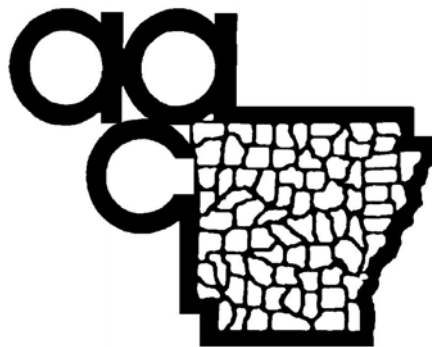


ARKANSAS COUNTY JUDGES
PROCEDURES MANUAL



Compiled, Written and Edited by the

ASSOCIATION OF ARKANSAS COUNTIES
1415 West Third Street
Little Rock, Arkansas 72201

(501)372-7550
FAX (501) 372-0611
www.arcounties.org

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FOREWORD

This County Judge's procedures manual was compiled by the Association of Arkansas Counties staff and reviewed by AAC Staff Member David Morris. It reflects the current law through the 2009 legislative session and includes a description of the duties, responsibilities, and procedures of the Judge's office. It is not to be construed as legal advice. It presents the law for your information and guidance but specific legal questions should be directed to your county attorney.

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

A handwritten signature in black ink that reads "Eddie A. Jones". The signature is written in a cursive style with a large, sweeping flourish at the end.

Eddie A. Jones
Executive Director

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Chapter One - INTRODUCTION TO COUNTY GOVERNMENT

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

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

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

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

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

1. County Taxes: Including real and personal ad valorem taxes collected by county government. The county court's authority in this area includes jurisdiction over the assessment of property, equalization of assessments on appeal, tax levies, tax collections, and the distribution of tax proceeds.

2. Paupers: The court's jurisdiction includes all county administrative actions affecting the conduct of human services programs serving indigent residents of the county where such services are financed in total or in part by county funds.

3. Jurisdiction in each other case that may be necessary to the internal improvement and local concerns of the respective counties including county financial activities and works of general public utility or advantage designed to promote intercommunication, trade and commerce, transportation of persons and property, or the development of natural resources, which are not otherwise transferred to the county judges to be administered in an executive capacity.

4. The county court shall have all other jurisdiction now vested by law in the county court except with respect to those powers formerly vested in the county court under the provisions of Section 28 of Article 7 of the Constitution which were transferred to the county judge under the provisions of Section 3 of Amendment 55 to the Arkansas Constitution, (and those powers removed by Amendment 67 as they pertain to the apprenticeship of minors. (ACA 14-14-1105)

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

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

The sheriff, or a member of that staff, often prepares and assembles evidence of the Prosecuting Attorney's case against defendants charged with both felonies and misdemeanors. The sheriff also transports convicted prisoners and others declared by the court to the various penal and mental institutions of the state.

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

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

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

The county clerk shall serve, unless otherwise designated by county ordinance, as the secretariat of the quorum court. These duties involve keeping a complete permanent record of the proceedings of the Quorum Court including minutes, ordinances, resolutions and an index to provide

easy access to the information (ACA 14-14-902 and 14-14-903).

As clerk to the probate court, the clerk files all instruments making them a matter of record in decedent estate cases, and swears in all witnesses in contested estates. The clerk, also in this capacity, maintains all records relative to adoptions and guardianship cases within the county.

The county clerk, or the clerk's designee, serves as the secretary of the Board of Equalization and records the minutes of their meetings (ACA 26-27-307). Also, if the clerk is the preparer of tax books for the county, the clerk is responsible for extending the taxes in the information provided by the assessor and the Board of Equalization (ACA 26-28-101 through 26-28-108).

The clerk became the official voter registrar with the adoption of Amendment 51 to the Arkansas Constitution in 1966. The clerk maintains an accurate and up-to-date voter registration list within the office and stores the ballot boxes between elections. In addition, the clerk is the custodian of absentee ballots and is responsible for early voting. It is common practice in many counties for the county clerk to assist the county election commission in the overall performance of the election process. With the increasing complexity of elections, however, there is an increasing trend towards the hiring of election coordinators to aid the county election commission and the county clerk in their respective election responsibilities. (ACA 7-5-401 et seq.)

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

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

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

The administrative duties of the circuit clerk are to maintain a record of all proceedings of the circuit courts and to prepare the dockets for these courts (ACA 16-20-102). The circuit clerk prepares summons, warrants, orders, judgments, and injunctions authorized by the circuit court for delivery by the county sheriff. The circuit clerk also maintains a file of all cases pending in either court, as well as a record of all past court cases and their disposition (ACA 16-20-303 and 16-20-304). In addition, the circuit

clerk acts as a secretary to the jury commission by keeping a list of all prospective jurors (ACA 16-32-101 et seq.)

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

The county collector is the collector of taxes for the county and collects municipal, county, school and improvement district taxes and turns them over to the county treasurer. The collector is responsible for collecting all property taxes from the first day of March to the tenth day of October during the calendar year after they are assessed. By statute, the collector is required to turn over all tax revenue to the treasurer at least once a month (ACA 26-39-201). The County Depository Board may require the collector and other county officials to settle with the county treasurer more frequently than once a month. (ACA 19-8-106). Taxpayers may pay their taxes in installments, with one-fourth of the total being due between February and April, one-fourth being due between April and July, and the remaining one-half between July and October 10 (ACA 26-35-501).

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

The duty of the county assessor is to appraise and assess all real property between the first Monday of January and the first of July, and all personal property between the first Monday in January and the thirty-first of May. (ACA 26-26-1408 and 26-26-1101). All property in the state shall be assessed according to its value on the first of January

except merchants and manufacturers inventory that is assessed at its average value during the year immediately proceeding the first of January (ACA 26-26-1201).

The assessor must make an abstract of assessment showing the total assessed value of the county. On August 1st, the assessor turns over to the County Equalization Board his/her Real Property Assessment Book and his/her Personal Property Assessment Book. After August 1st, the County Equalization Board and not the assessor, has the legal authority to make value changes in any of the assessment books. (ACA 26-26-1103)

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

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

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

The county treasurer is required to charge a two percent commission on all funds coming to his/her office. There are a few exceptions. No commission is allowed for the handling of borrowed money, proceeds of school bond sales, the teacher's salary fund, money collected from insurance on losses, fire protection premium taxes (Act 833 funds for fire departments) and all non-revenue receipts, which is defined as reimbursement of all or a part of a payment made by a county (ACA 21-6-302, 6-17-908, 6-20-221, and 14-284-403). Also, the county treasurer is

allowed a smaller commission, 1/4 of 1%, on funds from school districts that employ their own treasurer (ACA 6-13-701) and 1/8 of 1% on funds from municipal improvement districts (ACA 14-90-913). The commission is not kept by the treasurer but is intended to create a source of revenue accruing to the office from which the salary and operation of the office is paid. Any excess treasurer's commission shall be redistributed to the various entities that were charged on a pro-rata basis (AG Opinion #78-112).

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

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

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

The legislative body of county government is called the quorum court and is composed of 9, 11, 13 or 15 members depending on the population of the county. The quorum court members are called justices of the peace and are elected for two-year terms from districts within the county. These district officials meet each month, more often if necessary, to conduct county business and review ordinances and resolutions for passage. The county judge is the presiding officer over the quorum court without a vote, but with the power of veto. This veto can be overridden with a 3/5ths vote of the total membership of the quorum court. (See generally ACA 14-14-801 et seq and 14-14-901 et seq.)

As provided by Amendment No. 55 of the Arkansas Constitution, a county government acting through its quorum court may exercise local legislative authority not expressly prohibited by the Constitution or by law for the affairs of the county (ACA 14-14-801). Some limitations are: The quorum court cannot declare any act a felony (felonies are covered by the State Criminal Code); quorum courts may not participate in the day-to-day administration of county executive branch offices and exercise no authority unrelated to county affairs (ACA 14-14-806).

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

Chapter Two - DUTIES OF THE OFFICE

The county judge is an elected official in county government. The Constitution of the State of Arkansas provides for the election of the county judge to a two-year term of office with the requirements that he/she be at least 25 years of age, a qualified elector, and a resident of the county. In the event of a vacancy in office, the quorum court fills the vacancy by appointment, the appointee serving until the next general election, when a successor is elected. Before beginning his/her duties, the county judge must enter into an official bond, to guarantee his/her proper performance of the duties. This may be accomplished either through the State Fidelity Bond Program, which covers all employees on the payroll, or a Fidelity Bond purchased for the officer. The county judge must also take the constitutional oath of office.

The county judge is entitled to that salary fixed for his/her office by applicable law and quorum court appropriation. To assist the county judge in the performance of his/her duties, the county judge may appoint such number of assistants as the quorum court may approve by funding. The county judge generally supervises the personnel within his/her employment and may discharge them and regulate their employment, within the guidelines established by the quorum court.

The office of the county judge is to be operated according to all constitutional and statutory provisions of law in concurrence with the annually approved budget for the office.

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

All powers not vested in the county judge as the chief executive officer of the county shall continue to be exercised and administered by the county court, over which the county judge shall preside. The county court, in fact, is the county judge sitting in a judicial role. (ACA 14-14-1102)

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

1. **County Taxes:** Including real and personal ad valorem taxes collected by county government. The county

court's authority in this area includes jurisdiction over the assessment of property, equalization of assessments on appeal, tax levies, tax collections, and the disbursement of tax proceeds.

2. **Paupers:** The court's jurisdiction includes all county administrative actions affecting the conduct of human services programs serving indigent residents of the county where such services are financed in total or in part by county funds.
3. **Jurisdiction** in each other case that may be necessary to the internal improvement and local concerns of the respective counties including county financial activities and works of general public utility or advantage designed to promote intercommunication, trade, and commerce, transportation of persons and property, or the development of natural resources, which are not otherwise transferred to the county judges to be administered in an executive capacity.
4. **The county court** shall have all other jurisdiction now vested by law in the county court excepting with respect to those powers formerly vested in the county court under the provisions of Section 28 of Article 7 of the Constitution that were transferred to the county judge under the provisions of Section 3 of Amendment 55 to the Arkansas Constitution. (ACA 14-14-1105)

In addition to the duties of the county court, the county judge is responsible for supervising the activities of the various state and federal agencies operating at the county level. The county judge must also apply for all federal and state assistance moneys for which the county is eligible, and appoints the members to all administrative and advisory boards in the county.

Chapter Three - TIMETABLE

This section was included to assist newly elected county judges by outlining the most pertinent activities of the office and placing them in a calendar format. This allows the county judge or member of his/her staff to review the major activities of the office.

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

COUNTY JUDGES' TIMETABLE

JANUARY

The county judge shall act as presiding officer over all regular and special meetings of the quorum court, without a vote, but with the power of veto; (Amendment 55 to the Arkansas Constitution of 1874 and ACA 14-14-1101 - 14-14-1103)

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

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

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

County Depository Board designates the bank which funds will be deposited into. (ACA 19-8-107). The board shall designate depositories and supervise the depositing of all county funds and all other public funds held by the county treasurer, except funds of a school district, and shall also designate depositories and supervise the depositing of all funds collected and held by the county collector. The board may also require county officials to settle with the county treasurer more frequently than required by Arkansas law. (ACA 19-8-104 and 19-8-106)

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

Each county intergovernmental cooperation council shall meet at least one (1) time annually.

All meetings of the council shall be open to the public and shall be held in a public meeting room.

All meetings of the cooperation council shall be at the call of the chair unless a majority of the council's membership shall petition for a meeting to be held.

The secretary of each council shall notify the public and the press of council meetings no later than ten (10) days prior to the date of such meetings.

The County Judge shall serve as chairman of the council and shall have full voting power and shall have veto power over any action taken by the council. It shall require a two-thirds (2/3) majority vote of all council members to override a veto. (ACA 14-27-101 through 14-27-103)

The clerk of the county court for each county shall annually cause to be published one (1) time, in one (1) newspaper published, a financial statement of the county, including the receipts and expenditures for that period and a detailed statement of the indebtedness and financial condition of said county. Such financial statement shall be published between January 15 and February 15 of each year for the previous fiscal year. (ACA 14-21-102)

FEBRUARY

Preliminary sales to assessment ratio studies report from the Assessment Coordination Department made to assessor and county judge before March 1 of the assessment year. (ACA 26-26-304)

The preparer of the tax book shall compile and deliver to the Assessment Coordinator Department by February 15 the Uniform Property Tax Assessment, Settlement, and Collection Information Report. Failure to do so shall result in loss of

“reappraisal funding” to the county. (ACA 26-26-2001 and Assessment Coordination Department Rule 5.03)

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

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

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

The clerk of the county court for each county shall annually cause to be published one (1) time, in one (1) newspaper published, a financial statement of the county, including the receipts and expenditures for that period and a detailed statement of the indebtedness and financial condition of said county. Such financial statement shall be published between January 15 and February 15 of each year for the previous fiscal year. (ACA 14-21-102)

MARCH

Preliminary sales to assessment ratio studies report from the Assessment Coordination Department made to assessor and county judge before March 1 of the assessment year. (ACA 26-26-304)

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

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

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

APRIL

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

The county treasurer shall submit each month to the county quorum court a full report and a detailed statement of the

financial condition of the county, showing receipts, disbursements, and balance on hand. (ACA 14-20-105)

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

MAY

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

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

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

The County Judge and the quorum court shall make appointment of their members of the Equalization Board for the term of the expiring member during the month of May of each year in which the term of any of their members of the Equalization Board expire. (ACA 26-27-304)

Deadline for listing all real and personal property that is required to be listed for taxation is May 31st of each year. (ACA 26-26-201)

JUNE

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

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

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

JULY

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

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

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

AUGUST

Board of Equalization meets on August 1st to equalize assessments within the county. However, if August 1 falls on a Saturday, a Sunday, or a legal holiday the meeting shall be held the next business day. (ACA 26-27-309)

