [*11] requires a new vote to raise the assessment caps recited in the petition.

Question 3: Can a fire protection district board, created by Act 35 of 1979 in 1982 by a vote of electors in the district which required a petition stating a maximum assessable levy, raise the maximum assessable levy with new legislation?

Yes. See above discussion.

Question 4: Does the board of a fire protection district formed in 1982 operate under changes and additions made to the code after its establishment?

Question 5: Do changes made to Act 35 of 1979 after the establishment of the district affect its operational procedures?

The answer to both of these questions is "generally yes," with the understanding that the General Assembly might limit the applicability of some changes or additions to only those fire protection districts formed after the enactment of a particular law. We know, for example, that the 1989 act requiring the election of board members does not apply to a fire protection district formed in 1982 because that act applied to districts "formed hereafter under Arkansas Code § 14-284-201 *et seq.*" [*12] Similarly, regarding Question 5,

boards of commissioners of "districts formed after July 3, 1995" may assess a flat fee per parcel or per landowner, but as noted above, an increase in the flat fee assessment requires an election.

A definitive answer to these questions therefore requires reference to the particular changes or additions at issue.

Footnotes:

1. Section 14-284-206 is part of a body of law governing fire protection districts that "cover only territory within the county, or within the defined district, outside the corporate limits of cities and towns." Ark. Code Ann. § 14-284-201(a)(1) (Repl. 1998).
2. A petition to form such a fire protection district must be signed by at least 10% of the qualified electors within the proposed district's boundaries and filed with the county court. Ark. Code Ann. § 14-284-205(a) (Supp. 2015). A special election is then held on the question of establishing and financing the district. *Id.* at § 14-284-205(b).
3. Ark. Code Ann. § 14-284-206 (Repl. 2008).
4. Ark. Code Ann. § 14-284-206(b) (Supp. 2015) (emphasis added).
5. *Weiss v. McFadden*, 353 Ark. at 868, 120 S.W.3d 545 (2003).
6. *Ozark Gas Pipeline Corp. v. Arkansas Pub. Serv. Comm'n*, 342 Ark. 591, 29 S.W.3d 730 (2000).
7. *Thompson v. Younts*, 282 Ark. 524, 669 S.W.2d 471 (1984).
8. *State ex rel. Sargent v. Lewis*, 335 Ark. at 188, 979 S.W.2d 894 (1998).
9. Ark. Code Ann. § 14-284-208(b) (Supp. 2015) (emphasis added).
10. Ark. Code Ann. § 14-284-212(g)(1)(A) (Supp. 2015) (emphasis added). Legislation adopted in 1989 also authorized districts formed after July 3, 1989, to levy a flat fee as an alternative to assessing benefits. *See* Acts 1989, No. 648, § 2 ("The boards of commissioners of fire protection districts *formed hereafter* under Arkansas Code [§] 14-284-210 *et seq.* may, as an alternative to assessing benefits, assess a flat fee per parcel of land located within the district." (emphasis added)). The 1989 authorization no longer appears in the codified statute.
11. The requisite procedures include filing the reassessment with the county clerk and providing notice to property owners. Ark. Code Ann. § 14-284-213(a) (Repl. 1998). Persons objecting to the reassessment have an opportunity to appear and object to the assessment, and to appeal any determination to chancery (now circuit) court. *Id.* at § 14-284-213(b). (Amendment 80 to the Arkansas Constitution abolished "chancery courts" and vested the full powers of chancery in the circuit courts. Ark. Const. amend. 80, § 19(B)(1)).
12. Ark. Code Ann. § 14-284-201 *et seq.* (Repl. 1998 and Supp. 2015) is the codification of Act 35 of 1979, as amended.
13. Ark. Code Ann. § 14-284-214(b)(1) (Repl. 1998).
14. *Accord* Op. Att'y Gen. 2014-032 (noting that the law at that time did not include any authorization for the board to exceed the maximum recited in the petition, and opining that "a reviewing court would conclude that any increase in the assessment caps must be approved by voters, as was the original imposition of an assessment obligation.").
15. In districts created after July 3, 1995 and levying flat fee assessments, Ark. Code Ann. § 14-284-212(g)(2)(A) (Supp. 2015) requires an election for any increase in the flat fee.
16. Ark. Const. art. 19, § 27 (emphasis added).
17. *See, e.g., Curlin v. Harding Drain Imp. Imp. Dist.*, 221 Ark. 412, 253 S.W.2d 345 (1952) (citing *Butler v. Board of Directors of Fourche Drainage Dist.*, 99 Ark. 100, 137 S.W. 251 (1911), wherein the Court stated that art. 19, 27 "applies only to assessments for improvements purely local to a municipality...." *Id.*, 99 Ark. at 103, 137 S.W. at 252).
18. *Craig v. Board of Imp. of Russellville Waterworks Imp. Dist.*, 84 Ark. 390, 105 S.W. 867 (1907).
19. *Elrod v. Board of Imp. of Paving Dist.* No. 45, 171 Ark. 848, 851, 286 S.W. 965, 967 (1926) (citations omitted).
20. *Skipper v. St. Imp. Dist. No. 1*, 144 Ark. 38, 42-43, 221 S.W. 866, 868 (1920) (emphasis added).

21. Butler, supra note 18, 99 Ark. at 102-103, 137 S.W. at 251 (quoting Alexander v. Board of Dir. of Crawford Co. Levee Dist., 97 Ark. 322, 134 S.W. 618 (1911)).
22. Skipper, supra note 21, 144 Ark. at 43, 221 S.W. at 868 (stating, with regard to a county road improvement statute, that "the Legislature in the first instance might have dispensed with the requirement that . . . the owners of real property in the district should sign the petition for the creation of the district[,] and that "[h]aving the power to dispense with the requirement in the first instance, the Legislature might dispense with the requirement by a subsequent statute.").
23. Acts 1989, No. 648, § 1 (codified at Ark. Code Ann. § 14-284-208(b) (Repl. 1998 and Supp. 2015)).
24. Acts 1995, No. 766, § 3 (codified at Ark. Code Ann. § 14-284-208(g)(1)(Supp. 2015)).

OPINION NO. 2019-032

July 31, 2019

OPINION

This is in response to your request for my opinion concerning Act 1077 of 2019 and Attorney General Opinion 2018-136.

Opinion 2018-136 was issued to you on April 2, 2019, in response to your fifteen questions concerning Ark. Code Ann. § 14-284-226 (Supp. 2017). Act 1077--which as you note, became effective on April 17, 2019--amended § 14-284-226. You have now asked whether the passage of Act 1077 changes any of the answers in Opinion 2018-136.

RESPONSE

Yes, I believe Act 1077 changes the answers to several of the questions addressed in Attorney General Opinion 2018-136. I will revisit those questions here, but I will not revisit the other questions because Act 1077 does not change those answers.

DISCUSSION

Act 1077 of 2018 amended several statutes related to fire protection districts, including Ark. Code Ann. § 14-284-226, which was the subject of Attorney General Opinion 2018-136. When that opinion was issued, [*2] subsection (b) of § 14-284-226 stated:

(b) Upon the request by petition in subsection (a) of this section:

- (1) The quorum court shall grant the petition to convert the fire department to a fire protection district; and
- (2) The fire department shall become a fire protection district using the procedures set out in this subchapter.

Subsection (b) was substantially revised by Act 1077. It now states:

(b)(1)(A) Upon the request by petition in subsection (a) of this section, the quorum court shall grant the petition to convert the fire department to a fire protection district within sixty (60) days of receipt of the petition.

(B) The quorum court shall respond in writing to the fire department within the sixty-day period under subdivision (b)(1)(A) of this section if there are issues or questions the quorum court would like addressed in the petition, but in no event shall the quorum court delay the sixty-day period under subdivision (b)(1)(A) of this section.

(2) The fire protection district assessments shall be listed annually beginning with the next ad valorem real property tax [*3] statement and collected under § 14-284-216.

As you can see, subsection (b)(1) no longer states that "[t]he fire department shall become a fire protection district *using the procedures set out in this subchapter*." (Emphasis added). Several of the questions asked in Opinion 2018-136, and my answers to them, were based upon this emphasized language. The passage of Act 1077, therefore, changes those answers. Thus, I will revisit only those questions.

Question 1 - What subchapter does Ark. Code Ann. § 14-284-226 refer [to] with regard to the procedure to be followed?

Because section 14-284-226 no longer requires "using the procedures set out in this subchapter," this question is moot.

Question 2: Should Sebastian County follow the procedures set forth in Ark. Code Ann. § 14-284-204?

Question 3: Should there be a public hearing in the proposed fire districts before an ordinance is presented to the Sebastian County Quorum Court?

Question 4: Does the Sebastian County Quorum Court enact [*4] an ordinance based upon these petitions and set a public hearing to review the ordinance after passage and subject to ratification by a majority of residents in the proposed fire districts?

The answer to each of these questions is "no" because of Act 1077. Under subsection (a) of section 14-284-226, as amended, "[t]he governing body of a fire department that seeks to become a fire protection district shall make the request by petition to the quorum court. . . ." There is no public hearing on such a petition by the fire department's governing body because section 14-284-226 no longer requires that the procedures in subchapter 2 of Title 14, Chapter 284 be used in order for a fire department to become a fire protection district. Act 1077 simply amended the statute to require a quorum court to "grant the petition to convert the fire department to a fire protection district within sixty (60) days of receipt of the petition."

Question 5: Is Ark. Code Ann. § 14-284-208 "Order for Establishment--Board [*5] of Commissioners--Appointment--Compensation" to be followed?

The answer to this question is still "yes," but the analysis differs. In relevant part, section 14-284-208 requires the county court to enter an order establishing the district "if an ordinance of the quorum court establishing a district is sustained."

In the context of a fire department's petition for conversion pursuant to section 14-284-226, this must be read to include the quorum court's grant of a petition within the established 60-day period. If the quorum

court wants any "issues or questions" to be addressed, it can "respond in writing to the fire department. " But it must do so within 60 days of the petition filing. And there can be no delay of the 60-day period for granting the petition. In the terms of section 14-284-208, an ordinance is sustained when the petition is granted within this time frame.

Question 12: What are the deadlines and timeframes for the assessment in order to [*6] meet the dates for publishing the tax book and sending tax statements pursuant to law?

A fire department's petition to convert to a fire protection district must be granted within 60 days. And the district's assessments "shall be listed annually beginning with the next ad valorem real property tax statement. . . ."

Question 13: What are the deadlines and timeframe for the implementation of the conversion?

See my response to Question 12.

Footnotes:

1. Ark. Code Ann. § 14-284-226 (Supp. 2017).
2. See Acts 2019, No. 1077, § 6.
3. Ark. Code Ann. § 14-284-226(a) (as amended by Act 1077 of 2019). Act 1077 added the words "[t]he governing body of a" to this subsection.
4. *Id.* at § 14-284-226(b)(1)(A).
5. Ark. Code Ann. § 14-284-208(a)(1) (Supp. 2017).
6. *Id.* at § 14-284-226(b)(1)(B).
7. *Id.*
8. *Id.*
9. *Id.* at § 14-284-226(b)(2).

C. SUBURBAN IMPROVEMENT DISTRICTS

Title 14 Local Government, Chapter 92 Suburban Improvement Districts, Subchapter 1 —

Suburban Improvement Districts Generally

A.C.A. § 14-92-205 *et seq.*

Suburban improvement districts (SIDs) may be organized for many purposes, depending upon the specific needs of the property owners in a given location. Such purposes are outlined by A.C.A. § 14-92-205 and include maintaining waterworks or waterpipes; recreational facilities; gas pipelines; sewers; grading, draining, paving, curbing and guttering streets and highways; laying sidewalks; and establishing, equipping, and maintaining rural fire departments. Districts may also be created to serve more than one of these purposes at once.

Given that SIDs are utilized relatively rarely for the provision of fire services across the state and that the laws governing SIDs in general are quite expansive, only the three sections of code that explicitly mention fire services are included below. For more information on suburban improvement districts, please see A.C.A. §§ 14-92-101, 14-92-201 *et seq.*, 14-92-301 *et seq.*, 14-92-401 *et seq.*, 14-92-501, and 14-92-601 *et seq.*

The following three statutes delineate 1) the method by which SIDs are established; 2) an exhaustive list of purposes for which SIDs may be created; and a process by which SIDs created for the purpose of providing fire services may be converted to fire protection districts.

A.C.A. § 14-92-205. Petition to form district.

(a) Upon the petition of a majority of the number of realty owners within a proposed suburban improvement district, the owners of a majority of the realty in the area of the proposed district and the owners of a majority of the assessed value of the realty within the proposed district, the greater portion of which realty does not lie within the boundaries of a municipality, meaning a city of the first class, city of the second class, or an incorporated town, it shall be the duty of the county court to lay off into a district the territory described in the petition, for the purpose of purchasing, accepting as a gift, constructing, or maintaining waterworks or waterpipes, recreational facilities, systems of gas pipelines, sewers or grading, draining, paving, curbing and guttering streets and highways and laying sidewalks, and establishing, equipping, and maintaining rural fire departments, or for more than one (1) of these purposes and to name as commissioners of the district the seven (7) persons whose names have been transmitted with the petitions as having been elected at a public hearing held prior to the filing of the petitions.

(b) All, or any portion, of any municipality may be included in these districts, if the portion of the area located within the municipalities shall be less than fifty percent (50%) of the area of the entire district. However, no portion of a municipality shall be included in the district unless it shall be found that a

majority of the number of owners of realty within the municipality, the owners of a majority of the realty in area within the municipality, and the owners of a majority of the assessed value of the realty within the municipality have petitioned for the formation of the district.

(c) All districts shall be numbered consecutively or else shall receive names selected by the court.

(d) If the court does not act promptly in complying with the terms of this section, or of any other section of this subchapter essential to the creation and operation of the districts, it may be compelled to do so by mandamus.

(e)

(1) If land in more than one (1) county is embraced in the proposed district, the petition shall be addressed to the circuit court in which the largest portion of the land lies, and all proceedings shall be had in that circuit court.

(2) All notices in that event shall be published in newspapers published and having a bona fide circulation in each county in which the district embraces land.

(f)

(1) Any number of identical petitions may be circulated, and identical petitions with additional names may be filed at any time until the court acts.

(2) A petition under this section shall contain a bold heading stating that a signature on the petition is a vote to create the district.

A.C.A. § 14-92-219. Purposes for which district organized.

A suburban improvement district may be organized for any one (1) or more of the following purposes:

(1) To purchase, accept as a gift, or construct a waterworks system or betterments, improvements, and extensions to such waterworks system, either within or without the boundaries of the district, if the property of the district will benefit and to operate and maintain any such waterworks system it may purchase, construct, or own;

(2) To purchase, accept as a gift, or construct, either within or without the boundaries of the district, if the property of the district will benefit, a sewage collection system or a sewage treatment plant or intercepting sewers, outfall sewers, force mains, pumping stations, ejector stations, and all other appurtenances necessary or useful and convenient for the collection or treatment, purification, and disposal, in a sanitary manner, of the liquid and solid waste, sewage, night soil, and industrial waste of the area within the boundaries of the district or adjacent thereto, and to operate and maintain any such sewage system and facilities;

(3)

(A) To open, grade, drain, pave, curb, gutter, or otherwise improve streets, roads, highways, and every other way for passage and use of vehicles, including viaducts and underpasses, either within or without the boundaries of the district, if the property of the district will benefit.

(B) Such purpose shall include the acquisition of rights-of-way by purchase or the exercise of the power of eminent domain, and to maintain such streets, roads, highways, and every other way for passage and use by vehicles, lying within the boundaries of the district or beyond the boundaries of the district, if the property of the district will benefit;

(4) To build, purchase, or accept as a gift recreational facilities such as, but not limited to, parks, lakes, golf courses, playgrounds, clubhouses, stadiums, auditoriums, arts and crafts centers, folklore centers, interpretative centers, camping areas, greenbelt areas, and any other facilities to provide for the recreation and cultural needs of the owners of the lands within the district and also to care for, maintain, and operate any such recreational facilities;

(5) To lay and maintain sidewalks;

(6)

(A) To lay, own, extend, operate and maintain gas pipelines connecting with gas systems.

(B)

(i) Nothing in this subchapter shall be construed to allow the purchase of an existing natural gas system or any part thereof.

(ii) Any such gas system shall be subject to the jurisdiction of the Pipeline Safety Division of the Arkansas Public Service Commission and shall be subject to all provisions of the Arkansas Gas Pipeline Code;

(7) To build telephone lines to connect with the telephone systems operating in nearby or adjacent municipalities;

(8) To establish, equip, and maintain rural fire departments, including construction of fire department buildings, purchase of fire trucks, fire boats, and other firefighting equipment;

(9) To own, acquire, construct, reconstruct, extend, equip, improve, maintain, and operate hospitals or to acquire appropriate vehicles and equipment for, maintain, and operate ambulance services;

(10) To own, acquire, construct, reconstruct, extend, equip, improve, maintain, and operate libraries; and

(11)

(A) To provide a solid waste management system to adequately provide for the collection and disposal of all solid wastes generated or existing within the boundaries of the district in accordance with the rules and orders of the Arkansas Pollution Control and Ecology Commission.

(B)

(i) The governing body of the district may enter into an agreement with one (1) or more municipalities, counties, county solid waste authorities, regional solid waste management districts, private persons, private trusts, or any combination thereof, to provide a solid waste management system or any part of a system for the district.

(ii)

(a) The district may levy and collect fees and require licenses as determined appropriate to discharge the responsibilities of the district.

(b) Any fees, charges, and licenses shall be based upon a schedule set forth by the district.

A.C.A. § 14-92-237. Dissolution or conversion of district — Definition.

(a)

(1) After all bonds, notes, or other evidences of indebtedness plus all interest thereon shall have been paid in full, a suburban improvement district may, by unanimous vote of the board of commissioners, be dissolved and all future levies and assessments cancelled, the board relieved from further duties, and the surplus funds of the district distributed in accordance with the procedures set forth in subsections (b) and (c) of this section, if title to and control of the facilities constructed by the district have been taken over or assumed by any political subdivision, municipal utility commission or agency, or any regulated public utility, or a suburban improvement district may, by unanimous vote of the board of commissioners, be converted into a fire protection district and all future levies and assessments cancelled, the board relieved from further duties, and any remaining funds and any other property of the district transferred to the new entity in accordance with the procedures set forth in subsection (d) of this section.

(2) The districts are authorized, at the discretion of the commissioners, to enter into repair and maintenance agreements or contracts and to expend funds of the districts for these purposes.

(b) Any improvement district created pursuant to this subchapter may be dissolved in the same manner it was created. However, if any district having outstanding bonds or other indebtedness is dissolved, the assessed benefits being levied at the time of dissolution shall continue to be levied and collected until the outstanding bonds or other indebtedness is paid.

(c)

(1)

(A) If the commissioners vote to dissolve the district or the district is dissolved by vote of the realty owners at a public hearing, the board shall first pay from surplus funds all debts of the district, including any reasonable legal and other expenses incurred in connection with the dissolution, and dispose of the remaining assets under subdivision (c)(1)(B) of this section or subdivision (c)(2) of this section.

(B)

(i) The commissioners shall convert all assets into cash and may refund all remaining funds of the district, pro rata, to the property owners who hold title to the property in the district at the time the refund is made.

(ii)

(a) The pro rata refund to the property owners shall be made on the basis of the most recent assessment or reassessment of benefits on the parcels

of property before dissolution and shall be in the same proportion that the assessed benefits of each individual parcel of property bears to the total of the assessed benefits of all the property in the district.

(b) A property or owner whose property is delinquent in any sum for district assessments, penalties, or interest, at the time the refund is made shall not be counted in calculating the pro rata distribution, or receive any portion of the refund.

(C) Within ninety (90) days after the distribution of the surplus funds has been completed, the board shall file a copy of the resolution of dissolution and a financial statement of the district, verified by all commissioners, in the office of the county clerk in the county in which the district is located.

(2)

(A) The commissioners may transfer all remaining cash and other monetary assets and any real property and personal property to a school district located within ten (10) miles of any boundary of the district.

(B)

(i) The transfer shall be made under a valid contract between the suburban improvement district and the school district.

(ii)

(a) The contract shall be supported by adequate consideration.

(b) As used in this section, "adequate consideration" includes public advantage that promotes a general, suitable, and efficient system of free public schools.

(C) Within ninety (90) days after the transfer of all remaining funds and property has been completed, the board shall file a copy of the resolution of dissolution and a financial statement of the suburban improvement district, verified by all commissioners, in the office of the county clerk in the county in which the suburban improvement district is located.

(d)

(1) Any improvement district created pursuant to this subchapter solely for the purposes of providing fire protection services may be converted into a new fire protection district under § 14-284-201 *et seq.*, and shall, after the conversion, be governed under the authority of that law. However, if a district has any outstanding bonds or other indebtedness, it shall not be converted until the outstanding bonds or other indebtedness is paid.

(2) In the event the commissioners vote to convert the district, the board shall choose a date certain of not less than sixty (60) days nor more than twelve (12) months at which time the conversion shall become effective and shall notify the county court of the county in which the

district is located that the board has voted to convert the district and shall specifically define the area proposed to be included in the new fire protection district. After verifying that the commissioners have voted unanimously to convert the district to a proposed fire protection district and that there is no outstanding indebtedness for the district, the county court shall enter an order establishing the district as described in the notice by the board and establishing the time and place of a public meeting to be held within the district to elect the new commissioners of the fire protection district as is otherwise provided by law.

(3) After paying all debts of the district, including any reasonable legal and other expenses incurred in connection with the conversion, the board shall transfer any and all remaining cash and other monetary assets and any real and personal property to the new district on the effective date of the conversion. All delinquent assessments of the district and any debts owed to the district shall become debts to the new district and shall be subject to collection by the new district in accordance with its powers and authority.

(4) Within ninety (90) days after the transfer of any and all remaining funds and property has been completed, the board shall file a copy of the resolution of conversion and a final financial statement of the district, verified by all commissioners, in the office of the county clerk in the county in which the district is located. The fire protection district shall be deemed to have been formed upon the date of its conversion from a suburban improvement district.

d. SUBORDINATE SERVICE DISTRICTS

Title 14 Local Government, Chapter 14 County Government Code, Subchapter 7 —

Service Organizations (Subordinate Service Districts)

A.C.A. § 14-14-701 et seq.

A subordinate service district is defined as a county service organization established to provide one or more county services, or additions to county services, and financed from revenues secured from within the designated service area through the levy and collection of service charges. These districts may be created for various purposes, including the provision of emergency services such as fire prevention and protection services. A.C.A. § 14-14-709.

Such districts may include all, or any part, of the jurisdictional areas of county government. Two or more county governments may create a joint subordinate service district by interlocal agreement. Subordinate service districts to provide one (1) or more of the services authorized to be provided by county governments may be established, operated, altered, combined, enlarged, reduced, or abolished by the county quorum court by ordinance. *Id.*

A.C.A. § 14-14-701. Legislative determination — Purpose.

(a) It is determined by the General Assembly that:

- (1) The present service organization of county government does not meet the needs of every county in this state; and
- (2) County governments can be made more responsive to the service needs of the people through the reorganization of county government into departments, boards, and subordinate service districts which are consistent in their organization and assignment of duties, responsibilities, and authorities.

(b) It is therefore the purpose of this subchapter to:

- (1) Establish the basic procedures for the establishment of service organizations in county government; and
- (2) Establish the authorities and limitations of these service organizations.

A.C.A. § 14-14-702. Authority to establish — Restrictions.

The county quorum court of each county may prescribe, by ordinance, the department, board structure, and organization of their respective county governments and may prescribe the functions of all offices, departments, and boards. However, no ordinance shall be enacted by a quorum court which:

- (1) Divests the county court of any of its original jurisdictions granted by the Arkansas Constitution. However, where any county ordinance establishing a department or board and the assignment of

functions thereof interferes with the jurisdictions of the county court, it shall be implied that the functions and acts may be performed on order of the county court or proper order of superior courts on appeal;

(2) Alters the organization of elected county officials established by the Arkansas Constitution, except through the provisions of Arkansas Constitution, Amendment 55, § 2(b). However, any function or duty assigned by statute may be reassigned by ordinance; or

(3) Limits any provision of state law directing or requiring a county government or any officer or employee of a county government to carry out any function or provide any service. However, nothing in this section shall be construed to prevent the reassignment of functions or services assigned by statute where Arkansas reassignment does not alter the obligation of the county to continue providing the function or service.

A.C.A. § 14-14-703. Office organization of county government.

(a) Unless otherwise provided or permitted by the Arkansas Constitution, county governments shall maintain the following organization of elected county offices:

(1) Office of the County Judge. The judge of the county court serves as the principal executive officer of the county and may establish divisions of his or her office to carry out any jurisdiction of the county court or duties assigned by county ordinance. No such delegation of administrative functions among departments of the office shall be construed as limiting or delegating any jurisdiction of the county court. Further, the county court may appoint advisory committees to assist in the formulation of policy for any department of the office. However, confirmation by the county quorum court of advisory committees so appointed or the oath of office is not required; and

(2) Other Executive Offices of the County. As established by the Arkansas Constitution, the organization of county offices shall include:

(A) The office of treasurer;

(B) The office of county clerk, as may be provided by law;

(C) The office of assessor;

(D) The office of clerk of the circuit court;

(E) The office of sheriff;

(F) The office of collector of taxes, as may be provided by law;

(G) The office of surveyor; and

(H) The office of coroner.

(b) Any executive officer of the county may establish divisions of the office to conduct any function or duty assigned by the Arkansas Constitution or by law.

A.C.A. § 14-14-704. Establishment of county departments.

(a) The county quorum court of each county, by ordinance, may establish any number of departments for the conduct of county affairs and may prescribe the functions and duties of each department. This authority of a quorum court to establish county departments shall be conclusive and shall supersede any department organizations established by any elected county officer.

(b)

(1) Direction of Departments. All departments established by ordinance of the quorum court shall be under the direction and supervision of county judge except departments assigned to other elected officers of the county. Departments established and assigned to an elected officer other than the county judge shall be under the direction and supervision of the respective county officer.

(2) Joint Departments. Two (2) or more county governments may provide for the establishment of joint departments for the conduct of county affairs. Joint departments so created shall be established by interlocal agreements. The direction and supervision of joint departments shall be under the combined authorities of the county judge of each respective county in a manner to be prescribed by ordinance.

(3) Employment of Department Administrator. An ordinance establishing a department of county government may provide for the employment of a department administrator. The ordinance may prescribe minimum qualifications for the person so employed as administrator. However, the county judge alone shall employ all county personnel, except employees of other elected county officers. Where a department is established by the quorum court and the responsibility for direction and supervision of the department is assigned to an elected county officer other than the county judge, the elected county officer so designated shall employ all personnel authorized to be employed by the ordinance.

(4) Management Reports. A quorum court may require, by ordinance, reports for any purpose from any elective county office, department, board, or subordinate service district, or any administrator or employee of them.

A.C.A. § 14-14-705. County advisory or administrative boards.

