AMBULANCE SERVICES GUIDEBOOK

2020

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Introduction

The following is a guidebook on the topic of ambulance services in Arkansas. This publication is designed to provide the basics, the steps, the issues, and the relevant case law to help guide the handling of ambulance services.

Be sure to seek and consult with your County Attorney on these legal matters/proceedings and forward them a copy of the information provided in this document.

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Ambulance and Emergency Medical Services

AMBULANCE SERVICES IN ARKANSAS

Overview

In Arkansas, Quorum courts may provide for emergency services for citizens including ambulance services and emergency medical services. Also, Counties may provide ambulance services and medical services for residents of the County or any designated area of the County and provide for levying service charges upon residents of the area. This funding assists in the purchase of equipment, the maintenance and operation of equipment and the payment for personal services necessary to provide the services. Additionally, Counties are authorized to establish Improvement Districts for the purpose of providing ambulance services to the residents of the Districts.

This guidebook is intended to help County Officials know and understand the law surrounding ambulance services and emergency medical services and the procedure to implement them. In this publication, you will find a section dedicated to:

- Quorum court Ordinances and Necessary Contracts
- Emergency Medical Services
- Improvement Districts and Board of Commissioners
- Improvement District Assessments
- City Ordinances and Franchise Agreements
- Inter-Governmental Cooperation Council and 911 Emergency Dispatch
- Trauma System and Department of Health Regulations; and

Each section will include sections of applicable Arkansas Code and may include Attorney General Opinions, and relevant Case Law. This guidebook is intended as a guide and not a substitute for actual legal counsel, for further questions or concerns please consult with your County Attorney or the Association of Arkansas Counties.

A.C.A. § 14-14-802(b) Ordinances by Quorum court and Necessary Contracts

Many Counties provide for funding assistance for ambulance services and emergency medical response through appropriations from the Quorum courts and contracts for services. County Government has home rule as per Amendment 55: "*The County acting through its Quorum court may exercise local legislative authority not denied by the Constitution or by Law*". Also, A.C.A. § 14-14-802(b) provides that: (1)"*A County Government, acting through the Quorum court, may provide by Ordinance for the establishment of any service or the performance of any function not expressly prohibited by the Arkansas Constitution or by Law. (2). These services and functions include but are not limited to, the following services and facilities:* (D). Emergency services, including ambulance services, public health and hospital services, etc. It remains that the County Judge acting as Chief Executive Officer under Amendment 55 is responsible for entering into all necessary contracts and administering Ordinances as provided by A.C.A. § 14-14-1101 and 1102.

This section includes Ordinances and Contracts demonstrating the variety of manners in which a County provides for ambulance services and emergency medical services for the citizens. These documents are intended to assist you and your County Attorney not to supply legal *advice per se.* Please consult your County Attorney in adopting Ordinances or drafting agreements pertaining to ambulance services and/or emergency medical services. **We have provided an outline below of some of the components or provisions seen from Ordinances we have on file from the AACRMF Ordinance scans. Please refer to the Appendix Section 1 for examples of County Ordinances.**

City Ordinances

Various cities in Arkansas have Ordinances regarding ambulance and emergency medical services. These Ordinances are typically intended to establish a regulated ambulance service system that can provide each ambulance patient with the best possible chance of survival without disability or preventable complication. Municipal Ordinances typically will provide rules for exclusivity, regulation, and procurement or bidding procedures.

Through their Municipal Code, Little Rock clearly establishes the general purpose and intent of their ambulance service laws:

> It is the purpose of Section 5-58 of the Little Rock Municipal Code to establish a regulated ambulance service system that can provide each ambulance patient with the best possible chance of survival without disability or preventable complication.
>
> It is the intent of the Board of Directors of the City that:
>
> 1.) Exclusivity is mandatory because it is neither fair nor financially feasible to require a high level of emergency performance from one (1) ambulance company while simultaneously allowing other ambulance companies to select certain preferred non-emergency business.
>
> 2.) Substantive regulation requiring clinical excellence and citywide lifesaving response time performance cannot reasonably be imposed on an unsubsidized ambulance company without simultaneously granting that ambulance company an exclusive contract to furnish all ambulance service, both emergency and nonemergency, to residents of the City.
>
> 3.) If the ambulance authority is not operated as a public facilities board (with ambulance services provided by employees of the board), it may, after bid procedures, select a private ambulance company for an exclusive contract to provide ambulance personnel to operate the ambulance service in the City. The ambulance company shall provide the ambulance personnel necessary to operate the equipment owned by the authority and to provide those management functions delegated to it under contract by the ambulance authority. The ambulance authority shall own, or serve, as a primary lessee of all ambulance and communication equipment, do all billings and collections and shall provide all administrative oversight for the ambulance service system. Nothing in this paragraph shall prevent the ambulance authority from operating the ambulance service and providing its own personnel.

The Little Rock Municipal Code is a very good resource for understanding how cities attempt to provide and regulate ambulance services. In the following pages, a selection of relevant Municipal Ordinances will be provided for your convenience.

Please refer to Appendix Section 2 for Little Rock Ordinances.

Franchise Agreements

The Arkansas Code states the legislature determined that it is desirable for cities of the first class and the second class to be authorized and empowered to own, operate, permit, control, manage, franchise, license, and regulate emergency medical services, emergency medical technicians, emergency and nonemergency ambulances, ambulance companies, their relative properties, facilities, equipment, personnel, and any and all aspects attendant to providing emergency medical services and ambulance operations.

Additionally , it is legislatively determined that, in order to accomplish the purposes enumerated in A.C.A. § 14-266-101, it may also be necessary for the cities, in addition to all other powers granted in this chapter, to enact and establish standards, rules, and regulations that are equal to, or greater than, the minimum standards, rules, and regulations established by the State.

The following section provides the legislative determination, definitions, applicability, construction, grant of authority, EMS board authority, financing, rules, standards, and regulations of municipal ambulance licensing.

Franchise Agreement & Ambulance Licensing Laws

"Ambulance Licensing Act"

Effective: August 1, 2017
A.C.A. § 14-266-101 Title

This chapter shall be known as the "Ambulance Licensing Act".

Credits
Acts of 1981 (Ex. Sess.), Act 23, § 1; Acts of 2017, Act 1122, § 1, eff. Aug. 1, 2017.
Formerly A.S.A. 1947, § 19-5901.
A.C.A. § **14-266-101**, AR ST § **14-266-101**
The constitution and statutes are current through the end of the 2019 Regular Session of the 92nd Arkansas General Assembly.

Effective: July 24, 2019
A.C.A. § 14-266-102. Legislative Determination

(a)(1) It is legislatively determined that it may be desirable for cities of the first class, cities of the second class, and counties within this State to be authorized to own, operate, permit, control, manage, franchise, license, and regulate emergency medical services, emergency medical technicians, emergency and nonemergency ambulances, ambulance companies, their relative properties, facilities, equipment, personnel, and all aspects attendant to providing emergency medical services and ambulance operations as the cities and counties may deem proper to provide for the health, safety, and welfare of their citizens.

(2) In addition, it is legislatively determined that, in order to accomplish the purposes enumerated in this chapter, it may also be necessary for the cities and counties, in addition to all other powers granted in this chapter, to enact and establish standards, rules, and regulations that are equal to, or greater than, the minimum standards and rules established by the State, pursuant to §§ 20-13-201 -- 20-13-209 and 20-13-211, concerning emergency medical services, emergency medical technicians, ambulances, ambulance companies, their relative properties, facilities, equipment, personnel, and all aspects attendant to providing emergency medical services and ambulance operations within the boundaries of their respective Cities or in respect to the unincorporated areas of the County.

(3) Further, it is the legislative intent that the standards, rules, and regulations shall not be less than those established by the State.

(b)(1) It is further legislatively determined that emergency medical services and ambulance operations, when subjected to competitive practices of multiple companies simultaneously serving the same City or with respect to the unincorporated areas of the County, operate under precarious financial conditions and that this type of competition is harmful to the health, safety, and welfare of residents of the state.

(2) However, it is also legislatively determined that periodic competition among companies for the right to provide ambulance services offers a safe and effective means of encouraging fair and equitable private-sector participation.

(3) Therefore, in order to ensure the availability of state-of-the-art advanced life-support systems and ambulance systems, the General Assembly specifically delegates and grants to cities of the first class, cities of the second class, and counties the power to contract exclusively or otherwise, using competitive procurement methods, for the provision of emergency medical services and ambulance services for the City and within the unincorporated areas of the County to provide continuing supervision of those services.

(c)(1) The General Assembly has determined that this chapter grants cities of the first class, cities of the second class, and counties broad authority regarding emergency medical services and nonemergency medical services.

(2) The General Assembly has further determined that cities of the first class, cities of the second class, and counties should be allowed to enter into agreements with other cities within the County where they are located or with the County wherein they are located regarding emergency medical services and nonemergency medical services.

(3) Therefore, cities of the first class and cities of the second class may enter into interlocal agreements with other cities located within the County wherein the city of the first class or city of the second class is located, or with the County wherein the city of the first class or city of the second class is located, and thereby exercise as a cooperative governmental unit all power granted to the city of the first class, city of the second class, or County by this chapter.

Credits

Acts of 1981 (Ex. Sess.), Act 23, § 2; Acts of 1987, Act 407, § 3; Acts of 1989, Act 196, § 1; Acts of 2017, Act 1122, § 2, eff. Aug. 1, 2017; Acts of 2019, Act 315, § 1039, eff. July 24, 2019.

Formerly A.S.A. 1947, § 19-5902.

A.C.A. § 14-266-102, AR ST § 14-266-102

The constitution and statutes are current through the end of the 2020 First Extraordinary Session and the 2020 Fiscal Session of the 92nd Arkansas General Assembly and changes made by the Arkansas Code Revision Commission received through July 10, 2020.

Effective: August 16, 2013
A.C.A. § 14-266-103 Definitions

As used in this chapter:
(1) “Emergency medical services” means the transportation and emergency medical services personnel care provided to the critically ill or injured before arrival at a medical facility by licensed emergency medical services personnel and within a medical facility subject to the individual approval of the medical staff and governing board of that facility; and
(2)(A) “Nonemergency ambulance services” means the transport in a motor vehicle to or from medical facilities, including without limitation hospitals, nursing homes, physicians' offices, and other health care facilities of persons who are infirm or injured and who are transported in a reclining position.
(B) “Nonemergency ambulance services” does not include transportation provided by licensed hospitals that own and operate the ambulance for their own admitted patients.

Credits
Acts of 1981 (Ex. Sess.), Act 23, § 3; Acts of 2009, Act 689, § 3, eff. July 31, 2009; Acts of 2011, Act 778, § 4, eff. July 27, 2011; Acts of 2013, Act 1218, § 1, eff. Aug. 16, 2013.
Formerly A.S.A. 1947, § 19-5903.
A.C.A. § 14-266-103, AR ST § 14-266-103
The constitution and statutes are current through the end of the 2020 First Extraordinary Session and the 2020 Fiscal Session of the 92nd Arkansas General Assembly and changes made by the Arkansas Code Revision Commission received through July 10, 2020.

Effective: August 1, 2017
ACA § 14-266-104 Applicability and Construction

(a) This chapter does not apply to nonprofit or hospital-based ambulance services operated on November 1, 1981, by a nonprofit organization or an Arkansas hospital licensed by the Department of Health.
(b) This chapter does not expand the authority of emergency medical technicians or other ambulance personnel beyond the authority existing under applicable law.
(c) This chapter does not give cities or counties the power to regulate Regional or State emergency medical service communication facilities.

Credits
Acts of 1981 (Ex. Sess.), Act 23, § 3; Acts of 2017, Act 1122, § 3, eff. Aug. 1, 2017.
Formerly A.S.A. 1947, § 19-5903.
A.C.A. § 14-266-104, AR ST § 14-266-104
The constitution and statutes are current through the end of the 2020 First Extraordinary Session and the 2020 Fiscal Session of the 92nd Arkansas General Assembly and changes made by the Arkansas Code Revision Commission received through July 10, 2020.

Effective: August 1, 2017
A.C.A. § 14-266-105 Grant of Authority

(a) Cities of the first class, cities of the second class, and counties may:
(1)(A) Enact and establish standards, rules, and regulations that are equal to or greater than those established by the State concerning emergency medical services and emergency medical services personnel, emergency and nonemergency ambulances, and ambulance companies, as defined under §§ 20-13-201 -- 20-13-209 and 20-13-211.

(B) However, the standards, rules, and regulations shall not be less than those established by this State;

(2) Establish, own, operate, regulate, control, manage, permit, franchise, license, and contract with, exclusively or otherwise, emergency medical services, ambulances, ambulance companies, and their relative properties, facilities, equipment, personnel, and any aspects attendant to emergency medical services and ambulance operations, whether municipally owned or otherwise, including without limitation:

(A) Rates;

(B) Fees;

(C) Charges; and

(D) Other assessments the Cities and Counties consider proper to provide for the health, safety, and welfare of their citizens;

(3) Establish an emergency medical healthcare facilities board, hereinafter called "Emergency Medical Services Board" or "EMS Board", under the Public Facilities Boards Act, § 14-137-101 et seq., and exercise all the powers conferred in this chapter and the power conferred under the Public Facilities Boards Act, § 14-137-101 et seq., either alone or in conjunction with the EMS Board;

(4) Provide emergency medical services to its residents and to the residents of the County, surrounding counties, and municipalities within those counties, but only if the governing bodies of the counties and municipalities request and authorize the service under § 14-14-101, §§ 14-14-103 -- 14-14-110, or the Interlocal Cooperation Act, § 25-20-101 et seq.; and

(5) Regulate:

(A)(i) All intracity patient transports, all intercity patient transports, and all intracounty patient transports originating from within the regulating City.

(ii) However, this chapter does not restrict or allow:

(a) Local regulation of ambulances owned and operated by a licensed hospital for its own admitted patients, except as provided in subdivisions (a)(5)(B) and (a)(5)(D) of this section; or

(b) County regulation of transportation provided by a medical facility;

(B)(i) Patient transports, by the patient's choice of either the emergency medical service provided by the regulating City, regulating County, or the emergency medical service that is owned and operated by the licensed hospital for its own admitted patients, to the regulating City or regulating County originating from a medical facility outside the regulating City or cooperative governmental unit.

(ii) If the medical facility does not operate an emergency medical service and the patient has chosen to be transported by the medical facility, then the patient shall be transported by the emergency medical service provided by the City or County in which the medical facility is located;

(C) Patient transports originating from within the regulating City or County by emergency medical service providers with an existing special purpose license issued by the Department of Health on July 31, 2009; and

(D) Patient transports authorized by the regulating City's or County's franchised emergency medical service provider if the provider has entered into a mutual aid agreement with a third-party ambulance service, including without limitation a hospital-owned ambulance service to provide patient transports, and if the franchised emergency medical service provider cannot provide patient transports in a timely manner under the franchise agreement.

(b)(1) A City or County regulating ambulance companies that contracts with private ambulance companies under this chapter shall permit those companies to offer ambulance services outside its boundaries.

(2) A City or County regulating ambulance services, when the municipality or County owns or operates those ambulance services, shall provide ambulance services to those surrounding areas whose governing bodies request and authorize those ambulance services but only if mutually agreeable contracts can be reached to provide those ambulance services.

(3) All direct and indirect costs of extending those ambulance services shall be borne entirely by patient-user fees or subsidies provided by the patient, municipality, or County to whom those ambulance services are rendered.

(4) The City or County extending ambulance services beyond its boundaries is not required to subsidize or otherwise extend financial support to render those ambulance services.

(c) The City or County has the same authority to regulate nonemergency ambulance services.

Credits

Acts of 1981 (Ex. Sess.), Act 23, § 3; Acts of 1989, Act 196, § 2; Acts of 2009, Act 689, § 4, eff. July 31, 2009; Acts of 2009, Act 1448, § 1, eff. July 31, 2009; Acts of 2013, Act 1218, § 2, eff. Aug. 16, 2013; Acts of 2017, Act 1122, § 4, eff. Aug. 1, 2017.

Formerly A.S.A. 1947, § 19-5903.

A.C.A. § 14-266-105, AR ST § 14-266-105

The constitution and statutes are current through the end of the 2020 First Extraordinary Session and the 2020 Fiscal Session of the 92nd Arkansas General Assembly and changes made by the Arkansas Code Revision Commission received through July 10, 2020.

Effective: August 1, 2017
A.C.A. § 14-266-106 EMS Board; Powers and Duties

(a)(1) In addition to the powers granted under the Public Facilities Boards Act, § 14-137-101 et seq., the EMS board, unless limited by the governing body of the City or County, has unlimited authority, by negotiation or by bidding, to own, acquire, lease, construct, contract, operate, manage, improve, extend, maintain, control, permit, license, supervise, and regulate emergency medical services, ambulances, ambulance companies, their related properties, facilities, equipment, personnel, and all aspects attendant to providing emergency medical services and ambulance operations in the City or County.

(2) The authority under subdivision (a)(1) of this section includes without limitation the right to employ, regulate, license, and remove personnel, assistants, and employees and to regulate and fix their compensation.

(b) The EMS board may also appoint an executive director who shall not be a member of the EMS board and who shall serve at the pleasure of the EMS board and receive such compensation as shall be fixed by the EMS board.

(c) The members of the EMS board shall receive no compensation but shall be entitled to reimbursement of expenses incurred in the performance of their duties.

Credits

Acts of 1981 (Ex. Sess.), Act 23, § 5; Acts of 2017, Act 1122, § 5, eff. Aug. 1, 2017.

Formerly A.S.A. 1947, § 19-5905. A.C.A. § 14-266-106, AR ST § 14-266-106

The constitution and statutes are current through the end of the 2020 First Extraordinary Session and the 2020 Fiscal Session of the 92nd Arkansas General Assembly and changes made by the Arkansas Code Revision Commission received through July 10, 2020.

Effective: August 1, 2017
A.C.A. § 14-266-107 Franchise

(a) Cities of the first class, cities of the second class, and counties, whether or not they establish an EMS board as provided in this chapter, have all the powers that an EMS board is granted in this chapter and may exercise those powers alone or in conjunction with an EMS board.

(b) The cities and counties may franchise, exclusively or otherwise, emergency medical services, ambulances, ambulance companies, their related properties, facilities, equipment, personnel, and all

aspects attendant to providing emergency medical services and ambulance operations within the cities or counties, whether or not owned and operated by the cities or counties.
(c) If an exclusive franchise is issued, the process employed in the issuance shall provide periodic opportunity for competitive solicitation of ambulance franchise applications.
Credits
Acts of 1981 (Ex. Sess.), Act 23, § 6; Acts of 1989, Act 196, § 3; Acts of 2017, Act 1122, § 6, eff. Aug. 1, 2017.
Formerly A.S.A. 1947, § 19-5906.
A.C.A. § 14-266-107, AR ST § 14-266-107
The constitution and statutes are current through the end of the 2020 First Extraordinary Session and the 2020 Fiscal Session of the 92nd Arkansas General Assembly and changes made by the Arkansas Code Revision Commission received through July 10, 2020.

A.C.A. § 14-266-108 Financing; Service Charges and Bonds

(a) The emergency medical services and emergency medical health care facilities anticipated by this chapter may be financed by service charges and bonds or by subsidy by some governmental agency.
(b)(1) The bonds, which shall be issued under §§ 14-137-101 -- 14-137-123, may be financed by service charges and rates levied by Ordinance.
(2) The service charges and rates shall be assessed and collected on a per unit of service basis as determined by the EMS Board.
Credits
Acts of 1981 (Ex. Sess.), Act 23, § 4.
Formerly A.S.A. 1947, § 19-5904.
A.C.A. § 14-266-108, AR ST § 14-266-108
The constitution and statutes are current through the end of the 2020 First Extraordinary Session and the 2020 Fiscal Session of the 92nd Arkansas General Assembly and changes made by the Arkansas Code Revision Commission received through July 10, 2020.

A.C.A. § 14-266-109 Rules and Regulations

(a) All rules, standards, and regulations concerning clinical medical standards, including, but not limited to, equipment standards, personnel standards, and training standards shall be submitted to the State Board of Health with advice from the Governor's Advisory Council for EMS through the Department of Health for review and approval before becoming effective.
(b)(1) Approval shall not be required if the clinical medical standards are developed and approved by an organization of physicians licensed under the Arkansas Medical Practices Act, and authorized by local Ordinance adopted pursuant to this chapter to establish clinical medical standards which are not in conflict with the Arkansas Medical Practices Act, and are not less than those established by this state.
(2) In this instance, the clinical medical standards so developed and approved shall be submitted to the State Board of Health with advice from the Governor's Advisory Council for EMS through the Department of Health for review and comment only.
Credits
Acts of 1981 (Ex. Sess.), Act 23, § 3.
Formerly A.S.A. 1947, § 19-5903.
A.C.A. § 14-266-109, AR ST § 14-266-109

The constitution and statutes are current through the end of the 2020 First Extraordinary Session and the 2020 Fiscal Session of the 92nd Arkansas General Assembly and changes made by the Arkansas Code Revision Commission received through July 10, 2020.

A.C.A. § 14-266-110 Expiration of Permit; Consequence

The revocation, suspension, or expiration of any permit, license, or certification issued by the Department of Health to an ambulance company or ambulance personnel shall cause an automatic revocation of the holder's permit, license, certification, or franchise granted under this chapter.

Credits

Acts of 1981 (Ex. Sess.), Act 23, § 3.

Formerly A.S.A. 1947, § 19-5903.

A.C.A. § 14-266-110, AR ST § 14-266-110

The constitution and statutes are current through the end of the 2020 First Extraordinary Session and the 2020 Fiscal Session of the 92nd Arkansas General Assembly and changes made by the Arkansas Code Revision Commission received through July 10, 2020.

Emergency Medical Services

The "Emergency Medical Services Act", A.C.A. § 20-13-201 et seq., provides State level requirements for emergency medical services. State powers and duties are clearly stated in A.C.A. § 20-13-201, from the powers stated in this section, ambulance standards can be prescribed. The General Assembly has amended the Emergency Medical Services Act to clarify its application to ambulance service, they stated that the present law regulating ambulance services in this State is too narrow; that uncertified and poorly equipped ambulances are lawfully operating because the present law is too narrow; that such circumstances are to the detriment of the people who are being transported by those services.

It is the intent of the subchapter on County Programs under Ark Code 20-13-301 et seq. is to authorize the quorum court in any County to provide emergency medical services for residents of the County or any designated area of the County and to provide for levying service charges upon residents of the area to provide funds for the purchase of equipment, the maintenance and operation of equipment, and the payment for personal services necessary to provide the services.

This section of the guidebook will provide a recitation of Arkansas laws regarding Emergency Medical Services and County programs, selected Attorney General Opinions, and Arkansas Case Law.

Emergency Medical Services Arkansas Code (A.C.A. § 20-13-301 et seq.):

A.C.A. § 20-13-301. Purpose: It is the intent of this subchapter to authorize the quorum court in any county to provide emergency medical services for residents of the county or any designated area of the county and to provide for levying service charges upon residents of the area to provide funds for the purchase of equipment, the maintenance and operation of equipment, and the payment for personal services necessary to provide the services.

A.C.A. § 20-13-302 Supplemental nature of provisions

The procedures prescribed in this subchapter for the establishment of an emergency medical services program and the furnishing of emergency medical services shall be supplemental to and shall not be construed to repeal or modify any law presently in existence relating to the furnishing of such services.