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

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

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

SEPTEMBER

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

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

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

Begin work, along with county treasurer, on the anticipated revenues for the county in the next calendar year. Also, begin work, along with the quorum court on the proposed appropriations of the expenses of the county for the next calendar year. (ACA 14-14-904[b])

OCTOBER

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

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

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

All personal and real estate taxes are due and payable on the tenth day of October. In the event the 10th day of October falls on a Saturday, Sunday, or a holiday observed by the United States Postal Service, the taxes are due on the following business day. (ACA 26-35-501 and 26-36-201)

NOVEMBER

The quorum court at its regular meeting in November of each year shall levy the county, municipal, and school taxes for the current year, and before the end of each fiscal year, the court shall make appropriations for the expenses of county government for the following year. The Director of the Assessment Coordination Department may authorize an extension of up to sixty (60) days of the date for levy of taxes upon application by the county judge and county clerk of any county for good cause shown resulting from reappraisal or rollback of taxes. (ACA 14-14-904)

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

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

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

DECEMBER

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

The county treasurer shall submit each month to the county quorum court a full report and a detailed statement of the

financial condition of the county, showing receipts, disbursements, and balance on hand. (ACA 14-20-105)

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

All county tax collections settlements shall be made and filed with the county courts on or before the fourth Monday of December each year (ACA 26-39-402)

It is hereby made the duty of the county courts to pass upon the settlements of county collectors and to approve, reject or restate the same on or before the thirty-first of December of each year. Failure of the county judge to so approve, reject or restate said settlements of said collectors within said period of time shall constitute a misfeasance in office and shall be deemed a violation, punishable by a fine of \$100.00 or removal from office. (ACA 26-39-402)

The quorum court, at its regular meeting in November of each year, shall levy the county, municipal and school taxes for current year; and, before the end of each fiscal year, the county shall make appropriations for the expenses of county government for the following year. The Director of the Assessment Coordination Department may authorize an extension of up to sixty (60) days of the date for levy of taxes upon application by the county judge and county clerk of any county for good cause shown resulting from reappraised or rollback of taxes. Provided that nothing in this Section shall

prohibit the quorum court from making appropriation amendments at any time during the current fiscal year. (ACA 14-14-904[b])

Chapter Four - REVENUE SOURCES

	Investments	§§19-8-104 - 19-8-107
A.	Ad Valorem Property Taxes	
	1. General Purpose Tax	Article 16, Section 9 of Arkansas Constitution
	2. Road Tax	Amendment 61 & §26-79-101
	3. Construction Tax	Amendments 62 & 65
	4. Hospital Tax	Amendment 32
	5. Library Tax	Amendment 38
B.	Non-Property Taxes	
	1. Vehicle Tax	§§26-78-101 - 120
	2. Liquor Tax	§§3-4-201, 3-4-202, 3-4-208
	3. Beer Tax	§§3-5-101, 3-5-103, 3-5-201 - 225
	4. Privilege Tax	§26-26-202
	5. Privilege Tax	§26-76-108
	6. Privilege Tax	§§27-87-101, 27-87-104, §27-87-202, 203, 205, 206, 209
	7. Marriage License Tax	§14-20-111
	8. Mixed Drink Tax	§3-9-213
	9. Private Club Tax	§§3-9-221 - 225
	10. Countywide Sales & Use Tax	§§26-74-201, 26-74-301, §26-74-401, and 14-164-301
	11. Income Tax	§26-73-103
C.	Ad Valorem Bonds	
	1. Construction	Amendments 62 & 65
	2. Industrial Development	Amendments 62 & 65
D.	Revenue Bonds	
	1. Highways	§§26-78-102 - 120
	2. Hospital, Nursing or Rest Home	§§14-265-101 - 111
	3. Industrial Development Bonds	§§14-164-401 - 419
	4. Parks & Rec. Facilities	Amendment 65; §§19-9-601 - 607
	5. Pollution Control	§§14-267-101 - 113 & Amendment 49
	6. Port Facilities	§§14-16-111, , and 14-186-101, 14-186-203 - 213, 14-186-301 - 312 and 4-186-401 - 417
	7. Solid Waste Management	§§8-6-212 - 222; 8-6-301 - 307; 8-6-401 - 416; 8-6-501 - 510, and 8-6-601 - 611
	8. Tourism	Amendment 49 & §§14-170-201 - 214
E.	Fines, Forfeitures - Court Costs	§§16-92-113, 16-96-403, 16-68-301
F.	Fees and Commissions	
G.	Intergovernmental Transfers	
	1. State General Turnback (County Aid)	§19-5-602
	2. State Highway Turnback	§§27-70-207
	3. State Aid/Secondary Roads	§§27-72-301 - 321 & 27-72-101
	4. State Severance Taxes	§26-58-124
	5. Sale or Redemption of Tax Delinquent Lands	§26-37-205
	6. Revenue-Forest Reserves	§19-7-404
	7. Sale or Lease of Public Domain	§19-7-402
H.	Miscellaneous	
	1. Lease of County Property	§14-16-110
	2. Lease/Sale of County Hospital	§14-16-108
	3. Sale of County Property	§14-16-105
	4. Solid Waste Management Fee	§8-6-212

COUNTY GOVERNMENT FINANCE

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

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

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

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

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

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

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

INVESTMENTS

Counties may invest funds in (1) Arkansas Bank certificates of deposit; (2) Arkansas financial institution repurchase agreements, defined as the purchase of permitted

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

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

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

COUNTY REVENUES

A. AD VALOREM PROPERTY TAXES

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

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

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

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

the ratio study and shall be subject to the corrective actions.

1. General Purpose Tax

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

Use: Support all purposes of county government.

Implementation: Imposed annually by action of the quorum court.

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

2. Road Tax

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

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

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

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

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

3. Construction Tax

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

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

Implementation: Whenever a legislative body shall determine the need to issue bonds for capital improvement or industrial development purposes, it shall authorize the

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

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

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

4. Hospital Tax

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

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

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

Authority: Constitution of Arkansas, Amendment 32.

5. Library Tax

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

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

Implementation: By petition of 100 or more electors to the county court which shall then submit the question to the

voters at a general election. If a majority of those voting on the question vote for a tax, it will be continually levied until raised, lowered, or abolished at a subsequent general election. County quorum court may establish a filing fee not to exceed \$2000 for petitions for special election.

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

COUNTY REVENUES

B. NON-PROPERTY TAXES

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

1. Vehicle Tax

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

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

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

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

2. Liquor Tax

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

Use: Support all purposes of county government.

Implementation: By the county court.

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

3. Beer Tax

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

Use: Support all purposes of county government.

Implementation: By the County Court.

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

4. Privilege Tax: Public Exhibitions

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

Use: Support all purposes of county government.

Implementation: Imposed by county court.

Authority: ACA 26-76-202.

5. Privilege Tax: Ferries

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

Use: Support all purposes of county government.

Implementation: ACA 27-87-205.

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

6. Additional Marriage License Tax

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

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

Implementation: Imposed by the quorum court.

Authority: ACA 14-20-111.

7. Mixed Drink Tax

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

Hotel having fewer than 100 rooms:.....\$500.00

Hotel having 100 or more rooms:.....\$1,000.00

Restaurant having a seating capacity of less than 100 persons:.....\$500.00

Restaurant having a seating capacity of 100 or more persons:.....\$1,000.00

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

Use: Support all purposes of county government.

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

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

8. Private Club Tax

In addition to the fee or supplemental tax as levied herein, any city or incorporated town or any county in which the

permitted premises are located, if located outside the limits of a city or incorporated town, may levy an additional permit fee or supplemental tax or both additional permit fee and supplemental tax not to exceed one-half (1/2) of the amount of the fee or rate provided in this section.

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

Use: Support all purposes of county government.

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

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

9. County Sales & Use Tax

Source: A .125, .25, .50, .75, or 1.0 percent (1/8, 1/4, 1/2, 3/4 or 1%) countywide sales and use tax is now permissive in counties beginning with the passage of Act 26 of 1981 (Extraordinary Session) as amended. This is Arkansas Code Annotated 26-74-207. Up to a one percent (1%) tax shall apply on the gross receipts from the sale of retail, within the county, on all items which are now subject to the Arkansas Gross Receipts Tax, as set forth in the provisions of ACA 26-52-101 et seq. In counties where a .125, .25, .50, .75, or 1.0 percent (1/8, 1/4, 1/2, 3/4, or 1%) sales and use tax is levied, the tax imposed also applies an excise tax on the storage, use or consumption within such county of tangible personal property purchased, leased or rented from any retailer outside the state after the effective date of the sales and use tax for storage, use or other consumption in such county at a rate of .125, .25, .50, .75, or 1.0 percent (1/8, 1/4, 1/2, 3/4, or 1%) of the sale price of the property or, in the case of leases or rentals, of said lease or rental price, the rate of said use tax to correspond to the rate of the sales tax portion of said tax. Provided that the use tax portion of said local sales and use tax shall be collected according to the provisions of the Arkansas Compensating Use Tax (ACA 26-53-101 et seq.).

Maximum tax limitation.

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

manufactured homes, or mobile homes.

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

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

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

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

Use: Support all purposes of county government.

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

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

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

10. County Sales Tax for Capital Improvements

Source: A .125, .25, .50, .75, or 1.0 percent ($\frac{1}{8}$, $\frac{1}{4}$, $\frac{1}{2}$, $\frac{3}{4}$, or 1%) countywide sales and use tax is now permissive in counties with the passage of Act 871 of 1985 as amended. This is Arkansas Code Annotated 14-164-301 through 14-164-339. The Act was passed to implement Amendment 62 of the Arkansas Constitution to allow the financing of capital improvements of a public nature and the financing of facilities for the securing and developing of industry. The financing may be done by bonded indebtedness or if a legislative body determines that a .125, .25, .50, .75, or 1.0 percent ($\frac{1}{8}$, $\frac{1}{4}$, $\frac{1}{2}$, $\frac{3}{4}$, or 1%) sales or use tax or any other local tax authorized by law would, if levied for no longer than twenty-four (24) months, and thirty-six (36) months for criminal justice facilities, produce sufficient

revenue to finance capital improvements of a public nature without resorting to a bond issue, the legislative body may dispense with the issuance of bonds, levy the tax for no longer than twenty-four (24) months and thirty-six (36) months for criminal justice facilities, and appropriate the resulting revenues, subject to the Arkansas Constitution, Article 12, Section 4, paragraphs 2 through 4.

Use: Support of capital improvements as defined in 14-164-303 and 14-164-339.

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

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

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

11. County Sales and Use Tax

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

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

Use: Support all purposes of county government.

Implementation: The quorum court shall pass an ordinance calling an election on the issue. The proceeds of the sales and use tax are to be distributed on a base of per capita to the cities and towns within the county that do not levy a local (city) sales and use tax.

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

Note: Since the legislation regarding sales and use taxes is now complex and so complicated, the Association of

Arkansas Counties recommends obtaining the services of adequate legal counsel on all county sales and use tax matters.

12. County Income Tax

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

Use: Support all purposes of county government.

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

Authority: ACA 26-73-101 through 26-73-115.

COUNTY REVENUES

C. AD VALOREM BONDS

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

1. Construction: Source, Use & Conditions

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

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

Authority: Constitution of Arkansas, Amendments 17, 25, 62 and 65 and ACA 14-164-301 et al

2. Industrial Development: Source, Use & Conditions

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

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

Authority: Constitution of Arkansas, Amendments 49 & 62.

COUNTY REVENUES

D. REVENUE BONDS

1. Highways

Source: Issuance and sale by county court of bonds bearing interest not to exceed four and one-half percent (4 1/2%) interest per annum. Such bonds are special obligations and not general obligations of the county.

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

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

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

2. Hospital, Nursing Home or Rest Home

Source: Issuance and sale by county court of bonds bearing interest not to exceed ten percent (10%) per annum. Such bonds shall be special obligations and not general obligations of the county.

Use: For purposes in connection with the county authority to own, acquire, construct, reconstruct, extend, equip, improve, maintain, operate, sell, lease, contract

concerning, or otherwise deal in or dispose of any land, buildings or facilities of any and every nature that can be used for a hospital, nursing home or rest home in the county.

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

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

3. Industrial Development – Revenue Bonds.

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

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

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

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

4. Parks and Recreational Facilities

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

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

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

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

5. Pollution Control Facilities

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

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

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

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

6. Port Facilities

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

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

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

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

7. Solid Waste Management

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

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

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

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

8. Tourism

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

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

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

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

COUNTY REVENUES

E. FINES, FORFEITURES AND COURT COSTS

Source: All fines, penalties and forfeitures imposed by any court or board of officers whatsoever, except fines and

penalties of city courts and courts of incorporated towns for violations of city and town ordinances, shall be paid into the county treasury.

Costs taxed for the trial in the circuit court on cases appealed from police or municipal courts shall be paid into the county treasury.

Costs taxed for proceedings in chancery court and probate courts are paid into the county treasury.

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

Implementation: By provisions of the Arkansas Code Annotated.

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

COUNTY REVENUES

F. FEES AND COMMISSIONS

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

Use: Fees charged for a specific service are to be reported by that county officer once a month and may be appropriated for any general purpose of county government. Commissions allowed likewise have to be turned over to the county treasurer once a month but after a final county tax settlement, whereas all costs of assessment and collection are reconciled, excess commissions are divided among the millage units.

COUNTY REVENUES

G. INTERGOVERNMENTAL TRANSFERS

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

of "for all purposes of county government" or "for use to support the county highway system".

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

1. State General Turnback (County Aid)

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

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

Authority: ACA 19-5-301 through 19-5-307 and 19-5-602.

2. State Highway Revenue Turnback

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

Funds are apportioned to counties on the following basis:

- a. thirty-one percent (31%) to be divided in proportion that the area of each county bears to the area of the state;
- b. seventeen and one-half percent (17 1/2%) divided in proportion that motor vehicle licenses fees collected in each county;
- c. seventeen and one-half percent (17 1/2%) divided in proportion that the population of each county bears to the total population of the state;
- d. thirteen and one-half percent (13 1/2%) divided in proportion that the rural population of each county bears to the total population of the state; and
- e. twenty and one-half percent (20 1/2%) divided equally among the seventy-five (75) counties.