(a) A county quorum court, by ordinance, may establish county advisory or administrative boards for the conduct of county affairs.

(b)

(1) Advisory Boards.

(A) An advisory board may be established to assist a county office, department, or subordinate service district. The advisory board may furnish advice, gather information, make recommendations, and perform other activities as may be prescribed by ordinance. A county advisory board shall not have the power to administer programs or set policy.

(B) All advisory board members shall be appointed by the county judge. Confirmation of advisory board members by a quorum court shall not be required.

(C) An advisory board may contain any number of members as may be provided by the ordinance creating the advisory board.

(D) The term of all advisory board members shall not exceed three (3) years.

(2) Administrative Boards.

(A) Administrative boards may be established to exercise administrative powers granted by county ordinance, except that the board may not be authorized to pledge the credit of the county. The administrative board shall be a body politic and corporate, with power to contract and be contracted with and sue and be sued. As to actions of tort, the board shall be considered as an agency of the county government and occupy the same status as a county. No board member shall be liable in court individually for an act performed by him or her as a board member unless the damages caused thereby were the results of the board member's malicious acts.

(B) No member of any administrative board shall be interested, either directly or indirectly, in any contract made with the administrative board. A violation of subdivision (2)(B) of this section shall be deemed a felony.

(C) An administrative board may be assigned responsibility for a county department or a subordinate service district.

(D) All administrative board members shall be appointed by the county judge. These appointments shall require confirmation by a quorum court.

(E) An administrative board shall contain five (5) members. Provided, a county library board created after August 1, 1997, shall consist of not less than five (5) members nor more than seven (7) members and shall serve until their successors are appointed and qualified.

(F) The term of any administrative board member shall be for a period of five (5) years. However, the initial appointment of any administrative board shall provide for the appointment of one (1) member for a one-year term, one (1) member for a two-year term, one (1) member for a three-year term, one (1) member for a four-year term, and the remaining member or members for a five-year term, thereby providing, except for county library boards with more than five (5) members, for the appointment of one (1) member annually thereafter.

(3) Boards Generally.

(A) No board member, either advisory or administrative, shall be appointed for more than two (2) consecutive terms.

(B) All persons appointed to an advisory or administrative board shall be qualified electors of the county. A quorum court may prescribe by ordinance additional qualifications for appointment to a county administrative board.

(C) All board members appointed to either an advisory or administrative board shall subscribe to the oath of office within ten (10) days from the date of appointment.

Evidence of oath of office shall be filed with the county clerk. Failure to do so shall be deemed to constitute rejection of the office, and the county judge shall appoint a board member to fill the vacancy.

(D) No member of a quorum court shall serve as a member of a county advisory or administrative board.

(E) A person may be removed from a county board for cause by the county judge with confirmation by resolution of the quorum court. Written notification stating the causes for removal shall be provided to the board member prior to the date established for quorum court consideration of removal, and the board member shall be afforded the opportunity to meet with the quorum court in their deliberation of removal.

(F) Appeals from removal of a county board member shall be directed to the circuit court of the respective county within thirty (30) days after the removal is confirmed by the quorum court.

A.C.A. § 14-14-706. Register of board appointment.

The clerk of the county court shall maintain a register of county advisory and administrative board appointments established by a county quorum court, including:

- (1) The name of the board;
- (2) The ordinance reference number establishing the board;
- (3) The name of the board member;
- (4) The date of appointment; and
- (5) The expiration date of the appointments.

A.C.A. § 14-14-707. Conduct of affairs of county boards.

(a) Initial Meeting. The time and place for the initial meeting of a county board shall be established by the county judge through written notification of each board member.

(b) Meeting Dates and Notification. All boards shall by rule provide for the date, time, and place of regular monthly meetings or other regularly scheduled meetings. This information shall be filed with the county court, and notification of all meetings shall be conducted as established by law for public meetings.

(c) Special Meetings. Special meetings may be called by two (2) or more board members 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.

(d) Quorum. A majority of board members shall constitute a quorum for the purpose of conducting business and exercising powers and responsibilities. Board action may be taken by a majority vote of those present and voting unless the ordinance creating the board requires otherwise.

(e) Organization and Voting. At its initial meeting of a quorum of members, each county board shall elect one (1) of their members to serve as chair of the board for a term of one (1) year. The chair shall thereafter

preside over the board throughout his or her term as chair. In the absence of the chair, a quorum of the board may select one (1) of its members to preside and conduct the affairs of the board.

(f) Minutes. All boards shall provide for the keeping of written minutes which include the final vote on all board actions indicating the vote of each individual member on the question.

A.C.A. § 14-14-708. Subordinate service districts generally.

(a) Authority to Establish. Subordinate service districts to provide one (1) or more of the services authorized to be provided by county governments may be established, operated, altered, combined, enlarged, reduced, or abolished by the county quorum court by ordinance.

(b) Area Served. A subordinate service district may include all, or any part, of the jurisdictional areas of county government. Two (2) or more county governments may create a joint subordinate service district by interlocal agreement.

(c) Purposes of District. A subordinate service district is defined as a county service organization established to provide one (1) or more county services or additions to county services and financed from revenues secured from within the designated service area through the levy and collection of service charges. These districts may be created for the following purposes:

(1) Emergency services, including ambulance services, civil defense services, and fire prevention and protection services;

(2) Solid waste services, including recycling services, and solid waste collection and disposal services;

(3) Water, sewer, and other utility services, including sanitary and storm sewers and sewage treatment services, water supply and distribution services, water course, drainage, irrigation, and flood control services; and

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

(d) Financing. Notwithstanding any provisions of law requiring uniform taxation within a county, a quorum court, by ordinance, may establish subordinate service districts and levy service charges to provide and finance any county service or function which a county is otherwise authorized to undertake.

A.C.A. § 14-14-709. Establishment of subordinate service districts.

(a) Procedure Generally. A subordinate service district may be established by ordinance of the quorum court in the following manner:

(1) Upon petition to the quorum court by twenty-five percent (25%) of the number of realty owners within the proposed subordinate service district, the owners of twenty-five percent (25%) of the realty in the area of the proposed subordinate service district, and the owners of twenty-five percent (25%) of the assessed value of the realty within the proposed subordinate service district, the quorum court shall set a date for a public hearing and shall give notice of the hearing on the petition to form the proposed subordinate service district. Following the public hearing,

the court may either adopt an ordinance creating the subordinate service district or refuse to act further on the matter;

(2) If hearings indicate that a geographic area desires exclusion from the proposed subordinate service district, the quorum court may amend the boundaries of the proposed subordinate service district to exclude the property in that area; and

(3) Where an ordinance is adopted establishing a subordinate service district, the quorum court, in addition to all other requirements, shall publish notice of the adoption of the ordinance. The notice shall include a statement setting out the elector's right to protest. If within thirty (30) days of the notice, twenty-five percent (25%) or more of the number of realty owners within the proposed subordinate service district, the owners of twenty-five percent (25%) of the realty in the area of the proposed subordinate service district, and the owners of twenty-five percent (25%) of the assessed value of the realty within the proposed subordinate service district file a written protest, by individual letter or petition, then the ordinance creating the subordinate service district shall be void.

(b) Ordinance Requirements. An ordinance to establish a subordinate service district shall include:

(1) The name of the proposed district;

(2) A map containing the boundaries of the proposed district;

(3) The convenience or necessity of the proposed district;

(4) The services to be provided by the proposed district;

(5) The estimated cost of services to be provided and methods of financing the proposed services. Service charges adopted by a quorum court shall be equally administered on a per capita, per household, per unit of service, or a combination of these methods. Service charges adopted by the court on a per capita or per household method shall be administered equally without regard to an individual or household availing themselves of the service; and

(6) The method for administering the proposed district.

(c) Initiative and Referendum. All provisions of Arkansas Constitution, Amendment 7, shall apply to the establishment of county subordinate service areas.

A.C.A. § 14-14-710. Modification or dissolution of subordinate service districts.

(a) Modification. A quorum court may, after adoption of an ordinance, with notice and public hearing:

(1) Increase, decrease, or terminate the type of services that the subordinate service district is authorized to provide unless fifty percent (50%) of the electors residing in the district protest;

(2) Enlarge the district to include adjacent land if fifty percent (50%) or more of the electors residing in the proposed addition do not protest;

(3) Combine the subordinate service district with another subordinate service district unless fifty percent (50%) of the electors in either district protest;

(4) Abolish the subordinate service district unless fifty percent (50%) of the electors in the district protest;

(5) Reduce the area of a district by removing property from the district unless fifty percent (50%) of the electors residing in the territory to be removed from the district protest;

(6) Change the method for administering the subordinate service district unless fifty percent (50%) of the electors in the district protest;

(7) All changes in subordinate service districts may be submitted to the electors of the existing or proposed district, whichever is larger, by initiative or referendum.

(b) Dissolution. As provided in this section, a quorum court may abolish or combine subordinate service districts by ordinance. Dissolution or any combination of service districts shall provide for the following considerations:

(1) The transfer or other disposition of property and other rights, claims, and assets of the district;

(2) The payment of all obligations from the resources of the district;

(3) The payment of all costs of abolishing or combining a district from the resources of the districts involved;

(4) The honoring of any bond, debt, contract, obligation, or cause of action accrued or established under the subordinate district;

(5) The provision for the equitable disposition of the assets of the district, for adequate protection of the legal rights of employees of the district, and for adequate protection of legal rights of creditors; and

(6) The transfer of all property and assets to the jurisdiction of the county court.

A.C.A. § 14-14-711. Administration of subordinate service districts.

(a) Generally. A subordinate service district may be administered directly as a part of the office of the county judge, as a part of a department with or without an advisory or administrative board, or as a separate department with or without an advisory or administrative board.

(b) Budget. The budget for each subordinate service district shall be appropriated as other funds of the county.

(c) Tax Lists. Upon request, the county assessor shall provide the quorum court with the assessed or taxable value of all property in a proposed established subordinate service district and a list of property owners and residential structures based on the last completed assessment roll of the county.

(d) Service Charges.

(1)

(A) Service charges for subordinate service districts shall be entered on tax statements by the county sheriff or county collector pursuant to § 26-35-705 and shall be collected with the real and personal property taxes of the county.

(B) No collector of taxes shall accept payment of any property taxes if the taxpayer has been billed for services authorized by a subordinate service district unless the service charge is also received.

(C) If a property owner fails to pay the service charge, the service charge shall become a lien on the property.

(2) A subordinate service district may choose to forgo county collection of its annual service charges and instead collect its service charges on a suitable periodic basis if the subordinate service district provides its own billing and collection service.

(e) Use of Funds. Funds raised through service charges for a subordinate service district may be used only for subordinate service district purposes. These public funds shall be maintained in the county treasury and accounted for as an enterprise fund. Disbursements of all subordinate service district funds shall be made only upon voucher or claim presented to and approved by the county judge, acting in his or her capacity as the chief executive officer of the county, unless otherwise provided by ordinance establishing the district.

A.C.A. § 14-14-712. Reorganization of existing county boards and commissions.

(a) All laws providing for the organization, jurisdiction, and operation of county boards and commissions, except the laws relating to county hospital boards of governors and except laws relating to county nursing home boards, shall be given the status of county ordinance until June 30, 1978. These organizations shall continue to function under those respective laws until reorganized by county ordinance. The organizations subject to reorganization by county ordinance are, but are not limited to, the following:

- (1) County library boards;
- (2) County planning boards;
- (3) County park commissions; and
- (4) County welfare boards.

(b) Advisory board members appointed as a result of a reorganizational ordinance shall have a term of appointment as specified in this subchapter.

(c) Ordinances enacted by a county quorum court for the reorganization of county government into county departments, with or without advisory or administrative boards or subordinate service districts, may be adopted in a single reading of the court.

e. NONPROFIT FIRE DEPARTMENTS

Nonprofit fire departments are the most common form of fire department in the state. Nonprofit fire departments (i.e., those firefighting entities organized as nonprofit corporations) are created under one of two sets of general state laws authorizing the creation of all types of nonprofit organizations. More specifically, the attorney general's office has repeatedly provided that the relevant Arkansas Codes with respect to creating such nonprofit firefighting entities are found within either "the Arkansas Nonprofit Corporation Act (A.C.A. §§ 4-28-201 through 206 and §§ 4-28-209 through 224) or the Arkansas Nonprofit Corporation Act of 1993 (A.C.A. §§ 4-33-101 through 1707)." 2007 Ark. AG LEXIS 251, *4.

Departments formed through these processes receive funds by way of fees or subscriptions from property owners within the boundaries determined by a quorum court pursuant to A.C.A. § 14-20-108(a) - (c). Under that statute, such departments may request that their dues be collected by the county along with real property taxes, assuming that the issue is approved by a favorable vote at the election described in the statute. *Id.*

These nonprofit entities are also sometimes referred to as nonprofit fire protection corporations, volunteer fire departments, rural fire departments, or subscription fire departments. However, they are simply created under the general state law(s) authorizing the creation of all types of nonprofit corporations. Due to this conflation of terminology surrounding fire departments, as noted in the foreword to this guidebook, it is imperative that one knows and understands how and under what laws a fire department/district was formed when searching for answers to questions regarding that department/district.

Moreover, A.C.A. § 20-22-901 *et seq.*, discussed above, provides the general duties and entitlements of volunteer fire departments (including those organized as nonprofit entities) and details another process by which departments may recover fees for services rendered in accordance with the obligations imposed by that subchapter.

Further still, nonprofit fire departments may also choose to operate under the provisions of A.C.A. § 14-272-301 *et seq.*, discussed above, so as to establish fire services agreements with beneficiaries within their boundaries. As such, this subchapter of code may be seen as a supplementary law to provide volunteer fire departments an additional choice in financing their operations, outside of A.C.A. § 14-20-108 and A.C.A. § 20-22-901 *et seq.*

For a more complete discussion of these areas of code, see Op. Ark. Att'y Gen. No. 231 (2007) (provided in full below).

OPINION NO. 2007-231

November 06, 2007

OPINION

I am writing in response to your request for an opinion on the following:

- 1) Can a subscription service fire department charge for their services when they respond to a 911 medical emergency on nonmembers property?
- 2) If the answer to question # 1 is yes, who is responsible for the payment of these services? The non-member who may not have requested the service or the person requesting the service?
- 3) Can the fire department charge for the services provided at vehicle accidents?
- 4) Is a volunteer fire department required to respond to 911 medical emergencies outside their district or coverage area?

RESPONSE

At least two separate statutes govern your first question. In my opinion, as a general matter, volunteer fire departments organized as nonprofit corporations with their boundaries set pursuant to A.C.A. § 14-20-108 (Supp. 2007) are not authorized to charge for their services when responding to a 911 medical emergency call on a nonmember's property. If a volunteer fire department [*2] is utilizing fire services agreements pursuant to A.C.A. §§ 14-272-301 through -304 (Supp. 2007), however, the department may charge a "nonbeneficiary" who is provided services in response to a 911 medical emergency call, if the services are delineated in the fire services agreements. In my opinion, your second question is therefore generally moot, except to the extent the department is employing "services agreements" under A.C.A. § 14-272-301 - in that event A.C.A. § 14-272-303(b)(1) provides that a "nonbeneficiary" receiving the services is responsible for payment. With respect to Question Three, in my opinion, a volunteer fire department not utilizing "services agreements" is not authorized to charge for services rendered at motor vehicle accidents that do not involve a fire. With respect to a department that is utilizing "services agreements," if the services provided are delineated in the fire services agreements, beneficiaries will have paid for the services through annual fees and "nonbeneficiaries" may be charged for the services provided pursuant to A.C.A. § 14-272-303 [*3] . In my opinion, with respect to Question Four, there is no statutory duty for a volunteer fire department to respond to a 911 medical emergency call outside of its coverage area.

Question One: Can a subscription service fire department charge for their services when they respond to a 911 medical emergency on non-members property?

In my opinion, the answer is generally "no," unless the volunteer fire department utilizes fire services agreements pursuant to A.C.A. §§ 14-272-301 through -304. In that event the volunteer fire department may charge "nonbeneficiaries" for providing "firefighting services," which may include medical care, pursuant to A.C.A. § 14-272-303(b). Persons residing outside the boundaries of the fire department are likely not included in the definition of "nonbeneficiaries," however.

I assume that your phrase "subscription service fire department" refers to a volunteer fire department organized as a private nonprofit corporation pursuant to either the Arkansas Nonprofit Corporation Act, A.C.A. §§ 4-28-201 through -206 and §§ 4-28-209 [*4] through -224, or the Arkansas Nonprofit Corporation Act of 1993, A.C.A. §§ 4-33-101 through -1707 (Repl. 2001 & Supp. 2007). Such departments receive fees or subscriptions from property owners within the boundaries determined by a quorum court pursuant to A.C.A. §§ 14-20-108(a) - (c). *See, e.g.,* Op. Att'y Gen. 2004-224 (noting that A.C.A. § 14-20-108 addresses "dues that are charged by volunteer fire departments, i.e., fire departments organized as so-called 'subscription' fire departments"). Under that statute, such departments may request that their dues be

collected by the county along with real property taxes, assuming that the issue is approved by a favorable vote at the election described in the statute.

With respect to what fees or charges may be recovered from nonmembers, A.C.A. § 20-22-901 (Supp. 2007) generally addresses the duties and entitlements of "volunteer fire departments, " such as the one described above. As noted by one of my predecessors, a nonprofit fire department is expressly authorized to respond to fires on nonmembers property [*5] and receive compensation for such services. Op. Att'y Gen. 96-114 (citing A.C.A. § 20-22-901). Arkansas Code Annotated § 20-22-901 provides in pertinent part:

(a)(1) Upon receipt of a *report of an uncontrolled fire* or a 911 or other emergency call *reporting a fire*, it shall be the duty of volunteer fire departments operating within the State of Arkansas to *respond to, attempt to control, and put out all fires* occurring within their respective districts involving any real or personal property, whether that property is owned by members of the fire district.

* * *

(b)(1) If the property is owned by a nonmember of the fire district, then the volunteer fire department shall be entitled to recover from the nonmember property owner the reasonable value of its services not to exceed the fair market value of the services rendered.

(2) A claim for services *in responding to a fire involving only personal property* shall be allowed only for personal property of nonmembers, and the claimed amount shall not exceed five hundred dollars (\$ 500).

(Emphasis added). The department is, [*6] therefore, authorized to charge nonmembers for responding to a "report of an uncontrolled fire or a 911 or other emergency call reporting a fire." *Id.* at (a)(1). The authorization to recover fees from nonmembers in A.C.A. § 20-22-901(b) applies solely when the department responds according to A.C.A. § 20-22-901(a). To fully answer your question, it must be determined whether a 911 medical emergency falls within the ambit of this statute.

The Arkansas Supreme Court has stated with regard to statutory interpretation, as follows:

The first rule in considering the meaning and effect of a statute is to construe it just as it reads, giving the words their ordinary meaning and usually accepted meaning in common language. *Weiss v. McFadden*, 353 Ark. 868, 120 S.W.3d 545 (2003). We construe the statute so that no word is left void, superfluous, or insignificant; and meaning and effect are given to every word in the statute if possible. *Ozark Gas Pipeline Corp. v. Arkansas Pub. Serv. Comm'n*, 342 Ark. 591, 29 S.W.3d 730 (2000). When the language of the statute is plain and unambiguous, [*7] there is no need to resort to rules of statutory construction. *Weiss v. McFadden*, supra. When the meaning is not clear, we look to the language of the statute, the subject matter, the object to be accomplished, the purpose to be served, the remedy provided, the legislative history, and other appropriate means that shed light on the subject. *Id.*

Macsteel, Parnell Consultants v. Ar. Ok. Gas Corp., 363 Ark. 22, 210 S.W.3d 878 (2005); *see also* Ops. Att'y Gen. 2005-072 & 2004-339. A statute is ambiguous only where it is open to two or more constructions, or where it is of such obscure or doubtful meaning that reasonable minds might disagree or be uncertain as to its meaning. *ACW, Inc. v. Weiss*, 329 Ark. 302, 947 S.W.2d 770 (1997); *Maddox v. City of Fort Smith*, 369 Ark. 143, S.W. 3d (2007).

The court has also held that "it does not engage in interpretations that defy common sense and produce absurd results," and that "in construing statutes . . . we look to the language under discussion in the context

of the statute as a whole." *Green v. Mills*, 339 Ark. 200, 205, 4 [*8] S.W.3d (1999) (citing *Haase v. Starnes*, 323 Ark. 262, 915 S.W.2d 675 (1996)); *Steward v. McDonald*, 330 Ark. 837, 958 S.W.2d 297 (1997); and *Burcham v. City of Van Buren*, 330 Ark. 451, 954 S.W.2d 266 (1997). In construing any statute, the court will place it beside other statutes relevant to the subject matter in question and ascribe meaning and effect derived from the whole. *Short v. State*, 349 Ark. 492, 495, 79 S.W.3d 313 (2002).

In my opinion, the phrase "report of an uncontrolled fire or a 911 or other emergency call reporting a fire" in A.C.A. § 20-22-901 is ambiguous. It is unclear under this language whether any 911 emergency call or only a 911 emergency call reporting a fire is intended. When the statute is viewed as a whole, in my opinion it becomes apparent that the statute is specifically addressing a volunteer fire department's response to reports of fires. The later language in A.C.A. § 20-22-901(a)(1) describing the actions a volunteer fire department is to take in response to the call states the department is "to respond to, attempt to control, [*9] and put out any fires within their respective districts involving any real or personal property." In my opinion both the phrase "911" and "or other emergency call" is modified by "reporting a fire." This interpretation is consistent with the balance of the language in the subsection that details actions only in response to a fire. Therefore, if a 911 emergency call does not report a fire, there is no authority under A.C.A. § 20-22-901 for a volunteer fire department to recover any fees from a nonmember.

I will note the potentially conflicting language in A.C.A. § 23-88-102. Specifically, A.C.A. § 23-88-102(a) (Supp. 2007) states:

The amount charged by a volunteer fire department for the cost of its services to a fire on or an emergency call *concerning the property* of a nonmember within its district shall not exceed an amount equal to the fair market value of the service rendered, except that a claim for services in responding to a fire involving only personal property shall be allowed only for personal property of nonmembers, and the claimed amount shall not exceed five hundred dollars [*10] (\$ 500).

(Emphasis added). In my opinion, this statute does not control the issue you have raised. Initially, I note that both A.C.A. § 23-88-102 and § 20-22-901 were enacted by the Act 836 of 1987. Furthermore, the General Assembly has repeatedly amended both code sections through the same act. *See* Act 581 of 2007; and Act 1150 of 1997. Furthermore, it is not clear that A.C.A. § 23-88-102 would cover emergency medical services. The plain and ordinary language of the statute requires that it address "an emergency call concerning the property of a nonmember." *Id.* at (a). By its plain and ordinary language, therefore, A.C.A. § 23-88-102 does not purport to give a volunteer fire department the authority to make a claim for reimbursement for medical services.

Complete resolution of your first question concerning reimbursement for medical services on non-members property however, also requires reference to another statutory scheme. In 2001, the General Assembly created a supplementary law to provide volunteer fire departments an additional choice in [*11] financing operations. *See* A.C.A. §§ 14-272-301 through-304. This subchapter of the Arkansas Code allows a volunteer fire department to execute "fire services agreements" detailing the annual charges to "beneficiaries" and the services provided. Pursuant to A.C.A. § 14-272-303, a volunteer fire department is authorized to charge for providing "firefighting services" to a "nonbeneficiary." This section is broad enough to include the provision of life saving services in response to a 911 medical emergency call. As an initial matter, A.C.A. § 14-272-301 defines the following terms:

(1) "Beneficiaries" means those persons or entities who have executed services agreements and who have paid and remain current in the payment of services availability fees to a fire department or fire departments that are recognized as providing firefighting services to the beneficiaries' property;

* * *

(4) "Firefighting services" means *the provision of all services of whatever nature which might be utilized in connection with the extinguishing of fires and the preservation of life and real and personal property*; [*12]


* * *

(6) "Nonbeneficiaries" means those persons or entities who have not executed a services agreement or who have not paid or are not current in the payment of services availability fees to a fire department or fire departments recognized as being capable of providing firefighting services to the property of the nonbeneficiaries;

Id. (emphasis added). Additionally, the General Assembly provided the following pertinent authority:

(b)(1) Should a fire department provide firefighting services to a nonbeneficiary, then the nonbeneficiary shall pay to the fire department a sum not to exceed five thousand dollars (\$ 5,000) as consideration for the provision of firefighting services, with its being understood that the exact amount of the sum shall be specified by written resolution of the fire department in the services agreement.

A.C.A. § 14-272-303.

The General Assembly specifically noted the intent that this statute be supplementary to existing authority and supersede those statutory provisions that were expressly contradictory. Act 1725 of 2001, § 6. 

The plain and ordinary language defining "firefighting services" in A.C.A. § 14-272-301 includes services related to the protection of life and personal property and not merely the extinguishing of fires. The volunteer fire department must specifically list what "firefighting services" will be provided in the "services agreement." A.C.A. § 14-272-301(7)(E). If the "services agreements" include providing lifesaving and medical emergency response services, A.C.A. § 14-272-303 specifically authorizes the volunteer fire department to recover the costs of these services from a "nonbeneficiary. "

If an individual lives within the district the fire department serves and either has failed to execute a "services agreement" or is delinquent on the payment required for a "services agreement," the individual could be a "nonbeneficiary" who may be charged for services provided by the department. If the individual lives outside the area served by the department, in my opinion he or she may not fall within the definition of a "nonbeneficiary. " The General Assembly appears to have limited "nonbeneficiaries" [*14] to individuals who own property within the area "recognized" as served by the volunteer fire department. *See* A.C.A. § 14-272-301(6). As noted above, the Quorum Court may delineate by ordinance the area a volunteer fire department will serve. A.C.A. § 14-20-108(b). This authority to determine geographic limitations on a volunteer fire department was not changed by A.C.A. §§ 14-272-301 through -304. Because code sections that relate to the same subject matter will be read together, Short, *supra*, in my opinion, the geographic area which a fire department serves as defined by Quorum Court under A.C.A. § 14-20-108 is the area that is recognized as property to which a fire department is capable of providing firefighting services under A.C.A. §§ 14-272-301 through -304. Therefore, individuals who live outside the area served by the department are in all likelihood not "nonbeneficiaries" under the applicable definition. As a consequence, in my opinion these persons may not be charged for services rendered.

If a volunteer [*15] fire department utilizing fire services agreements provides "firefighting services" in response to a medical emergency call for a "nonbeneficiary," A.C.A. § 14-272-303 specifically authorizes the volunteer fire department to bill the "nonbeneficiary" for the services provided.

Question Two: If the answer to question # 1 is yes, who is responsible for the payment of these services? The non-member who may not have requested the service or the person requesting the service?

With respect to a volunteer fire department that does not employ "services agreements" under A.C.A. § 14-272-301, the question is moot in light of my response to Question One. With respect to a volunteer fire department operating with fire services agreements, a "nonbeneficiary" to whom services are rendered is responsible for the incurred charges.