A.C.A. § 20-13-303 Petition—Establishment—Hearing

- **(a)** The quorum court of any County on its own motion or upon petition of ten percent (10%) of the electors of the County or any designated area of the County may establish by Ordinance a system to provide emergency medical services to the residents of the County or the designated area.
- **(b)**
    - **(1)** When a Quorum court proposes to enact an Ordinance to provide emergency medical services, whether on its own motion or upon petition of electors, it shall set a date for a public hearing on the question and shall cause notice of the time and place

of the hearing to be published in a newspaper of general circulation in the County or in the area proposed to be served.

- **(2)** All interested parties residing in the County or in the designated area shall have an opportunity to appear and be heard either for or against the establishment of the system.

- **(3)** At the next meeting of the Quorum court after the hearing, the Quorum court may adopt an Ordinance establishing the emergency medical services system for the County or the designated area of the County or may refuse to act further on the matter.

- **(c)** If after the hearing the Quorum court enacts an Ordinance establishing a system, the Ordinance shall specifically describe the area to be included within the system, shall describe the services to be provided the residents of the area, and shall specifically state the estimated cost of the services and the proposed method of financing the services, and such other matters as the Quorum court deems appropriate to publicly advise residents of the County or the designated area of the purposes and costs of the system established in the Ordinance.

A.C.A. § 20-13-304 Enactment of ordinance—Publication—Referendum

- **(a)** Within ten (10) days after the enactment of the Ordinance, a copy of the Ordinance in its entirety shall be published in a newspaper of general circulation in the County or in the designated area.

- **(b)** The Ordinance shall be subject to the referendum which may be exercised in the manner prescribed in Arkansas Constitution, Amendment 7 and laws enacted pursuant to Arkansas Constitution, Amendment 7, and the Ordinance shall not be effective until the expiration of the time prescribed by the Arkansas Constitution and laws for the filing of referendum petitions.

- **(c)**

  - **(1)** If at the expiration of the period for filing referendum petitions no petitions have been filed, the Ordinance shall become effective.

  - **(2)** If referendum petitions have been filed, the Ordinance shall be held in abeyance until the election thereon is conducted and the results determined.

- **(d)**

  - **(1)** If at the election a majority of the qualified electors of the County or the designated area voting on the question vote for the Ordinance, it shall become effective.

  - **(2)** If a majority of the qualified electors voting on the question at the election vote against the Ordinance, it shall be deemed rejected and shall have no force or effect.

A.C.A. § 20-13-305 Financing by service charges

- **(a)** Emergency medical services to be provided the residents of any County or any designated area of the County pursuant to the provisions of this subchapter may be financed by service charges levied in the Ordinance establishing the service.

- **(b)**

    - **(1)** The service charges may be assessed and collected on a per capita, per household, or per unit of service basis or a combination of any of these, as may be determined by the quorum court, and shall be collected in such manner as may be prescribed by Ordinance of the Quorum court.

    - **(2)** If the Quorum court elects by Ordinance to have the service charges entered on ad valorem tax notices and collected by the County collector at the time of collecting real and personal property taxes, the collector shall not accept payment of any ad valorem taxes unless the taxpayer at the same time pays any service charges billed to him or her to finance emergency medical services.

- **(c)** All funds derived from the levy of service charges to support the furnishing of emergency medical services in the County or designated area shall be used only for the purposes for which levied, and a separate account shall be maintained in the County treasury in which all funds shall be deposited.

- **(d)**

    - **(1)** The funds shall be expended only on appropriation of the quorum court and shall be subject to the same accounting and disbursement procedures and requirements as other County funds.

    - **(2)** A quorum court may expend the funds directly to an emergency medical services provider selected for the area without observing the accounting requirements of other County funds if:

        - **(A)** The quorum court appropriates the funds for that purpose;

        - **(B)** The voters of an Emergency Medical Services District have approved the collection of service charges by placement of those fees on the ad valorem tax notices; and

        - **(C)** The quorum court determines by resolution that the annual cost of providing emergency medical services to the District exceeds the annual amount collected as service charges by the placement of the service charges on the ad valorem tax notices.

Attorney General Opinions
Emergency Medical Services:

Attorney General Opinion 2001-241

Opinion Summary:

The Attorney General opined that a County can grant an emergency service provider the privilege of being the exclusive provider or emergency medical services for the County.

Opinion in Full:

Can Izard County or any County give a franchise for [emergency medical] services? The question has come about because the provider for EMS [Emergency Medical Services] in Izard County has requested that 'Franchise' be specified in the new contract.

Response:

A conclusive answer to this question may depend upon the parties' exact intent in specifying a "Franchise." The term "Franchise" is defined, generally, as "a special privilege granted to an individual or group." Webster's Seventh New Collegiate Dictionary 332 (1972). A question remains, however, regarding the special privilege to be granted under the particular agreement. I lack the resources and authority, moreover, to construe the agreement.

Clearly, a County has the authority to establish an Emergency Medical Service pursuant to A.C.A. § 14-14-802 (b) (2) (D). And it may contract with a service provider for this purpose. See generally West Washington County Emergency Medical Services vs. Washington County, 313 Ark. 76, 852 S.W.2d 137 (1993) and Vandiver vs. Washington County, 274 Ark. 561, 628 S.W.2d 1 (1982). Additionally, it is suggested in previous opinions of this office that while a County cannot grant an exclusive franchise to provide non-emergency ambulance services, an exclusive agreement for emergency ambulance services is contemplated as falling within the County's authority to provide for emergency medical services. See Attorney General Opinion Nos. 96-236, 95-311and 87-474.

It is therefore my opinion that a County can grant an emergency service provider the privilege of being the exclusive provider of emergency medical services for the County. I suggest, however, that the County consult with counsel to whom it ordinarily looks for advice in addressing any issue(s) involving the drafting or interpretation of a specific contract.

Attorney General Opinion 2001-007

Opinion Summary:

The Attorney General provided an opinion regarding the legality of a contract for the provision of emergency medical services in Izard County. The Attorney General opined that federal law does not prohibit a County from negotiating a contract with a provider of emergency services under which the provider agrees to forbear directly billing patients who have elected to pay an annual fee for such services.

Opinion in Full:

I am writing in response to your request for my opinion regarding the legality of a contract for the provision of Emergency Medical Services ("EMS") in Izard County. You have reported the facts as follows:

Izard County established by vote of the people an EMS in Izard County. The vote on this issue took place around 1980. Since that time, the EMS Board has contracted the service to some provider for a bid price.

The Ordinance, as voted on by the people, directed that each household would pay Fifteen Dollars ($15.00) per year affixed to their tax statement. This fee would guarantee emergency medical service to each household. The Ordinance also stated that providers could file on any individual insurance or available Medicare. The Ordinance prohibited the provider from billing any paid covered household for additional money.

The new provider has advised the EMS Board that not being able to bill the covered household would violate a Federal Law. The Ordinance does allow the provider to bill households that do not pay their Fifteen Dollar ($15.00) fee. . . . No prior provider has had a problem. The people understand they have EMS coverage for their Fifteen Dollars ($15.00) and should not be sent bills their insurance or Medicare would not pay.

Given this background, you have asked me to address the following question:

Do the billing provisions of the EMS contract as authorized by the Izard County Ordinance violate any federal law?

Response:

I am neither equipped nor authorized to answer your question, since doing so will entail a factual inquiry into the precise terms of the Ordinance and the service contract at issue. You have further failed to specify what federal law the new provider claims the described billing procedure would violate. However, I have located one California precedent that challenged a similar program under the False Claims Act, 31 U.S.C. §§ 3729-3733 (the "FCA"). In my opinion, assuming the program was impartially administered, it should withstand any such challenge.

I gather from your description of the Izard County EMS program that it was organized pursuant to Act 51 of 1979, currently codified at A.C.A. § 20-13-301 et seq., which authorizes any County, subject to certain procedural requirements, to establish by Ordinance an EMS system funded in whole or in part by a levy of service charges. Although it is unclear in your request, I assume Izard County has contracted with an EMS provider to serve the area for a base "bid price" in the nature of a subsidy. In the case of those residents who use the service and have elected to pay the Fifteen Dollars ($15.00) annual levy, the EMS provider may apparently seek recovery of its fees from any available insurance or Medicare. By contrast, in the case of users who have elected not to pay the levy, the EMS provider may additionally seek recovery personally from the patient. At issue in your request is whether some federal law might bar this arrangement.

I have found only one instance in any jurisdiction in which a plaintiff has contended that an arrangement of the sort you have described violates federal law. In A-1 Ambulance Service, Inc. vs. California et al., 202 F.3d 1238 (9th Cir. 2000), an unsuccessful bidder to provide ambulance service to various counties sued two counties and two successful bidders in those counties for alleged violations of the FCA. The Ninth Circuit Court of Appeals summarized the plaintiff's theory of liability as follows:

A-1 Ambulance Service alleges that the Counties' ambulance service contracts perpetrate a fraud upon the federal government in violation of the False Claims Act. In a nutshell, A-1 Ambulance Service contends that the costs of providing ambulance services to County-responsible indigents are unlawfully shifted from the Counties to private and third-party payors, including the federal Medicare program. Such unlawful cost-shifting occurs, A-1 Ambulance Service argues, because the Counties' ambulance service contracts offer little or no subsidy to cover the costs of ambulance services for their indigent populations. According to A-1 Ambulance Service, therefore, Med-Trans and Pen-Med are forced to charge artificially inflated rates to Medicare-covered patients in order to offset the losses incurred when rendering ambulance services to indigent patients. As a result, A-1 Ambulance Service claims that the Counties' ambulance service contracts effectively compel the Federal Government, in violation of the Medicare Act, to subsidize ambulance services at "exorbitant" rates for indigent patients who are otherwise ineligible for Medicare benefits. 202 F.3d at 1242.

The court further characterized this claim as follows:

In its *qui tam* action, A-1 Ambulance Service essentially alleges that the Counties, together with Med-Trans and Pen-Med, conspired to shift some of the costs of emergency ambulance services from the Counties to Medicare in violation of the anti-kick-back provisions of the Medicare Act, 42 U.S.C. § 1320a-7b. Id. at 1241.

The plaintiff's argument, then, was basically that Medicare-eligible claimants were being overcharged in order to subsidize emergency services to indigent patients. Although the Ninth Circuit Court somewhat dismissively characterized this argument as a "novel legal theory of fraud," id. at 1245, it affirmed the District Court's dismissal of the plaintiff's claim on another ground – namely, that the plaintiff lacked standing to sue because the terms of the service agreements had been publicly disclosed in open hearings, thus triggering the jurisdictional bar against *qui tam* suits set forth at 31 U.S.C. § 3720(e)(4)(A). 202 F.3d at 1243, 1245.

In the present case, assuming the successful "bid price" referenced in your request is inadequate to defray the costs of providing emergency services, and further assuming Medicare-eligible recipients of emergency services are charged rates in excess of the actual cost of their emergency care, thereby arguably subsidizing such services to the indigent, a plaintiff might conceivably allege a violation of the FCA on the theory advanced in A-1 Ambulance Service. However, I strongly doubt any such challenge would be successful. I see no principled distinction between inflation in the cost of emergency services, which was at issue in A-1 Ambulance Service, and inflation in the cost of medical care generally, which I am unaware has ever been challenged as perpetrating a fraud on Medicare. So far as I can determine, the government itself has never prosecuted an action under the FCA alleging a fraud of the sort alleged in A-1 Ambulance Service. Moreover, in my opinion any *qui tam* action alleging such a fraud would in all likelihood be dismissed on jurisdictional grounds if the statutory requirements of public notice and hearings were met. See A.C.A. § 20-13-301 et seq.

In summary, as a general proposition, I do not believe federal law prohibits a County from negotiating a contract with a provider of emergency services under which the provider agrees to forbear directly billing patients who have elected to pay an annual fee for such services. However, as previously noted, I cannot opine on the particular contract that gave rise to your request. I suggest the County consult local counsel for guidance.

Attorney General Opinion 2011-053

Opinion Summary:

The Attorney General discussed several questions regarding the Trauma System Act. Although the Attorney General was not able to answer multiple questions because of the factual nature of the inquiries, the Attorney General stated that the Trauma System would not be responsible for additional ambulances throughout the state for the backfield cover needs.

Opinion in Full:

You have requested my opinion on several questions concerning the Trauma System Act, which was originally enacted under Act 559 of 1993, and most recently amended by Act 393 of 2009. As background for your questions, you state:

The Trauma System will require the transport of trauma patients to a designated center, often times outside of the service area of that ambulance service. The reality of this will, for many rural services with few resources, mean leaving the area without service for an extended time. While many services have a "backfield" arrangement with a neighboring service, that service may not be able to respond immediately.

In the above situation, an ambulance service, by leaving their contracted area without coverage, would be in violation of their franchise agreement, or in violation of the Trauma System rules if they did not transport as the Trauma Call Center determined.

Against this backdrop, you ask:

What are the legal ramifications to a private service versus a municipally owned/operated service?

What are the legal ramifications to service that might be owned and operated by a City, and subsidized by the County versus a private service or a municipally owned service?

Are any liability issues facing any type of service?

Would the Trauma System be responsible for additional ambulances throughout the State for the backfield cover needs?

If the answer to #4 is yes, would this not be a violation of the current franchise system for contracting for ambulance service?

If the answer to #4 is no, who is responsible?

Response:

I am unable to opine in response to your first three (3) questions due to their inherently factual nature. Regardless of their context, liability-related issues are generally factually intensive and require knowledge of the specific surrounding circumstances. I lack the resources and the authority to develop the myriad factual considerations that bear on such issues.

In addition, these particular questions concerning the possible legal consequences of participating in the Trauma System require guesswork and speculation and may turn in part on contractual terms along with other facts pertinent to the ambulance service at issue. Questions of this nature are simply outside the scope of an Attorney General Opinion. They must be answered instead on the local level, ideally with the assistance of Local Counsel. Local Counsel will be situated to assess what appear to be the practical implications of participation in the Trauma System, and to advise regarding a course of action in light of that assessment.

Question 4 - Would the Trauma System be responsible for additional ambulances throughout the State for the backfield cover needs?

I believe the answer to this question is "no" under the Trauma System Act as currently structured. According to my understanding, requiring a backfill plan as a condition of receiving Trauma System Grant Funds was a regulatory means of addressing the concern you have identified regarding emergency medical service providers' existing service obligations. In my opinion, the Arkansas Department of Health has reasonably imposed this requirement pursuant to its clear authority to develop and implement the Trauma Care System. Presumably, the Department recognized that certain grant recipients may be faced with the situation you have described, and that it was necessary to address that situation in order to ensure the efficacy of the Trauma System which depends in the first instance upon the participation of as many emergency medical service providers as possible. However, given that participation in the Trauma System is not mandatory, I see no basis for concluding that the System bears responsibility for additional ambulance service in that situation.

Question 5 - If the answer to #4 is yes, would this not be a violation of the current franchise system for contracting for ambulance service?

A response to this question is unnecessary in light of my negative response to Question 4.

Question 6 - If the answer to #4 is no, who is responsible?

There is no controlling State Law on this issue. For this reason, I am unable to opine in response to this question. It may well be that this is a matter that calls for legislative action. But I cannot, in the absence of any controlling State Law provision, undertake to clarify the matter.

I regret that I am unable to offer assistance in this respect. If there are questions of State Law interpretation, I will of course address the matter and provide a timely response.

Attorney General Opinion 2013-141

Opinion Summary:

The Attorney General stated that ambulance services can decide to opt out of Trauma Systems. (no ambulance service is required to apply for a grant under the Trauma System Act) The Trauma System can promulgate rules requiring an ambulance service to leave its primary coverage to transport a trauma patient to a higher level Trauma Center that would result in the ambulance service not providing adequate coverage as established by local contracts or franchise agreements or adequate coverage as established by local governments, and the trauma system can promulgate rules requiring a City fire-based ambulance service to leave its primary coverage to transport a trauma patient to a higher level Trauma Center that would result in the ambulance service not providing adequate coverage as established by the local government and which would result in a reduction in the level of fire protection within the jurisdiction.

Opinion in Full:

This is in response to your request for my opinion on the following questions concerning the Arkansas Trauma System.

Currently hospitals are allowed to "opt out" of pursuing designation as a Trauma Center. Can an ambulance service decide to "opt out" of the Trauma System?

Can the Trauma System promulgate rules requiring an ambulance service to leave its primary coverage to transport a trauma patient to a higher level Trauma Center that would result in the ambulance service not providing adequate coverage as established by local contracts or franchise agreements?

Can the Trauma System promulgate rules requiring an ambulance service to leave its primary coverage to transport a trauma patient to a higher-level Trauma Center that would result in the ambulance service not providing adequate coverage as established by local governments?

Can the Trauma System promulgate rules requiring a City fire-based ambulance service to leave its primary coverage to transport a trauma patient to a higher level Trauma Center that would result in the ambulance service not providing adequate coverage as established by the local government and which would result in a reduction in the level of fire protection within the jurisdiction?

Response:

Although I am somewhat uncertain what you mean precisely by "opt out," no ambulance service is required to apply for a grant under the Trauma System Act. The answer to your first question is therefore "yes," in the sense that an ambulance service may decide not to participate in any allocation of funds under the Act. For the reasons explained below, it is my opinion that the answer to your remaining questions is "yes."

Question 1 - Currently hospitals are allowed to "opt out" of pursuing designation as a Trauma Center. Can an ambulance service decide to "opt out" of the Trauma System?

The Trauma System Act provides for the allocation of funds by the Arkansas Department of Health in the form of grants to "emergency medical services providers, hospitals, or other health care providers that would like to participate in the program." Funding is in the form of "start-up grants" and "sustaining grants":

An emergency medical system care provider or ambulance provider may be eligible for:

The emergency medical system care provider education start-up grants that are used to support trauma education and trauma readiness; or

The emergency medical system care provider sustaining grants that are used to support ongoing trauma education and trauma readiness.

I have found no other language in the Act to counter the clear implication of the above provisions that participation in the System is voluntary and an ambulance service may decide to participate by applying for a grant. Accordingly, the answer to your first question is "yes," in the sense that an ambulance service may decide not to participate in any allocation of funds under the Act.

Question 2 - Can the Trauma System promulgate rules requiring an ambulance service to leave its primary coverage to transport a trauma patient to a higher level Trauma Center that would result in the ambulance service not providing adequate coverage as established by local contracts or franchise agreements?

Question 3 - Can the Trauma System promulgate rules requiring an ambulance service to leave its primary coverage to transport a trauma patient to a higher level Trauma Center that would result in the ambulance service not providing adequate coverage as established by local governments?

Question 4 - Can the Trauma System promulgate rules requiring a City fire-based ambulance service to leave its primary coverage to transport a trauma patient to a higher level Trauma Center that would result in the ambulance service not providing adequate coverage as established by the local government and which would result in a reduction in the level of fire protection within the jurisdiction?

Each of these questions raises an issue that I have previously addressed concerning so-called "backfill" arrangements that involve the cross-jurisdictional provision of emergency services. As I noted in Attorney General Opinion No. 2011-053, "… requiring a backfill plan as a condition of receiving Trauma System Grant Funds was a regulatory means of addressing the concern … regarding emergency medical service providers' existing service obligations." The requirement of "backfill agreements" is thus intended to avoid the situation identified in your questions, in which an ambulance service is unable to meet both local coverage requirements and the Trauma System's transportation requirements.

Considered in light of the above, I take your questions to mean that backfill agreements are not adequate in all circumstances to avoid this situation. I assume that is correct, although I have no information regarding the existence or frequency of such occurrences. In any event, however, it must be concluded that the answer to your questions in this regard is "yes." The fact that this situation may arise is not a basis for avoiding the Trauma System's rules regarding patient transport, in my opinion. As I stated in Opinion 2011-053, these are "practical implications of participation in the Trauma System." It may well be, as I also previously stated, that this matter calls for legislative

action. But in the meantime, I can only reiterate that the situation is appropriately addressed to the ambulance service's local counsel, who will be in a position to fully assess these practical concerns.

Attorney General Opinion 2018-081

Opinion Summary:

A city or county cannot impose a fee on its residents in order to provide emergency medical services under the Ambulance Licensing Act. But a county may impose a fee on residents to provide emergency medical services under Ark. Code Ann. § 20-13-305.

Opinion in Full:

This is in response to your request for an opinion on the financing of emergency services. You have posed the following two questions:
1) May a city or county impose a fee on residents in order to provide emergency medical services under the Ambulance Licensing Act, Arkansas Code Annotated § 14-266-105, or under any other legal theory?

2) May cities and counties enter into agreements in order to fund joint emergency medical services with a private emergency medical service provider?

RESPONSE

In response to your first question, it is my opinion that neither a city nor county may impose a fee on residents in order to provide emergency medical services under Ark. Code Ann. § 14-266-105 (part of the Ambulance Licensing Act), but a county may impose a fee on residents to provide emergency medical services under Ark. Code Ann. § 20-13-305.

The precise focus of your second question is somewhat unclear. Counties and cities plainly have the power to jointly purchase emergency medical services. But if your second question is focused more narrowly on the *means of funding* such services, then it must be recognized, as explained more fully below, that cities and counties can only do jointly what either of them would be authorized to do independently.

DISCUSSION

Question 1: May a city or county impose a fee on residents in order to provide emergency medical services under the Ambulance Licensing Act, Arkansas Code Annotated § 14-266-105, or under any other legal theory?

In asking whether cities or counties can "impose a fee on residents" in order to finance emergency medical services, I take it that by "fee" you mean an exaction that residents would pay regardless of the amount of emergency medical services they happen to individually use.

Section 20-13-305 of the Arkansas Code specifically provides that counties, and only counties, may levy fees—called "service charges"—to finance emergency medical services. The charges may be

"*per capita, per household, or per unit of service basis* or a combination of any of these." But a county wishing to levy charges under this statute must satisfy certain procedural requirements involving notice, a public hearing, and an opportunity for county residents to reject the levy by referendum.

The first half of your question concerning the levying of fees under the Ambulance Licensing Act[4] presents a somewhat more difficult issue. You have called attention to Ark. Code Ann. § 14-266-105, which provides in relevant part that counties and cities of the first and second classes may:

Establish, own, operate, regulate, control, manage, permit, franchise, license, and contract with, exclusively or otherwise, emergency medical services, ambulances, ambulance companies, and their relative properties, facilities, equipment, personnel, and any aspects attendant to emergency medical services and ambulance operations, whether municipally owned or otherwise, including without limitation:

(A) Rates;

(B) Fees;

(C) Charges; and

(D) Other assessments the cities and counties consider proper to provide for the health, safety, and welfare of their citizens[.]

This broad language in section 14-266-105(a)(2) could be read to authorize cities and counties to levy any emergency medical services fee that they "consider proper to provide for the health, safety, and welfare of their citizens." But I do not read it to authorize cities and counties to levy fees of the kind I understand your question to address.

First, it is not at all clear that section 14-266-105(a)(2) grants cities and counties authority to *levy* "[f]ees," "[c]harges," and "[o]ther assessments the cities and counties consider proper[.]" The statute does not use the word ""levy," or any synonym thereof. The only word in the long list of verbs in the opening language that can arguably be interpreted to grant cities and counties the authority to levy their own fees—as opposed to regulating those of providers—is "[e]stablish." But that is an awkward word to use had the General Assembly intended to grant authority to levy fees. Typically, the authority to ""establish fees" applies in the context of fees paid by some regulated industry for licenses or services rendered, not fees for services levied on the general public. In my opinion, section 14-266-105 is best read not to grant cities and counties the authority to "establish" fees, but only to "regulate" or possibly "control" them.

Second, the wording of section 14-266-105(a)(2) is in stark contrast to another section of the Ambulance Licensing Act specifically addressed to financing. That provision—section 14-266-108—provides for "service charges and rates levied ... on a per unit of service basis[.]" It seems doubtful that the General Assembly would go to the trouble of mandating that service charges and rates under section 14-266-108 be assessed only on a per unit of service basis, but allow cities and counties to evade that mandate by imposing per-resident fees pursuant to the vague grant of authority under section 14-266-105 with respect to "[f]ees" and "[o]ther assessments."

