FOREWORD

This County Judge’s procedures manual was compiled by the Association of Arkansas Counties staff and reviewed by AAC staff. It reflects the current law through the 2014 fiscal 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.

Chris Villines
Executive Director
ASSOCIATION OF ARKANSAS COUNTIES
BOARD OF DIRECTORS
2014

PRESIDENT
Mike Jacobs, County Judge...............................................................Johnson County

VICE PRESIDENT
Roger Haney, County Treasurer ......................................................Washington County

SECRETARY/TREASURER
Judy Beth Hutcherson, County Treasurer..........................................Clark County

Sherry Bell, County Clerk .................................................................Columbia County
Jimmy Hart, County Judge ...............................................................Conway County
Sue Liles, County Collector ...............................................................White County
Bear Chaney, County Assessor ........................................................Benton County
Will Jones, County Assessor ............................................................Madison County
Bill Hollenbeck, County Sheriff .........................................................Sebastian County
Rhonda Cole, County Clerk ...............................................................Clark County
Debbie Wise, County Circuit Clerk .................................................Randolph County
Andrea Billingsley, County Circuit Clerk .......................................Little River County
David Thompson, Justice of the Peace ............................................Boone County
Debra Buckner, County Collector ...................................................Pulaski County
Patrick Moore, County Coroner .......................................................Faulkner County
John Montgomery, County Sheriff .................................................Baxter County
Joe Gillenwater, Justice of the Peace ................................................Miller County

AAC STAFF

Chris Villines, Executive Director
Lindsey Bailey............................Whitney Barket
Becky Comet..............................Brenda Emerson
Jonathan Greer.........................Jeanne Hunt
Scott Perkins............................Cindy Posey
Christy Smith............................Mark Whitmore

AAC RISK MANAGEMENT SERVICES

Debbie Norman, Risk Manager
Barry Burkett.........................Amber Krum
Debbie Lakey.........................Brandy McAllister
Kim Mitchell.........................Kim Nash
Cathy Perry............................Elizabeth Sullivan
Renee Turner

ii
# TABLE OF CONTENTS

<table>
<thead>
<tr>
<th>CHAPTER</th>
<th>Title</th>
<th>PAGE</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Foreword.....................................................................</td>
<td>i</td>
</tr>
<tr>
<td></td>
<td>Board of Directors and Staff</td>
<td>ii</td>
</tr>
<tr>
<td></td>
<td>Table of Contents</td>
<td>iii</td>
</tr>
<tr>
<td>CHAPTER 1</td>
<td>Introduction to County Government</td>
<td>1</td>
</tr>
<tr>
<td>CHAPTER 2</td>
<td>Duties of the Office</td>
<td>5</td>
</tr>
<tr>
<td>CHAPTER 3</td>
<td>Timetable</td>
<td>6</td>
</tr>
<tr>
<td>CHAPTER 4</td>
<td>Revenue Sources</td>
<td>10</td>
</tr>
<tr>
<td>CHAPTER 5</td>
<td>County Government Operations</td>
<td>23</td>
</tr>
<tr>
<td>CHAPTER 6</td>
<td>Attorney General Opinions and County Lines Articles</td>
<td>72</td>
</tr>
<tr>
<td>CHAPTER 7</td>
<td>FAQs</td>
<td>93</td>
</tr>
<tr>
<td>CHAPTER 8</td>
<td>Glossary of Terms</td>
<td>98</td>
</tr>
</tbody>
</table>
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 (A.C.A. § 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. (A.C.A. § 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. (A.C.A. § 14-14-1105)

In addition to the duties of the county court, the county judge is responsible for coordinating the day-to-day intergovernmental 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 (A.C.A. § 12-41-502). The sheriff shall be conservator of the peace in his county (A.C.A. § 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 (A.C.A. § 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 (A.C.A. § 16-20-402). [An alternate method of the county treasurer issuing checks, allowed by A.C.A. § 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 (A.C.A. § 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 (A.C.A. § 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 (A.C.A. § 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. (A.C.A. § 7-5-401 et seq.)

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

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

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

The administrative duties of the circuit clerk are to maintain a record of all proceedings of the circuit courts to enter docket number and name of the defendant and to prepare the dockets for these courts (A.C.A. § 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 (A.C.A. § 16-20-303 and 16-20-304). The clerk has 20 days before commencement of each of the dockets in all cases. In addition, the circuit clerk acts as a secretary to the jury commission by keeping a list of all prospective jurors (A.C.A. § 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 (A.C.A. § 14-15-401 et seq). The circuit clerk maintains a record of many miscellaneous items, and files certain licenses. The circuit clerk also swears in all notaries public and files regulations of state agencies which license trade or professional workers.

The county collector is the collector of taxes for the county and collects municipal, county, school and improvement district taxes and turns them over to the county treasurer. The collector is responsible for collecting all property taxes from the first day of March to the fifteenth day of October during the calendar year after they are assessed. By statute, the collector is required to turn over all tax revenue to the treasurer at least once a month (A.C.A. § 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 (A.C.A. § 19-8-106). Taxpayers may pay their taxes in installments, with one-fourth of the total being due between March and April inclusive, one-fourth being due between the third Monday in April and the second Monday In June inclusive, and the remaining one-half between the second Monday in June and October 15 inclusive in the year succeeding the year in which the levy is made. (A.C.A. § 26-35-501)

Any real or personal property taxes not paid by the fifteenth day of October, or falling within one of the exceptions to the requirement that taxes be paid by October 15 of each year (i.e., postmarked prior to October 15 or paid after October 15 if the fifteenth falls on a weekend or holiday), are considered delinquent and the collector extends a 10% penalty against the taxpayer (A.C.A. § 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. (A.C.A. § 26-36-203)

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. (A.C.A. § 26-26-1408 and 26-26-1101). All property in the state shall be assessed according to its value on the first of January except merchants and manufacturers inventory that is assessed at its average value during the year immediately preceding the first of January (A.C.A. § 26-26-1201).

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

The assessor is required to maintain current appraisal and assessment records by securing necessary filed data and making changes in valuations as they occur in land use and improvements. He/she is also charged with staying abreast of all property transactions within the county and keeping a file on all properties updated throughout the year (A.C.A. § 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. A.C.A. § 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 (A.C.A. § 14-15-807). The treasurer is required to make a monthly financial report to the quorum court on the fiscal condition of the county (A.C.A. § 14-20-105).

The county treasurer is required to charge a two percent commission on all funds coming to his/her office. There are a few exceptions. No commission is allowed for the handling of borrowed money, proceeds of school bond sales, the teacher’s salary fund, money collected from insurance on losses, fire protection premium taxes (Act 833 funds for fire departments, but inactive fire departments will not receive funding under this section) and all non-revenue receipts, which is defined as reimbursement of all or a part of a payment made by a county (A.C.A. § 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 (A.C.A. § 6-13-701) and 1/8 of 1% on funds from municipal improvement districts (A.C.A. § 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. (A.C.A. § 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 (A.C.A. § 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 (A.C.A. § 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 (A.C.A. § 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 (A.C.A. § 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 A.C.A. § 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 (A.C.A. § 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 (A.C.A. § 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 (A.C.A. § 14-14-801).
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. Before entering their duties, the County Judge shall take, before some person authorized by law to administer oaths, the following oath:

"I, __________, do swear that I will perform the duties of an election official of this election according to law and to the best of my abilities, and that I will studiously endeavor to prevent fraud, deceit, and abuse in conducting the same, and that I will not disclose how any voter shall have voted, unless required to do so as a witness in a judicial proceeding or a proceeding to contest an election." (A.C.A. § 7-4-110)

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. (A.C.A. § 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. (A.C.A. § 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 A.C.A. § 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 first regular meeting date after the beginning of the justices’ term in office. Alternatively, the county judge may schedule the biennial meeting date of the quorum court on a date in January other than the first regular meeting date of the quorum court after the beginning of the justices’ term. Thereafter, the justices shall assemble each calendar month at a regular time and place as established by ordinance and in their respective counties to perform the duties of a quorum court, except that more frequent meetings may be required by ordinance. By declaration of emergency or determination that an emergency exists and the safety of the general public is at risk, the county judge may change the date, place, or time of the regular meeting of the quorum court upon twenty-four-hour notice. (A.C.A. § 14-14-904)

The county treasurer should receive highway and general turnback from the state treasurer by the tenth day of each calendar month. (A.C.A. § 27-70-207[a] and A.C.A. § 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. (A.C.A. § 14-20-105)

County Depository Board designates the bank which funds will be deposited into. (A.C.A. § 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. (A.C.A. § 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 tenth day of each month. (A.C.A. § 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. (A.C.A. § 14-27-101 through 14-27-103)

FEBRUARY

Preliminary sales to assessment ratio studies report from the Assessment Coordination Department made to the assessor and the county judge before March 1 of the assessment year. (A.C.A. § 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. (Assessment Coordination Department Rule 3.31, 5.03)

The county treasurer should receive highway and general turnback from the state treasurer by the tenth day of each month. (A.C.A. § 27-70-207[a] and A.C.A. § 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. (A.C.A. § 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 tenth day of each month. (A.C.A. § 21-6-310)

**MARCH**

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

The county treasurer should receive highway and general turnback from the state treasurer by the tenth day of each month. (A.C.A. § 27-70-207[a] and A.C.A. § 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. (A.C.A. § 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. (A.C.A. § 21-6-310)

**APRIL**

The county treasurer should receive highway and general turnback from the state treasurer by the tenth day of each month. (A.C.A. § 27-70-207[a] and A.C.A. § 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. (A.C.A. § 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. (A.C.A. § 21-6-310)

**MAY**

The county treasurer should receive highway and general turnback from the state treasurer by the tenth day of each month. (A.C.A. § 27-70-207[a] and A.C.A. § 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. (A.C.A. § 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. (A.C.A. § 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. (A.C.A. § 26-27-309)

The county treasurer should receive highway and general turnback from the state treasurer by the tenth day of each month. (A.C.A. § 27-70-207[a] and A.C.A. § 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. (A.C.A. § 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 tenth day of each month. (A.C.A. § 21-6-310)

**SEPTEMBER**

The county treasurer should receive highway and general turnback from the state treasurer by the tenth day of each month. (A.C.A. § 27-70-207[a] and A.C.A. § 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. (A.C.A. § 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. (A.C.A. § 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. (A.C.A. § 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. (A.C.A. § 27-70-207[a] and A.C.A. § 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. (A.C.A. § 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 tenth day of each month. (A.C.A. § 21-6-310)

All personal and real estate taxes are due and payable on the fifteenth day of October. In the event the 15th 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. (A.C.A. § 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. (A.C.A. § 14-14-904)

The county treasurer should receive highway and general turnback from the state treasurer by the tenth day of each month. (A.C.A. § 27-70-207[a] and A.C.A. § 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. (A.C.A. § 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 tenth day of each month. (A.C.A. § 21-6-310)

**DECEMBER**

The county treasurer should receive highway and general turnback from the state treasurer by the tenth day of each month. (A.C.A. § 27-70-207[a] and A.C.A. § 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. (A.C.A. § 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 tenth day of each month. (A.C.A. § 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 (A.C.A. § 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. (A.C.A. § 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. (A.C.A. § 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 – Public Exhibitions §26-26-202
5. Privilege Tax - Ferries §26-76-108
6. Marriage License Tax §14-20-111
7. Mixed Drink Tax §3-9-213
8. Private Club Tax §§3-9-221 - 225
9. County Sales & Use Tax §§26-74-201, 26-74-301, §26-74-401, and 14-164-301
10. County Sales Tax for Capital Improvements §§14-164-301 – 340
11. County Sales & Use Tax §§26-74-401 – 414
13. Timber Tax §§26-61-101

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
5. Pollution Control §§14-267-101 - 113
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 §§14-170-201 – 214

E. Fines, Forfeitures - Court Costs §§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
5. State Sale of Tax Forfeited Land 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: the federal government, the state government and the 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 15th of each year. This seven (7) month tax collection period causes a majority of taxpayers to wait until close to the October 15th deadline to pay their taxes. (A.C.A. § 26-35-501 and 26-36-201)

The current collection system of local property tax was designed to collect revenue in one year (by October 15) 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. (A.C.A. § 26-35-501 and 26-36-201)

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. 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. (A.C.A. § 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%). (A.C.A. § 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. (A.C.A. § 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. (A.C.A. § 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). (A.C.A. § 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 A.C.A. § 14-164-301 through A.C.A. § 14-164-340.

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 (¼, ½, ¾, 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.


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 capital 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, A.C.A. § 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. (A.C.A. § 26-78-108)

**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:** A.C.A. § 26-78-101 through A.C.A. § 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:** A.C.A. § 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. (A.C.A. § 3-5-212)

**Use:** Support all purposes of county government.

**Implementation:** By the County Court.

**Authority:** A.C.A. § 3-5-201 through A.C.A. § 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.
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:** A.C.A. § 27-87-205.

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:** A.C.A. § 14-20-111.

7. **Mixed Drink Tax**

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

- Hotel having fewer than 100 rooms: $750.00
- Hotel having 100 or more rooms: $1,500.00
- Restaurant having a seating capacity of less than 100 persons: $750.00
- Restaurant having a seating capacity of 100 or more persons: $1,500.00
- Large meeting or attendance facility as defined in A.C.A. § 3-9-202(16)(B): $2,500.00

The county may also levy a supplemental tax on ten percent (10%) upon gross receipts from sale of such beverages. In addition to the tax levied under the previous sentence, a supplemental tax of four percent (4%) is levied on the gross proceeds or gross receipts from the sale of alcoholic beverages. However, the four percent (4%) tax shall not apply to gross proceeds or gross receipts from the sale of beer or wine. (A.C.A. § 3-9-212, A.C.A. § 3-9-213)

**Use:** Support all purposes of county government.

**Implementation:** A.C.A. § 3-9-212, 3-9-213 and county court.

**Authority:** A.C.A. § 3-9-201 through A.C.A. § 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. (A.C.A. § 3-9-223(f)(1))

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. (A.C.A. § 3-9-223)

**Use:** Support all purposes of county government.

**Implementation:** A.C.A. § 3-9-221 through 3-9-225 and county court.

**Authority:** A.C.A. § 3-9-221 through 3-9-225

9. **County Sales & Use Tax**

**Source:** A .125, .25, .50, .75, or 1.0 percent (⅛, ¼, ½, ¾, 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 A.C.A. § 26-52-101 et seq. In counties where a .125, .25, .50, .75, or 1.0 percent (⅛, ¼, ½, ¾, 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 (⅛, ¼, ½, ¾, 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. (A.C.A. § 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. (A.C.A. § 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:** A.C.A. § 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 (¼, ¼, ½, ¾, 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 (¼, ¼, ½, ¾, 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
The quorum court shall pass an ordinance calling an election. (A.C.A. § 26-74-402)

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:** A.C.A. § 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. (A.C.A. § 26-73-104)

**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. (A.C.A. § 26-73-103)

**Authority:** A.C.A. § 26-73-101 through 26-73-115.

13. **Timber Tax**

**Source:** ACA 26-61-107, Classification of Lands, provides for the classification of lands upon the assessment records by the Assessor as per ACD standards and submission to the county clerk for extension of the tax books, as per the rate per acre—twenty (20) cents per acre. These taxes are not property taxes (ACA 26-61-104) but to be collected by the Collector at the same time property taxes are collected (ACA 26-61-108).

**Use:** The timber tax is for the maintenance, operations and improvement of the Arkansas Forestry Commission in the statewide program for the detection, prevention and suppression of forest fires.

**Implementation:** For those counties that do not place the tax on timber on their levy ordinance, please just be sure that you properly extend the timber tax on the tax books at the increased rate of **twenty (20) cents per acre** as provided by Act 1391 of 2013 for the 2013 assessment year and in accordance with ACA 26-61-107.

Several counties place the levy of the timber tax on the levy ordinance (despite that the timber tax is affixed by the General Assembly by virtue of state law; the timber tax is explicitly declared not to be a property tax under ACA 26-61-104; ACA 26-61-107 directs extension of the tax levied by the state on the tax books and does not require a levy ordinance). For those counties, please review your levy ordinance to verify if the levy ordinance reflects the rate increase to **twenty (20) cents per** as provided by Act 1391 of 2013, effective for the 2013 assessment year.