I note that A.C.A. § 14-272-303 specifically authorizes a volunteer fire department to charge a "nonbeneficiary" for services provided. The language of A.C.A. § 14-272-303(b)(1) authorizes a volunteer fire department to recover [*16] its costs if the department "provide[s] firefighting services to a nonbeneficiary." This unambiguous language, in my opinion, means that the person who has received firefighting services would be obligated to pay.

Question Three: Can the fire department charge for the services provided at vehicle accidents?

Based on the same analysis as set forth in Question One, in my opinion generally, "no." As noted in response to Question One, A.C.A. § 20-22-901(a) only authorizes volunteer fire departments to respond to reports or emergency calls reporting fires. Additionally, A.C.A. § 20-22-901(b) only authorizes volunteer fire departments to charge fees to nonmembers for services rendered in extinguishing fires involving the property, real or personal, of nonmembers. Therefore, in my opinion, a volunteer fire department is not authorized to charge a fee to nonmembers when responding to a motor vehicle accident because a motor vehicle accident alone is not a report of, or an emergency call reporting a fire.

I note that should the department respond to an emergency call about a motor vehicle accident that involves [*17] a fire, the provisions of A.C.A. § 20-22-901(b)(2) would apply. As recounted above, this allows the department to charge up to \$ 500 to nonmembers for responding to and providing services in the event of a fire involving solely personal property.

As noted in response to Question One, if the department has executed "services agreements," services that are provided at the site of a motor vehicle accident could be included as "firefighting services" under A.C.A. § 14-272-303. The services agreement of the department should detail whether services that would be provided at the site of a motor vehicle accident are included as "firefighting services" under the agreement. See A.C.A. § 14-272-301(7)(E). If such services are included, a "beneficiary" is entitled to those services without an additional charge. A.C.A. § 14-272-303(a). With respect to a "nonbeneficiary," as noted above A.C.A. § 14-272-303(b) authorizes a volunteer fire department to charge a "nonbeneficiary" for providing "firefighting services." Again, a non-member residing [*18] outside the boundaries of the department may not be a "nonbeneficiary" against whom the department may impose charges.

Question Four: Is a volunteer fire department required to respond to 911 medical emergencies outside their district or coverage area?

In my opinion, there is no requirement in the Arkansas Code that a volunteer fire department serving an area determined by the quorum court pursuant to A.C.A. § 14-20-108 respond to a report of a 911 medical emergency outside of their coverage area. As described in response to Question One, the duty to respond placed on volunteer fire departments is limited to a duty to respond to reports and notifications concerning

fires. *See* A.C.A. § 20-22-901. As noted in response to Question One, a volunteer fire department not utilizing "services agreements" may not charge a fee for responding to a 911 medical emergency call because there is no duty to respond to such a call under A.C.A. § 20-22-901(a).

With respect to a volunteer fire department that has executed firefighting services agreements, there is no expansion of the duty [*19] to respond in A.C.A. §§ 14-272-301 through -304. The same analysis would, therefore, apply. In my opinion, there is no positive duty set out in A.C.A. §§ 14-272-301 through -304 to respond to emergencies outside of the geographical area that is recognized as served by a volunteer fire department.

Footnotes:

1. It is somewhat unclear how this code section interacts with A.C.A. § 14-20-108, which authorizes the county to collect fire department dues under certain circumstances. It appears, however, that A.C.A. §§ 14-272-301 through -304 contemplates that volunteer fire departments employing "services agreements" will be responsible for their own subscription fee collection. *See* A.C.A. §§ 14-272-303(b)(2) and -304(b) (referring to the initiation of litigation to collect unpaid fees, rather than any tax-related procedures under A.C.A. § 14-20-108); *and* A.C.A. § 14-272-304(c) (authorizing a fire department employing "services agreements" to contract with third parties for "invoicing," and other services relating to assessment, collection, and administration of "service availability fees").

II. FUNDING SOURCES AND OTHER FINANCIAL PROCEDURES

Title 14 Local Government, Chapter 284 Fire Protection Districts, Subchapter 3 — Rural Fire Protection Service

A.C.A. § 14-284-301 *et seq.*

This subchapter was intended by the Legislature to establish a program whereby the State Forestry Department may establish a Rural Fire Protection Service and provide leadership for the establishment of fire protection services in rural areas and small cities and towns that do not have full-time organized fire departments, to implement a program of converting surplus vehicles into firefighting equipment to be made available to said communities, and to make loan funds available to assist said communities in obtaining the necessary firefighting equipment.

More information regarding the Rural Fire Protection Service, including request forms and loan applications, may be found at <https://www.aad.arkansas.gov/rural-fire-program>. (Last Accessed 02/01/2020).

A.C.A. § 14-284-301. Definition.

As used in this subchapter, unless the context otherwise requires, the term “rural fire protection district” shall include any city or town which does not have a full-time organized fire department or in which seventy-five percent (75%) or more of the fire fighters employed by the fire department are volunteer fire fighters.

A.C.A. § 14-284-302. Applicability.

The benefits of the provisions of this subchapter shall be available to rural fire protection districts and services operated not-for-profit providing fire protection services to property owners in areas outside the limits of incorporated cities or towns and to areas partially or totally within the boundaries of cities or incorporated towns in this state which do not have a full-time organized fire department or in which seventy-five percent (75%) or more of the fire fighters employed by the fire department are volunteer fire fighters.

A.C.A. § 14-284-304. Powers and duties.

The Rural Fire Protection Service of the Arkansas Forestry Commission shall have the following powers, functions, and duties to be performed under appropriate policies and rules promulgated by the Arkansas Forestry Commission:

(1) To develop rural fire protection plans for the providing of fire protection services in the various rural areas of this state which do not have available the benefits or services of an organized or voluntary firefighting program, and to assist existing organized or volunteer firefighting services;

- (2) To encourage the establishment of rural fire protection districts and to promulgate reasonable and necessary rules that rural communities must meet in order to become eligible to secure firefighting vehicles and equipment through the Arkansas Forestry Commission;
- (3) To cooperate with and assist the Arkansas Fire Training Academy in developing training programs designed to instruct and train firefighters employed or used by rural fire protection districts in the suppression of fires, and to especially establish training programs designed to prepare rural firefighters in the methods of handling firefighting problems encountered in rural areas;
- (4) To provide leadership and to cooperate with the Division of Emergency Management, the State Fire Marshal's office, and the Arkansas Fire Training Academy in coordinating the efforts of these agencies with the efforts and services of rural fire protection districts for the purpose of coordinating and making maximum use of the services and resources of this state in providing rural fire protection services in this state;
- (5) To establish a program to obtain by acquisition, donation, transfer, loan, or purchase, vehicles and other properties which are suitable for repair, refurbishing, and renovation, to be used as fire trucks or other firefighting equipment, and to acquire the necessary tanks, pumps, water hoses, and other equipment to convert and adapt the equipment for firefighting purposes, and to make the equipment available to rural fire protection districts, under appropriate rules and eligibility standards promulgated by the Arkansas Forestry Commission, to be used by rural fire protection districts in the suppression of fires;
- (6) To provide technical assistance and guidance to rural fire protection districts, to cooperate with and assist persons interested in the creation of the districts in the collection of data and providing other resources or technical assistance to aid rural property owners in efforts to establish rural fire protection services, and to provide technical advice and assistance to rural fire protection districts to enable the districts to obtain and operate the necessary equipment and training and operating procedures to function efficiently as a rural fire protection district;
- (7) To contract with public and private sources, including the Division of Correction, for providing mechanical, painting, body work, or other repair services relative to the conversion, painting, and adaptation of vehicles being converted into fire protection vehicles, and to reimburse for the cost of the services;
- (8) To promulgate appropriate rules and forms for the administration of the Rural Fire Protection Revolving Fund, which shall consist of moneys made available for it to be used by the Arkansas Forestry Commission in defraying the initial cost of equipment, repair, furnishing, and adaptation of vehicles as fire trucks, or other firefighting equipment, with the cost to be reimbursed to the Arkansas Forestry Commission upon the vehicle's being made available to a rural fire protection district or similar rural firefighting agency which operates not for profit, and, in addition, to make loans, as provided in this subchapter, to rural fire protection districts to provide a portion of the moneys required to enable the districts to acquire vehicles and equipment from the Arkansas Forestry Commission; and
- (9) To perform such other functions and duties which may be necessary to enable the Arkansas Forestry Commission to provide a program of comprehensive services to encourage the development and availability of rural fire protection services throughout this state.

A.C.A. § 14-284-305. Rural Fire Protection Revolving Fund generally.

(a) There is created and established on the books of the Treasurer of State, the Auditor of State, and the Department of Finance and Administration the "Rural Fire Protection Revolving Fund", into which shall be transferred or deposited the moneys to be provided by law for the fund, to be used as a revolving fund by the Arkansas Forestry Commission for:

(1) The acquisition by the Arkansas Forestry Commission of vehicles and for the payment of charges for labor, equipment, and materials necessary to convert the vehicles into firefighting vehicles suitable for rural fire protection service, and to make reimbursement to the fund upon making the vehicles available to rural fire protection districts, as provided by law; and

(2)

(A) Making loans to rural fire protection districts which apply therefor and which are qualified under rules promulgated by the Arkansas Forestry Commission as qualified rural fire protection districts.

(B) The loans shall be used by qualified rural fire protection districts to provide moneys required to pay not more than seventy-five percent (75%) of the cost of acquiring, repairing, renovating, or equipping firefighting vehicles which have been converted and adapted by the Arkansas Forestry Commission for rural fire protection use.

(C) However, the moneys loaned to a rural fire protection district from the fund shall be used exclusively to defray a portion of the cost of acquiring the firefighting equipment from the Arkansas Forestry Commission.

(D) The Arkansas Forestry Commission may establish a reasonable rate of interest to be charged on loans made from the revolving fund.

(b) All revenues received by the Arkansas Forestry Commission from the furnishing of firefighting vehicles or equipment to rural fire protection districts, or to other eligible nonprofit organizations which are eligible to purchase the equipment from the Arkansas Forestry Commission, and all moneys received by the Arkansas Forestry Commission upon repayment of loans made from the fund shall be deposited into the State Treasury as nonrevenue receipts and shall be credited by the Treasurer of State to the fund, to be used for the purposes of the fund as set forth by law.

A.C.A. § 14-284-306. Acquisition and renovation of equipment.

(a) The Arkansas Forestry Commission may provide through existing facilities, or such expanded facilities as may be required therefor, a program of acquisition of vehicles which are suitable for conversion to firefighting equipment, and may repair, refinish, and equip the vehicles for use as firefighting equipment, including the acquisition and furnishing of tanks, pumps, hoses, and other equipment necessary for firefighting purposes, and, upon renovation thereof, may make them available to a rural fire protection district or other rural fire protection district or service which operates not for profit, and recover the cost of acquisition and repair or refurbishing of the vehicle, plus a nominal charge to cover departmental overhead for the services performed.

(b) All moneys acquired from the recovery of the cost of the firefighting equipment by the Arkansas Forestry Commission shall be deposited as nonrevenue receipts in the Rural Fire Protection Revolving Fund in the State Treasury.

A.C.A. § 14-284-307. Loans for purchase of vehicles and equipment.

(a) Rural fire protection districts organized under the laws of this state which operate not-for-profit or any other rural fire protection agency, service, or program which provides rural fire protection to its members or to the public not-for-profit shall be eligible to purchase firefighting vehicles and equipment from the Arkansas Forestry Commission, if the vehicles and equipment are available, to be used for rural fire protection services.

(b) The Arkansas Forestry Commission may make loans to eligible rural fire protection districts and other qualified districts, services, or programs which provide fire protection to rural areas not-for-profit, who may apply to the Arkansas Forestry Commission, upon forms and in accordance with rules promulgated by the Arkansas Forestry Commission, for loans not to exceed seventy-five percent (75%) of the cost of acquiring rural fire protection vehicles or equipment.

(c) The loans shall be for such period as may be approved by rule of the Arkansas Forestry Commission, and in no event may any loan be for more than three (3) years.

(d) The Arkansas Forestry Commission is authorized to establish a system of priorities for determining eligibility for the acquisition of firefighting vehicles renovated by the department which are available for sale to rural fire protection districts and may also establish a system of priorities for eligibility for loans from the Rural Fire Protection Revolving Fund for a portion of the moneys needed to acquire the vehicles by rural fire protection districts.

Title 14 Local Government, Chapter 284 Fire Protection Districts, Subchapter 4 —

Insurance Premium Taxes

A.C.A. § 14-284-401 *et seq.*

Funds derived from this subchapter are more commonly known and referred to as “Act 833 funds.” This legislation provides for a contribution from certain insurers to the state’s Fire Protection Premium Tax Fund of 1/2 of 1% on net direct written premiums for coverages upon real and personal property, to be divided among the 75 counties in Arkansas according to population. A.C.A. § 14-284-403 lays out how these funds are to be apportioned among the counties. These state funds are considered pass through funds and are thus not subject to county appropriation or county claims processes. A.C.A. § 14-284-403(d).

Act 833 funds are to be used for training, the purchase or improvement of firefighting equipment, and initial capital construction or improvements of fire departments. In order to apply for and obtain Act 833 funding, departments should closely follow the guidelines and instructions promulgated by the

Arkansas Division of Emergency Management (ADEM) Office of Fire Protection Services. The funding application (the “ACT 833 Funding Guidance and Requirements”), complete with guidelines, deadlines, reporting requirements, and training/certifications requirements, is located on the ADEM website (<https://www.adem.arkansas.gov/>) under “Useful Links.” (Last Accessed 02/01/2020). Please note that the application is updated yearly. Below you will find the relevant law with respect to Act 833 funds.

A.C.A. § 14-284-401. Legislative findings.

It is hereby found and determined by the General Assembly of the State of Arkansas that additional funding is needed to improve the fire protection services in this state. It is further found and determined that the public policy of this state is to provide adequate fire protection services for property of citizens through the use of properly trained and equipped fire fighters, and that the provisions of § 26-57-614 (“Fire protection services — Additional tax”) and this subchapter, are necessary in furtherance of the public health and safety.

A.C.A. § 14-284-402. Construction.

The provisions of § 26-57-614 and this subchapter are intended to be supplemental to current provisions of Arkansas law, and shall not be construed as repealing or superseding any other laws applicable thereto.

A.C.A. § 14-284-403. Apportionment of funds.

(a)

(1) These premium tax moneys are assessed for disbursement from the Fire Protection Premium Tax Fund, § 19-6-468, by the Department of Finance and Administration to the counties in the following percentages:

Arkansas County — 0.78%, Ashley County — 1.39%, Baxter County — 1.78%, Benton County — 3.86%, Boone County — 1.46%, Bradley County — 0.52%, Calhoun County — 0.51%, Carroll County — 0.97%, Chicot County — 0.51%, Clark County — 1.13%, Clay County — 1.10%, Cleburne County — 1.11%, Cleveland County — 0.66%, Columbia County — 1.24%, Conway County — 1.04%, Craighead County — 2.91%, Crawford County — 1.98%, Crittenden County — 1.32%, Cross County — 0.84%, Dallas County — 0.45%, Desha County — 0.71%, Drew County — 0.80%, Faulkner County — 2.30%, Franklin County — 0.97%, Fulton County — 0.84%, Garland County — 3.12%, Grant County — 1.13%, Greene County — 1.39%, Hempstead County — 1.89%, Hot Spring County — 1.46%, Howard County — 0.75%, Independence County — 1.90%, Izard County — 0.91%, Jackson County — 0.95%, Jefferson County — 2.32%, Johnson County — 1.05%, Lafayette County — 0.71%, Lawrence County — 0.96%, Lee County — 0.73%, Lincoln County — 1.12%, Little River County — 0.77%, Logan County — 1.06%, Lonoke County — 1.70%, Madison County — 0.95%, Marion County — 1.00%, Miller County — 1.44%, Mississippi County — 1.77%, Monroe County — 0.53%, Montgomery County — 0.66%, Nevada County — 0.58%, Newton County — 0.67%, Ouachita County — 1.37%, Perry County — 0.62%, Phillips County — 1.12%, Pike County — 0.87%, Poinsett County — 1.14%, Polk County — 1.01%, Pope County — 1.73%, Prairie County — 0.83%, Pulaski County — 5.99%, Randolph County — 0.96%, St. Francis County — 1.45%, Saline County — 3.00%, Scott County — 0.59%, Searcy County — 0.73%, Sebastian County — 2.06%, Sevier County — 0.82%, Sharp County — 1.30%, Stone County — 0.77%, Union County — 2.01%,

Van Buren County — 1.18%, Washington County — 3.46%, White County — 2.71%, Woodruff County — 0.47%, and Yell County — 1.11%.

(2)

(A) The moneys shall be apportioned by each quorum court to the districts and municipalities within the county based upon population unless the county intergovernmental cooperation council notifies the quorum court of the fire protection needs of the districts and municipalities, in which case the moneys shall be apportioned by the quorum court based on those needs.

(B) The moneys shall be distributed to municipalities and those certified departments in districts that are in compliance with this subchapter, § 20-22-801 *et seq.*, and § 6-21-106.

(C) Fire departments that are not certified by the Office of Fire Protection Services under § 20-22-801 *et seq.* shall also be eligible to receive moneys disbursed under this section so long as all moneys received are spent directly on equipment, training, capital improvements, insurance for buildings, utility costs, or other expenditures necessary for upgrading the service provided by the department.

(D)

(i) An inactive fire department, as determined by the county judge, is not eligible to receive moneys disbursed under this section.

(ii) Any moneys allocated by the county intergovernmental cooperation council and any moneys that would have been apportioned to an inactive fire department based upon population shall be disbursed by the quorum court to the active departments based upon fire protection needs.

(iii) If a quorum court has passed a resolution that reallocates the moneys remaining after the disbursement of moneys under this section, then the moneys shall be reallocated based upon the quorum court resolution.

(b) Disbursements shall be made on forms prescribed by the Department of Finance and Administration.

(c) A county treasurer shall not collect the treasurer's commission provided in § 21-6-302 on any of the premium tax moneys disbursed from the Fire Protection Premium Tax Fund.

(d) Premium tax moneys are state moneys and are only pass-through moneys for county government not subject to county appropriation or county claims processes.

(e)

(1) There is created in each county a fund in the office of the county treasurer to be known as the "county fire protection premium tax fund".

(2) Premium tax moneys received by the county treasurer shall be credited to the county fire protection premium tax fund and disbursed by the county treasurer to the appropriate fire department based on the apportionment by the quorum court under subdivision (a)(2)(A) of this section.

A.C.A. § 14-284-404. Use of funds.

(a)

(1) The funds shall be used:

(A) To defray training expenses of firefighters at the Arkansas Fire Training Academy and fire training centers certified by the Arkansas Fire Protection Services Board;

(B) For the purchase and improvement of, or for pledging as security for a period of not more than ten (10) years in the financing of the purchase and improvement of, firefighting equipment and initial capital construction or improvements of fire departments;

(C) For insurance for buildings; or

(D) For utility costs.

(2) Municipalities, fire departments, and districts must expend or allocate for expenditure all funds received under this subchapter on or before the expiration of twelve (12) months from the date of receipt.

(3) Any excess or surplus funds that are not expended or allocated for expenditure within each twelve-month period shall be remitted to the fund no later than sixty (60) days following the expiration of each twelve-month period.

(b) Equipment funded under this section shall be used by the municipalities and departments located in fire protection districts that have been duly formed or established under the provisions of § 14-284-201 *et seq.*

A.C.A. § 14-284-405. Payment to rural volunteer fire departments.

(a) No rural volunteer fire department or district shall receive payments or disbursements from the Fire Protection Premium Tax Fund unless the county quorum court and the board of commissioners of the fire protection district designate the current county fire service coordinator or designate a county fire service coordinator who shall be responsible for seeing that standard guidelines established by the Arkansas Fire Protection Services Board pursuant to § 20-22-801 *et seq.*, are followed.

(b) No funds shall be paid to any certified rural volunteer fire department or fire protection district until a written proposal stating the following information has been approved by the quorum court and the Arkansas Fire Protection Services Board:

(1) Amount of funds requested;

(2) Purpose for which funds will be expended;

(3) Plans for training of fire fighters; and

(4) Anticipated time of completion of project.

(c)

(1) Rural volunteer fire departments and fire protection districts shall supply such statistical and operational information to the Arkansas Fire Protection Services Board and quorum court as required.

A.C.A. § 14-284-406. Areas with no rural volunteer fire department or fire protection district — Areas in two or more counties.

(a)

(1) Pursuant to § 14-284-201(a)(2)(A), in any area in any county in which there is no rural volunteer fire department or fire protection district which qualifies for funds under the provisions of this subchapter, the quorum court is authorized, in its discretion and with the approval of the Arkansas Fire Protection Services Board, to designate any unincorporated area of the county to be served by a municipal fire department, if approved by the governing authorities of the municipality.

(2)

(A) In addition to funds the municipality is otherwise entitled to under this subchapter, the municipality serving any such designated area shall receive the funds that the rural volunteer fire department or fire protection district would have been eligible to receive.

(B) The funds shall be used by the municipality to provide training, to purchase equipment necessary to provide fire protection in the designated unincorporated area in compliance with this subchapter, to purchase insurance for buildings, or to pay utility costs.

(b)

(1) No municipality shall receive funds under this subchapter unless it is willing to provide fire protection through mutual aid agreements in areas within five (5) miles of its corporate limits.

(2) A municipality shall not be required to respond when, in the opinion of proper municipal authorities, its municipal property or fire classification rating would be jeopardized.

(c)

(1) A rural volunteer fire department or fire protection district that qualifies for funds under this subchapter and that provides fire protection services in two (2) or more counties shall be eligible to receive moneys from each of the counties under § 14-284-403(a)(2).

(2) The county quorum court of each county shall apportion the funds to the fire departments or districts eligible under this subsection in accordance with § 14-284-403(a)(2). (2) The quorum court of each county shall file reports on January 15 annually with the State Auditor and Department of Finance and Administration stating how such funds were expended during the preceding twelve (12) months.

(3) Each rural volunteer fire department and fire protection district which receives such funds shall file reports on December 1 annually with the quorum court stating how such funds were expended during the preceding twelve (12) months.

(4) If any quorum court, rural volunteer fire department, or fire protection district fails to make such reports, the fire department or district shall not be eligible for new or additional funds until the reports are filed.

(5) Any rural fire department or district which fails to expend funds in due compliance with the provisions of this subchapter shall not be eligible for new or additional funds from the Fire Protection Premium Tax Fund until the department or district reimburses the fund in the exact amount of those moneys improperly retained or expended.

A.C.A. § 14-284-407. Fire protection services organization of volunteer fire department or district after January 1, 1992.

Nothing in this subchapter shall be construed to prevent the organization of a volunteer fire department or district pursuant to the provisions of Arkansas law. If such a volunteer fire department or district is organized after January 1, 1992, the Department of Finance and Administration shall distribute funds provided by § 26-57-614 and this subchapter upon due compliance by the volunteer fire department and district with the eligibility requirements of this subchapter and §§ 20-22-801 — 20-22-809.

A.C.A. § 14-284-408. Direct contributions — Provision of water.

(a) Nothing in this subchapter shall be construed to prevent quorum courts and governing bodies of municipalities from contributing funds directly to any volunteer fire department or district serving such county or municipality.

(b) Nothing in this subchapter shall be construed to prevent county, municipal, or local water utilities or associations from contributing water free of charge for firefighting and training activities to volunteer fire departments and districts.

A.C.A. § 14-284-409. Maintenance of real property of rural volunteer fire department.

The county judge of any county is hereby authorized and empowered, in his or her discretion, to grade, gravel, pave, and maintain real property of a rural volunteer fire department, including roads or driveways, as necessary for the effective and safe operation of the rural volunteer fire department.

A.C.A. § 14-284-410. Certification of fire department required.

No fire department shall receive funds under this subchapter after January 1, 1998, unless the fire department is certified by the Arkansas Fire Protection Services Board.

A.C.A. § 14-284-411. Mayor — When member of county intergovernmental cooperation council.

For the purposes of this subchapter, the mayor of any city or incorporated town whose fire protection district extends into an adjoining county shall be a member of the county intergovernmental cooperation council of the adjoining county.

A.C.A. § 14-284-412. Washer-extractor requirements.

(a) To be eligible for funding under this subchapter, a fire department shall have access to a washer-extractor capable of one hundred gravitational force (100 g-force) of spin installed by January 1, 2022, as certified by the county fire coordinator, except as provided under subsections (c) and (d) of this section.

(b) Funding withheld under subsection (a) of this section is not subject to redistribution under this subchapter and shall be released upon certification of installation under subsection (a) of this section.

(c)

(1) A fire department may enter into a written interlocal agreement with another fire department in the state that has met the requirements of subsection (a) of this section to be in compliance with this section.

(2) The written interlocal agreement under subdivision (c)(1) of this section shall address access to the washer-extractor and require reasonable notification for the access.

(d) To meet the requirements of this section, an intergovernmental council of a county may purchase a washer-extractor to be used by all fire departments in the county and installed at a central location in the county chosen by the county fire coordinator.

Title 14 Local Government, Chapter 20 –

Quorum or Levying Courts

A.C.A. § 14-20-108

Title 14, Chapter 20 deals with county quorum or levying courts, principally with respect to appropriations, fees, and certain tax issues. Regarding fire departments specifically, the following statute was intended by the legislature to ensure that the many volunteer fire departments across Arkansas can remain viable and continue to serve the state at satisfactory levels.

As such, volunteer fire departments may petition the quorum court to adopt an ordinance authorizing a designated county official (e.g., the county collector) to collect and remit that department's annual fire dues. If the petition to levy volunteer fire department dues in this manner is approved, the volunteer fire department dues shall be listed annually on real property tax statements and collected by the designated county official at the same time and in the same manner as real property taxes.

Delinquencies must be reported by the designated county official to the volunteer fire department for collection. Such delinquencies may be collected and may enforce collection by proceedings in a court of proper jurisdiction.

Importantly, it should be noted that A.C.A. § 14-20-108(c) appears to authorize the quorum court to establish its own countywide fire department, either regular or voluntary.

For more information on this statute, its applicability, and how it relates to other sections of Arkansas Code, please see the attorney general opinions immediately following this statute.

A.C.A. § 14-20-108. Dues for volunteer fire departments.

(a)

(1)

(A) The quorum court of each county, upon request filed with the quorum court by one (1) or more volunteer fire departments in the county, may adopt an ordinance authorizing a designated county official to collect and remit to the volunteer fire department the annual dues charged by the volunteer fire department in consideration of providing fire protection to unincorporated areas in the county.

(B)

(i)

(a) When a quorum court receives a request for the levy of volunteer fire department dues and the request has been signed by the fire chief and the chair and secretary of the board of directors, if any, of a volunteer fire department and filed with the county clerk, the quorum court by ordinance shall call for an election on the issue of the levy of the volunteer fire department dues on each residence and on each business having an occupiable structure.