Use: For maintenance, construction, and reconstruction of roads and bridges in the County Highway System, provided, however, that no more than twenty percent (20%) of the revenues received by a county during any fiscal year may also be used for public transportation. A county may also use these funds to construct and maintain parking for county courthouses, county administration buildings, county health units, and county parks and to construct and maintain sidewalks that serve county courthouses, county administration buildings, county health units, county parks, public schools, regional mobility authorities, and other publicly owned property.

Authority: ACA 27-70-207.

3. State Aid to Secondary Roads

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

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

Use: State Aid Road Funds shall be used exclusively for the construction, reconstruction, and improvement of roads on the State Aid Road System. No funds can be spent on any project which shall not culminate directly in a paved, hard surface road and provided not more than twenty-five percent (25%) of a county's annual allotment from the State Aid Road Fund shall be used for the purpose of maintenance on previously constructed hard surface State Aid roads. Roads within the system are by designation of the several county judges with the consent and approval of State-Aid Engineer and the Highway Commission.

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

4. State Severance Taxes

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

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

Authority: ACA 26-58-113.

Beginning January 1, 2009, the tax shall be 1.5% on new discovery gas for the first 24 months; 1.5% on high-cost gas for the first 36 months with a possible extension of 12 additional months; 1.25% on marginal gas; and 5% on all other natural gas. These new tax rates will be based on market value. Five percent of the tax, interest, and penalties collected will be deposited in general revenues and 95% of the funds will be classified as special revenues and distributed pursuant to the Arkansas Highway Revenue Distribution Law. (Distribution is 70% to State, 15% to counties, and 15% to municipalities for highway road and street use.)

Authority: ACA 26-58-124

5. State Sale of Tax Forfeited Land

Source: Funds received by the State from the sale of tax forfeited lands are, after deducting the cost of sale, deposited to the County Aid Fund and subsequently returned to the county in which such tax forfeited lands are situated.

Use: Funds shall be distributed to the various taxing units within the county in the proportion that the millage levied by each such taxing unit at the time of such distribution bears to the total millage levied by all taxing units within the county. Those funds accruing to the county from such distribution can be used to support all purposes of county government.

Authority: ACA 26-37-205

6. Revenue from Forest Reserves

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

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

Authority: ACA 19-7-404.

7. Revenue from Sale or Lease of Public Domain

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

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

Authority: ACA 19-7-402, 19-7-403 and 19-7-801.

COUNTY REVENUES

H. MISCELLANEOUS

1. Lease of County Property

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

Use: Support all purposes of county government.

Authority: ACA 14-16-110.

2. Lease or Sale of County Hospital

Source: Revenues may be derived from lease or sale of a county hospital located within the county where there is no outstanding bonded indebtedness. Provided, however, that

the quorum court shall approve the conditions of a lease and a sale requires voter approval. County hospitals constructed or maintained in whole or part by taxes approved by the voters shall not be sold unless the sale is approved by the majority of electors voting on the issue at a general or special election.

An election shall not be required for the sale of a county hospital that has been vacant or not used as a county hospital for more than one hundred twenty (120) days.

Use: Support all purposes of county government.

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

3. Sale of County Property

Source: The county court of each county shall have the power to sell any real estate or personal property of the county. Sale of property with an appraised value of less than two thousand dollars (\$2,000.00), the property may be sold and conveyed by the county judge, either at public or private sale, for not less than three-fourths (3/4) of the appraised value as shown by the certificate of appraisal filed by the assessor. Sale of property with an appraised value of over two thousand dollars (\$2,000.00) must be sold to the highest and best bidder upon sealed bids. The sheriff, the treasurer, and the circuit clerk of the county shall constitute a board of approval for the sales, and the judge shall be the ex-officio chairman of the board without a vote. Such property, when it exceeds the appraised value of two thousand dollars (\$2,000.00), shall not be sold for less than three-fourths (3/4) of its appraised value as determined by the certificate of the assessor.

Use: Support all purposes of county government.

Authority: ACA 14-16-105

Also, if it is determined by the county judge to be surplus, any personal or real property owned by a county may be sold at public auction to the highest bidder. Notice of the public auction shall be published at least once a week for two (2) consecutive weeks in a newspaper having general circulation in the county. The notice shall specify the description of the property to be sold and the time and place of the public auction. If it is determined by the county judge and the county assessor that any personal property owned by the county is junk, scrap, discarded, or otherwise of no value to the county, then the property may be disposed of in any manner deemed appropriate by the county judge. However, the county judge shall report monthly to the quorum court any property that has been disposed of. (ACA 14-16-106)

4. Solid Waste Management Fees

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

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

Authority: ACA 8-6-212.

Chapter Five - COUNTY GOVERNMENT OPERATIONS

This section of the manual is designed to assist county judges, newly elected and experienced, with daily office operations. The operations enumerated were selected because they comprise the major functions of the county judge's office. These functions are divided into two categories; administrative/executive and county court.

In reading the operations described on the following pages, it should be remembered that these are only examples of ways to perform the functions and not the only way to perform them. Also, it should be noted that the operations described do not attempt to replace the various constitutional and statutory directives, but only to present them.

The office of the county judge in Arkansas County Government is one that is very unique. The county judge is both a judicial and an executive-administrative official for the county. This chapter on county government operations outlines the major duties and responsibilities of the county judge in these two areas.

The county judge is the judge of the county court and has jurisdiction in matters relating to:

- A. County Taxes
Approval of Final Settlement
Appeals from Equalization Board
- B. Incorporation
Petition for Consolidation
Petition for Incorporation
- C. Annexation
By Adjoining Landowners
By Municipality by Election
- D. County Roads
Condemnation Procedure
Road Improvement District
Securing Right of Way
Viewing, Reviewing, Altering or Vacating
- E. Paupers

The county judge is the chief executive officer or administrator for county government. The duties and responsibilities of the county judge as executive-administrator are the following:

- A. County Purchasing Procedure
- B. Presiding over the Quorum Court

- C. Administer Ordinance Enacted by Quorum Court
- D. Custody of County Property
- E. County Boards
- F. Establishing Special District
- G. Paying County Claims
- H. County Budgeting Procedure
- I. Administrative Rules
- J. County Roads

COUNTY TAXING MATTERS

The General Assembly hereby determines that all powers not vested in the county judge under the provisions of Amendment 55 to the Constitution of Arkansas, to be exercised by the county judge as the chief executive officer of the county, shall continue to be exercised and administered by the county court, over which the county judge shall preside. The county court of the several counties shall have exclusive jurisdiction in all matters relating to:

"County taxes"; jurisdiction shall include all real and personal ad valorem taxes collected by a county government, including all related administrative processes: assessment of property, equalization of assessments on appeal, tax levies, tax collection, and distribution of tax proceeds; provided, however, that such jurisdiction shall be exercised pursuant to law. (ACA 14-14-1105)

APPROVAL OF FINAL SETTLEMENT

All county tax collector's settlements shall be made and filed with the county courts on or before the fourth Monday of December of each year. (ACA 26-39-402) It is hereby made the duty of the county courts to pass upon the settlements of the county collectors and to approve, reject or restate the same on or before the thirty-first of December of each year, provided that the county court has the duty to reconsider and adjust any error discovered within three (3) years from the date of such settlement. (ACA 26-39-220)

Failure of the county judge to so approve, reject or restate said settlements of said collectors within said period of time shall constitute a misfeasance in office and shall be deemed a violation, punishable by a fine of \$100 or removal from office. Any county collector of taxes who shall fail to file with the county clerk a full and complete list of all delinquent personal taxes on the day required by law, shall be deemed guilty of a violation, punishable by a fine of \$100 or removal from office. Any county clerk who fails to set up the settlement of the county collector setting forth

the amount due the various funds, on or before the fourth Monday of December of each year shall be deemed guilty of a violation punishable by a fine of \$100 or removal from office. (ACA 26-39-301, 26-39-401 and 26-39-402)

APPEALS FROM EQUALIZATION BOARD

Appeals from the action of the equalization board must be filed on or before the second Monday of October of each year and shall have preference over all matters in the court and shall be heard and order made on or before the fifteenth day of November. (ACA 26-27-318)

Appeals from the action of the equalization board when in special session shall be to the county court in the manner as now provided by law, except that any such appeal shall be filed within ten (10) days from date of notice of action by said board, and shall be heard and order made by the county court not later than forty-five (45) days prior to the date on which the tax books for the year are required to be delivered to the county collector. (ACA 26-27-311)

PETITION FOR CONSOLIDATION

1. When the inhabitants of any city or incorporated town adjoining or contiguous to another smaller municipal corporation of any class in the same county shall desire that the city or incorporated town annex to it or consolidate with it the smaller municipal corporation, they may apply, by a petition in writing signed by a number of qualified electors from each of the municipal corporations equal to not less than fifteen percent (15%) of the total vote cast for the office of mayor in the respective city or town in the last preceding general election, to the city or town council of the larger municipal corporation. Municipal corporations separated by a river shall be deemed contiguous. The petition shall:

- Describe the municipal corporations to be consolidated; and
- Name the persons authorized to act in behalf of the petitioners presenting the petition as provided in this section.

The petitions shall be filed with the city clerk or town recorder of each municipal corporation, who shall determine the sufficiency of the petitions in each municipality. If any petition is determined insufficient, he or she shall notify the petitioners in writing without delay, and the petitioners shall be permitted ten (10) days from the notification to solicit additional signatures or to prove any

rejected signatures. If the city clerk or town recorder of the respective municipalities decides the petitions are sufficient, he or she each shall notify the petitioners in writing and shall present the petitions to the city or town council of the larger municipal corporation. When the petition is presented to the council, the council shall pass an ordinance in favor of the annexation and approving and ratifying the petition. If the council fails to pass the ordinance required then any interested party may apply for a writ of mandamus to require the performance of the requirement. In that event, it shall be the duty of the persons named in the petition authorized to act in behalf of the petitioners to file the petition, together with a certified copy of the ordinance, in the office of the county clerk of the county in which the municipal corporations are situated. (ACA 14-40-1201)

2. Upon presentation of said petition to the county court by said authorized persons, the county court shall at once order and call a special election in both of said municipal corporations on the question of said annexation and the name of the proposed consolidated municipality, and shall give thirty (30) days notice thereof by publication once a week in some newspaper with a bona fide circulation in said territory, and by notices posted in conspicuous places therein. The court shall appoint one (1) judge and one (1) clerk in each ward or other division of each municipal corporation, and the mayor and city council of each of said municipal corporations shall select two (2) judges and one (1) clerk for each of said wards or other divisions having the qualifications of electors, to act as judges and clerks of election within said respective wards. The county court shall fix all polling places at which the voting shall take place, and said election shall be held and conducted in each corporation in the manner prescribed by law for holding elections for cities or incorporated towns so far as the same are applicable, expenses thereof to be paid by said larger city or incorporated town. All elections held under this section of the code are hereby made legal elections, and such elections shall be governed by and subject to all the laws relating to general elections so far as applicable, and all judges, clerks and persons voting in said elections shall be subject to the penalties prescribed by the general election laws of the State for violation of said general election laws to the same extent as though said elections were specifically included in the general election laws of the State. The returns of said elections shall be made to the county court, and the result thereof declared by said court. In

order to provide for an orderly transition of affairs if the petition calls for a delay in the implementation of the consolidation, the consolidation shall not take effect until the date specified in the petition, except that the consolidation shall be delayed not longer than eighteen (18) months from the date the election results are declared by the court. (ACA 14-40-1202)

3. At any election held under this subchapter, all qualified electors who are residents of either municipality shall be allowed to vote on the adoption or rejection of the proposed annexation or consolidation and the name of the proposed consolidated municipality. If a majority of the votes cast in each of the respective municipalities, considered as a separate and distinct unit and without reference to the vote cast in the other, shall be in favor of the consolidation or annexation, then the county court shall declare, by an appropriate order, the annexation or consolidation consummated unless the petition has requested a delayed date for implementation of the consolidation. If the petition calls for a delay in the implementation of the consolidation and if a majority of the votes cast in each of the respective municipalities is in favor of the consolidation, then the county court shall order the annexation or consolidation consummated on the date specified in the petition, except that the date shall not be more than eighteen (18) months after the date election results are declared by the court. If a majority of the votes cast in each of the respective municipalities, considered as a separate and distinct unit and without reference to the vote cast in the other, shall be in favor of the same name of the municipality, then the county court shall declare, by appropriate order, the name of the consolidated municipality. If a majority of the votes cast in each of the respective municipalities, considered as a separate and distinct unit and without reference to the vote cast in the other, shall not be in favor of the same name of the municipality, then the county court shall declare, by appropriate order, the name of the consolidated municipality to be the name of the larger municipality. Upon the making of the order, the smaller municipal corporation and the territory comprising it shall, in law, be deemed and be taken to be included and shall be a part of the larger municipal corporation. The inhabitants thereof shall in all respects be citizens of the larger municipal corporation. If a majority of the votes of either municipal corporation shall be against annexation, then the city or incorporated town

shall not be again permitted to attempt the consolidation for two (2) years. (ACA 14-40-1203) Any elector shall have the right to test the legality and fairness of the election and the declared results in a proceeding before the circuit court without being required to give bond for costs. However, no such contest shall interfere with the consolidation until finally decided. (ACA 14-40-1204)