Finally, the General Assembly clearly expressed its intent under Ark. Code Ann. § 20-13-305—the county-specific emergency services law noted above—to grant counties the authority, subject to procedural protections, to assess per capita or per household service charges. Had it intended to grant this authority under the Ambulance Licensing Act, that intent could easily have been expressed. Moreover, to conclude otherwise would mean that the procedural prerequisites to counties levying such fees under section 20-13-305—which do not appear in the Ambulance Licensing Act—could be circumvented by levying fees under section 14-266-105(2). In essence, this would mean that counties' addition to the Ambulance Licensing Act in 2017 worked an implied repeal of sections 20-13-303 and 20-13-304's procedural requirements. Implied repeals are "strongly disfavored" and they are only recognized in cases of irreconcilable conflict or instances where the legislature enacts a new law "clearly ... intended as a substitute for the former provision." There is no irreconcilable conflict between the Ambulance Licensing Act and the county-specific emergency services law on this score, because, as explained above, the Ambulance Licensing Act can be read not to authorize the imposition of per capita fees.

It is, therefore, my opinion that neither a city nor county may impose a fee on residents in order to provide emergency medical services under the Ambulance Licensing Act. But a county may impose a fee on residents to provide emergency medical services under Ark. Code Ann. § 20-13-305.

Question 2: May cities and counties enter into agreements in order to fund joint emergency medical services with a private emergency medical service provider?

Each county has a "county intergovernmental cooperation council" formed pursuant to Ark. Code Ann. § 14-27-102, which appears designed to encourage interlocal cooperation in the provision of services:

There is established within each county of this state a county intergovernmental cooperation council to facilitate cooperation among all the local government subdivisions of each county, to encourage the efficient use of local government resources, and to eliminate the duplication of services by local governments.

Among the tasks statutorily charged to each such council is the power to "[e] xplore the use of joint purchasing and buying agreements to purchase goods and services in an effort to achieve economies of scale that would not be possible without mutual cooperation." The council is further expressly charged with periodically reviewing "[a]mbulance and emergency medical services" within the county.

County intergovernmental cooperation councils, therefore, are supposed to consider negotiating joint purchases of services, including emergency medical services. This might result in a service contract between a council and a private entity for the provision of emergency medical services.

While it is not entirely clear from its wording, your second question might be concerned more specifically with *funding* such a service contract. In that case, reference should be made to the Interlocal Cooperation Act, codified at Ark. Code Ann. § 25-20-101 *et seq.* This Act authorizes agreements between cities and counties (and other "public agencies") for "joint cooperative action." Importantly, however, cities and counties can only jointly exercise those powers and privileges that they are independently capable of exercising:

Any governmental powers, privileges, or authority exercised or *capable of exercise by a public agency of this state alone* may be exercised and enjoyed jointly with any other public agency of this state which has the same powers, privileges, or authority under the law....

Cities and counties might, therefore, enter into an Interlocal Cooperation Agreement to jointly fund emergency medical services. But each party to the agreement must have the power to independently undertake whatever method of funding is agreed upon.

Relevant Caselaw

West Washington County Emergency Medical Services vs. Washington County, 313 Ark. 76-(Legality of establishing a County-wide tax to fund emergency medical service)

Plaintiff taxpayers appealed the judgement by the Washington County Chancery Court, which found in favor of defendants County and emergency services provider in the taxpayers' action to enjoin the collection of a tax.

The County contracted with the provider to establish emergency medical services. The taxpayers filed an action to enjoin the collection of the taxes which were used to pay for the services. The trial court found in favor of the County and the provider. On the taxpayers' appeal, the court affirmed. The requirements of a notice, public hearings and a referendum set out in A.C.A. § 20-13-303 (Repl. 1991), applied only when the services were to be financed by potential users. Because the services in question were financed by a sales tax, the statutory requirements did not apply. A.C.A. § 14-4-801 (1987) permitted the County to establish an emergency medical service to be financed by the levy of taxes. The court affirmed the judgment.

Vandiver vs. Washington County, 274 Ark. 561-(Constitutionality of fees and adoption compliance)

Appellant householders and appellees, County, City, and emergency medical service provider, sought review of the decision of the Washington Chancery Court, Second Division (Arkansas), which held that an Ordinance to provide emergency medical service to certain County residents for a Fifteen Dollar ($15.00) annual fee was constitutional but was invalid because it was not adopted in accordance with Act 51, 1979 Arkansas General Assembly, A.S.A. § 82-3410 et seq.

The County passed an Ordinance, ratified by a referendum, imposing an annual fee on each household for emergency medical services. The householders sought a restraining order, challenging the constitutionality of the Ordinance and the legality of the fee. The trial court ruled that the Ordinance was constitutional but that its adoption was procedurally flawed and it was invalid. On appeal, the Court affirmed the constitutionality of the Ordinance, but it reversed the finding that it was invalid due to improper adoption. The court ruled that two (2) acts regarding the adoption of such Ordinances were in conflict and that the procedures required under an act specifically addressing emergency medical services were required when proceeding under a more general County government act. The Court found that the County substantially complied with the notice and hearing requirements and that the Fifteen Dollar ($15.00) fee was a charge for service and not a tax. The court concluded that, after the referendum, general requirements had to yield to support the election result and that the trial court erred in failing to place the burden of proving the Ordinance invalid on the householders after the election.

The Court affirmed the trial court's judgment that the Ordinance was constitutional and reversed the judgment that the Ordinance was invalid, ruling that its adoption complied with procedural requirements.

In enacting the Ordinance for the fee and ensuring the substantial compliance with the hearing, notice and referendum requirements of Act 51, the Quorum court:

1) Set a date for public hearings on the question of providing emergency medical services to a designated area of the County

2.) Published notice of dates, time and place of each hearing in a newspaper of general circulation in the County and the area proposed to be served

3.) Gave all interested parties residing in the designated area an opportunity to appear and be heard for or against the proposal

4.) Described the area to be included (six (6) specific School Districts), the services to be provided (emergency medical services, defined in Act 51 as “the transporting of the acutely ill or injured and the medical care provided to such person prior to arrival at a medical facility”), the estimated cost (Fifteen Dollars ($15.00) per household) and the proposed method of financing (a fee of Fifteen Dollars ($15.00) per household).

A.C.A. § 14-282-101 et seq. Ambulance Service Improvement Districts & Board of Commissioners

Arkansas Law authorizes the establishment and prescribes the procedure for the establishment of Improvement Districts for the purpose of providing ambulance services to the residents of the Districts. The law also prescribes the procedure for assessing the property in the Ambulance Service Improvement District to finance the services, and support of emergency medical services and ambulance operations that are necessary to protect the health, safety, and welfare of the residents of the Ambulance Service Improvement District.

Petition:

Upon the petition of a majority in value and area of the owners of real property in any designated area, 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 three (3) or five (5) Commissioners of the District. The purpose of the District shall be for the acquiring of appropriate vehicles and equipment and the maintaining and operating of ambulance services for the use and benefit of the property holders within the District, and it is realized that the ambulance services would be a benefit to all the real property located in the District. The petition for, and the court order creating, the District shall designate the maximum amount that may be expended for vehicles, equipment, personal services, and other expenses of providing ambulance services in the District during any one (1) year. Any number of identical petitions may be circulated. Identical petitions with identical names may be filed at any time until the County Court acts.

An Ambulance Service District that is composed of an area within a County as established by the Quorum court of the County may be created by Ordinance of the Quorum court. The Ordinance shall designate the area to be served. However, in no event shall the area include less than a whole precinct and all precincts must be contiguous. The Ordinance shall also set forth the method the Ambulance Service District shall assess the persons residing therein or the property owners having property located therein. An assessment of up to five (5) mills may be levied by the Quorum court in the Ambulance Service District area, provided that the assessment is approved by at least a majority of the qualified electors voting on the issue at an election called for that purpose.

The Quorum court shall establish the date of the election which may be the same date as the general election, and only the qualifying electors residing within the boundaries of the District shall be entitled to vote at such election. The cost of the election shall be borne by the County. The Ordinance shall further specify that the matter shall be referred to the electors of the affected area not less than sixty (60) days and not more than ninety (90) days after the passage of the Ordinance and before any taxes are levied, assessed, or collected. In the event the referred Ordinance is approved, it shall be in full force and effect upon certification of the election results by the County Election Commission. An Ambulance Service District created by this procedure shall be exempt from the assessment procedures set out in this chapter. The taxes collected pursuant to the Ordinance shall be administered by the County as an enterprise fund but shall be levied and collected as County Taxes. The provisions of this subsection shall not apply to existing nonprofit volunteer ambulance services that provide ambulance and paramedic services in a general but undefined area of the State and which have been in existence for more than five (5) years.

Notice of Petition:

It shall be the duty of the County Clerk to give notice of the filing of the petition 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. The notice shall be published one (1) time a week for two (2) consecutive weeks in some newspaper published and having a bona fide circulation in the County where the lands affected are situated.

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 formation of said District will be heard by the County Court at …...m., on the . . . . . . day of . . . . . ., 20___. . . . . . The following lands are affected: (Here give description of lands affected; the same may be described by using the largest subdivisions possible.) . . . . County Clerk

Please refer to Appendix Section 1 for example of Improvement District Ordinances.

Law Regarding Ambulance Improvement Districts and Board of Commissioners

A.C.A. § 14-282-101 Purpose.

- It is the purpose and intent of this chapter to:
    - **(1)** Authorize the establishment and prescribe the procedure for the establishment of Improvement Districts for the purpose of providing ambulance services to residents of the Districts;
    - **(2)** Prescribe the procedure for assessing the property in the Ambulance Service Improvement District to finance the services; and
    - **(3)** Support emergency medical services and ambulance operations that are necessary to protect the health, safety, and welfare of the residents of the Ambulance Service Improvement District.

A.C.A. § 14-282-102 Petition for Improvement District Generally

- **(a)** Upon the petition of a majority in value and area of the owners of real property in any designated area, 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 three (3) or five (5) Commissioners of the District.
- **(b)** The purpose of the District shall be for the acquiring of appropriate vehicles and equipment and the maintaining and operating of ambulance services for the use and benefit of the property holders within the District, and it is realized that the ambulance services would be a benefit to all the real property located in the District.
- **(c)** The petition for, and the court order creating, the District shall designate the maximum amount that may be expended for vehicles, equipment, personal services, and other expenses of providing ambulance services in the District during any one (1) year.
- **(d)** Any number of identical petitions may be circulated. Identical petitions with identical names may be filed at any time until the County court acts.
- **(e) (1) (A)** An Ambulance Service District that is composed of an area within a County as established by the Quorum court of the County may be created by Ordinance of the Quorum court. The Ordinance shall designate the area to be served. However, in no event shall the area include less than a whole precinct and all precincts must be contiguous. The Ordinance shall also set forth the method the Ambulance Service District shall assess the persons residing therein or the property owners having property located therein.
    - **(B)** An assessment of up to five (5) mills may be levied by the quorum court in the Ambulance Service District area, provided that the assessment is

approved by at least a majority of the qualified electors voting on the issue at an election called for that purpose.

- **(C)** The quorum court shall establish the date of the election which may be the same date as the general election, and only the qualifying electors residing within the boundaries of the District shall be entitled to vote at such election. The cost of the election shall be borne by the County.

- **(2)** The Ordinance shall further specify that the matter shall be referred to the electors of the affected area not less than sixty (60) days and not more than ninety (90) days after the passage of the Ordinance and before any taxes are levied, assessed, or collected.

- **(3)** In the event the referred Ordinance is approved, it shall be in full force and effect upon certification of the election results by the County election commission. An Ambulance Service District created by this procedure shall be exempt from the assessment procedures set out in this chapter. The taxes collected pursuant to the Ordinance shall be administered by the County as an enterprise fund but shall be levied and collected as County taxes.

- **(4)** The provisions of this subsection shall not apply to existing nonprofit volunteer ambulance services that provide ambulance and paramedic services in a general but undefined area of the state and which have been in existence for more than five (5) years.

A.C.A. § 14-282-103 Petition—Filing—Notice—Publication

- **(a)** It shall be the duty of the county clerk to give notice of the filing of the petition 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.

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

- **(c)** 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 formation of said District will be heard by the County Court at …...m., on the . . . . . day of . . . . . , 20___. . . . . The following lands are affected: (Here give description of lands affected; the same may be described by using the largest subdivisions possible.) . . . . . .

. . . . . County Clerk

A.C.A. § 14-282-104 Petition—Hearing—Appointment of Commissioners

- **(a)** 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 determine whether those signing the petition constitute the majority in value and area.
- **(b)**
    - **(1)** If the County court determines that a majority in value and area have petitioned for the establishment of the District, it shall enter its judgment laying off the District as defined in the petition and appointing the Commissioners who are resident property holders in the District, all of whom shall be citizens of integrity and good business ability.
    - **(2)** If it finds that a majority has not signed the petition, it shall enter its order denying it.
- **(c)**
    - **(1)** The commissioners shall serve without compensation and shall be appointed to serve for terms of one (1), two (2), and three (3) years, respectively, and for five-member commissions, terms of one (1), two (2), three (3), four (4), and five (5) years.
    - **(2)** The length of the term of each commissioner shall be stated in the order of the County court making the appointment.
    - **(3)** As the terms of the commissioners expire, the County court shall appoint successors to hold office for a term of three (3) years.
    - **(4)** The County court may reappoint a commissioner whose term is expiring.
    - **(5)** In case of vacancy on the board of commissioners after the commissioners have organized, the County court shall appoint some resident property holder as his or her successor, who shall qualify in like manner and within a like time.
    - **(6)** The commissioners shall serve until their successors are appointed and qualified.
- **(d)** Any petitioner or any opponents 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.

- **(e)** The commissioners are authorized to acquire such vehicles, equipment, and other facilities and to employ such personnel as they deem necessary to provide adequate ambulance services to the residents of the District.

- **(f)** The purpose for which the District is to be formed shall be stated in the petition, 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. § 14-282-105 Commissioners—General Provisions

- **(a)** Within thirty (30) days after their appointment, the commissioners shall take and file their oaths of office with the County clerk, in which they shall swear to support the Constitution of the United States and the Constitution of the State of Arkansas, to faithfully discharge their duties as commissioners and that they will not be interested, directly or indirectly, in any contract let by the board. Any commissioner failing to file the oath within the period shall be deemed to have declined the office, and 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 such personnel as it deems best and fix their compensation.

- **(d)** Each Improvement 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, exacting of the depository a bond in an amount equal to the amount of money likely to come into its hands.

A.C.A. § 14-282-106 Board of Improvement—Members—Liability

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

Attorney General Opinions
Improvement District and Board of Commissioners:

Attorney General Opinion 2003-188

Opinion Summary:

The Attorney General commented on nine (9) different questions involving various matters pertaining to the law as it applies to a Suburban Improvement District.

Opinion in Full:

I am writing in response to your request for an opinion on nine (9) questions involving various matters pertaining to the law as it applies to Cherokee Village Suburban Improvement District (hereinafter "the District" or "SID"). I will address your questions individually, in the order posed.

Question 1 - Cherokee Village Suburban District No. 1 (the District), was created in 1969 in accordance with the provisions of Act 41 as amended, (particularly Act 286). Proposed administrative actions by the Commissioners of the District frequently state that these are in accordance with Chapter 14-92, from which this District is specifically excluded by Subchapter 14-92-202.

Does this affect the validity of the actions so undertaken?

It must be initially noted that this question appears to be premised upon the incorrect assumption that A.C.A. § 14-92-202 excludes the District from all of the provisions of Arkansas Code Title 14, Chapter 92. Section 14-92-202 (a) (Repl. 1998) states:

The provisions of Acts 1981, No. 510, shall not apply to Districts in existence on March 16, 1981, and these Districts shall continue to be governed by the law in effect immediately prior to that date.

Act 510 of 1981 amended various sections of Act 41 of 1941, as amended, to provide, *inter alia*, new procedures for creating and dissolving Suburban Improvement Districts. See Attorney General Opinion 95-348 (summarizing the legislative history of A.C.A. §§ 14-92-202, -209, and –240, involving the selection and recall of Suburban Improvement District Commissioners). The statement in Act 510 of 1981 that Districts created prior to March of 1981 "shall continue to be governed by the law in effect immediately prior to that date," does not have the effect of rendering inapplicable all of the provisions of Chapter 92 of Title 14 to so-called "pre-1981" Districts. See Opinion 95-348, supra (enclosed herein). Chapter 92 of Title 14 is the codification of various provisions pertaining to Suburban Improvement Districts, many of which continue to apply to pre-1981 Districts such as the District, either as originally enacted under Act 41 of 1941 (see, e.g., A.C.A. § 14-92-218 (change of plans), as amendments to Act 41 (e.g., A.C.A. § 14-92-220 (powers generally), or as separate enactments (e.g., A.C.A. § 14-92-401 (sale of property).

With regard to your specific question, therefore, it is my opinion that the District is not excluded from all provisions of Chapter 92 of Title 14, and that the validity of actions undertaken by the District's Commissioners will be determined by considering the particular undertaking, viewed in light of the authority relevant thereto.

Question 2 - Chapter 14-92 differs significantly from Act 41 in the procedures by which Suburban Improvement Districts are to be created. The powers of the Commissioners are expanded but this is balanced by the requirement that such Commissioners are to be elected, and their numbers increased to five (5) or seven (7).

If it is held that Chapter 14-92 may be used to carry out administrative actions of the Board, does this not imply that the Board of Commissioners should be elected?

The answer to this question is "no," in my opinion. The fact that the District's Board may act pursuant to provisions in Title 14, Chapter 92, does not mean that the Commissioners are to be elected. The selection and recall of Suburban Improvement District Commissioners in pre-1981 Districts is addressed at length in Attorney General Opinion 95-348, which I have enclosed herein for your convenience. I refer you to that opinion for a complete understanding of the available alternatives for electing the District's commissioners.

Question 3 - On occasion, the wording of Chapter 14-92 has been arbitrarily amended by Legal Advisors to the District in order to change the import of the law, presumably to serve a particular purpose.

Does this constitute impropriety?

You have provided no specific examples of such action by the District's legal advisors, but as a general matter any amendments to Title 14, Chapter 92, must be made by the General Assembly through the regular legislative process. Legal advisors may offer their views on how to interpret or apply these Code sections. The law is not thereby "amended," however.

Question 4 - The Community of Cherokee Village has been an incorporated City of the First Class since 1998 and appears to have the same constitutional powers as the District. These include but are not limited to the power of Eminent Domain, ability to levy taxes, enact Ordinances or By Laws, be responsible for the care and maintenance of streets and roads, recreational facilities and other "Commons."

Does this represent double taxation of the Property Owners, and ignore the Statutory requirement that there may not be, with, and within the same boundaries, two (2) or more municipalities exercising the same powers?

The answer to this question is "no," in my opinion. The concept of "double taxation" ordinarily connotes taxing the same property twice for the same purpose, by the same taxing authority. 84 C.J.S. Taxation at 131. Clearly, the City of Cherokee Village and the District are distinct entities with separate constitutional (in the case of the City) and statutory (in the case of the District) authority to levy taxes. See generally Ark. Const. Art. 12, § 4 (City's taxing authority) and A.C.A. § 14-92-220 (Suburban Improvement District's authority to assess benefits and levy the appropriate tax against such assessment). See also generally Quapaw Central Business Improvement District vs. Bond-Kinman, Inc., 315 Ark. 703, 706, 870 S.W.2d 390 (1994) (observing that Improvement Districts derive their taxing power from the State and "constitute a separate and distinct species of taxing Districts as contradistinguished from Counties, Municipal Corporations and School Districts.")

It is also clear that the District is not a municipality. The Arkansas Supreme Court has defined a "Municipality" as is "a public corporation created for governmental purposes, and having local powers of legislation and self-government. . . ." Memphis Trust Co. vs. St. Francis Levee Dist., 69 Ark. 284, 286, 62 S.W. 902 (1901). Such "inferior corporations" as Improvement Districts, on the other hand according to the Court, "lack the broad legislative, judicial, and political powers that are essential to administering local government." Id. (quoting a Missouri case where the Court said that the term "Municipal Corporation" included only Cities, Towns and other like organizations with political and legislative powers for the local government and police regulation of the inhabitants thereof). See also Nakdimen vs. Bridge District, 115 Ark. 119, 121, 172 S.W. 272 (1914) (stating that an Improvement District is not a municipality and its powers cannot be likened to those of municipal corporations, "whose powers are broader and more general within their prescribed territory and over the subjects delegated to them.")

Question 5 - If indeed, duplication of powers is inadmissible, which entity prevails, the SID or the City?

Because, as indicated above, the SID and the City are separate entities with distinct powers, there is generally no "duplication of powers" or question of one (1) entity "prevailing" over the other. While it is conceivable that conflicts could arise in the exercise of the powers and duties granted under State Law to the SID and those granted to the City, I cannot in the context of this opinion undertake a review of all the powers and duties granted to a Municipality and a Suburban Improvement District or speculate as to any such potential conflicts. Subtitle 3 of Title 14 of the Arkansas Code Annotated sets forth both general and specific areas of municipal authority, and Article 12 of the Arkansas Constitution sets forth the primary constitutional provisions pertaining to Municipal Corporations. Chapter 92 of Title 14 of the Arkansas Code Annotated sets forth the general rules regarding Suburban Improvement Districts; A.C.A. § 14-92-220 (1987) prescribes the general powers of a District. These are the provisions that would be applied to the particular facts and circumstances in determining the respective authority of the SID and the City.

Question 6 – Recent negotiations between the Board and the State Land Commissioner have resulted in the SID becoming the owner of many delinquent lots within the District. These are now being offered for sale by a partnership which has concluded an exclusive contract with the Board to 'market' such lots. These are represented as clear of any obligation for delinquent taxes and penalties.

Is the eventual owner liable for such delinquent taxes, or does the SID, the Board of Commissioners or the Land Commissioner have the power or authority to extinguish or forgive such taxes?

You have provided no information as to how the SID became the "owner" of the lots through "negotiations." Nor have you identified the particular "delinquent taxes" in question. I am therefore uncertain whether this refers to general property taxes or delinquent Improvement District assessments. The Commissioner of State Lands is authorized in certain instances to negotiate the sale of property that has been certified to the state for nonpayment of general taxes. See A.C.R.C. Notes to A.C.A. § 26-37-101 (Repl. 1997) (containing uncodified language from Act 626 of 1983, as amended) and A.C.A. § 26-37-202 (b) (Repl. 1997).

See also generally Carter vs. Green, 67 Ark. App. 367, 1 S.W.3d 449 (1999) (regarding a negotiated sale as authorized when land remains either unsold or unredeemed). With regard to Suburban Improvement District taxes, a procedure is available whereby delinquent property may be "bid off" to

the District in foreclosure proceedings in Chancery Court. See A.C.A. § 14-92-232 (c) (Repl. 1998) (authorizing use of procedures under A.C.A. § 14-94-122 for collection of delinquent Suburban Improvement District assessments).

The applicability of these provisions must therefore be considered in addressing your question regarding any outstanding delinquent tax liability. As a general matter, there is no authority to extinguish or forgive, i.e., "waive" Improvement District assessments. See generally Attorney General Opinion 2003-122 (concluding that the Briarcliff Improvement District could not waive delinquent Improvement District assessments on property which had been forfeited to the State). It is possible, however, that the SID holds deeds from the Commissioner of State Lands through the above procedures, in which case there may in fact be no delinquency for the eventual owner to satisfy. I cannot definitively opine in this regard, however, without more information regarding the process by which the SID obtained ownership of the lots.

