

ARKANSAS COUNTY TREASURERS 2018 PROCEDURES MANUAL



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FOREWORD

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

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

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

Chris Villines
Executive Director

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Chapter One - INTRODUCTION TO COUNTY GOVERNMENT

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

and personal property taxes in installments in any amount between the first business day in March and October 15 [ACA 26-35-501(a)(2)(B) enacted in 2011].

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 (ACA 26-36-201). Before December 1st of each year, the collector of taxes shall prepare a list of delinquent personal property taxes and deliver a copy of the list to a legal newspaper in the county. Within seven (7) days thereafter, the newspaper shall publish the list. If there is no newspaper in the county or district, the publication shall be in the nearest newspaper having a general circulation in the county or districts for which the list is being published. ACA 26-36-203

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

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

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

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

The treasurer must keep an accurate and detailed account of all receipts and disbursements of the county (ACA 14-15-807). The treasurer is required to make a monthly financial report to the quorum court on the fiscal condition of the county (ACA 14-20-105). The treasurer is also the investment officer for the county. The law requires the county treasurer to make timely investment of public funds in order to earn optimum interest. ACA 19-8-107

The county treasurer is required to charge a two percent commission on funds coming to his/her office (21-6-302). There are a few exceptions to this rule which are covered in detail in the Treasurer Commission chapter of this manual. Also, the county treasurer is allowed only 1/4 of 1% commission on funds from school districts that employ their own treasurer (ACA 6-13-701) and 1/8 of 1% on funds from municipal improvement districts (ACA 14-90-913). The commission is not kept by the treasurer but is intended to create a source of revenue accruing to the office from which the salary and operation of the office is paid. Any excess treasurer's commission shall be redistributed on a pro rata basis to the various entities that were charged. [AG Opinion #78-112 and 21-6-302(h)].

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

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

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

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

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

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

Chapter Two - DUTIES OF THE OFFICE

The County Treasurer is an elected official in county government. Amendment 95 of the Arkansas Constitution provides for the election of the Treasurer to a four-year term of office with the requirement that he/she be a qualified elector and resident. 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 Treasurer must enter into an official bond for the protection of the county. This may be accomplished through the State Fidelity Bond Program, which covers all employees on the payroll, or a Surety Bond purchased for the officer. He/she must also take the constitutional oath of office.

The County Treasurer is entitled to that salary fixed for his/her office by applicable law and Quorum Court appropriation, but he/she cannot keep the various commissions and fees collected in the performance of his/her duties as the Treasurer, as in that respect, the Treasurer is only an agent or trustee for the County Treasury. (Ark. Const., Amend. 55)

To assist the Treasurer in the performance of his/her duties, the Treasurer may appoint such number of deputies as the Quorum Court may approve. The Treasurer generally supervises the deputies and may discharge them and regulate their employment within the guidelines established by the Quorum Court.

The office of the County Treasurer is to be operated according to the office budget which is established annually by the Quorum Court of the County.

In general, the Treasurer is the disbursement officer of the County, and is the unofficial or quasi-comptroller. The

Treasurer is responsible for the custody and disbursement of all county funds and appropriate school district funds.

The Treasurer receives tax collections (property, sales and property tax relief), county turnback funds, federal matching funds, and revenues from various other sources. After receiving this revenue, the Treasurer distributes the money to the various school districts and county accounts. The Treasurer signs checks based on a warrant 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.

Several Arkansas counties have opted for an optional method of check paying which allows for the county treasurer to prepare and issue the check. Under this method once the normal claims procedure has been completed the treasurer may cause a check to be prepared in payment of claims filed with the county court. The clerk certifies to the treasurer that a valid claim exists and the treasurer issues prenumbered checks that denote the fund from which the claim is being paid.

The Treasurer is charged with keeping an accurate and detailed account of all receipts and disbursements of the County. He/she is required to make a monthly financial report to the Quorum Court on the fiscal condition of the county. This report is provided upon request to the Prosecuting and Deputy Prosecuting Attorneys.

The records of the County Treasurer's office are the evidence of his/her official acts and, therefore, it is necessary that they be accurately recorded and well maintained.

DUTIES OF COUNTY TREASURER

Office of Treasurer - The several county Treasurers shall keep their offices at their respective county sites. ACA 14-15-802

Appointment of a Deputy - (a) Appointment of a deputy treasurer shall be:

- (1) In writing;
- (2) Signed by the county treasurer; and
- (3) Recorded in the county recorder's office.

(b) A deputy treasurer shall possess powers as authorized by the county treasurer. ACA 14-15-804

Duty of Treasurer to receipt for and pay moneys -

It shall be the duty of each county treasurer to receive and give receipt for all moneys payable into the county treasury and to pay and disburse the moneys on warrants or checks drawn by order of the county court. It shall be the duty of each county treasurer to refuse payment of any warrant or check that would cause a deficit balance in a "special revenue" account without an appropriated transfer of general funds to cover the deficit. It shall be the duty of each county treasurer to maintain a positive "general fund" balance. The general fund shall include county general and any other ledger account on the treasurer's books accruable to county general. The treasurer shall refuse payment of any warrant or check that would cause a deficit balance of the general fund in aggregate. ACA 14-15-805

Neglect or refusal to pay warrant. (a) If any county treasurer shall neglect or refuse to pay any warrant or check drawn on him by order of the county court of his county, having cash available in the fund on which the warrant or check is drawn, he shall forfeit and pay to the holder of the warrant four (4) times the amount thereof. (b) The forfeiture may be recovered by a civil action in the name of the party aggrieved against the treasurer and his securities, and the treasurer shall be deemed guilty of a misdemeanor in office and upon conviction shall be removed from office. ACA 14-15-806

County Treasurer's accounts-Accounting of moneys received and disbursed-Abstract of warrants - He shall keep a true and just account of all moneys received and disbursed, and a regular abstract of all warrants paid by him. ACA 14-15-807

Duplicate receipts for moneys paid-Books kept ready for inspection - He shall make duplicate receipts in favor of the proper person for all moneys paid into the treasury, and keep the books, papers and money pertaining to his office at all times ready for the inspection of the county court. ACA 14-15-807

Account of receipts and expenditures furnished county court - He shall at each term of the county court, if required, furnish such court with an account of the receipts and expenditures of the county not before accounted for. ACA 14-15-807

Disposition of fees and fines collected - All fees, fines, penalties, and other moneys collected by any county officer, deputy, or county employee shall be deposited with the County Treasurer on the first day of each month or within ten (10) days thereafter, and, unless otherwise provided by law, shall be placed in the county general fund. The County Treasurer shall keep a complete and accurate record of the receipt of such moneys and shall provide a written receipt to the person or office making such deposit. ACA 21-6-310

County administration of justice fund. - (a) There is hereby created in each county a fund in the office of the county treasurer to be known as the "county administration of justice fund".