(b)

(1) The issue may be placed on the ballot at a special election by order of the quorum court in accordance with § 7-11-201 *et seq.*

(2) The special election shall be held by August 1.

(c) If an attested petition is filed with the county clerk and signed by a majority of registered voters in the volunteer fire department district voting in the immediately preceding general election, then the quorum court by ordinance shall dispense with a special election on the issue of the levy of volunteer fire department dues.

(d)

(1) If the levy of volunteer fire department dues is approved by a majority of those voting on the issue or the county clerk determines that the number of signatures of registered voters is sufficient and the quorum court dispenses with a special election, the volunteer fire department dues shall be listed annually on real property tax statements and collected by the county collector at the same time and in the same manner as real property taxes.

(2)

(A) The county collector shall report delinquencies to the volunteer fire department for collection.

(B) A volunteer fire department may collect volunteer fire department dues that have become delinquent and

may enforce collection by proceedings in a court of proper jurisdiction.

(ii) The cost of the election shall be borne by the volunteer fire department that requested the levy.

(2) The ordinance enacted by the quorum court shall set forth the terms and conditions on which the volunteer fire department dues are to be collected by the county and for the remission of the volunteer fire department dues to the volunteer fire department.

(3) However, an active member of a volunteer fire department whose annual volunteer fire department dues are collected in this manner may be exempt from the annual volunteer fire department dues at the discretion of the volunteer fire department in consideration of providing services to the volunteer fire department.

(b)

(1) The quorum court by majority vote may designate the geographical area that a volunteer fire department serves.

(2) Upon request by a volunteer fire department, the quorum court of each county involved may authorize a volunteer fire department to extend its geographical service area across the county boundary lines.

(c) The quorum court may establish its own countywide fire department, either regular or voluntary.

(d) This section does not change the authority of intergovernmental cooperation councils to enter into reciprocal agreements or to distribute funds under § 14-284-401 *et seq.* and § 26-57-614.

(e)

(1) If approved by ordinance by the governing body of an incorporated town or a city of the second class on the signed request of the fire chief and the chair and secretary of the board of directors, if any, of a volunteer fire department, an incorporated town or a city of the second class located in the volunteer fire department district that is not served by a fire department may be included in the fire protection area with the volunteer fire department dues levied and collected in the same manner as in the unincorporated areas served by the volunteer fire department district.

(2)

(A) The governing body of the incorporated town or city of the second class by ordinance shall call for an election on the ordinance under subdivision (e)(1) of this section.

(B) The issue may be placed on the ballot at a special election by order of the governing body in accordance with § 7-11-201 *et seq.*, and the special election shall be held by August 1.

(C) If the issue is approved by a majority of those voting on the issue, the incorporated town or city of the second class shall be served by the volunteer fire department district with the volunteer fire department dues levied and collected in the same manner as in the unincorporated areas served by the volunteer fire department district.

(D) The cost of the election shall be borne by the governing body of the incorporated town or city of the second class that called for the election.

(f) At the discretion of a volunteer fire department, a church served by a volunteer fire department may be exempt from volunteer fire department dues if the church is exempt from real property taxes.

(g)

(1)

(A) By December 15 of each year or upon the creation of a volunteer fire department, a volunteer fire department that uses or intends to use the county collector for collection of the volunteer fire department dues shall file an annual report with the county clerk in any county in which a portion of the volunteer fire department is located.

(B) The county clerk shall not charge any costs or fees for filing the annual report.

(C) The volunteer fire department shall deliver a filed copy of the annual report to the county collector within five (5) days of filing.

(2) The annual report shall contain the following information as of December 15 of the current calendar year:

(A) Identification of the volunteer fire department board members and contact information;

(B) The contact information for the volunteer fire department chief;

(C) Information concerning to whom the official designated to remit the volunteer fire department dues is to pay volunteer fire department dues; and

(D) The amount of the annual dues charged by the volunteer fire department by parcel or on each residence or business having an occupiable structure.

(h) The official designated to remit the volunteer fire department dues under this section shall not remit the dues collected by the county collector to any volunteer fire department until the annual report has been filed.

(i) A volunteer fire department that is required to file a report under § 14-86-2102 is not required to file a separate report under this section.

(j) This section applies to all volunteer fire departments, however organized.

Attorney General Opinion(s):

OPINION NO. 2018-124

January 03, 2019

QUESTION

This is in response to your request for an opinion on the following questions concerning Ark. Code Ann. § 14-20-108:

- 1) If a fire department has followed the procedures required under Ark. Code Ann. § 14-20-108, for the dues of the department to be placed on the county real property tax statement, is the quorum court required to take up the matter at the next meeting of the quorum court or can the quorum court table the matter indefinitely?
- 2) Is there a time frame in which the quorum court should direct the county to place the dues on the real property tax statement, i.e., should the dues be placed on the next real property tax statement after the fire department has followed the procedures of the statute?

OPINION

RESPONSE

I take it that your questions are premised upon a volunteer fire department filing a proper request under Ark. Code Ann. § 14-20-108 for its dues to be collected by the county [*2] along with real property taxes. In response to your first question, the statute does not address the time within which the quorum court must act on the request. The quorum court, therefore, is not required to take up the matter at its next meeting. But the statute may not be thwarted by tabling the matter indefinitely. I believe a court faced with the question would impose a reasonable time requirement. What constitutes a reasonable time will likely vary, depending upon the circumstances and all of the attendant facts.

As for your second question, the dues should be included on real property tax statements and collected pursuant to laws applicable to the extension and collection of taxes, once the levy is approved pursuant to section 14-20-108. If the proper procedures are followed, this should occur without the need for any direction or other action by the quorum court.

DISCUSSION

*Question 1: If a fire department has followed the procedures required under Ark. Code Ann. § 14-20-108, for the dues of the department to be placed on the county real property tax statement, [*3] is the quorum court required to take up the matter at the next meeting of the quorum court or can the quorum court table the matter indefinitely?*

I gather this question refers to the procedures under Ark. Code Ann. § 14-20-108(a)(1)(B), which authorizes a volunteer fire department to make a "request for the levy of [its] dues":

When a quorum court receives a request for the levy of volunteer fire department dues and the request has been signed by the fire chief and the chair and secretary of the board of directors, if any, of a volunteer fire department and filed with the county clerk, the quorum court by ordinance *shall* call for an election on the issue of the levy of the volunteer fire department dues on each residence and on each business having an occupiable structure.

The word "shall" imposes a mandatory obligation. The statute, however, does not mandate a time frame within which the quorum court must act on the fire department's request. In response to your particular

question, therefore, [*4] the quorum court is not required to take up the matter at its next meeting. But the statute may not be stymied by the quorum court simply tabling the matter indefinitely. I believe a court faced with the question would impose a reasonable time requirement for action on the department's request. Moreover, there is precedent in analogous circumstances for the imposition of a reasonable time requirement.

Question 2: Is there a time frame in which the quorum court should direct the county to place the dues on the real property tax statement, i.e., should the dues be placed on the next real property tax statement after the fire department has followed the procedures of the statute?

Section 14-20-108 requires that the county include the dues on real property tax statements after the levy is approved at an election, or after an election is dispensed with in accordance with the statute:

If the levy of volunteer fire department dues is approved by a majority of those voting on the issue or the county clerk determines that the number of signatures of registered voters is sufficient and the quorum [*5] court dispenses with a special election, the volunteer fire department dues *shall be listed annually on real property tax statements and collected by the county collector at the same time and in the same manner as real property taxes.*

It is clear from the emphasized language that once the levy is approved pursuant to section 14-20-108, the fire department dues are to be included on real property tax statements and collected under laws applicable to the extension and collection of taxes. These laws, found in Title 26 of the Arkansas Code, include mandatory duties assigned to the "preparer of tax books" and the county collector. In the case of volunteer fire department dues levied pursuant to section 14-20-108, the various duties associated with extension and collection of the dues are not conditioned on any action of the quorum court.

Footnotes:

1. As an alternative to the collection method involving the real property tax collection process, a volunteer fire department can request the quorum court to pass an ordinance authorizing a county official to collect the dues charged by the department. *See* Ark. Code Ann. § 14-20-108(a)(1)(A) (Supp. 2017). The dues in that case are not levied and collected along with property taxes.
2. Ark. Code Ann. § 14-20-108(a)(1)(B)(i)(a) (emphasis added).
3. *See* Hattison v. State, 324 Ark. 317, = 920 S.W.2d 849 (1996). "When the General Assembly uses the word 'shall,' we hold the effect is mandatory unless an absurdity would result." *Id.* at 318, 920 S.W.2d at 850.
The volunteer fire department bears the cost of an election on the issue of the levy of volunteer fire department dues. Ark. Code Ann. § 14-20-108(a)(1)(B)(ii). The quorum court may order a special election to be held on the issue (presumably in lieu of voting on the issue at a general election). *Id.* at § 14-20-108(a)(1)(B)(i)(b). But if a majority of registered voters in the fire department district file an "attested petition" with the county clerk, "the quorum court by ordinance shall dispense with a special election. . . ." *Id.* at § 14-20-108(a)(1)(B)(i)(c).
4. *See* Lewis v. Conlee, 258 Ark. 715, 529 S.W.2d 132 (1975) (holding that mandamus should have been granted to require a city council to set a referendum election within a "reasonably prompt period of time" after petitioners requested the referendum).
5. Ark. Code Ann. § 14-20-108(a)(1)(B)(i)(d)(l) (emphasis added).
6. The "preparer of the tax books" may be the county clerk, the county assessor, or the county collector, as designated by the quorum court in a county using a computerized system. *See* Ark. Code Ann. § 26-28-302(a)(3) (Repl. 2012).

7. *See, e.g.*, Ark. Code Ann. §§ 26-28-103 and 26-28-304 (Repl. 2012) (preparation of tax books), 26-28-108 (delivery of tax books to collector), 26-35-501 and 26-36-201 (collection of taxes).

OPINION NO. 2015-009

April 02, 2015

Question

With this background in mind, you ask:

1. Is the non-payment of fire association dues collected by the county collector handled in the same manner as the non-payment of property taxes? For instance:

(a) If a property owner in a fire association district pays his assessed property taxes but does not pay the fire association dues to the county collector, may the county collector record his property taxes as being delinquent?

(b) If the county collector can record the property taxes as being delinquent, may the county place a lien on the property in an attempt to collect the delinquent fire association dues?

(c) If a lien may be placed on the property, can the property be turned over to the Land Commissioner and sold at auction?

2. If the answer to Question 1 is no, what is the proper manner for a county collector or fire association to collect delinquent dues?

RESPONSE

With regard to Question 1(a), if recording the taxes as delinquent would mean the property is subject to forfeiture proceedings for nonpayment, I believe the answer [*2] is "no." The answer to Question 1(b) is "no," in my opinion. Question 1(c) is therefore moot. It is my opinion in response to Question 2 that delinquencies are to be reported to the Association for collection and that the Association may enforce collection through court proceedings.

OPINION

You have requested my opinion on several questions concerning A.C.A. § 14-20-108, which addresses volunteer fire department dues. As background for your questions, you state that an election was held on July 9, 2013, in the unincorporated part of Washington County served by the Prairie Grove-Farmington Rural Fire Association ("Association") on the question of the levy of the Association's dues on each residence and business with an occupiable structure. You report that the voters approved the measure, which also provided that the dues were to be listed annually on real property tax statements and collected in the same manner as ad valorem taxes.

DISCUSSION

This office has previously issued several opinions [*3] addressing the available remedies for nonpayment of volunteer fire department dues. The following excerpt reflects the opinions' conclusion that the legislature has not clearly provided for the collection of delinquent dues through forfeiture proceedings:

The language requiring collection of the dues "at the same time and in the same manner" as real property taxes likely includes the 10% penalty under A.C.A. § 26-36-202(b) that applies with respect to delinquent real property taxes... ***This phrase cannot, however, in my opinion, reasonably be construed to include the certification procedures under A.C.A. § 26-37-101 et seq.... These procedures involve the forfeiture and sale of tax-delinquent property to enforce the state's lien for taxes.*** The lien arises from the time state taxes are assessed. *See* A.C.A. § 26-34-101(b) (Repl. 1997) ("[a]ll taxes assessed shall be a lien upon and bind the property assessed from the first Monday of January of the year in which the assessment shall be made....") The legislature has, similarly, given liens for taxes in favor of municipal improvement districts [*4] (A.C.A. § 14-90-805(a)) and other various types of improvement districts. *See, e.g.,* A.C.A. § 14-92-228 (suburban improvement districts), 14-93-119 (property owners' improvement districts), 14-123-409 (drainage improvement districts). Additionally, the legislature has clearly identified those instances in which collection may be enforced through certification to the state for redemption or sale. *See* A.C.A. § 14-92-232 (suburban improvement districts). ***Unlike these taxes and assessments, however, volunteer fire department dues do not become a lien against the property.*** Nor is there any other language in A.C.A. § 14-20-108 suggesting that the state certification procedures apply. ***Although there was previous authority under § 14-20-108 for imposing a lien, a subsequent amendment removed this authority.*** *See* Acts 2001, No. 984. Had the legislature intended for the certification procedures to apply in case of delinquent volunteer fire department dues, it could easily have so indicated.

Section 14-20-108 has not been amended to give a lien for volunteer fire department dues. [*5] I agree with the previous opinions of this office that the legislature has not clearly expressed its intent for the collection of delinquent dues to be enforced through forfeiture and sale proceedings.

It is therefore my opinion that the answer to Question 1(a) above is "no" if recording the taxes as delinquent would subject the property to forfeiture proceedings for nonpayment.

The answer to Question 1(b) is "no," in my opinion, for the reasons explained above. This renders moot Question 1(c).

With regard to Question 2 concerning the proper manner of collecting delinquent dues, delinquencies are to be reported to the Association for collection and the Association may pursue collection through court proceedings. I cannot opine further in this regard absent legislative clarification.

Deputy Attorney General Elisabeth A. Walker prepared the foregoing opinion, which I hereby approve.

Footnotes:

1. The election was held pursuant to A.C.A. § 14-20-108(a)(1)(B)(i)(a) (Repl. 2013), which provides as follows:

When a quorum court receives a request for the levy of volunteer fire department dues and the request has been signed by the fire chief and the chair and secretary of the board of directors, if any, of a volunteer fire department and filed with the county clerk, the quorum court by ordinance shall call for an election on the issue of the levy of the volunteer fire department dues on each residence and on each business having an occupiable structure.

2. Section 14-20-108 provides as follows regarding dues collection after voter approval:

If the levy is approved by a majority of those voting on the issue, the dues shall be listed annually on real property tax statements and collected by the county collector at the same time and in the same manner as real property taxes. *Id.* at (a)(1)(B)(i)(c)(1).

3. A.C.A. § 14-20-108(a)(1)(B)(i)(c)(1), *supra* n. 2.
4. Op. Att'y Gen. 2004-224 (emphases added) (internal citation omitted). *See also* Op. Att'y Gen. Nos. 2008-141; 2002-032.
5. A.C.A. § 14-20-108(a)(1)(B)(i)(c)(2)(A) and (B).
6. *Accord* Op. Att'y Gen. 2008-141 (opining that forfeiture proceedings are unavailable for nonpayment and observing that legislative clarification will be necessary to address the matter of other available remedies).

OPINION NO. 2013-008

April 12, 2013

QUESTION

You have asked for my opinion on the several questions relating to fees for subscription fire departments. Specifically, you ask:

1. Does A.C.A. § 14-20-108 enable a quorum court to set, by ordinance, the membership fee charged by a subscription-service fire department organized as a private non-profit corporation under A.C.A. §§ 4-33-201 *et seq.*?
2. Does A.C.A. § 14-20-108 authorize a quorum court to set, by ordinance, the fee that is charged by a fire department organized as a fire protection district under A.C.A. §§ 14-284-201 *et seq.*?
3. Under A.C.A. § 14-20-108, a volunteer fire department may have a special election to have its fees collected by the county collector's office. Does this statute apply to a subscription-service fire department organized as a private non-profit corporation under A.C.A. §§ 4-33-201 *et seq.*?
4. [If the answer to Question 3 is "yes" and] if the majority of those voting in that special election approved the issue, would A.C.A. § 14-20-108 apply to all residents and businesses with an occupiable structure, including those residents and businesses that are not current members of the fire department?
5. Several land owners have placed R/Vs on their vacant land. Are the R/Vs considered occupiable structures under A.C.A. § 14-20-108?

OPINION

RESPONSE

I understand Questions 1 and 2 to be asking whether the quorum court, as opposed to the fire department, has the authority or discretion to decide the amount that should be charged. In my opinion, the answer to these questions is "no." The answer to Question 3, based solely on a reading of the statute, appears to be "yes." The answer to Question 4 is that if the ballot measure carries, then every residence and every business with an occupiable structure that is contained within the fire department's service area must pay the fee. I am unable to answer Question 5 because the answer turns on the factual question whether any of the R/Vs at issue actually are "a business with an occupiable structure. "

DISCUSSION

Question 1: Does A.C.A. § 14-20-108 enable a quorum court to set, by ordinance, the membership fee charged by a subscription-service fire department organized as a private non-profit corporation under A.C.A. §§ 4-33-201 et seq.?

Question 2: Does A.C.A. § 14-20-108 authorize a quorum court to set, by ordinance, the fee that is charged by a fire department organized as a fire protection district under A.C.A. §§ 14-284-201 et seq.?

While section 14-20-108 authorizes the quorum court to pass an ordinance (a) that reports the amount of the fee and (b) that requires the fee to be paid, the statute does not give the quorum court the discretion to decide the amount of the fee. Thus, in my opinion, the answer to Questions 1 and 2 is "no."

I take these questions to be asking whether section 14-20-108 gives the quorum court the authority to override the fire department's decision about the amount that should be charged for the fire department's services. In my opinion, the answer to this question is "no." Nothing in this statute authorizes the quorum court to determine the amount of the fee. Instead, the statute gives the quorum court authority to "adopt an ordinance authorizing" a specific county official "to collect and remit to the volunteer fire department the annual or quarterly dues ***charged by the volunteer fire department*** in consideration of providing fire protection to unincorporated areas in the county." The moneys collected by the county are those that are "charged by" the fire department. If the quorum court were to decide what the amount of the fee should be, then the fee would effectively be "charged by," instead of merely collected by, the quorum court.

Question 3: Under A.C.A. § 14-20-108, a volunteer fire department may have a special election to have its fees collected by the county collector's office. Does this statute apply to a subscription-service fire department organized as a private non-profit corporation under A.C.A. §§ 4-33-201 et seq.?

Nothing in the wording of section 14-20-108 depends on whether the fire department is organized as a non-profit under A.C.A. §§ 4-33-201 *et sequentia*. Further, this office has, on various occasions, acknowledged the existence of this statute and its facial application to private non-profit fire departments. Consequently, based solely on examining section 14-20-108, the answer to Question 3 appears to be "yes."

Question 4: [If the answer to Question 3 is "yes" and] if the majority of those voting in that special election approved the issue, would A.C.A. § 14-20-108 apply to all residents and businesses with an occupiable structure, including those residents and businesses that are not current members of the fire department?

When the majority of voters approve a ballot measure under section 14-20-108, the statute provides that the dues will be exacted from "each residence and on each business having an occupiable structure." The rest of the statute makes clear that the "residences" and "businesses having an occupiable structure" are those contained within the department's geographical service area, which can be set by the quorum court. Therefore, the answer to your question is that if the measure carries, then every resident and business with an occupiable structure located *within the department's service area* must pay the fee.

Question 5: Several land owners have placed R/Vs on their vacant land. Are the R/Vs considered occupiable structures under A.C.A. § 14-20-108?

Section 14-20-108 authorizes the quorum court to call "an election on the issue of the levy of the volunteer fire department dues on *each residence* and on *each business having an occupiable structure*." Your question seems to be asking whether the specific R/Vs at issue *in fact* qualify as (1) "businesses" with an (2) "occupiable structure." While R/Vs seem to qualify as occupiable structures--given that people can live in them for a period of time--it will always be a factual question whether any particular structure qualifies as a business. Because I have no way of knowing whether the specific R/Vs at issue are businesses, I am unable to answer this question.

Footnotes:

1. A.C.A. § 14-20-108(a)(1)(A) (emphasis added). Note that my response to your questions does not address whether the quorum court has discretion to set the fee when a county availed itself of sub section 14-20-108(c), which authorizes a county to "establish *its own* countywide fire department, either regular or voluntary." (Emphasis added.)
2. See Op. Att'y Gen. Nos. 2011-149, 2008-073, 2007-031, 2004-257, 2004-224, 2002-032 and 96-114.
3. As I remarked to the requestor in Opinion No. 2011-149, you have not asked--and I do not here address--whether this interpretation of the statute might render it subject to challenge under article 12, section 5 of the Arkansas Constitution. I will simply note that all statutes are presumed constitutional, and a challenger bears the burden of proving otherwise. *E.g.*, *Whorton v. Dixon*, 363 Ark. 330, 336, 214 S.W.3d 225, 230 (2005).
4. A.C.A. § 14-20-108(a)(1)(B)(i)(a).
5. A.C.A. § 14-20-108(b).
6. A.C.A. § 14-20-108(a)(1)(B)(i)(a) (emphasis added).

Title 14 Local Government, Chapter 272 Rural Fire Departments, Subchapter 3 —

Fire Department Services Agreements

A.C.A. § 14-272-301 *et seq.*

This subchapter is intended to provide a means by which volunteer, nonprofit, and other fire departments can develop a reoccurring revenue source that can be pledged to lenders and third parties as security for the repayment of loan proceeds used by fire departments to acquire fire trucks, equipment and related accessories. The definitional section below clearly indicates the broad applicability of this subchapter and delineates the process by which fire department service agreements may be entered.

For a discussion of how this subchapter interacts with other areas of the Arkansas Code, please see Op. Ark. Att’y Gen. No. 231 (2007), provided in the section on Nonprofit Departments, above.

A.C.A. § 14-272-301. Definitions.

As used in this subchapter, unless the context clearly expresses otherwise:

- (1) “Beneficiaries” means those persons or entities who have executed services agreements and who have paid and remain current in the payment of services availability fees to a fire department or fire departments that are recognized as providing firefighting services to the beneficiaries' property;
- (2) “Fire department” means any fire protection district, improvement district, subordinate service district, other governmental entity or volunteer, not-for-profit, rural, or other organization, or entity of any nature that is involved in the provision of firefighting services;
- (3) “Firefighting equipment” means all equipment, vehicles, improvements, and other real and personal property of every nature that might be used by a fire department in connection with the supplying of firefighting services, specifically including, without limitation, all fire trucks, lines, hoses, pumps, ladders, fire houses, office facilities, storage facilities, and other improvements of every nature;
- (4) “Firefighting services” means the provision of all services of whatever nature which might be utilized in connection with the extinguishing of fires and the preservation of life and real and personal property;
- (5) “Lenders” means those parties who extend funds or credit to fire departments for the purpose of acquiring, upgrading, leasing, accessing, or otherwise gaining the use and enjoyment of firefighting equipment, specifically including, without limitation, banks, savings associations, commercial lenders, indenture trustees, other lenders, or other parties of whatever nature who extend credit or financing to others;
- (6) “Nonbeneficiaries” means those persons or entities who have not executed a services agreement or who have not paid or are not current in the payment of services availability fees to a fire department or fire departments recognized as being capable of providing firefighting services to the property of the nonbeneficiaries;

(7) "Services agreement" means a written agreement between a fire department and a beneficiary which shall address the following:

- (A) That period of time during which the services agreement shall be effective;
- (B) Provisions for the renewal of the services agreement for successive terms;
- (C) The dollar amount of that services availability fee which the beneficiary shall pay annually to the fire department in consideration for the provision by the fire department to the beneficiary of firefighting services, along with any provisions that the fire department may specify which allow for the installment payment of the annual services availability fee;
- (D) The manner in which the fire department might increase the services availability fee during the term of the services agreement;
- (E) An explanation of the nature and extent of the firefighting services which are offered by the fire department; and
- (F) Such other information as the fire department might specify and determine from time to time; and

(8) "Services availability fee" means the annual fee that is charged by fire departments to beneficiaries in consideration for the provision of firefighting services, with it being understood that the fire department may set varying services availability fees dependent upon the square footage of real property improvements, property type and usage, or other criteria identified by the fire department.

14-272-302. Services agreements, authority, pledge, and assignment.

(a) Any fire department may enter into services agreements with its beneficiaries.

(b)

(1) Fire departments are authorized and empowered to enter into loans, lease-purchase agreements, and other extensions of credit from lenders and are empowered to pledge and assign services agreements to lenders in order to collateralize and secure repayment of loans, lease-purchase agreements, and other extensions of credit that might be advanced by lenders to fire departments for the purpose of acquiring, improving, accessing, or otherwise gaining the use of fire equipment.

(2)

(A) Fire departments may additionally grant to lenders all mortgages, security interests, and other liens to secure and collateralize repayment of credit extended by lenders to fire departments.

(B) Notwithstanding any other applicable statute, rule, or regulation, the pledging and collateral assignment of services agreements, the encumbering of all other fire department assets, and the execution of all other debt-evidencing and debt-securing documents shall occur by means of a resolution which is duly adopted by the governing board or body of the fire department.

14-272-303. Firefighting services entitlement.

(a) Beneficiaries shall be entitled to receive all firefighting services specified in the services agreement.

(b)

(1) Should a fire department provide firefighting services to a nonbeneficiary, then the nonbeneficiary shall pay to the fire department a sum not to exceed five thousand dollars (\$5,000) as consideration for the provision of firefighting services, with its being understood that the exact amount of the sum shall be specified by written resolution of the fire department in the services agreement.

(2) If any nonbeneficiary owing such a debt to a fire department fails to pay the debt in full within thirty (30) days after receipt of a written request for payment delivered by certified mail from the fire department, the fire department may initiate litigation against that nonbeneficiary to collect the amount owed to the fire department.

A.C.A. § 14-272-304. Payment of service availability fees.

(a) A fire department shall adopt written procedures pursuant to which the department's service availability fees shall be paid.

(b) If not paid within thirty (30) days after a due date, then a fire department shall have the right to initiate collection litigation against a delinquent beneficiary and shall have the right to receive a judgment in the amount of the delinquent service availability fee, plus all reasonable costs and fees.

(c) A fire department shall have the right to contract with third parties for the provision of accounting, invoicing, servicing, and related and unrelated services associated with the assessment, collection, and administration of service availability fees.

Title 20 Public Health and Welfare, Chapter 22 Fire Prevention, Protection, and Safety, Subchapter 9

Volunteer Fire Departments

A.C.A. § 20-22-901 *et seq.*

The following subchapter outlines the duties and obligations of volunteer fire departments with respect to the provision of fire protection services, as well as additional ways by which such departments may attain remuneration for services rendered. For a discussion of this subchapter as it relates this process by which departments may recover fees for services rendered in accordance with the obligations imposed by that subchapter, see Op. Ark. Att'y Gen. No. 231 (2007) in the Nonprofit Department section above.