Apparently some counties that place the timber tax in their levy ordinance have made an error in the drafting of the levy ordinance by not adopting the increase placed into effect by the General Assembly. County officials should properly extend the timber tax on the tax books at the increased rate in accordance with Act 1391 of 2013 for the 2013 assessment year. State law prevails over a flawed ordinance creating a conflict (ACA 14-14-805 and 808)—Act 1391 of 2013, ACA 26-61-103 prevails.

Also, to assure no conflict or confusion exists or persists the county judge, acting as the county court, may enter a county court order as authorized by ACA 14-14-904 to correct clerical errors or scribener’s errors. In essence, while it may not be necessary, in counties that place the state timber tax on their levy ordinance and have in error not reflected the increased timber tax of **twenty (20) cents per acre**, the county court may avoid any conflict or confusion (and assure compliance with the law) by entering a county court order that finds that: a clerical error was made in the drafting of the levy ordinance; that Act 1391 of 2013 increased the tax on timberlands from fifteen (15) cents to **twenty (20) cents per acre**; and that the levy ordinance shall be deemed amended to conform to law, to correct the clerical error and to assure the increase of the tax on timber enacted under Act 1391 of 2013, ACA 26-61-103, from fifteen (15) cents to **twenty (20) cents per acre** shall be extended on the tax books in accordance with ACA 26-61-107.

**Authority:** ACA 26-61-107
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 municipality or 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 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 either at an election called for that purpose or at a general election. (Ark. Const. Amendment 62, § 1)

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 A.C.A. § 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 municipality or county may, with the consent of a 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 the county.

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/Roads

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. (A.C.A. § 26-78-114)

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: A.C.A. § 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.


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.


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.


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.


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.


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**: A.C.A. § 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:** A.C.A. § 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:** A.C.A. § 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:** A.C.A. § 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:** A.C.A. § 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:** A.C.A. § 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:** A.C.A. § 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. (A.C.A. § 26-58-127) 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:** A.C.A. § 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:** A.C.A. § 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:** A.C.A. § 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:** A.C.A. § 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:** A.C.A. § 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:** A.C.A. § 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:** A.C.A. § 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. (A.C.A. § 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:** A.C.A. § 8-6-212.
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 VA.C.A. §ing

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. (A.C.A. § 14-14-1105)

APPROVAL OF FINAL SETTLEMENT

All county tax collectors’ settlements shall be made and filed with the county courts on or before the fourth Monday of December of each year. (A.C.A. § 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. (A.C.A. § 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. (A.C.A. § 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. (A.C.A. § 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. (A.C.A. § 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 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. (A.C.A. § 14-40-1201)

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. (A.C.A. § 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 consolidation or annexation, 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. If a majority of the votes of any ward in said larger 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. The territory and inhabitants of said small city or incorporated town shall cause a plat to be made of the entire 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 A.C.A. § 14-43-311, so far as applicable. (A.C.A. § 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. (A.C.A. § 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. (A.C.A. § 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 A.C.A. § 14-38-101. (A.C.A. § 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 count 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 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
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. (A.C.A. § 14-38-105)

5. One (1) month shall elapse from the time such transcripts are forwarded 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 v.A.C.A. §10, 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. (A.C.A. § 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. (A.C.A. § 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. (A.C.A. § 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. The “majority of real estate owners” referred to in this section means a majority of the total number of real estate owners in the area affected, if the majority of the total number of owners own more than one-half (1/2) of the acreage affected. (A.C.A. § 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. (A.C.A. § 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. (A.C.A. § 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. (A.C.A. § 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. (A.C.A. § 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. (A.C.A. § 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. (A.C.A. § 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. (A.C.A. § 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. (A.C.A. § 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 (A.C.A. § 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. (A.C.A. § 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. (A.C.A. § 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, and that the prayer of the petitioner is right and proper, then the court shall enter its order granting the petition and annexing the territory. (A.C.A. § 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. (A.C.A. § 14-40-605)

ANNEXATION UPDATES FOR the 89th GENERAL ASSEMBLY

Act concerning annexation of unincorporated land if the land is currently permitted by a county for a construction or development project:

Territory annexed with prior county permit or approval in use- If a county had issued a permit or approval for construction, operation, or development before a municipal annexation proceeding begins for a project in the area that the municipality intends to annex, the municipality shall
honor and give full effect to county permits and approvals on lands to be annexed. (A.C.A. § 14-40-206)

Act to amend the law concerning the requirements for annexation:

Contiguous lands shall not be annexed if they: At the time of the adoption of the ordinance, has a fair market value, of lands used only for agricultural or horticultural purposes; are lands upon which a new community is to be constructed with finds guaranteed, in whole or in part, by the federal government under Title IV of the Housing and Urban Development Act of 1968 or under Title VII of the Housing and Urban Development Act of 1970; are lands that do not include residents, except as agreed upon by the mayor and county judge; or are lands that do not encompass the entire width of public road right-of-way or public road easements within the lands sought to be annexed, except as agreed upon by the mayor and county judge. (A.C.A. § 14-40-302(b)(1))

Whenever practicable, a city or incorporated town shall annex lands that are contiguous and in a manner that does not create enclaves. As used in this section, “enclave” means an unincorporated improved or developed area that is enclosed within and bounded on all sides by a single city or incorporated town. (A.C.A. § 14-40-302(d)(1-2))

Act amending the law concerning annexation of surrounded lands:

Whenever the incorporated limits of a municipality have completely surrounded an unincorporated area, the governing body of the municipality may propose an ordinance calling for the annexation of the land surrounded by the municipality. (A.C.A. § (a)(1)(A)(i)

Subdivision (a)(1)(A)(ii) of this section shall include situations in which the incorporated limits of a municipality have surrounded an unincorporated area on only three (3) sides because the fourth side is a boundary line with another state, a military base, a state park, or a national forest. (A.C.A. § (a)(1)(A)(ii)

Act modifying the law concerning detachment after annexation in certain circumstances; to prohibit enclaves:

Whenever practicable, a city or an incorporated town shall annex lands that are contiguous and in a manner that does not create enclaves. As used in this section, “enclave” means an unincorporated improved or developed area that is enclosed within and bounded on all sides by a single city or incorporated town. (A.C.A. § 14-50-504(a)-(b)

When a majority of the real estate owners of any part of a county contiguous to and adjoining any city or incorporated town desired to be annexed to the city or town, they may apply, by attested petition in writing, to the county court of the county in which the city or town is situated, shall name the persons authorized to act on behalf of the petitioners, and may include a schedule of services of the annexing municipality that will be extended to the area within three (3) years after the date of the annexation becomes final. (A.C.A. § 14-40-601(a))

Act amending the law to allow more transparency in annexation and detachment proceedings:

Beginning March 1, 2014, and each successive year thereafter, the mayor or city manager of a city or incorporated town shall file annually with the city clerk or recorder, town recorder, and county clerk a written notice describing any annexation elections that have become final in the previous eight (8) years. The written notice shall include: the schedule of services to be provided to the inhabitants of the annexed portion of the city; and a statement as to whether the scheduled services have been provided to the inhabitants of the annexed portions of the city. If the scheduled services have not been provided to the new inhabitants within three (3) years after the date the annexation becomes final, the written notice reporting the status of the extension of scheduled services shall include a statement of the rights of inhabitants to seek detachment. A city or incorporated town shall not proceed with annexation elections if there are pending scheduled services that have not been provided in three (3) years as prescribed by law. (A.C.A. § 14-40-2201 (a)-(c))

In all annexations under § 14-40-303 and in accordance with § 14-040-606, after the territory declared annexed is considered part of a city or incorporated town, the inhabitants residing in the annexed portion shall have all the rights and privileges of the inhabitants of the annexing city or incorporated town; and be extended the scheduled services within three (3) years after the date the annexation becomes final. The mayor of the municipality shall file a report with the city clerk or recorder, town recorder, and county clerk of the extension of scheduled services. If the scheduled services have not been extended to the area and property boundaries of the new inhabitants within three (3) years after the date annexation becomes final, the written notice reporting the status of the extension of scheduled services shall: include a written plan for completing the extension of services and estimated date of completion; and include a statement of the rights of inhabitants to seek detachment. A city or incorporated town shall not proceed with any additional annexation elections if there are pending scheduled services that have not been extended as required under this subchapter. (A.C.A. § 14-40-2202 (a)-(c))

**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. (A.C.A. § 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. (A.C.A. § 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. (A.C.A. § 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. (A.C.A. § 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. (A.C.A. § 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. (A.C.A. § 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. (A.C.A. § 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. (A.C.A. § 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. (A.C.A. § 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. (A.C.A. § 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. (A.C.A. § 14-317-108 and A.C.A. § 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. (A.C.A. § 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. (A.C.A. § 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. (A.C.A. § 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. (A.C.A. § 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. (A.C.A. § 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. (A.C.A. § 14-298-103)

3. The petition shall state the beginning, intermediate points, if any, and the place of termination of the road. (A.C.A. § 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. (A.C.A. § 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. (A.C.A. § 14-298-105)

6. The viewers may call upon a surveyor to assist them in laying out and surveying or altering the road. (A.C.A. § 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. (A.C.A. § 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. (A.C.A. § 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. (A.C.A. § 14-298-109)

10. The viewers shall assess and determine the damages sustained by any person through whose premises the said road is proposed. (A.C.A. § 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. (A.C.A. § 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. (A.C.A. § 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. (A.C.A. § 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. (A.C.A. § 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 viewers. If a review is granted, then no further proceedings shall be had until the viewers have reported their action to the court. If the report of the viewers 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. (A.C.A. § 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. (A.C.A. § 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 have elapsed 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. (A.C.A. § 14-298-116)

PROCEDURE FOR VA.C.A. § 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. (A.C.A. § 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. (A.C.A. § 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. (A.C.A. § 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. (A.C.A. § 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. (A.C.A. § 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. (A.C.A. § 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. (A.C.A. § 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. (A.C.A. § 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. (A.C.A. § 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. (A.C.A. § 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. (A.C.A. § 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 alley so vacated by petition to the county court where the property is situated. (A.C.A. § 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. (A.C.A. § 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. (A.C.A. § 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. (A.C.A. § 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. (A.C.A. § 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. (A.C.A. § 18-15-407)

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. (A.C.A. § 18-15-407)

3. The county judges shall make all determinations for county roads. (A.C.A. § 18-15-407)

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. (A.C.A. § 18-15-407)

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. (A.C.A. § 18-15-407)

6. After acquiring the rights-of-way, title shall be transferred to the county. (A.C.A. § 18-15-407)

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. (A.C.A. § 18-15-407)

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. (A.C.A. § 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. (A.C.A. § 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. (A.C.A. § 27-66-206)

Maintenance and repair of designated roads - Upon declaring a road a county road pursuant to this Act, [A.C.A. § 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. (A.C.A. § 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. (A.C.A. § 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. (A.C.A. § 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. (A.C.A. § 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. (A.C.A. § 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). (A.C.A. § 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. (A.C.A. § 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. (A.C.A. § 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 A.C.A. § 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.

t. Goods or services if the quorum court has approved by resolution the purchase of goods or services through competitive bidding or procurement procedures used by:

1) The federal government or one (1) of its agencies;
2) Another state; or
3) An association of governments or governmental agencies including
associations of governments or governmental agencies below the state level; and

u. a) Goods or services available only from a single source.
   b) A purchase under this subdivision (22) shall be supported with:
      1) Documentation concerning the exclusivity of the single source; and
      2) A county court order filed with the county clerk that sets forth the basis for
      the single source procurement. (A.C.A. § 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. (A.C.A. § 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. (A.C.A. § 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. (A.C.A. § 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. (A.C.A. § 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. (A.C.A. § 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. (A.C.A. § 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. (A.C.A. § 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. (A.C.A. § 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. (A.C.A. § 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. (A.C.A. § 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. (A.C.A. § 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. (A.C.A. § 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. (A.C.A. § 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. (A.C.A. § 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. (A.C.A. § 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. (A.C.A. § 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. (A.C.A. § 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. (A.C.A. § 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 the first regular meeting date after the beginning of the justices’ term in office. Alternatively, the county judge may schedule the biennial meeting date of the quorum court on a date in January other than the first regular meeting date of the quorum court after the beginning of the justices’ term. Thereafter, the justices shall assemble each calendar month at a regular time and place as established by ordinance and in their respective counties to perform the duties of a quorum court, except that more frequent meetings may be required by ordinance. By declaration of emergency or determination that an emergency exists and the safety of the general public is at risk, the county judge may change the date, place, or time of the regular meeting of the quorum court upon twenty-four-hour notice. (A.C.A. § 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, and Section 6. (A.C.A. § 14-14-1101)

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

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

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

h. All persons appointed to an advisory or administrative board shall be a qualified elector of the county.
i. A quorum court may prescribe, by ordinance, additional qualifications for appointment to a county administrative board.

j. 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.

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

l. 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.

m. 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. (A.C.A. § 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. (A.C.A. § 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. (A.C.A. § 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. (A.C.A. § 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. (A.C.A. § 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. (A.C.A. § 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. (A.C.A. § 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. (A.C.A. § 14-14-707)
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 except to out of town or county merchants. The merchants who have received a warrant redeems it at a local bank.

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. (A.C.A. § 14-23-101 and A.C.A. § 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 A.C.A. § 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, (A.C.A. § 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. (A.C.A. § 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. (A.C.A. § 14-14-904)

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. (A.C.A. § 14-20-103)

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

**ADMINISTRATIVE RULES AND REGULATIONS**

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. (A.C.A. § 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.

**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.
PROCEDURAL GUIDE FOR
COUNTY QUORUM COURT MEETINGS

Association of Arkansas Counties
1415 West Third Street
Little Rock, AR 72201
Telephone: 501-372-7550
FAX: 501-372-0611
www.arcounties.org

BY: Mark Whitmore, AAC Chief Counsel
Wes Fowler, AAC Governmental Affairs Director

45
TABLE OF CONTENTS

I. OVERVIEW

II. County Judge as Presiding Officer
   i. County Judge as Presiding Officer
   ii. Justice of Peace as Presiding Officer
   iii. Responsibilities of Presiding Officer
   iv. Procedural Ordinances
   v. Committees
   vi. Quorum

III. Legislative Affairs

IV. Quorum Court Administration

V. Order of Business
   i. Call to Order
   ii. Reading and Disposition of Minutes
   iii. Reports of Committees
   iv. Unfinished Business
   v. New Business
   vi. Announcements
   vii. Adjournment
   viii. Comments or Questions from Public
   ix. Agenda

VI. How Motions Are Handled
   i. Addressing Presiding Officer
   ii. Recognition
   iii. Statement of Motion by Member
   iv. Seconding Motions
   v. Statement of Motion by Presiding Officer
   vi. Discussion of Motion
   vii. Voting on Motion
   viii. Roll Call Vote
   ix. Voice
   x. Show of Hands
   xi. Vote by Unanimous Consent

VII. The Adoption and Amendment of Ordinances Generally
     (Except for Emergency or Appropriation Ordinances)
     i. Introduction
     ii. Style Requirements
     iii. Passage
     iv. Approval and Publication
     v. Effective Date
     vi. Reference to Electors
     vii. Manner and Procedure
     viii. Procedures to Adopt in Less than Three Different Days
     ix. Amendments Offered on Proposed Ordinances on Second or Third Reading
VIII. Penalties for Violations of Ordinances

IX. Adoption of Appropriation and Emergency Ordinances
   i. Appropriation Ordinances
   ii. Emergency Ordinances

X. Veto
   i. Exercise by County Judge
   ii. Veto Override by Quorum Court

XI. Adoption and Amendment of Resolutions

XII. Most Frequently Asked Questions:

XIII. Research Corner
   i. Does the Annual Budget for Your County Stand Up
   ii. What Should the Members of the Quorum Court Know
       To Perform Their Duties Under the Constitution and Laws
       Of Arkansas?