(b) The county administration of justice fund shall be used to defray a part of the expenses of the administration of justice in the county. From the fund, the county shall continue to finance the following county agencies and programs which are currently funded, in whole or in part, by filing fees and court costs, at a funding level equal to not less than the greater of the amount which was collected by the county from filing fees and court costs for the agency or program in the calendar year ending December 31, 1994, or the amount appropriated by ordinance enacted prior to December 31, 1994, or on February 13, 1995, or on February 14, 1995, or by resolution dated February 9, 1995, to the agency or program for the calendar year ending December 31, 1995:

(1) The prosecuting attorney fund, including all grant funds awarded and appropriated for the calendar year ending December 31, 1995;

(2) The prosecuting attorney's victim-witness program fund;

(3) The public defender/indigent defense fund and public defender investigator fund, including all grant funds awarded and appropriated for the calendar year ending December 31, 1995;

(4) The county law library fund;

(5) The county jail fund; and

(6) The intoxication detection equipment fund.

(c)(1)(A) The county administration of justice fund of each county may retain an amount equal to the amount which was collected by the county from court costs and filing fees for county administration of justice expense in the calendar year ending December 31, 1994, or the amount appropriated from court costs and filing fees by ordinance enacted prior to December 31, 1994, or on February 13, 1995, or on February 14, 1995, or by resolution dated February 9, 1995, for county administration of justice expense from court costs and filing fees for the calendar year ending December 31, 1995, plus, for calendar years 1995 – 2001, an additional amount based upon the average percentage increase in the Consumer Price Index for All Urban Consumers or its successor, as published by the United States Department of Labor for the two (2) years immediately preceding.

(B)(i) The amount retained during calendar years 2002, 2003, 2004, and 2005 shall be the amount retained during calendar year 2001.

(ii) Except as provided in subdivision (c)(1)(B)(iii) of this section, for calendar years beginning 2006 and each calendar year thereafter, an additional amount shall be added to the amount to be retained based upon the average percentage increase in the Consumer Price Index for All Urban Consumers or its successor, as published by the United States Department of Labor for the two (2) years immediately preceding.

(iii) The provisions of subdivision (c)(1)(B)(ii) of this section shall not be effective if the Chief Fiscal Officer of the State determines that the additional amount retained under subdivision (c)(1)(B)(ii) of this section has exceeded one million dollars (\$1,000,000) in a calendar year, and any additional amount to be retained must be authorized by the General Assembly.

(C) All local ordinances of the counties and cities authorized and adopted under § 24-8-318 shall remain in full force and effect.

(2) For the calendar year beginning January 1, 1998, the base amount to be retained shall be:

(A) Increased by any increase in the Consumer Price Index for All Urban Consumers as provided for in subdivision (c)(1) of this section; and

(B) Decreased by eighty-five percent (85%) of the total dollar amount which was certified by the county as having been collected during calendar year 1994 and for the purpose of funding the office and operation of the public defender and public defender investigator.

(d) Nothing in this section shall prevent the county from funding any additional costs for the administration of justice from these or other county funds.

(e) The county shall remit on or before the fifteenth day of each month all sums received in excess of the amounts necessary to fund the expenses enumerated in subsections (b) and (c) of this section during the previous month from the uniform filing fees provided for in § 21-6-403 and 9-15-202, and the uniform court costs provided for in § 16-10-305 to the Department of Finance and Administration, Administration of Justice Funds Section, for deposit in the State Administration of Justice Fund. ACA 16-10-307 [Also see 16-10-603 & 16-10-604]

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

Time warrants and checks to be redeemed - (a)(1) All warrants and checks issued by any county of this state drawn upon the county treasurer shall be valid and redeemable only for a period of one (1) year from the date of issuance. (a)(2) All warrants and checks issued by a county shall contain on the face of the warrant or check the following words: "This warrant (check) void after one (1) year from date of issuance." (b)(1) If any county warrant or check is not redeemed or reissued within the time prescribed in subdivision (a)1, there is established a presumption that the payee declined its presentment and it

shall be the duty of the county treasurer to cancel the warrant or check and to credit the fund from which the warrant or check is drawn. (2) If any county warrant or check is returned and is not deliverable to the payee, the warrant or check shall be considered unclaimed and shall be submitted as unclaimed property to the Auditor of State in accordance with Title 18, Chapter 28, Subchapter 2. ACA 14-24-120