A.C.A. § 20-22-901. Duty to respond to fires.

(a)

(1)

(A) Upon receipt of a report of an uncontrolled fire or a 911 or other emergency call reporting a fire, it shall be the duty of volunteer fire departments operating within the State of Arkansas to respond to, attempt to control, and put out all fires occurring within their respective districts involving any real or personal property, whether or not that property is owned by members of the fire district.

(B) The volunteer fire department may seek payment or reimbursement from a member or nonmember of the fire district for one hundred percent (100%) of the expendable resources the volunteer fire department used to respond to an accident under subdivision (a)(1)(A) of this section if the accident involved personal property only.

(2) However, unless the following circumstances exist, the volunteer fire department shall have no duty or authority to respond to or attempt to control and put out any fire that occurs on forest lands, cut-over lands, brush lands, or grasslands owned by a nonmember:

(A) The fire poses an immediate threat to life of any person;

(B) There is a written agreement between a nonmember owner of the real or personal property and the volunteer fire department requiring the fire department to respond;

(C) The fire is in violation of a countywide fire ban; or

(D) The fire poses an immediate threat to the real or personal property owned by a member of the district.

(b)

(1)

(A) If the property is owned by a nonmember of the fire district, the volunteer fire department may recover from the nonmember property owner the reasonable value of its services.

(B) Recovery under subdivision (b)(1)(A) of this section shall not exceed the fair market value of the services rendered.

(2)

(A) A claim for services in responding to a fire or accident involving only personal property shall be allowed only for personal property of nonmembers.

(B) The claimed amount under subdivision (b)(2)(A) of this section shall not exceed one thousand dollars (\$1,000).

(C)

(i) A claim under subdivision (b)(2)(A) of this section shall be supported by a completed and attached Uniform Fire Department Insurance Reimbursement Billing Form.

(ii) The Arkansas Fire Protection Services Board shall adopt rules to create the form and the allowable rates for reimbursement under this subdivision (b)(2).

(iii) The board shall use the Schedule of Equipment Rates published by the Federal Emergency Management Agency of the United States Department of Homeland Security, as in effect on January 1, 2013.

A.C.A. § 20-22-902. Fire on nonmember's property — Reimbursement from insurance proceeds.

When a volunteer fire department responds to a fire occurring or responds to a 911 or other fire emergency call within its district and the property which is the subject of the alarm is owned by a nonmember and insured in case of any damage resulting from a fire, the insurance company insuring the property against loss shall pay to the volunteer fire department the reasonable cost of its services from the insurance proceeds. The insurance company shall obtain a written and signed release from the fire chief of the volunteer fire department before disbursing the remaining proceeds to any other person, financial institution, company, or corporation which has a legal interest in the proceeds.

A.C.A. § 20-22-903. Authority of Arkansas Forestry Commission not affected.

This subchapter and § 23-88-102 shall in no way modify or limit the existing authority of the Arkansas Forestry Commission, nor shall it be construed as repealing any law applicable to the commission.

A.C.A. § 20-22-904. Lien on uninsured nonmember's property.

(a) If the property which is the subject of the alarm is owned by a nonmember and is not insured and if the volunteer fire department has not been paid for the services rendered, then the volunteer fire department shall have an absolute lien on the real and personal property which is the subject of the alarm for the work and labor performed in responding to or fighting the fire to secure the payment of the work and labor performed.

(b) The lien on real property shall attach to the real estate upon which the property is located and all improvements thereon.

(c) The lien on personalty shall attach to all personal property owned by the nonmember located within the county in which the alarm occurred.

A.C.A. § 20-22-905. Filing and enforcement of lien.

(a) The volunteer fire department shall give ten (10) days' notice before the filing of the lien to the owner or agent that it holds a claim against the property setting forth the amount and from whom it is due. The notice may be served by any officer authorized by law to serve process in civil actions. When served by an officer, his or her official return endorsed on it shall be proof of service.

(b) Whenever property is sought to be charged with a lien under this subchapter and § 23-88-102 and the owner is not a resident of this state, or conceals himself or herself or absents himself or herself from his or her usual place of abode so that the required notice cannot be served upon him or her, the notice may be filed with the clerk of the circuit court of the county in which the property to be charged with the lien is located. When filed, the lien shall have like effect as if served upon the owner or his or her agent and shall be received in all courts of this state as evidence of the service of the notice.

(c) The volunteer fire department shall file with the clerk of the circuit court of the county in which the property to be charged with the lien is located, within one hundred twenty (120) days after the work and labor have been furnished and performed, a just and true account of the amount due and owing, after allowing all credits, and containing a correct description of the property to be charged with the lien, verified by affidavit.

(d) All liens created by this subchapter and § 23-88-102 shall be enforced in the circuit court of the county wherein the property on which the lien is attached is located.

(e) All actions under this subchapter and § 23-88-102 shall be commenced within fifteen (15) months after the filing of the lien. No lien shall continue to exist by virtue of the provisions of this subchapter and § 23-88-102 for more than fifteen (15) months after the lien shall be filed, unless within that time an action shall be instituted thereon.

(f) The pleadings, practice, process, and other proceedings shall be the same as in ordinary civil actions and proceedings in circuit courts. The petition shall allege the facts necessary for securing a lien under this subchapter and § 23-88-102 together with a complete description of the property on which the lien is attached.

A.C.A. § 20-22-906. Attorney's fee.

When any volunteer fire department gives notice to the nonmember owner of the property of the costs and expenses of responding to, suppressing, controlling, or attempting to suppress and control the fire and when the invoice is not paid within ninety (90) days, as provided for in this subchapter or under § 23-88-102, if the volunteer fire department is required to sue for the enforcement of its claim, the court shall allow the volunteer fire department a reasonable attorney's fee in addition to other relief to which it may be entitled.

Title 23 Public Utilities and Regulated Industries, Chapter 88 Property Insurance, Subchapter 1 —

General Provisions

A.C.A. §§ 23-88-102

This subchapter prohibits property and casualty insurers from giving a preferred rate to owners of property located in a fire protection district unless such owners have paid the assessment or dues levied to support the fire protection and prescribes penalties for violations of this prohibition.

As related to volunteer fire departments, the code section below outlines the process by which such departments may seek payment for the cost of services rendered in response to a fire or emergency call concerning the property of a nonmember within its district. For a brief discussion regarding the language of this statute, please see Op. Ark. Att’y Gen. No. 231 (2007), provided in the section on Nonprofit Departments, above.

A.C.A. § 23-88-102. Paying costs of volunteer fire department services.

(a) The amount charged by a volunteer fire department for the cost of its services in responding to a fire on or an emergency call concerning the property of a nonmember within its district shall not exceed an amount equal to the fair market value of the service rendered, except that a claim for services in responding to a fire involving only personal property shall be allowed only for personal property of nonmembers, and the claimed amount shall not exceed five hundred dollars (\$500).

(b)

(1) When a volunteer fire department responds to a fire occurring or responds to a 911 or other fire emergency call within its district and the property that is the subject of the alarm is owned by a nonmember and insured in case of any damage resulting from a fire, the insurance company insuring the property against loss shall pay to the volunteer fire department the fair market value of its services from the insurance proceeds.

(2) Notice to both the insurance company and to the insured nonmember by the volunteer fire department for its costs of services shall be by certified mail within thirty (30) days after the date of the services rendered.

(c)

(1)

(A) In the event a nonmember desires to contest an assessment, the nonmember may notify the fire department board of his or her objection to the assessment, and the fire department board shall file a civil suit in the nearest district court within ten (10) days asking for the amount claimed by the fire department.

(B) The district court shall give a hearing on the matter within ten (10) days to determine if the amount claimed is fair compensation for the services rendered.

(2) If the amount of the assessment is contested in district court, the fire department shall immediately notify the insurer of the nonmember's property by certified mail, and the insurer

shall upon notification pay into the registry of the court an amount equal to the assessment made by the volunteer fire department for fire services.

(d) The insurer shall not be liable for any amount of money that exceeds the face amount of the policy unless the provisions of the policy provide otherwise.

III. MISCELLANEOUS APPLICABLE STATUTES

Title 20 Public Health and Welfare, Chapter 22 Fire Prevention, Protection, and Safety, Subchapter 8

Fire Protection Services

A.C.A. § 20-22-801 *et seq.*

The following subchapter lays out a system of certification and classification for fire departments, delineates certain qualification and training requirements, and outlines various other aspects of fire protections services generally.

A.C.A. § 20-22-801. Legislative findings.

It is found and determined by the General Assembly that a system of certification and classification of fire departments should be established to encourage the improvement of the fire protection services in this state and to provide the people of this state with information about the level of service they are receiving. It is further found and determined that the public policy of this state should be to encourage individuals and organizations to provide fire protection services and that, to further this policy, workers' compensation coverage should be extended to volunteer firefighters of rural fire departments and that the civil liability of certified fire departments and their firefighters should be limited.

A.C.A. § 20-22-802. Definitions.

As used in this subchapter:

(1) [Repealed.]

(2) "Certified fire department" means any fire department certified by the Director of the Office of Fire Protection Services as meeting minimum standards prescribed by the Arkansas Fire Protection Services Board;

(3) [Repealed.]

(4) "Fire department" means any organization established for the prevention or extinguishment of fires, including, but not limited to, fire departments organized under municipal or county ordinances, improvement districts, membership fee-based private fire departments, and volunteer fire departments; and

(5) "Firefighter" means any paid or volunteer member of a fire department who engages in fire suppressions, rescue, pump operations, or other fire-ground activities.

A.C.A. § 20-22-803. Arkansas Fire Protection Services Board — Creation — Membership.

(a)

(1) There is created the Arkansas Fire Protection Services Board.

(2) The board shall be composed of fifteen (15) members to be appointed by the Governor subject to confirmation by the Senate as follows:

(A)

(i) Four (4) members shall be fire chiefs appointed by the Governor after consulting the Arkansas Association of Fire Chiefs.

(ii) Two (2) of the fire chiefs under this subdivision (a)(2)(A) shall be full paid fire chiefs, one (1) shall be a volunteer fire chief, and one (1) shall be a retired fire chief or a volunteer fire chief;

(B) Two (2) members shall be appointed after consulting the Arkansas Rural and Volunteer Firefighters Association;

(C) Four (4) members shall be appointed after consulting the Arkansas State Firefighters Association, all of whom shall be volunteer firefighters;

(D) Four (4) members shall be appointed by the Governor after consulting the Arkansas Professional Fire Fighters Association; and

(E) The State Forester of the Arkansas Forestry Commission or his or her designee.

(3) The Director of the Arkansas Fire Training Academy, the Director of the Division of Emergency Management or his or her designee, and the State Fire Marshal or his or her designee shall be ex officio members.

(4) Members shall serve three-year terms.

(5) Each member shall hold office until his or her successor is appointed and qualified.

(b)

(1) The board shall elect annually a chair, vice chair, and secretary.

(2) The board shall meet at the call of the Chair of the Arkansas Fire Protection Services Board or a majority of the members.

(3) A majority of the members constitutes a quorum.

(c) The Governor shall fill vacancies occurring on the board with appointments for the duration of the unexpired terms.

(d) The members shall serve without pay but may receive expense reimbursement in accordance with § 25-16-901 *et seq.*

A.C.A. § 20-22-804. Arkansas Fire Protection Services Board — Duties and powers.

(a) The Arkansas Fire Protection Services Board shall:

(1) Prescribe by rule minimum standards for the certification of fire departments and standards for the classification of fire departments as to their level of service, including, but not limited to, standards for training levels for firefighters of fire departments, minimum levels of equipment, and minimum performance standards;

(2) Establish a system of identification for firefighters of certified fire departments for the purpose of assisting firefighters to carry out their duties;

(3) Assist fire departments with training programs and assist with the establishment and upgrading of fire departments;

(4) Promote the exchange of information among fire departments and state agencies;

(5) Serve in an advisory capacity to the Director of the Division of Emergency Management with respect to the operation of fire services and the matters concerning certification and standards related to fire services in the state;

(6) Periodically review and evaluate current and proposed national and international activities related to the improvement and upgrading of fire services to ensure that the state maintains acceptable standards of fire protection for its citizens and standards for training its firefighters;

(7) Advise the Director of the Arkansas Fire Training Academy in matters related to the training and certification of fire services personnel in Arkansas and curriculum and instructional content of the curriculum offered by the Arkansas Fire Training Academy;

(8)

(A) Advise the President of Southern Arkansas University in matters regarding the appointment and retention of the Director of the Arkansas Fire Training Academy.

(B) The Arkansas Fire Protection Services Board shall review the applications for the position of Director of the Arkansas Fire Training Academy submitted to the president and recommend three (3) candidates for the position to the president.

(C) The president shall appoint the Director of the Arkansas Fire Training Academy from the three (3) recommended candidates; and

(9) Establish other reasonable rules as may be necessary for the purposes of this subchapter.

(b) As of March 1, 2003, the Arkansas Fire Training Academy Board created by § 12-13-202 [repealed] and the Arkansas Fire Advisory Board created by § 20-22-1005 [repealed] are transferred by a Type 3 transfer under § 25-2-106 to the Arkansas Fire Protection Services Board created by § 20-22-803.

A.C.A. § 20-22-805. Office of Fire Protection Services — Creation.

(a) There is created the Office of Fire Protection Services which shall be under the supervision and direction of the Director of the Division of Emergency Management.

(b) The Director of the Office of Fire Protection Services, who shall be employed by the Director of the Division of Emergency Management, in consultation with the Secretary of the Department of Public Safety, shall have the responsibility to carry out the administrative functions and directives of the Arkansas Fire Protection Services Board.

(c) [Repealed.]

A.C.A. § 20-22-806. Certification and classification of fire departments.

(a) Fire departments in this state may apply for annual certification and classification by the Director of the Office of Fire Protection Services. Each fire department applying for certification shall submit such

information as may be required by the director to determine whether the fire department meets minimum certification standards and to classify the department as to its level of service.

(b)

(1) Certification standards for fire departments shall not be changed unless the changes are approved by the Arkansas Fire Protection Services Board.

(2) Any change to the certification standards under this subsection shall not be effective until twelve (12) months after the adoption of the published change.

(c)

(1) Firefighters shall maintain a minimum of sixteen (16) hours per year of certifiable training meeting the standards of the Arkansas Fire Training Academy.

(2) A firefighter who receives more certified hours than required in subdivision (c)(1) of this section in a year may carry over the additional certified hours to the next year only.

(d) Firefighters shall also receive within the first year of service as a firefighter:

(1) Up to sixteen (16) hours in the Introduction to Firefighting course;

(2) Up to sixteen (16) hours in the Personal Protective Equipment course; and

(3) Up to eight (8) hours in the Wildland Fire Suppression course.

(e)

(1) A member of a fire department who does not engage in firefighting is exempt from the requirements of this section.

(2) A member under subdivision (e)(1) of this section shall be eligible for workers' compensation coverage under § 20-22-809.

(3) A member under subdivision (e)(1) of this section is considered a firefighter for the purpose of number of members of the fire department.

(f) A fire department that complies with this section is eligible for insurance premium tax moneys under § 14-284-401 *et seq.*

A.C.A. § 20-22-807. Authority of certified fire departments.

Certified fire departments and their firefighters shall have the authority to do all acts reasonably necessary to extinguish fires and protect life and property from fire.

A.C.A. § 20-22-808. Limited immunity of certified fire departments.

(a) Any certified fire department that does not have tort immunity as provided by state law shall be subject to limited liability as provided in this section.

(b) Certified fire departments entitled to limited immunity under this section shall not be liable for damages to persons or property resulting from an act or omission of the fire department or the firefighter

occurring at the scene of a reported fire and related to the suppression of the reported fire if the act or omission did not constitute gross negligence, wanton conduct, or intentional wrongdoing.

A.C.A. § 20-22-809. Workers' compensation.

(a) For the purpose of workers' compensation coverage in cases of injury to or death of an individual, volunteer firefighters of certified fire departments, other than municipal fire departments, who meet the requirements of this section are county employees and shall receive minimum compensation. Their survivors shall receive death benefits in the same manner as regular county employees for injury or death arising out of and in the course of their activities as firefighters.

(b) Volunteer firefighters requesting workers' compensation coverage shall annually file with the county clerk evidence that:

(1) The firefighter has met the minimum training standards recommended by the Arkansas Fire Protection Services Board; and

(2) The volunteer firefighter is a member of a certified fire department other than a municipal fire department.

(c) A member of a fire department under § 20-22-806 who does not engage in firefighting is eligible for workers' compensation under this section.

A.C.A. § 20-22-810. Legislative purpose and intent.

(a) The General Assembly finds that:

(1) The specialized and hazardous nature of firefighting requires that firefighters possess the requisite knowledge and demonstrate the ability to perform certain skills to carry out their responsibilities; and

(2) The activities of firefighters are important to the health, safety, and welfare of the people of this state.

(b) It is the intent of the General Assembly to require minimum standards for training for entry level, full-time firefighters.

A.C.A. § 20-22-811. Training requirements.

(a)

(1) After January 1, 2004, no person shall be hired as a full-time firefighter by any local government firefighting unit for a period exceeding one (1) year or for a cumulative time exceeding two thousand nine hundred twelve (2,912) compensated hours unless that person is certified as having completed the mandatory training requirements in subsection (c) of this section.

(2) Any state agency or political subdivision that employs a person as a firefighter for a period exceeding one (1) year or for a cumulative time exceeding two thousand nine hundred twelve (2,912) compensated hours who does not meet the requirements of subsection (c) of this section is prohibited from performing the duties of fire suppression, rescue, pump operations, or other fire ground activities as described in § 20-22-802(5).

(3) The Arkansas Fire Protection Services Board may grant an extension to individuals employed within the guidelines as established by the board.

(b) Firefighters serving as full-time employees before January 1, 2004, in a local firefighting unit shall not be required to meet the minimum requirements in subsection (c) of this section.

(c)

(1) The uniform training standards for entry level, full-time firefighters shall consist of satisfactory completion of a training program administered by the Arkansas Fire Training Academy which shall utilize the "National Fire Protection Association 1001: Standard for Fire Fighter Professional Qualifications".

(2) The academy shall be the certifying agency for fire service personnel.

(3) Any person seeking employment from another state shall submit his or her certification to the academy for review and approval.

Title 14 Local Government, Chapter 86 General Provisions, Subchapter 21 —

Improvement Districts and Protection Districts Procedures when County Collector Used for Collection of Assessments

A.C.A. § 14-86-2101 *et seq.*

The following subchapter applies to all improvement districts or protection districts organized under Arkansas law that use the county collector for collection of improvement district assessments or protection district assessments unless otherwise noted. A.C.A. § 14-86-2101. Most importantly, this subchapter requires annual reports from districts that use or intend to use the county collector for collection of assessments and dictates that the county collector shall not certify an improvement district levy or protection district levy to the Commissioner of State Lands for delinquency. These reports are especially useful in determining exactly how (i.e., under what chapter/subchapter of law) a given department was organized and how their dues are setup.

A.C.A. § 14-86-2101. Legislative intent.

This subchapter applies to all improvement districts or protection districts organized under Arkansas law that use the county collector for collection of improvement district assessments or protection district assessments unless otherwise noted.

A.C.A. § 14-86-2102. Annual improvement district or protection district filing.

(a) By March 1 of each year or upon the creation of an improvement district or protection district, an improvement district or protection district that uses or intends to use the county collector for collection of improvement district assessments or protection district assessments shall:

(1)

(A) File an annual report with the county clerk in any county in which a portion of the improvement district or protection district is located.

(B) The annual report shall be available for inspection and copying by assessed landowners in the district.

(C) The county clerk shall not charge any costs or fees for filing the annual report.

(D) The improvement district or protection district shall deliver a filed copy of the annual report to the county collector within five (5) days of filing; and

(2) The annual report shall contain the following information as of December 31 of the current calendar year:

(A) Identification of the primary statute under which the improvement district or protection district was formed;

(B) A general statement of the purpose of the improvement district or protection district;

(C) A list of contracts, identity of the parties to the contracts, and obligations of the improvement district or protection district;

(D)

(i) Any indebtedness, including bonded indebtedness, and the reason for the indebtedness.

(ii) The stated payout or maturity date of the indebtedness, if any, shall be included.

(iii) The total existing delinquent assessments and the party responsible for the collection;

(E) Identification of the improvement district or protection district commissioners and contact information;

(F) The date, time, and location for any scheduled meeting of the improvement district or protection district for the following year;

(G) The contact information for the improvement district or protection district assessor;

(H) Information concerning to whom the county treasurer is to pay improvement district or protection district assessments;

(I) An explanation of the statutory penalties, interest, and costs;

(J) The method used to compute improvement district or protection district assessments; and

(K) A statement itemizing the income and expenditures of the improvement district or protection district, including a statement of fund and account activity for the improvement district or protection district.

(b)

(1) An improvement district or protection district that does not comply with subsection (a) of this section commits a violation punishable by a fine of not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000) for each offense.

(2) A fine recovered under subdivision (b)(1) of this section shall be deposited into the county clerk's cost fund.

(c)

(1) On or before December 31, the improvement district or protection district shall file its list of special assessments for the following calendar year with the county clerk.

(2)

(A) After filing the list of special assessments, the improvement district or protection district shall deliver a copy of the filed list of special assessments to the preparer of the tax books.

(B) If the county collector is not the designated preparer of the tax books, the improvement district or protection district shall deliver a copy of the filed list of special assessments to the county collector.

(3) The list of special assessments shall contain:

(A) A list of each parcel with an assessment levied against it within the improvement district or protection district; and

(B) The contact information for the improvement district assessor or protection district assessor.

(4) The list of fees shall not include assessments on parcels that otherwise would not appear on the tax books for the following year.

(5) After the December 31 deadline to file the list of special assessments, the county collector may reject an assessment submitted by the improvement district or protection district for inclusion in the list of special assessments.

A.C.A. § 14-86-2103. County treasurers — Retention of fees.

(a) A county treasurer may retain up to five percent (5%) of all remittances to a fire district in reserve for up to sixty (60) days.

(b) Upon approval of the governing body of a fire district, a county treasurer may retain up to ten percent (10%) of all remittances to a fire district in reserve until final settlement is made in December of each year.

A.C.A. § 14-86-2104. Delinquent levies.

(a)

(1) A county collector may certify all delinquent levies to an improvement district or protection district for collection after January 1 of each year.

(2)

(A) A county collector shall accept a delinquent levy after certification to an improvement district or protection district if the payor is paying:

(i) In person; and

(ii) By separate check from the payment of ad valorem taxes.

(B) The county collector shall forward the delinquent levy to the improvement district or protection district.

(C)

(i) The county collector is not required to provide a receipt for the payment of the delinquent levy.

(ii) The payor is responsible for obtaining a receipt for payment of the delinquent levy from the improvement district or protection district.

(b) A county collector who continues to collect and remit delinquent levies to the improvement district or protection district after certification shall impose penalties against the payor on behalf of the improvement district or protection district.

A.C.A. § 14-86-2105. District levies not to be certified for delinquency.

The county collector shall not certify an improvement district levy or protection district levy to the Commissioner of State Lands for delinquency.

Title 19 Public Finance, Chapter 11 Purchasing and Contracts, Subchapter 2 —

Arkansas Procurement Law

A.C.A. § 19-11-206

A.C.A. § 19-11-206. Definitions concerning intergovernmental relations.

As used in this subchapter:

(1) “Cooperative purchasing agreement” means an agreement entered into as the result of a procurement conducted by, or on behalf of, more than one (1) public procurement unit or by a public procurement unit with an external procurement activity;

(2)

(A) “External procurement activity” means any buying organization not located in this state which, if located in this state, would qualify as a public procurement unit.

(B) An agency of the federal government is an external procurement activity;

(3) “Local public procurement unit” means:

(A) Any county, city, town, state agency, and any other subdivision of the state or public agency thereof;

(B) Any fire protection district;

(C) Any regional water distribution district;

(D) Any rural development authority;

(E) Any public authority;

(F) Any public educational, health, or other institution;

(G) Any nonprofit corporation during the time that it contracts with the Department of Human Services to provide services to individuals with developmental disabilities or for transportation services, so long as the contract exceeds seventy-five thousand dollars (\$75,000) per year;

(H) Any nonprofit corporation providing fire protection services to a rural area or providing drinking water to the public in a rural area; and

(I) To the extent not prohibited by law, any other entity that expends public funds for the acquisition or leasing of commodities and services;

(4) "Public procurement unit" means either a local public procurement unit or a state public procurement unit; and

(5) "State public procurement unit" means the Office of State Procurement and any other procurement agency of this state.

FIRE DUES ON TAX ROLLS

A.C.A. § 14-20-108

IV. APPENDIX (SAMPLE DOCUMENTS)

Memorandum

To: County Judges
Collectors
County Clerks

From: Mark Whitmore, AAC Chief Counsel
By: Kevin Liang, AAC Law Clerk

Date: May 13, 2015

Re: Volunteer Fire Department Dues and Act 693 of the 2015 Regular Session

During 2014 and 2015 Rep. Kim Hammer met with the Collectors Association, the County Judges Association and Quorum Court Association about the needs of rural volunteer fire departments in Arkansas. As a result of those meetings the CJAA and AAC legislative packages included HB 1367 an amendment to A.C.A. § 14-20-108--which currently allows a volunteer fire department to request for their fire dues to be placed upon the property tax statements. The amendment allowed the fire department request to the Quorum Court to place the fire dues on the property tax statement to be accompanied by a petition signed by registered voters in lieu of the effort, expense and uncertainty of a government election. HB 1376, Act 693 of the 2015 Regular Session ("Act 693"), was overwhelmingly adopted by the General Assembly. Below is a discussion of the Act and attached are some documents that outline the anticipated substance of an ordinance adopted under the act and of a petition by a fire department and the registered voters in the fire district. I hope this is of assistance. If you have any questions feel free to contact me, Mark Whitmore, at 501-372-7550 or 501-940-0531.

Discussion

New Alternative to Special Election (Petition)

One of the major changes Act 693 adds to A.C.A. § 14-20-108 is the option to dispense with the expense, effort and uncertainty of a government conducted election, upon filing of an attested petition

with the county clerk and signed by a majority or in excess of the majority of registered voters, as compared to the number of votes cast in the last preceding general election. Furthermore, if the levy of volunteer fire department dues is approved by a majority of those voting on the issue (existing procedure) OR the county clerk determines that the number of signatures of registered voters is sufficient (new optional procedure under Act 693), the volunteer fire department dues shall be listed annually on real property tax statements and collected by the county collector at the same time and in the same way as real property taxes. A.C.A. § 14-20-108(3)(d)(1). Most counties currently collect dues or assessments for fire departments and almost all collectors collect assessment for improvement districts, levy districts, or drainage districts.