Question 7 – Does the Law require the Commissioners to file annual Statements of Financial Interest? And is the Clerk of the County Court required to maintain such records?

This question should be referred to the Arkansas Ethics Commission, which by law issues advisory opinions on the requirements of Title 21, Chapter 8 pertaining to financial disclosures. See A.C.A. § 7-6-217 (g) (2) (Supp. 2001).

Question 8 – Under the provisions of Act 41, the Commissioners of the District are self-appointed. It is generally understood that by the provisions of Act 286, as amended, Cherokee Village Suburban Improvement District No. 1 is the only such District in the State of Arkansas.

Does this not represent arbitrary discrimination against a specific group or class, and thus constitute a violation of our Civil Rights?

I assume by your reference to the Commissioners being "self-appointed" that you mean the procedure applicable to pre-1981 Districts under which vacancies on the Board are filled by the remaining commissioners. See former A.S.A. § 20-703. While Cherokee Village Suburban Improvement District No. 1 may, as a practical matter, be the only District in existence subject to this procedure, I must respectfully disagree with the suggestion that the provisions apply only to Cherokee Village Suburban Improvement District No. 1 as a matter of law. I have found no reference to Cherokee Village in the law, and there is language in Act 286 of 1967, amending Act 41, § 4, referring to "any District" which clearly indicates that the provisions apply to all Suburban Improvement Districts covered by Act 286. Given both this language and the absence of any reference to Cherokee Village, I must respectfully disagree with the premise of this question. In my opinion there is no discrimination against any specific group or class by virtue of this legislation. It may also be helpful to note, as pointed out above in response to Question 2, that procedures for electing the Commissioners are available to realty owners in pre-1981 Districts. See again Attorney General Opinion 95-348 (enclosed).

Question 9 – The Law (Act 41) requires the County Tax Collector to collect SID taxes at the same time that ad valorem taxes are collected. Additionally, the Collector may not collect one without collecting the other.

Is it within the power of the SID and/or the County to enter into an agreement to circumvent this requirement or make any such agreement which would involve payment by the SID of ad valorem taxes, other than as prescribed by law?

In accordance with A.C.A. § 14-92-230 (d), the payment of Suburban Improvement District taxes is a prerequisite to paying ad valorem real property taxes. This provision states:

A property owner shall be required to pay applicable Suburban Improvement District Taxes provided in this subchapter as a prerequisite to paying his/her ad valorem real property taxes.

A.C.A. § 14-92-230(d) (Supp. 2001).

I am unaware of any authority for circumventing this requirement. Applicable SID taxes must be paid before ad valorem taxes can be paid.

Regarding the SID's payment of ad valorem taxes "other than as prescribed by law," I refer you to the case of Pulaski County vs. Carriage Creek Improv. Dist., 319 Ark. 12, 888 S.W.2d 652 (1994). The Arkansas Supreme Court in that case upheld the trial court's ruling that property acquired and held by an Improvement District as the result of foreclosure for failure to pay Improvement District assessments, (pursuant to A.C.A. § 14-94-122; see footnote no. 2, supra), is not subject to taxation. The ruling was based on an affidavit of one of the District's Commissioners stating that the lots were "held by the District in its governmental capacity pending sale of the Lots to recover delinquent taxes and penalties. The District is not leasing the lots or otherwise utilizing the Lots in any proprietary manner." 319 Ark. at 15.

I lack sufficient facts to determine whether this case is applicable; and in any event, this determination lies with the County Assessor who must in the first instance review the particular facts and decide whether the law prescribes the payment of ad valorem taxes by the SID. Hopefully, however, this provides a sufficient legal framework for you to apply in analyzing the particular surrounding circumstances in this instance.

Attorney General Opinion 2013-142

Opinion Summary:

The Attorney General stated that the Quorum court does not have the power to enforce a County Personnel Policy that requires individuals to vacate their positions as active employees of a County after filing for elective office.

Opinion in Full:

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

Does a County Personnel Policy requiring employees to vacate their positions after filing for elective office infringe upon the County Office and/or an elected official's authority in providing services to the public with properly trained, experienced employees?

Does this [policy] place an undue burden on the County Office serviced by the person required to vacate their position?

Does the Quorum court have the authority to make and enforce such a policy? If so, does it go beyond a general employee policy?

You report that your questions relate to the following personnel policy apparently in effect in Ashley County:

Seeking Public Office: Any non-elected employee of Ashley County receiving compensation by the use of Ashley County Public Funds must comply with the following guidelines:

When seeking a publicly elected office of Ashley County Government employees must be removed from active employment of Ashley County by resignation, termination, or approved leave without pay, for the time beginning at such time the employee pays a filing fee or files petitions with the election commission until it is determined by the Ashley County Election Commission that said employee has been eliminated from an election or said Candidate (employee) has no further opposition to election to the office or position that was filed for. Any non-elected employee seeking public office will be considered as continuously active with Ashley County Government as it might relate to sick leave and/or vacation time.

Response:

I need not address your first two questions, which are moot in light of my answer to your third question. In my opinion, the answer to the first part of your third question is "no." Given this conclusion, I will focus only on supporting my conclusion that a County lacks authority to adopt or enforce a policy of the sort set forth immediately above.

Resolving your question turns on the application of the following statute:

No employee of the State, a County, a Municipality, a School District, or any other political subdivision of this State shall be deprived of his/her right to run as a candidate for an elective office or to express his/her opinion as a citizen on political subjects, unless as necessary to meet the requirements of Federal Law as pertains to employees.

This statute creates a "right" in any public "employee" – a term that, in my estimation, denotes current and ongoing paid employment – to "run as a candidate for an elective office." In my opinion, a local policy requiring a public employee to give up his/her paid employment as a condition of seeking local office, which is what the Ashley County Personnel Policy set forth above purports to do, is inconsistent with this Statute.

Some preliminary historical review may serve as backdrop to the analysis below. The statute just quoted was enacted in 1997. One of my predecessors, in an opinion issued in 1993, addressed the enforceability at that time of an Ashley County Personnel Policy very similar to the one set forth in the factual recitation above. At a time when no legislation existed barring a County restriction of this sort, my predecessor, after acknowledging that the issue was ultimately one for judicial determination, opined that "a persuasive argument can be made . . . in favor of the enforceability of this particular policy." Your question requires a determination whether this provisional endorsement of the personnel

policy continues to apply in the face of since enacted legislation that expressly ensures the right of any public employee to run for public office.

This statutory guarantee is, in my opinion, flatly at odds with the Ashley County Personnel Policy requiring that any such Candidate be first "removed from active employment by Ashley County." I believe a reviewing Court would conclude that the policy cannot stand in the face of the 1997 legislation.

At issue is whether the Legislature has the authority to pass a law that forbids a County from restricting employment in a manner that, prior to enactment of the State Law, may well have been permissible. In my opinion, it does. It is well settled that the Arkansas Constitution is not a grant, but rather a limitation, of powers, meaning that the Legislature may rightfully enact legislation subject only to restrictions and limitations imposed by the Arkansas and United States Constitutions. To be sure, by constitutional mandate, a County "acting through its Quorum court may exercise local legislative authority not denied by the Constitution or by Law." This County authority, however, is by its very terms subject to State Legislative restriction. In the present case, it is precisely "by law," in the form of the statute set forth above, that the County is precluded from pursuing a personnel policy of the sort set forth above.

Unsurprisingly, previous opinions issued by this office have likewise concluded that the statute quoted above precludes any personnel policy of the sort at issue in Ashley County. For instance, in 1999, one of my predecessors addressed the question: "What legal restrictions may a County Employer place upon employees seeking office." Although declining to itemize what might pass muster as permissible restrictions, my predecessor opined generally that "any restrictions placed upon employees seeking office may not be inconsistent with or contrary to State Law." He further unequivocally invoked the above statute as "clearly permitting a County employee . . . 'to run as a candidate for an elective office.'" Similarly, in 1998, another of my predecessors concluded that the statute was "clearly intended to permit a Municipal Employee 'to run as a candidate for an elective office.'" Implicit in both opinions is recognition that no public employer may preclude any of its active employees from running for elective office, including any County Office, regardless of whether the position is contested. This is precisely what the Ashley County Personnel Policy purports to do. Accordingly, in my opinion, the policy is unenforceable.

Attorney General Opinion 2015-143

Opinion Summary:

The Attorney General answers 8 questions about Suburban Improvement Districts.

Opinion in Full:

I am writing in response to your request for my opinion on a number of questions concerning the Holiday Island Suburban Improvement District ("HISID"). Your request sets out eight issues and related questions.

Before restating your questions, I must note that I cannot address those relating to issues arising under the settlement agreement between the HISID and property owners. You reference this

agreement in connection with questions regarding rates and fees and certain expenditures. I cannot comment on questions that may depend to some extent on interpretation of a judicially-approved settlement agreement. Such questions are outside the scope of an Attorney General's opinion. I must therefore respectfully decline to opine on the second and fifth issues identified in your request and the questions related thereto.

The other questions you have posed are as follows:

(1) Are property owners who are subject to annual levies of the Assessment of Benefits (AOB) in a Property Owners Suburban Improvement District ("SID") allowed to pay off the entire remaining principle amount of the AOB at any given time? Alternatively, is the SID allowed to refuse to accept a pay-off of the AOB and instead continue to levy an annual portion of the AOB plus interest?

(3) Is a SID bound in all respects to the Arkansas Freedom of Information Act? More specifically, is a SID required to turn over a district voter list upon request?

(4) Does a SID have the legal authority to waive the AOB levy on parcels owned by select private entities?

(6) Does a SID have the legal authority to make or allow lot line adjustments?

(7) Does a SID have the legal authority to "re-zone" or "reclassify" lots within the SID?

(8) Does HISID have the legal authority to collect [its] own AOBs or should collection be handled by the Carroll County Collector's office? Can a SID collecting [its] own AOB charge a late fee penalty? If so, is that penalty capped by any law, usury cap, or reasonableness standard?

RESPONSE

Question 1: Are property owners who are subject to annual levies of the Assessment of Benefits (AOB) in a Property Owners Suburban Improvement District ("SID") allowed to pay off the entire remaining principle amount of the AOB at any given time? Alternatively, is the SID allowed to refuse to accept a pay-off of the AOB and instead continue to levy an annual portion of the AOB plus interest?

The prepayment of SID assessments is expressly contemplated by the statute that governs the extension and collection of SID assessments:

For his or her services in making the collections, *including prepayments*, the collector shall receive a commission of one and one-half percent (1.5%). *In the case of prepayments*, the maximum commission shall be the lesser of one and one-half percent (1.5%) or fifty dollars ($50.00).

The statute does not, however, further address the matter of prepayments. Thus, while it seems that SID assessments may be prepaid in at least some instances, I cannot answer the general question whether property owners in an SID may pay off the entire AOB at any given time. That question, and the related question whether an SID can refuse such a pay-off and instead continue levying the assessment annually, would require references to the particular SID - and the specific facts and circumstances surrounding the financing of its improvements and operations.

Question 3: Is a SID bound in all respects to the Arkansas Freedom of Information Act? More specifically, is a SID required to turn over a district voter list upon request?

You state by way of background for this question that the HISID has received a request for a list of the voters in the district and has refused to turn over the list.

As “agents of the state” supported through statutorily-authorized assessments, suburban improvement districts are plainly subject to the FOIA.

The FOIA provides that unless otherwise specifically provided by law, all “public records” and meetings shall be open to the public. In response to your particular question regarding a “district voter list,” therefore, the threshold question is whether the list fits within the FOIA's definition of ““public records.” If it does, then it is open to public inspection and copying unless covered by a specific exemption in the FOIA or some other pertinent law.

The FOIA defines “public records” broadly to include “writings ... or data compilations in any medium required by law to be *kept or otherwise kept* and that *constitute a record of the performance or lack of performance* of official functions....” The definition further provides that “[a]ll records maintained in public offices or by public employees within the scope of their employment shall be presumed to be public records.”

I have no specific information regarding the voter list in question. But I take it that the list is in fact kept by the SID, perhaps because each realty owner is entitled to cast one vote on all questions submitted to the owners of realty in the district. If the SID in fact keeps the list for voting purposes, then it seems clear the list reflects the performance or lack of performance of official functions and thus constitutes a “public record” under the above definition. It follows that the list is likely subject to disclosure under the FOIA, unless the FOIA itself or some other law specifically exempts it from disclosure.

There is a broad presumption in favor of disclosure of “public records” under the FOIA, and the burden of proving exemptions rests with the custodian claiming an exemption. My research has yielded no specific exemption mandating nondisclosure of a list of voters of an SID. The list may therefore simply be a “public record” subject to no specific exemption from disclosure, and thus subject to inspection and copying under the FOIA. But I cannot definitively opine to that effect without at least considering the basis upon which HISID claims it is exempt. The initial decision whether to release records in response to a FOIA request rests with the custodian, following a review of the particular record(s). The custodian for HISID clearly bears the burden of proving an exemption, but I have been provided no information regarding the list at issue; and there may be additional facts, outside the limited information before me, to be considered in determining whether a ““district voter list” falls within an exemption.

Question 4: Does a SID have the legal authority to waive the AOB levy on parcels owned by select private entities?

The Code section governing the levy of an SID assessment of benefits is unambiguous in declaring that the tax assessed upon the real property of the district “shall be a lien upon all the real property in the district from the time it is levied ... and shall continue until the assessment, with any penalty

and costs that may accrue thereon, shall have been paid." The Arkansas Supreme Court has held, with regard to a virtually identical statute, that an improvement district lacks the authority to release its lien except upon full payment of all assessments levied against the property.

It is therefore my opinion in response to the above question that an SID likely lacks authority to waive the AOB levy if the order providing for the levy of the tax has been entered. The unpaid assessment will have created a lien against all property in the SID at that point, which lien continues until the assessment is paid in full.

Question 6: Does a SID have the legal authority to make or allow lot line adjustments?

Question 7: Does a SID have the legal authority to "re-zone" or "reclassify" lots within the SID?

I will address these questions together because I believe they call for essentially the same analysis. Regarding Question 6, you report that the HISID has "allowed property owners to buy adjoining lots and move the lot line of their property," and that this has created useless leftover parcels "while property owners with extended lot lines would still be paying only one AOB at the same rate of a regular sized lot." As for Question 7, you state that HISID has "voted to rezone lots for various reasons" and that "HISID's ability to rezone could affect the amount of AOB a property owner has to pay" because "the amount of AOB on a lot is tied to that lot's zoning classification."

I must note as an initial matter that, unlike a city, an SID does not actually engage in the regulation of lot lines or the zoning of property. However, the size or area of lots and the way property is zoned or classified are undoubtedly proper considerations in connection with the assessment or reassessment of benefits, and the equalization of such, in an SID. The Arkansas Supreme Court has identified the "proper basis for the assessment of value" in an SID as follows:

[T]he proper basis for assessment of value for benefits to accrue to each piece of property is to consider the *value, area, location of the property, the improvements thereon, its relation to other properties*, and every other element which might go to make up the sum total of benefits.

In response to your particular questions, therefore, an SID does not actually adjust lot lines or re-zone or re-classify property like a city. But it may well be appropriate, if not necessary, for the SID to consider lot sizes and different use classifications when assessing or equalizing benefits accruing to the real property within the district by reason of the improvements or facilities.

Question 8: Does HISID have the legal authority to collect [its] own AOBs or should collection be handled by the Carroll County Collector's office? Can a SID collecting [its] own AOB charge a late fee penalty? If so, is that penalty capped by any law, usury cap, or reasonableness standard?

*4 You note in presenting this question that "HISID is not over 5,000 acres, yet they have been collecting their own AOB." You also state that HISID "charge[s] delinquent property owners who pay the AOB levy a late fee of 25%, even if the payment is only one day late."

Ordinarily, the county collector is responsible for collecting SID assessments:

When the board of commissioners in a suburban improvement district shall make the levy of taxes, it shall be the duty of the assessor to extend the amount levied and set it opposite each benefit assessed in a column marked “Annual Collection”....

It shall then be the duty of the tax collector of the county to collect each year the taxes extended upon the books along with the other taxes until the entire levy is exhausted.

With regard, therefore, to HISID, the county tax collector should be collecting the assessments if the area of this SID in fact is not at least 5,000 acres.

There is an exception, however, for delinquencies. While delinquent assessments in SIDs are normally certified to the Commissioner of State Lands, an SID can choose to enforce collection of *delinquent assessments* through court proceedings. In that case, Ark. Code Ann. § 14-94-122 will govern the procedural requirements. The court's judgment in such a case will include a *penalty, interest, and costs*;

Delinquencies. If any taxes levied by the board under this chapter are not paid at maturity, the county tax collector shall not embrace the taxes in the taxes for which he shall sell the lands, but shall report the delinquencies to the board of the district, which shall add to the amount of the tax *a penalty of twenty-five percent (25%)*.

The board shall enforce the collection by chancery proceedings in the chancery court of the county in which the lands are situated having chancery jurisdiction. The court shall give judgment against the lands for the amount of the delinquent taxes, and *the penalty of twenty-five percent (25%) and interest thereon, from the end of the sixty (60) days allowed for the collection thereof, at the rate of six percent (6%) per annum, and all costs of the proceedings*.

Thus, in response to the above question as regards a penalty, the 25% penalty will apply if the SID has elected to enforce collection of delinquencies through court proceedings.

Attorney General Opinion 2017-116

Opinion Summary:

The Attorney General talks about whether a few positions, including members of levee boards or levee improvement districts are considered to hold civil office.

Opinion in Full:

You have asked whether the positions set out above are “considered ‘civil offices' under Article 5, section 10 and Article 7, section 53” of the Arkansas Constitution. It is my opinion that all but one of the boards and commissions you have listed are likely “civil offices” for purposes of Article 5, section 10 and Article 7, section 53. I lack sufficient information regarding the “Southwest Mental Health Board;” neither can I find any state statutes governing such a board. Therefore, I am unable to opine as to whether this board constitutes a “civil office” for purposes of Article 5, section 10 or Article 7, section 53.

DISCUSSION

In November 2016, Arkansas voters adopted Amendment 95, which amended several articles of the state constitution. Of relevance to this opinion, Amendment 95 amended Article 7 to add a new section—section 53—concerning county elected officials, which reads:

A person elected or appointed to any of the following county offices shall not, during the term for which he or she has been elected, be appointed or elected to any civil office in this state:

(1) County judge;

(2) Justice of the peace;

(3) Sheriff;

(4) Circuit clerk;

(5) County clerk;

(6) Assessor;

(7) Coroner;

(8) Treasurer;

(9) County surveyor; or

(10) Collector of taxes.

This amendment is very similar to a long-existing constitutional provision, Article 5, section 10, regarding sitting members of the General Assembly:

No Senator or Representative shall, during the term for which he shall have been elected, be appointed or elected to any civil office under this State.

In order to determine whether a particular position falls within Article 7, section 53's proscription for elected county officials, the key consideration is whether the position qualifies as a "civil office." I have previously addressed the prevailing law on what constitutes a "civil office" in the context of a similar and long-standing constitutional prohibition placed on sitting legislators. And I have opined that this corpus of law should be equally applicable to the provisions of Article 7, section 53. I will not restate the analysis here, but instead refer you to my previous opinion for a review of the criteria and factors for identifying a "civil office."

DISCUSSION

Question 1: Would a court likely determine that members of rural water boards or regional water boards or water users boards ("Water Boards"), *hold a "civil office" under Arkansas Constitution Article 5, § 10 and Article 7, § 53?*

Question 2: Would a court likely determine that members of waterworks and public sewers facilities boards ("Public Facilities Boards"), *hold a "civil office" under Arkansas Constitution Article 5, § 10 and Article 7, § 53?*

Question 3: Would a court likely determine that members of airport commissions hold a "civil office" under Arkansas Constitution Article 5, § 10 and Article 7, § 53?

Question 4: Would a court likely determine that members of the Arkansas Fire Protection Service Board hold a "civil office" under Arkansas Constitution Article 5, § 10 and Article 7, § 53?

The answer to your first four questions is "yes," in my opinion. The first four board and commission members about which you ask likely hold a ""civil office" pursuant to both Article 5, section 10 and Article 7, section 53. Because the reasoning on which I base my opinion applies to each of these offices, I will address them together.

Each of the above-mentioned positions is created by law. The Code likewise establishes the powers and duties of each position, sets the compensation—or lack thereof—for each position, and establishes the terms of office. And in order to serve, members of the Water Boards, Public Facilities Boards, and Airport Commissions must take an oath of office.

Furthermore, each of these positions exercises some sort of sovereign power. Members of Water Boards, Public Facilities Boards, and Municipal Airport Commissions are all authorized to exercise the power of eminent domain. And finally, each of these is given specific, statutory powers with respect to managing and lending money, and issuing bonds.

It is thus my opinion that members of these boards and commissions likely hold a "civil office" under Arkansas Constitution Article 5, section 10 and Article 7, section 53.

Question 5: Would a court likely determine that members of the Southwest Mental Health Board hold a "civil office" under Arkansas Constitution Article 5, § 10 and Article 7, § 53?

Because there is no legislation regarding "Southwest Mental Health," I am unable to opine as to whether it is a "civil office" for purposes of Article 5, section 10 or Article 7, section 53.

Question 6: Would a court likely determine that members of county hospital boards hold a "civil office" under Arkansas Constitution Article 5, § 10 and Article 7, § 53?

Question 7: Would a court likely determine that members of county or district boards of health hold a "civil office" under Arkansas Constitution Article 5, § 10 and Article 7, § 53?

Question 8: Would a court likely determine that members of a levee board or levee improvement district board hold a "civil office" under Arkansas Constitution Article 5, § 10 and Article 7, § 53?

The answer to your last three questions is "yes," in my opinion. Each of these board members about which you ask likely hold a "civil office" pursuant to both Article 5, section 10 and Article 7, section 53. Because the reasoning on which I base my opinion applies to each of these offices, I will address them together.

Each of the above-mentioned positions is created by law. The Code likewise establishes the powers and duties of each position, sets the compensation—or lack thereof—for each, and establishes the terms of office. Furthermore, members of each of these boards are assigned specific powers and

duties by law, which go beyond the scope of an advisory role. Such powers include the power to establish rules and regulations and the power to issue orders and exercise exclusive control and supervision.

Accordingly, it is my opinion that these offices likely are “civil offices” pursuant to Article 5, section 10 and Article 7, section 53.

Relevant Caselaw

Pulaski County vs. Carriage Creek Property Owners Improvement Dist. No. 639, 319 Ark. 12
(Taxation on public property that is used exclusively for public purposes)

Appellant County challenged a judgment from the Pulaski Circuit Court, which found in favor of Appellee Improvement District. The Circuit Court held that property acquired and held by the District as the result of foreclosure for failure to pay District assessments was not subject to taxation by the County.

The District foreclosed on certain lots that were delinquent with respect to District assessments. Some of the lots remained unsold after the attempted sale, so they were "bid off" to the District. The District then requested that the Assessor remove them from the tax roll until they were sold. The Assessor refused, and the County Court ruled that the property was to remain on the tax rolls but held that subsequent purchasers of the lots were responsible for the payment of the taxes. The Circuit Court reversed and held that taxes did not accrue on lands held by the District in its governmental capacity. On appeal by the County, the Court affirmed. The Court held that the property was public property that was used exclusively for public purposes. Thus, it was exempt from taxation pursuant to A.C.A. 16, § 5(b). The lots were held by the District in its governmental capacity pending sale of the lots to recover delinquent taxes and penalties. The District was not leasing the lots or otherwise utilizing the lots in any proprietary manner. The Court affirmed the judgment.