General Accounting Requirements - (a)(1) The county treasurer shall receive and receipt for all moneys payable to the county treasury and pay and disburse them on warrants or checks drawn by order of the county court. (2) The treasurer shall keep a true and accurate account of all moneys received and disbursed and a true and accurate record of all warrants or checks paid by him or her. (3) The treasurer shall maintain and issue prenumbered receipts for all moneys paid into the treasury in accordance with § 14-25-108. (b) The treasurer shall establish and maintain the following accounting practices, in relation to the operations of the office: (1) The number and date of checks paying warrants where the county is using a system of paying several warrants presented by the bank shall be identified with the warrants in posting to the treasurer's book or record of accounts; (2) The check number and its date shall be entered on the warrant, and the warrant number and its date shall be entered on the face of the check and on the check stub, as well as the account represented; (3) Postings to the treasurer's book or record of accounts of warrants and checks shall be under the transaction date on the instruments, not the date the items are entered in the books or records of accounts; (4) Banks shall be requested to present all warrants held at the end of the month promptly so that they may be included in the treasurer's book or record of accounts in the month to which they pertain; (5) All funds in the treasurer's book or record of accounts shall be reconciled with the bank monthly. Reconciliations shall be retained and filed with the bank statements; (6) Clear reference shall be made in the treasurer's book or record of accounts as to the origins of all moneys. This may be by notation citing the origin, date, receipt number, and other pertinent information; (7) Transfers shall clearly state the fund to which the moneys are being transferred, and the recipient fund shall state the origin of its receipt; (8) A brief explanation of the computation of the treasurer's commission to provide a clear and permanent record of how the commission was determined shall be maintained; (9) Corrections to the treasurer's book or records of accounts shall be entered at the time of discovery and under the date of the entry into the treasurer's records. A notation shall be made at the erroneous balance if it is at a previous date, but under no circumstances shall a previous month's balance be changed when it has been brought forward into the succeeding period; (10) Receipts shall be prepared for all moneys received, but shall never be used to effect any other type of accounting transaction. Bank deposits shall be intact, prompt, and identified as to type of receipts; (11) Copies of all receipts shall be retained, including copies of voided receipts; (12) Printers' certificates shall be obtained and kept for each printing order of formally prenumbered receipts; and (13) All balances on the treasurer's book not

belonging to the county and awaiting clearance shall be remitted on or before December 31, or promptly thereafter, as of December 31. ACA 14-25-114

Time for payment. - (a)(1) The county clerk and probate clerk, circuit clerk, constables, county sheriff, county collector, and any other county official in the State of Arkansas are required to pay over to the county treasurer of each county on the first of each month, or within ten (10) days thereafter, all funds in each of their hands belonging to the county or its subdivisions that are by law required to be paid into the county treasury, whether taxes, fines, or any moneys that are collected for any purpose by law and belonging to the county. (2) Inmate commissary trust account balances belonging to the inmate and held by the county sheriff are not deemed county funds and are not subject to this section. (b)(1) This section does not mean that the county collector shall make a distribution of taxes to all funds but that he or she shall settle with the county treasurer in a lump sum, and the county treasurer shall credit it to the county collector's unapportioned account. (2) Upon the issuance of a certificate of the county clerk or other county officer designated pursuant to § 26-28-102(a) that is issued on or before the thirtieth day of each month, the county treasurer shall transfer to the various funds ninety percent (90%) of the advance payments made by the county collector during the collecting period and, upon final settlement, the proper adjustments shall be made with the various accounts, and the balance remaining in the unapportioned account shall be distributed upon order of the county court approving the final settlement of the county collector. ACA 26-39-201

This Section does not mean that the Collector shall make a distribution of taxes to all funds, but that he/she shall settle with the County Treasurer in a lump sum and the County Treasurer shall credit the same to the Collector's unapportioned account. Provided, further, that upon a certificate of the County Clerk, which shall be issued on or before the thirtieth (30) day of each month, the County Treasurer will transfer to the various funds ninety percent (90%) of the advance payments made by the Collector during the collecting period and upon final settlement the proper adjustments will be made with the various accounts and the balance remaining in the unapportioned account will be distributed upon order of the County Court approving the final settlement of the Collector. The final tax settlement of the county collector is to be approved, rejected, or restated on or before December 31 of each year.

Property Tax Reduction - The county also receives reimbursements each month from the Chief Fiscal Officer of the State for the County Property Tax Relief Funds. The Treasurer receives these reimbursements and credits them to the county property tax relief fund. Ninety-six percent (96%) of the funds shall be allocated and distributed to the various taxing entities within the county that levy ad valorem taxes. The allocation shall be based on a certification from the collector of the amount of the real property tax reduction per taxing entity provided in § 26-26-1118. The 4% retained in the fund is the commission of

the county collector as authorized under § 21-6-305(a)(4). This commission shall be transferred to the general fund of the county in December of each year to become a part of the total commission of the county collector. These funds are subject to § 21-6-305(d) [meaning they are subject to excess commission]. ACA 26-26-310

Generalities of County Accounting Law - County officials must maintain all public funds in approved depositories. The funds must be maintained in these depositories in the name of the county office, with the official's name appearing secondarily to the name of the county office. ACA 14-25-102

All funds received by a county official by virtue of their office must be deposited intact to the proper office bank account. Public funds received by one county official and required by law to be transferred to another county official must first be deposited into the account of the first official receiving the funds, and then a check is written upon that account to properly transfer the funds to the other official. This will normally be done in monthly settlements. ACA 14-25-103

All disbursements of county funds, except those allowed using county petty cash funds (14-25-105), are to be made using prenumbered checks drawn upon the bank account(s) of that county official. The county official is required to maintain printers' certificates as to the numerical sequence of checks printed and must retain all voided checks for audit purposes. ACA 14-25-104

As a general rule, all items of county income are to be formally receipted by the use of prenumbered receipts or mechanical receipting devices such as cash registers or validating equipment. Receipts are to be prenumbered by the printer, and a printer's certificate obtained and retained for audit purposes. All copies of voided receipts are to be retained for audit purposes. ACA 14-25-108

County Accounting law was amended in 2013 to accommodate the use of computer software issued checks and receipts that are not prenumbered.

Arkansas Code § 14-24-204 and 14-25-104 were both amended by Act 451 of 2013 to add subsections saying, "A county may use computer equipment for check preparation if the use of an automated software program that accomplishes the same purpose as prenumbered checks and other required denotations is in compliance with the Information Systems Best Practices Checklist provided by the Legislative Joint Auditing Committee."