XIV. Glossary of Motions
   i. The Main Motion
   ii. Privileged Motions
   iii. Motion to Adjourn
   iv. Motion to Recess
   v. Question of Privilege
   vi. Subsidiary Motions
   vii. Postpone Temporarily
   viii. Vote Immediately
   ix. Limit Debate
   x. Postpone Definitely
   xi. Refer to Committee
   xii. Amend
   xiii. Postpone Indefinitely
   xiv. Incidental Motions
   xv. Appeal
   xvi. Point of Order
   xvii. Parliamentary Inquiry
   xviii. Withdraw a Motion
   xix. Suspend Rules
   xx. Object to Consideration
   xxi. Division of Question

XV. Precedence of Motions

XVI. Table of Rules Governing Motions

XVII. Definition of Terms

XVIII. Procedural/Organizational Ordinances (Samples from Counties)
I. OVERVIEW

Amendment 55 of the Arkansas Constitution reorganized county government. Act 742 of 1977, as amended, implements the provisions of Amendment 55 to the Arkansas Constitution, which revised county government in Arkansas. Act 742, codified at Arkansas Code Annotated (A.C.A.) Title 14, Chapter 14, constitutes the Arkansas “County Government Code.” A.C.A. § 14-14-901 vests the legislative power of county government in the quorum court of each county, subject to the limitations imposed by the Arkansas Constitution and by state law.

A.C.A. § 14-14-904 provides that, “The justices of the peace elected in each county shall assemble and organize as a county quorum court body on the first regular meeting date after the beginning of the justices’ term in office. Alternatively, the county judge may schedule the biennial meeting date of the quorum court on a date in January other than the first regular meeting date of the quorum court after the beginning of the justices’ term. Thereafter, the justices shall assemble each calendar month at a regular time and place as established by ordinance and in their respective counties to perform the duties of a quorum court, except that more frequent meetings may be required by ordinance. By declaration of emergency or determination that an emergency exists and the safety of the general public is at risk, the county judge may change the date, place, or time of the regular meeting of the quorum court upon twenty-four-hour notice.”

At this initial meeting, the quorum court should determine its rules of procedure. A.C.A. § 14-14-904 states that, “Except as otherwise provided by law, the quorum court of each county shall determine its rules of procedure and may compel attendance of absent members in such manner and under such penalties as may be prescribed 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 of the quorum court upon written notification of all members not less than two (2) calendar days prior to the calendar day fixed for the time of the meeting. The notice of special meeting shall specify the subjects, date, time, and designated location of the special meeting. Notice of assembly of a county grievance committee or assembly of less than a quorum of the body, referred to under this section as a “regular committee” or “special committee”, and may be provided upon oral notice to the members of at least forty-eight (48) hours unless an emergency exists. If an emergency exists, written notice of at least twenty four (24) hours stating the basis of the emergency shall be provided. (A.C.A. § 14-14-904(c)).

In the event of emergency or special meetings, the person calling the 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 any news media located elsewhere that cover regular meetings of the governing body and that have requested to be so notified of emergency or special meetings of the time, place, and date of the meeting. Notification shall be made at least two (2) hours before the meeting takes place in order that the public shall have representatives at the meeting. (A.C.A. § 25-19-106(b)(2)).

At these regular and special meetings, following the rules of procedure which have been adopted will assure orderly conduct and encourage clear, efficient discussion. Robert’s 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 Robert’s 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 which 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.

II. COUNTY JUDGE AS PRESIDING OFFICER WITH A VETO

Amendment 55, § 3, of the Arkansas Constitution explicitly provides: “The County, in addition to all other powers and duties provided for by the Constitution and laws, shall preside over the Quorum Court without a vote but with the power of veto...” A.C.A. § 14-14-1101(a) states that: Arkansas Constitution, Amendment 55, § 3, established the following executive powers of the county judges: (1) To preside over the county quorum court, without a vote but with the power of veto. A.C.A. § 14-14-1102(a) further provides: “That the General Assembly determines that the executive powers of the county judges as enumerated in Arkansas Constitution, Amendment 55, § 3, are to be performed by him in an executive capacity and not by order of the county court”.

In Attorney General Opinion No. 2008-045: The AG explained that after the adoption of Amendment 55 it is clear that the county judge exercises primary executive function, that A.C.A. § 14-14-703 describes the county judges as the “principal executive officer of the county”. See also: Reding v. Wagner, 350 Ark. 322 (2002) (referring
to a county judge’s executive authority under Amendment 55, § 3; and McCuen v. Jackson, 265 Ark. 818 (1979) [referring to county judge as chief executive in hiring county employees, not supervised by other constitutional executives].

A.C.A. § 14-14-502(b) provides for separate of powers: “The powers of county governments of the State of Arkansas shall be divided into three (3) distinct departments, each of them to be confined into a separate body: Legislative, Executive; and Judicial. (The CJAA has a separate guidebook for county judge exercising judicial functions and judicial ethics). Since the County Judge, presides over the Quorum Court as a primary Executive Function, the purpose of this guidebook is to assist the county judges of Arkansas in performing that key executive function.

i. THE COUNTY JUDGE AS PRESIDING OFFICER: A.C.A. § 14-14-904(d) 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 a quorum court subject to any procedural rules which may be adopted by ordinance”. The county judge is the chief executive official and presiding officer, but not a member of the quorum court. He rules on motions and guides debate according to the rules of procedure, but cannot make motions nor participate in the debate, although his views may certainly be solicited by members of the quorum court. A regular committee or special committee of the quorum court shall not consist of more than a quorum of the whole body without the consent of the county judge.

ii. JUSTICE OF THE PEACE AS PRESIDING OFFICER: A.C.A. § 14-14-904(d) also 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. A regular committee or special committee of the quorum court shall not consist of more than a quorum of the whole body without the consent of the county judge.

iii. RESPONSIBILITY OF PRESIDING OFFICER: 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. Ensure 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 issues and formulate decision.

14-14-904. Procedures generally.

(a) Time and Place of Quorum Court Assembly.

(1)(A)(i) The justices of the peace elected in each county shall assemble and organize as a county quorum court body on the first regular meeting date after the beginning of the justices’ term in office.

(ii) Alternatively, the county judge may schedule the biennial meeting date of the quorum court on a date in January other than the first regular meeting date of the quorum court after the beginning of the justices’ term.

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

(b) Levy of Taxes and Making Appropriations

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

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

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

(2) Nothing in this subsection shall prohibit the quorum court from making appropriation amendments at any time during the current fiscal year.
(3) If the levy of taxes is repealed by referendum, the county may adopt a new ordinance levying taxes within thirty (30) days after the referendum vote is certified.

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

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

(c) Special Meetings of Quorum Court

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

2. In the absence of procedural rules, the county judge or a majority of the elected justices may call a special meeting of the quorum court upon written notification of all members not less than two (2) calendar days prior to the calendar day fixed for the time of the meeting. The notice of special meeting shall specify the subjects, date, time, and designated location of the special meeting.

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

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

(d) Presiding Officer.

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

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

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

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

(e) Procedural Rules and Attendance at Meetings. Except as otherwise provided by law, the quorum court of each county shall determine its rules of procedure and may compel the attendance of absent members in such manner and under such penalties as may be prescribed by ordinance.

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

(g) Legislative Affairs. All legislative affairs of a quorum court shall be conducted through the passage of ordinances, resolution, or motions.

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

(i) County Ordinance.

A county resolution is defined as an enactment of compulsory law for a quorum court that defines and establishes the permanent or temporary organization and system of principles of a county government and for the control and conduct of county affairs.

(j) County Resolution.

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

(k) Motion.

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

(l) Ordinances. Ordinances may be amended ad repealed only by ordinance.
(m) Resolutions. Resolutions may be amended and repealed only by resolutions.

(n) Initiative and Referendum. All ordinances shall be subject to initiative and referendum as provided for through Arkansas Constitution, Amendment 7.


iv. PROCEDURAL ORDINANCES: A.C.A. § 14-14-904(e): PROCEDURAL RULES AND ATTENDANCE AT MEETINGS. Except as otherwise provided by law, the quorum court of each county shall determine its rules of procedure and may compel the attendance of absent members in such manner and under such penalties as may be prescribed by ordinance.

Attorney General Opinion No. 2010-147: explained the purpose of the procedural rules adopted by ordinance including the purpose of affixing the dates for regular meetings of the quorum court under 14-14-904. A.C.A. § 14-14-904 was amended in 2011 to provide that by declaration or determination that an emergency exists to the safety of the public the county judge may change the date, time and place of the regular meeting of the quorum court established by the organizational ordinance. A.C.A. § 14-14-1205 also directs the per diem to be affixed by the Quorum Court for regular, special and committee meetings of the Quorum Court within the confines of the law.

Attorney General Opinion No. 2005-025: Explained that the Quorum Court is not restricted to consider only those organizational and ministerial functions of the first meeting mandated under 14-14-904(a). The Quorum Court may in the opinion of the AG designate the first meeting to be held in lieu of the regular January meeting.

v. COMMITTEES: Attorney General Opinion No. 2003-180: interpreted 14-14-904(d) which provides: “The presiding officer shall appoint all regular and special committees of a quorum court subject to any procedural rules which may be adopted by ordinance” to mean that the presiding officer, the county judge, clearly has the sole authority to select members of the quorum court to various committees. However, the opinion further determined that (in the absence of legislative clarification) the quorum court may by ordinance by virtue of home rule or at their organizational or procedural ordinance establish committees. This opinion noted the need for legislative clarification and differed from previous opinions of the office of the attorney general (See: AG Opinion Nos: 1995-084; and 2001-117). The opinion determined the term “appoint” meant to select the members of the quorum court to serve upon the committees. The AG, noted that the quorum court cannot encroach upon the power of the county judge to appoint members to committees (see AG Opinion Nos. 2003-039; 2001-117; and 1995-084).

vi. QUORUM: A.C.A. § 14-14-904 states: a majority of the whole number of justices shall be necessary to constitute a quorum for the transaction of business. Also, a quorum court may compel the attendance of absent members in such 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 or secretariat of the quorum court 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.

III. LEGISLATIVE AFFAIRS

A.C.A. § 14-14-904 provides that all legislative affairs of a quorum court shall be conducted through the passage of ordinances, resolutions, or motions. All legislative actions of a quorum court, excluding the adoption of a motion, shall require a majority vote of the whole number of justices composing a quorum court unless otherwise provided by the Arkansas Constitution or by law. A motion shall require a majority vote of the whole number of justices composing a quorum for passage.

i. County Ordinance. A county ordinance is defined as an enactment of compulsory law for a quorum court that defines and establishes the permanent or temporary organization and system of principles of a county government for the control and conduct of county affairs. Ordinances may be amended and repealed only by ordinances. Ordinances are subject to initiative and referendum as provided for through Arkansas Constitution, Amendment 7.

ii. County Resolution. A county resolution is defined as the adoption of a formal statement of policy by a quorum court,
the subject matter of which would not properly constitute an ordinance. A resolution may be used whenever the quorum court wishes merely to express an opinion as to some matter of county affairs, and a resolution shall not serve to compel any executive action. Resolutions may be amended and repealed only by resolutions.

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

IV. QUORUM COURT ADMINISTRATION

A.C.A. § 14-14-901 provides: “The Legislative power of the county government is vested in the quorum court of each county of the state, subject to the limitations imposed by the Arkansas Constitution and by state law”.

A.C.A. § 14-14-902 provides for the administration of the quorum court. The secretariat of the county quorum court shall be the clerk of the county court of each county unless otherwise provided by county ordinance. A quorum court, by ordinance, may provide for the establishment of minimum qualifications and an appropriation for the employment of a secretariat of the court. The employee so designated shall be a staff member of the county clerk or the county judge as may be specified by the ordinance. Where the separate position of secretariat is created by ordinance, all legislative duties prescribed for a county clerk shall thereafter become the duties of the secretariat.

Unless otherwise provided for by county ordinance, the clerk or the deputy clerk shall: 1) Attend all regular and special meetings of the court; 2) perform all administrative and recordkeeping duties prescribed; and 3) perform all other duties as may be required by the quorum court through county ordinance.

The prosecuting attorney or his deputy serving each county shall serve as legal counsel of the quorum court unless otherwise provided by county ordinance. A quorum court may, by ordinance, provide for the appropriation of county funds for the employment of alternative legal counsel to serve the court. The legal counsel of a quorum court shall: 1) Attend all regular and special meetings of the court; 2) Perform all duties prescribed; and 3) Perform all other duties as may be required by a quorum court.

Attorney General Opinion No. 2011-087; concluded that the county judge, not the quorum court, has the authority to hire and fire the county attorney. Amendment 55, § 3, and A.C.A. § 14-14-1002 confides the general power to hire and fire county employees (not assigned to other county officials) to the county judge and to enter into necessary contracts. The AG said that this authority is beyond reasonable argument.

A quorum court may authorize and provide through ordinance, for the employment of any additional staff or the purchase of technical services in support of legislative affairs.

A.C.A. § 14-14-903 requires the quorum court of each county to provide for the keeping of written minutes which include the final vote on each ordinance or resolution indicating the vote of each individual member on the question.

It also requires the quorum court to maintain a county ordinance and resolution register for all ordinances, resolutions, and amendments to each, adopted and approved by the court. Entries in this register shall be sequentially numbered in the order adopted and approved and shall be further designated by the year of adoption and approval. A separate sequential numbering system shall be maintained for both ordinances and resolutions. The register number shall be the official reference number designating an enactment. The register shall be maintained as a permanent record of the court and shall contain, in addition to the sequential register number, the following items of information:

(A) An index number which shall be the originating legislative agenda number of the enactment;
(B) The comprehensive title of the enactment;
(C) The type of ordinance or amendment: general, emergency, appropriation, initiative, or referendum;
(D) The date adopted by the quorum court;
(E) The date approved by the county judge, date of veto override, or date enacted by the electors;
(F) The effective date of the enactment;
(G) The expiration date of the enactment; and
(H) A recording index number designating the location of the enactments.

A.C.A. § 14-14-903 further requires the county to maintain a permanent record of all ordinances and resolutions in which each enactment is entered in full after passage and approval, except when a code or budget is adopted by reference. When a code or budget is adopted by reference, the date and source of the code shall be entered. The permanent record shall be so indexed to provide for efficient identification, location, and retrieval of all ordinances and resolutions by subject, register number,
and date enacted. The permanent record indexing may be by book and page.

Every five (5) years all county ordinances enacted in each of the several counties must be compiled into a uniform code and published. A.C.A. § 14-14-903(d) Codification of Ordinances, states: “No later than 1980 and at five-year intervals thereafter, all county ordinances enacted in each of the several counties shall be enacted into a uniform code and published”.

V. 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.

i. 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 then asks the clerk to call the roll.

ii. 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.”

iii. REPORTS OF COMMITTEES: Reports from standing committees are called for by the presiding officer, asking each chairman if he/she had 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.

iv. 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 which some other member does not present. This is done by stating, “We will now consider the motion proposed at our last meeting...”

v. 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 no new business is presented and the presiding officer knows of matters which should be considered, he informs the governing body of these matters and asks if any member wishes to propose a motion dealing with them.

vi. 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.

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

viii. 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. A.C.A. § 14-14-109 provides that a meeting required to be open to the public that the rules for conducting the meeting afford citizens a reasonable opportunity to participate prior to the final decision.

ix. 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 agenda is primarily set by the quorum court members, procedures must be established covering agenda preparation. Procedures should include: Identification of the office or individual, e.g., county clerk or secretariat of the quorum court, 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 the issue.

VI. 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

i. 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.

ii. 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.

iii. 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.

iv. SECONDING MOTIONS: When a motion has been offered by a member, it must be seconded by another member 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.

v. 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...”

vi. 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 ensure 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 possibly by asking if there is anyone wishing to speak against the motion. The proposer of the motion as it was stated correctly expresses the member’s 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.

vii. 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:

viii. 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 law, the roll call is the form of voting which will be used most, except for incidental motions. A.C.A. § 14-14-905(c)(1)(A) 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.

ix. 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.

x. 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.

xi. Vote by Unanimous Consent: When the matter is issue is non-controversial 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.

VII. ADOPTION AND AMENDMENT OF ORDINANCES (EXCLUDING EMERGENCY OR APPROPRIATION ORDINANCES)

A.C.A. § 14-14-905 governs the adoption and amendment of ordinances generally:

i. Introduction of Ordinances and Amendments to Existing Ordinances: A county ordinance or amendment to an ordinance may be introduced only by a justice of the peace of the county or through the provisions of initiative and referendum pursuant to Arkansas Constitution, Amendment 7.

ii. Style Requirements: No ordinance or amendment to an existing ordinance passed by a county quorum court shall contain more than one (1) comprehensive topic and shall be styled "Be It Enacted by the Quorum Court of the County of . . . . . . . . . . . ., Statute or Ordinance No. . . . . . . . . . . . .", State of Arkansas; an Ordinance to be Entitled:“. Each ordinance shall contain this comprehensive title, and the body of the ordinance shall be divided into articles, sequentially numbered, each expressing a single general topic related to the single comprehensive topic. No county ordinance shall be revised or amended, or the provisions thereof extended or conferred, by reference to its title only, but so much thereof as is revised, amended, extended, or conferred shall be reenacted and published at length.

iii. Passage: 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 composing the court shall dispense with the rule. However, this requirement shall not serve to: 1) Require a vote after each individual reading, but only a vote 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.