ACA § 14-282-107-117 et seq. Ambulance Improvement District Assessments

Arkansas Law states that upon the qualification of the Commissioners, they shall form plans for the providing of ambulance improvements they intend to make and the property and equipment they intend to purchase. Additionally, the Commissioners shall thereupon appoint three (3) Assessors to assess the annual benefits which shall accrue to the real property within the District from the providing of ambulance services and shall fix their compensation.

Please refer to Appendix Section 1 for examples of County Ordinances.

Law Regarding District Assessment

A.C.A. § 14-282-107 Commissioners—Plans—Assessors

- **(a)** Upon the qualification of the Commissioners, they shall form plans for the providing of ambulance improvements they intend to make and the property and equipment they intend to purchase.
- **(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 ambulance 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 landowners of the Improvement District by the providing of ambulance services.
- **(c)** The Assessors shall thereupon proceed to assess the annual benefits to the lands within the Improvement District. They 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 the services.
- **(d)** In 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 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, 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 their office at the pleasure of the Board.

A.C.A. § 14-282-108 Assessments—Filing—Notice

(a) The assessment 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 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 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. § 14-282-109 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)** Whereupon, 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.

- **(c)** However, the annual benefits extended against any piece of property shall not be increased from the annual benefits originally extended unless improvements are made to the land that will be benefited by the ambulance services provided by the Improvement District.

A.C.A. § 14-282-110 Assessment—Recording—Lien

- **(a)** The Board of Commissioners of the Improvement District shall at the time that the annual benefit assessment is equalized, or at any time thereafter, enter upon its records an order which 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. The annual benefit is to be paid by the owner of the real property in the Improvement District, payable as provided in the order.

- **(b)** 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 assessment is levied. This lien shall be entitled to preference over all demands, executions, encumbrances, or liens whensoever created and shall continue until the assessment, with any penalty and costs that may accrue thereon, shall have been paid.

- **(c)** Notice of the amount due shall be given to each landowner, if he fails to pay his assessment on or before the third (3rd) Monday in April, at his/her last known address by mail.

- **(d)**

- **(1)** 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.

- **(2)** On the appeal, the presumption shall be in favor of the legality of the annual benefit assessment.

A.C.A. § 14-282-111 Assessment–Collection–Revision

- **(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 Improvement District is dissolved. 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 Improvement District at the same time that he/she pays over the County funds.

- **(b)**

    - **(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 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 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. § 14-282-112 Assessment–Payment–Enforcement

- **(a)** All annual benefits extended and levied under the terms of this chapter shall be payable between the third (3rd) Monday in February and the third (3rd) Monday in April of each year.

- **(b)**

    - **(1)** If any annual benefit assessments levied by the Board pursuant to this chapter are not paid at maturity, the Collector shall not embrace the assessments in the taxes for which he/she shall sell the lands, but he/she shall report the delinquencies to the Board

of Commissioners of the Improvement District, who shall add to the amount of the annual benefit assessment a penalty of ten percent (10%).

- **(2)** 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.

- **(3)** 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/her lands have been stricken off by the Commissioner making the sale.

A.C.A. § 14-282-113 Depository payments–Public record–Reports

- **(a)** The depository shall pay out no money except 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 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 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, the source from which received, all moneys paid out, date paid, to whom paid, and for what purpose during the preceding year, together with an itemized list of all delinquent taxes showing owner, description of property, years for which the tax is delinquent, and amount of total delinquency.

A.C.A. § 14-282-114 Issuance of Negotiable Notes

- **(a)** In order to acquire equipment and to do the work, the Board may issue the negotiable notes of the Improvement District signed by the members of the Board and bearing a rate of interest not exceeding six percent (6%) per annum and may pledge and mortgage a portion of future annual benefit assessments as collected for the payment thereof.

- **(b)** Any petitions for the creation of a District and the Court order creating a District, shall limit the total amount of notes that may be outstanding at any one (1) time to twenty thousand dollars ($20,000).

- **(c)** The Improvement District shall have no authority to issue bonds.

A.C.A. § 14-282-115 Continuance—Termination by petition

- **(a)** The Improvement District shall continue to exist for the purpose of operating and maintaining ambulance services until such time as the owners of a two-thirds (2/3) majority in value of the real property within the District petition the County Court for dissolution of the Improvement District.
- **(b)** Publication of the petition for dissolution, as provided for in creating the Improvement District, shall be made. If the County Court finds that a two-thirds (2/3) 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.

A.C.A. § 14-282-116 Actions—Proceedings—Appeals

- **(a)** All cases involving the validity of the 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. § 14-282-117 Taxes and assessments—Collection fees

The collector of taxes in any County, in collecting annual benefit assessments in any District created under this chapter, shall deduct one percent (1%) of the annual benefit assessments or taxes so collected and retain one-half of the one percent (1/2 of 1%) as the fee of the collector for collecting the assessments or taxes and pay over the remaining one-half (1/2) of the one percent (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.

Attorney General Opinions Regarding District Assessment:

Attorney General Opinion 1996-203

Opinion Summary:

The Attorney General responded to a request regarding the Arkansas Freedom of Information Act (FOIA). The Attorney General opined that information regarding a patient's name, social security number, address, incident location, incident date, time of call, time of arrival at scene, time departed

scene, time arrived at hospital, the chief complaint of the patient, the current medications taken by the patient, allergy information, medical history of the patient, and the narrative of the incident made by the paramedic all are exempt under medical records for purposes of the FOIA.

Opinion in Full:

This is in response to your request for an opinion regarding the Arkansas Freedom of Information Act ("FOIA"), which is codified at A.C.A. § 25-19-101 et seq. (Repl. 1992 and Supp. 1995). Your question pertains to the report that is made by Paramedics and EMT's when the Springdale Fire Department Ambulance Service responds to an emergency call and picks up and transports a patient to the hospital. You have asked what information contained in the report is subject to disclosure under the FOIA, and specifically regarding the following information:

1. Patient name;
2. Social security number;
3. Address;
4. Incident location;
5. Incident date;
6. Time of call, time arrived at scene, time departed scene and time arrived at hospital;
7. The chief complaint of the patient;
8. The current medications taken by the patient;
9. Current allergies and medical history of the patient; and
10. Narrative of the incident made by the Paramedic.

You have submitted in this regard a computer-generated form currently used by the Springdale Fire Department. The form is entitled "City of Springdale Fire Department EMS Prehospital Care Report."

It is my opinion that this record is in all likelihood exempt from public inspection under the "Medical Records" exemption contained in the FOIA. A.C.A. § 25-19-105(b)(2) (Supp. 1995). Thus, in my opinion, deletion of the patient's name and other identifying information will not render the record disclosable. The "Medical Records" exemption is mandatory, and the removal of particular information cannot change the record's character as a medical record. See generally Attorney General Opinion 91-208 (regarding certain records of patients at the University of Arkansas for Medical Sciences).

The term "Medical Records" is not defined in the FOIA. This office has previously opined that the term encompasses records which have a relationship to the diagnosis or treatment of a medical condition. See Attorney General Opinion 91-208 and 89-147. See also Plain Dealer Pub. vs. United States Dept. of Labor, 471 F. Supp. 1023 (D.D.C. 1979) (regarding the federal FOIA exception for "Medical Files," 5 U.S.C. § 552(b)(6)). Of course, application of the "Medical Records" exemption requires a case by case determination. The mere fact that a record contains some medical information will not necessarily

bring it within the exemption. See, e.g., Attorney General Opinion 91-208 (concluding that hospital billing statements that contain medical treatment information are not "Medical Records"). But where, as presumably is the case in this instance, a report is prepared by medical personnel primarily for diagnostic or treatment purposes, it seems clear that the exemption under § 25-19-105(b)(2) will extend to such a record.

Attorney General Opinion 2016-002

Opinion Summary:

The Attorney General states that without an assessment or millage, an ordinance that creates an ambulance service district is not pursuant to A.C.A. § 14-282-102 and is therefore an invalid ordinance.

Opinion in Full:

I am writing in response to your request for an opinion on the following question:
If a quorum court creates an ambulance service district pursuant to Arkansas Code Annotated 14-282-102(e), but does not provide for an assessment or millage, must the ordinance still be approved by a vote of the residents?

RESPONSE

When you state that the quorum court "does not provide for an assessment or millage," I take it you mean the ordinance creating the ambulance service district does not include the method of taxation for funding the district. In my opinion, an ordinance that does not set forth the method of taxation fails to comply with Ark. Code Ann. § 14-282-102(e). Accordingly, under the assumption of your question—that the quorum court created the ambulance service district pursuant to Ark. Code Ann. § 14-282-102(e)—the ordinance would not be effective and could not be made effective by a vote.

DISCUSSION

Arkansas Code Annotated § 14-282-102(e) expressly requires that an ordinance creating an ambulance service improvement district designate the area to be served and "also set forth the method the ambulance service district shall assess the persons residing therein or the property owners having property located therein."1 Subsection 14-282-102(e) is unambiguous in requiring that the ordinance set forth the method of taxation by which the ambulance service district will be financed. Taxes can either be assessed to each resident or a tax millage will be imposed on all property within the district.2 But the method must be stated in the ordinance.

If the method of taxation is not stated in the ordinance, it is clear that the ordinance fails to comply with Ark. Code Ann. § 14-282-102(e). I believe a reviewing court would conclude that an ordinance based on § 14-282-102(e) is invalid in this instance.3 There would thus be no occasion for the residents to vote on such an ordinance. The ordinance would not be effective; and in my opinion, a vote could not make it effective.

County Departments, Boards, and Subordinate Service Districts

§ 14-14-701. Legislative Determination and 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.

Credits Acts of 1977, Act 742, §§ 98, 99.

§ 14-14-702. Limitations

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.

Credits Acts of 1977, Act 742, § 100.

§ 14-14-703. Elected County Officers—Organization

(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/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.

Credits Acts of 1977, Act 742, § 101.

§ 14-14-704. Department

(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.

Credits Acts of 1977, Act 742, § 102.

§ 14-14-705. 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/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.

Credits Acts of 1977, Act 742, § 103; Acts of 1997, Act 359, § 1.

§ 14-14-706. Board Registry

(a). 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.

Credits Acts of 1977, Act 742, § 104.

§ 14-14-707. Meetings

(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/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.
Credits Acts of 1977, Act 742, § 105.

§ 14-14-708. Subordinate Districts; General Provision

(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.

Credits Acts of 1981, Act 874, § 1; Acts of 1983, Act 233, § 2.

§ 14-14-709. Subordinate Districts; Establishment

(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.

Credits Acts of 1981, Act 874, § 1; Acts of 1983, Act 233, § 2; Acts of 1993, Act 317, § 1.

§ 14-14-710. Subordinate Districts; Modification, Dissolution

(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.

Credits Acts of 1981, Act 874, § 1; Acts of 1983, Act 233, § 2.

A.C.A. § 14-27-101 Intergovernmental Cooperation Council & 911 Emergency Dispatch

Intergovernmental cooperation between public agencies and entities can be a great way to increase efficiency, effectiveness, and reduce unnecessary spending. Arkansas Law requires executives of all political subdivisions of each County to meet and discuss programs, facilities, contracts, and other issues at least one (1) time every year.

If any significant issues arise regarding facilities, agreements, or overlapping services between political subdivisions, the best place to raise these issues is at the annual Intergovernmental Cooperation Council Meeting.

It is expected that regular dialogue between the executives of the various local government subdivisions within each County will encourage these governmental units to share facilities, equipment, employees, and services to provide each with a mutual benefit to the advantage of all governments within the County; explore the use of joint purchasing and buying agreements to purchase goods and services in an effort to achieve economies of scale that would not be possible without mutual cooperation; and identify the areas of duplication of services so they may be eliminated to the maximum extent possible.

Intergovernmental Cooperation Council Laws

14-27-101. Purpose

- **(a)** It is the purpose of this chapter to require the executives of all political subdivisions of each County to meet on a regular basis for the purpose of encouraging cooperation by the various local government jurisdictions within each County in the most efficient use of their mutual resources and in the providing of services to their local communities in the most efficient and mutually advantageous manner possible.
- **(b)** It is expected that regular dialogue between the executives of the various local government subdivisions within each County will encourage these Governmental units to:
    - **(1)** Share facilities, equipment, employees, and services to provide each with a mutual benefit to the advantage of all Governments within the County;
    - **(2)** Explore the use of joint purchasing and buying agreements to purchase goods and services in an effort to achieve economies of scale that would not be possible without mutual cooperation; and
    - **(3)** Identify the areas of duplication of services so they may be eliminated to the maximum extent possible.

14-27-102. Establishment

- **(a)** There is established within each County of this State a County Intergovernmental Cooperation Council to facilitate cooperation among all the local government subdivisions of each County, to encourage the efficient use of local government resources, and to eliminate the duplication of services by local governments.
- **(b)**
    - **(1)** The membership of each cooperation council shall consist of the County Judge, the County Clerk, and the Mayor of each City and Incorporated Town within each County.
    - **(2)**
        - **(A)** The County Judge of each County shall serve as Chair of the Cooperation Council.
        - **(B)** The County Judge shall have full voting power and shall have veto power over any action taken by the Council.
        - **(C)** It shall require a two-thirds majority vote of all Council Members to override a veto.
    - **(3)** The County Clerk of each County shall serve as the Secretary of the Cooperation Council, shall preside over Cooperation Council Meetings in the absence of the Council Chair, and shall be responsible for writing and submitting all reports of the Cooperation Council.
- **(c)** Each member of the Council shall have one (1) vote for the local government jurisdiction he/she represents on the Cooperation Council.
- **(d)** The members of the Cooperation Council shall serve without compensation for their services.
- **(e)** A quorum shall consist of a majority of the council's membership and shall be necessary to conduct its business.

14-27-103. Meetings - Notice

- **(a)** A county intergovernmental cooperation council shall meet at least one (1) time annually.
- **(b)** Meetings of the council shall be open to the public and held in a public meeting room.
- **(c)** Meetings of the council shall be at the call of the chair unless a majority of the council's membership petition for a meeting to be held.

- **(d)** The secretary of the council shall notify the public and the press of council meetings at least three (3) days before the meetings.

14-27-104. Review of public services

- **(a)** At least one (1) time annually, the County Intergovernmental Cooperation Council shall review the delivery of services by the various local government subdivisions within the County in the following areas:
    - **(1)** Law enforcement services;
    - **(2)** Fire protection services;
    - **(3)** Jail facilities and correctional services;
    - **(4)** Ambulance and emergency medical services;
    - **(5)** Library services;
    - **(6)** Motor vehicle liability insurance;
    - **(7)** Workers' compensation coverage;
    - **(8)** Solid waste management services;
    - **(9)** Street, road, and highway repair and construction;
    - **(10)** Parks and recreation facilities and services;
    - **(11)** Planning and zoning services;
    - **(12)** Health and sanitation services;
    - **(13)** Public transit and transportation services; and
    - **(14)** Any other service area of local government.
- **(b)**
    - **(1)** The annual review of various services can occur at any or all meetings of the council during the year.
    - **(2)** Each service area shall be examined to determine whether or not the employees, equipment, or facilities of service areas could be shared to reduce cost or eliminated to avoid the duplication of services and whether or not the goods and services purchased individually in each of these areas could be purchased jointly or cooperatively to reduce the unit cost to all Local Governments within the County.

- **(3)** If it is determined by the Cooperation Council that duplicative services exist and can be eliminated or that joint purchases could be made at reduced costs, this determination shall be reported to the governing body of the Local Government Jurisdictions involved along with any recommendations for consolidation of services or purchases.

Ambulance Services: Vital for public health but neglected

MARK WHITMORE
AAC Chief Counsel

Ambulance services are absolutely vital. We depend on ambulance services for our own lives and the lives of our loved ones. This was true before the COVID-19 pandemic. It's no less true in a post Covid-19 world. Yet, in the past ambulance services have been systematically disregarded by our state and federal governments.

Neglect of Ambulance Services: Flat-line Medicaid Reimbursement Rates

On Feb. 19, 2020, the Senate and House Public Health Committees and the Senate and House Insurance and Commerce met jointly. Attendees were truly aghast about what was discovered during that joint meeting. Every Arkansan should be equally shocked.

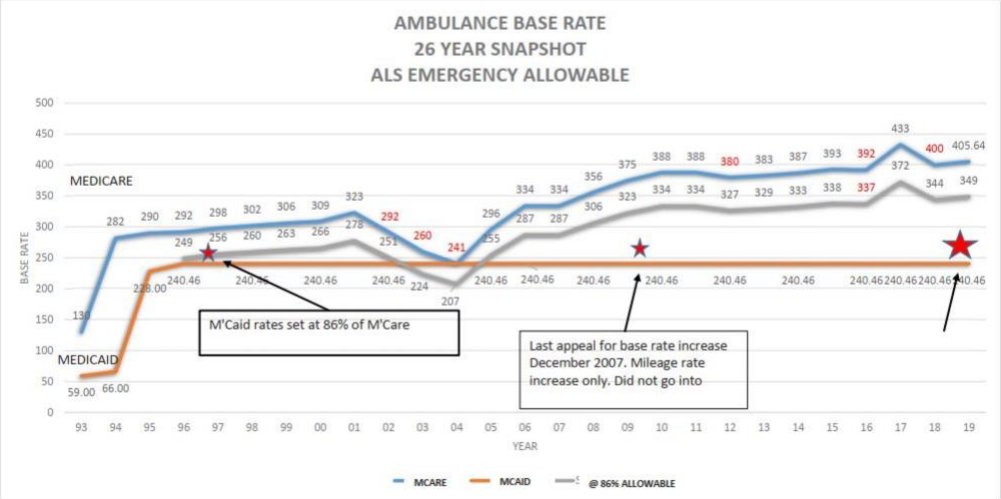
The Medicaid reimbursement rates for advance life support (ALS) ambulance care services in Arkansas have been flat for over 25 years. ALS refers to an ambulance with a paramedic and emergency medical technician on board. Currently, every county in Arkansas has an ALS ambulance. However, that soon will no longer be the situation in Arkansas. Below is a snapshot of the funding in Arkansas over the past 26 years for ALS ambulance services and the allowable reimbursement rates under Medicaid and Medicare.

Citizens and taxpayers should be alarmed about the disregard for the funding of ambulance services in Arkansas. This systematic disregard has placed ALS ambulance services in many counties in Arkansas in jeopardy. Our class 1 and class 2 counties with populations below 10,000 and 20,000, respectively, are in the most precarious positions. Rural areas of Arkansas often lack the population and number of runs under these stagnant Medicaid reimbursement rates to keep ambulance services solvent.

Jamie Pafford-Gresham is president/chief executive officer of Pafford Emergency Medical Services (EMS), one of the oldest and largest privately-owned EMS systems in the region. She also serves as government affairs chairperson for the industry, American Ambulance Association. She explains the situation as follows:

"Historically, many counties in Arkansas contracted with private providers as not to have the financial burden and expertise required to properly staff an ambulance service 24/7/365 days a year.

In a majority of cases this was done with little to no sub-



See "AMBULANCE" on Page 40 >>>

Ambulance

Continued From Page 13 <<<

sidy, with providers utilizing a fee for service model to garner enough revenue to cover the cost of doing business. Today's EMS systems are the healthcare safety net and fill the gap for proper medical coverage for many communities without local hospitals and access to healthcare clinics after hours. EMS systems across the state all participate with the Department of Health Services (DHS) Trauma System and adhere to strict guidelines for coverage and protocols required of them. Although I come from a 'mom and pop' ambulance service that taught me many life lessons, the days of it or a 'mother jugs and speeds' version of ambulance service has timed out.

Arkansas providers have worked very hard to ensure quality care across the state with access to ALS systems. This model and many of our rural providers are facing challenging times, and EMS as we know it is in severe jeopardy, and change is on the horizon.

> "As we move forward, a commitment from all involved to find solutions will be needed. Many in the region are realizing to ensure quality EMS, they will have to find ways to properly fund the systems in the future, making it a priority for citizens."
>
> *— Jamie Pafford-Greshamn*
>
> *Chairperson for the American Ambuland Association*

The quality of care and the requirements of systems today have outpaced the revenue streams provided for a fee for service model. A stagnant 24-year lull in proper funding from state Medicaid, below cost reimbursement from Medicare, changes in wage and hour for providers expected to work many 24-hour shifts in a week, as well as new technology requirements and equipment costs continuing to rise has ambulance providers searching for assistance. It is not that they are bad stewards of their money, but they lack funding, and understanding of needs and support from communities in which they serve. As we move forward, a commitment from all involved to find solutions will be needed. Many in the region are realizing to ensure quality EMS, they will have to find ways to properly fund the systems in the future, making it a priority for citizens."

Ken Kelley is the president/chief executive officer of ProMed Ambulance, a private EMS agency serving six Arkansas counties. Kelley is a past president of the Arkansas Ambulance Association (ArAA) and serves as the organization's government affairs committee chair. Kelley adds:

"In 2020, modern EMS systems celebrate their 50th anniversary. For nearly this entire life cycle, the ArAA has stood as the recognized trade organization representing all classes of ambulance providers across the state. The ambulance industry stands strong in its traditions of innovation, flexibility and resilience. Today's EMS agencies face new challenges in responding to time sensitive emergencies such as heart attack, stroke, trauma."

Arkansas' EMS providers have responded in unique ways to advance and grow the industry and the levels of care provided across the state. The ArAA has been instrumental in conducting provider education as well as community and stakeholder education. The industry has helped craft legislation such as the Municipal Ambulance Franchising Act and most recently the Medicaid Ambulance Supplemental Payment Program which, though passed in 2017, has yet to be implemented. The industry and DHS have recently re-engaged in talks that is hoped to bring about a state plan amendment that will help provide some fiscal relief.

Perry County Judge Toby Davis knows all too well the adverse impact the stagnant Medicaid reimbursement rates has had on rural Arkansas. Judge Davis testified to the legislative committees.

"Perry County is small in population, 10,455 according to the 2010 U.S. Census (ranked 63rd by population)," he said. "Perry County is 561 square miles, bordered by Conway, Faulkner, Garland, Pulaski, Saline, and Yell counties. The economic base is mostly agriculture and logging. Perry County is a rural bedroom community that consist of a lot of elderly and retired people."

The Judge further states "The county needs to have two ambulances. When one ambulance is taking care of a call another ambulance needs to be available to respond to a second call. However, there is only enough funding and call volume to sustain one ambulance. There are several challenges in secur-

ing adequate funding for a second ambulance for the citizens of Perry County. We've formed an EMS Board and are looking at funding options."

In 2015 the AAC produced the Ambulance Services Guidebook, which serves as a resource of the laws and legal authorities concerning ambulance services in Arkansas. That version was updated in 2020, and a copy is posted on the AAC website under the "Publications" tab.

Non-Emergency Transports: Act 1041 od 2019

In 2019 the General Assembly launched a task force to tackle another issue plaguing our ambulance services in Arkansas — nonemergency transports. House Bill 1710, now Act 1041 of 2019, sponsored by Rep. Mark Perry and Sen. Jimmy Hickey, Jr., seeks to address the precarious situation.

Routinely, ambulances or law enforcement vehicles are used for nonemergency behavioral health transports. EMTs, paramedics, and ALS ambulances need to be used and available to address emergency medical needs in our counties. Likewise, law enforcement officers and vehicles are finite and are needed for law enforcement emergencies. These precious resources are frequently unavailable for their intended use, due to being taken out of the county to serve as nonemergency behavioral health transportation. It's extremely wasteful for highly trained medical staff and highly equipped ambulances to be taken offline for use in nonemergency behavioral health transports. Likewise, use of law enforcement officers and vehicles for non-emergency behavioral transports takes them out of the county and is not responsive to the public safety needs of their communities. Misdirection of these vital resources creates an unnecessary risk the lives and safety of the public.