Arkansas Code § 14-25-108 was amended by Act 451 of 2013 to amend subsection (a)(3) to say, "A county may use an electronic receipting system that accomplishes the same purpose as prenumbered receipts if the system is in compliance with the Information Systems Best Practices Checklist provided by the Legislative Joint Auditing Committee."

County Fiscal Year and Accounting Method - (a)The fiscal year of the counties of the state, covering each

period of twelve (12) months, begins on January 1 of each year and ends at the close of business on December 31 of the same year. (b)(1) Counties shall use the modified accrual accounting basis for audit purposes. (2)(A) For county government and the regulatory basis of accounting under §10-4-412(b)(2), "modified accrual accounting basis" is defined as an accounting system that recognizes revenues at the time revenues become available and measurable and expenditures at the time liabilities are incurred. (B) Revenues and expenditures are accruable to the fiscal year as provided in subsection (c) of this section. (c)(1) Obligations incurred by a county on or before the end of the fiscal year that are not issued an accounts payable claim until the following fiscal year shall be posted to the prior fiscal year appropriations journal when paid within the first two (2) months of the following fiscal year. (2) Revenues collected and owed to a county treasury before the end of the fiscal year and not remitted to the county treasury until the following fiscal year are accruable to the prior fiscal year when receipted by the county treasurer within the first two (2) months of the following fiscal year. (d) The finance officers of the county shall keep and maintain records as required by law to account for accruable receivables or payables for audit purposes. ACA 14-71-101

Comprehensive Financial Management System -

(a) (1) In order to provide necessary financial information for the county judge, the members and committees of the county quorum court, and other interested officers and departments of the county, the Legislative Auditor is authorized and directed to develop a comprehensive financial management system for appropriate funds of the various counties in the State of Arkansas. (2) This financial management system shall provide for adequate controls over revenues, expenditures, and balances to assure that current information will always be available concerning the financial condition of the county and its various offices and departments. (3) The system shall include a budgeting and accounting system designed to classify the receipt of and the appropriations and disbursements of county funds in accordance with the object and purpose of the expenditures in such detail as will be suitable for an analysis of the operations of all county offices and departments and which will provide a breakdown and itemization of all expenditures compatible with and comparable to the appropriation of the quorum court. ACA 14-21-101

Note: *This law was enacted in 1981, with the financial management system to be implemented by the counties on or before January 1, 1983. The original system and manual was revised for implementation on or before January 1, 2014.*

Annual Financial Report - (a) (1) The clerk of the county court and the county treasurer shall make out or cause to be made out a full and complete annual financial report of the county, using the financial records of the county clerk and county treasurer, giving: (A) The treasurer's report of the beginning cash balance; (B) The

treasurer's report as to the amount of revenue from each source classification;

(C) The treasurer's report as to the ending cash balance; (D) The county clerk's report as to the amount expended during the fiscal year for all purposes; and (E) A statement of the bonded indebtedness and short-term indebtedness of the county. (2) The annual county financial report shall include all operating accounts of the county for which the quorum court has appropriating control. (3) The treasurer shall submit all reports required under this section to the clerk of the county court by March 1. (b) (1) (A) The clerk of the county court shall cause to be published one (1) time in one (1) newspaper published in the county the annual financial report of the county. (B) If no newspaper is published in the county, then the clerk of the county court shall cause the annual financial report of the county to be published one (1) time in the newspaper having the largest circulation in the county. (2) The annual financial report shall be published by March 15 of each year for the previous fiscal year of the county. (c) All costs associated with the publication of the annual financial report of the county may be prorated equally between the clerk of the county court and the county treasurer. ACA 14-21-102

Deposit and Investment of Public Funds

Eligible Investment Securities - As used in this subchapter, "eligible investment securities" means:

(1) A direct or guaranteed obligation of the United States that is backed by the full faith and credit of the United States Government; (2) A direct obligation of an agency, instrumentality, or government-sponsored enterprise created by act of the United States Congress and authorized to issue securities or evidences of indebtedness, regardless of whether the securities or evidences of indebtedness are guaranteed for repayment by the United States Government; (3) A bond or other debt of the state, a school district, a county government, a municipal government, or an authority of a governmental entity that: (A) Is issued for an essential governmental purpose or is guaranteed by a state agency; and (B) Has a debt rating from a nationally recognized credit rating agency of "A" or better at the time of purchase; and (4) A bond from the State of Israel that is guaranteed and backed by the full faith and credit of the government of Israel as the sovereign debt of the State of Israel. ACA 19-1-501

Investments Permitted - (a) (1) With the approval of the county or municipal depository board, a treasurer may convert any funds in the treasurer's possession or under the treasurer's control and not presently needed for other purposes into one (1) or more of the following investments:

(A) Eligible investment securities having a maturity of not longer than five (5) years from the date of acquisition unless, as documented at the time of acquisition, the investment is to fund or support a specific purpose and there are no expectations that the investment will be sold before maturity;

(B) An Arkansas bank certificate of deposit or a certificate of deposit authorized under § 19-8-111;

(C) An account established by a local government joint investment trust authorized under the Local Government Joint Investment Trust Act, § 19-8-301 et seq.; or

(D) An Arkansas financial institution repurchase agreement for eligible investment securities in which the seller agrees to repurchase the investment at a price including interest earned during the holding period as determined by the repurchase agreement.

(2) The following entities may convert funds that are in the possession of the entity or under the control of the entity and that are not presently needed for other purposes into an investment listed in subdivision (a)(1) of this section:

(A) A county board or commission;

(B) A municipal board or commission, including without limitation a board of trustees of a policemen's pension and relief fund, a board of trustees of a firemen's relief and pension fund, a waterworks commission, and a sewer committee; and

(C) A drainage district, levee district, and improvement district, including without limitation a waterworks district, electric light district, municipal improvement district, and suburban improvement district.

(3) This subsection does not apply to funds of a school district.

(b) (1) Unless otherwise provided by a signed written agreement between the school district or districts and the county treasurer, funds of a school district shall be invested by the:

(A) School district treasurer when the school district has a treasurer; or

(B) County treasurer when the school district does not have a treasurer.