Act 543 of 2005 amended A.C.A. § 14-14-905 to explicitly provide: this subsection shall not serve to: require a vote after each individual reading but only a vote after the third and final reading; require the ordinance or amendment to be read in its entirety on the first, second or third readings; or restrict the passage of emergency, appropriation, initiative or referendum measures in a single meeting as provided by law.

iv. Approval and Publication: Upon passage, all ordinances or amendments shall be approved by the county judge within seven (7) days unless vetoed and shall become law without his or her signature if not signed within seven (7) days. The ordinances or amendments shall then be published by the county clerk as prescribed by law. Approval by the county judge shall be demonstrated by affixing his or her signature and his or her notation of the date signed on the face of an original copy of the proposed ordinance. This approval and authentication shall apply to all ordinances or amendments to existing ordinances unless the power of veto is invoked.

v. Effective Date: 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. An ordinance or amendment to an existing ordinance may provide for a delayed effective date or may provide for the ordinance or amendment to an existing ordinance to become effective upon the fulfillment of an indicated contingency.

vi. Reference to Electors: At the time of or within thirty (30) days of adoption and prior to the effective date of an ordinance, a quorum court may refer the ordinance to the electors for their acceptance or rejection. The referral shall be in the form of a resolution and shall require a three-fifths affirmative vote of the whole number of justices constituting a quorum court. This action by a court shall not be subject to veto and shall constitute a referendum measure.

vii. Manner and Procedure: Any ordinance enacted by the governing body of any county in the state may be referred to a vote of the electors of the county for approval or rejection in the manner and procedure prescribed in Arkansas Constitution, Amendment 7, and laws enacted pursuant thereto, for exercising the local initiative and referendum. The manner and procedure prescribed therein shall be the exclusive method of exercising the initiative and referendum regarding these local measures.

vii. Procedure 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.

ix. Amendments Offered on Proposed Ordinances 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 which 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.

VIII. PENALTIES FOR VIOLATIONS OF ORDINANCES

A.C.A § 14-14-906 grants the quorum court authority to establish penalties for violation of ordinances. A county quorum court may fix penalties for the violation of any ordinance, and these penalties may be enforced by the imposition of fines, forfeitures, and penalties on any person offending against or violating the ordinance. The fine, forfeiture, or penalty shall be prescribed in each particular ordinance or in an ordinance prescribing fines, forfeitures, and penalties in general.

A quorum court also has the power to provide, by ordinance, for the prosecution, recovery, and collection of the fines, forfeitures, and penalties.

A quorum court does not, however, have power to define an offense as a felony or to impose any fine or penalty in excess of one thousand dollars ($1,000) for any one (1) specified offense or violation, or double that sum for each repetition of the offense or violation. If an act prohibited or rendered unlawful is, in its nature, continuous in respect to time, the fine or penalty for allowing the continuance thereof, in violation of the ordinance, shall not exceed five hundred dollars ($500) for each day that it may be unlawfully continued. All fines and penalties imposed for violation of any county ordinance shall be paid into the county general fund.

IX. ADOPTION OF APPROPRIATION AND EMERGENCY ORDINANCES

i. APPROPRIATION ORDINANCES: An appropriation ordinance is a measure by which the quorum court designates a particular fund, or sets 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. All appropriation ordinances or an amendment to an appropriation ordinance shall be designated “appropriation ordinance.” Any quorum court may adopt, amend, or repeal an appropriation ordinance which incorporates by reference the provisions of any county budget or portion of a county budget, or any amendment thereof, properly identified as to date and source, without setting forth the provisions of the adopted budget in full. At least one (1) copy of a budget, portion, or amendment which is incorporated or adopted by reference shall be filed in the office of the county clerk and there kept available for public use, inspection, and examination.

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 (A.C.A. § 14-14-907(d)). 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.

Once appropriated the quorum court is not authorized to micro-manage the expenditure of appropriated funds by the executive branch. See Attorney General Opinions Nos. 2005-293; 2004-302; 1998-398; 1989-365; and 1989-206.

ii. EMERGENCY ORDINANCES: An emergency ordinance may be enacted only to meet public emergencies affecting life, health, safety or property of the people (A.C.A. § 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 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 the yeas and nays shall be called and recorded. An emergency measure is effective immediately upon approval by the county judge.

X. VETO

i. EXERCISE OF BY COUNTY JUDGE: A.C.A. § 14-14-911 provides that, “The County Judge of each of the several counties shall preside over the Quorum Court with the power of veto.” Further,

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 (A.C.A. § 14-14-913).

ii. VETO OVERRIDE BY QUORUM COURT: A.C.A. § 14-14-912 provides that, “The Quorum Court of each of the several counties shall have the power to override the veto of the County Judge.” Further,

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.

XI. ADOPTION AND AMENDMENT OF RESOLUTIONS

A.C.A. § 14-14-913 governs adoption and amendment 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 (A.C.A. § 14-14-913).

XII. MOST FREQUENTLY ASKED QUESTIONS

Summer 2012 County Lines FAQs

By: Wes Fowler, AAC Government Relations Director

What is the time frame for publication of ordinances after passage by the quorum court and when do they become effective?

There are three types of ordinances: general, appropriation and emergency. The timeframe for publication and their effective dates vary by type. So let us look at each one separately and the statutes that apply.

14-14-905. Adoption and amendment of ordinances generally:
(d) Approval and Publication. (1) (A) Upon passage, all ordinances or amendments shall be approved by the county judge within seven (7) days unless vetoed and shall become law without his or her signature if not signed within seven (7) days.

(B) The ordinances or amendments shall then be published by the county clerk as prescribed by law. (2) (A) Approval by the county judge shall be demonstrated by affixing his or her signature and his or her notation of the date signed on the face of an original copy of the proposed ordinance.

(B) This approval and authentication shall apply to all ordinances or amendments to existing ordinances unless the power of veto is invoked.

(e) Effective Date. (1) 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.

(2) An ordinance or amendment to an existing ordinance may provide for a delayed effective date or may provide for the ordinance or amendment to an existing ordinance to become effective upon the fulfillment of an indicated contingency.


(d) Readings and Publication. An appropriation ordinance may be enacted without separate readings or publication prior to passage. However, publication shall be initiated within two (2) calendar days, excepting holidays, after approval of the measure by the county judge.

(e) Voting Requirements. The passage of appropriation ordinances or amendments to existing appropriation ordinances 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 of every appropriations measure, the yeas and nays shall be called and recorded in the minutes of the meeting.

(f) Effective Date. An appropriation measure is effective immediately upon passage by the quorum court and approval by the county judge.

14-14-908. Emergency ordinances or amendments.

(d) Readings and Publication. An emergency measure does not require separate readings or publication prior to passage. However, publication shall be initiated within seven (7) calendar days, excepting holidays, after approval of the emergency measure by the county judge.

(e) Voting Requirements. The passage of emergency ordinances or emergency amendments to existing ordinances shall require a two-thirds (2/3) vote of the whole number of justices comprising a quorum court. On the passage of every emergency measure, the yeas and nays shall be called and recorded in the minutes of the meeting.

(f) Effective Date. An emergency ordinance or emergency amendment to an existing ordinance is effective immediately upon passage by the quorum court and approval by the county judge.

So counties have ordinances which must be published 14-14-905 (d) (B) by the county clerk as prescribed by law. What is the law? It is very clear in the statute that appropriation ordinances must have the publication process started within two days (except for holidays) of approval by the county judge. It is also equally clear for emergency ordinances that the publication process must be within seven days (excepting holidays) after approval of the county judge. It is also very clear that the county judge has seven days to take action on all ordinances. The judge can either sign their approval or veto within the seven-day period or it will become law without the judge’s approval. The county clerk will start the publication process depending upon the signature date or lack thereof within the proper time frame if the judge has not used their veto. Regarding ordinances of the general nature, these are not an appropriation ordinance nor are they an emergency ordinance. The statute is not as clear with this type of ordinance; however, it has been the practice of most counties that publication start within seven days (except for holidays) after approval of the county judge. This would seem to be the correct time since they are not immediately effective and the statute is silent on these type of ordinances.

The effective date is very clear. It is immediately upon approval by the county judge for appropriation and emergency ordinances. For all other ordinances of the general nature, it is 30 days after publication unless stated otherwise in the ordinance. The otherwise stated date must however be at least 30 days after publication.

XIII. RESEARCH CORNER

By: Mark Whitmore, AAC Chief Counsel

i. DOES THE ANNUAL BUDGET FOR YOUR COUNTY STAND UP TO THE PRIORITIES MANDATED BY ARKANSAS LAW?

A primary purpose of the quorum court is to enact a budget for the county that assures the rendering of necessary and mandated services to the citizenry. The voters are the ultimate arbiters of how well a particular county accomplishes the task of allocating finances toward priorities. However, the purpose of this article is to underscore the priorities contained in the law that may lead to properly allocating county resources. Ark. Code § 14-14-904 (b)(1)(a) requires that before the end of each fiscal year, the quorum court shall make appropriations for the expenses of county government for the following year. The law also acknowledges that nothing prohibits a quorum court from making appropriation amendments at any time.
during the current fiscal year. This mandate provides the deadline, but is not the roadmap.

The core of the roadmap is contained in Ark. Code § 14-14-802(a), which emits a guiding light: “(a) A county government, acting through the county quorum court, shall (emphasis added) provide, through ordinance, for the following necessary services for its citizens: 1) The administration of justice through the several courts of record of the county; (2) Law enforcement protection services and the custody of persons accused or convicted of crimes; (3) Real and personal property tax administration, including assessments, collection, and custody of tax proceeds; (4) Court and public records management, as provided by law, including registration, recording, and custody of public records; and (5) All other services prescribed by state law for performance by each of the elected county officers or departments of county government”. The remainder of this provision of the Arkansas Code recites a litany of discretionary services that a quorum court may provide for its citizens; and authorizes appropriations for functions not expressly prohibited by the Constitution or laws of Arkansas.

Despite scarce resources, all counties and county officials must answer to the voters. So, one must ask does the budget for your county reflect the priorities identified by law above? What process does your county follow in making an annual budget? Are priorities budgeted first and foremost? The process in which a budget is created, the information considered and the policies of the county may greatly affect whether the budget of the county will lead to success or failure.

Under Amendment 55 the Quorum Court is confided the sole responsibility for affixing the salaries of county officials and county employees; and the task of setting the number of county employees. The importance of this task cannot be overstated. It is tantamount to the responsibilities of the Governor and the General Assembly, respectively, to submit and pass a budget for the State of Arkansas. Recently, the Governor and the General Assembly embarked on a study and a grand proposal to overhaul the state employment pay plan which has not been modified since 1989. The State engaged the services of consultants to assist. The proposal for overhaul involves two plans, a career service pay plan for mostly classified and lower paid employees. The other plan is the professional and executive pay plan. If the State is suffering an employment crisis, the counties are suffering under an “employment pandemic”. Some counties have studied their employment issues and are overhauling their pay plans in a type of response demonstrated by the Governor and the General Assembly to the crisis.

While the law is relatively clear about the mandated priorities and which officials are assigned the primary responsibilities, reasonable county officials and reasonable voters may differ over what constitutes a reasonable appropriation for a legislative mandate? The courts have shed some light on the litmus test for whether a quorum court has provided a reasonable appropriation for a mandated service or not. If deemed “reasonable”, then the county official and citizens must “live with it”. In Union County v. Union County Election Commission, 274 Ark. 286 (1981) the court held counties do not have discretion to decide whether money shall be provided for elections, but the court found the appropriation of a ceiling for the election commission was in that instance reasonable. It is apparent the courts will look to see if there is assertion and proof that a mandatory service is not being provided and whether the appropriation is reasonable. See: Haynes v. Faulkner County, 326 Ark. 557 (1996).

In Venhaus v. Adams, 295 Ark. 606 (1988) the court held that while Sheriff, the Hon. Tommy Robinson, had authority to appoint the claimants as deputies, the authority to determine whether the salaries for overtime will be funded and paid is vested with the Quorum Court. There was also some comp-time available to the deputies. In Mears v. Hall, 263 Ark. 827 (1978) the Supreme Court in making a decision on payment of public defenders for indigents defense under prior law, explained that nothing in Amendment 55 changes the status of counties as far as one of its primary purposes and functions are concerned, the administration of justice. The court stated that a Quorum Court cannot escape the liabilities of providing for mandated services; and a county judge cannot refuse to approve disbursement of county funds in accordance with legally proper ordinances and appropriations.

How would your county fair to the application of the legal test of the courts or the political test of the voters? Are priority matters being allocated necessary funding? Are the budget appropriations designed to provide an adequate number of employees and reasonable pay for priority matters, before appropriations are made for discretionary services? So look toward the guiding light, Ark. Code § 14-14-802(a), and your county may find both political success and success in the courts.

ii. WHAT SHOULD THE MEMBER OF THE QUORUM COURT KNOW TO PERFORM THEIR DUTIES UNDER THE CONSTITUTION AND LAWS OF ARKANSAS?

A Justice of the Peace should know Amendment 55 and part of the County Code, Title 14, Chapter 14, “Legislative Powers” (Subchapter 8); and “Legislative Procedures” (Subchapter 9). The Association of Arkansas Counties publishes on the AAC website, arcounties.org under

In the Summer Edition of the County Lines Wes Fowler, AAC contact for Justices of the Peace, explained the timeframe for publication of ordinances after passage by the Quorum Court and the effective dates for: ordinances generally (A.C.A. § 14-14-905); appropriation ordinances (A.C.A. § 14-14-907); and emergency ordinances (A.C.A. § 14-14-908). During the Fall meeting of the CJAA, Judge Fowler, AAC Government relations director and former county judge and county clerk will conduct a presentation and panel discussion on Procedure for Quorum Court meetings. As my contribution for the presentation, I updated these materials. Below is my opinion of the crux of what a Justice of the Peace in Arkansas should know.

There are certain duties and responsibilities a Justice of the Peace and Quorum Court are mandated to perform; certain actions you may perform; and certain duties or actions you are prohibited from performing (shall, may and can’t). Many successful and leaders in the General Assembly were once Justices of the Peace. They learned how county government worked. It’s now been twenty-five (25) years since graduating law school and obtaining my law license; and I am about to achieve a decade of work at a place and with people I love. So, from my perspective here are some of the basics to being a JP in Arkansas.

The Quorum Court shall adopt by ordinance: an annual budget for the necessary/mandated expenses of county government; affix the salaries of county employees and county officials; levy taxes for the county taxes, municipal taxes, and school taxes; and meet at an organizational meeting and adopt organizational/procedural rules.

A.C.A. § 14-14-901 vests the legislative power of county government in the quorum court of each county, subject to the limitations imposed by the Arkansas Constitution and by state law. A primary purpose of the quorum court is to enact a budget for the county that assures the rendering of necessary and mandated services to the citizenry. A.C.A. § 14-14-904 (b)(1)(a) (ii) states that: “Before the end of each fiscal year the quorum court shall make appropriations for the expenses of county government for the following year”. The core of the mandate is contained in Ark. Code § 14-14-802(a), which prescribes: “(a) A county government, acting through the county quorum court, shall (emphasis added) provide, through ordinance, for the following necessary services for its citizens:(1) The administration of justice through the several courts of record of the county;(2) Law enforcement protection services and the custody of persons accused or convicted of crimes;(3) Real and personal property tax administration, including assessments, collection, and custody of tax proceeds;(4) Court and public records management, as provided by law, including registration, recording, and custody of public records; and (5) All other services prescribed by state law for performance by each of the elected county officers or departments of county government”. The remainder of this provision of the Arkansas Code recites a litany of discretionary services that a quorum court may provide for its citizens; and authorizes appropriations for functions not expressly prohibited by the Constitution or laws of Arkansas.