4. As soon as practicable after the annexation, the council of the larger city or incorporated town shall, by ordinance, form the territory of the smaller municipality into such number of wards as shall seem to be to the best interest of the combined city or incorporated town, or shall change the number and boundaries of all the wards of the entire city or incorporated town, or any part of them, as shall seem to be to the best interests of the combined city or incorporated town, in such way, however, that the said wards shall have as nearly an equal population and assessed valuation of property as practicable as in the opinion of the council would best sub serve the true interest of the citizens and tax-payers of such combined city or incorporated town. The territory and inhabitants of said smaller municipal corporation shall receive that fair and just representation in the city council as the size, population and assessed valuation of property demands, as compared with the representation accorded to other wards of the city or incorporated town, and if inhabitants of said smaller municipal corporation feel aggrieved at the number of wards, or in any manner dissatisfied with the division of said territory into wards, upon petition of fifty (50) qualified electors, the circuit court is hereby authorized to make changes in the number of wards as the justice of the case requires, in the manner as provided in ACA 14-43-311, so far as applicable. (ACA 14-40-1205)

5. The council of said larger city or incorporated town shall cause a plat to be made of the entire city or incorporated town after the annexation thereto and the division into wards of the said smaller municipal corporation, and a certified copy of said plat shall be filed and recorded in the office of the circuit court and ex-officio recorder of said county and with the Secretary of State, and thereafter the same shall stand, be and remain the division of said city or incorporated town into wards, and the number and boundaries thereof, until such time as the same may be afterwards changed according to law; provided, however, that no change in the boundaries of the wards of the larger city or incorporated town shall determine or affect the time of service of any previously elected alderman

of any ward in said larger city or incorporated town. (ACA 14-40-1206)

PETITION FOR INCORPORATION

1. Notice - When the inhabitants of a part of any county, not embraced within the limits of any city or incorporated town, shall desire to be organized into a city or town, they may apply by petition, in writing, signed by the greater of either 200 or a majority of the qualified voters residing within the described territory, to the county court of the proper county which petition shall describe the territory proposed to be embraced in such incorporated town, and have annexed thereto an accurate map or plat thereof, shall state the name proposed for such incorporated town, and also name the person or persons authorized to act in behalf of the petitioners in prosecuting said petition. The county court shall not approve the incorporation of any municipality if any portion of the territory proposed to be embraced in such incorporated town shall lie within five (5) miles from the corporate limits of an existing municipal corporation unless the governing body of said municipal corporation has, by written resolution, affirmatively consented to said incorporation. The planning territorial jurisdiction limitation shall not apply if the area proposed to be incorporated is land upon which a real estate development by a single developer, containing not less than four thousand (4,000) acres, has been or is being developed under a comprehensive plan for a community containing streets and other public services, parks, and other recreational facilities for common use by the residents of the community, churches, schools, and commercial and residential facilities, and which has been subdivided into sufficient lots for residential use to accommodate a projected population of not fewer than one thousand (1,000) persons, and for which a statement of record has been filed with the Secretary of Housing and Urban Development under the Interstate Land Sales Full Disclosure Act. When any petition shall be presented to the court, it shall be filed in the office of the county clerk, to be kept there, subject to the inspection of any persons interested, until the time appointed for the hearing of it. The court shall, at or before the time of the filing, fix and communicate to the petitioners, or their agent, a time and place for the hearing of the petition, which time shall not be less than thirty (30) days after the filing of the petition. Thereupon, the petitioners or their agent shall cause a notice to be published in some newspaper

of general circulation in the county for not less than three (3) consecutive weeks.

If there is no newspaper of general circulation in the county, a notice shall be posted at some public place within the limits of the proposed incorporated town for at least three (3) weeks before the time of the hearing. The notice shall contain the substance of the petition and state the time and place appointed for the hearing. (ACA 14-38-101)

2. Every incorporation hearing shall be public, and may be adjourned from time to time, and any person interested may appear and contest the granting the prayer of said petition; and affidavits in support or against said petition which may be prepared and submitted, shall be examined by said court, and they may, in their discretion, permit the agent or agents named in the original petition to amend or change the same, except no amendment shall be permitted, whereby territory not before embraced shall be added, or the character of the proposed incorporated town changed from special to general, or from general to special, without appointing another time for hearing, and requiring new notice to be given as above provided in ACA 14-38-101. (ACA 14-38-103)

3. If the county court shall make out and endorse on the petition an order to effect that the city or incorporated town as named and described in the petition may be organized if the court shall be satisfied, after hearing the petition, that the greater of either 200 or a majority of the qualified voters residing within the described territory have signed the petition; that said limits have been accurately described, and an accurate map or plat thereof made and filed; that the name proposed for the said town is proper and sufficient to distinguish it from others of like kind in the State; and, moreover, it shall be deemed right and proper, in the judgment and discretion of the court, that said petition shall be granted, then the court shall make out and endorse on said petition an order to the effect that the incorporated town as named and described in the petition may be organized. The order shall be signed and delivered by the court, together with the petition and the map or plat, to the recorder of the county, whose duty it shall be to record it as soon as possible in the proper book or records and to file and preserve in his office the original papers, having certified thereon that the same have been properly recorded. It shall also be the duty of recorder to

- make out and certify, under his official seal, two (2) transcripts of said record. He shall forward one (1) copy to the Secretary of State and deliver one (1) copy to the agent of the petitioners, with a certificate thereon that a similar transcript has been forwarded to the Secretary of State as provided in this section. (ACA 14-38-104)
4. As soon as said record shall be made, and said transcript certified, forwarded and delivered, the inhabitants within the limits described in the petition, shall be deemed an incorporated town, to be organized and governed under the provisions of this act in like manner as if specially named therein, and so soon as said incorporated town shall be actually organized, by election of its officers as hereinafter provided, notice of its existence as such shall be taken in all judicial proceedings in the State. (ACA 14-38-105)
 5. One (1) month shall elapse from the time such transcripts are for-warded and delivered, before notice shall be given of an election of officers in such incorporated town, and any person interested may, at any time within the said one (1) month, make complaint in writing, in the nature of an application for an injunction to the circuit court, or the judge thereof in vacation, having given at least five (5) days notice thereof, and furnished a copy of the complaint to the agent or agents of the petitioners, for the purpose of having the organization of such proposed incorporated town prevented. (ACA 14-38-106)
 6. It shall be the duty of the court or judge to hear such complaint in a summary manner, receiving answers, affidavits and proofs, as may be deemed pertinent; and if it shall appear to the satisfaction of the court or judge that the proposed incorporated town does not contain the requisite number of inhabitants, or that the limits of said proposed incorporated town are unreasonably large or small, or are not properly and sufficiently described, then the said court or judge shall order the record of said incorporated town to be annulled; and it shall be the duty of the court recorder to endorse on the record the order so made, and to certify and transmit to the secretary of state a copy thereof, and thereupon the record shall be of no effect, but such proceeding shall in no manner bar a subsequent petition to the county court, on the same subject, by complying with the provisions of this section of the code. (ACA 14-38-107)

7. Unless the agent or agents of the petitioners shall, within thirty (30) days after a transcript shall be delivered as hereinbefore provided, be notified of a complaint having been made to the circuit court of the county, or a judge thereof, then at the end of said thirty (30) days after the dismissing of said complaint the said agent or agents shall give public notice, by posting the same at three (3) or more public places within the limits of said incorporated town, of the time and place of holding the first election for officers of said incorporated town, which election shall be conducted and the officers elected and qualified in the manner prescribed by law in like cases; provided that, if said election shall be held at any other time than that prescribed by law for the regular election of such officers, the officers elected shall continue in office so long and in like manner as if they had been elected at the next preceding period of such regular election. (ACA 14-38-108)

PROCEDURE USED FOR ANNEXATION BY ADJOINING LANDOWNERS

1. Annexation has to be contiguous to an adjoining city owning more than 1/2 of acreage. Majority of real estate owners in affected area apply for annexation by petition in writing to county court. (ACA 14-40-601)
2. Petition shall be presented to the court - the county clerk files it - the county court sets a date for hearing petition - date shall be not less than 30 days after filing of petition. (ACA 14-40-602)
3. After the filing and before the hearing on the petition, the petitioners shall cause a notice to be published in some newspaper of general circulation. Notice is published once a week for three consecutive weeks. Notice shall contain substance of petition and state time and place appointed for the hearing. (ACA 14-40-602)
4. Hearing Procedure
Every incorporation hearing under this chapter shall be public and may be adjourned from time to time. Any person interested may appear and contest the granting of the prayer of the petition, and affidavits in support of or against the petition, which may be prepared and submitted, shall be examined by the county court. The court may, in its discretion, permit the agent named in the original petition to amend or change it. However, no amendment shall be permitted whereby territory not before embraced shall be added or

the character of the proposed city or incorporated town changed from special to general, or from general to special, without appointing another time for a hearing and requiring new notice to be given. (ACA 14-38-103)

5. After the hearing, if the county court is satisfied that the allegations of the petitions were sustained by the proof and; If the court is satisfied that the requirements for signature have been complied with, If the court is satisfied that the limits of the territory to be annexed have been accurately described and an accurate map thereof made and filed, Then the court shall enter its order granting the petition and annexing the territory, which order shall be recorded by the clerk. (ACA 14-40-603)
6. No action shall be taken for a period of thirty (30) days within that time any person interested may institute a proceeding to have the annexation prevented in circuit court. If the court or judge shall determine that the order of the county court was proper, then the order of the county court shall be affirmed and the proceedings to prevent the annexation shall be dismissed. (ACA 14-40-604)
7. If no such notice shall be given within thirty (30) days form the making of the order of annexation by the county court, the proceeding before said court shall, in all things, be confirmed. Provided, the city or town council shall, by ordinance or resolution, accept the territory. (ACA 14-40-605)
8. If the city council accepts the territory, the county clerk shall certify one (1) copy of the plat of such annexed territory, one (1) copy of the said order of the county court and the resolution or ordinance of the city or town council and forward a copy of each to the secretary of state and shall forward one copy of the plat of the annexed territory and one copy of the order of the county court to the Director of the Tax Division of the Public Service Commission and the clerk shall forward a certified copy of the order of the county court to the town or city council. (ACA 14-40-605)

PROCEDURE USED FOR ANNEXATION BY THE MUNICIPALITY BY ELECTION

1. The county clerk files the petition and the county court sets a date for hearing the petition. The date set shall be not less than thirty (30) days after filing the petition. (ACA 14-40-602)

2. After the filing and before the hearing on the petition, the petitioners shall publish a notice in a newspaper of general circulation. This notice shall contain the substances of the petition and state the time and place appointed for the hearing and shall be published one (1) time per week for three (3) consecutive weeks (ACA 14-40-602)
3. Every hearing should be public and may be adjourned from time to time. Any person interested may appear to speak for or against the petition. Any person interested has been defined as any person who has some interest in the city or the area to be annexed. (ACA 14-38-103)

A petition cannot be amended during the hearing to add or remove territory not mentioned in the petition. If the petition is amended, then another time for the hearing is required and a new notice is given to the public. (ACA 14-38-103)

4. After the hearing has been held and if the county court is satisfied that the allegations of the petition were sustained by the proof and; If the court is satisfied that the requirements for signatures have been complied with; and If the court is satisfied that the limits of the territory to be annexed has been accurately described; and an accurate map of the territory has been made and filed. (ACA 14-40-603)
5. If at the end of thirty (30) days, after the county court ruling, there is no action filed preventing the annexation, then the county court ruling stands. The city or incorporated town council shall, by ordinance or resolution, accept the territory. The territory shall, in law, be deemed and taken to be included in and shall be part of said corporation and the inhabitants thereof shall, in all respects, be residents thereafter of said municipal corporation. (ACA 14-40-605)

CONDEMNATION PROCEDURE

1. The county courts shall have power to open new roads, to make such changes in old roads as they may deem necessary and proper, and to classify the roads and bridges in their respective counties for the purpose of this act, and when the change shall be made or any new road opened, the same shall be located on section lines as nearly as may be, taking into consideration the conveniences of the public travel, contour of the county, etc., and roads hereafter established or opened shall not be less than fifty (50) feet wide, providing a minimum of twenty-five feet (25') of right of way on either

side of the centerline. An appropriate order of the county court shall be made and entered of record. (ACA 14-298-121)

2. Any five (5) or more interested land owners may petition the county court for the opening of any road as a public road; such petition shall give the starting point and terminus of said road or roads, as well as intermediate points, and such other description or plat as will permit the location of the road or roads by the county surveyor. (ACA 14-298-121)
3. The petition shall be accompanied by a bond signed by at least one (1) of the petitioners and by other good and sufficient sureties, which bond shall provide for reimbursing to the county any claims that may be sustained against the county for lands taken by opening of such road or roads. (ACA 14-298-121)
4. On filing of such petition, the county court shall set a date for the hearing. It shall be the duty of one (1) of the petitioners to give at least thirty (30) days' notice in writing to the owners. If service is not obtained, then by one (1) insertion for two (2) weeks in some newspaper published and having a general circulation in the county, the county clerk shall publish a notice as to the filing of the petition and naming the day on which the county court will hear the parties and those for and against the opening of the road. (ACA 14-298-121)
5. On the day named, the county court shall hear those for and against the opening of said petitioned for road or roads and shall grant or deny the prayer of the petitioners as they may be deemed wise and expedient by the court and shall make and cause to be entered and appropriate court order either laying out the road or denying the petition. (ACA 14-298-121)
6. If the owner of the land over which any road shall hereafter be so laid out by the court shall refuse to give a right-of-way therefore, or to agree upon the damages therefore, then such owner shall have the right to present his or her claim to the county court duly verified for such damages as he or she may claim by reason of said road being laid out on his or her land and if the owner is not satisfied with the amount allowed by the court, he or she shall have the right to appeal as now provided by law from judgments of the county court; provided, however, no claim shall be presented for such damages after twelve (12) months from the date of the order laying out or changing any road; provided

further, that when such order is made and entered on record laying out or changing any road, the county court or county judge thereof shall have the right to enter upon the lands of such owner and proceed with the construction of such road. Provided further, all damages allowed under this act shall be paid out of any funds appropriated for roads and bridges and if no such funds exist, then to be paid out of the general revenue fund of the county. (ACA 14-298-121)

NOTE: This condemnation procedure outlined above is taken from the Arkansas Code Annotated 14-298-121. There has been considerable case law on this subject and it is recommended that you contact your prosecuting attorney, county attorney or civil attorney to assist you with the complexities of this procedure.