(2) To the extent directed by the board of directors of the school district, investments shall be in:

(A) General obligation bonds of the United States;

(B) Bonds, notes, debentures, or other obligations issued by an agency of the United States Government;

(C) General obligation bonds of the state; or

(D) Bank certificates of deposit.

(c) A school district may invest moneys held for the repayment of a federally recognized qualified zone academy bond under 26 U.S.C. § 1397E, as it existed on January 1, 2005, in a guaranteed investment contract or forward delivery agreement in which the school district is guaranteed a certain rate of interest on its investment if the guaranteed investment contract or the forward delivery agreement is entered into between the school district and the purchaser of the qualified zone academy bond.

(d) A treasurer or other custodian of public funds who is authorized to purchase and hold eligible investment securities may use a brokerage account to acquire, sell, and hold the investment if the investment is established with a broker-dealer that:

(1) Has offices in the state;

(2) Is registered with the State Securities Department;

(3) Is a member of the Financial Industry Regulatory Authority, Inc.; and

(4) Is a member of the Securities Investor Protection Corporation.

(e) Unless restrictions are established by the donor, a private donation to a city of the first class, a city of the second class, or an incorporated town may be invested in accordance with the prudent investor rule established under § 28-71-105. ACA 19-1-504

Definitions - (a) "Bank" or "banking institution" means any state bank, national bank, savings bank, savings association, thrift, or other financial institution authorized to do business and having a main office or branch office in this state, which is insured by the Federal Deposit Insurance Corporation.

(b) "Public funds" or "funds" means any and all kinds of funds handled by treasurers, collectors, commissioners, sheriffs, clerks, and receivers appointed under § 14-62-104. ACA 19-8-101

Investment of Public Funds - (a) Except as provided in subsection (b) of this section, all public funds as defined in § 19-8-101 shall be deposited into banks located in the state.

(b) A school district may seek a hardship waiver from the Legislative Joint Auditing Committee from this section and deposit public funds into an out-of-state bank if:

(1) The school district is designated as an isolated school district under §§ 6-20-601 and 6-20-602;

(2) The school district lies on the borders of the state line;

(3) The nearest Arkansas bank is located at least eighteen (18) miles from the administrative offices of the district;

(4) The administrative offices of the district are located within six (6) miles from an out-of-state bank; and

(5) The out-of-state bank meets all other requirements concerning collateralization of state funds.

Annual List of Eligible Banks - (a) Annually, on December 1, the Bank Commissioner shall furnish to the governing board of each city, or town officer, and the county board of each county, and also any officer of any improvement district or any other political subdivision, having the supervision of public funds or funds belonging to the state or any political subdivision a list of all the banks or banking institutions doing business in this state which are members of the Federal Deposit Insurance Corporation. The commissioner shall recommend the maximum amount of deposit of public funds each bank shall be allowed to receive. None of these public funds shall be deposited into any bank other than those contained in the list.

(b) In no instance shall the commissioner recommend, or any bank accept, for deposit more public funds than twenty-five percent (25%) of the total of its general deposits, exclusive of the public funds. Public money in excess of the amount allowed in this section, if approved by the governing board, may be deposited into an authorized bank if the excess deposit is carried in cash, United States Government bonds, Housing and Home Finance Agency bonds, or demand loans on cotton of the kind commonly known as "Commodity Credit Corporation loans", being only such loans as are guaranteed by the United States. ACA 19-8-105

Depository Boards - (a) (1) The quorum court of each of the several counties shall by ordinance establish a county depository board. The county depository board is to be composed of the county judge, the county treasurer and county collector, or the sheriff when acting as ex officio tax collector, or those officials performing the duties of the above officials where an elective county office has been changed in accordance with Arkansas Constitution, Amendment 55.

(2) 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 also shall designate depositories and supervise the depositing of all funds collected and held by the county collector.

(3) The board may also require county officials to settle with the county treasurer more frequently than required by Arkansas law.

(b) (1) Except as provided in subdivision (b)(2) of this section, the following persons shall constitute a three-member board to designate depositories and supervise the depositing of municipal funds:

(A) A mayor;

(B) A city clerk or recorder or clerk-treasurer or recorder-treasurer; and

(C) A city council member selected by the city council.

(2) Although the board shall not total more than three (3) members, the city council may replace one (1) of the three (3) board members listed in subdivision (b)(1) of this section with the city finance officer or other official.

(3) A majority of the board members shall be necessary to conduct business and to constitute a quorum.

(c) The commissioners of road, drainage, levee, and other improvement districts shall designate depositories and supervise the depositing of funds of their respective districts.

(d) The board of directors of any school district shall constitute a board to designate depositories and supervise the depositing of school district funds. All school district funds, whether held by the treasurer of the school district or by the county treasurer, shall be deposited as designated by the board of directors.

(e) A receiver appointed under § 14-62-104 shall be a designated depository and supervise the depositing of funds collected under § 14-62-101 et seq. ACA 19-8-106

Depository agreements - (a) (1) After the receipt from the Bank Commissioner of the list of banks or banking institutions eligible to receive public deposits, the depository boards shall:

(A) Designate the banks or banking institutions into which the funds shall be deposited; and

(B) With each bank or banking institution designated under subdivision (a)(1)(A) of this section, enter into a depository agreement and any supplemental agreements under subsection (c) of this section needed to perfect security of public deposits not fully insured directly by the United States.

(2) The depository boards may at any time enter into depository agreements with any new bank chartered if the bank is certified by the commissioner as being eligible as a depository of public funds under the laws of this state.

(3) All depository agreements shall continue in full force until the bank or banking institution receives written notice of revocation by the depository board or until there is a change of membership on the depository board.

(b) (1) The treasurers or other public officials or other persons having custody of these funds shall deposit them into the designated depositories.

(2) The depositing of these funds into the designated depositories shall relieve the public officer or other person and his or her sureties from any liability for the loss of the funds by reason of the default or insolvency of any depository.