Despite the clear mandate, from time to time a county quorum court will breach their clear duty under the law to adopt an annual and adequate budget for mandated/necessary services. In Union County v. Union County Election Commission, 274 Ark. 286 (1981) the court held counties do not have discretion to decide whether money shall be provided for elections. It is apparent the courts will look to see if there is assertion and proof that a mandatory service is not being provided and whether the appropriation is reasonable. See also: Haynes v. Faulkner County, 326 Ark. 557 (1996). In Mears v. Hall, 263 Ark. 827 (1978) the Supreme Court explained that a Quorum Court cannot escape the liabilities of providing for mandated services; and a county judge cannot refuse to approve disbursement of county funds in accordance with legally proper ordinances and appropriations.

Under Amendment 55, §§ 4 and 5 the Quorum Court is confided the Constitutional responsibility for affixing the number and salaries of county employees and salaries of county officials. The AAC publishes annually on the AAC website a salary survey of salaries for county employees, officials, and the number of positions for the various seventy-five (75) counties. A.C.A. § 14-14-2504 prescribes the floor and ceiling of salaries for county officials based upon class of county. Comparison of salaries and benefits to those of city and state employees or officials performing comparable tasks frequently demonstrate the salaries for county employees and officials are substantially lower and not commensurate with their duties. However, in some counties tough economic times have some counties are laying people off work or eliminating health insurance.

A.C.A. § 14-14-904(b)(i)(A)(i) absolutely mandates: “The quorum court at its regular meeting in November of each year shall levy the county taxes, municipal taxes, and school taxes for the current year”. The law allows for an extension by the Director of the Assessment Coordination Department
for up to sixty (60) days of the date for the levy of taxes for
good cause shown by the county judge and county clerk
from reappraisal or rollback. See: Attorney General Opinion
Nos: 2010-157; 1997-421; and 1997-393. Attorney
General 2007-301: held that the road tax levied under
Amendment 61 is to be levied at the regular time taxes are
levied as A.C.A. § 26-79-101 (at the regular November
meeting of the Quorum Court). Subsection 904(b)(i)(A)(iv)
allows the county court to order a correction to the levy
ordinance due to clerical error, scrivener error, or failure of
the tax entity to report the correct millage to the Quorum
Court. See also: Attorney General Opinion Nos: 2004-021
and 2003-031. Some counties have sought refuge by
recessing the regular November meeting (rather than
adjourning) or by obtaining ACD extension or issuance of a
county court order when appropriate under the law. From
time to time, however, a few counties have had to do
without county general or county road taxes for failure to
comply with the law. They adjourned the regular meeting in
November without having adopted the levy ordinance or to
have available the extensions provided for the specific
circumstances required by law.

A.C.A. § 14-14-904 (a), (d), (e) direct and envision the
Quorum Court at its initial organizational meeting adopting
organizational/procedural rules. These rules affix the date,
time and location of regular meetings of the Quorum Court;
and may along with budget appropriations affix the per
diem compensation for attending regular, special and
committee meetings of the quorum court subject to the
limitations prescribed by the General Assembly under A.C.A.
§ 14-14-1205. Since justices of the peace are district
officials, not county officials, their compensation may be
reduced during their term, Attorney General Opinion No.
2003-059. A.C.A. § 14-14-904(e) further provides:
“Except as otherwise provided by law, the quorum court of
each county shall determine its rules of procedure and may
compel the attendance of absent members in such manner
and under such penalties as may be prescribed by
ordinance”.

A.C.A. § 14-14-502(b) provides for separate of powers: “The
powers of county governments of the State of Arkansas
shall be divided into three (3) distinct departments, each of
them to be confined into a separate body: Legislative,
Executive; and Judicial. A.C.A. § 14-14-904(d) 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 a
quorum court subject to any procedural rules which may be
adopted by ordinance. A regular committee or special
committee of the quorum court shall not consist of more
than a quorum of the whole body without the consent of the
county judge”. The county judge is the chief executive
official and presiding officer, but not a member of the
quorum court. He rules on motions and guides debate
according to the rules of procedure
The various other county officials are likewise members of
the executive branch. A Justice of the Peace would be well
served by spending some time with their local Assessor,
Circuit Clerk, County Clerk, Collector, Coroner, County
Judge, Sheriff, and Treasurer. Learn the substantial duties
of their offices and the assignments of their staff.
However, it is clear from separation of powers once funds
are appropriated the quorum court is not authorized to
micro-manage the expenditure of appropriated funds by the
executive branch. See Attorney General Opinions Nos.
2005-293; 2004-302; 1998-398; 1989-365; and 1989-
206. In Attorney General Opinion No. 2011-087: The
authority of the county judge, not the quorum court, to hire
or fire the county attorney, or enter necessary contracts is
beyond reasonable argument. Justice of the Peace is an
official elected by the Constitution of Arkansas. The law
and duties above should be well-known to all JPs in
Arkansas and dutifully performed.

XIV. 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.

i. 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.

ii. PRIVILEGED MOTIONS: These motions are
considered so important that they are given priority over
other motions. They are questions which 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. If such a situation exists, the 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.

iii. **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 a vote.

iv. INCIDENTAL MOTIONS: These motions arise out of the business pending before the quorum court. They have been developed to handle procedural problems which 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 question 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 ensure 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 ensure 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 deliberations 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 which may arise incidentally are to consider an ordinance paragraph by paragraph; to excuse a member from voting; to close nominations.

XV. PRECEDENCE OF MOTIONS

Since there may be more than one motion pending (a main motion and secondary motions), 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 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.
### 3. TABLE OF RULES GOVERNING MOTIONS

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>I. Privileged Motions</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1. Adjourn</td>
<td>no</td>
<td>yes</td>
<td>no</td>
<td>no</td>
<td>majority</td>
</tr>
<tr>
<td>2. Recess</td>
<td>no</td>
<td>yes</td>
<td>no</td>
<td>yes</td>
<td>majority</td>
</tr>
<tr>
<td>3. Question of Privilege</td>
<td>yes</td>
<td>no</td>
<td>no</td>
<td>no</td>
<td>no vote</td>
</tr>
<tr>
<td>II. Subsidiary Motions</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>4. Postpone Temporarily</td>
<td>no</td>
<td>yes</td>
<td>no</td>
<td>no</td>
<td>majority</td>
</tr>
<tr>
<td>5. Vote Immediately</td>
<td>no</td>
<td>yes</td>
<td>no</td>
<td>no</td>
<td>two-thirds</td>
</tr>
<tr>
<td>6. Limit Debate</td>
<td>no</td>
<td>yes</td>
<td>no</td>
<td>yes</td>
<td>two-thirds</td>
</tr>
<tr>
<td>7. Postpone Definitely</td>
<td>no</td>
<td>yes</td>
<td>yes</td>
<td>yes</td>
<td>majority</td>
</tr>
<tr>
<td>8. Refer to Committee</td>
<td>no</td>
<td>yes</td>
<td>yes</td>
<td>yes</td>
<td>majority</td>
</tr>
<tr>
<td>9. Amend</td>
<td>no</td>
<td>yes</td>
<td>yes</td>
<td>yes</td>
<td>majority</td>
</tr>
<tr>
<td>10. Postpone Indefinitely</td>
<td>no</td>
<td>yes</td>
<td>yes</td>
<td>no</td>
<td>majority</td>
</tr>
<tr>
<td>III. Main Motions</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>11. General Main Motion</td>
<td>no</td>
<td>yes</td>
<td>yes</td>
<td>no</td>
<td>majority</td>
</tr>
<tr>
<td>IV. Incidental Motions</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>12. Appeal</td>
<td>yes</td>
<td>yes</td>
<td>yes</td>
<td>no</td>
<td>tie or majority</td>
</tr>
<tr>
<td>13. Point of Order</td>
<td>yes</td>
<td>no</td>
<td>no</td>
<td>no</td>
<td>no vote</td>
</tr>
<tr>
<td>14. Parliamentary Inquiry</td>
<td>yes</td>
<td>no</td>
<td>no</td>
<td>no</td>
<td>no vote</td>
</tr>
<tr>
<td>15. Withdraw a Motion</td>
<td>no</td>
<td>no</td>
<td>no</td>
<td>no</td>
<td>no vote</td>
</tr>
<tr>
<td>16. Suspend Rules</td>
<td>no</td>
<td>yes</td>
<td>no</td>
<td>no</td>
<td>two-thirds</td>
</tr>
<tr>
<td>17. Object to Consideration</td>
<td>yes</td>
<td>no</td>
<td>no</td>
<td>no</td>
<td>two-thirds neg.</td>
</tr>
<tr>
<td>18. Division of a Question</td>
<td>no</td>
<td>no</td>
<td>no</td>
<td>no</td>
<td>no vote</td>
</tr>
<tr>
<td>19. Division of Assembly</td>
<td>yes</td>
<td>no</td>
<td>no</td>
<td>no</td>
<td>no vote</td>
</tr>
</tbody>
</table>

### XVI. 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. Formally known as the Arkansas Code Annotated (A.C.A. §).

**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 which arise incidentally out of the 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 deter 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.

**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 decided.

**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.

**Resolution** – A formal expression of a legislative body of a county.

**Resume Consideration** – To take up for consideration a motion which has been postponed temporarily. The old form of the motion was “taken 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 that 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 officers 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.

Produced in cooperation with the University of Arkansas Cooperative Extension Service Printing Services. Issued in furtherance of Cooperative Extension work, Acts of May 8 and June 30, 1914, in cooperation with the U.S. Department of Agriculture, Director, Cooperative Extension Service, and the University of Arkansas.
XVII. PROCEDURAL/ORGANIZATIONAL ORDINANCES:
(SAMPLE ORDINANCES FROM COUNTIES)

4. The following is a sample of organizational ordinances from three different counties. The first is quite comprehensive the second is short and to the point the third is a blend. These are for reference and to use in building an organizational ordinance that will work in your county.

5. § 200.02 ORGANIZATION, MANAGEMENT AND RULES OF PROCEDURE FOR THE AFFAIRS OF THE BOONE COUNTY QUORUM COURT.

1) PROCEDURAL RULES. In the absence of specific rules of procedure, as set in this Procedural Ordinance, the rules of procedure for transacting business at all regular and special sessions of the Quorum Court shall be Robert’s Rules of Order, Newly Revised, except the Clerk shall commence a roll call vote with a different member of the Quorum Court on a rotating basis or use a paper ballot with the Clerk reading off the votes cast without objection, and except any citizen attending a meeting of the Boone County Quorum Court shall be given a reasonable opportunity to participate prior to a final decision on an issue before the Quorum Court, and except for comments from the public at the end of the meeting which shall be restricted to subjects either under discussion by the Quorum Court or those subjects where the Quorum Court has responsibly and authority and except where they are in conflict with the general laws of the State.

2) The County Clerk shall serve as secretariat to the Quorum Court and shall perform all administrative and record keeping duties of the secretariat of the Quorum Court.

The secretariat of the Quorum Court shall keep written minutes that include the final vote on each Ordinance or Resolution indicating the vote of each individual member.

3) RECORDATION OF ORDINANCES AND RESOLUTIONS. (a) Register. There shall be maintained in the office of the secretariat of the Quorum Court a “County Ordinance and Resolution” Register for all ordinances, resolutions, and amendments to each, adopted and approved by the Court. Entries in such Register shall be sequentially numbered in the order adopted and approved; provided however, that a separate sequential numbering system shall be maintained for both Ordinances and Resolutions. The Register shall be maintained by the secretariat as a permanent record of the Court; and shall contain that minimum information needed for indexing as required in A.C.A. § 14-14-903.

(b) Permanent Record. There shall be maintained in the courthouse a permanent record of all Ordinances and Resolutions, in the form of a uniform bound county code, in which each enactment is entered in full after passage and approval, except when a code or budget is adopted by reference. Such permanent record shall be so indexed to provide for efficient identification, location, and retrieval of all Ordinances and Resolutions by subject, register number and date enacted. Such permanent record may be by book and page.

4) AGENDA. (a) It shall be the responsibility of the County Judge to prepare the Agenda and the County Clerk shall distribute the Agenda of the Quorum Court to its members and other interested citizens. Any items submitted to the County Judge for submission on the Agenda must be submitted in writing no later than seven (7) days prior to the regularly scheduled meeting. The name of the sponsor of each Agenda item shall be attached to the Ordinance or Resolution before it is placed on the Agenda. A member of the Quorum Court must sponsor any Ordinances that are submitted. A packet containing items that have been placed on the Agenda shall be delivered to the Quorum Court members and other interested individuals no later than Wednesday prior to the regularly scheduled meeting and also posted prominently in the courthouse no later than the Friday prior to the regularly scheduled meeting.

b) Three (3) members of the Quorum Court and the County Judge may jointly submit items after the Agenda closes, if it is considered to be in the best interest of the county.

5) REGULAR MEETINGS. The regular monthly meeting of the Quorum Court will be held on the second Monday of each month at 400 East Prospect in Harrison. When a regular meeting of the Quorum Court falls on a recognized county holiday, the meeting shall be held at the same time and place on the next day for which county government offices are open for business. All regular meetings of the Quorum Court shall conform to the Arkansas Freedom of Information Act and all other State laws.

6) SPECIAL MEETINGS. (a) The County Judge or a majority of the elected Justices of the Peace may call special meetings upon at least a twenty-four (24) hour notice. The notice of special meetings shall specify the subjects, date, time, and designated location of the special meeting. Only such business as was included in the notice may be considered.

(b) Notice of a special meeting given at any regular or special meeting of the Quorum Court shall constitute due notice to the members given. The County Clerk shall be
responsible for giving timely notice to absent members, as well as giving public notice, containing the information specified in subsection (a) of this section.

(c) Notice of a special meeting of the Quorum Court called by the County Judge at other than a meeting of the Quorum Court shall be accomplished by the County Judge notifying the County Clerk, in writing, if time permits, who shall be responsible for notifying each Justice of the Peace individually, in writing, if time permits, and giving due public notice, containing information specified in subsection (a) of this section.

(d) Notice of a special meeting of the Quorum Court called by a majority of the Justices of the Peace shall be accomplished by one (1) member of the majority notifying the County Clerk, in writing, if time permits. In addition to the information specified in subsection (a), the notice shall also include the name of each Justice of the Peace making up the majority calling the meeting. The County Clerk shall be responsible for notifying the County Judge and each Justice of the Peace individually, not included in the majority calling the special meeting, in writing, if time permits, and giving due public notice.

(e) In order to protect the rights and interests of all county officials concerned and the general public, it is the intent of this body that notice of a call for a special meeting shall be given as far in advance as possible, consistent with the nature and immediacy of the purpose of the special meeting. The minimum twenty-four (24) hours’ notice should therefore be resorted to only under extreme and unusual circumstances.

(f) All special meetings of the Quorum Court or any of its committees shall be in conformance with the Arkansas Freedom of Information Act and all other State laws.

7) PUBLIC NOTIFICATION OF MEETINGS; NOTIFICATION OF MEETINGS OF COMMITTEES. In addition to all other duties required by law, the County Clerk shall be responsible for giving the public notification required by the Arkansas Freedom of Information Act of regular and special meetings of the Quorum Court and committees thereof. Committee chairpersons shall give the County Clerk notice of meetings of their committees in sufficient time for compliance with public notification of such meetings as required by law.

8) ATTENDANCE AT MEETINGS BY COUNTY TREASURER.

a) In addition to all other duties required by law, the County Treasurer shall attend all regular meetings of the Quorum Court for the purpose of responding to any questions which may arise concerning the financial statement required to be submitted monthly to the Quorum Court by the County Treasurer.

b) In addition to all other duties required by law, the County Treasurer shall attend all special meetings of the Quorum Court where members of the Quorum Court or the County Judge deem such attendance necessary. Timely notice of such need for the attendance shall be furnished the County Treasurer giving the purpose for which attendance is required.