FORMATION OF RURAL ROAD AND STREET IMPROVEMENT DISTRICT

The law provides for the people to be able to petition the county court at an advertised public (court hearing) for the formation of a road and street improvement district for a given land area. Provided two-thirds (2/3) of the land owners, two-thirds (2/3) of the acreage, or two-thirds (2/3) of the assessed value (one of any three) are represented on the petition the county court shall lay off the described area into a district. The petition, as approved, would include the names of three road commissioners that would administer the district. (ACA 14-317-103)

The act provides that all or portions of incorporated towns or cities may be included in such districts provided that the area of the district located within such incorporated towns or cities, shall be less than a majority of the area of the entire district and provided further that no incorporated town or city or portion thereof shall be included in such district unless it shall be found that two-thirds (2/3) majority in value of the owners of real property within the affected area of such incorporated town or city irrespective of a majority elsewhere in the district, have petitioned for formation of the district. (ACA 14-317-103)

If land in more than one (1) county is embraced in the proposed district, the commissioners of the district shall be selected so as to name at least one (1) property holder in the affected territory of each county in which the district embraces land. Provided however, that the district embraces land in more than three (3) counties, the commissioners of the district shall be selected so that not more than one (1) commissioner shall be a property holder in the territory of any county in which the district embraces land. (ACA 14-317-103)

When the initial assessment of benefits of such districts has been determined, the petition for formation of such districts shall once again be upon such review it does not appear that persons who would be liable for at least fifty-one percent (51%) of the initial assessed benefits have signed the petition, then said assessment shall not be levied until additional signatures are obtained on the petition which would represent the approval of persons who would be liable for at least fifty-one percent (51%) of said assessments. Furthermore, the first assessment of benefits by such districts shall not be increased for a period of five (5) years subsequent to the first levy. Thereafter, the assessment of benefits shall be as otherwise provided by law. (ACA 14-317-118)

After the taking of the oath of performance, the commissioners may employ such engineers, assessors, attorneys and other assistants as is necessary to work up the total bonding capacity of the district and determine estimates of costs of the project. (ACA 14-317-108 and ACA 14-317-109)

The assessment shall be filed with the county clerk of the county where the land lies and the secretary of the board shall thereupon give notice of its filing by publication once a week for two (2) weeks in a newspaper published and having a bona fide circulation in the district. (ACA 14-317-120)

The commissioners may, not more often than once a year, require the appointed assessor to reassess the benefits in said district, but in the event the district shall have incurred any indebtedness or issued bonds, the total amount of assessed benefits shall never be diminished. Such reassessment shall be made, advertised and equalized in the same manner as provided herein for making the original assessment. (ACA 14-317-122)

In order to meet preliminary expenses and to do the work, the board may issue the negotiable notes as bonds of the district signed by the members of the board and bearing a rate or rates of interest approved by the board and may pledge and mortgage all assessments for the payment thereof. It may also issue, to the contractors who do the work, negotiable evidence of debt bearing interest at a rate or rates provided in the resolution authorizing their issuance and secure the same in said manner. No bonds issued under this act shall run for more than thirty (30) years and all issues of bonds may be divided so that a portion thereof may mature each year as the assessments are collected or they may all be made payable at the same time, with proper provision for a sinking fund, such bonds shall not be sold for less than without the unanimous vote of the board. (ACA 14-317-128)

The county court is hereby authorized to turn over to any road or street improvement district organized under this act such proportions of the road tax as may be just and equitable, or any portion of the automobile gas tax, turnback fund, and the county court is further authorized to contribute such funds in money or script to the expenses of such improvement from the general revenues of said county as it may deem appropriate. (ACA 14-317-133)

**THE FOLLOWING IS A SCENARIO OF THE COUNTY JUDGES
ROLE IN SECURING RIGHT OF WAY FOR STATE
SECONDARY HIGHWAYS:**

1. A "windshield survey" of the road is done by the county judge and the Arkansas Highway and Transportation Department on the feasibility and cost estimate of securing the right of way for a new road or widening of an existing road. Also, cost figures should include an estimate of removing all man made obstructions.
2. If need has been established and the cost feasible, then the county judge would request a survey party from the district office of the Arkansas Highway and Transportation Department.
3. The survey team would come to the county and survey the roadway. This involves establishing a centerline and working outward to include all drainage structures needed and designating the roadway.
4. After this survey is completed then all field drainage and notes are sent to the Arkansas Highway and Transportation Department to the Design and Engineering Department. This division then drafts the final drawings of the roadway.
5. The Legal Division of the Arkansas Highway and Transportation Department then draws up various county court orders and other necessary service papers to secure the right of way.
6. County judge receives various court orders from the Arkansas Highway and Transportation Department and takes them to various landowners to get them signed. If landowner has changed his mind or does not want to sign the order, then condemnation procedures are initiated.
7. County judge returns a copy of the various court orders served to the Arkansas Highway and Transportation Department.

**PROCEDURE FOR VIEWING, REVIEWING, ALTERING OR
VACATING ANY COUNTY ROAD**

1. Previous to any petition being presented to the county court for a county road, notice must be given by publication in some newspaper published in the county or if none, by advertisements in three public places. The notice shall state the time when the petition will be presented and the substance of it. Notice of publication shall be presented with the petition to the county court. (ACA 14-298-102)
2. All applications for laying out, viewing, reviewing, or altering or vacating any county road shall be by petition to the county court and be signed by at least ten (10) freeholders of the county. One (1) or more of the signers of the petition shall enter into bond, with sufficient security, payable to the State of Arkansas for the use of the county. Also, that person who makes application for a view or review, alteration or vacation of any road shall pay into the treasurer of the county the amount of all costs and expenses occurring on such view, review, alteration or vacation. (ACA 14-298-103)
3. The petition shall state the beginning, intermediate points, if any, and the place of termination of the road. (ACA 14-298-104)
4. On presentation of the petition and proof of notice of publication, the county court being satisfied that proper notice has been given in accordance with the law, shall appoint three (3) disinterested citizens of the county as viewers. (ACA 14-298-105)
5. These viewers shall be a jury to assess and determine the compensation to be paid in money for property sought to be appropriated, without deduction for benefits to any property of the owners. The viewers shall also assess and determine what damages each owner of the lands over which the road is to run shall suffer by the opening and construction of said road. (ACA 14-298-105)
6. The viewers may call upon a surveyor to assist them in laying out and surveying or altering the road. (ACA 14-298-106)
7. The county court shall issue its order directing said viewers to proceed, on a day to be named in said order to view, survey and lay out or alter said road, and also determine whether the public convenience requires that such road, or any part thereof, shall be established. They shall also report what width said road should be to promote public convenience. Provided, the county courts

shall have the power to determine what shall be the width of each road in their respective counties. The presumed width of a public road shall be fifty feet (50'), providing a minimum of twenty-five feet (25') of right-of-way on either side of the center line. (ACA 14-298-105 and 14-298-110)

8. It shall be the duty of one (1) of the petitioners to give at least thirty (30) days' notice in writing to: The owner or his or her agents, if residing within the county, or if the owner is an incapacitated person as defined by § 28-65-104, then to the guardian of that person, if a resident of the county, through whose land the road is proposed to be laid out and established; and the viewers named in the order of the county court of the time and place of meeting as specified in the order. It is further made the duty of the principal petitioner, if the road is proposed to be laid out on or through any land owned by nonresidents of the county, to cause notice to the nonresidents of the county to be served as provided by the Arkansas Rules of Civil Procedure, and if service is not obtained, then the notice shall be published one (1) time per week for two (2) consecutive weeks in some newspaper of general circulation published in the county. If there is no newspaper published in the county, then notice shall be given to the nonresident by posting a notice of the time and place of meeting of the viewers as specified in the order of the county court. The substance of the petition for the road shall also be posted upon the door of the office of the clerk of the county court for at least two (2) weeks before the time fixed for the meeting of the viewers. (ACA 14-298-108)
9. It shall be the duty of the viewers to meet at the time and place specified in the order. After taking an oath or affirmation to faithfully and impartially discharge the duties of their appointments, respectively, they shall take to their assistance two (2) suitable persons as chain carriers and one (1) person as marker and proceed to view, survey, and lay out or alter the roads as prayed for in the petition, or as near the same as in their opinion a good road can be made with reasonable expense, taking into consideration the ground, convenience, and inconvenience and expense which will result to individuals as well as to the public if the road is established, or any part thereof, or altered as prayed for. In laying out or altering or establishing public highways, the highways shall be located as near as practicable on section and subdivision lines. (ACA 14-298-109)

10. The viewers shall assess and determine the damages sustained by any person through whose premises the said road is proposed. (ACA 14-298-111)
11. The viewers shall make and sign a report in writing, stating their opinion in favor of or against the establishment, alteration or vacation of such road. Their reasons for their decisions shall be written and a description of the roadway shall be outlined. Also, the value of the property needed to build the road shall be listed as well as the amount of damages, if any, and to whom, which by them have been assessed. (ACA 14-298-112)
12. The county court, on receiving the reports of the viewers shall cause the report to be available to all parties and shall cause a hearing to be held in which the report is read publicly. If no legal objection is made to the reports by the parties and the court is satisfied that the road, or any part thereof, will be of sufficient importance to the public to cause the damages and the compensation that have been assessed to be paid by the county, and that the amount so assessed is reasonable and just, and the report of the viewers being favorable thereto, the court shall order the damages to be paid to the persons entitled thereto from the county treasury, and thenceforth the road shall be considered a public road. If the court is of the opinion that the road is not of sufficient public utility for the county to pay the compensation and damages assessed and the petitioners refuse to pay the compensation and damages, then the road shall not be declared a public highway or road and the costs accruing by reason of the application shall be paid by the petitioners. If the report of the viewers is against the proposed road or alteration, or if the road is not of sufficient public utility, in the opinion of the court, then no further proceedings shall be had thereon and the obligors in the bond securing costs and expenses shall be liable for the full amount of the costs and expenses. (ACA 14-298-113)
13. After any road has been established and declared a public road, the county court shall issue an order declaring the road to be opened and the order shall be filed of record with the county clerk. (ACA 14-298-114)
14. Any citizen of the county whose lands are affected by establishment of a road, may apply to the county court by petition for a review of the road. The petition shall state the beginning, intermediate points, if any, and the place of termination of the road. (ACA 14-298-104)
15. After the viewers of any county road shall have made return in favor of the road and before the road has been established, any citizen of the county whose lands are affected by the road may apply by petition to the county court for a review of the road. The court, on being satisfied from the petition that a review should be granted, shall appoint three (3) disinterested freeholders of the county to review the road and issue their order to the reviewers directing them to meet at a time and place therein specified. After taking the oath required of viewers, they shall proceed to examine the route surveyed for the road by the former viewers and make a report in writing to the court stating their opinion in favor of or against the establishment of the road, or any part thereof, and their reasons therefor. The petitioners for review shall give at least thirty (30) days' notice to the principal petitioner for the road of the time and place of meeting of the reviewers. If a review is granted, then no further proceedings shall be had until the reviewers have reported their action to the court. If the report of the reviewers is in favor of the road, the road shall be established, recorded, and opened, and the persons bound for the review shall pay into the county treasury the amount of the costs of the review. If the report is against the establishment of the road, no further proceedings shall be had about the road before the court, and the persons executing the first bond shall pay into the county treasury the costs and expenses of the views, survey, and review of the road. (ACA 14-298-115)
16. An appeal from the final decision of the county court for a new county road, or for vacating, altering or reviewing any county road, shall be allowed in circuit court. Provided, that notice of such appeal be given within thirty (30) days from the date the order of the county court is filed of record with the county clerk. The appellant, within thirty (30) days following the decision, shall enter into bond, with good and sufficient security, to be approved by the clerk of the county court, for the payment of all costs and expenses arising from the appeal. Incapacitated persons or their guardians may appeal without giving bond. (ACA 14-298-116)
17. The circuit court may order another view or review of such road, or make such other orders as the justice of the case demands. The county court, after notice of appeal has been given, shall not

issue any order in the premises until after thirty (30) days shall have expired from the time of making the decision appealed from; if the appeal shall not have been perfected agreeably to the provisions of this act, the clerk shall issue the order for the opening of the road. The decisions of the circuit court on petitions for roads taken into said court by appeal shall be recorded in the record of said county court appealed from. (ACA 14-298-116)

PROCEDURE FOR VACATING STREET, ALLEY, OR ROADWAY

Where the owner of lands situated in a county and outside of a city of the first or second class or incorporated town has dedicated a portion of the lands as streets, alleys, or roadways by platting the lands into additions or subdivisions and causing the plat to be filed for record in the county and any street, alley, or roadway, or portion thereof shown on the plat so filed shall not have been opened or actually used as a street, alley, or roadway for a period of five (5) years, or where any strip over the platted lands, although not dedicated as a street, has been used as a roadway, the county court shall have power and authority to vacate and abandon the street, alley, or roadway, or a portion thereof. (ACA 14-18-105)

1. The owners of all lots and blocks abutting upon any street, alley, or roadway, or portion thereof, desired to be vacated shall file a petition in the county court requesting the court to vacate it. (ACA 14-18-106)
2. The petition shall clearly designate or describe the street, alley, or roadway, or portion thereof, to be vacated, give the name of the addition in which they are located and the date the plat was filed, and attach as an exhibit a certified copy of the plat. (ACA 14-18-106)
3. Upon the filing of the petition, the county clerk shall promptly give notice, by publication once a week for two (2) consecutive weeks in some newspaper published in the county and having a general circulation therein, that the petition has been filed and that on a certain day therein named the county court will hear all persons desiring to be heard on the question of whether the street, alley, or roadway, or portion thereof, shall be vacated. (ACA 14-18-106).
4. The notice shall give the names of property owners signing the petition, clearly describe the street, alley, or roadway, or portion thereof, to be vacated,

and give the name of the addition in which they are located. (ACA 14-18-106)