(3) County officials shall make timely deposit and investment of public funds to earn optimum interest consistent with the prudent investor rule defined by Arkansas law.

(c) (1) County and municipal officials shall:

(A) Require security for the deposit of public funds in the form of a demand deposit, a savings deposit, or a time deposit for amounts not fully insured directly by the United States; and

(B) Enter into supplemental agreements with each depository banking institution that satisfy the requirements of this subsection.

(2)(A) The State Board of Finance shall make available upon request to any county or municipality sample depository agreement forms and any necessary supplemental agreement forms required for collateralizing public funds.

(B) The forms shall include language necessary to create an enforceable perfected security interest in all collateral for deposits.

(3) Depository boards and banks or banking institutions giving or holding collateral for deposits of public funds shall comply with federal laws and regulations so that the governmental entity or political subdivision depositing public funds holds a valid claim in deposits and collateral given for those deposits against, and prevent avoidance of such a claim by, the Federal Deposit Insurance Corporation or its successor or any similar deposit insurance agency acting as receiver, conservator, or in any other capacity.

(4) All security required under this subsection shall meet the requirements of an eligible security under §§ 19-8-203 and 23-47-203(c).

(5) Public officials may require as a condition for placing deposits or keeping funds on deposit such financial data as they need to make an informed decision, including without limitation quarterly financial statements, quarterly profit and loss statements, and tangible net worth or capital-to-assets ratios. ACA 19-8-107

Additional Authority for Investment of Public Funds - (a) Notwithstanding any law to the contrary, including §§ 19-8-103 and 19-8-105, the state or local government and any trusts established under the Local Government Joint Investment Trust Act, § 19-8-301 et seq., may invest public funds through an eligible bank under § 19-8-105 if:

(1) The bank arranges for the deposit of all or a portion of the funds into one (1) or more banks or savings and loan associations located inside the United States for the account of the state or local government or trust;

- (2)** Each deposit is insured by the Federal Deposit Insurance Corporation for one hundred percent (100%) of the principal and accrued interest of the deposit;
- (3)** The bank acts as custodian of the deposits made for the account of the state or local government or trust and, as custodian, is charged with the care of the deposits and their segregation in appropriate records reflecting the total principal amount of the deposits for each custodial account; and
- (4)** On the date the funds are deposited according to subdivision (a)(1) of this section, the bank receives an amount of deposits from customers of other financial institutions located inside the United States that is equal to or greater than the amount of the funds invested by the state or local government or trust.
- (b)** For any investment of public funds under this section, the provisions of §§ 19-8-06 and 19-8-107 apply only to the eligible bank selected under subsection (a) of this section.
- (c)** Additional security shall not be required for investments of public funds under this section.
- (d)** As used in this section, "local government" means any city, county, town, or other political subdivision of the State of Arkansas, including, but not limited to, any:
 - (1)** School district or community college district;
 - (2)** Improvement or other taxing or assessing district;
 - (3)** Department, instrumentality, or agency of any city, county, or other political subdivision, including, but not limited to, any local fire and police pension or relief funds; and
 - (4)** Local government association as defined in § 19-8-303. ACA 19-8-111

Eligible Security for Deposits - (a) Whenever, pursuant to any statute of the state, any depository in the State of Arkansas must furnish security for the deposit of any public funds or whenever any security must be granted to any public official in connection with public funds the following shall be considered as eligible security for such purposes and subject to the depositor's discretion regarding the suitability of the collateral:

- (1)** The pledge or escrow of the assets of the bank consisting of any investment in which a state bank may invest pursuant to § 23-47-401;
- (2)** A surety bond issued by an insurance company licensed under the laws of the State of Arkansas and either:
 - (A)** Rated "A" or better by any one (1) or more of the following rating agencies:
 - (i)** A.M. Best Company, Inc.;
 - (ii)** Standard & Poor's Insurance Rating Service;
 - (iii)** Moody's Investors Service, Inc.; or
 - (iv)** Duff & Phelps Credit Rating Co.; or
 - (B)** Listed on the then-current United States Department of the Treasury Listing of Approved Sureties;
- (3)** Private deposit insurance issued by an insurance company licensed under the laws of the State of Arkansas and either:
 - (A)** Rated "A" or better by any one (1) or more of the following rating agencies:
 - (i)** A.M. Best Company, Inc.;
 - (ii)** Standard & Poor's Insurance Rating Service;
 - (iii)** Moody's Investors Service, Inc.; or
 - (iv)** Duff & Phelps Credit Rating Co.; or
 - (B)** Listed on the then-current United States Department of the Treasury Listing of Approved Sureties; or
 - (4)** An irrevocable standby letter of credit issued by a Federal Home Loan Bank.
- (b)** The aggregate market value of assets pledged or escrowed or the face amount of the surety bond, private deposit insurance, or letter of credit securing the deposit of funds by any single depositor must be equal to or exceed the amount of the deposit to be secured.
- (c)** Notwithstanding subdivision (a)(1) of this section, if any political subdivision, school district, improvement district, or other issuer has defaulted on any bonds or other obligations within the preceding period of ten (10) years, bonds or other obligations of the defaulting political subdivision, school district, improvement district, or other issuer shall not be eligible as security for the deposit of public funds or as security required to be deposited in connection with public funds. ACA 19-8-203

Chapter Three - TIMETABLE

This section is included to assist County Treasurers by outlining some of the important activities of the office and placing them in a calendar format. This allows the treasurer or member of his or 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.