9) COMMITTEES.

a) DEFINITIONS:

i) Wherever the term “STANDING COMMITTEE” is used in this section, it shall mean a committee of the Quorum Court, constituted to perform in a continuing function, and intended to remain in existence.

ii) Wherever the term “SPECIAL COMMITTEE” is used, it shall mean a committee of the Quorum Court constituted to complete a specified assignment to be dismissed upon completion of the task.

iii) Wherever the term “COMMITTEE” or “COMMITTEES” is used, it shall mean both standing and special committees of the Quorum Court.

b) STANDING COMMITTEES ENUMERATED. There are hereby established the following Standing Committees of the Quorum Court:

- Budget and Finance
- Buildings and Grounds
- Law Enforcement
- Roads and Bridges
- Solid Waste Management

c) COMPOSITION. Each committee shall consist of not less than three (3) nor more than five (5) members.

d) APPOINTMENTS. In accordance with A.C.A. § 14-14-703 or other State law, the County Judge shall appoint all standing and special committees of the Quorum Court. The County Judge may appoint non-Quorum Court members to any committee, except the Budget and Finance Committee, as a non-voting member.
e) **TERMS OF MEMBERS.** The length of membership for each committee member shall coincide with the Justice’s term of office. The County Judge or his/her designated agent shall be an ex-officio member of each standing or special committee. The Treasurer or his/her designated agent shall be an ex-officio member of the Budget and Finance committee.

f) **ELECTION OF CHAIRPERSONS.** Committee chairpersons shall be elected by each individual committee, provided that no Justice may serve as the chairperson of more than one (1) standing committee. The term of office of chairperson shall be one (1) year, but a chairperson may be selected to serve successive terms.

g) **CALLING OF MEETINGS.** Committees shall meet at the call of the chairperson or any two (2) committee members.

h) **NATURE OF MEETINGS; NOTICE.** All committee meetings shall be open and public. Representatives of the media shall be given at least two (2) hours’ notice of all meetings.

i) **REPORTS.** Each committee shall periodically report its progress, findings and recommendations to the Quorum Court during regular or special meetings. The formal committee report in the regular or special session of the Quorum Court shall provide opportunity for both a majority and a minority report, if and an when such situation exists.

j) **MINUTES.** Each committee shall require written minutes of the actions taken in such meeting. Copies of committee meeting minutes shall be sent to the County Judge and included in Quorum Court meeting packets.

k) **APPOINTMENT OF ADDITIONAL COMMITTEES.** The County Judge, in accordance with A.C.A. § 14-14-703 or other State law, may appoint other standing and special committees, which shall function in accordance with procedures as set forth in this section.

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

11) **REPEALER.** All Ordinances or parts thereof in conflict herewith are hereby repealed to the extent of such conflict.

12) **EMERGENCY CLAUSE.** An emergency is hereby declared to exist or Boone County to be in compliance with Act 742 of 1977, and this Ordinance being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval.

7. **§ 200.02 TIME AND PLACE OF THE REGULAR MONTHLY MEETING OF THE QUORUM COURT.**

1) Pursuant to A.C.A. §14-14-904, the County Quorum Court is to meet monthly at a time and place specified by ordinance. Therefore, in order to comply with the general laws of the state, the Quorum Court must immediately proceed to establish by Ordinance the time and place of the regular monthly meetings of the Quorum Court.

2) The regular monthly meeting of the Conway County Quorum Court shall be held on the fourth Monday of each month at 6:00 p.m. at the Conway County Courthouse, Morrilton, Arkansas.

3) **EMERGENCY CLAUSE.** This Ordinance being necessary for the immediate preservation of the public’s peace, health and welfare, an emergency is hereby declared to exist and that this Ordinance should be in full force and effect from and after its passage and approval.

8. **§ 200.01 RULES OF PROCEDURE FOR TRANSACTION OF BUSINESS OF THE QUORUM COURT.**

1) An agenda shall be prepared by the Office of the County Clerk for every regular and special session of the Quorum Court.

2) The agenda shall contain any item of business that any member of the Quorum Court presents to the Office of the County Clerk for every regular and special session of the Quorum Court.

3) The agenda shall contain any item of business that any member of the Quorum Court presents to the Office of the County Court for inclusion on the agenda subject to the following requirements:

a) Any such item of business must be furnished to the office of the County Clerk at least eight (8) days prior to the meeting that the Quorum Court member wants the item of business to be placed on the agenda for such meeting. Any item of business that is not presented by this time limit shall not be placed on the agenda for that meeting and shall be placed on the agenda for the next scheduled meeting unless the Quorum Court member requests that it not be so included.

b) The office of the County Clerk shall mail or otherwise deliver a copy of the agenda, together with any ordinance or resolution or other written material that is to
be presented in accordance with the agenda at the meeting to every Quorum Court member, to the County Judge, and the legal advisor of the Quorum Court in a manner, that in the ordinary course of events, would ensure the receipt by those persons of such agenda, and accompanying resolutions, ordinances or other written material at least five (5) days prior to such meeting. In the event this subsection is not complied with, the Quorum Court shall not consider any matter which has not been presented to the Quorum Court at an earlier meeting.

4) Notwithstanding the foregoing sections of this Ordinance, the Quorum Court may, by a majority vote of the members present, elect to place any matter before the Quorum Court for consideration at that meeting.

5) The agenda shall be prepared by the office of the County Court Clerk according to the following format:

a) Order of Business.
   i. Call to order and roll call.
   ii. Reading, correction, and disposition of minutes.
   v. Comments from the public.
   vi. Unfinished business.
   viii. Announcements.
   ix. Adjournment.

The office of the County Court Clerk shall place any item of business presented by a Quorum Court member, for inclusion on the agenda under the appropriate category listed herein.

b) No matter may be placed on the agenda for presentation to the Quorum Court by anyone other than a Quorum Court member.

6) The County Judge shall preside over the meetings of the Quorum Court and shall conduct the meeting in strict accordance with the agenda. In the absence of the County Judge, a quorum of the Quorum Court members, by a majority vote, shall elect one of their number to preside.

7) Robert’s Rules of Order is hereby adopted as the Procedural Rules to be followed in the transaction of business at all Quorum Court meetings, except where they are in conflict with the general laws of the State or any other duly enacted ordinances or resolutions.

8) Repealer. All ordinances and resolutions, or parts thereof, which are in conflict herewith, are hereby repealed.
Chapter Six – ATTORNEY GENERAL OPINIONS
AND COUNTY LINES ARTICLES

Personnel Records:

The Attorney General’s Office has created a body of opinions concerning the Freedom of Information Act ("FOIA") in application to county offices and public records of county officials. The subject of the request and the published opinion by number are provided below. These opinions may greatly assist the office in your county in making decisions concerning the FOIA. You may review and retrieve the entire opinion identified by going to the Attorney General’s website: http://www.arkansasag.gov/opinions/. Additionally, this section provides other helpful Attorney General opinions regarding the elected position discussed in this manual.

FOIA Generally
See Ops. Att'y Gen. 2005-298 (Response to absence of records)
See Ops. Att'y Gen. 2008-162 (Digital pictures of records)
See Ops. Att'y Gen. 99-134 (Records on county web site/fees)
See Ops. Att'y Gen. 2000-096 (Discussion of "meetings" under FOIA)
See Ops. Att'y Gen. 2001-382 (Location/Access to meetings)
See Ops. Att'y Gen. 2002-092 (Meetings)

FOIA – Personnel Records Generally
See Ops. Att'y Gen. 1999-398 (Job applications and resumes)
See Ops. Att'y Gen. 2000-058 (Harassment complaints)
See Ops. Att'y Gen. 2000-201 (Internal affairs investigatory files)
See Ops. Att'y Gen. 2000-242 (Suspension letters)
See Ops. Att'y Gen. 2001-130 (Access)
See Ops. Att'y Gen. 2001-368 (Employee objections to release)
See Ops. Att'y Gen. 2002-043 (Payroll, status change, benefits package information)
See Ops. Att'y Gen. 2003-055 (Privacy interests)
See Ops. Att'y Gen. 2003-352 (Time cards)
See Ops. Att'y Gen. 99-168 (Notification to subject of records)

County Economic Corporations
See Ops. Att'y Gen. 2000-260 (Executive sessions)

County Rural Development Authority Records
See Ops. Att'y Gen. 2002-068 (Personnel records)

911 Dispatch Centers Records
See Ops. Att'y Gen. 2002-064 (Law Enforcement records)
See Ops. Att'y Gen. 2005-259 (Cassette tapes)

Attorney General Opinion No. 2013-096: A prosecuting attorney may, at his election, prosecute city misdemeanors but he is not obligated to do so. A prosecuting attorney is not authorized to prosecute
violations of municipal ordinances or traffic laws not defined by the Criminal Code. Prosecuting attorneys have never had authority to prosecute violations of city ordinances. ACA 16-21-103 provides that prosecuting attorneys’ jurisdiction encompasses only state and county matters; and explicitly provides: “Each prosecuting attorney shall commence and prosecute all criminal actions in which the state or any county in his district may be concerned”. In respect to misdemeanor violations of state laws ACA 16-21-150 provides that “no prosecuting attorney shall prosecute city misdemeanor cases or appeals to circuit court unless the prosecuting attorney consents to do so”. A city attorney is charged with responsibility to commence and prosecute: misdemeanor violations of state statutes; traffic violations not defined by the Criminal Code; and violations of ordinances enacted by the city. So, a city attorney is obligated to prosecute state law misdemeanors that occur inside the city unless the prosecuting attorney elects to do so. The city attorney is obligated to commence and prosecute traffic violations not defined by the Criminal Code and violations of municipal ordinances.

Attorney General Opinion No. 2012-005: Counties are by law required to low bid the construction work on public works projects. Arkansas Constitution, Article 19, Section 16, provides: “All contracts for erecting or repairing public buildings or bridges in any county, or for materials therefor...shall be given to the lowest responsible bidder” under such regulations as may be provided by law. Pursuant to ACA 22-9-201 et seq. counties, cities, schools and taxing units are mandated to award of construction contracts to the lowest responsible bidder as “competitive bidding”. Meanwhile, pursuant to ACA 19-11-801 et seq counties and political subdivisions are prohibited by public policy in law from awarding professional services on the basis of competitive or low bid. Rather, professional services such as engineering, architect, legal, financial advisory, and construction management are explicitly required to follow the process of “comparative bidding”. This opinion makes clear that a county may procure by “comparative bidding” a construction manager to perform a professional consultant on professional services. The construction manager may be procured to provide consulting services, not to perform the actual construction work, but to: “design review, scheduling, costs control, value engineering, constructability evaluation, preparation and coordination of bid packages, and construction administration”. In essence, the county may let the various construction contracts to construction contractors in phases as per lowest responsible bid. However, the construction contracts entered on the project may not be between construction manager and the contractors, but between the county and the contractors. Also, the process known as design-build is prohibited by the Constitution by counties since counties must award contracts for construction work to the lowest responsible bidder. This opinion can be read along with former opinions AG Opinion Nos. 2009-033 and 2009-038 which previously made clear that counties are required by Arkansas Constitution and law to award the actual construction work on public works projects to the lowest responsible bidder.

Attorney General Opinion No. 2011-126: The Attorney General explained the authorities and limitations of Regional Mobility Authorities and the “Regional Mobility Act” (ACA 27-76-101 to -713). In essence the law allows for multiple member counties to make the approval of a county sales tax in their county subject to the approval of an identical sales tax by other member counties. The tax should reference proceeds the portion of the proceeds to be directed for the benefit of the RMA. Also, the funds may be combined for general use by the regional mobility authority to provide a public benefit to the RMA as a whole. The AG determined that a county or city may enter into an agreement with an RMA to construct a regional transportation project and may finance the project costs by the sales tax provisions referenced. However, the project must be located within the boundaries of, or near, the county or city. The AG concluded that a RMA has no direct authority under the RMA or otherwise to refer a sales tax or motor vehicle tax listed under ACA 27-76-601 et seq to the voters. RMA’s are authorized by law to impose tolls and allocate the proceeds of the tolls to the RMA.
Attorney General Opinion No. 2012-117: A custodian or requesting party seeking to ascertain whether a custodian’s decision is consistent with the FOIA under ACA 25-19-105(c) must supply the AG with: (a) a copy of the request or what records specifically are being requested; (b) what records, if any, the custodian intends to release; and (c) what factual determinations went into both the custodian analysis or the requesting party’s position. Frequently, the AG is not provided any of the foregoing necessary information and is unable to determine whether the decision of the custodian is consistent with the FOIA. Similarly, under Attorney General Opinion No. 2012-113 the AG was unable to determine if the custodian was acting consistent with the FOIA because no party supplied the documents or information required as explained by Attorney General Opinion No. 2012-117, above. There was apparently blanket request to the former employer for the release of the entire employment file of a former employee. There was apparently a blanket response by the employee that the request was an unwarranted invasion of privacy. Parties seeking rulings by the AG under must supply the necessary information. Under Attorney General Opinion No. 2012-115 the custodian supplied the proper documents and information and was deemed correct in releasing the interview questions submitted to applicants. However, the public has an interests in knowing the most qualified applicant was hired and therefore the scores of the person hired to the interview questions should be released and not redacted. Attorney General Opinion No. 2012-123 the AG determined from submission of the necessary information that the custodian’s decision to not release an employee evaluation that did not according to the custodian play a part in the subject termination. Under Attorney General Opinion No. 2012-144 the AG agreed with the custodian’s decision to release a transcription of two emails by a former employee, one to department heads and one to the employees generally, tendering his resignation. However, the AG found that the redactions made by the custodian were inconsistent with the FOIA. Resignation letters are generally subject to release under the FOIA, however, the custodian may be able redact certain information as an unwarranted invasion of privacy. Because the two resignation letters were not provided and the release of information to the requesting party was a transcription of the two emails, the AG could not determine that the custodian acted inconsistent with the FOIA. At a minimum the amount of information deleted shall be indicated on the released portion of the record, and if feasible at the place the redaction was made. The use of a transcription was inconsistent with these methods of disclosure and redaction under the FOIA.

Attorney General Opinion No. 2012-120: The Attorney General concluded that a county may direct county administrative staff to assist a solid waste district, solid waste board or rural development authority of the subject county. Both solid waste districts and rural development authorities are governmental entities performing county functions with public purposes and using public funds. Directing county staff to assist these public entities on their governmental purposes does not constitute prohibited appropriation of public funds for a private purpose nor prohibited appropriation to a private entity. However, the AG found under Attorney General Opinion No. 2012-094 that appropriation of Drug Control Funds or federal forfeiture funds under ACA 5-64-505 by a prosecuting attorney for health club membership as training may constitute an illegal exaction prohibited by the Arkansas Constitution, Article 16, Section 13 and Article 12, Section 5.

Attorney General Opinion No. 2012-052: The Attorney General concluded that the Arkansas State Highway Commission has a duty to maintain all roads that are properly designated as state highways under ACA 27-67-2079(b) and that duty includes maintaining the ditches and drainage on city streets. ACA 14-301-101 declaring that the city council shall have the care and supervision and control of all public highways, bridges, streets, etc. within the city and cause these public ways to be kept open, in repair and free from nuisances does not relieve the ASHC from their more specific and more recently imposed duty by the General Assembly to maintain state highways. The Attorney General noted that further legislative clarification may be warranted. {Likewise, apparently counties do not under the law have statutory duties to maintain, repair, or conduct drainage work on state highways, US highways or
interstate highways. The Attorney General further explained that the responsibility for enforcing any regulations adopted by the ASHC would generally be upon the issuing agency, the ASHC. For example a state regulations to prohibit discarding of debris or leaves onto the ditches of a state highway would be the responsibility of the agency issuing the regulations.

**Attorney General Opinion No. 2012-112:** Upon request, it is the duty of the Attorney General to determine if a decision of a custodian is consistent with the FOIA. The AG says that records generated as part of an investigation may be considered employee evaluations or job performance records and may be exempt from release under the FOIA and may constitute an unwarranted invasion of privacy. The Attorney General’s office and commentators have typically classified that personnel files typically include: employment applications, school transcripts, payroll-related documents such as re-classifications, promotions, demotions, transfer records, health and life insurance forms, performance evaluations, recommendation letters, etc. However, notwithstanding the exemption, ACA 25-19-105(c)(1) provides that employee evaluations may be subject to release upon final administrative resolution of any suspension or termination at which the records form a basis for the decision to suspend or terminate the employee and there is a compelling public interest. Compelling public interests involve violations of public trust or gross incompetence; the existence of a public controversy; and the employees position within the agency. Custodians may consistent with the FOIA clearly withhold employee evaluations of low level employees not suspended or terminated. However, in the context of law enforcement officers, the level or ranking of the employee has less weight and the public interest is greater. Whether or not an employee was directly or indirectly involved in an incident is relevant and may turn on whether there are allegations of a single event or multiple events. See also: Attorney General Opinions 2012-105.