The task force discovered several factors that must be addressed. Other states face the same issues and have initiated pilot programs. However, no state seems to have settled on definitive solutions. There are several potential and less costly recommendations to consider. One of the most interesting potential recommendations includes expansion of the state's existing unscheduled nonemergency medical transportation model. Another model might include provision of appropriate vehicles, contracts and reimbursement rates for nonemergency behavioral health transportations by virtue of the Community Mental Health Centers (CMHCs) situated throughout Arkansas. The initial report of the task force supplied to the legislative committees is available via the link.

The Medicaid reimbursement rate for ALS ambulance services in Arkansas should be addressed and increased. Ambulance services are essential to our citizens' health and should be treated accordingly.

A.C.A. § 20-13-801 Trauma System & Dept. of Health Regulations

This section is designed to help Counties understand the Trauma System in Arkansas and how emergency medical services are supposed to integrate into the Trauma System. There are four (4) documents included in this section: Trauma Statutes, Arkansas Trauma System Rules and Regulations, the Rules and Regulations for Emergency Medical Services, and a chart displaying the Field Triage Decision Scheme. It is essential that emergency medical service agencies follow the Arkansas Trauma Triage Protocols.

Trauma Statutes

A.C.A. § 20-13-802. Legislative Findings

- The General Assembly finds that:
    - (1) Traumatic injury is recognized as the leading killer of persons one (1) year to forty-four (44) years of age and is a serious yet preventable condition;
    - (2) Deaths due to trauma in the United States for 2005 were nearly one hundred thirty-nine thousand (139,000), and children nineteen (19) years of age or younger accounted for nearly twelve percent (12%) of the deaths;
    - (3) In 2006, two thousand one hundred nineteen (2,119) Arkansans lost their lives and twenty-five thousand three hundred eight (25,308) were admitted to hospitals due to trauma;
    - (4) The State of Arkansas incurs a massive expense from trauma in lives lost, productive years destroyed, and the emotional and monetary expense of caring for victims of trauma; and
    - (5) The experience of other states has shown that a Comprehensive Trauma System, including all phases of trauma care from prevention, prehospital care, and Trauma Center designation to rehabilitative care, can vastly improve overall trauma problems.

A.C.A. § 20-13-804. Powers and Duties of the Department of Health

- **(a)** The Department of Health may develop and implement a Comprehensive Trauma Care System that provides guidelines for the care of trauma victims and is fully integrated with all available resources, including, but not limited to, existing emergency medical services providers, hospitals, or other health care providers that would like to participate in the program.
- **(b)**
    - **(1)** The department shall allocate funds deposited into the Public Health Fund to administer this subchapter.

- **(2)** Allocations of funds in the form of grants or contracts from the funds deposited into the Public Health Fund to administer this subchapter may include without limitation:
    - **(A)** Emergency medical system care providers and ambulance providers under § 20-13-809;
    - **(B)** Level I, Level II, Level III, and Level IV Trauma Centers under §§ 20-13-810 -- 20-13-813;
    - **(C)** Rehabilitation service providers under § 20-13-814;
    - **(D)** Quality improvement organizations under § 20-13-815;
    - **(E)** Trauma regional advisory councils under § 20-13-816;
    - **(F)** Command communication networks under § 20-13-817; and
    - **(G)** Injury prevention programs under § 20-13-818.

- **(c)** The funds deposited into the Public Health Fund to administer this subchapter will be used to fund two (2) general types of grants with entities necessary to administer this subchapter:
    - **(1)** Start-up trauma grants to support initial costs required to qualify for participation in the Trauma Care System; and
    - **(2)** Sustaining trauma grants to support ongoing readiness costs for continued participation in the trauma care system.
- **(d)** The department may contract with entities as necessary to implement this subchapter.

A.C.A. § 20-13-805. Standards for Verification of Trauma Center Status

- **(a)** The State Board of Health may adopt standards for designation and verification of Trauma Center status which assign level designations based on resources available within the facility.
- **(b)**
    - **(1)** Standards shall be based upon national guidelines, including those established by the American College of Surgeons entitled "Hospital and Prehospital Resources for Optimal Care of the Injured Patient" and published appendices thereto.
    - **(2)** Standards specific to address the unique nature of Arkansas may be developed and modified by rule of the Board.

A.C.A. § 20-13-806. Trauma Data Collection and Evaluation System -- Confidentiality of Records

- **(a)**
    - **(1)** The Department of Health shall develop a trauma data collection and evaluation system known as the "Trauma Registry".
    - **(2)** The Trauma Registry shall be designed to study both the individual and collective care and treatment given to patients of the trauma system.
- **(b)**
    - **(1)** The department may collect data and information regarding patients treated and transported from the field and admitted to a facility through the emergency department, through a Trauma Center, or directly to a special care unit or post-hospitalization facility.
    - **(2)** Data and information shall be collected in a manner which protects and maintains the confidential nature of patient records.
- **(c)** Records and reports made pursuant to this subchapter shall be held confidential within the hospital and department and shall not be available to the public.
- **(d)** The department shall require all recipients of sustaining grants under this subchapter to participate in the State-Specified Trauma Registry.

A.C.A. § 20-13-807. Trauma Advisory Council

- **(a)** There is established an advisory council, to be known as the "Trauma Advisory Council", for the purpose of making recommendations, advising, and providing assistance to the Department of Health concerning the development and operation of a statewide trauma system.
- **(b)** The council shall consist of twelve (12) voting members who have a demonstrated interest in trauma systems to be appointed by the Governor subject to confirmation by the Senate as follows:
    - **(1)** One (1) member appointed by the Governor after consulting the Arkansas Chapter of the American College of Emergency Physicians;
    - **(2)** One (1) member appointed by the Governor after consulting the Arkansas Chapter of the American College of Surgeons;
    - **(3)** One (1) member appointed by the Governor after consulting the Arkansas Medical Society;
    - **(4)** Three (3) members appointed by the Governor after consulting the Arkansas Hospital Association;

- **(5)** One (1) member appointed by the Governor after consulting the Emergency Medical Services Advisory Council;
- **(6)** One (1) member appointed by the Governor after consulting the Arkansas Emergency Medical Technicians Association;
- **(7)** One (1) member appointed by the Governor after consulting The Arkansas Ambulance Association;
- **(8)** One (1) member appointed by the Governor after consulting the Arkansas Minority Health Commission;
- **(9)** One (1) member appointed to represent injury prevention; and
- **(10)** One (1) member appointed from the public at large as a consumer representative who has an interest in trauma systems.

- **(c)** The Trauma Advisory Council shall also include four (4) voting members who have a demonstrated interest in trauma systems to be appointed as follows:
  - **(1)** Two (2) members to be appointed by and to serve at the pleasure of the President Pro Tempore of the Senate after consulting the Arkansas Medical, Dental, and Pharmaceutical Association, Inc. and the Arkansas Emergency Nurses Association; and
  - **(2)** Two (2) members to be appointed by and to serve at the pleasure of the Speaker of the House of Representatives after consulting the Arkansas Academy of Family Physicians.
- **(d)** The Secretary of the Department of Health or his or her designee shall serve as a nonvoting ex officio member of the Trauma Advisory Council.

A.C.A. § 20-13-808. Terms - Vacancies - Meetings - Rules

- **(a)** All voting members of the Trauma Advisory Council shall be appointed for terms of five (5) years.
- **(b)**
  - **(1)** If a vacancy occurs in an appointed position for any reason, the vacancy shall be filled in the manner provided for the original appointment under § 20-13-807.
  - **(2)** The new appointee shall serve for the remainder of the unexpired term.
- **(c)** A member of the Council shall be removed for conviction of a felony, for not attending fifty percent (50%) of the meetings in a calendar year, or if the member no longer meets the qualifications for his/her initial appointment.

- **(d)**
    - **(1)** The members of the Council shall elect from their membership a Chair, a Vice Chair, and a Secretary, whose duties shall be those customarily exercised by those officers or duties specifically designated by the Council.
    - **(2)** All officers shall serve for a period of two (2) years and until their successors are elected.
- **(e)**
    - **(1)** A majority of the voting members of the council shall constitute a quorum for the purpose of transacting business.
    - **(2)** Except for actions taken pursuant to subsection (g) of this section, all actions of the Council shall be made by a majority of all voting members.
- **(f)** The Council shall meet at least four (4) times a year but may meet more frequently upon the call of the Chair of the Trauma Advisory Council or at the request, stated in writing, of a majority of the members of the Council.
- **(g)**
    - **(1)** To assist in the expeditious conduct of its business when the full Council is not meeting, the Council may elect an Executive Committee.
    - **(2)** The chair, the Vice Chair of the Trauma Advisory Council, and the Secretary of the Trauma Advisory Council shall be members of the executive committee.
    - **(3)** The executive committee shall be constituted and shall function as provided in the bylaws of the Council.
- **(h)** The council shall establish its own rules of procedure.

A.C.A. § 20-13-809. Grants for Emergency Medical System Care Providers or Ambulance Providers

- An emergency medical system care provider or ambulance provider may be eligible for:
    - **(1)** The emergency medical system care provider education start-up grants that are used to support trauma education and trauma readiness; or
    - **(2)** The emergency medical system care provider sustaining grants that are used to support ongoing trauma education and trauma readiness.

A.C.A. § 20-13-810. Grants for Level I Trauma Centers

- **(a)**
    - **(1)** An entity that meets the preliminary criteria for a Level I Trauma Center under the rules of the State Board of Health may be eligible for the Level I Trauma Center Start-Up Grant that is used to qualify for the status of a Level I Trauma Center and for trauma readiness costs associated with the care of trauma patients.
    - **(2)** This grant may be awarded to entities that:
        - **(A)** Meet the preliminary criteria for Level I Trauma Center status as determined by the Department of Health: and
        - **(B)** Demonstrate the capability of fully achieving Level I Trauma Center status within eighteen (18) months.
- **(b)**
    - **(1)** An established Level I Trauma Center may be eligible for a sustaining grant if the Level I Trauma Center:
        - **(A)** Has achieved Level I Trauma Center status and is currently at Level I status: and
        - **(B)** Demonstrates continued capability to maintain Level I Trauma Center status.
    - **(2)** This grant may be an annual grant and may have an annual renewal process for Level I Trauma Centers that meet the criteria under this subsection.

A.C.A. § 20-13-811. Grants for Level II Trauma Centers

- **(a)**
    - **(1)** An entity that meets the preliminary criteria for a Level II Trauma Center under the rules of the State Board of Health may be eligible for the Level II Trauma Center Start-Up Grant that is used to qualify for the status of a Level II Trauma Center and for trauma readiness costs associated with the care of trauma patients.
    - **(2)** This grant may be awarded to entities that:
        - **(A)** Meet the preliminary criteria for Level II Trauma Center status as determined by the Department of Health: and
        - **(B)** Demonstrate the capability of fully achieving Level II Trauma Center status within twelve (12) months.

- **(b)**
    - **(1)** An established Level II Trauma Center may be eligible for a sustaining grant if the Level II Trauma Center:
        - **(A)** Has achieved Level II Trauma Center status and is currently at Level II status: and
        - **(B)** Demonstrates continued capability to maintain Level II Trauma Center status.
    - **(2)** This grant may be an annual grant and may have an annual renewal process for Level II Trauma Centers that meet the criteria under this subsection.

A.C.A. § 20-13-812. Grants for Level III Trauma Centers

- **(a)**
    - **(1)** An entity that meets the preliminary criteria for a Level III Trauma Center under the rules of the State Board of Health may be eligible for the Level III Trauma Center Start-Up Grant that is used to qualify for the status of a Level III Trauma Center and for trauma readiness costs associated with the care of trauma patients.
    - **(2)** This grant may be awarded to entities that:
        - **(A)** Meet the preliminary criteria for Level III Trauma Center status as determined by the Department of Health: and
        - **(B)** Demonstrate the capability of fully achieving Level III Trauma Center status within twelve (12) months.
- **(b)**
    - **(1)** An established Level III Trauma Center may be eligible for a sustaining grant if the Level III Trauma Center:
        - **(A)** Has achieved Level III Trauma Center status and is currently at Level III status: and
        - **(B)** Demonstrates continued capability to maintain Level III Trauma Center status.
    - **(2)** This grant may be an annual grant and may have an annual renewal process for Level III Trauma Centers that meet the criteria under this subsection.

A.C.A. § 20-13-813. Grants for Level IV Trauma Centers

- **(a)**
    - **(1)** An entity that meets the preliminary criteria for a Level IV Trauma Center under the rules of the State Board of Health may be eligible for the Level IV Trauma Center Start-Up Grant that is used to qualify for the status of a Level IV Trauma Center and for trauma readiness costs associated with the care of trauma patients.
    - **(2)** This grant may be awarded to entities that:
        - **(A)** Meet the preliminary criteria for Level IV Trauma Center status as determined by the Department of Health: and
        - **(B)** Demonstrate the capability of fully achieving Level IV Trauma Center status within twelve (12) months.
- **(b)**
    - **(1)** An established Level IV Trauma Center may be eligible for a sustaining grant if the Level IV Trauma Center:
        - **(A)** Has achieved Level IV Trauma Center status and is currently at Level IV status: and
        - **(B)** Demonstrates continued capability to maintain Level IV Trauma Center status.
    - **(2)** This grant may be an annual grant and may have an annual renewal process for Level IV Trauma Centers that meet the criteria under this subsection.

A.C.A. § 20-13-814. Grants for Rehabilitation Services

Grants may be awarded to providers, entities, or organizations with special competence in trauma rehabilitation services that provide rehabilitation services under this subchapter to trauma patients.

A.C.A. § 20-13-815. Contracts with Quality Improvement Organizations

(a) An entity that meets the preliminary criteria for a quality improvement organization under the rules of the State Board of Health may contract with the Department of Health to develop, promulgate, and measure trauma quality measures for entities providing care for the trauma system under this subchapter.

(b) This contract may be awarded to entities that:

(1) Meet the preliminary criteria for a quality improvement organization as determined by the Department of Health: and

(2) Demonstrate the capability of providing to the trauma system, Trauma Centers, and other trauma care providers:

(A) The development of quality measures:

(B) The implementation of educational programs to trauma care providers related to quality measures and to improve the quality of care; and

(C) The gathering of data that can be used to measure the quality of care, outcomes, and utilization of resources.

A.C.A. § 20-13-816. Grants for Trauma Regional Advisory Councils

- **(a)**
    - **(1)** An entity that meets the preliminary criteria for a Trauma Regional Advisory Council under the rules of the State Board of Health may be eligible for recognition as a trauma regional advisory council.
    - **(2)** The Department of Health may establish a grant or provide technical assistance to entities that:
        - **(A)** Meet the preliminary criteria for a Trauma Regional Advisory Council as determined by the Department of Health; and
        - **(B)** Demonstrate the capability of satisfactorily developing, overseeing, and administering the trauma system plan for its region.
- **(b)**
    - **(1)** An established Trauma Regional Advisory Council may be eligible for a sustaining grant if the trauma regional advisory council:
        - **(A)** Has achieved the status as the Trauma Regional Advisory Council for its region of the trauma system and is currently providing trauma planning and quality improvement services to its region of the trauma system; and
        - **(B)** Demonstrates continued capability to maintain its status as a Trauma Regional Advisory Council based on its performance in planning and overseeing the plan for its region of the trauma system.
    - **(2)** This grant may be an annual grant and have an annual renewal process for a Trauma Regional Advisory Council that meets the criteria under this subsection.

A.C.A. § 20-13-817. Command and Communication Networks

- **(a)** The Department of Health shall ensure operation of a call center to facilitate communication and coordination of available resources.
- **(b)** The call center shall direct patient transport of critical trauma patients to hospitals with the appropriate capability to provide optimum patient care.
- **(c)** The department may contract with entities to provide command and communication networks.

A.C.A. § 20-13-818. Injury Prevention Programs

The Department of Health shall allocate funds to develop and promote injury prevention programs including the development of the capacity to track and describe the epidemiologic and health statistics of injury deaths and disabilities in Arkansas.

A.C.A. § 20-13-819. Quality or System Assessment and Improvement

- **(a)**
    - **(1)** Any data, records, reports, and documents collected or compiled by or on behalf of the Department of Health, the Trauma Advisory Council, or other entity authorized under this subchapter for the purpose of quality or system assessment and improvement of the Trauma System shall not be subject to disclosure under the Freedom of Information Act of 1967, § 25-19-101 et seq., to the extent that it identifies or could be used to identify any individual patient, provider, institution, or health plan.
    - **(2)** For purposes of this section, "data, records, reports, and documents" means recordings of interviews and all oral or written proceedings, reports, statements, minutes, memoranda, data, and other documentation collected or compiled for the purposes of Trauma System quality review or Trauma System assessment and improvement pursuant to a requirement of or request by the Department, the Council, or other entity authorized by this chapter.
- **(b)**
    - **(1)** Any data, records, reports, and documents collected or compiled by or on behalf of the Department, the Council, or other entity authorized under this subchapter for the purpose of quality or system assessment and improvement shall not be admissible in any legal proceeding and shall be exempt from discovery and disclosure to the same extent that records of and testimony before committees evaluating the quality of medical or hospital care are exempt under § 16-46-105(a)(1).

- **(2)** A healthcare provider's use of the information in its internal operations shall not operate as a waiver of these protections.

- **(c)** All information shall be treated in a manner that is consistent with all State and Federal privacy requirements, including without limitation the Federal Health Insurance Portability and Accountability Act of 1996 privacy rule, 45 C.F.R. § 164.512(i).

- **(d)** The Department or other entity authorized to provide services for the Trauma System may use any data, records, reports, or documents generated or acquired in its internal operations without waiving any protections under this section.

A.C.A. § 20-13-820. Reports to the General Assembly

The Secretary of the Department of Health shall provide a report to the Senate Committee on Public Health, Welfare, and Labor and the House Committee on Public Health, Welfare, and Labor on or before April 1 and October 1 of each year through 2011. After 2011, the secretary shall provide an annual report to the Senate Committee on Public Health, Welfare, and Labor and the House Committee on Public Health, Welfare, and Labor on or before October 1.

A.C.A. § 20-13-821. Rules

The State Board of Health shall promulgate the rules necessary to implement and administer this subchapter.

Arkansas Trauma System Rules and Regulations

SECTION IV: PREHOSPITAL TRIAGE AND TRANSPORT

A. Purpose

Emergency care of the traumatically injured patient is best accomplished using an inclusive, multi-level trauma care systems approach. Triage, transport, and transfer protocols have been developed to ensure that trauma patients shall receive prompt and potentially lifesaving treatment.

B. Prehospital Trauma Treatment Standard

1. Assessment

Traumatically injured patients shall be appropriately triaged using the *Field Triage Decision Scheme: The Arkansas Trauma Triage Protocol* as defined in Section IV. C.

2. Initiate resuscitation

BLS interventions (establishment of patent airway, hemorrhage control, spinal immobilization, fracture immobilization, etc.) will be initiated by the EMS provider following established State protocols. If there are no State mandated protocols established, the Agencies shall follow local protocols.

3. Rapid transport to the most appropriate Trauma Center, following contact with the ATCC when appropriate.

Patient transport will be initiated by the EMS provider following established guidelines using the *Field Triage Decision Scheme: The Arkansas Trauma Triage Protocol*.

4. Notify the receiving Trauma Center

Contact with the receiving Trauma Center shall be made at least 15 minutes prior to patient arrival. If transport time is less than 15 minutes, contact shall be made as far in advance of arrival as possible. An accurate description of the incident, injuries, and current medical interventions based upon established protocols, and patient status will be relayed to the Trauma Center. Further management guidance will be requested from the receiving hospital medical control as required during transport. The Trauma Center shall monitor the State mandated EMS channel and EMS unit in a timely manner.

5. Treatment during transport

Patient care shall follow established local protocols unless State mandated protocols exist that address a specific issue.

6. EMS providers shall not initiate transport procedures as set forth in the *Field Triage Decision Scheme: The Arkansas Trauma Triage Protocol* when the following patient conditions occur:

    a. Decomposition

    b. Rigor mortis

    c. Normothermic asystole secondary to trauma (as determined by ALS providers only; does not apply to BLS providers).

These patients may be transported according to local protocol.

E. Standards for Transfers between Trauma Centers

1. The decision to transfer an injured patient to a facility for specialty care in an acute situation shall not be based on the patient's ability to pay or insurance status.

2. Qualified physicians on-call for a facility shall participate actively in the assessment of an injured patient and in the decision to transfer based on the patient's best interest.

3. Conducting a hospital-to-hospital transfer

    a. The sending ED shall contact and inform the ATCC of the need to transfer an injured patient.

    b. The ATCC shall gather pertinent information.

c. The ATCC shall evaluate both sending and potential receiving facilities' dashboard status and compare this to the patient's needs.

d. The ATCC shall then contact the closest, most appropriate Trauma Center, considering all known factors, such as recent volume to the facility, the patient's actual needs, distance, and weather.

e. The ATCC shall facilitate the conversation between the sending and receiving Trauma Centers and will remain on the recorded line to provide needed assistance until the transfer is accepted.

4. Urgent trauma patient transfers

The need for an urgent trauma transfer exists when, in the opinion of the treating physician, the following two (2) conditions are met:

a. the immediate needs of the patient cannot be met in the sending facility due to lack of capability or capacity; and,

b. the patient's condition is such that failure to meet the immediate needs will likely result in loss of life, limb, fertility, or permanent impairment that transfer to a higher level of care could potentially ameliorate.

The facility seeking the urgent trauma transfer shall contact the ATCC to provide patient condition information and to obtain concurrence with the urgent trauma transfer classification. All urgent trauma transfers shall prompt the involvement of the ATCC Medical Director in real time. The Medical Director shall verify the urgent nature of the transfer and concur there is reasonable evidence the two (2) conditions of an urgent trauma transfer are met. If the above conditions are met and concurrence from ATCC is obtained, this transfer qualifies as an urgent trauma transfer.

Once the ATCC confirms the patient meets the criteria for urgent trauma transfer, the ATCC shall contact the EMS provider identified by the transferring hospital to coordinate pickup. The ATCC shall confirm with the transferring hospital the time the patient will be ready for pickup and communicate this information to the EMS provider. The sending hospital should contact the EMS provider designated on the ATCC dashboard early in the process to allow the provider as much advance notice as possible of the impending urgent transfer.

If the EMS provider cannot be at the transferring hospital by the agreed upon time, a backfill provider shall be contacted by the EMS provider. The backfill provider must be within the boundaries of the service area before coverage is considered in place. If the service is unable to secure a backfill agreement acceptance, the ATCC shall be available to assist with the backfill, but not assume responsibility. The EMS provider shall have ten (10) minutes to accept the transfer request and shall arrive at the hospital at the time agreed upon between the transferring hospital and the EMS Agency. The patient and paperwork should be ready for transfer at that time.

All urgent trauma transfer requests shall prompt a review at the local TRAC's QI Committee to ensure that the system is being used appropriately, that the urgent trauma transfer is accomplished in a timely manner, and that each segment of the system performed its responsibilities. Potential abuses of the system shall be elevated to the QI/TRAC Committee of the TAC for review and recommendation of action steps, if required, to the ADH in order to prevent future abuses.

5. Non-urgent trauma patient transfers

If the transfer request does not meet the two (2) criteria for an urgent transfer, yet the patient's injury requires a higher level of care, the transferring Trauma Center shall call the ATCC to coordinate acceptance with the receiving center. The transferring center shall notify its EMS provider and coordinate an appropriate time for patient pickup. The EMS provider shall have no less than one (1) hour to arrive at the transferring facility. The transferring center shall have the patient ready for pickup by the agreed upon time.