Report to be Filed

Another major impact Act 693 has on A.C.A. § 14-20-108 regards if a volunteer fire department uses or intends to use the county collector for the collection of volunteer fire department dues. At no additional costs, an annual report must be filed by the county clerk in the county in which the volunteer fire department is located. A.C.A. § 14-20-108(3)(g). The report must be delivered to the county collector within (5) five days of filing and contain the identification and contact information of the volunteer fire department board members, contact information for the volunteer fire department chief, the official designated to send the dues, and the amount of the annual dues charged. A.C.A. § 14-20-108(3)(g)(2)(A-D). The annual report must be filed before sending the dues to any volunteer fire department. A.C.A. § 14-20-108(3)(g)(h). A.C.A. § 14-20-108(3)(g) applies to all volunteer fire departments, however organized. These reporting requirements are similar to those of the Improvement District Transparency Act, adopted by the General Assembly, Sen. Jane English sponsor, Act 210 of 2011 (part of the AAC and Collectors Legislative Packages in 2011).

Language Revisions

Act 693 changes the language of A.C.A. § 14-20-108 in four instances. First, the word “quarterly” appears three times in A.C.A. § 14-20-108, Act 693 removes all of them leaving only the possibility of annual volunteer fire department dues. A.C.A. § 14-20-108(a)(1)(A); A.C.A. § 14-20-108(c)(3). Second, Act 693 specifies dues as “volunteer fire department” dues. A.C.A. § 14-20-108(c). Third, Act 693 changes “serve a geographical area” to “its geographical service area”. A.C.A. § 14-20-108(c)(3)(b)(2). Fourth and finally, Act 693 changes “and signed by” to “signed request”. A.C.A. § 14-20-108(c)(3)(e)(1).

Conclusion

Act 693 not only helps clarify the language in A.C.A. § 14-20-108, it also gives volunteer fire departments an alternative means of obtaining voter approval for the measure to supply to the Quorum Court, without the costs, effort and uncertainty of an election. This will assist many rural fire departments pursue this avenue without the major costs of an election. Also, the Act, like its predecessor the improvement district transparency act of 2011, requires fire departments of all kinds that use the collector to send their dues on the property tax statements to file an annual report with contact information and other vital information to assist in answering citizen inquires.

(SEE SAMPLE DOCUMENTS BELOW)

SUBMISSION OF PETITION

Comes now the undersigned, Fire Chief, Chairman of the Board and Secretary of the _____ Volunteer Fire Department and presents to the County Clerk of _____, County Arkansas for filing and submission to the Quorum Court of _____, County, Arkansas, the Ordinance proposed for adoption and attached hereto

and marked **Exhibit "A"** and the Petition attached hereto and marked **Exhibit "B"** each in accordance with A.C.A. §14-20-108, as amended by Act 693 of 2015.

Upon good information and belief the subject petition reflects the attested signatures of persons within the subject fire district and registered to vote in _____ County, Arkansas, and exceeds the requisite majority signatures of registered voters as required by A.C.A. §14-20-108 as amended by Act 693 of 2015.

The undersigned do hereby present the subject Petition to the County Clerk of _____ County for filing and submission to the Quorum Court of _____ County, Arkansas, in accordance with A.C.A. §14-20-108, as amended by Act 693 of 2015.

_____(type name), Fire Chief

DATE

_____(type name), Board Chairman

DATE

_____(type name), Board Secretary

DATE

PETITION BY _____ FIRE DEPARTMENT

WHEREAS, the _____ Fire Department presents to the registered voters of _____ Fire Department, of _____ County, Arkansas, the Ordinance proposed for adoption and attached hereto and marked **Exhibit "A"**. *I have personally signed this petition; I am a registered voter of _____ Fire Department, of _____ County, Arkansas, and my printed name, date of birth, residence, and date of signing this petition are correctly written after my signature.*

Signature _____

Printed Name _____

Address _____

Date _____

NOW, THEREFORE IT IS HEREBY ORDAINED AND ADOPTED THAT AS PROVIDED BY A.C.A. §14-20-108, AS AMENDED BY Act 693 of 2015, THE COLLECTOR SHALL PLACE THE FIRE DUES OF _____ FIRE DEPARTMENT ON THE PROPERTY TAX STATEMENTS. A TRUE AND CORRECT COPY OF THIS ORDINANCE SHALL BE PUBLISHED AS REQUIRED BY LAW AND EFFECTIVE (30) THIRTY DAYS FOLLOWING PUBLICATION.

DATE: _____

APPROVED: _____
Hon. (type Name/County Judge)
_____ County Judge

ATTEST: _____ :

Hon. (type Name/County Clerk)
_____ County Judge

EXHIBIT "A"

***PETITION TO FORM UNDER
A.C.A. § 14-284-201 et seq.***

IN THE QUORUM COURT OF SALINE COUNTY, ARKANSAS

**IN THE MATTER OF THE FORMATION OF CROWS STATION
FIRE PROTECTION DISTRICT**

PETITION

Comes the undersigned, pursuant to the provisions of Act 35 of 1979, as amended, and for their Petition state:

1. That petitioners are property owners and qualified electors within the boundaries of the proposed Crows Station Fire Protection District as hereinafter defined.
2. That petitioners constitute more than ten percent (10%) of the qualified electors within the proposed boundaries of the proposed fire protection district.
3. That a description of the territory of the proposed fire protection district is described on “Exhibit A” attached hereto and made a part hereof.
4. That an accurate map of the proposed fire protection district boundaries is attached hereto as “Exhibit B” and made a part hereof.
5. That the proposed fire protection district shall be established for the primary purpose of providing fire protection in rural areas for buildings, structures, and other man-made improvements. In addition, the proposed fire protection district may provide other emergency services, such as hazardous and toxic materials response, search and rescue services, emergency medical, ambulance, and patient transport services, and such other functions as may be assigned to or reasonably be expected of a fire protection district and which it is trained and qualified to perform.
6. That petitioners request that the Saline County Quorum Court, upon required notice being given, hold a public hearing on this petition and that said Quorum Court establish by ordinance the proposed fire protection district.

***ANNEXATION UNDER
A.C.A. § 14-284-224.***

ORDINANCE NO. 2017-

BE IT ENACTED BY THE QUORUM COURT OF SALINE COUNTY, STATE OF ARKANSAS, AN ORDINANCE TO BE ENTITLED: “AN ORDINANCE PROVIDING FOR THE ANNEXATION OF A PORTION OF THE UNINCORPORATED AREA OF THE COUNTY INTO THE WEST PULASKI FIRE PROTECTION DISTRICT NO. 23.”

WHEREAS, the West Pulaski Fire Protection District No. 23 (“District”), established pursuant to Ark. Code Ann. § 14-284-201 et seq., is a fire protection district in Pulaski County, Arkansas that provides fire protection services in portions of the unincorporated area of Saline County, Arkansas.

WHEREAS, Ark. Code Ann. § 14-284-224 (a)(1)(A) states that “[w]hen petitions are filed with the board of commissioners of a fire protection district created pursuant to this subchapter containing the signatures of at least ten percent (10%) of qualified electors of a portion of the unincorporated area of the county, as determined by the number of votes cast by the qualified electors of that portion of the county for all candidates for Governor at the last preceding general election, requesting the annexation of the territory to an existing fire protection district created under this subchapter and requesting that assessed benefits be made on the property located within the area to be annexed to help finance the operation of the district, the board of commissioners shall conduct a public hearing on the petition

WHEREAS, Ark. Code Ann. § 14-284-224 (d)(1) states that “[a]s an alternative to an election on the annexation issue, if the board of commissioners of a fire protection district is in favor of the annexation, the board may refer the petitions to the county quorum court that may then accomplish the annexation by enactment of a county ordinance providing for the annexation.

WHEREAS, qualified petitions have been filed with the board of commissioners of the District requesting the annexation of the territory described in Exhibit “A-1” into the District and that assessed benefits be made on the property located within the area to be annexed to help finance the operation of the district.

WHEREAS, the board of commissioners of the District voted in favor of the property described in Exhibit “A-1” and in the qualified petitions being annexed into the District and that assessed benefits be made on the property located within the area to be annexed to help finance the operation of the district and referring the petitions to the Saline County Quorum Court to accomplish the annexation by enactment of a county ordinance so providing.

NOW THEREFORE BE IT ORDAINED by the Quorum Court of Saline County, Arkansas that:

Article 1. The Saline County Clerk has reviewed the petitions that were filed with the board of commissioners for the West Pulaski Fire Protection District No. 23; and has determined that the petitions contain the signatures of at least ten percent (10%) of qualified electors located in the area described in Exhibit “A-1”, as determined by the number of votes cast by the qualified electors of that portion of the county for all candidates for Governor at the last preceding general election.

Article 2. The territory described in Exhibit “A-1” shall be annexed into the West Pulaski Fire Protection District No. 23 and benefits shall be assessed on the property located within the area described in Exhibit “A-1” to help finance the operation of the district.

Article 3. This Ordinance shall not go into effect until sixty (60) days after its enactment and publication; and during that time, if petitions calling for a referendum on this issue are presented to the quorum court and the petitions are signed by the number prescribed in subsection (a) of Ark. Code Ann. § 14-284-224, the quorum court shall call a special election in accordance with Ark. Code Ann. § 7-11-201 et seq. on the issue of the annexation.

DATE: NOVEMBER 20, 2017

APPROVED: _____

JEFF AREY
SALINE COUNTY JUDGE

ATTEST: _____

DOUG CURTIS
SALINE COUNTY CLERK

SPONSOR: BARBARA HOWELL, JP DISTRICT #12

SALES & USE TAX FOR FIRE PROTECTION DISTRICT.

FILED

JUN 11 2013

4:15 P M

TRACEY MITCHELL
COUNTY & PROBATE CLERK

ORDINANCE NO. 2013-27

BE IT ENACTED BY THE QUORUM COURT OF INDEPENDENCE COUNTY, ARKANSAS AN ORDINANCE PROVIDING THE METHOD FOR APPROPRIATION OF A COUNTYWIDE SPECIAL PURPOSE ONE HALF OF ONE PERCENT (0.50%) SALES AND USE TAX FOR ESTABLISHING A FUNDING SOURCE FOR IMPROVED FIRE PROTECTION IN INDEPENDENCE COUNTY

WHEREAS, on November 6, 2012 the voters of Independence County approved a special purpose sales and use tax to be used for fire protection; and

WHEREAS, the net proceeds of the tax are to be used for capital improvements, operations and maintenance of the Independence County fire departments. This will allow Independence County fire departments providing fire protection services to the property owners of Independence County achieve a better Insurance Service Office (ISO) Public Protection Classification rating. Some of the goals will be to upgrade out-of-date equipment and trucks and the reduction of the fire departments ISO rating. A rating reduction will save the citizens of our county on their property casualty insurance policies;

THEREFORE, be it ordained by the Quorum Court of Independence County, Arkansas:

- (1) Batesville, Bethesda, Charlotte, Cord, Cushman, Desha, Floral, Northside, Newark, Oil Trough, Pleasant Plains, Ruddell Hill, Southside, Sulphur Rock and Union Hill-Thida will each receive equal shares of the net tax proceeds. Cave City will receive the equivalent of 1/4 share and Saffell will receive the equivalent of 1/16 share compared to the other departments receiving a full share.
- (2) Fund Distribution: The funds collected will be distributed by the Arkansas Department of Finance and Administration on a monthly basis to the Independence County Treasurer. The Independence County Treasurer will distribute the funds to the municipalities and fire departments in no less than 30 days. If it desires, a fire department may request the

8/111-113

Independence County Treasurer to retain custody of its funds and prepare and distribute reports as is presently done for various county offices and departments.

- (3) Accountability: The treasurer or secretary-treasurer of each fire department or municipality receiving the tax funds shall maintain a separate account for the receipt and expenditure of these funds. No later than 60 days after the close of the business year for the department or municipality, this official shall submit a copy of the receipts and expenditures, with appropriate documentation, to the Independence County Clerk. The Clerk shall provide such information, as may be required, to the Independence County Quorum Court and maintain a permanent file of the reports. The chief fire officer of each department or municipality shall maintain a complete copy of the report for his department or municipality, available to any Independence County citizen at any reasonable time. All appropriate provisions of the Arkansas Freedom of Information Act shall be complied with.
- (4) Annual Budget: Before October 1 of each calendar year the chief fire officer of each department or municipality receiving the tax funds shall prepare and submit a budget for his department to the chairman of the budget committee of the Independence County Quorum Court for the forthcoming year. The proposed budget shall be in the format provided as an attachment to this Ordinance.
- (5) Carryover of Funds: All tax funds not spent by a department or municipality receiving such funds during a calendar year may be carried over.
- (6) Expenditure of Special Purpose Sales and Use Tax Funds: All expenditures of the special purpose sales and use tax funds shall comply with all appropriate state or federal laws and regulations. Each municipality and fire department receiving the special purpose

sales and use tax funds is responsible for providing fire protection services for all of its geographic area of responsibility as identified in the most recent Arkansas Geographic Information Service (GIS) map of Independence County Fire Districts prepared by the University of Arkansas at Little Rock, GIS Applications Laboratory, Institute for Economic Advancement.

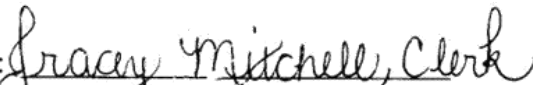
- (7) Progress Reports: Beginning in the year 2014, each fire department or municipality receiving the tax funds shall make a written report to the quorum court, via the county judge, no later than 60 days after the end of the 12th month of receiving funds from the special tax for fire protection and at the end of each subsequent twelve months thereafter.

PASSED AND APPROVED on this: 10th day of June, 2013.

APPROVED:


Hon. Robert Griffin, County Judge

ATTEST:


Tracey Mitchell, County Clerk

FIRE DEPARTMENT BUDGET

DEPARTMENT _____

PROJECTED REVENUE FOR YEAR _____ FROM TAX REVENUES \$ _____

CARRYOVER FUNDS FROM PREVIOUS YEAR(S) \$ _____

TOTAL FUNDS FOR BUDGET YEAR \$ _____

BUDGET CATAGORIES:

OPERATIONS, REPAIRS AND MAINTENANCE \$ _____

EQUIPMENT, VEHICLES, PUMPERS, TANKERS, ETC. \$ _____

CAPITAL OUTLAY, LAND, BUILDINGS, WATER HYDRANTS, ETC. \$ _____

***PETITION TO FORM UNDER
A.C.A. § 14-284-201 et seq.***

Author: Mark Albright

Item Number 93-I-140A

Sponsored by:
Honorable Annette McCaleb

Ordinance Number 93-OR-105

CARROLL STALEY
COUNTY CLERK
PULASKI COUNTY, ARK.

AN ORDINANCE

19 *BE IT ENACTED BY THE QUORUM COURT OF THE COUNTY OF PULASKI;
STATE OF ARKANSAS, AN ORDINANCE TO BE ENTITLED:*

AN ORDINANCE TO ESTABLISH THE QUAIL CREEK FIRE PROTECTION DISTRICT,
AND FOR LEVY OF ASSESSED BENEFITS UPON REAL PROPERTY LOCATED WITHIN
THE DISTRICT, PURSUANT TO ACT 35 OF THE 1979 ACTS OF ARKANSAS, AND
FOR OTHER PURPOSES.

Article 1. Pursuant to the authority of Act 35 of the 1979
Acts of the State of Arkansas (codified as Ark.
Code Ann. 14-284-201 et seq.), there is hereby
established a fire protection district within
Pulaski County, Arkansas, which shall be known as
the Quail Creek Fire Protection District. The fire
station for the district shall be located upon the
following tract of land located and situated in
Pulaski County, Arkansas, being more particularly
described as follows:

A tract of land located in part of the
SW1/4 Section 24, T-1-S, R-12-W, Pulaski
County, Arkansas, more particularly
described as: Commencing at the
intersection of the East right-of-way
line of the U.S. Highway 65-167 and the
South right-of-way line of East 145th
Street; thence S89° 43'20"E along said
South right-of-way line of East 145th
Street, 272.8 ft. to the point of
curvature of a 2821.49 ft. radius curve
to the right; thence along said South
right-of-way line and curve to the right
a chord bearing and distance of S84°
14'20"E, 539.50 ft. to the point of
tangency; thence S78° 45'20"E along said
South right-of-way line 1381.1 ft. to a
point on the East line of a 70.0 ft.
Roadway Easement and the point of
beginning; thence continue S78° 45'20"E
along said South right-of-way line, 150.0
ft.; thence S11° 14'40"W, 149.98 ft. to a
point; thence N78° 45'60"W, 149.98 ft. to
a point on the East line of said 70 ft.
Roadway Easement; thence N11 14'10"E
along said East line 150.0 ft. to the
point of beginning, containing 22,497

1 square ft. or 0.5165 Acre more or less.

2
3 The service area for the district shall include the
4 area within a radius of five (5) miles from the
5 above described location of the fire station, less
6 and except any other area which is currently
7 receiving fire protection from a group,
8 organization or governmental entity. The actual
9 service area for the district will be shown by a
10 map from the Pulaski County Quorum Court subsequent
11 to the district's establishment pursuant to Ark.
12 Code Ann. 14-284-207(b).
13

14 Article 2. The maximum assessed benefit which may be levied
15 against the properties within the district shall
16 not exceed, in the aggregate, a total of \$60,000
17 and the manner of assessing and reassessing such
18 levies shall be in a fair and just manner as
19 prescribed by law. The maximum assessment of
20 \$60,000 as herein above stated will not be increase
21 unless the question of the increase is first
22 submitted to and approved by a majority of the
23 qualified electors of the district voting on the
24 issue.
25

26 Article 3. The district shall have no authority to issue bonds
27 or pledge assessed benefits of the district to
28 secure bonds unless the questions of the issuance
29 of bonds and the pledging of assessed benefits by
30 the district is first submitted to and approved by
31 a majority of the qualified electors of the
32 district voting on the issue.
33

34 Article 4. The primary purpose of the fire protection district
35 shall be to provide fire protection within the
36 district in Pulaski County for buildings,
37 structures and other man-made improvements.
38

39 Article 5. Notice of the adoption of this ordinance shall be
40 published in a newspaper of general circulation
41 which shall include a copy of this ordinance and
42 shall prescribe a time and place for a public
43 hearing on this ordinance, which shall be a least
44 thirty (30) days and not more than sixty (60) days
45 after the date of publication of the ordinance. If
46 at the hearing a majority of the qualified electors
47 in the proposed district appear in person to oppose
48 the establishment of the district or if petitions
49 opposing the establishment of the district and
50 containing the signatures of a majority of the
51 qualified electors in the proposed district are
52 filed at or before the public hearing, this
53 ordinance shall be void. If a majority of the
54 qualified electors of the proposed district do not

1 object to the establishment of the district in
2 person or by petition with the time set forth
3 above, this ordinance shall be valid and the
4 district shall be established.
5

6
7 Article 6. If the district is sustained after the public
8 meeting, as above described, the County Court shall
9 enter an order establishing the district and shall
10 appoint five (5) qualified electors of the district
11 as a board of commissioners for the district, as
12 prescribed by Act 35 of the 1979 Acts of Arkansas,
13 as set forth at Ark. Code Ann. 14-284-208, who
14 shall be empowered and hear the duties and
15 responsibilities as enumerated for such
16 commissioners pursuant to Act 35 of the 1979 Acts
17 of Arkansas, and in particular, as set forth in
18 Ark. Code Ann. 14-284-208 through 14-284-224.
19

20 Article 7. SEVERABILITY: If any part of this Ordinance is
21 held invalid, such invalidity shall not affect any
22 other portion of this Ordinance.
23

24 Article 8. REPEALER: All laws and parts of laws in conflict
25 with this Ordinance are hereby repealed.
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51 ATTEST: Carolyn Staley
52
53 DATE 11-24-93

APPROVED: Floyd G. Villines III
DATE: 11/24/93

***ESTABLISHMENT ORDER
UNDER**

BK. 94
Pg. 660

A.C.A. § 14-284-201 et seq.*

IN THE COUNTY COURT OF PULASKI COUNTY, ARKANSAS

94-445

IN THE MATTER OF
QUAIL CREEK FIRE PROTECTION DISTRICT
NO. 19 OF PULASKI COUNTY, ARKANSAS

FILED
CLERK OF COURT
PULASKI COUNTY, ARKANSAS
NOV 16 1994

ORDER ESTABLISHING DISTRICT

On this day comes before the Court, the captioned district, by its attorney, J. Mark Spradley of Kemp, Duckett, Hopkins & Spradley, and from facts and matters made known to the Court, the Court finds as follows:

1. On November 24, 1993, Pulaski County Judge Floyd G. Villines, III approved Ordinance No. 93-OR-105 adopted by the Pulaski County Quorum Court establishing the captioned district pursuant to Ark. Code Ann. § 14-284-204.

2. Pursuant to notice published by the Pulaski County Quorum Court, a public meeting was conducted on January 5, 1994, at the Pulaski County Administration Building, 201 South Broadway, Suite 410, Little Rock, Arkansas, at which meeting a majority of the qualified electors of the proposed district did not object to the establishment of the captioned district and accordingly the ordinance shall be valid and the captioned district established pursuant to Ark. Code Ann. § 14-284-204(B) and this Court shall enter this order establishing the district pursuant to Ark. Code Ann. § 14-284-208 and shall appoint the commissioners from Pulaski County elected at the public meeting, namely:

Mary Roberts; Willie Lorings; Tyrone Harris; Elaine Jeffcoat; and Charles Crow.

It is therefore ordered that the establishment of Quail Creek Fire Protection District No. 19 of Pulaski County, Arkansas, is hereby confirmed and ordered and the following persons from Pulaski County elected as commissioners of the board of commissioners of the district are hereby named as such commissioners for the periods indicated:

Mary Roberts - three years; Willie Lorings - three years; Tyrone Harris - three years; Elaine Jeffcoat - two years; and Charles Crow - two years.

Floyd G. Villines III
Floyd G. Villines, III, Pulaski County Judge

Date: 12/9/94

c:\winword\jms\quail\estordr.doc

***SAMPLE PUBLIC NOTICE UNDER**

A.C.A. § 14-284-201 et seq.*

05-54

STATE OF ARKANSAS }
County of Saline } ss

I, Laura L. McCool do solemnly swear that I am Legal Advertising Clerk of The Benton Courier, a daily newspaper printed in said county and that I was such at the date of publication hereinafter stated, and that said newspaper had a bona fide circulation in such county at said dates, and has been regularly published in said county for a period of 129 years next before the date of the first publications of the advertisement hereto annexed, and that said advertisement was published in said newspaper 2 times for 2 issues, the first insertion therein having been made on 10-20-05, and the last insertion on 10-27-05.

Laura L. McCool
Legal Advertising Clerk

Sworn to and subscribed before me on

10/31/05

Mary E. Bloomquist
Notary Public

My commission expires

9/1/2006



FEE FOR PRINTING

\$ 445.00

Cost of Proof \$ 2.50

Total \$ 447.50

Received by _____

THE BENTON COURIER

By _____

FILED
SALINE COUNTY
05 NOV -7 PM 3:50
BY _____

**NOTICE OF PUBLIC HEARING
SALEM FIRE DISTRICT**

1. Saline County Quorum Court adopted Ordinance 2005-74 creating the Salem Fire Protection District on Oct. 18, 2005. A public hearing on said ordinance is hereby set for Monday, December 19, 2005 at 7:00 p.m. at the Salem Fire Station #1, 1785 Salem Road, Benton, AR. All interested parties are encouraged to attend.

Exhibit "O"

ORDINANCE NO. 2005-74

BE IT ENACTED BY THE QUORUM COURT OF SALINE COUNTY, STATE OF ARKANSAS, AN ORDINANCE TO BE ENTITLED, "AN ORDINANCE CREATING THE SALEM FIRE PROTECTION DISTRICT".

Article 1. The Salem Fire Protection District is hereby formed in accordance with Arkansas Code Annotated 14-284-201 et seq.

Article 2. The Salem Fire Protection District service area map is hereby adopted by reference. A copy of said map is attached hereto as Exhibit A1. The service area is entirely within the bounds of Saline County, Arkansas.

Article 3. The primary purpose of the Salem Fire Protection District shall be to provide fire protection in rural areas for buildings, structures, and other man-made improvements. It may also provide other emergency services, like hazardous and toxic materials response, search and rescue services, emergency medical, ambulance, and patient transport services, and such other functions as may be assigned to or reasonably expected of a fire protection district and which it is trained and qualified to perform.

Article 4. This District shall be governed by a Board of Commissioners made up of five (5) qualified electors from the District each of whom shall be appointed by the County Court and confirmed by the Quorum Court. Of the initial Board of Commissioners two (2) members shall be appointed for terms of two (2) years and three (3) members of the commission shall be appointed for terms of three (3) years. All successor members shall be appointed by the County Court for terms of three (3) years. Vacancies occurring on the Board because of resignation, removal, or otherwise shall be filled by the County Court for the unexpired term. All successive appointments shall be subject to confirmation of the Quorum Court of Saline County.

Article 5. The services for the Salem Fire Protection District shall be established by different flat fees for the classifications of property as commercial, residential or unimproved real estate.

(1) The flat fee for residential property shall be \$50.00 annually per single family dwelling. A non-residential use carried on within a dwelling or accessory building which is clearly subordinate to the residential use and which does not outwardly change the residential character of the use shall be residential and shall pay an annual fee of \$50.00.

(2) The commercial classification shall be divided into two (2) subgroups: Small Business and Multiplex Business. Small businesses shall pay an annual fee of \$75.00 and multiplex businesses shall pay an annual fee of \$100.00.

(3) Unimproved real estate shall be assessed a fee of five cents (\$0.05) per acre.

The classification of property shall be determined by the Board of Commissioners and the annual fee assessed in accordance therewith. No flat fee for a classification shall be increased or bonded indebtedness incurred without a vote of the qualified electors in the District as required by law.

STATE OF ARKANSAS }
County of Saline } ss

I, Laura L. McCoil do solemnly swear that I am Legal Advertising Clerk of The Benton Courier, a daily newspaper printed in said county and that I was such at the date of publication hereinafter stated, and that said newspaper had a bona fide circulation in such county at said dates, and has been regularly published in said county for a period of 129 years next before the date of the first publications of the advertisement hereto annexed, and that said advertisement was published in said newspaper 2 times for 2 issues, the first insertion therein having been made on 9-23-05, and the last insertion on 10-10-05.

Laura L. McCoil
Legal Advertising Clerk

Sworn to and subscribed before me on

10/31/05

Mary E. Blomquist
Notary Public

My commission expires

9/1/2006



FEE FOR PRINTING

\$ 50.00

Cost of Proof \$ 2.50

Total \$ 52.50

Received _____

THE BENTON COURIER

By _____

NOTICE OF PUBLIC HEARING SALEM FIRE DISTRICT

The Saline County Quorum Court will hold a public hearing concerning the establishment of a Salem Fire Protection District pursuant to Arkansas Act 35 of 1979. The hearing is scheduled for October 13, 2005 at 7:00 p.m. at The Salem Fire Dept. Main Station, 1785 Salem Road, Benton, AR 72015. All interested parties are encouraged to attend.