5. At the time named in the notice, the parties signing the petition and any other parties owning lots or blocks in the platted lands not abutting on the streets, alleys, or roadways, or portions thereof, to be vacated or otherwise affected by the vacation shall be heard; and the court shall determine whether the streets, alleys, roadways, or portion thereof, should be vacated as proposed in the petition. (ACA 14-18-107)
6. No street, alley, or roadway, or portion thereof, shall be vacated if the court finds that it would be against the interest of the public or that no means of ingress and egress would be left to any lots in the addition not abutting on them, unless the owners of the lots file their written consent to the vacation with the court. (ACA 14-18-107)
7. If the county court shall find that the petition should be granted, either in whole or in part, it shall enter an order vacating the streets, alleys, roadways, or portions thereof. (ACA 14-18-108)
8. The finding and order of the county court shall be conclusive on all parties having or claiming any rights or interest in the streets, alleys, roadways, or portions thereof, vacated. However, an appeal may be taken to the circuit court and perfected within thirty (30) days from the entry of the order, and an appeal may be taken from the circuit court to the Arkansas Supreme Court and perfected within thirty (30) days from the entry of the order of the circuit court. (ACA 14-18-108)
9. A certified copy of the order shall be filed in the office of the recorder of the county and recorded in the deed records of the county. (ACA 14-18-108)
10. The costs of the publication of the notice, the recording of the order, and the court costs shall be paid by the petitioners. The court costs shall be paid by parties who unsuccessfully contest the petition. (ACA 14-18-108)
11. The owners of all lots abutting on the streets, alleys, or roadways, or portions thereof, vacated by an order of the county court, as provided for in §14-18-108, shall have the right to have reduced to acreage such lots and the streets or alleys so vacated by petition to the county court where the property is situated. (ACA 14-18-109)

12. The county court shall promptly hear the petition and, upon proper showing that it is signed by all of the owners, shall order that the lots and streets, alleys, or roadways be reduced to acreage, and they shall thereafter be assessed as acreage for taxation of all kinds. (ACA 14-18-109)
13. The petition may be included in the petition for the vacation of the streets, alleys, or roadways, and the order may be included in the order vacating it, or the petition may be filed and the order entered separately. (ACA 14-18-109)
14. In all cases where land theretofore platted into lots and blocks has been returned to acreage under the order of the county court in which the land lies and where the return to acreage did not involve the closing of any public road or thoroughfare, the action of the court in ordering the land returned to acreage and in canceling or annulling the platting of the lands into lots and blocks is validated and affirmed. (ACA 14-18-110)
15. The provisions of this section shall not apply to any lands lying within the corporate limits of any town or city, nor shall it affect the title to any lands but shall merely validate the conversion of the lands from lots and blocks into acreage. (ACA 14-18-110)

MUNICIPAL WATERWORKS – POWER TO CONDEMN

1. If any portion of a state or county road will lie below the high-water mark of an impounding lake, the operating authority of municipal waterworks system shall have the right to flood the road.
2. If the state or the county determines that a replacement road is required, the municipality shall be obligated to pay the cost of replacing the flooded road with another road of the same type and width, which road shall be the shortest reasonable distance consistent with good engineering practice.
3. The county judges shall make all determinations for county roads.
4. If the judge determines that a road need not be replaced, the operating authority is authorized to pay to the county a reasonable sum in lieu of relocating the road. Any sum so paid shall be used by the state or county for road purposes elsewhere in the county.

5. The county may permit the municipality to construct the relocated road, and in that event the operating authority shall be entitled to condemn rights-of-way for the roads in its own name or under this subchapter or under any eminent domain act available to the county.
6. After acquiring the rights-of-way, title shall be transferred to the county.
7. If any part of the road replaced or paid for as authorized in this section lies upon property owned by the municipality, title to that part of the replaced road shall vest in the municipality. (ACA 14-234-101 through 14-234-122)

PROCEDURE FOR DESIGNATING COUNTY ROADS

Much case law exists on prescriptive right-of-way, prescriptive easement, and eminent domain problems in Arkansas, but very little legislation (state law) exists on the subject.

Attorney General's Opinion No. 86-184 - Generally, a property owner has a right to exclude anyone and everyone from his land. However, if the public has continuously used these roads, under certain circumstances, it may have acquired a right to continue such use by "prescriptive easement." Clinton Chamber of Commerce v. Jacobs, 212 Ark. 776, 207 S.W. 2d 616 (1948).

It is well settled that where the public uses a highway for a period of more than seven (7) years, continuously and adversely, the public acquires an easement by prescription or limitation of which it cannot be dispossessed by the owner of the fee.

Clinton, supra, at page 777. See also, Fullenwinder v Kitchens, 223 Ark. 442, 226 S.W. 2d 281 (1954). More recently, In Sebastian Lake Development v. United Tel. Co., 240 Ark. 76, 398 S.W. 2d 208 (1966), at page 83, the Court set out the standard to determine when such use ripens into a right as follows:

Where there is usage of a passageway over land, whether it began by permission or otherwise, if that usage continues openly for seven (7) years after the landowner has actual knowledge that the usage is adverse to his interest or where the usage continues for seven years after the facts and circumstances of the prior usage are such that the landowner would be presumed to know the usage was adverse, then such usage ripens into an absolute right.

Whether the public has acquired a prescriptive easement is a fact question to be determined on a case-by-case basis. If the owners close these roads, it is incumbent upon their

former users to timely file suit in chancery court to assert their claim of a prescriptive easement or they may abandon this right by non-use. Clinton Chamber of Commerce, supra.

Direct routes to county courthouse may be designated county roads - The county judge may, in his discretion, designate as a county road any road that is the most direct route to the county courthouse for ten (10) or more families, and which road is graded and has been used by the general public as a road for at least two (2) years. (ACA 27-66-204)

Mail routes may be designated county roads - The county judge, may in his discretion, designate a county road that is used as a mail route or a free rural mail delivery route if such road is designated as such mail route by the proper postal authorities of the United States Government. (ACA 27-66-205)

School bus routes may be designated as county roads - The county judge may, in his discretion, designate as county roads, roads used as school bus routes. (ACA 27-66-206)

Maintenance and repair of designated roads - Upon declaring a road a county road pursuant to this Act, [ACA 27-66-207], the county judge shall take charge of such road and cause such road to be maintained and repaired the same as other county roads. (ACA 27-66-206)

Street becomes public road upon dedication - The county judge, in his or her discretion, may designate as a county road any street or road dedicated to the public as a public thoroughfare, provided that a bill of assurance making such dedication is properly recorded. Unless a plat clearly reflects that roads are private, the county recorder shall not accept any plats in the unincorporated area of the county without the county court's acceptance of: roads for perpetual maintenance; and dedication of land for public purposes. (ACA 27-66-207)

Land becomes public road upon delivery of deed to county or district - The county judge may, in his discretion, designate as a county road any strip of ground deeded by the owners to the county for a public thoroughfare. (ACA 27-66-208)

If the public obtains the right to use a road through adverse possession the municipality or county in which the road is located shall have the authority to maintain the road. (ACA 14-296-101)

The county court has jurisdiction over all public roads in the county and that means the county court also has jurisdiction over streets within a city. The streets of a municipality are public roads of the county, of which the

municipality is a component part. While streets do not include roads, yet roads do include streets. Yates v. Sturgis, 311 Ark. 618 (1993).

PAUPERS

The county court has exclusive original jurisdiction in all matters relating to paupers. (Article VII, Section 28 of the Arkansas Constitution of 1874). This jurisdiction shall include all county administrative actions affecting the conduct of public human services programs serving indigent residents of the county where such services are financed in total or in part by county funds. (ACA 14-14-1105, paragraph b[2])

The typical involvement of the county court in relation to paupers is a pauper burial or cremation. A person dies who is a pauper in the county and has no insurance, no estate, and no relatives who could pay the costs of the burial or cremation.

Friends or relatives of the deceased may request that the county pay for the burial or cremation. Before agreeing to this, the county judge should conduct a "diligent search" for the next of kin, which may involve requesting the county sheriff to conduct such serve and check into the background of the situation and decide if there are any relatives with money enough to pay for the burial or cremation. If not, then contact should be made with a church, charitable organization or fraternal society where the deceased was a member to see if they would be willing to pay the cost of the burial or cremation of the pauper.

In discussion with the funeral home or crematory, it is best to let them know that they should not make any profit on this type of burial because the funeral home has a responsibility to society to bury this person for only the actual cost.

Also, the Arkansas Code sets out a procedure to be followed in connection with unclaimed bodies and it involves a search for next of kin and the giving of notice to the Department of Anatomy at the University of Arkansas for Medical Sciences (UAMS) for possible use of such bodies in anatomical research. (See Attorney General Opinion #2006-011)

COUNTY PURCHASING PROCEDURE

The county purchasing procedure applies to any county official, individual, board or commission or his or its lawfully designated agent, with constitutional authority to contract or make purchases in behalf of the county or purchases with county funds in excess of twenty thousand dollars (\$20,000). (ACA 14-22-101 through 14-22-102)

1. Bidding Required in Excess of \$20,000

Formal bidding procedure is required in which the estimate purchase price shall equal or exceed \$20,000. No purchasing official shall parcel or split any item or items of commodities or estimates with the intent or purpose to change the classification or to enable the purchase to be made under a less restrictive procedure. (ACA 14-22-104)

Open market purchases or purchases in which competitive bidding is not required, may be made of any commodities where the purchase price is less than \$20,000. (ACA 14-22-104)

2. Purchases Exempted from Bidding

The following commodities may be purchased without soliciting bids:

- a. Perishable foodstuffs for immediate use.
- b. Unprocessed feed for livestock and poultry.
- c. Advanced emergency medical services provided by a nonprofit corporation; and proprietary medicines when specifically requested by a professional employee.
- d. Books, manuals, periodicals, films and copyrighted educational aids, for use in libraries and for other informational material in institutional purposes.
- e. Scientific equipment and parts therefore.
- f. Replacement parts and labor for repairs for machinery and equipment.
- g. Commodities available only from the Federal Government.
- h. Any commodities needed in instances in which an unforeseen and unavoidable emergency has arisen in which human life, health, or public property is in jeopardy. Provided, that no such emergency purchase shall be approved unless a statement in writing shall be attached to the purchase order describing the emergency necessitating the purchase of such commodity without competitive bidding.
- i. Utility services, the rates for which are subject to regulation by a state agency or a federal regulatory agency.
- j. Sand, gravel, soil, lumber, used pipe, used steel, used or secondhand motor vehicles, machinery or equipment; except that used or secondhand motor vehicles which have been under lease to a county when such vehicles had fewer than 10,000 miles of use may not be purchased by the county when it has been used 10,000 miles or more except upon competitive bids as provided for in the Act. **(Please see Glossary for definition of Used Motor Vehicle)**
- k. Machinery, equipment, facilities or other personal property purchased or acquired for or in

connection with the securing and developing of industry under or pursuant to the provisions of Amendment No. 49 to the Constitution of the State of Arkansas, (repealed) of ACA 14-164-201 et seq., or of any other provision of law pertaining to the securing and developing of industry.

- l. Registered livestock to be used for breeding purposes.
- m. Motor fuels, oil, asphalt, asphalt oil, and natural gas.
- n. Motor vehicles, equipment, machinery, material, or supplies offered for sale at public auction, or through a process requiring sealed bids.
- o. All goods and services which are regularly provided to state agencies and county governments by the Arkansas Department of Correction's various penal industries.
- p. New motor vehicles purchased from a licensed automobile dealership located in Arkansas for an amount not to exceed the fleet price awarded by the Office of State Procurement and in effect at the time the county submits the purchase order for the same make and model motor vehicle. The purchase amount for a new motor vehicle may include additional options up to six hundred dollars (\$600) over the fleet price awarded.
- q. Renewal or an extension of the term of an existing contract.
- r. Purchase of insurance for county employees, including without limitation health insurance, workers' compensation insurance, life insurance, risk management services, or dental insurance; and
- s. Purchases made through programs of the National Association of Counties or the Association of Arkansas Counties. (ACA 14-22-106)

3. Formal Bidding Process

The formal bidding shall mean the procedure to be followed in the solicitation and receipt of sealed bids.

- a. Notice shall be given of the date, time and place of opening bids, and the names or a brief description and the specifications of the commodities for which bids are to be received. The notice shall be by one (1) insertion in a newspaper with a general circulation in the county, not less than ten (10) days nor more than thirty (30) days prior to the date fixed for opening the bids.
- b. Furnish notices and bid forms to all eligible bidders on the bid list for the class of commodities on which bids are to be received and furnished notices and bid forms to all others requesting the same. These shall be furnished not less than ten (10) days prior to the date fixed for opening the bids.