Rules and Regulations for Emergency Medical Services

Guidelines for Traumatically Injured Patients

(A) TRIAGE OF TRAUMATICALLY INJURED PATIENTS
Licensed ambulance services shall appropriately triage all traumatically injured patients using the Field Triage Decision Scheme: The Arkansas Trauma Triage Protocol identified as Appendix 2. The lead EMSP will make the destination decision considering the ATCC recommendation, patient's condition, and distance of travel, patient preference, and system status.

(B) URGENT TRAUMA TRANSFERS
The following rules regarding the process for inter-facility trauma transfers applies to those services participating in the States Trauma System. Services not participating shall have written protocols addressing procedures of the timely inter-facility transfer of urgent trauma patients as defined below to appropriate adult or pediatric Trauma Centers based on a patient's medical needs. Any deviation from the services protocol shall be reviewed by the services Medical Director.

The need for an urgent trauma transfer exists when, in the opinion of the treating physician, two (2) conditions are met:

1. The immediate needs of the patient cannot be met in the sending facility due to lack of capability or capacity.

And

2. The patient's condition is such that failure to meet the immediate needs will likely result in loss of life, limb, fertility or permanent impairment and transfer to a higher level of care could potentially ameliorate.

The hospital seeking the urgent trauma transfer shall contact the ATCC to provide patient condition information and to obtain concurrence with the urgent trauma transfer classification. All urgent trauma transfers shall prompt involvement of the Medical Director of ATCC in real time. The Medical Director shall verify the urgent nature of the transfer and concur there is reasonable evidence the two (2) conditions of an urgent trauma transfer are met. If the above conditions are met and concurrence from ATCC is obtained, this transfer qualifies as an urgent trauma transfer.

Once the ATCC confirms the patient meets the criteria for urgent trauma transfer, the ATCC shall contact the EMS Service identified by the transferring hospital to coordinate pickup. The ATCC shall confirm with the transferring hospital the time the patient will be ready for pick-up and communicate

that to the ATCC dashboard early in the process to allow the Service as much advance notice as possible of the impending urgent transfer.

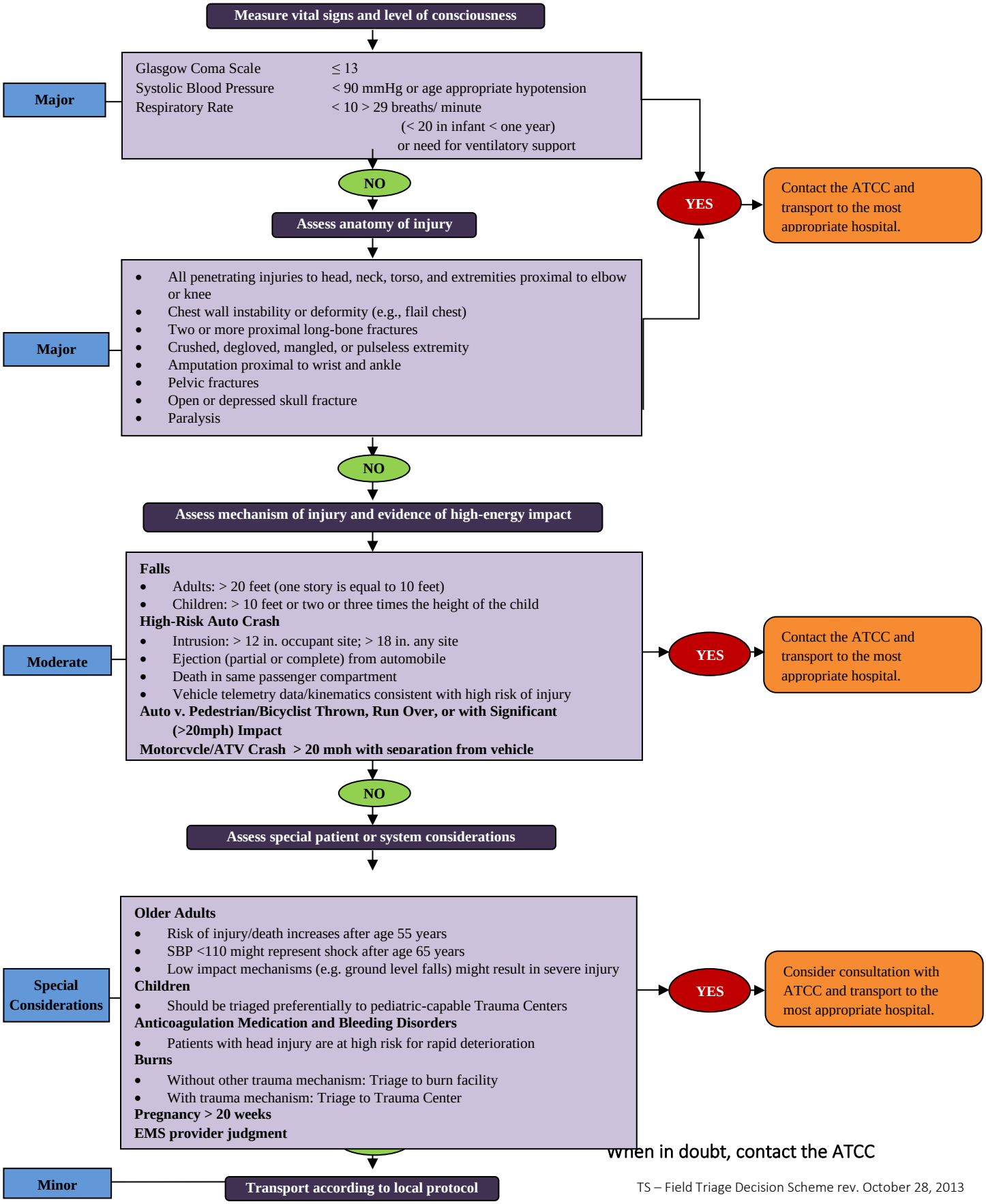
If the EMS Service cannot be at the transferring hospital by the agreed upon time, a backfill Service shall be contacted by the EMS Service. Service area coverage is considered in place a t the time the backfill agreement request is accepted. If the service is unable to secure a backfill agreement acceptance, the ATCC shall be available to assist with the backfill, but not assume responsibility. The EMS Service shall have ten (10) minutes to accept the transfer request and shall arrive at the hospital at a time agreed upon between the transferring hospital and the EMS Agency. The patient and paperwork should be ready for transfer at that time.

All urgent trauma transfer requests shall prompt a review at the local TRAC PI Subcommittee to ensure that the system is being used appropriately, the urgent trauma transfer is accomplished in a timely manner, and that each segment of the system performed its responsibilities. Potential abuses of the system shall be elevated to the State TRAC/PI Subcommittee of the TAC for adjudication and recommendation of action steps to the ADH in order to prevent future abuses.

(C) NON-URGENT TRAUMA TRANSFERS

If the transfer request does not meet the two (2) criteria for an urgent transfer, yet the patient's injury requires a higher level of care, the transferring hospital shall call the ATCC to coordinate acceptance with the receiving hospital. The transferring hospital shall notify its EMS service and coordinate an appropriate time for patient pick-up. The EMS Service shall have no less than one (1) hour to arrive at the transferring facility. The transferring hospital shall have the patient ready for pick-up by the agreed upon time.

Field Triage Decision Scheme: The Arkansas Trauma Triage Protocol



Appendix of Ordinances

Appendix Section 1 County Ordinances

§ 900.00 AMBULANCE SERVICE IMPROVEMENT DISTRICT ESTABLISHED

1) ESTABLISHMENT AND SERVICE AREA. An Ambulance Service Improvement District serving the area which includes the Beaver, Holiday Island, Johnson Springs, Packard Springs, and Winona voting precincts is hereby established.

2) NAME. This District shall be called the Western Carroll County Ambulance District.

3) FUNDING. An assessment of two (2) mills shall be levied on all real and personal property in the District. Funds will be for the purpose of acquiring vehicles and equipment and for maintenance and operation of an Ambulance Service for the use and benefit of property owners residing in the District.

4) BOARD OF COMMISSIONERS. The County Court shall appoint five (5) Commissioners who are residents of the District. The County Court shall appoint two (2) additional members to the Board of the WCCAD, one of whom shall serve for an initial term of five (5) years and one of whom shall serve for an initial term of four (4) years, after which the positions will be for three (3) year terms. The term of each Commissioner of the Western District Ambulance Service Improvement District shall begin on July 1 and shall run for three (3) years, with each term staggered according to law and practice. The currently serving Commissioners' terms are either extended to or abbreviated to July 1 in the year in which each term is set to expire. The Commissioners are authorized to acquire ambulance services to the residents. They are further authorized to purchase, lease, rent, contract, and be contracted with, and any other function in order to manage the provision of ambulance services to the District. The Board of Commissioners of Western Carroll County Ambulance District shall have the authority to contract with any qualified emergency service provider which it determines to be in the best interest of the people of the Ambulance Service District.

5) PROVIDER OF SERVICE. The Eureka Springs Ambulance Service, under the management of the Emergency Services Department of the City of Eureka Springs, shall be the provider of ambulance and emergency medical services for the District (except for the Kings River voting precinct), unless otherwise provided by County Ordinance. The District Board of Commissioners shall secure a contract with the City of Eureka Springs for the provision of services to the District (except for the Kings River voting precinct).

6) REPEALER. All Ordinances or resolutions, and parts thereof, in conflict with this Ordinance are hereby repealed to the extent of such conflict.

7) SEVERABILITY CLAUSE. In the event any one or more of the provisions contained in this Ordinance shall for any reason be held by a Court of competent jurisdiction to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect

the remaining provisions of this Ordinance, and this Ordinance shall be construed as if such invalid, illegal, or unenforceable provision or provisions had never been contained herein.

8) REFERENDUM AND EFFECTIVE DATE. This Ordinance shall be referred to the electors in the affected area not less than sixty (60) days and not more than ninety (90) days after the passage of the Ordinance and before any taxes are levied, assessed, or collected. In the event the referred Ordinance is approved, it shall be in full force and effect upon certification of the election results by the County Election Commission.
(Ord. 1992-013, passed 8-21-92; Am. Ord. 1995-027, passed 12-15-95; Am. Ord. 2012-014, passed 5-18-12; Am. Ord. 2013-020, passed 11-22-13)

Perry County Ordinance No. 2020-6 LEVY TAX FOR EMERGENCY SERVICES

WHEREAS, the Quorum Court of Perry County, Arkansas (the "County") has determined that there is a great need for an additional source of revenue to be used to provide emergency services in the County; and

WHEREAS, Title 26, Chapter 74, Subchapter 2 of the Arkansas Code of 1987 Annotated (the "Authorizing Legislation") provides for the levy of county-wide sales and use taxes at the rate of 0.125%, 0.25%, 0.5%, 0.75% or 1%, or any combination thereof; and

WHEREAS, the purpose of this Ordinance is to levy a new County-wide sales and use tax at the rate of 0.50Zo, the net collections of which will be distributed only to the County and used to provide emergency services in the County;

NOW, THEREFORE, BE IT ORDAINED by the Quorum Court of Perry County, Arkansas:

Article 1. Under the authority of the Authorizing Legislation, there is hereby levied a 0.5% tax on the gross receipts from the sale at retail within the County of all items which are subject to the Arkansas Gross Receipts Act of 1941, as amended (A.C.A. §§26-52- 101, et seq.), and the imposition of an excise (or use) tax on the storage, use, distribution or other consumption within the County of tangible personal property subject to the Arkansas Compensating Tax Act of 1949, as amended (A.C.A. §§26-53-101, et seq.), at a rate of 0.5% of the sale price of the property or, in the case of leases or rentals, of the lease or rental price (collectively, the "Sales and Use Tax"). The Sales and Use Tax shall be levied, and the net collections received after deduction of the administrative charges of the State of Arkansas and required rebates (the "Net Collections") shall be used to provide emergency services in the County. The Sales and Use Tax shall be levied and collected on the gross receipts, gross proceeds or sales price in the maximum amount allowed from time to time under Arkansas law, subject to rebates and limitations as from time to time required by Arkansas statutes for certain single transactions.

Article 2. The Net Collections shall be distributed only to the County and notto the municipalities therein.

Article 3. All ordinances and parts thereof in conflict herewith are hereby repealed to the extent of such conflict.

Article 4. This ordinance shall not take effect until an election is held on the question of levying the Sales and Use Tax at which a majority of the electors voting on the question shall have approved the levy of the Sales and Use Tax.

Perry County Ordinance No. 2020-7 SPECIAL ELECTION FOR TAX FOR EMERGENCY SERVICES

WHEREAS, the Quorum Court of Perry County, Arkansas (the "County") has passed on August 10, 2020, Ordinance No. 2020-6 (the "Tax Ordinance") providing for the levy of a 0.5% sales and use tax within the County (the "Sales and Use Tax") to be used to provide emergency services in the County; and

WHEREAS, the purpose of this Ordinance is to call a special election on the question of the levy of the Sales and Use Tax;

NOW, THEREFORE, BE IT ORDAINED by the Quorum Court of Perry County, Arkansas:

Article 1. There is hereby called a special election to be held on November 3, 2020, at which election there shall be submitted to the electors of the County the question of the levy of the Sales and Use Tax.

Article 2. The question of levying the Sales and Use Tax shall be placed on the ballot for the election in substantially the following form:

0.5% SALES AND USE TAX

Adoption of a 0.5% local sales and use tax within Perry County, the net collections of which remaining after deduction of the administrative charges of the State of Arkansas and required rebates will be distributed only to the County and used to provide emergency services in the County.

FOR ..... ☐

AGAINST..... ☐

Article 3. The election shall be held and conducted and the vote canvassed and the results declared under the law and in the manner now provided for county elections and only qualified voters of the County shall have the right to vote at the election.

Article 4. The results of the election shall be proclaimed by the County Court, and such Proclamation shall be published one time in a newspaper published in the County and having a general circulation therein, which Proclamation shall advise that the results as proclaimed shall be conclusive unless attacked in the courts within thirty days after the date of publication,

Article 5. A copy of this Ordinance shall be (a) filed with the Perry County Clerk at least 70 days prior to the election date and (b) given to the Perry County Board of Election Commissioners so that the necessary election officials and supplies may be provided. A certified copy of this Ordinance and the Tax Ordinance shall also be provided to the Commissioner of Revenues of the State of Arkansas as soon as practical.

Article 6. The County Judge and County Clerk, for and on behalf of the County, are hereby authorized and directed to do any and all things necessary to call and hold the special election as herein provided and, if the levy of the Sales and Use Tax is approved by the electors, to cause the Sales and Use Tax to be collected, and to perform all acts of whatever nature necessary to carry out the authority conferred by this Ordinance.

Article 7. All ordinances and parts thereof in conflict herewith are hereby repealed to the extent of such conflict.

Article 8. The provisions of this Ordinance are separable and if an article, phrase or provision shall be declared invalid, such declaration shall not affect the validity of the remainder of the Ordinance.

§ 900.00 AMBULANCE SERVICES IN COLUMBIA COUNTY

1) TITLE. This Ordinance shall be known by the short title of "The Ambulance Services Act of Columbia County, Arkansas."

2) DEFINITIONS.

    a) "Ambulance Services" shall mean the transport in a motor vehicle to or from a medical facility, including, but not limited to, hospitals, nursing homes, physician's offices, and other health care facilities of persons who are inform or injured and who are transported in a reclining position; provided, that not-for-hire on a fee-for-service basis transportation furnished by license hospitals and licensed nursing homes to their prospective or admitted in-patients or residents shall be excluded. However, the transporting of patients by Out-of-County Ambulance Services which either originates or ends outside Columbia County shall not be subject to this Ordinance. Provided further that Out-of-County Ambulance Services may operate in case of emergencies created by catastrophe whenever In-County Services are not able to accommodate the need created by such emergency.

    b) "License Holder" shall mean the person, firm, or corporation to which a license is issued.

    c) "Person" shall mean an individual, firm, partnership, corporation, organization, or association, or any combination thereof, whether or not incorporated.

    d) "EMT" shall mean Emergency Medical Technician.

3) ENFORCEMENT, ADMINISTRATION, AND PERSONNEL. The County Judge is hereby authorized and directed, with the approval of the Quorum court, to appoint a committee consisting of three (3)

residents of the County of Columbia and report such appointment to the Columbia County Quorum court (which committee shall be referred to as the "Ambulance Services Committee") to promulgate forms for the application for a license to provide ambulance services, and to insure compliance by license holder and license holder applicants with the provisions of this Ordinance. No person who is employed by or who has any ownership interest in a license holder or license holder applicant shall be allowed to serve on the Ambulance Services Committee. Initial members of the Committee shall have terms of one (1), two (2), and three (3) years. Upon expiration of the terms of initial members, all subsequent terms shall be for a period of three (3) years. Members of the Committee may be reappointed.

4) LICENSING AND QUALIFICATIONS.

a) No person shall for compensation use the public highways of Columbia County, Arkansas, to engage in ambulance services, without first having qualified and have in force a valid license issued by the County of Columbia for that purpose.

b) Any person desiring to obtain a license for ambulance services or renew an existing license shall make application to the County of Columbia on forms provided by the Ambulance Services Committee, giving complete information requested.

c) No license or registration shall be transferable.

d) No license shall be issued or renewed until and unless the following information is provided to the Ambulance Services Committee:

i) Proof of a current license and certification from the Arkansas State Board of Health for a Class 1-A or higher ambulance service.

ii) Proof of certification from the Arkansas State Board of Health of a minimum of one (1) Class 1-A ambulance for each ten thousand (10,000) people living in the County of Columbia as determined by the latest decennial census.

iii) Proof of possession of one (1) extra ambulance unit as a back-up which can be used for emergency use by only transferring basic supplies and equipment (not radios, lights, etc.).

iv) Evidence of employment of a minimum of fifteen (15) EMT-A's (or above) certified by the Arkansas State Board of Health, at least eight (8) of whom must be residents of Columbia County, Arkansas. At least four (4) EMT's must be full time employees and at least five (5) of the EMT's must have been so certified for at least one (1) year beyond their six (6) month State-required probationary period, hereinafter referred to as "Experienced EMT-A." It is required that at least one (1) Experienced EMT-A be physically present in each ambulance during all runs. The Manager of the ambulance service must be one of the eight (8) EMT's who have been certified for at least one (1) year beyond their probationary period.

v) A statement from a physician practicing through the Magnolia Hospital that he/she will serve as the Medical Adviser of the Ambulance Service.

vi) The names and addresses of all owners, partners, and/or shareholders, and the Manager of the Ambulance Service.

vii) Affidavits from the Ambulance Service Manager, all employed EMT's and any owner, partner, or shareholder who takes an active part in the operation of the business that they have not been convicted of a felony involving dishonesty within the last ten (10) years which has not been pardoned.

viii) Evidence that a minimum of eight (8) employed EMT's are equipped with pagers at all times.

ix) Evidence that the ambulance service is approved by Medicare.

x) A notarized schedule showing all fees to be charged for services rendered shall be filed with the County Clerk within two (2) weeks of approval and shall be updated as rate amendments are approved.

xi) A written commitment from the ambulance service that one (1) emergency vehicle shall remain in Columbia County at all time.

e) Licenses issued pursuant to the provisions of this Ordinance shall be valid for a period of one (1) year from the date of issuance.

5) INSURANCE.

a) In addition to the requirements of Section 4 Subsection d, each applicant for a license shall, before a license is issued or renewed, furnish to the Committee certificates of insurance written by an insurance company or companies authorized to do business in the State of Arkansas, with the following levels of coverage:

i) Liability insurance on all vehicles.

ii) Commercial Liability: a minimum of five hundred thousand dollars ($500,000.00)

iii) Ambulance attendants Errors and Omissions: a minimum of five hundred thousand dollars ($500,000.00) for each occurrence of bodily injury or property damage; a minimum of five hundred thousand dollars ($500,000.00) personal injury aggregate.

b) Cancellation: the insurance required above shall not be cancelled or terminated until at least thirty (30) days after a notice of cancellation is received by the Committee. Upon failure of a licensee to maintain in full force and effect the insurance required by this Section, the license shall become void and shall not be reinstated until evidence of satisfactory insurance has been filed.

6) REPORTING. All license holders shall file reports containing the information required by Sections 4 and 5 with the committee at least every six (6) months, or at such other times as requested by the Committee. All licensed operators are required to notify the Committee should they cease to meet any of the requirements set out by Section 4 and 5.

7) INVALIDATION OF A LICENSE; REFUSAL TO ISSUE OR RENEW A LICENSE; APPEALS.

   a) The Committee shall not issue a license to an applicant who does not satisfy the requirements of this Ordinance or provide information required by this Ordinance, or if the fees to be charged by the applicant are deemed excessive.

   b) Acts which shall be grounds for invalidation or non-renewal of a license shall include, but shall not be limited to, the following:

      i) The making of a material misrepresentation on any application or form or other document required by this Ordinance or the rules and regulations promulgated by the Ambulance Services Committee.

      ii) Failure of the licensee to supply the Committee, upon request, with true and accurate information essential to the administration and enforcement of this Ordinance.

      iii) Failure to notify the Committee within ten (10) days of any material change in the information submitted to the Committee proper to issuance for a license.

   c) A licensee shall not charge a greater fee for its services than shown in its schedule of fees which is required to be submitted at the time application is made for a license unless such increase in fees is first approved by the Ambulance Services Committee. Any increase in fees shall not be approved by the Committee if deemed excessive. If the Committee fails to approve a requested increase, the licensee may appeal that decision to the Quorum court as provided below.

   d) Any person who is refused a license, or who is notified that his/her license will be invalidated or will not be renewed shall have the right of a hearing before the Committee by filing a written request for a hearing with the Committee by registered or certified mail within ten (10) days of notification of such refusal or nonrenewal.

   e) Any person whose license is denied, refused, or invalidated by the Committee may appeal such decision to the Quorum court within twenty (20) days after official notification of such decision, by filing written request for a hearing with the Quorum court by registered or certified mail.

8) PENALTY.

   a) It shall be unlawful for anyone to operate an ambulance on the public highways of the County in violation of any of the provisions of this Ordinance. Those convicted of violating this Ordinance shall be punished by a fine of not less than two hundred fifty dollars ($250.00) for the first offense, not less than five hundred dollars ($500.00) for

the second offense occurring within one (1) year, and not less than one thousand dollars ($1,000.00) plus thirty (30) days in jail for each offense thereafter occurring within one (1) year with no suspension of fines or imprisonment.

b) The failure of parties licensed to provide ambulance services to provide such services with reasonable promptness, thereby necessitating use of alternative means of transportation for a fee or otherwise, shall in any case constitute an affirmative defense to a violation of these provisions.

9) SEVERABILITY. If any provisions of this Ordinance, or the application thereof to any person or circumstances, is held invalid, such invalidity shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared severable.

10) EMERGENCY CLAUSE. An emergency with respect to the providing of ambulance services in Columbia County, Arkansas, is declared to exist, and all persons furnishing said ambulance services should be immediately governed by the rules and regulations hereinabove set out. Provided, however, that any ambulance service currently operating in the County may continue to operate for a period of fifteen (15) days from the date hereof within which time compliance shall be completed or operations shall cease.
(Ord. 1988-002, passed 10-7-88; Am. Ord. 1990-004, passed 9-10-90)

§ 900.00 AMBULANCE SERVICE; MINIMUM QUALIFICATIONS

It shall be unlawful for any person to operate an ambulance service in Cross County, Arkansas, except and exempt Parkin, Arkansas Ambulance Service, unless such service shall be certified as “EMT-PARAMEDIC” or higher, according to the rules and regulations promulgated by the Arkansas State of Board of Health.