***DISTRICT TERRITORY ORDINANCE**

UNDER

A.C.A. § 14-284-101 et seq.*



ORDINANCE NO. 2005-18

AN ORDINANCE PROVIDING FOR THE TERRITORIES FOR VARIOUS CITY FIRE DEPARTMENTS AND VOLUNTEER FIRE DEPARTMENTS IN WHITE COUNTY, ARKANSAS; ESTABLISHING A MAP FOR SUCH TERRITORIES; AND FOR OTHER PURPOSES.

BE IT ENACTED BY THE QUORUM COURT OF WHITE COUNTY, ARKANSAS

Section 1. That it is necessary that the White County Quorum Court designate geographical areas for the various Fire Departments in White County, Arkansas, to insure there is no duplication of services and further insure funds are expended in the most efficient manner and in the best interest of the citizens and residents of White County.

Section 2. The various Municipal Fire Departments and Volunteer Fire Departments shall be assigned areas in accordance with the map hereinafter designated, and such Fire Departments shall be, Albion, Antioch, Bald Knob, Beebe, Bradford, Center Hill, El-Paso, Fairview, Floyd-Romance, Garner, Georgetown, Gum Springs, Hickory Flat, Higginson, Joy, Judsonia, Kensett, Letona, Mcrae, North White County, Pangburn, Rocky Point, Rose Bud, Russell, Velvet Ridge, West Point, Southeast White County, Searcy, Pleasant Plains, which covers only a portion of Northeastern White County and Mt. Vernon, which covers only a portion of Southwestern White County.

Section 3. There shall be as a part of this Ordinance a map designating the areas to be served by each of the Fire Departments herein enumerated and such map is hereby adopted by the Quorum Court as being the map designating the appropriate areas to be serviced by the various Fire Departments, and incorporated by reference as though set out herein word for word. A copy of this map shall be available for public inspection during normal business hours in the County Clerk's office.

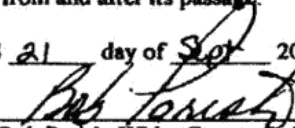
Section 4. No other Fire Department in White County, Arkansas shall receive any sponsorship for grants or any funds from White County for the purpose of operating a Fire Department unless specifically authorized by the Quorum Court of White County and unless and until the Ordinance herein enacted is amended or modified to permit such additional Fire Departments.

Section 5. The Quorum Court of White County shall comply with all the provisions of the Arkansas Code, specifically Ark. code Ann. Sec. 14-20-108 and the County Judge and the appropriate designated County Fire Protection personnel shall coordinate all efforts with the Arkansas Fire Protection Services Board and the Forest Services to insure the appropriate protection of all citizens and residents of White County.

Section 6. Any Ordinance in conflict herewith is hereby amended and modified.

Section 7. Emergency Clause. The need to protect the health, safety and welfare of the citizens of White County, Arkansas, being manifest, the Quorum Court of White County, Arkansas, has found that an emergency exists and that the provisions of this Ordinance shall be in full force and effect from and after its passage.

PASSED AND ADOPTED THIS 21 day of Sept 2005.


Bob Parish, White County Judge

Attest:


Tanya Burleson, White County Clerk

Sponsored by Justice Johny Gibson

FILED

***FORMATION/LEVY
ORDINANCE UNDER**

4-2016

Author: Ted Thomas

Item No. 98-I-163

98 SEP 24 AM 10:29

Sponsor: **A.C.A. § 14-284-201 et seq.***
Tim Cain and Annette McCaleb

Ordinance No. 98-OR-98

CAROLYN STALEY
CIRCUIT-COUNTY CLERK

AN EMERGENCY ORDINANCE

Be it enacted by the Quorum Court of the County of Pulaski, State of Arkansas, and Ordinance to be entitled:

AN EMERGENCY ORDINANCE TO ESTABLISH THE WEST PULASKI FIRE PROTECTION DISTRICT, AND TO ESTABLISH A MAXIMUM ANNUAL FLAT FEE WHICH MAY BE LEVIED OF UP TO A \$100.00 FLAT FEE PER PARCEL OF COMMERCIAL REAL PROPERTY AND UP TO A \$50 FLAT FEE PER PARCEL OF RESIDENTIAL REAL PROPERTY LOCATED WITHIN THE SERVICE AREA OF THE DISTRICT, PURSUANT TO ACT 35 OF THE 1979 ACTS OF ARKANSAS AS SUBSEQUENTLY AMENDED (ARK. CODE ANN. 14-284-201 ET SEQ.), AND FOR OTHER PURPOSES:

ARTICLE 1: Pursuant to the authority of Ark. Code Ann. 14-284-201 et seq., there is hereby established a fire protection district within Pulaski County, Arkansas, which shall be known as the West Pulaski Fire Protection District. There will be 4 fire stations for the district which are located within and upon the following lands located within the County of Pulaski, State of Arkansas, more particularly described as follows:

*changing on back
Sec 22
Weel Added*

T-1-N, R-14-W

All of Sections 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 14, 15, 16, 17, 18, 19, 20 and 21; the West 1/2 of Section 28, and all of Sections 29 and 30.

T-2-N, R-14-W

The North 3/4 of Section 5; all of Sections 6 and 7; the South 3/4 of Section 8; the NW1/4, NE1/4, the SW1/4, SE1/4 and the West 1/2 of Section 9; the SE1/4 of Section 10 lying South and West of the CRI&P Railroad, all of the NE1/4 of Section 10 lying North of the CRI&P Railroad; all of Section 11; all of Section 15, except the NW 1/4 NW1/4 thereof; all of Section 16 except the NE1/4 NE1/4 thereof; all of Sections 17, 18, 19, 20, 21 and 22, all of Sections 27, 28, 29, 30, 31, 32, 33, 34; all of Section 35 lying south of Denny Road.

T-2-N, R-15-W

All of Sections 1, 2, 3, 9, 10, 11, 12, 13, 14, 15, 16; the East 1/2 of Section 17; all of Sections 20, 21, 22, 23, 24, 25, 26, 27, 28 and 29; the East 1/2 of Section 30 and the East 1/2 of Section 31; and

FILED

98 SEP 24 AM 10:29

CAROLYN STALEY
CIRCUIT-COUNTY CLERK

all of Sections 32, 33, 34, 35 and 36.

T-3-N, R-14-W

The West 1/2 of Section 5; all of Section 6; all of Section 31 lying South of Lake Maumelle; all of Section 32 lying South and West of Lake Maumelle.

T-3-N, R-15-W

All of Sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11; all of Section 12 lying North of Lake Maumelle, except the SE1/4, SE1/4 thereof; all of Section 19 lying North and West of Lake Maumelle; all of Section 26, lying South of Lake Maumelle; all of Section 27 lying South of Lake Maumelle; all of Section 28 lying South of Lake Maumelle; all of the North 1/2 of Section 29 lying South of Lake Maumelle; all of Section 34; all of Section 35 lying South of Arkansas Highway 10; all of Section 36 lying South of Lake Maumelle.

T-4-N, R-14-W

All of Section 31 lying South of the Arkansas River and all of the West 1/2 of Section 32, lying South of the Arkansas River.

Of all of the above described lands in Pulaski County, Arkansas, the following lands are Excepted: Any lands lying within the city limits of Little Rock or any other municipality; any lands adjoining or abutting Lake Maumelle owned by the Little Rock Municipal Water Works; any lands lying within the boundaries of the Lake Maumelle Area Fire Improvement district #8.

ARTICLE 2:

The service area for the district shall include the area within a radius of five miles from each fire station location within the above described territory, except any other area which is currently receiving fire protection from a fire protection entity created by law. The actual service area for the West Pulaski Fire Protection District will be shown by a map from the Pulaski County Quorum Court subsequent to the establishment of the district pursuant to Ark. Code Ann. 14-284-207(b).

ARTICLE 3:

The maximum annual flat fee which may be levied against any parcel of real property located within the service area of the district shall be as follows:

Commercial property: \$100
Residential property: \$ 50

FILED

98 SEP 24 AM 10:29

CAROLYN STALEY
CIRCUIT-COUNTY CLERK

The maximum annual flat fee which may be levied shall not be increased unless the question of increase is first submitted to and approved by a majority of qualified electors of the district voting on the issue in the manner authorized by law.

- ARTICLE 4: The district shall have no authority to issue bonds or pledge levied fees of the district to secure bonds unless the question of the issuance of bonds and the pledging of fees by the district is first submitted to and approved by a majority of qualified electors of the district voting on the issue in the manner authorized by law.
- ARTICLE 5: The primary purpose of the West Pulaski Fire Protection District shall be to provide fire protection, rescue, first responder and hazardous material removal service within the district for the persons and property within the district.
- ARTICLE 6: Notice of the adoption of this ordinance shall be published in a newspaper of general circulation which shall include a copy of this ordinance and shall state a time and place for a public hearing on this ordinance, which shall be at least 30 days and not more than 60 days after the date of publication of the ordinance. If at the hearing a majority of the qualified electors in the proposed district appear in person to oppose the establishment of the district, or if petitions opposing the establishment of the district and containing the signatures of a majority of the qualified electors in the proposed district are filed with the Quorum Court before the hearing or submitted at the hearing, then this ordinance shall be void. Otherwise, this ordinance shall be valid and the West Pulaski Fire Protection District shall be established.
- ARTICLE 7: If the fire protection district is established as described above, the Pulaski County Court shall enter an Order establishing the district and shall provide for an election at a public meeting of 5 qualified electors of the district as a board of commissioners for the district, who shall have the duties authorized by Ark. Code Ann. 14-284-201 et seq.
- ARTICLE 8: SEVERABILITY: If any part of this Ordinance is held invalid, such invalidity shall not affect any other part of this Ordinance.

FILED

ARTICLE 9:

98 SEP 24 AM 10:29

ARTICLE 10:
CAROLYN STALEY
CIRCUIT-COUNTY CLERK

REPEALER: All laws and parts of laws which conflict with this Ordinance are hereby repealed.

EMERGENCY: The formation of this district and the improvements planned thereby are essential to the continued health, safety, growth and well-being of the County of Pulaski and such formation can be accomplished only by passage of this ordinance. Therefore an emergency is declared to exist and this Ordinance, being necessary for the preservation of the public peace, health and safety, shall be in force upon its passage and approval.

ATTEST:

Carolyn Staley

DATE:

9-23-98

APPROVED:

Lloyd G. Williams, III

DATE:

9/23/98

***ESTABLISHMENT ORDER UNDER**

A.C.A. § 14-284-201 et seq.*

IN THE COUNTY COURT OF PULASKI COUNTY, ARKANSAS

IN THE MATTER OF:

CRYSTAL FIRE PROTECTION DISTRICT, PULASKI COUNTY ORDINANCE
NO. 99-OR-82

ORDER CREATING CRYSTAL FIRE PROTECTION DISTRICT

Pending before the Court on this ___ day of November, 1999, is the creation of the Crystal Fire Protection District and the Court finds as follows:

1. On September 28, 1999, the Pulaski County Quorum Court passed Ordinance No. 99-OR-82 and such ordinance provided that after proper legal notice of the adoption of the ordinance, if a majority of qualified electors did not appear at a public hearing either in person or by petition to oppose the district, then the Crystal Fire Protection District would be established.
2. On Monday, October 11, 1999, the Arkansas Democrat-Gazette, which is a newspaper of general circulation in Pulaski County Arkansas, published notice of adoption of Ordinance No. 99-OR-82, and notice of a public hearing on the ordinance, and such publication was done in accordance with law.
3. On November 10, 1999 a public hearing was held regarding Ordinance 98-OR-98. No person appeared to oppose the creation of the Crystal Fire Protection District in person or by petition. No petitions in opposition to such fire district were filed with the County Circuit Clerk, therefore pursuant to such ordinance and Ark. Code Ann. 14-284-201 et seq., the Crystal Fire Protection District is hereby created.
4. The boundaries of Crystal Fire Protection District shall be as stated in Exhibit "A" attached hereto.

5. The primary purpose of the Crystal Fire Protection District shall be to provide fire protection, rescue, first responder and hazardous material removal service within the district for persons and property within the district.

6. The maximum annual assessed benefit which may be levied against the real property within the district shall not exceed \$125,000, and the manner of assessing and reassessing such levies shall be done in a fair and just manner as prescribed by law. The maximum annual assessment of \$125,000 shall not be increased unless the question of increase is first submitted to and approved by a majority of registered voters of the district voting on the issue in a manner prescribed by law.

7. The district shall have no authority to issue bonds or pledge levied fees or the district to secure bonds unless the question of the issuance of bonds and the pledging of fees by the district is first submitted to and approved by a majority of registered voters of the district voting on the issue in a manner prescribed by law.

8. On the ___ day of November, 1999, there shall be an election of a board of a commissioners as follows:

a. The Board of Commissioners shall consist of 5 persons and each member of the board shall be a registered voter who resides within the district.

b. Position One and Position Two shall initially be elected to a 2 year term, and thereafter each term shall be 3 years. Position Three, Position Four and Position Five shall initially be elected to a 3 year term, and thereafter each term shall be 3 years.

c. Members of the Board of Commissioners shall be elected by a plurality of votes cast by registered voters residing within the district at a public

meeting after reasonable notice. Such meeting and election shall be conducted in the same manner as provided for election of board members of Suburban Improvement Districts as stated in Ark.

9. The Board of Commissioners shall have such authority as is provided by law.

IT IS SO ORDERED this ___ day of November, 1999.

COUNTY JUDGE

DATE

PROPERTY DESCRIPTION UNDER*A.C.A. § 14-284-201 et seq.***

PROPERTY DESCRIPTION
 PROPOSED CRYSTAL FIRE PROTECTION DISTRICT
 REVISED SEPTEMBER 1999

BEGINNING AT THE NW CORNER OF THE E $\frac{1}{2}$ NW $\frac{1}{4}$, SECTION 1, T-1-N, R-14-W; THENCE SOUTH ALONG THE WEST LINE OF SAID E $\frac{1}{2}$ NW $\frac{1}{4}$ TO THE SE CORNER THEREOF; THENCE WEST ALONG THE SOUTH LINE OF THE NW $\frac{1}{4}$ TO THE SW CORNER THEREOF; THENCE SOUTH ALONG THE WEST LINE OF SECTIONS 1 & 12 TO THE SW CORNER OF SECTION 12 (THE NE CORNER OF SECTION 14); THENCE WEST ALONG THE NORTH LINE OF SECTION 14 TO ITS INTERSECTION WITH THE EAST RIGHT-OF-WAY OF MARSH ROAD; THENCE SOUTHERLY ALONG SAID EAST RIGHT-OF-WAY TO ITS INTERSECTION WITH THE SOUTH LINE OF SECTION 14; THENCE WEST ALONG SOUTH LINE TO THE SW CORNER OF SECTION 14 (NW CORNER OF SECTION 23); THENCE SOUTH ALONG THE WEST LINE OF SECTION 23 TO THE SW CORNER THEREOF (NE CORNER OF SECTION 27); THENCE WEST ALONG THE NORTH LINE OF SECTION 27 TO THE NW CORNER THEREOF; THENCE SOUTH ALONG THE WEST LINE OF SECTION 27 TO THE SW CORNER THEREOF (NW CORNER OF SECTION 34) ALSO BEING THE COUNTY LINE; THENCE SOUTH ALONG THE WEST LINE OF SECTION 34 (THE COUNTY LINE) TO THE SW CORNER THEREOF; THENCE EAST ALONG THE SOUTH LINE OF SECTIONS 34, 35 AND 36, AND SECTION 31, T-1-N, R-13-W, TO THE SE CORNER OF SECTION 31 WHICH IS ON THE PRESENT CITY LIMITS LINE; THENCE NORTH ALONG THE EAST LINE OF SECTION 31 (THE CITY LIMITS LINE AND THE WEST LINE OF SECTION 32) TO THE SW CORNER NW $\frac{1}{4}$ NW $\frac{1}{4}$, SECTION 32; THENCE EAST ALONG THE SOUTH LINE OF SAID NW $\frac{1}{4}$ NW $\frac{1}{4}$ TO THE SE CORNER THEREOF (THE NW CORNER SE $\frac{1}{4}$ NW $\frac{1}{4}$); THENCE SOUTH ALONG THE WEST LINE OF SAID SE $\frac{1}{4}$ NW $\frac{1}{4}$ TO THE SW CORNER THEREOF; THENCE EAST ALONG THE SOUTH LINE OF THE NW $\frac{1}{4}$ TO THE E $\frac{1}{4}$ CORNER OF SECTION 32; THENCE NORTH ALONG THE EAST LINE OF SECTIONS 32, 29, 20 AND 17 TO THE NE CORNER OF THE SE $\frac{1}{4}$ SE $\frac{1}{4}$, SECTION 17; THENCE WEST ALONG THE NORTH LINE OF SAID SE $\frac{1}{4}$ SE $\frac{1}{4}$ TO THE NW CORNER THEREOF; THENCE NORTH ALONG THE EAST LINE OF THE NW $\frac{1}{4}$ SE $\frac{1}{4}$ TO THE NE CORNER THEREOF; THENCE WEST ALONG THE S $\frac{1}{2}$ OF SECTIONS 17 AND 18 TO THE NW CORNER OF THE NE $\frac{1}{4}$ SE $\frac{1}{4}$; THENCE NORTH ALONG THE EAST LINE OF THE SW $\frac{1}{4}$ NE $\frac{1}{4}$, TO THE NE CORNER THEREOF; THENCE WEST ALONG THE NORTH LINE OF THE S $\frac{1}{2}$ N $\frac{1}{2}$, SECTION 18 TO THE SE CORNER OF THE NW $\frac{1}{4}$ NW $\frac{1}{4}$; THENCE NORTH TO THE NE CORNER OF SAID NW $\frac{1}{4}$ NW $\frac{1}{4}$; THENCE WEST ALONG THE NORTH LINE OF SECTION 18 TO THE NW CORNER THEREOF (THE SE CORNER OF SECTION 12, T-1-N, R-14-W); THENCE NORTH ALONG THE EAST LINE OF SECTION 12 TO THE NE CORNER THEREOF (THE NW CORNER OF SECTION 7, T-1-N, R-13-W); THENCE EAST ALONG THE NORTH LINE OF SECTION 7 TO THE NW CORNER OF THE NE $\frac{1}{4}$ NW $\frac{1}{4}$, SECTION 7; THENCE SOUTH ALONG THE WEST LINE OF SAID NE $\frac{1}{4}$ NW $\frac{1}{4}$, TO THE SW CORNER THEREOF; THENCE EAST ALONG THE SOUTH LINE OF THE NE $\frac{1}{4}$ NW $\frac{1}{4}$, SECTION 7

TO THE SE CORNER THEREOF; THENCE SOUTH ALONG THE WEST LINE OF THE E $\frac{1}{2}$, SECTION 7 TO THE S $\frac{1}{4}$ CORNER OF SECTION 7; THENCE EAST ALONG THE SOUTH LINE OF SECTION 7 TO THE SE CORNER THEREOF; THENCE NORTH ALONG THE EAST LINE OF SECTIONS 7 AND 6 TO THE NE CORNER OF THE SE $\frac{1}{4}$ SE $\frac{1}{4}$, SECTION 6; THENCE WEST ALONG THE NORTH LINE OF SAID SE $\frac{1}{4}$ SE $\frac{1}{4}$, TO THE NW CORNER OF THE NE $\frac{1}{4}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$, SECTION 6; THENCE NORTH LINE 320.6 FEET TO THE NE CORNER OF TRACT 10, SACH'S SUBURBAN TRACTS; THENCE WEST ALONG THE NORTH LINE OF TRACT 10 TO ITS INTERSECTION WITH THE EAST RIGHT-OF-WAY OF KANIS ROAD; THENCE NORTHWESTERLY ALONG SAID RIGHT-OF-WAY TO A POINT 165.3 FEET EAST AND 233.1 FEET NORTH OF THE SW CORNER OF THE NW $\frac{1}{4}$ NW $\frac{1}{4}$, SECTION 6; THENCE WEST TO THE WEST LINE OF SECTION 6; THENCE SOUTH ALONG SAID WEST LINE, 233.1 FEET TO THE SW CORNER OF THE NW $\frac{1}{4}$ NW $\frac{1}{4}$, SECTION 6 (THE SE CORNER OF THE NE $\frac{1}{4}$ NE $\frac{1}{4}$, SECTION 1, T-1-N, R-14-W); THENCE WEST ALONG THE NORTH LINE OF THE S $\frac{1}{2}$ NE $\frac{1}{4}$, SECTION 1 TO THE NW CORNER THEREOF; THENCE NORTH ALONG THE WEST LINE OF SAID NE $\frac{1}{4}$ TO THE N $\frac{1}{4}$ CORNER OF SECTION 1; THENCE WEST ALONG THE SOUTH LINE OF SECTION 36, T-2-N, R-14-W TO THE SE CORNER OF THE SE $\frac{1}{4}$ OF SAID SECTION; THENCE NORTH ALONG THE EAST LINE OF SAID SE $\frac{1}{4}$ TO THE NE CORNER OF TRACT 1; THENCE NORTHWESTERLY ALONG THE NORTH LINE OF INDEPENDENCE FARMS TO THE NE CORNER OF TRACT 5; THENCE NORTH 701 FEET; THENCE WEST 197.4 FEET; THENCE SOUTH 693 FEET TO THE NORTHWEST CORNER OF TRACT 5; THENCE WEST ALONG THE NORTH LINE OF INDEPENDENCE FARMS TO THE NE CORNER OF TRACT 8; THENCE SOUTH ALONG THE EAST LINE OF TRACT 8 TO THE SE CORNER THEREOF; THENCE EAST ALONG THE SOUTH LINE OF TRACT 7 TO THE NW CORNER OF THE E $\frac{1}{2}$ NW $\frac{1}{4}$, SECTION 1, T-1-N, R-14-W AND THE POINT OF BEGINNING.

***ESTABLISHMENT/ASSESSMENT**

ORDINANCE UNDER

A.C.A. § 14-284-201 et seq.*

Author: J. Mark Spradley

Item Number _____

Sponsored by: Charles Roberson

Ordinance Number _____

AN ORDINANCE

*BE IT ENACTED BY THE QUORUM COURT OF THE COUNTY OF PULASKI,
STATE OF ARKANSAS, AN ORDINANCE TO BE ENTITLED:*

AN EMERGENCY ORDINANCE TO ESTABLISH THE OAK GROVE FIRE PROTECTION DISTRICT NO. 22, AND FOR LEVY OF ASSESSED BENEFITS UPON REAL PROPERTY LOCATED WITHIN THE DISTRICT, PURSUANT TO ACT 35 OF THE 1979 ACTS OF ARKANSAS, AND ALL AMENDMENTS THERETO, AND FOR OTHER PURPOSES.

Article 1: Pursuant to the authority of Act 35 of the 1979 Acts of the State of Arkansas, and all amendments thereto, (codified as Ark. Code Ann. § 14-284-201 et seq.), there is hereby established a fire protection district within Pulaski County, Arkansas, which shall be known as the Oak Grove Fire Protection District. There will be three (3) fire stations for the district which are located within and upon the following lands located and situated in Pulaski County, Arkansas, being more particularly described as follows:

Begin at Palarm Creek on the North line of Section 5 T-3-N R-13-W also being a common boundary line of Pulaski County and Faulker County; thence Southwesterly along Palarm Creek to the Arkansas River; thence along the Arkansas River to the boundary line of Maumelle city limits; thence Northerly along the West line of Maumelle city limits to Union Pacific Rail Road R/W and North along the Maumelle city limits line; thence East along the North line to the Easterly boundary of Maumelle city limits; thence Southerly along the East boundary to the North Little Rock city limits boundary; thence East along the North line of the North Little Rock city limits; thence East along the North line of the North Little Rock city limits to the Southeast corner of Section 34 T-3-N R-13-W; thence North along the East line of Section 34 following the North Little Rock city limit boundary; thence continue along the city limits line Easterly and Southerly to the South line of Section 35; thence East along the city limits boundary; thence Southerly and Easterly and Southerly along the city limit boundary to the South line of Section 2 T-2-N R-13-W; thence East along the South line of Section 2 to the Southeast corner; thence South along the West line of Section 12 T-2-N R-13-W of the North Little Rock city limits line; thence South along the city limits line; thence East to I-40 also being the city limits boundary; thence Northerly and Easterly following the city limits line; thence Southerly to Prospect Trail; thence East along the city limits line and the Northerly

boundary to Crystal Hill Road; thence Easterly along Crystal Hill Road; thence Southerly along the city limits line also being Pine Road; thence Weserly along the city limits line to the East city limits boundary; thence Southerly along the city limits line to Southwind Drive; thence continue along the Southerly line of the city limits to a point on Young Road; thence Southeasterly along Young Road also being in Section 13; thence continue Southerly and Easterly to the Western edge of the Arkansas National Guard area Camp Robinson; thence continue along the West boundary of Camp Robinson to the Southeast corner of Section 32 also being the West boundary of Camp Robinson; continue along the West line of Sections 32, 29, 20 and 17 T-3-N R-12-W to the Northeast corner of Section 17 T-3-N R-12-W, West along the South line of Section 7 T-3-N R-12-W and Sections 12, 11, and 10 T-3-N R-13-W; thence West along the West line of Section 10 and Section 3 T-3-N R-13-W to the Northwest corner of Section 3 also being the common line of Pulaski County and Faulkner County; thence along the North line of Sections 4 and 5 T-3-N R-13-W to Palarm Creek and the Point of Beginning.

- Article 2. The service area for the district shall include the area within a radius of five (5) miles from each fire station location within the above described territory, less and except any other area which is currently receiving fire protection from a group, organization or governmental entity. The actual service area for the district will be shown by a map from the Pulaski County Quorum Court subsequent to the district's establishment pursuant to Ark. Code Ann. § 14-284-207(b).
- Article 3. The maximum annual assessed benefit which may be levied against the properties within the district shall not exceed, in the aggregate, a total of \$300,000 and, the manner of assessing and reassessing such levies shall be in a fair and just manner as prescribed by law. The maximum annual assessment of \$300,000 as herein above stated will not be increased unless the question of the increase is first submitted to and approved by a majority of the qualified electors of the district voting on the issue.
- Article 4. The district shall have no authority to issue bonds or pledge assessed benefits of the district to secure bonds unless the questions of the issuance of bonds and the pledging of assessed benefits by the district is first submitted to and approved by a majority of the qualified electors of the district voting on the issue.