**Attorney General Opinions: 2012-111, 2012-110, 2011-156 and 2011-058:** Reflect disclosure of the names of county employees or list of county employees is generally not protected. The AG has explained that the General Assembly has refrained from establishing a protection from releasing an employee’s name on the basis of “harassment exception” or “increased risk of harm exception”.

**Attorney General Opinion No. 2012-143:** The Workers Compensation Commission determines whether an employer qualifies as an “extra-hazardous” employer. ACA 11-10-314 provides an exemption for disclosure of the confidential data filed with the Workforce Services Commission concerning “extra-hazardous” employer status. This exception is located under a separate section of the Arkansas Code from the FOIA, Freedom of Information Act, ACA 25-19-101 et seq. The AG noted that in 2009 the General Assembly attempted to mandate that creation of any new record or public meeting exceptions to the FOIA after July 1, 2009 must explicitly state that the record or meeting is exempt from the FOIA, ACA 25-19-10 et seq. The exception to the FOIA under ACA 11-10-314 is clearly valid since it was adopted prior to July 1, 2009. However, the AG noted that attempts by the legislature to bind subsequent legislatures are called “entrenchment rules”; and that the validity of the 2009 entrenchment rule on the FOIA is questionable.

During the 2013 regular session Act 411 of 2013 explicitly amended the FOIA, Freedom of Information Act, ACA § 25-19-105(b)(13), concerning examination and copying of public records to protect the personal contact information of nonelected government employees. The amendment specifically exempts from disclosure home or mobile telephone numbers, personal email addresses, and home addresses of nonelected county or government employees. Act 411 seeks to protect privacy of nonelected employees and is effective August 16th as per ATTORNEY GENERAL OPINION NO. 2013-049.
Attorney General Opinion No. 2013-018: The Arkansas Self-insured Fidelity Bond Program was established in 1987 to provide a blanket bond for losses incurred by the State, cities, counties and school districts due to fraudulent or dishonest acts by the officials or employees of participating agencies. Coverage is determined by the Governmental Bonding Board of the Arkansas Self-insured Fidelity Bond Program. Losses by a county or municipal hospital or nursing home, conservation district or improvement district are explicitly exempt from coverage by the bond as per law. In ascertaining whether a loss covered the board must consider that the primary aim of the program was to effectuate substantial savings in the costs of otherwise required fidelity bonds for state, school, county and city employees. A strict interpretation by the board would limit coverage to only acts by employees working directly for and paid directly by a participating government employee (rather than employees working for a segment or creature of a participating government entity). Legislative clarification may be warranted.

Attorney General Opinion No. 2013-032: Under A.C.A. § 16-17-115 and a long line of consistent opinions of the Attorney General, the county’s obligation for district courts under the law is limited by law to one half the salaries of the district judge and chief or appointed district clerk. “Salaries” is limited to salaries only exclusive of fringe benefits such as APERS, health insurance, etc. The AG concluded that the law does not prohibit one party paying the entire salary as the employer and the other party reimbursing half of the salary.

Observation of law and related Attorney General Opinions: Counties have no other funding obligation for district court each year other half of the district judge’s salary and district clerk’s salary (not including health insurance or APERS) and the city in which the court is held to pay the other half. Attorney General Opinion Nos: 2005-191; 2006-055; 2001-145; 1999-207; 1993-001; 1988-011; and 1984-098. Under ACA 16-17-108 each biennium the General Assembly sets forth the minimum and maximum salary for district court judges and chief district court clerks. The amount the city and county governing bodies agree to for the salary of the district court judge should be in accordance with ACA 16-17-108 adopted by virtue of ordinances. Amendment 55 of the Arkansas Constitution prescribes that the Quorum Court shall affix the salaries of county officials and number and salaries of county employees. Some counties enter into interlocal agreements in accordance with ACA 14-14-910 so that in the event the county is paying more than obligated by law (by say paying part of the maintenance and operations), then the interlocal agreement can help the cities shoulder other obligations of the justice system used by cities in some counties such as dispatching, the county or common jail, the prosecutor’s office expenses, the circuit court expenses, courthouse security, or the maintenance or upkeep of the courthouse.

Attorney General Opinion No. 2012-140: The Attorney General decided whether a county public library may lawfully use available surplus funds from library Maintenance and Operation budget for capital improvements and construction account (so to match a federal or other funds necessary for expansion or improvements). It is the means of funding the Maintenance and Operation budget that is called in to question. The subject county library Maintenance and Operations account is funded by a levied county millage under Amendment 38. Therefore such a transfer of fund is prohibited by Arkansas constitution as an “express proscription against diverting state funds from an authorized use approved by the voters to another use not so authorized.” The AG concluded that ACA 13-2-405 violated the Arkansas Constitution.

Attorney General Opinion No. 2012-055: The Fair Labor Standards Act applies to counties but does not require an employee to be paid overtime compensation unless the employee actually works in excess of forty hours in the work week. The Arkansas Minimum Wage Act also imposes minimum requirements. The AG says however that a county may have a general personnel policy of paying workers leave time
that is based on the same rate or schedule that would apply as if they had worked those days (say a pay schedule that includes (5) five days a week at (9) nine hours a day which equals (5) five hours at the overtime rate of time-and-a-half). Neither the FLSA or the Arkansas Minimum Wage Act presents an impediment to a general county pay policy. The quorum court of the county as per Amendment 55 of the Arkansas Constitution is required by ordinance fix the number and compensation of deputies and county employees; and ACA 14-14-805 assigns to the Quorum Court general authority to adopt a personal policy of a general nature. The AG said counties have some flexibility to set a lower threshold for overtime than the Federal or State laws so long as the threshold is the same for employees under a general personnel policy. {Please note that each constitutional officer is responsible for documenting overtime of their employees. Also, commissioned law enforcement officers are allowed to work a 28 day, 171 hour schedule for overtime or a 7 day, 43 hour schedule. As per the FSLA commissioned law enforcement officers may not accumulate more than 480 compensatory hours).

VOLUNTARY TAXES Attorney General Opinion Nos: 1991-015; 1991-077;1991-082; 1994-003; 1996-069; AND 1999-231: The Attorney General has stated in numerous opinions that the collection of a voluntary tax paid by the county to a private non-profit corporation violates the Arkansas Constitution, Article 12, § 5, which prescribes: “No county, city, town or municipality shall become a stockholder in any company, association or corporation; or obtain or appropriate money for, or loan its credit to, any corporation, association, institution or individual”.

A quorum court may appropriate funds from a voluntary tax for a grant to a public entity such as a conservation district. See: AG Opinions Nos. 1992-083 and 1994-003. In some instances the specific facts may allow for voluntary tax proceeds to be turned over to a public entity or a private entity that is performing a community service grant. In Gordon v. Woodruff, 217 Ark. 653 (1950) the Supreme Court upheld an appropriation for a grant to a county fair association was made to aid the construction of buildings on county property. Likewise, a grant to a community college foundation spent to aid a public community college may be considered legal. See AG Opinion No. 1991-082.

Appropriations to a private non-profit corporation for charitable and laudable purposes such as operating shelters, such as shelters for animals or shelters juveniles, are considered illegal. See: AG Opinion No. 1991-015. Appropriations for a non-profit private corporation to a learning center with contracts with the state are not governmental functions of city or county government. See: AG Opinion No. 1992-019. The county collection of money for the benefit of private corporations is a violation of the Arkansas Constitution, Article 12, § 5. See AG Opinion No. 1996-069. Attorney General Opinion No. 1999-231 explains that a quorum court may repeal voluntary taxes; and that taxes voluntarily paid under the common law doctrine of voluntariness precludes refunds of voluntary taxes voluntarily paid.

Attorney General Opinion No. 2011-087: Under the Arkansas Constitution and laws of Arkansas, the County Judge, not the Quorum Court, has the authority to hire and fire the county attorney. The Arkansas Constitution, Amendment 55, § 3, vests the county judge with the authority to hire and fire county employees, except those persons employed by other elected officials of the county. Likewise, ACA 14-14-1102 vests the power to hire independent contractors, employ necessary personnel or purchase labor or services for the county with the county judge. The Quorum Court has the authority to make appropriations for employee positions or contract services but is prohibited by separation of powers from making employee hiring decisions or designating specific vendors or contract awards.

Attorney General Opinion No. 2011-073: Solid Waste Boards must comply with ACA 25-15-201 et seq., the Administrative Procedures Act (the “APA”), in promulgating regulations. ACA 25-15-201 sets forth the notice and publication requirements for rule making by state agencies. ACA 8-6-704 provides that
Solid Waste Boards have the power to adopt: (1) rules in assuring public notice and participation in any rulings and findings of the board and (2) rules that address board administration. The Attorney General determined that in adopting rules Solid Waste Boards in Arkansas must comply with the ADA, ACA 25-15-201 et seq.

Attorney General Opinion Nos. 2011-075 and 2011-079: Act 558 of 2011 amended ACA 24-4-402, effective January 1, 2012, to provide that an APERS employers will be responsible for employer contributions to APERS for retired employees that have returned to work and members on the Deferred Retirement Option plan (“DROP”). The Attorney General determined that the act applies prospectively to all employees that returned to work and employees on the DROP Plan as of the effective date of the act or thereafter. Employers will not owe employer contributions retroactively. Employees that have retired and returned to work or that have joined the DROP will not owe employee contributions to APERS.

Attorney General Opinion No. 2010-169: The Attorney General made clear that under the Freedom of Information Act a county assessor or public official may not charge citizens of Arkansas for access and copies to public records on a website maintained by the assessor and not charge county residents. The plan of the custodian to eliminate the fee based solely on whether the persons making the request are in-county residents is inconsistent with the Freedom of Information Act.

Attorney General Opinion No. 2013-031: The Attorney General explained the process and legal analysis for use of cooperative purchasing to piggy-back from the public bid process of political subdivisions of other states under a cooperative purchasing agreement in accordance with ACA 19-11-201 et seq. The AG explained that under the law a city or county in Arkansas may enter into a cooperative agreement and take advantage of the bids and bid processes of another appropriate procurement unit. The law requires the State Procurement Director to determine in writing that the procurement system and procedures of the procuring entity substantially meet the requirements of the Arkansas cooperative purchasing law. Use of this procedure is one way for a county or city in Arkansas to make use of the bids of other proper purchasing entities in Arkansas and other states and to eliminate the redundancy and costs of procurement procedures such as soliciting bids and advertising. {Also, ACA 14-22-106 has been explicitly amended to exempt purchase made through programs of the National Association of Counties (“Naco”) and the Association of Arkansas Counties (“AAC”); and goods or services if the quorum court has by resolution approved the purchase of goods or services through competitive bidding by: the federal government or its agencies, another state, or associations of governments below state level.}

Attorney General Opinion No. 2007-193: The Arkansas Constitution and Arkansas Code provide that county judges have exclusive authority to lease county lands. However, can a county lease lands donated to the county to for-profit business?

The court in Pogue v. Cooper, 284 Ark. 105 (1984) indicated in dictum that a county judge may lease county lands or real property to private interests. Also, there is a long history of the leasing of public property for private use with the only issue raised as relating to property taxation treatment. The opinion noted that there are several sections of the code that provide for leasing of county lands for industrial development, for airports, for hospitals, leasing to cities and leasing to non-profits, etc. The authority to lease county lands is not restricted to those particular instances affirmatively set forth in the law. The Attorney General concluded the county judge is empowered to assign county property not dedicated to specific use and to determine the measure of consideration to be accepted; and in the absence of fraud, a court should not disturb a valid contract between a county and private parties.
Attorney General Opinion No. 2008-062: Does the County Judge have absolute discretion to deny an easement by necessity pursuant to A.C.A. §§ 27-66-401; 27-66-404?

The Attorney General advises: “No”, the question of necessity is one for the county court to decide, after applying the appropriate analysis set out by the Arkansas Supreme Court. The applicable statutory subchapter, A.C.A. §§ 27-66-401—to 404 was first adopted in 1871 and 27-66-401, assuming the petitioner has met the requisite requirements it shall be the duty of the county court to appoint viewers to lay off the road, provided the owner:

(1) Gives notice to such person twenty (20) days before application to the court;
(2) Petitions the court;
(3) Shows necessity for the private road;
(4) Shows that the person refuses to allow the road; and
(5) Deposits with the clerk of the court sufficient money to pay all costs and expenses accruing on account of the petition, notice, view, and survey of the private road.

The statute above not only gives the county court the authority to make an order establishing the road, it also implicitly gives authority to deny any such petition. The applicable standard to be applied in making such determinations has been discussed in several cases, the seminal case apparently being Pippin v. May, 78 Ark. 18, 93 S.W. 64 (1906); Armstrong v. Harrell, 279 Ark. 24, 648 S.W.2d 450 (1983) and Burton v. Hankins, 98 Ark. App. 51 (2007). An appeal is afforded to either party in such actions. See A.C.A. § 27-66-403(b) (Repl. 1994). Any person aggrieved at the county court’s denial in this regard may pursue his judicial remedies. The county court’s discretion is judicial and is not “absolute.”

Attorney General Opinion No. 2006-050: The Attorney General opined that the authority to set road standards for the unincorporated areas of a county under Ark. Code Ann. § 14-17-208 is exclusively with the county. A road built by a county within the limits of a city must comply with the road standards for roads within the city established by ordinance, unless granted a waiver by the city.

Also, cities may exercise exclusive authority to adopt city road standards and a master street plan within the territorial jurisdiction of the city. Ark. Code Ann. § 14-56-413. What would occur if a conflict exists in regard to the unincorporated areas of the county between the Master Road Plan of a city and a the authority of a county judge to operate the system of county roads? Previous Attorney General Opinions have said that the constitutional authority of county judges to administer and operate the system of county roads cannot be ignored. See AG Opinion No. 2001-197. The Attorney General noted that in the event of a conflict a court may find the authority of the county judges is constitutional and should prevail on county roads in the unincorporated areas of a county.

What are the powers of metropolitan planning organizations? The plans devised by metropolitan planning organizations serve as the basis for federal funding. Failure of cities or counties to comply with the plans of metropolitan planning organizations and federal guidelines may jeopardize federal funding.

County Lines Articles:

Smooth, Effective Meetings

They don't just happen!
By: Eddie A. Jones
County Government Consultant
Most likely you’ve sat in dismay – maybe you’ve even been appalled or, depending on your position, embarrassed while a meeting tumbled off into nowhere. You know what happened: stories, side issues, chit chat and “stuff” overran the good intentions of those who were trying to accomplish something.

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

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

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

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

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

**R** – Responsibility – The Chair is Responsible for implementing the rules that have been established. Responsibility lies with the Chair to clarify roles and rules, to follow the agenda, to be fair but firm and to keep the meeting moving.

**E** – Ethics – Rightly or wrongly the Chair is always held to a higher standard than the other members of the body, and projecting the air of a higher Ethical standard is crucial to a cooperative environment.

**S** – Succinct – Often less is more and making comments and rulings in a direct and Succinct manner helps avoid the sin of sermonizing to members of the body.

**P** – Predictability Principal – Prior Proper Planning Prevents Poor Performance – A successful meeting does not just happen, but rather requires, above all, that the Chair be prepared for what is to come.

**E** – Engage – The Chair is responsible for Engaging ALL of the stakeholders in any public meeting. Leaving any of the stakeholders out of the process is a recipe for discord and disaster.

**C** – Coordinate not Control – The proper goal of the Chair is to Coordinate the rules with the competing interest, not to Control the outcome of the meeting. A controlling Chair will invite stern and vocal opposition and impair the ability of the meeting to accomplish any of its goals.

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

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

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

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

2) Take a moment to organize your thoughts before speaking.
Then express your idea simply, logically and concisely. People are more receptive to ideas they understand – plus long complex explanations bore people.

3) Use positive comments in the meeting.
Negative comments create defensive reactions or even retaliations that take people away from solutions. Negative comments also make you appear mean, uncooperative, weak, or even incompetent.

4) Test your comments.
Before speaking, ask yourself, “Does this contribute to an effective meeting?” If you sense it subtracts, keep your mouth shut.

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

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

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

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

- **Summarize** – After each agenda point, summarize the key decisions, opinions and actions. It’s your job to make sure those decisions and actions are clearly understood and that they are moving in the right direction to accomplish the meeting’s objectives. It is also a good idea, especially when there has been lengthy discussion on a complicated issue, for the Chair to summarize with clarity the question being voted on.