JANUARY

Fees and fines collected to be deposited with the Treasurer on the first day of each month and no later than the tenth day of each month from other county officials and county departments, including district court. ACA 21-6-310 and 16-10-209

Receive all money paid to the county treasury on the first of each month or within ten days thereafter from other county officials. ACA 26-39-201

On or before the 15th day of each month, the county treasurer shall remit to the DF&A all court costs and fees required by ACA 16-10-307 et seq. [Admin of Justice]

Monthly financial reports submitted to Quorum Court. ACA 14-20-105

On or before the 10th of the month following the end of each calendar quarter, receive severance tax from the State Treasurer and distribute. The disposition of what was commonly called the "25% Severance" [severance taxes, penalties and costs on timber and timber products] is regulated by § 26-58-124 and is divided 50% to Common School and 50% to Road. The allocation of the "Additional 25% Severance Tax" [severance tax on stone and crushed stoned] is regulated by § 26-58-113 and is also divided 50% to Common School and 50% Road. *These severance taxes are reported to you by the State Treasurer as "Severance Tax".*

The Severance Tax that is credited to the Common School Fund is apportioned by the County Treasurer to the school districts in the county based upon the average daily membership [ADM] of the districts within the county on a pro rate basis.

The disposition of what has historically been called "Additional 75% Severance" [severance tax on stone and crushed stone] is controlled by § 26-58-113. This severance tax is credited to the Road Fund 100% and is *reported to the county treasurer by the State Treasurer as "Additional Severance".*

Receive "Boating Safety" funds from State Treasurer and credit to the Boating Safety Enforcement Fund or the County Emergency Rescue Fund. ACA 27-101-111

Receive Highway Turnback by electronic transfer from the State Treasurer's County Aid Fund by the tenth day of each month, a dedicated revenue to be deposited to the Road Fund. ACA 27-70-207

Receive severance tax on natural gas by electronic transfer from the State Treasurer by the tenth day of each month, a dedicated revenue to be deposited to the Road Fund. ACA 26-58-124 and 27-70-201 et seq.

Receive General Turnback by electronic transfer from the State Treasurer's County Aid Fund by the tenth day of each month for deposit to the County General Fund to be used for general county purposes, unless otherwise appropriated by the quorum court. ACA 19-5-602 [*In January every county receives their pro rata share of an additional \$2 million General Turnback payment funded from the previous year-end balance of the Property Tax Relief Fund.*]

Receive Amendment 79 funds for the Assessor from the State Treasurer. This is your county's share of 1% of the excess funds in the Property Tax Relief Trust Fund as of December 31 of the previous year. The money is for allocation to the Assessor for the costs of administering Arkansas Constitution, Amendment 79. ACA 26-26-310

Receive and distribute County Property Tax Relief Funds. ACA 26-26-310

Distribute tax money monthly received from land redemptions, delinquent personal and current tax after receipt of certificate of distribution from County Clerk or other appointed official. ACA 26-36-209, ACA 26-37-109, ACA 26-37-205, ACA 26-39-201, ACA 26-39-406

Receive local sales taxes by electronic transfer from the State Treasurer - usually on the 22nd to 25th of each month.

Monthly either the Treasurer or District Court Clerk shall file a report and forward all game and fish fines collected to the Arkansas Game & Fish Commission on forms provided by the Commission. ACA 15-41-209

Reconcile, on a monthly basis, the bank balance of all bank accounts to the treasurer's book balance. The book balance is what the treasurer is trying to prove. Reconciliations shall be retained and filed with the bank statements. ACA 14-25-107 and 14-25-114(a)(5) *Note: With on-line banking reconciliation is easily accomplished more often than monthly - even daily with the official monthly reconciliation at month end.*

Compile a Security Pledge Report at the end of the month to ascertain that all county deposits are properly collateralized. *Note: This should be kept up with daily to protect the county's deposits but an end of the month report should be compiled showing the EOM market value of the pledged collateral.*

By January 31 of each year the county treasurer should provide an annual summary report of all proceeds generated from ad valorem tax and distributed by the county to the school districts for the previous calendar year

January through December. A copy of this report is to be filed with the Treasurer of State; the Department of Education; and the Superintendents of the school districts to which the proceeds were distributed. ACA 26-80-101

FEBRUARY

Fees and fines collected to be deposited with the Treasurer on the first day of each month and no later than the tenth day of the month from other county officials and county departments, including district court. ACA 21-6-310 and 16-10-209

Receive all money paid to the county treasury on the first of each month or within ten days thereafter from other county officials. ACA 26-39-201

On or before the 15th day of each month, the county treasurer shall remit to the DF&A all court costs and fees required by ACA 16-10-307 et seq. [Admin of Justice]

Monthly financial reports submitted to Quorum Court. ACA 14-20-105

Receive highway turnback by electronic transfer from the State Treasurer's County Aid Fund by the tenth day of each month, a dedicated revenue to be deposited to the Road Fund. ACA 27-70-207

Receive severance tax on natural gas by electronic transfer from the State Treasurer by the tenth day of each month, a dedicated revenue to be deposited to the Road Fund. ACA 26-58-124 and 27-70-201 et seq.

Receive General Turnback by electronic transfer from the State Treasurer's County Aid Fund by the tenth day of each month for deposit to the County General Fund to be used for general county purposes, unless otherwise appropriated by the quorum court. ACA 19-5-602

Receive and distribute County Property Tax Relief Funds. ACA 26-26-310

Distribute tax money monthly received from land redemptions, delinquent personal and current tax after receipt of certificate of distribution from County Clerk or other appointed official. ACA 26-36-209, ACA 26-37-109, ACA 26-37-205, ACA 26-39-201, ACA 26-39-406

Receive local sales taxes by electronic transfer from the State Treasurer - usually on the 22nd to 25th of each month.

Monthly either the Treasurer or District Court Clerk shall file a report and forward all game and fish fines collected to the Arkansas Game & Fish Commission on forms provided by the Commission. ACA 15-41-209

Reconcile, on a monthly basis, the bank balance of all bank accounts to the treasurer's book balance. The book balance is what the treasurer is trying to prove. Reconciliations shall be retained and filed with the bank statements. ACA 14-25-107 and 14-25-114(a)(5) *Note:*

With on-line banking reconciliation is easily accomplished more often than monthly - even daily with the official monthly reconciliation at month end.