- c. Post in the courthouse at least ten (10) days in advance of the date fixed for opening bids a copy of the notice of the invitation to bid. (ACA 14-22-101)

4. List of Eligible Bidders

The county purchasing official shall establish and maintain a list of eligible bidders covering all commodities and shall furnish copies of the list to all purchasing officials of the county. Any firm which desires to bid and have its name on the list of prospective bidders shall notify the purchasing official in writing of such desire setting forth the class and description of commodities on which it desires to bid, and the firm's qualification as a responsible bidder. Every effort shall be made by the purchasing official to notify all eligible bidders before purchase is made. (ACA 14-22-107)

5. Descriptions and Specifications

Descriptions and specifications shall be sufficiently restricted or so specific so as to exclude cheap or inferior commodities which are not suitable or practicable for the purpose for which they are to be used, but at no time shall they be so specific in detail as to restrict or eliminate competitive bidding or any items of comparable quality and coming within reasonably close price range. (ACA 14-22-109)

The purchasing official is authorized to establish and enforce standards for all commodities for which formal bidding is required and to make or cause to be made any test, examination or analysis necessary therefore; and may require samples to be submitted and a certified analysis to accompany bids prior to awarding contracts. After the bids have been opened, the lowest responsible bidder may be required to submit his product or article to further testing and examination prior to awarding the contract. (ACA 14-22-110)

6. Bidding Procedure

All bids which shall require either formal or informal bidding shall be opened in public and read at the time and place specified in the notice. (ACA 14-22-108)

The awarding of contracts need not be upon the day of the opening of the bids, but may be at a latter date to be determined by the purchasing official. In order to assure that the bidder will accept and perform a contract under the terms of his bid the purchasing official may require bids to be accompanied by certified check or surety bond furnished by a surety company authorized to do business in this state, in such a reasonable amount as the purchasing official shall determine. (ACA 14-22-108)

7. Preferential Differential Allowed Local Business

All contracts shall be awarded to the lowest responsible bidder, taking into consideration all relevant facts including, without limitation, quality, time of performance, probability of performance, and location. (ACA 14-22-111)

Any bid or bids may be rejected by the purchasing official. Where such bids are rejected and the proposed purchase is not abandoned, and the circumstances indicate that further solicitation for bids would be to the best interest of the county, new bids may be called for, provided however, that if the low bid is not accepted, a written statement shall be made by the purchasing agent and filed with the county clerk giving reasons for such refusal. (ACA 14-22-111)

All bidders shall be given equal consideration under the provisions of this act, except that of items manufactured or grown in the county or offered for sale by business establishments having their principal place of business in the county, quality being equal to articles offered by competitors outside the county, shall be allowed a differential of not to exceed three percent (3%) of the purchase price in determining the low bid; but in each instance in which such bid preference is requested, the bidder must so indicate before the date and time fixed for opening the bids, and thereafter furnish satisfactory proof if requested. (ACA 14-22-111)

In all cases where there are equal or tie bids, preference shall be given to residents or firms located or doing business in the county. (ACA 14-22-111)

8. Approval by County Court

a. No contract shall be awarded or any purchase made until the same has been approved by the county court, and no contract shall be binding on any county until the county court shall have issued its order of approval. (ACA 14-22-112)

b. The order of the county court shall be properly docketed, and all documents and bids pertaining to the solicitation of bids and awarding of contracts under the purchasing procedure of this act shall be filed with the county clerk, together with the order which shall be filed by said county clerk. (ACA 14-22-112)

c. No claim filed with the county for payment of any commodity, the purchase of which is regulated by this act, shall be paid, or no warrant shall be issued by the county clerk for the payment of same, until the order of the county court approving shall have been issued and filed with the county clerk. (ACA 14-22-112)

9. Failure of Performance - Trade Ins.

a. If any bidder to whom a purchase contract is awarded under the provisions of this act shall refuse or fail to perform such contract, or to make delivery when required by such contract, or shall deliver commodities which are inferior or do not meet the specifications

under the bid, the county may pursue any remedy available at law or in equity, including, without limitation, the voiding of the contract. (ACA 14-22-114)

b. In case of purchase contract in which trade-ins are being offered on the purchase of commodities, the full purchase price shall govern the classification or purchase procedure to be followed in the solicitation for bids and the awarding of contract; and the purchasing official shall determine with respect to trade-ins, what procedure shall be for the best interest of the county; and if he so determines such equipment or machinery may be sold outright under the law as now provided. (ACA 14-22-113)

10. Purchase of Motor Fuels and Accessories

For the purpose of this act any county within the State of Arkansas maybe considered a State Agency for the purpose of purchasing gasoline, oil and other motor fuels and/or batteries, tires and tubes for motor vehicles. Any County Purchasing Agent within this State may purchase such commodities through the State Purchasing Agent under the authority set forth in these statutes. (ACA 14-22-105)

11. Penalty for Violations

Any person or official who intentionally violates the provisions of this Act shall, upon conviction, be fined in any amount not less than \$100.00 nor more than \$1,000.00, and in addition thereto be removed from his office or position of employment with the county. (ACA 14-22-103)

PRESIDING OVER THE QUORUM COURT

The county judge presides over the quorum court, without a vote, but with the power of veto. (ACA 14-14-1101, 14-14-904 and Amendment 55 to Arkansas Constitution)

The justices of the peace elected in each county shall assemble and organize as a county quorum court body on a date chosen by the county judge and held within five (5) days, excepting holidays, after the beginning of the justices' term in office. If the first meeting is not held on the quorum court's established regular meeting day, the quorum court may declare the first meeting to be in lieu of the established January meeting. Thereafter, the justices shall assemble each calendar month in their respective counties to perform the duties of a quorum court, except that more frequent meetings may be required by ordinance. The time and place of the initial assembly of justices shall be designated by written notice of the county judge.

Thereafter, the justices shall meet as a quorum court at a regular time and place established by ordinance. (ACA 14-14-904)

NOTE: One of the first orders of business for the new quorum court at the beginning of each term of office is setting a specific meeting date and reviewing the rules of procedure that have been adopted previously by the Quorum Court. A more detailed quorum court procedure is described in Chapter VI of this manual.

ADMINISTER ORDINANCES ENACTED BY THE QUORUM COURT

The Arkansas Constitution, Amendment 55, Section 3, establishes the following executive powers to be administered by the county judge:

- (1) To preside over the county quorum court, without a vote but with the power of veto;
- (2) To authorize and approve disbursement of appropriated county funds;
- (3) To operate the system of county roads;
- (4) To administer ordinances enacted by the quorum court;
- (5) To have custody of county property; and
- (6) To hire county employees, except those persons employed by other elected officials of the county.

In the performance of such executive duties, the county judge shall be bonded in the manner provided by law, as required in Arkansas Constitution, Amendment 55, Section 6. (ACA 14-14-1101)

Currently, ACA 21-2-701 provides that the participation in the Self-Insured Fidelity Governmental Bond Program administered through the Arkansas Insurance Department is in lieu of any otherwise applicable bonding requirements. (ACA 21-2-701 and Attorney General Opinion #2007-228)

CUSTODY OF COUNTY PROPERTY

The county judge, as the chief executive officer of the county, shall have custody of county property and shall be responsible for the administration, care, and keeping of such county property, including the right to dispose of county property in the manner and procedure now provided by law for the disposal of county property by the county court; the right to lease, assign or not to assign use of such property whether or not such county property was

purchased with county funds or was acquired through donations, gifts, grants confiscation, or condemnation. Provided, however, that the county judge shall be allowed to lease or loan county property only to other political entities or nonprofit organizations and shall be prohibited from leasing or loaning county property to any other private sector interest. (ACA 14-14-1101 - 14-14-1103)

COUNTY BOARDS

The quorum court may, by ordinance, establish county advisory or administrative boards for the conduct of county affairs. (ACA 14-14-705)

Advisory Boards - An advisory board may be established to assist a county office, department or subordinate service district. Such advisory board may furnish advise, 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. (ACA 14-14-705)

Administrative Boards

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

b. No member of any administrative board shall be interested, either directly or indirectly, in any contract made with said administrative board, and a violation of this provision shall be deemed a felony.

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

d. All administrative board members shall be appointed by the county judge. Such appointments shall require confirmation by a quorum court.

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

f. An administrative board shall contain five (5) members.

g. An advisory board may contain any number of members as may be provided by the ordinance creating such advisory board.

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

i. The term of any administrative board member shall be for a period of five (5) years; provided, however, that the initial appointment of any administrative board shall provide for the appointment of one (1) member for a one (1) year term; one (1) member for a two (2) year term; one (1) member for a three (3) year term; one (1) member for a four (4) year term; and one (1) member for a five (5) year term; thereby providing for the appointment of one (1) member annually thereafter.

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

k. All persons appointed to an advisory or administrative board shall be a qualified elector of the county.

l. A quorum court may prescribe, by ordinance, additional qualifications for appointment to a county administrative board.

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

n. No member of a quorum court shall serve as a member of a county advisory or administrative board.

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

p. Appeals from removal of a county board member shall be directed to the circuit court of the respective county within thirty (30) days after such removal is confirmed by the quorum court. (ACA 14-14-705)

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

1. the name of the board;

2. the ordinance reference number establishing such board;
 3. the name of the board member;
 4. the date of appointment; and
 5. the expiration date of such appointments.
- (ACA 14-14-706)

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. (ACA 14-14-707)

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. Such information shall be filed with the county court; and notification of all meetings shall be conducted as established by law for public meetings. (ACA 14-14-707)

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 such meeting. (ACA 14-14-707)

Quorum - A majority of board members shall constitute a quorum for 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. (ACA 14-14-707)

Organization and Voting - Each county board shall, at its initial meeting of a quorum of members, elect one (1) of their members to serve as Chairperson of the Board for a term of one (1) year. The Chairperson shall thereafter preside over the board throughout their term as chairperson. In the absence of the Chairperson, a quorum of the board may select one (1) of their members to preside and conduct the affairs of the board. (ACA 14-14-707)

Minutes - All boards shall provide for the keeping of written minutes that include the final vote on all board actions indicating the vote of each individual member on the question. (ACA 14-14-707)

ESTABLISHING IMPROVEMENT DISTRICTS

<u>DISTRICT OR AUTHORITY</u>	<u>ARKANSAS CODE ANNOTATED REFERENCE</u>
Ambulance Services Improvement District	ACA 14-282-101
County Bridge Improvement District	ACA 14-319-101
Cemetery Improvement District	ACA 20-17-1101
Drainage Improvement District	ACA 14-121-101
Emergency Medical Services	ACA 20-13-301
Fire Protection District	ACA 14-284-101
Highway Right of Way District	ACA 14-318-103
Interlocal Agreements (County Court)	ACA 14-14-910
(Quorum Court)	ACA 25-20-102
Levee Improvement District	ACA 14-123-201

<u>DISTRICT OR AUTHORITY</u>	<u>ARKANSAS CODE ANNOTATED REFERENCE</u>
Metropolitan Port Authority	ACA 14-185-101
Mosquito Abatement District	ACA 14-283-101
Regional Airport Authority	ACA 14-362-101
Regional Housing Authority	ACA 14-169-301
Regional Water Distribution District	ACA 14-116-101
Rivers, Tributaries and Steam Improvement District	ACA 14-118-101
Rural Road Improvement District	ACA 14-317-101
Rural Development Authority	ACA 14-188-101
Suburban Sewer District	ACA 14-249-101
Subordinate Service District	ACA 14-14-708
Suburban Improvement District	ACA 14-92-201
Toll Bridges, Turnpikes or Causeways	ACA 27-86-201
Viaduct Improvement District	ACA 14-321-101

The county judge, as an administrator-executive and as the county court, is very much involved in the formation of these special districts.

PAYING CLAIMS

1. Invoices are assembled and attached to the claim and assigned a claim number and entered into a journal by the county clerk.
 2. At the end of the month or when the bill is due and payable, the clerk should present the claim to the county judge for his signature.
 3. After it is signed, the claim is sent back to the county clerk where a warrant is written in triplicate and signed by the clerk.
 4. The warrant is then presented to the county treasurer and he/she issues a check for payment of the bill. In some counties the local merchants receive the warrants and no checks are written
 5. Checks are mailed to out of town or county merchants.
 6. All claims are maintained by the county clerk and shall be preserved for a period of seven (7) years after audit. (ACA 14-23-101 and ACA 14-23-105)
- NOTE: Some counties pay claims directly by check instead of by warrant. Other counties choose to establish an electronic warrants transfer system. These processes are described by ACA 14-24-201 through 14-24-206.

SUGGESTED BUDGETING PROCEDURE

1. An estimate of county revenues for the next year should be compiled by September 1st or as soon as possible thereafter. Estimates for state highway and general turnback will be sent to you each year by the Association of Arkansas Counties.
 2. The county judge should appoint a budget committee of the quorum court to hear the budget requests of each county official and make recommendations to the entire quorum court.
 3. The county judge and members of the budget committee ask all county officials to formulate and submit a budget for the operation of their office for the next year by October 1st.
 4. Each county and district official should familiarize themselves with Act 122 of 1981, (ACA 14-21-101). This act is known as the Comprehensive Financial Management System. The Legislative Joint Auditing Staff developed a manual on the system and this system is mandatory by law. The intent is to standardize the budget process in county government in Arkansas.
 5. The county judge and budget committee should meet with each official to review their budget requests and answer any questions.
 6. The budget committee should make recommendations to the entire quorum court in November.
 7. The quorum court at its regular meeting in November of each year shall levy the county, municipal, and school taxes for the current year.
- The Director of the Assessment Coordination Department may authorize an extension of up to sixty (60) days of the date for levy of taxes upon application by the county judge and county clerk of any county for good cause shown resulting from reappraisal or rollback of taxes.
- If the levy of taxes is repealed by referendum, the county may adopt a new ordinance levying taxes within thirty (30) days after the referendum vote is certified.
- If a county court determines that the levy of taxes by the quorum court is incorrect due to clerical errors, scrivener's errors, or failure of a taxing entity to report the correct millage rate to the quorum court, the county court shall issue an order directing the county clerk to correct the error in order to correct the millage levy. (ACA 14-14-904)
8. The entire quorum court accepts, rejects or amends the budget committee recommendations. If the quorum court rejects or amends the recommendations, it initiates other meetings which involve the disputed budgets.
 9. Before the end of each fiscal year (calendar year) the quorum court shall make appropriations for the expenses of county government for the following

year. Provided that nothing in this section shall prohibit the quorum court from making appropriation amendments at, any time during the current fiscal year. (ACA 14-14-904)

holidays, after approval of such measure by the county judge. (ACA 14-14-907)