- Article 5. The primary purpose of the fire protection district shall be to provide fire protection within the district in Pulaski County for buildings, structures and other man-made improvements.
- Article 6. Notice of the adoption of this ordinance shall be published in a newspaper of general circulation which shall include a copy of this ordinance and shall prescribe a time and place for a public hearing on this ordinance, which shall be at least thirty (30) days and not more than sixty (60) days after the date of publication of the ordinance. If at the hearing a majority of the qualified electors in the proposed district appear in person to oppose the establishment of the district or if petitions opposing the establishment of the district and containing the signatures of a majority of the qualified electors in the proposed district are filed at or before the public hearing, this ordinance shall be void. If a majority of the qualified electors of the proposed district do not object to the establishment of the district in person or by petition within the time set forth above, this ordinance shall be valid and the district shall be established.
- Article 7. If the district is sustained after the public meeting, as above described, the Pulaski County Court shall enter an order establishing the district and shall appoint five (5) qualified electors of the district as a board of commissioners for the district as prescribed by Act 35 of the 1979 Acts of Arkansas, and as set forth at Ark. Code Ann. § 14-284-208, who shall be empowered and hear the duties and responsibilities as enumerated for such commissioners pursuant to Act 35 of the 1979 Acts of Arkansas, and in particular, as set forth in Ark. Code Ann. § 14-284-208 through § 14-284-224.
- Article 8. **SEVERABILITY:** If any part of this Ordinance is held invalid, such invalidity shall not affect any other portion of this Ordinance.
- Article 9. **REPEALER:** All laws and parts of laws in conflict with this Ordinance are hereby repealed.
- Article 10. **EMERGENCY:** The formation of the district and the improvements planned thereby are essential to the continued health, safety, growth and well-being of the County of Pulaski and such formation can be accomplished only by the passage of this ordinance. Therefore, an

emergency is declared to exist and this Ordinance, being necessary for the preservation of the public peace, health and safety, shall be in force upon its passage and approval.

ATTEST:

APPROVED:

Carolyn Staley, Pulaski County Clerk

Floyd G. Villines, III, Pulaski County Judge

DATE: _____

DATE: _____

..\\niaswerd\jms\colgprovo\ordinan.doc

*EXAMPLE NOTICE UNDER ^{1/23-03}
A.C.A. § 14-284-201 et seq.*

Item No.: 00-I-154
Ordinance No.: 00-OR-87

NOTICE OF PUBLIC HEARING ON ADOPTION OF AN ORDINANCE PURSUANT TO ACT 35 OF
THE 1979 ACTS OF ARKANSAS

The Pulaski County Court calls a public hearing to be held at 7:00 o'clock p.m. on the 8th day of January, 2000, at the Oak Grove Elementary School on Oak Grove Road, Pulaski County, Arkansas, on the enactment of Ordinance No. 87, which was adopted on November 28, 2000, for the election of the commissioners required thereunder and other purposes pertinent thereto, which ordinance reads as follows:

Author: J. Mark Spradley
Sponsored by: Charles Roberson

Item Number 00-I-54
Ordinance Number 00-OR-87

*BE IT ENACTED BY THE QUORUM COURT OF THE COUNTY OF
PULASKI, STATE OF ARKANSAS, AN ORDINANCE TO BE ENTITLED:*

AN EMERGENCY ORDINANCE TO ESTABLISH THE OAK GROVE FIRE PROTECTION DISTRICT NO. 25, AND FOR LEVY OF ASSESSED BENEFITS UPON REAL PROPERTY LOCATED WITHIN THE DISTRICT, PURSUANT TO ACT 35 OF THE 1979 ACTS OF ARKANSAS, AND ALL AMENDMENTS THERETO, AND FOR OTHER PURPOSES.

Article 1: Pursuant to the authority of Act 35 of the 1979 Acts of the State of Arkansas, and all amendments thereto, (codified as Ark. Code Ann. § 14-284-201 et seq.), there is hereby established a fire protection district within Pulaski County, Arkansas, which shall be known as the Oak Grove Fire Protection District. There will be three (3) fire stations for the district which are located within and upon the following lands located and situated in Pulaski County, Arkansas, being more particularly described as follows:

Begin at Palarm Creek on the North line of Section 5 T-3-N R-13-W also being a common boundary line of Pulaski County and Faulkner County; thence Southwesterly along Palarm Creek to the Arkansas River; thence along the Arkansas River to the boundary line of Maumelle city limits; thence Northerly along the West line of Maumelle city limits to Union Pacific Rail Road R/W and North along the Maumelle city limits line; thence East along the North line to the Easterly boundary of Maumelle city limits; thence Southerly along the East boundary to the North Little Rock city limits boundary; thence East along the North line of the North Little Rock city limits; thence East along the North line of the North Little Rock city limits to the Southeast corner of Section 34 T-3-N R-13-W; thence North along the East line of Section 34

following the North Little Rock city limit boundary; thence continue along the city limits line Easterly and Southerly to the South line of Section 35; thence East along the city limits boundary; thence Southerly and Easterly and Southerly along the city limit boundary to the South line of Section 2 T-2-N R-13-W; thence East along the South line of Section 2 to the Southeast corner; thence South along the West line of Section 12 T-2-N R-13-W of the North Little Rock city limits line; thence South along the city limits line; thence East to I-40 also being the city limits boundary; thence Northerly and Easterly following the city limits line; thence Southerly to Prospect Trail; thence East along the city limits line and the Northerly boundary to Crystal Hill Road; thence Easterly along Crystal Hill Road; thence Southerly along the city limits line also being Pine Road; thence Westerly along the city limits line to the East city limits boundary; thence Southerly along the city limits line to Southwind Drive; thence continue along the Southerly line of the city limits to a point on Young Road; thence Southeasterly along Young Road also being in Section 13; thence continue Southerly and Easterly to the Western edge of the Arkansas National Guard area Camp Robinson; thence continue along the West boundary of Camp Robinson to the Southeast corner of Section 32 also being the West boundary of Camp Robinson; continue along the West line of Sections 32, 29, 20 and 17 T-3-N R-12-W to the Northeast corner of Section 17 T-3-N R-12-W, West along the South line of Section 7 T-3-N R-12-W and Sections 12, 11, and 10 T-3-N R-13-W; thence West along the West line of Section 10 and Section 3 T-3-N R-13-W to the Northwest corner of Section 3 also being the common line of Pulaski County and Faulkner County; thence along the North line of Sections 4 and 5 T-3-N R-13-W to Palarm Creek and the Point of Beginning.

- Article 2. The service area for the district shall include the area within a radius of five (5) miles from each fire station location within the above described territory, less and except any other area which is currently receiving fire protection from a group, organization or governmental entity. The actual service area for the district will be shown by a map from the Pulaski County Quorum Court subsequent to the district's establishment pursuant to Ark. Code Ann. § 14-284-207(b).
- Article 3. The maximum annual assessed benefit which may be levied against the properties within the district shall not exceed, in the aggregate, a total of \$300,000 and, the manner of assessing and reassessing such levies shall be in a fair and just manner as prescribed by law. The maximum annual assessment of \$300,000 as herein above stated will not be increased unless

the question of the increase is first submitted to and approved by a majority of the qualified electors of the district voting on the issue.

- Article 4. The district shall have no authority to issue bonds or pledge assessed benefits of the district to secure bonds unless the questions of the issuance of bonds and the pledging of assessed benefits by the district is first submitted to and approved by a majority of the qualified electors of the district voting on the issue.
- Article 5. The primary purpose of the fire protection district shall be to provide fire protection within the district in Pulaski County for buildings, structures and other man-made improvements.
- Article 6. Notice of the adoption of this ordinance shall be published in a newspaper of general circulation which shall include a copy of this ordinance and shall prescribe a time and place for a public hearing on this ordinance, which shall be at least thirty (30) days and not more than sixty (60) days after the date of publication of the ordinance. If at the hearing a majority of the qualified electors in the proposed district appear in person to oppose the establishment of the district or if petitions opposing the establishment of the district and containing the signatures of a majority of the qualified electors in the proposed district are filed at or before the public hearing, this ordinance shall be void. If a majority of the qualified electors of the proposed district do not object to the establishment of the district in person or by petition within the time set forth above, this ordinance shall be valid and the district shall be established.
- Article 7. If the district is sustained after the public meeting, as above described, the Pulaski County Court shall enter an order establishing the district and shall thereafter appoint the five (5) qualified electors of the district as a board of commissioners for the district that are elected at a public meeting called by the Pulaski County Court for that purpose as prescribed by Act 35 of the 1979 Acts of Arkansas, and as set forth at Ark. Code Ann. § 14-284-208, who shall be empowered and bear the duties and responsibilities as enumerated for such commissioners pursuant to Act 35 of the 1979 Acts of Arkansas, and in particular, as set forth in Ark. Code Ann. § 14-284-208 through § 14-284-224.
- Article 8. SEVERABILITY: If any part of this Ordinance is held invalid, such invalidity shall not affect any other portion of this Ordinance.
- Article 9. REPEALER: All laws and parts of laws in conflict with this Ordinance are hereby repealed.
- Article 10. EMERGENCY: The formation of the district and the improvements planned thereby are essential to the continued health, safety, growth and

well-being of the County of Pulaski and such formation can be accomplished only by the passage of this ordinance. Therefore, an emergency is declared to exist and this Ordinance, being necessary for the preservation of the public peace, health and safety, shall be in force upon its passage and approval.

ATTEST:

Carolyn Staley
Carolyn Staley, Pulaski County Clerk

APPROVED:

Floyd G. Villines, III
Floyd G. Villines, III, Pulaski

DATE: 12-4-00

DATE: 11/28/00

***ESTABLISHMENT ORDINANCE**

UNDER

A.C.A. § 14-284-201 et seq.*

Author: Ted Thomas

Item No. _____

Sponsor: Tim Cain

Ordinance No. _____

AN ORDINANCE

Be it enacted by the Quorum Court of the County of Pulaski, State of Arkansas, and Ordinance to be entitled:

AN ORDINANCE TO ESTABLISH THE CRYSTAL FIRE PROTECTION DISTRICT, AND FOR LEVY OF ASSESSED BENEFITS UPON REAL PROPERTY LOCATED WITHIN THE SERVICE AREA OF THE DISTRICT, PURSUANT TO ACT 35 OF THE 1979 ACTS OF ARKANSAS AS SUBSEQUENTLY AMENDED (ARK. CODE ANN. 14-284-201 ET SEQ.), AND FOR OTHER PURPOSES:

ARTICLE 1: Pursuant to the authority of Ark. Code Ann. 14-284-201 et seq., there is hereby established a fire protection district within Pulaski County, Arkansas, which shall be known as the Crystal Fire Protection District. There is one fire station for the district, and a second might be built, which are located within and upon the following lands located within the County of Pulaski, State of Arkansas, more particularly described in Exhibit "A" attached hereto.

ARTICLE 2: The service area for the district shall include the area within a radius of five miles from each fire station location within the above described territory, except any other area which is currently receiving fire protection from a fire protection entity created by law. The actual service area for the Crystal Fire Protection District will be shown by a map from the Pulaski County Quorum Court subsequent to the establishment of the district pursuant to Ark. Code Ann. 14-284-207(b).

ARTICLE 3: The maximum annual assessed benefit which may be levied against any parcel of real property located within the service area of the district shall not exceed, in the aggregate of \$70,000, and the manner of assessing and reassessing such levies shall be done in a fair and just manner as prescribed by law. The maximum annual assessment of \$70,000 as stated above shall not be increased unless the question of increase is first submitted to and approved by a majority of qualified electors of the district voting on the issue in the manner authorized by law.

ARTICLE 4: The district shall have no authority to issue bonds or pledge levied fees of the district to secure

BONDS

and the pledging of fees by the district is first submitted to and approved by a majority of qualified electors of the district voting on the issue in the manner authorized by law.

TO SECURE SUCH BONDS

- ARTICLE 5: The primary purpose of the Crystal Fire Protection District shall be to provide fire protection, rescue, first responder and hazardous material removal service within the district for the persons and property within the district.
- ARTICLE 6: Notice of the adoption of this ordinance shall be published in a newspaper of general circulation which shall include a copy of this ordinance and shall state a time and place for a public hearing on this ordinance, which shall be at least 30 days and not more than 60 days after the date of publication of the ordinance. If at the hearing a majority of the qualified electors in the proposed district appear in person to oppose the establishment of the district, or if petitions opposing the establishment of the district and containing the signatures of a majority of the qualified electors in the proposed district are filed with the Quorum Court before the hearing or submitted at the hearing, then this ordinance shall be void. Otherwise, this ordinance shall be valid and the Crystal Fire Protection District shall be established.
- ARTICLE 7: IF the fire protection district is established as described above, the Pulaski County Court shall enter an Order establishing the district and shall provide for an election at a public meeting of 5 qualified electors of the district as a board of commissioners for the district, who shall have the duties authorized by Ark. Code Ann. 14-284-201 et seq.
- ARTICLE 8: SEVERABILITY: If any part of this Ordinance is held invalid, such invalidity shall not affect any other part of this Ordinance.
- ARTICLE 9: REPEALER: All laws and parts of laws which conflict with this Ordinance are hereby repealed.
- ARTICLE 10: EMERGENCY: The formation of this district and the improvements planned thereby are essential to the continued health, safety, growth and well-being of the County of Pulaski and such formation can be accomplished only by passage of this ordinance. Therefore an emergency is declared to exist and

this Ordinance, being necessary for the preservation of the public peace, health and safety, shall be in force upon its passage and approval.

ATTEST: _____

APPROVED: _____

DATE: _____

DATE: _____

1

***EXAMPLE OF APPEALED SID
CREATION/CIRCUIT COURT FINAL
ORDER UNDER
A.C.A. § 14-92-201 et seq.***

\$ 505080.00

PERS.
1682

\$ 16,836

OCT. 10, 1980
TOTAL BOARD EQUALS

IN THE CIRCUIT COURT OF PULASKI COUNTY, ARKANSAS

P- 41
11-3700-06
J. B. JACOBS
2/1/80

IN THE MATTER OF)
LAKE MAUMELLE AREA RURAL FIRE DEPARTMENT)
DISTRICT NO. 8 OF PULASKI COUNTY, ARKANSAS)

No. 79-6327

ACT 41 1941

DECREE

Now on this day comes on appeal from the County Court of Pulaski County, Arkansas, for hearing de novo, the matter of the creation of a suburban improvement district under the provisions of Act 41 of the 1941 Acts of Arkansas, as amended, and appellants appearing by their attorneys, Townsend & Townsend, Ltd., and appellees appearing by their attorneys, Ward, Rhodes & Garrett, this cause is presented to the Court upon the transcript of proceedings in the Pulaski County Court, including the prayer and affidavit of appeal and the Order of the County Court granting the appeal, upon the written Stipulation, filed herein agreed to by all parties hereto by the attorneys of record, and upon the testimony adduced and the statements of counsel, and the Court, being fully advised in the premises as to law and fact, does hereby

ORDER, ADJUDGE AND DECREE that:

1. There was filed with the County Court the petition of the owners of real property within the territory hereinafter described, petitioning that Court to lay off said territory into a rural fire department district; that the petition was filed with the County Clerk on July 127, 1979, and that pursuant to the statutes of Arkansas, the County Clerk published a notice of the filing thereof in the Arkansas Democrat, a newspaper having a

bona fide circulation in Pulaski County, the publications being on August 15, 1979, and August 29, 1979, and the proof of publication is on file in this Court; that in said publication the lands affected and situated within the proposed district were correctly described; that the publication was had for the time and in the manner prescribed and required by law.

2. The proposed district includes lands which are all located wholly within Pulaski County, Arkansas, and no portion of which lies within the boundaries of any municipality; and that said petition is signed by a majority in value of and area of the owners of real property within the hereinafter described territory and said proposed district.

3. The following described property, all located in Pulaski County, Arkansas:

In Township 2 North, Range 14 West:

SW 1/4
All of Section 3 lying West of the Chicago Rock Island and Pacific Railroad (CRIPRR) right of way and not included in Pinnacle Mountain State Park;

All of Section 4 except the N 1/2 of the NE 1/4 and except the S 1/2 of the SW 1/4 and except the SW 1/4 of the SE 1/4;

The South 1/2 of Section 5;

The NW 1/4 of Section 8 and that part of the NW 1/4 of the SW 1/4 of said section lying North of Highway 10; T 2 N R 14 W

200W
200W
The East 1/4 of Section 9 and the SW 1/4 of the NE 1/4 and the NW 1/4 of the SE 1/4 of said section;

All of Section 10 lying West of the CRIPRR right of way, except the S 1/2 of the SE 1/4 and the NW 1/4 of the SE 1/4 of said section;

All of the NW 1/4 of Section 15 lying North of Arkansas State Highway No. 10 except the properties owned by Bell Telephone Company and Mountain View Methodist Church; and the NW 1/4 of the NE 1/4 of said section; and the North 939.84' of the SW 1/4 of the NE 1/4 of said section, except the part owned in fee by the Arkansas Power and Light Company;

The NE $\frac{1}{4}$ of the NE $\frac{1}{4}$ of Section 16.

In Township 3 North, Range 14 West:

The South $\frac{1}{2}$ of the SW $\frac{1}{4}$ and the SW $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Section 3;

All of Section 7 except the N $\frac{1}{2}$ of the NW $\frac{1}{4}$ and except the NE $\frac{1}{4}$ of said section;

All of Section 8 except the N $\frac{1}{2}$ of the NE $\frac{1}{4}$ and the N $\frac{1}{2}$ of the NW $\frac{1}{4}$;

All of Section 9;

The W $\frac{1}{2}$ of the W $\frac{1}{2}$; the NE $\frac{1}{4}$ of the NW $\frac{1}{4}$; the NW $\frac{1}{4}$ of the NE $\frac{1}{4}$ of Section 10.

All of Section 16 except that part of the S $\frac{1}{2}$ of said section lying East of the CRIPRR right of way and except the W $\frac{1}{2}$ of the SW $\frac{1}{4}$ of said section;

The North $\frac{1}{2}$ of Section 17;

All of Section 18 except the W $\frac{1}{2}$ of the SW $\frac{1}{4}$ and except the SE $\frac{1}{4}$ of the SE $\frac{1}{4}$ of said section;

That part of NE $\frac{1}{4}$ of NW $\frac{1}{4}$ and that part of the SW $\frac{1}{4}$ of the NE $\frac{1}{4}$ and that part of the NE $\frac{1}{4}$ of the SE $\frac{1}{4}$ lying South and West of CRIPRR right of way; and the South $\frac{1}{2}$ of the SE $\frac{1}{4}$, all of Section 21;

All that part of Section 22 lying Southwest of the CRIPRR right of way;

All that part of the S $\frac{1}{2}$ S $\frac{1}{2}$ of Section 26 lying West of the center line of the Arkansas River and all that part of the NW $\frac{1}{4}$ SW $\frac{1}{4}$ of said section lying West of the CRIPRR right of way;

All that part of Section 27 lying West of the CRIPRR right of way except that part owned by the Little Rock Municipal Water Works;

The North $\frac{1}{2}$ of the NE $\frac{1}{4}$ of Section 28;

All of Section 34 not owned by the Little Rock Municipal Water Works or Pinnacle Mountain State Park and except the E $\frac{1}{2}$ of the SE $\frac{1}{4}$ of said section;

All of N $\frac{1}{2}$ of Section 35 lying West and South of the center line of the Arkansas River.

In Township 3 North, Range 15 West:

The SE $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Section 12;

be and the same is hereby laid off and created an improvement district for the purpose of establishing, constructing, equipping, maintaining, and operating a rural fire department, including the construction of fire department buildings, the purchase of fire trucks, fire boats, and other fire fighting equipment and to purchase, accept as a gift, or acquire by exercise of its right of eminent domain the necessary lands upon which to construct the facilities of the rural fire department, all in such manner, with such materials, in such locations, and at such times as the commissioners shall deem to be for the best interest of the property owners; and that the cost of said improvements and of the operation and maintenance of the fire department be assessed and charged upon the real property above described, as hereinafter provided.

4. The District shall be known as Lake Maumelle Area Rural Fire Department District No.8 of Pulaski County, Arkansas; and five (5) commissioners shall be chosen to represent the District and each commissioner shall be a property owner in the District; and each commissioner shall also be a volunteer fireman of the District after selection; that the words "volunteer fireman" shall mean a male or female person who has attended or will attend at least sixteen hours of training sessions within twelve months at the fire department and who will either respond to fire calls or, if incapacitated because of age or other infirmity, in lieu of responding to calls, participate in some administrative duty, traffic duty, or other duty, in addition to service as a commissioner, within his or her capabilities, in promotion of the operation of the District; and that two (2) of said commissioners shall hold terms of office for three (3) years, two (2) shall hold office for two (2) years, and ¹⁵⁰one (1) shall hold office for one (1) year except that the initial terms of the commissioners first

appointed and who draw terms of three years shall have a term of office beginning on the date of their appointment by this order and ending with the annual meeting of the property owners to be held in 1984, those initially appointed commissioners who draw terms of office for two years each shall hold office from the date of their appointment by this order to the annual meeting held in 1983; and that the initially appointed commissioner who draws a term of office of one year shall hold office from the date of his appointment by this order to the annual meeting held in 1982; that two (2) of the commissioners named in the petition for the District, Ralph W. Nicholas and George Moreland, have declined to serve and it is stipulated that Wayne Mahar and ~~Larry~~ ^{MORELAND} Clifton will serve in their stead; therefore, Wayne Mahar, ~~Larry~~ ^{GARY MORELAND} Clifton, Robert C. Armstrong, E. F. Cline, and William T. Farris be and they are hereby appointed commissioners of the District, and said commissioners so appointed shall draw lots for their individual terms of office and shall take and file with the Clerk of this Court their oaths of office within 30 days hereafter, and enter upon their duties.

5. As the terms of the original commissioners expire, their successors shall be chosen for three year terms by a majority of those present and voting at the annual meeting of the property owners, and such successors shall also be property owners as well as volunteer firemen as defined above. In the event any commissioner, prior to the expiration of his term of office, shall die, become incapacitated, be unable to serve, resign or be otherwise disqualified by law from serving, his successor shall be appointed by the remaining members of the Board of Commissioners until this vacancy can be filled at the next annual meeting of the property owners.

OR
1.00 MINIMUM TAX

6. Annual meetings of the property owners in the District shall be held at the fire station in Roland, Arkansas, or such other convenient place as may be determined by the commissioners, on the last Friday of each January, beginning January 1981, if the weather permits, and if not, then on the last Friday in April of each year beginning in 1981, and written notice of this meeting shall be mailed at the expense of the District to each property owner listed on the county tax records, which notice shall be mailed not less than two weeks prior to the date of the meeting.

7. The commissioners shall direct the Assessor for the District, in making his assessment of benefits, to assess a total assessment of benefits that will not exceed 5¢ per acre per year, or 1.3% of the assessed value of the improvement per year, whichever is greater, with a minimum annual assessment of \$1.00 per tax parcel, with said assessed values to be taken from those on the 1979 general tax rolls of Pulaski County; and the commissioners shall further direct the Assessor to assess an annual charge of \$10.00 per living unit in each trailer court or mobile home not assessed as real property; and the commissioners shall further direct the Assessor to add and re-assess new improvements not carried on the 1979 tax roll, in order to properly assess the benefits against benefitted improvements in the District, and to also reduce assessments where buildings or improvements have been destroyed, or removed; and the commissioners shall direct that the first assessment of benefits to be extended on the tax books of Pulaski County for collection shall be collected with the general taxes coming due on and after January 1, 1981.

8. The maximum assessment as hereinabove decreed will not be changed, unless a majority of the property owners present and ^{increased}

voting at an annual meeting of the property owners shall authorize the commissioners to order the assessor to increase or decrease the assessments because of inflation or other causes, and that any reassessment, whether by reason of new construction, or by authorization of the annual meeting of the property owners, shall comply with the provisions for reassessment as contained in Act 41 of 1941, subject only to limitations decreed herein.

9. The District shall have no authority to issue bonds and to pledge assessed benefits of the District to secure such bonds, or any other indebtedness, unless the question of the issuance of bonds by the District is first submitted to and approved by a majority of the qualified electors of the District voting on the issue and the question of the issuance of bonds by the District may be submitted to the electors of the District at an election called by the County Court either at the request of the Board of Commissioners of the District, or upon a petition signed by 20% of the electors of the District, as determined by the number of registered voters in the District at the time; and upon said request or petition, the County Court shall call a special election in the District to determine whether said bonds shall be issued and said election shall be held as follows:

(a) Only qualified electors in the District shall be permitted to vote, as shown on the registration books of Pulaski County.

(b) Said special election shall be held at only one polling place in the District.

(c) Notice of the special election shall be given by publication once a week for two consecutive weeks, the first publication to be not less than fifteen (15) days prior to

the date of the election, in a newspaper having a general circulation in Pulaski County, and in the District, and by posting in five (5) public places within the District.

(d) At such election, the question of issuing bonds by the District and pledging its assessment of benefits to secure the payment of said bonds, shall be placed on the ballot in substantially the following form:

***EXAMPLE BALLOT QUESTION**

RE: BONDS UNDER

A.C.A. § 14-284-201 et seq.*

BALLOT
SPECIAL ELECTION
LAKE MAUMELLE AREA RURAL FIRE DEPARTMENT DISTRICT #8
OF PULASKI COUNTY, ARKANSAS

Place an "X" in one of the following:

For the Issuance of Bonds by the District and the Pledge of its Assessment of Benefits to Secure the Bonds

Against the Issuance of Bonds by the District and the Pledge of Its Assessment of Benefits to Secure the Bonds

The District Proposes to Issue \$ _____ in Bonds, Maturing Serially Over a Period of _____ Years, for the Purpose of Making Improvements by Construction of _____
(purchasing new equipment, including, but not limited to _____),
and to Pledge the Assessment of Benefits to Secure the Payment of Said Bonds.

(e) The canvas of returns and the time and manner for contesting this election shall be governed by the laws of Arkansas regarding the holding of special county elections.

10. After the District has been in existence for not less than three years, if a petition is presented to the Board of Commissioners signed by 20% of the electors of the District, as determined by the number of registered voters in the District at the time, requesting an election on the question of whether

the District should be dissolved, the Board of Commissioners shall request the County Court to call a special election in the District to determine whether the District shall be dissolved and said election shall be held in the same manner and with the same notice and with the applicable form of ballot as agreed to hereinabove pertaining to the question of the issuance of bonds by the District, but if the District has outstanding bonds or other indebtedness at the time the electors vote to dissolve the District, the assessment of benefits being levied at the time of dissolution shall continue to be levied and collected and remitted to the Trustee of the bond issue by the Pulaski County Treasurer, or Pulaski County Collector, as the case may be, until such outstanding bonds, or other indebtedness, are paid.

11. The manner of assessing the benefits and re-assessing the benefits subject to the above limitations, the levy or extension of taxes, and the enforcement of collection, shall be governed by the provisions of Act 41 of the 1941 Acts of Arkansas, as amended, subject only to the limitations decreed herein, and the District shall be subject to all other provisions of said Act 41, as amended, under which the District is created, subject only to the limitations decreed herein.

It is further ordered and adjudged that this Court, having created Lake Maumelle Area Rural Fire Department District No. 8 of Pulaski County, Arkansas, and thereby assuming jurisdiction of the District and its affairs and existence, does hereby retain jurisdiction for the purpose of making such further orders as may be necessary to carry out the purposes of the decree and

to carry out the purposes for which the District is created and its proceedings.

ENTERED this 086 8 706, 1980.

Original Signed By
R. M. DIOBY

CIRCUIT JUDGE

J. R. [unclear]

APPROVED:

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