- **Don’t be afraid to say you don’t know** – Hopefully, you’ll have done your research before the meeting starts but there’s always a chance that someone will hit you with an issue you know nothing about. If this happens, remain calm. Use the old trick of repeating the question or using a phrase such as “that’s a very interesting point”. This gives you a few seconds to get your answer straight in your mind, reducing the possibility of stuttering or sounding unsure. If you don’t know the answer, admit it. Say, “I wasn’t aware of that particular issue, does anyone else here have any knowledge about it?” If nobody else speaks up, ask the questioner to see you after the meeting to give you some background. It could well be something important and even if it’s not, you’ll look good in front of your audience.

- **Thank your audience** – Always thank attendees once the meeting is finished. It is common courtesy and people appreciate it.

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

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

Minutes need to be:

- **Accurate**. They must be a true record of what occurred. That means no drifting off during finer points of discussion.

- **Clear and unambiguous**. Minutes cannot be open to interpretation or discussion. Otherwise, they’re pointless.
- Consistently structured. Decide on a structure (bullet points or numbers are the most common) and stick to it. Your minutes will be a lot easier to ready and they will look a lot more professional.
- Brief. You should summarize discussions and decisions rather than attempt to get them down verbatim.

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

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

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

---

**Debate – The Lost Art!**

*By: Eddie A. Jones*

*County Government Consultant*

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

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

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

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

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

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

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

Public Speaking is a Necessity for County Officials!

By: Eddie A. Jones
County Government Consultant

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1. **Know your material.** Know more about your subject than you include in your speech or presentation – over prepare. You may need the additional information if you open up for questions and answers. Not only should you know your material – but convey the material in an interesting way so that people retain some of what you said. Three ways to do that is use conversational language (it flows better), use humor and personal stories. Well executed humor and stories hold the power to deliver messages in an entertaining fashion and can jolt us into seeing things from a broader perspective. It can even enliven dull topics, diffuse tense situations and help the speaker connect with the audience. Once you get people laughing they’re listening and you can sell your message. Just make sure your humor and stories are appropriate.

2. **Practice!** There is no magic formula for becoming a polished public speaker. Those of you who play a musical instrument know you do not become proficient without practice. I used to roll my eyes when my mom told me to practice the piano for an hour after school before I did anything else. I later came to appreciate her instruction and the time spent in practice. To learn to play the piano, you have to play the piano. To learn to speak, you have to speak. You know the old cliché “How do you get to Carnegie Hall? – Practice, practice, practice.” Public speaking demands the same level of practice. And yes, you rehearse out loud. That way you hear yourself and it is easy to detect what needs to be changed.

3. **Know your audience.** Greet some of the audience members as they arrive. It is easier to speak to a group of friends than to strangers – or at least to people to whom you have made some kind of connection.

4. **Know the room.** Arrive early, walk around the speaking area and practice using the microphone and any visual aids you may be using in the presentation. [Now you know why you can greet the audience as they arrive – because you’re already there checking things out…..trying to minimize any mishaps.]

5. **Relax.** Easier said than done – but RELAX! The four things I have already mentioned should help you relax. But there are additional relaxation techniques such as slow deep breathing; possibly a brisk walk to loosen up your entire body and get your blood flowing; positive self-talk; and there are many others. The very best thing in my opinion is BE PREPARED. Preparation is key to any good speech.

6. **Realize that people want you to succeed.** Audiences don’t want to be bored to death. They want you to be interesting, stimulating, informative and entertaining. They’re rooting for you.

7. **Don’t apologize for being nervous.** Most of the time your nervousness will not show. If you don’t refer to it, most won’t notice. “There are only two types of speakers in the world anyway – the nervous and liars.”

8. **Concentrate on your message – not the medium.** Your nervous feelings dissipate when you focus your attention away from your anxieties and concentrate on your message and your audience, not yourself.

9. **End with a memorable conclusion.** The conclusion is the final component of your speech or presentation. A speech is structured with an introduction, the body, and the conclusion. The conclusion needs to serve as a review of your message. Those listening tend to remember the last words they hear you say, so it’s vital that your key message is restated in your conclusion. As you put the finishing touches on your speech, make sure your presentation comes full circle by relating your conclusion back to your introduction – tie it together. And close with
a quote or a story leaving the audience with a visual image of your message. Although your conclusion is short, its significance is important. This is your last chance to drive your message home and leave a lasting impression.

**Big Public Speaking Mistakes**

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

- **Starting with a whimper.** Do not start with a whimper – a start like the “dead-fish handshake”. Start with a bang! Give the audience a startling statistic, an interesting quote, a news headline, a funny story – something powerful that will get their attention immediately.
- **Attempting to imitate other speakers.** Be yourself – although in an enthusiastic way. Authenticity is lost when you are not yourself.
- **Failing to “work” the room.** If you don’t take time to mingle before the presentation, you lose an opportunity to enhance your credibility with your listeners.
- **Failing to use relaxation techniques.** If you’re nervous and tense do whatever it takes – listening to music, breathing deeply, shrugging your shoulders – to relieve and release nervous tension.
- **Speaking without passion.** The more passionate you are about your topic, the more likely your audience will act on your suggestions.
- **Ending a speech with questions and answers.** It is fine and many times appropriate to have a segment of questions and answers – but, as the speaker, always have the last word. After the Q and A, tell a story that ties in with your main theme, or summarize your key points. Conclude with a quote or call to action.
- **Failing to prepare.** If you don’t leave a good impression you have hurt your credibility and failed. So over prepare and rehearse well enough to ensure you’ll leave a good impression! "If you don’t know what you want to achieve in your presentation your audience never will." [Harvey Diamond]

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

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

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

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

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

Earlier I quoted Ralph Waldo Emerson – “Speech is power; speech is to persuade; to convert, to compel.” And that is exactly what you want and need to do as county elected officials when you’re making a speech; testifying before committee; or simply talking to your constituents or to legislators individually. Use you power to persuade, convert and compel them to understand county issues and to adopt them as priorities.
How do you do that? You know your stuff – and it takes time and study to get there. Remember – (1) Know your material; (2) Practice; (3) Know your audience; (4) Relax; (5) Concentrate on your message; and (6) End with a bang! Always end with a memorable conclusion!

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

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

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

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

“Bob, I appreciate that.”

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

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

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

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

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

Leadership - The Learned Art

A shared point of view –
By: Eddie A. Jones
County Government Consultant

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

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

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

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

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

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

Modern day county government is big business. Serving in public office is very challenging. The needs and demands for services are growing and the resources available are very limited. The laws, rules and regulations are complex and changing. The jobs of County Judge, Sheriff, County Clerk, Circuit Clerk, Treasurer, Assessor, Collector, and Coroner can be complex, demanding, changing, time consuming and often times frustrating. I believe county officials need all the help they can get.
To support and assist county officials in their complex role as leaders, over the years more and more counties have created the positions of Administrative Assistant, or Chief Deputy. One of the main functions of these positions is to help counties function more effectively.

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

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

3. Leadership starts with a positive attitude.

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

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

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

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

4. Leadership simplified.

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

Leadership in counties can also be looked at by referencing different levels of leadership:
- Level 4 is looking at the “big picture”: the county’s vision, goals and values, and overall culture.
- Level 3 is developing overall strategy and allocating resources to achieve the goals.
- Level 2 is the overall management of the workforce and day-to-day activities.
- Level 1 is the daily actions of the county’s employees.

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

5. Running a county is a team effort.

All effective teams have three elements in common. Let’s call them the ABC’s of an effective team.
- A. They have clearly defined goals.
- B. They have clarified roles, responsibilities, and expectations.
- C. They have positive working relationships.

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

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

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

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

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

7. Leaders have certain competencies.

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

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

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

8. Skills and attributes of the leader.

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

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

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

That’s my point of view!

---

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

*By: Eddie A. Jones*

*County Government Consultant*

**Working for the People is a Public Trust**

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

In my opinion, government fraud is a serious crime and should be pursued to the fullest extent of the law. In many government fraud cases, both criminal and civil charges are brought against the defendant. As Thomas Jefferson said, “When man assumes a public trust he should consider himself a public property.”
In the past couple of years ethics violations, criminal investigations and criminal charges have become more common in Arkansas government – both at the state and local levels. This should not be! As elected officials and employees of government you are keepers of the public trust – a public trust created by a strict code of conduct that is a part of law.

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

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

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

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

**Fraud Increases during an Economic Downturn**

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

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

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

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

It is bad enough when an employee commits fraud – but when an elected official commits fraud it is the epitome of hypocrisy. A person who runs for office has actually asked the public to vote for them – to put their trust in them. You have both a moral and legal obligation to serve with integrity. Your constituents deserve officials they can trust and depend on to always do the right thing.

**Types of Theft and What to Watch For**

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

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

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

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

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

**How Fraud Happens**

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

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

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

**Procedures to Reduce the Risk of Theft**

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

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

Examples of incompatible duties that should be performed by separate individuals are:
• Receipting collections, posting collections and making bank deposits;
• Signing checks and reconciling the bank accounts.

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

**Internal Control Procedures.** Many internal control procedures are common-sense methods used to track county funds. Here are a few procedures that may help prevent thefts or allow earlier detection of thefts:
• Have checks written to the county;
• Endorse checks for deposit as they are received;
• Make daily deposits;
• Reconcile receipts with deposits;
• Contact your bank or banks to: prohibit cash withdrawals and check cashing from the county account, and be sure authorized signatures are up-to-date;
• Do not pre-sign any checks;
• Reconcile bank statements regularly. With on-line banking you can do it daily in a matter of minutes; and
• Require detailed original receipts for the reimbursement of employee expenses.

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

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

Red Flags in Detecting Theft and Fraud

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

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

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

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

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

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

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

Exposing Fraud

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

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

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

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

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

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

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

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

This section presents the FAQs (Frequently asked questions) in general and specifically for each elected position. Please refer to the Association of Arkansas Counties website for the complete answers to the questions presented. (http://www.arcounties.org/faq/general-faqs)

**General FAQs:**

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

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

Is county government exempt from paying sales taxes?

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

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

**County Judge FAQs:**

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

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

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

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

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

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

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

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

Real property reappraisals are required to be conducted on a cyclical basis by county governments in Arkansas. What is the history of these reappraisals and how are the reappraisals paid for under current law?
What sources of revenue are produced by the Sheriff and identify any Special Revenue Funds that are used for the Sheriff's operation and how the revenue is generated for these special revenue funds?

How many years can a county legally go back to make a refund of property taxes paid in error?

How many years can a county legally go back to make a refund of property taxes paid in error?

Counties are sometimes told they cannot pay late charges or a penalty on overdue bills. Is it true that counties cannot pay penalties on bills that are past due?

The District Court system is one for which both counties and municipalities have financial responsibilities. What is the financial responsibility of county government as it concerns District Court?

What is a county’s financial responsibility in the cost of the operation of a public defender’s office?

Since County General funds are transferred to other county funds to supplement the operations of particular county funds, such as the Road and Bridge Fund is it legal to transfer Road and Bridge funds or money from other county funds to County General to supplement general operations?

Does the Quorum Court have any authority to add extra duties to the established duties of county constitutional officers and if so is there any limitation on that authority?

Can a quorum court set salaries of elected county officials as long as the salary is between the minimum and maximum set by the legislature even they choose to decrease the salaries?

**County Clerk FAQs:**

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

Counties are sometimes told they cannot pay late charges or a penalty on overdue bills. Is it true that counties cannot pay penalties on bills that are past due?

The District Court system is one for which both counties and municipalities have financial responsibilities. What is the financial responsibility of county government as it concerns District Court?

What is a county’s financial responsibility in the cost of the operation of a public defender’s office?

Since County General funds are transferred to other county funds to supplement the operations of particular county funds, such as the Road and Bridge fund is it legal to transfer Road and bridge funds or money from other county funds to County General to supplement general operations?

Is it a requirement of state law that the County Clerk and County Treasurer jointly reconcile the expenditures of the county each month?

**Circuit Clerk FAQs:**

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

What is the proper method for the establishment and operation of the County Recorders Cost Fund?
Treasurers FAQs:

What is excess commission and is the term actually found in Arkansas code? If so, what is the basis for calculating and distributing excess commission and who is responsible for seeing that the task is performed?

When a county receives unclaimed property proceeds from the Auditor of States office, which county fund should it be receipted to, how can the money be used, and does the county have any future liability for the unclaimed proceeds?

What funds are devoted to the Treasurers Automation Fund and what are considered legal expenditures from this fund?

What is the proper method for the establishment and operation of the County Recorders Cost Fund?

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

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

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

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

How many years can a county legally go back to make a refund of property taxes paid in error?

Counties are sometimes told they cannot pay late charges or a penalty on overdue bills. Is it true that counties cannot pay penalties on bills that are past due?

The District Court system is one for which both counties and municipalities have financial responsibilities. What is the financial responsibility of county government as it concerns District Court?

What is a county’s financial responsibility in the cost of the operation of a public defender’s office?

Since County General finds are transferred to other county funds to supplement the operations of particular county funds, such as the Road and Bridge Fund is it legal to transfer Road and Bridge funds to money from other county funds to County General to supplement general operations?

Can a quorum court set salaries of elected county officials as long as the salary is between the minimum and maximum set by the legislature even if they choose to decrease the salaries?

Is it a requirement of state law that the County Clerk and County Treasurer jointly reconcile the expenditures of the county each month?
**Assessor FAQs:**

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

Assessors in Arkansas receive funding from the end-of-the-year certified excess funds in the State Property Tax Relief Fund. How should these funds be handled at the county level? If the county level fund has a balance at the end of the year does it carry over?

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

**Sheriff FAQs:**

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

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

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

**County Lines FAQs:**

How do I subscribe to County Lines Magazine?

How do I submit news and story ideas for County Lines, the AAC’s quarterly magazine?

**Justice of the Peace FAQs:**

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

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

Can a Justice of the Peace be paid a monthly salary for serving the county as a district official? In addition to serving as Justice of the Peace, can a Justice be paid for serving as an employee of the county or for any other service performed for the position?

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

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

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

Real property reappraisals are required to be conducted on a cyclical basis by county governments in Arkansas. What is the history of these reappraisals and how are the reappraisals paid for under current law?
What sources of revenue are produced by the Sheriff? Identify any Special Revenue Funds that are used for the Sheriff's operation and how the revenue is generated for these special revenue funds.

Does the Quorum Court have any authority to add extra duties to the established duties of county constitutional officers and if so, is there any limitation on that authority?

Can a quorum court set salaries of elected county officials as long as the salary is between the minimum and maximum set by the legislature even if they choose to decrease the salaries?

**County Collectors FAQs:**

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

What is excess commission and is the term actually found in Arkansas code? If so, what is the basis for calculating and distributing excess commission and who is responsible for seeing that the task is performed?

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

How many years can a county legally go back to make a refund of property taxes paid in error?

How many years can a county legally go back to make a refund of property taxes paid in error?

Do personal property taxes have to be collected at the same time that real estate taxes are collected? If so, are there any exceptions?

May a newspaper charge for other parts of the required publication of delinquent taxes, such as headers and etc., in addition to the legal fees of $1.50 per tract per insertion for delinquent real estate and $1.25 per name per insertion for delinquent personal?
Chapter Eight - 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. (A.C.A. § 27-86-101 through A.C.A. § 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. (A.C.A. § 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. (A.C.A. § 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. (A.C.A. § 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. (A.C.A. § 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 for 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. (A.C.A. § 14-22-101)

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

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

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

RURAL DEVELOPMENT AUTHORITY - Public corporations created for the improvement of the designated rural area under the order of the county court. (A.C.A. § 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. (A.C.A. § 27-72-301)

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

**USED OR SECON DHAND EQUIPMENT OR MACHINERY** - Any motor vehicles, equipment or machinery that is at least two years in age from the date of original manufacture or that has had at least 500 working hours prior use or 10,000 miles prior use. Any purchase of used motor vehicles, equipment or machinery shall be accompanied by a statement in writing from the vendor on the bill of sale or other document that the motor vehicle, equipment, or machinery is at least 2 years in age from the date of original manufacture or has been used a minimum of 500 hours or driven a minimum of 10,000 miles. The statement shall be filed with the county clerk at the time of purchase. (A.C.A. § 14-22-101)