ADMINISTRATIVE RULES AND REGULATIONS

10. The quorum court shall specify the amount of appropriations for each purpose in dollars and cents, and the total amount of appropriations for all county or district purposes for any one (1) year shall not exceed ninety percent (90%) of the anticipated revenues for that year, except for federal or state grants overseen by counties which the court may appropriate up to one hundred percent (100%) of the anticipated revenues for that year. For revenues to qualify as a grant under this section the county must demonstrate that the state or federal agency characterized the revenues as a grant. In any county in which a natural disaster, including, but not limited to a flood or tornado, results in the county's being declared a disaster area by the Governor or an appropriate official of the United States Government, the quorum court of the county may appropriate in excess of ninety percent (90%) of anticipated revenues. Provided, any appropriation of funds in excess of ninety percent (90%) of anticipated revenues shall be made only for street cleanup and repair, collection, transportation and disposal of debris, repair or replacement of county facilities and equipment, and other projects or costs directly related to or resulting from the natural disaster. In any county in which sales and use tax revenues have been dedicated for a specific purpose, the quorum court of the county may appropriate up to one-hundred percent (100%) of anticipated revenues from the dedicated sales and use tax, provided that any appropriation of funds up to one-hundred percent (100%) of anticipated revenues shall be made and expended only for the dedicated specific purpose of the tax. This does not apply to dedicated revenues that have been pledged for bonds or include general sales and use tax revenues. (ACA 14-20-103)

The county judge may promulgate reasonable and necessary administrative rules and regulations, after notice and hearing thereon, for the administration and conduct of the various laws and programs to be administered by the county judge in his capacity as the chief executive officer of the county, provided, that such administrative rules and regulations shall be consistent with the State laws relating to the administration of county affairs by the county judge and the appropriate ordinances enacted by the quorum court. Such administrative rules and regulations promulgated by the county judge in the performance of his executive functions shall not be applicable to the conduct of county business which is within the jurisdiction of the county court. (ACA 14-14-1104)

COUNTY ROADS

Various judges view the county judges' powers over the county road system differently. Most county judges view this power as stated in Article 7, Section 28 of the Arkansas Constitution of 1874 as county courts shall have exclusive original jurisdiction in all matters relating to county roads. Additionally, Section 3 of Amendment 55 of the Arkansas Constitution states that a judge in addition to other powers and duties provided for by the Constitution and by law, shall operate a system of county roads. Arkansas Code Annotated 14-14-1101(A3) states that Section 3 of Amendment 55 to the Arkansas Constitution established that the executive powers to be administered by the County Judge included the operation of the system of county roads. Also, Arkansas Code Annotated 14-14-1105 paragraph 6, states that the county court shall have all other jurisdiction now vested by law in the county court excepting with respect to those powers formerly vested in the county court under the provisions of Section 28 of Article 7 of the Constitution which were transferred to the county judge under the provisions of Section 3 of Amendment 55 to the Arkansas Constitution.

11. An appropriation ordinance is effective immediately upon passage by two-thirds (2/3) vote of the whole number of justices comprising the quorum court and approval by the county judge, providing, however, that publication shall be initiated within two (2) calendar days, excepting

Note:

The County Judges Association of Arkansas conducts a comprehensive "County Road Seminar" during each term of office and it is suggested that all County Judges and key road department personnel attend this seminar.

Chapter 6
PROCEDURAL GUIDE FOR ARKANSAS COUNTY QUORUM COURT MEETINGS
(Revised Edition)

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

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PREFACE

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

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

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

NOTE: At these regular and special meetings, following the rules of procedure that have been adopted will assure orderly conduct and encourage clear, efficient discussion. Roberts' Rules of Order is the most widely used parliamentary procedural book and may be adopted by quorum courts subject to modification or development of their own rules. This manual is adapted from Roberts' Rules of Order to provide a concise summary of the more important rules sufficient to conduct business without becoming involved in technicalities. It is intended for use at the regular and special meetings of the quorum court that are legislative sessions. At public hearings of the quorum court or its committees, less structured rules may be used to encourage a free exchange of ideas between justices and the public.

I. QUORUM

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

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

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

II. THE PRESIDING OFFICER

A. THE COUNTY JUDGE AS PRESIDING OFFICER

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

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

B. JUSTICE OF THE PEACE PRESIDING OFFICER

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

When due to the absence of the county judge, a justice is elected to the office of presiding officer. That justice forfeits the right to propose motions and to participate in debate. However, it is important to note that while the county judge

has no vote as presiding officer, when a justice presides he/she does not lose the right to vote on matters before the assembly.

C. RESPONSIBILITIES OF THE PRESIDING OFFICER

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

Among the duties of the presiding officer are the following:

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

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

III. ORDER OF BUSINESS

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

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

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

A. CALL TO ORDER AND ROLL CALL

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

B. READING AND DISPOSITION OF MINUTES

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

C. REPORTS OF COMMITTEES

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

D. UNFINISHED BUSINESS

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

E. NEW BUSINESS

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

informs the governing body of these matters and asks if any member wishes to propose a motion dealing with them.

F. ANNOUNCEMENTS

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

G. ADJOURNMENT

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

H. COMMENTS OR QUESTIONS FROM THE PUBLIC

Regular legislative sessions of the quorum court are to be distinguished from public hearings, which are held for the purpose of providing an opportunity for the public to express opinions on particular subjects. However, since public interest and attendance are to be encouraged, it may be desired to include in the order of business a time for brief comments or questions from members of the public. This would be appropriate near the end of the meeting, before or following announcements.

I. AGENDA

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

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

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

IV. HOW MOTIONS ARE HANDLED

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

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

A. ADDRESSING THE PRESIDING OFFICER

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

B. RECOGNITION BY THE PRESIDING OFFICER

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

C. STATEMENT OF THE MOTION BY THE MEMBER

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

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

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

Discussion or debate usually is not permitted until a motion has been made, and seconded, and stated by the presiding officer, though a brief introductory comment may be made by the person making the motion. If a general discussion is desired before a motion is formulated, a member may move to consider the subject informally.

D. SECONDING MOTIONS

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

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

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

E. STATEMENT OF THE MOTION BY THE PRESIDING OFFICER

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

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

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

F. DISCUSSING THE MOTION

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

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

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

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

G. VOTING ON THE MOTION

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

1. Roll Call Vote

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

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

2. Voice Vote

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

3. Show of Hands

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

4. Vote by Unanimous Consent

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

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

A. REQUIREMENTS FOR PASSAGE

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

All ordinances or amendments to existing ordinances of a general or permanent nature shall be fully and distinctly read

on three (3) different days, unless two-thirds (2/3) of the members comprising the quorum court (not just of those present if less than full membership) shall dispense with the rule. This shall not serve to:

(1) Require a vote after each individual reading, but a vote only after the third and final reading;

(2) Require the ordinance or amendment to be read in its entirety on the first, second, or third reading; or

(3) Restrict the passage of emergency, appropriation, initiative, or referendum measures in a single meeting as provided by law.

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

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

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

1. First reading.

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

3. Second reading. Can be by title only.

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

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

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

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

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

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

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

D. REFERRAL TO VOTERS

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

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

VI. PASSAGE OF APPROPRIATION AND EMERGENCY ORDINANCES

A. APPROPRIATION ORDINANCES

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

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

B. EMERGENCY ORDINANCES

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

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

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

VII. VETO

A. EXERCISE OF BY COUNTY JUDGE

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

1. Power of veto is limited to the total text of an ordinance or an amendment to an existing ordinance. Veto of a single part, section or line item is not permitted.
2. Veto must be exercised within seven (7) calendar days after passage.
3. It shall be authenticated by the county judge and demonstrated by filing a written statement of the reason of veto with the county clerk.
4. Written notification of a veto shall immediately be provided to each member of the quorum court by the county clerk and the county clerk shall provide each with a copy of the veto statement filed by the county judge.
5. The power of veto shall not apply to measures enacted through initiative or referendum.

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

B. VETO OVERRIDE BY QUORUM COURT

Act 742 (ACA 14-14-912) provides that, "The quorum court of each county shall have the power to override the veto of the county judge." The law further provides that:

1. An affirmative vote of three-fifths (3/5) of the total membership of a quorum court shall be required to override the veto. On consideration the yeas and nays shall be called and recorded.

2. The veto override power must be exercised at the next regular session of the quorum court following written notification of veto.

3. Failure to override a veto in a single vote of the quorum court shall constitute a confirmation of the veto.

VIII. PASSAGE OF RESOLUTIONS

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

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

IX. GLOSSARY OF MOTIONS MOST OFTEN USED

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

A. THE MAIN MOTION

A main motion is the means by which meetings are conducted. It is the vehicle for the transaction of business. Understandably then, a main motion should be as clear and concise as possible. It should be as brief as its substance permits. The presiding officer may request that the motion be rephrased if it is ambiguous or too long.

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

confusion and increases clarity of what the member is proposing.

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

B. PRIVILEGED MOTIONS

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

There are three privileged motions essential to conducting business:

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

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

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

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

C. SUBSIDIARY MOTIONS

The seven subsidiary motions are alternative methods of changing or disposing of the main motion. Because their purpose is to expedite deliberation of a main motion, they

can be proposed only when a main motion is before the quorum court.

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

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

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

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

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

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

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

must be germane to the pending question. It must be relevant to or have a direct bearing on the proposal in issue.

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

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

D. INCIDENTAL MOTIONS

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

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

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

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

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

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

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

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

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

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

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

E. PRECEDENCE OF MOTIONS

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

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

There are two important rules of precedence:

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

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

TABLE OF RULES GOVERNING MOTIONS

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

DEFINITIONS OF TERMS

Adjourn - To end a meeting officially.

Adopt - To approve, to put into effect.

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

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

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

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

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

Annul - To void or cancel an action previously taken.

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

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

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

Debatable - Capable of being discussed.

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

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

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

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

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

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

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

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

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

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

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

Ordinance - Law made by legislative body of a county.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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Chapter 7 - GLOSSARY OF TERMS

These definitions are everyday terms that are used in the operation of the county judges' office. These terms are defined and referenced to the various statutes that describe them.

BRIDGE - All structures erected over a river, creek, ditch, or obstruction in a public roadway. (ACA 27-86-101 through ACA 27-86-306)

COMMODITIES - All supplies, goods, material, equipment, machinery, facilities, personal property, and services, other than personal services, purchased for or on behalf of the county. (ACA 14-22-101)

COUNTY COURT - The County Court shall be a court of record and shall keep just and faithful records of its proceedings. County Court has exclusive original jurisdiction in all matters relating to county taxes, paupers, apprenticeship of minors, and jurisdiction in each other case that may be necessary to the internal improvement and local concern of the county. The county court, in fact, is the county judge sitting in a judicial role. (ACA 14-14-1001)

COUNTY EQUALIZATION BOARD - A board composed of qualified electors of the county who are real estate owners for at least one year. The board is responsible for equalization of assessments in the county. (ACA 26-27-301 through 26-27-305)

COUNTY OR SUBDIVISION THEREOF - A county is a political subdivision of the state for the more convenient administration of justice and the exercise of local legislative authority related to county affairs and is defined as a body politic and corporate operating within specified geographic limitations established by law. All departments, except departments administratively assigned to other elected officials of the county, boards and subordinate service districts created by county ordinance. (ACA 14-14-102)

FISCAL YEAR - Every level of government has a different fiscal year. They are as follows:

County fiscal year - January 1 - December 31

State fiscal year - July 1 - June 30

Federal fiscal year - October 1 - September 30

FORMAL BIDDING - The procedure to be followed in the solicitation and receipt of sealed bids, wherein: 1) notice shall be given of the date, time, and place of opening bids, and the names or a brief description and the specifications of the commodities for which bids are to be received, by one (1) insertion in a newspaper with a general circulation in the county, not less than ten (10) days nor more than

thirty (30) days prior to the date fixed for opening such bids; 2) the furnishing, not less than ten (10) days in advance of the date fixed for opening the bids, of notice and bid forms to all eligible bidders on the bid list for the class of commodities on which bids are to be received, and the furnishing of notices and bid forms to all others requesting the same; and 3) by posting in a conspicuous place in the county courthouse, at least ten (10) days in advance of the date fixed for opening bids, a copy of the notice of invitation to bid. (ACA 14-22-101)

HOSPITAL BOARD OF GOVERNORS - The board charged with the responsibility of the management, control and operation of the county hospital. (ACA 14-263-103)

OPEN MARKET PURCHASES - Those purchases of commodities by a purchasing official in which competitive bidding is not required. (ACA 14-22-101)

PURCHASE - Shall include not only the outright purchase of commodity but also the question of commodities under rental-purchase agreements or lease-purchase agreements or any other type of agreements whereby the county has an option to buy the commodity and to apply the rental payment on the purchase price thereof. (ACA 14-22-101)

PURCHASING OFFICIAL - Any county official, individual, board of commission, or his or its' lawfully designated agent, with constitutional authority to contact or make purchases in behalf of the county. (ACA 14-22-101)

PURCHASE PRICE - The full sale or bid price of any commodity, without any allowance for trade-in. (ACA 14-22-101)

RURAL DEVELOPMENT AUTHORITY - Public corporations created for the improvement of the designated rural area under the order of the county court. (ACA 14-188-103)

STATE AID ROADS - The classification of county roads composing the major collector and minor collector routes feeding into local trade areas or into the state highway system, which are not designated as state highways, and particularly those essential to the conservation and development of natural resources of economic and social value, and encouraging desirable land utilization, having in addition one or more of the following characteristics:

Roads (including bridges and ferries) which;

- (a) extend to the larger communities including all incorporate towns,
- (b) connect with road of major importance in adjoining counties.
- (c) connect with the state highways to form a complete network of main feeder roads.
- (d) carry heavy volumes of traffic serving major business and agricultural interest of the county, and
- (e) collect traffic at reasonable intervals from several local roads. (ACA 27-72-301)

statement shall be filed with the county clerk at the time of purchase. (ACA 14-22-101)

TRADE IN PURCHASES - All purchases where offers must be included with the bids of each bidder for trade-in allowance for used commodities. (ACA 14-22-101)

USED OR SECONDHAND EQUIPMENT OR MACHINERY - Any motor vehicles, equipment or machinery that is at least two years in age from the date of original manufacture or that has had at least 500 working hours prior use or 10,000 miles prior use. Any purchase of used motor vehicles, equipment or machinery shall be accompanied by a statement in writing from the vendor on the bill of sale or other document that the motor vehicle, equipment, or machinery is at least 2 years in age from the date of original manufacture or has been used a minimum of 500 hours or driven a minimum of 10,000 miles. The