1) EMERGENCY CLAUSE. An emergency is hereby declared to exist and this Ordinance, being necessary for the immediate preservation of the public peace, health, safety and welfare, shall be in full force and effect, from and after its passage and approval.
(Ord. 1994-012, passed 11-21-94; Am. Ord. 1994-015, passed 12-27-94)

§ 900.00 PARAMEDIC AMBULANCE SERVICES; PROFESSIONAL SERVICE

1) The quorum court of Faulkner County, Arkansas declares paramedic ambulance services to be a professional service.

2) Pursuant to A.C.A. § 19-11-801 (c), competitive bidding shall not be used for procurement of paramedic ambulance services in Faulkner County, but pursuant to the above mentioned statute, the County shall select three (3) qualified paramedic ambulance firms and shall then select the firm considered the best qualified and capable of performing the desired work and negotiate a contract for the project with the firm selected.

3) In evaluating the qualifications, the County shall consider the following:

a) The specialized experience and technical competence of the firm with respect to the type of professional services required; and

b) The capacity and capability of the firm to perform the work in question including specialized services, within the time limitations fixed for the completion of the project; and

c) The past record of performance of the firm with respect to such factors as control of costs, quality of work, and ability to meet schedules and deadlines; and

d) The firm's proximity to and familiarity with the area in which the project is located.

4) SEVERABILITY. In the event any portion of this Ordinance is declared or adjudged invalid or unconstitutional, such declaration or adjudication shall not affect the remaining portions of this Ordinance, which shall remain in full force and effect as if the portion so declared or adjudged invalid or unconstitutional was not originally a part of this Ordinance and the remaining portions of the Ordinance shall be executed fully and faithfully.

5) REPEALER. All Ordinances and resolutions, and parts thereof, which are in conflict with any provision of this Ordinance are hereby repealed to the extent of such conflict.

6) EMERGENCY CLAUSE. An emergency is hereby declared to exist as this Ordinance is necessary for the proper and timely conduct of County operations and this Ordinance shall be in force and take effect upon passage and publication.
(Ord. 08-21, passed 9-16-2008)

§ 900.00 AMBULANCES OPERATING WITHIN THE COUNTY TO BE LICENSED AS ADVANCED LIFE SUPPORT INTERMEDIATE

1) Whereas Franklin County desires to provide advanced life support ambulance service to all areas of the County, it is the mandate of the County that all ambulances operating within Franklin County be staffed, equipped, and licensed as Intermediate Ambulances.

2) All ambulances operating within Franklin County shall be inspected and approved annually by the Arkansas Department of Health in accordance with the rules and regulations pertaining to such vehicles. All transports, emergency and non-emergency, shall be made with vehicles duly licensed as Intermediate, equipped and operated as such.

3) This Ordinance shall apply only to those services receiving reimbursement, public or private, for their services. This Ordinance is not intended to restrict the operation of volunteer or not-for profit ambulances.
(Ord. 94-15, passed 11-17-94)

§ 900.00 BOARD OF DIRECTORS FOR THE IZARD COUNTY EMS DISTRICT AND DUTIES AND RESPONSIBILITIES

1) The Izard County EMS District shall be governed by a Board of Directors consisting of five (5) to seven (7) members living within the District. Board members shall be appointed by the County Judge and approved by the Quorum court every other February for a term of two (2) years. The Izard County EMS District Board of Directors shall be non-paying positions.

2) Board members shall elect from their groups a President, Secretary, and Treasurer, and shall meet once a month at a place and time to be agreed upon. Minutes of these meetings shall be kept and a copy of the minutes shall be filed with the County Clerk for public inspection. Proper records shall be kept showing receipts and expenditures and a yearly financial statement shall be given to the County Judge and the Quorum court.

3) It shall be the duty and responsibility of the Izard County EMS District Board of Directors to see that:

    a) All State Statutes and County Ordinances are complied with.

    b) All State Health Department and EMS rules and regulations are complied with.

    c) The yearly budget and expenditures shall not exceed ninety percent (90%) of the anticipated yearly revenues.

    d) The Freedom of Information Act is complied with.

    e) Any donations, including equipment and supplies, received from any source shall become the property of the County.

    f) All EMT's shall be certified by the State.

    g) Proper insurance on personnel, ambulance, and equipment shall be maintained at all times.

    h) Any agreements such as lease contracts on any other legal instruments entered into shall be approved by the County Judge and Quorum court.

    i) Charges that may be covered by insurance, including Medicare and Medicaid, are billed for and collected.

    j) EMS runs made to households assessed within the Izard County EMS District shall not be charged the normal ambulance fee. EMS runs made outside of said District, but within Izard County, and EMS runs to households within said District, but not assessed shall be charged. See Ordinance 80-16. These charges shall be reviewed and updated yearly to compare with charges in the surrounding area.

    k) Izard County EMS District runs will be made to the nearest hospital or medical facility.

    l) This is not a transport service. It is Emergency Only.

4) Izard County EMS District area shall consist of all School District 20 and 51 as well as the Violet Hill voting precinct in School District 1 and the Strawberry voting precinct in School District 24.
(Ord. 81-13, passed 5-7-81; Am. Ord. 13-5, passed 5-7-13)

§ 900.01 IZARD COUNTY RESCUE UNIT #252 TO HAVE A SET CHARGE

1) Emergency Medical Service shall have authority to charge for each ambulance run a base charge of sixty-five dollars ($65.00) plus one dollar and sixty-five cents ($1.65) per mile from base to destination. The five dollars ($5.00) minimum charge for bandages and seven dollars and fifty cents ($7.50) minimum charge for oxygen shall remain unchanged.

2) Ord. 80-16 is hereby amended to state: It is hereby authorized that the Izard County EMS District may charge for each run the sum of fifty dollars ($50.00) basic charge, plus one dollars and twenty-five cents ($1.25) per mile from base to destination, plus seven dollars and fifty cents ($7.50) for oxygen, plus five dollars ($5.00) minimum for bandages.
(Ord. 80-16; Am. Ord. 81-16, passed 7-2-81; Am. Ord. 82-12, passed 5-20-82)

§ 900.02 FEE FOR THE PROVIDING OF EMERGENCY MEDICAL SERVICES

1) There is hereby established a fee of fifty dollars ($50.00) per household, in order to provide for emergency medical services. This fee is established pursuant to Act No. 51 of the 1979 General Assembly of the State of Arkansas and shall be collected from all households in the area of the District as defined in Section 2.

2) The service shall be known as Izard County EMS District. The area of the District shall consist of all of School Districts 20 and 51 and all of that part of School District 24 that lies within Izard County, as well as the Violet Hill Voting Precinct in School District 1.

3) For calendar year 1981, and each succeeding calendar year thereafter, the fee prescribed in Section 1, shall be collected by the County Collector at the same time that personal property tax is collected for the preceding calendar year. The County Collector shall refuse to accept total payment for personal property tax unless payment of the fee prescribed in Section 1 is also tendered.

4) A delinquent charge of fifteen dollars ($15.00) shall also be collected if the fee prescribed herein is tendered after the date for which said fee is due.

5) Within two (2) years of the effective date of this Ordinance, this Ordinance shall be reviewed by the Quorum court, or a committee thereof, to determine whether or not the fee prescribed herein can be lowered. In the event that it is determined by the Quorum court to be lowered, the Quorum court shall have authority to lower said fee.

6) Ordinance No. 0-80-21, as amended hereby, shall remain in full force and effect.

7) The provisions of this Ordinance are separable and if a section, phrase, or provision shall be declared invalid, such declaration shall not affect the validity of the remainder of this Ordinance.

8) All Ordinances and resolutions and parts thereof in conflict herewith are hereby repealed to the extent of such conflict.

9) This Ordinance shall be effective as of January 1, 2004.

(Ord. 80-21, passed 9-4-80; Am. Ord. 85-4, passed 5-16-85; Am. Ord. 03-2, passed 10-7-03)

§ 250.02 AMBULANCE VEHICLE REPLACEMENT PLAN

1) In order to update the County Ambulance Fleet, sealed bids for the purchase of ambulances were taken by the County Judge's Office on May 7, 1990.

2) Based upon the May 15, 1990, Vehicle Replacement Report submitted to the Sebastian County, the Vehicle Replacement Plan set forth in Exhibit "A" is approved and adopted for the County Ambulance Department.

3) The Sebastian County Judge is authorized to award the bid for a new ambulance to Excellence, Incorporated, and to issue a Purchase Order to this manufacturer to provide for the delivery of a new ambulance to the County by mid-August, 1990.

4) Sebastian County appropriation of funds will be enacted pending the notice of grant awards from the Rural Health Service Revolving Fund and the receipt and evaluation of sealed bids for the sale of existing County ambulances, in the July 17, 1990, Quorum court Meeting.

5) In order to provide reliable and dependable ambulance service, an immediate need for this Ordinance is created. Therefore, an emergency is declared to exist and this Ordinance being necessary for the immediate preservation of the public peace, health, and safety shall be in full force and effect from after its passage and approval.
(Ord. 1990-009, passed 5-15-90)

§ 900.00 AMBULANCE LICENSING REQUIREMENTS; ADVANCE LIFE SUPPORT PARAMEDIC

1) Whereas Sharp County desires to provide advanced life support ambulance service to all areas of the County it is the mandate of the County that all ambulances operating within Sharp County be staffed, equipped and licensed as paramedic ambulances.

2) All ambulances operating within Sharp County shall be inspected and approved annually by the Arkansas Department of Health in accordance with the Rules and regulations pertaining to such vehicles. All transports, emergency and non-emergency, shall be made with vehicles duly licensed as paramedics, equipped and operated as such.

3) This Ordinance shall apply to those services receiving reimbursement for their services and may be excepted only under unusual and uncontrollable circumstances. This Ordinance is not intended to restrict the operator of volunteer ambulance services.

4) EMERGENCY CLAUSE. This Ordinance shall be in full force and shall take effect upon passage and publication.
(Ord. 95-06, passed 8-14-95)

Appendix Section 2 City Ordinances

Sec. 5-58. - Purpose and General Intent

(a) *Purpose.* It is the purpose of this article to establish a regulated ambulance service system that can provide each ambulance patient with the best possible chance of survival without disability or preventable complication.

(b) *General intent.* It is the intent of the Board of Directors of the City that:

(1) Exclusively is mandatory because it is neither fair nor financially feasible to require a high level of emergency performance from one (1) ambulance company while simultaneously allowing other ambulance companies to select certain preferred non-emergency business.

(2) Substantive regulation requiring clinical excellence and citywide lifesaving response time performance cannot reasonably be imposed on an unsubsidized ambulance company without simultaneously granting that ambulance company an exclusive contract to furnish all ambulance service, both emergency and nonemergency, to residents of the City.

(3) If the ambulance authority is not operated as a Public Facilities Board (with ambulance services provided by employees of the board), it may, after bid procedures, select a private ambulance company for an exclusive contract to provide ambulance personnel to operate the ambulance service in the City. The ambulance company shall provide the ambulance personnel necessary to operate the equipment owned by the authority and to provide those management functions delegated to it under contract by the ambulance authority. The ambulance authority shall own, or serve, as a primary lessee of all ambulance and communication equipment, do all billings and collections and shall provide all administrative oversight for the ambulance service system. Nothing in this paragraph shall prevent the ambulance authority from operating the ambulance service and providing its own personnel.

(4) This article will:

(a) Furnish bona fide monitoring and medical control of present ambulance operations.

(b) Allow the City to contract with the Arkansas Emergency Physicians' Foundation to develop written medical standards, protocols, controls, audits, and system evaluation and to provide complete medical control over and evaluation of the City Ambulance Service System.

(c) Require the development of a first responder program.

(5) The ambulance authority shall be required to:

(a) Designate a single EMS Control Center in the City or County from where all ambulance dispatching shall take place.

(b) Purchase an appropriate complete communication and recording system.

(c) Design the communication system and control center operation to allow for full-time recording of all ambulance-related radio and telephone traffic.

(Code 1961, § 5-1; Ord. No. 15,300, § 1, 5-5-87; Ord. No. 17,255, § 3, 8-6-96)

Sec. 5-59. - Operation on Fee or For-Hire Basis

Except as provided in Sections 5-58 and 5-60, no person, or entity, public or private, shall operate an ambulance to transport the sick, injured or infirm on a fee or for-hire basis, regardless of whether an emergency or routine nonemergency patient transport, upon any street within the City or other contracted areas.
(Code 1961, § 5-7(a); Ord. No. 17,255, § 4, 8-6-96)

Sec. 5-60. - Exemptions

An ambulance service license shall not be required for ambulance services which are:

(1) Owned and operated by an Agency of the United States Government.

(2) Rendering requested assistance to ambulance currently licensed in cases of disaster or major emergency too great for local resources, or in response to provisions of a written mutual aid agreement approved by the ambulance authority.

(3) Engaged in Inter-County or Inter-City patient transport to or from facilities within the City and its franchise area extended by Inter-Local agreement but which ambulance run begins and ends anywhere outside the City and its franchise area.

(4) Rendering ambulance services under contract with the authority.

(5) Private companies which use an ambulance solely for the transportation of their employees for illness or injury sustained while performing their work.

(6) Operating a privately owned ambulance designed especially for the transportation of the infirm or physically handicapped where the ambulance is used solely for the benefit of the owner and not for hire on a fee for service or prepaid basis.

(7) Ambulances owned and operated by a licensed hospital and used exclusively for specialized mobile intensive care or for institutional transfers of their own admitted patients, or residents, provided such hospital shall apply for and receive a special use mobile intensive care license or be eligible for grandfather licensing, as provided for under Section 5-79. Such special use permit is non-transferable by the hospital.

(Code 1961, §§ 5-2, 5-7(b); Ord. No. 17,255, § 5, 8-6-96; Ord. No. 17, 589, § 1, 10-7-97)

Sec. 5-63. - Intracity Ambulance Service

It shall be unlawful for any person, or entity, public or private, to operate an Intra-City Ambulance Service which provides emergency or nonemergency prehospital care or patient transports except as specifically allowed pursuant to the provisions of this article.

(Code 1961, § 5-7(c); Ord. No. 17,255, § 8, 8-6-96)

Sec. 5-65. - Control by Board of Directors

The authority is authorized to operate the City Ambulance Service System under the supervision and control of the authority's Board of Directors.

(Code 1961, § 5-3; Ord. No. 17,255, § 10, 8-6-96)

Sec. 5-66. - Management Options and Mandatory Requirements

(a) Mandatory requirements for exclusive contract method are as follows:

(1) The ambulance authority shall operate, or cause to be operated, a licensed ambulance service system for the City, and for neighboring areas, if appropriate contractual relationships can be developed with those neighboring areas for the equitable sharing of equipment costs, operating costs, medical costs, control and audit costs and management costs. The service operated by the authority shall have the following characteristics:

a. The services rendered must at all times be in compliance with the provisions of this article.

b. All emergency equipment utilized in this service must be owned by or leased to the authority as primary lessee.

c. All billing or collection functions, including but not limited to all legal proceedings which are necessary, shall be performed by the authority.

The authority shall own, or be the primary lessee of, all ambulance and communication equipment, do all billings and collections, and shall provide administrative oversight for the ambulance service system. The AEPF, Inc. shall provide all medical advice, medical control, medical audit and medical oversight.

(Code 1961, §§ 5-2, 5-4; Ord. No. 17,255, § 11, 8-6-96)

Sec. 5-68. - Standards of Production and Performance

The ambulance authority shall follow the following as minimum standards:

(1) *Equipment and Management Capability.* Each and every ambulance and all on-board equipment utilized by the authority in performing services which are the subject of this article shall comply with applicable standards required for licensure. The authority shall maintain the equipment and shall employ sufficient backup equipment to ensure that a safe level of reserve equipment capacity is available to provide peak period ambulance coverage even at times when unusual occurrences of equipment breakdown and routine equipment maintenance coincide.

(2) *Personnel.* The authority shall ensure:

a. That two (2) persons certified under State Law are on board each ambulance on ALS (Code 1 or 2) ambulance run or available for dispatch, at least one (1) of which is Certified as a Paramedic, and the other of which is Certified as a Paramedic or Emergency Medical Technician (EMT).

If only one (1) person on board is a Certified Paramedic, that person shall not function as the driver while the patient is on board. The authority shall establish and maintain sufficient management capability to ensure that equipment and personnel utilized are managed in an efficient and effective manner to produce the desired clinical performance and response time performance on a routine basis.

(3) *Clinical Performance.* The clinical performance of the authority and its personnel shall be consistent with and shall conform to the operating procedures and medical protocols adopted by the AEPF, Inc. Where clinical performance deficiencies are discovered, the authority shall demonstrate an aggressive and effective effort to correct the deficiencies in a timely manner.

(4) *Response Time Performance.* Response time performance standards are as follows:

a. *Code 1 Calls (Life Threatening Emergencies).*

1. The Fire Department shall furnish a diligent good faith effort to manage all available resources to achieve a four (4) minute maximum response time for a Trained First Responder to a Code 1.
2. The authority shall furnish a diligent good faith effort to maintain an eight (8) minute (8:59) maximum response time for an advanced life support paramedic ambulance. The authority shall employ enough personnel, acquire enough equipment and manage its resources in the manner necessary to meet the eight (8) minute response time standard on not less than ninety (90) percent of all presumptively designated Code 1 calls originating each month from with the City limits.
3. Where an ambulance unit is dispatched from a nontransporting first-response-only status its response time may be counted as the authority ambulance response time even though the patient was transported by a different ambulance. In addition, the

response time of a neighboring ambulance service responding by mutual aid request may also be counted as the authority's ambulance response time, provided the level of life support capability furnished by the neighboring ambulance service is comparable to that required under this article, as determined by the AEPF, Inc., and provided that reliance upon neighboring ambulance service operators is only an occasional event and not a routine method of operation of the authority.

b. *Code 2 Calls (Nonlife Threatening Emergencies).* The authority shall establish a twelve-minute (12:59) advanced life support paramedic ambulance response time standard for Code 2 calls on not less than ninety (90) percent of all presumptively designated Code 2 calls originating each month from within the City limits.

c. *Other Run Codes (Nonlife Threatening).* The authority's response to other run codes shall be reasonable, but in every case where a conflicting demand for resources occurs, response to Code 1 and Code 2 calls shall take precedence over requests for nonemergency BLS transfer service. Furthermore, the authority shall display sound judgment in developing its system status management plans to preserve a safe level of emergency response capability at all times by delaying response to requests for nonemergency BLS service until additional ambulance units become available whenever the number of remaining ambulance units available for dispatch falls below a reasonably established safe level of emergency reserve capacity, as determined by historical demand analyses.

(5) *Continuous Physician Medical Control Required.* The authority shall be responsible for ensuring that its field personnel at all times have access to qualified medical control and direction concerning the care of patients in the field by a base station physician or nurse. All medical control and direction shall be available by reliable radio communications, according to the communications standards and other standards of medical control set forth in Section 5-67.

(6) *Data Systems and Reporting.* The ambulance authority shall comply at all times with the data system and reporting standards required by the AEPF, Inc. and applicable statutes.

(7) *In-Service Training Program Required.* The authority is required to furnish or otherwise make available without charge to its employees an in-service training program which conforms to the standards for in-service training adopted by the AEPF, Inc. All ambulance personnel are required to attend these in-service training programs in accordance with the guidelines promulgated by the AEPF, Inc.

(8) *Fully Centralized Dispatch Required.* All dispatching movements of ambulance units subject to regulation under this article shall be directed from the designated EMS control center. It is unlawful to dispatch or control any ambulance unit subject to regulation under this article from any location other than the designated EMS control center. At all times, the EMS control center shall have full authority to direct the positioning, movements and run responses of all manned ambulance units, and to activate on-call crews following the then current system status management procedures.

(9) *Refusal to Render Emergency Care Prohibited.* It is a violation of this article to fail to respond to a call to provide emergency ambulance service, to render first-aid treatment as is necessary, or to otherwise refuse to provide any emergency ambulance services within the scope of the ambulance operations, provided that these services are not required if the patient refuses to consent to treatment.

(Code 1961, § 5-6; Ord. No. 17,255, § 13, 8-6-96; Ord. No. 19,460, §§ 2, 3, 12-20-05)

Sec. 5-69. - First Responder Program

(a) The City will continue to provide "Emergency First Responder" program and personnel, provided this service shall maintain at least EMT certification, as certified by the State Health Department.

(b) The ambulance authority's communication center personnel shall request first responder units provided by the City. The fire department will maintain control over the use of fire apparatus as first responders and shall be advised by the ambulance system dispatch personnel as to the need for such "First Responder" response. In the event the fire department dispatch personnel find that five (5) or more pieces of fire apparatus are engaged in emergency conditions, an automatic cessation of use of the fire department's first responder program shall occur. The director of operations or his/her designee shall be advised by the Central Station District Chief of the non-availability and resumption of availability of first responders. The fire department shall retain control over the decision to divert fire apparatus from first responder activity in the event such units are needed for fire purposes.

(c) The ambulance authority shall make its training program available to first responder programs. The City will use its best efforts to have its first responder personnel avail themselves of this training.

(d) The ambulance authority, at the option of the City, will bill its patients for the first responder expendable use and replace such expendables on a one-for one basis.

(e) The ambulance authority will fully cooperate with the City's communication center in establishing radio monitoring capability of the ambulance service system's activities and all necessary communication linkages between the various emergency provider organizations' operations.

(Code 1961, § 5-9; Ord. No. 17,255, § 14, 8-6-96)

Sec. 5-70. - Vehicle Permits

(a) It shall be unlawful for any person subject to regulation by this article to operate an ambulance or helicopter service unless a currently valid State Vehicle Permit has been issued.

(Code 1961, §§ 5-7(c), 5-10; Ord. No. 17,255, § 15, 8-6-96)

Sec. 5-73. - Fees

The City and AEPF, Inc., or other similar organization, shall negotiate the fees to be paid for the services provided by AEPF in this article. The City may assess this amount as a fee to be assessed the authority from revenues.

(Code 1961, § 5-13; Ord. No. 15,300, § 8, 5-5-87; Ord. No. 17,255, § 18, 8-6-96)

Sec. 5-76. - Protocol for Determining Destination Facility

(a) For all calls designated as other than Code 1 or Code 2, the patient shall be delivered to the destination of the patient's choice. However, in cases where the patient is incompetent or unable to make a choice, the patient shall be delivered to the destination requested by the appropriate party acting on behalf of the patient.

(b) For all calls designated as Code 1 or Code 2 calls, or which, during the course of a transfer become a Code 1 call, the patient shall be delivered to the destination of the patient's choice. However, if the patient is incompetent or unable to make a choice, the patient shall be delivered to the destination requested by the appropriate person acting on behalf of the patient. If no requested destination can be determined, the patient shall be delivered to the nearest medically appropriate emergency receiving facility.

(c) No Code 1 or Code 2 type patients shall be delivered to an emergency receiving facility which does not have twenty-four (24) hour physician coverage of emergency services.

(d) Other provisions of this section notwithstanding, for calls retrospectively designated as Code 1, the patient shall be delivered to the appropriate emergency receiving facility in conformance with disease-specific or problem-specific transport protocols then currently in effect and approved by the AEPF, Inc.

(Code 1961, § 5-17; Ord. No. 17,255, § 21, 8-6-96; Ord. No. 19954, § 1, 4-15-08)

NOTES

This guidebook is intended as a guide and not a substitute for actual legal counsel, for further questions or concerns please consult with your County attorney or the Association of Arkansas Counties.