Compile a Security Pledge Report at the end of the month to ascertain that all county deposits are properly collateralized. *Note: This should be kept up with daily to protect the county's deposits but an end of the month report should be compiled showing the EOM market value of the pledged collateral.*

MARCH

Fees and fines collected to be deposited with the Treasurer on the first day of each month and no later than the tenth day of the month from other county officials and county departments, including district court. ACA 21-6-310 and 16-10-209

Receive all money paid to the county treasury on the first of each month or within ten days thereafter from other county officials. ACA 26-39-201

On or before the 15th day of each month, the county treasurer shall remit to the DF&A all court costs and fees required by ACA 16-10-307 et seq. [Admin of Justice]

Monthly financial reports submitted to Quorum Court. ACA 14-20-105

The county annual financial report must be published by March 15 of each year for the previous fiscal year. It is a joint responsibility of the county clerk and county treasurer to compile the annual financial report. The cost of the publication may be prorated equally between the clerk and the treasurer. ACA 14-21-102

Receive highway turnback by electronic transfer from the State Treasurer's County Aid Fund by the tenth day of each month, a dedicated revenue to be deposited to the Road Fund. ACA 27-70-207

Receive severance tax on natural gas by electronic transfer from the State Treasurer by the tenth day of each month, a dedicated revenue to be deposited to the Road Fund. ACA 26-58-124 and 27-70-201 et seq.

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APRIL

Fees and fines collected to be deposited with the Treasurer on the first day of each month and no later than the tenth day of the month from other county officials and county departments, including district court. ACA 21-6-310 and 16-10-209

Receive all money paid to the county treasury on the first of each month or within ten days thereafter from other county officials. ACA 26-39-201

On or before the 15th day of each month, the county treasurer shall remit to the DF&A all court costs and fees required by ACA 16-10-307 et seq. [Admin of Justice]

Monthly financial reports submitted to Quorum Court. ACA 14-20-105

On or before the 10th of the month following the end of each calendar quarter, receive severance tax from the State Treasurer and distribute. The disposition of what was commonly called the "25% Severance" [severance taxes, penalties and costs on timber and timber products] is regulated by § 26-58-124 and is divided 50% to Common School and 50% to Road. The allocation of the "Additional 25% Severance Tax" [severance tax on stone and crushed stoned] is regulated by § 26-58-113 and is also divided 50% to Common School and 50% Road. *These severance taxes are reported to you by the State Treasurer as "Severance Tax".*

The Severance Tax that is credited to the Common School Fund is apportioned by the County Treasurer to the school districts in the county based upon the average daily membership [ADM] of the districts within the county on a pro rate basis.

The disposition of what has historically been called "Additional 75% Severance" [severance tax on stone and

crushed stone] is controlled by § 26-58-113. This severance tax is credited to the Road Fund 100% and is reported to the county treasurer by the State Treasurer as "Additional Severance".

Receive "Boating Safety" funds from State Treasurer and credit to the Boating Safety Enforcement Fund or the County Emergency Rescue Fund. ACA 27-101-111

Receive highway turnback by electronic transfer from the State Treasurer's County Aid Fund by the tenth day of each month, a dedicated revenue to be deposited to the Road Fund. ACA 27-70-207

Receive severance tax on natural gas by electronic transfer from the State Treasurer by the tenth day of each month, a dedicated revenue to be deposited to the Road Fund. ACA 26-58-124 and 27-70-201 et seq.

Receive General Turnback by electronic transfer from the State Treasurer's County Aid Fund by the tenth day of each month for deposit to the County General Fund to be used for general county purposes, unless otherwise appropriated by the quorum court. ACA 19-5-602

Receive and distribute County Property Tax Relief Funds. ACA 26-26-310

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Monthly either the Treasurer or District Court Clerk shall file a report and forward all game and fish fines collected to the Arkansas Game & Fish Commission on forms provided by the Commission. ACA 15-41-209

Reconcile, on a monthly basis, the bank balance of all bank accounts to the treasurer's book balance. The book balance is what the treasurer is trying to prove. Reconciliations shall be retained and filed with the bank statements. ACA 14-25-107 and 14-25-114(a)(5) *Note: With on-line banking reconciliation is easily accomplished more often than monthly - even daily with the official monthly reconciliation at month end.*

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MAY

Fees and fines collected to be deposited with the Treasurer on the first day of each month and no later than the tenth day of the month from other county officials and county

departments, including district court. ACA 21-6-310 and 16-10-209

Receive all money paid to the county treasury on the first of each month or within ten days thereafter from other county officials. ACA 26-39-201

On or before the 15th day of each month, the county treasurer shall remit to the DF&A all court costs and fees required by ACA 16-10-307 et seq. [Admin of Justice]

Monthly financial reports submitted to Quorum Court. ACA 14-20-105

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JUNE

Fees and fines collected to be deposited with the Treasurer on the first day of each month and no later than the tenth day of the month from other county officials and county departments, including district court. ACA 21-6-310 and 16-10-209

Receive all money paid to the county treasury on the first of each month or within ten days thereafter from other county officials. ACA 26-39-201

On or before the 15th day of each month, the county treasurer shall remit to the DF&A all court costs and fees required by ACA 16-10-307 et seq. [Admin of Justice]

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JULY

Fees and fines collected to be deposited with the Treasurer on the first day of each month and no later than the tenth day of the month from other county officials and county departments, including district court. ACA 21-6-310 and 16-10-209

Receive all money paid to the county treasury on the first of each month or within ten days thereafter from other county officials. ACA 26-39-201

On or before the 15th day of each month, the county treasurer shall remit to the DF&A all court costs and fees required by ACA 16-10-307 et seq. [Admin of Justice]

Monthly financial reports submitted to Quorum Court. ACA 14-20-105

On or before the 10th of the month following the end of each calendar quarter, receive severance tax from the State Treasurer and distribute. The disposition of what was commonly called the "25% Severance" [severance taxes, penalties and costs on timber and timber products] is regulated by § 26-58-124 and is divided 50% to Common School and 50% to Road. The allocation of the "Additional 25% Severance Tax" [severance tax on stone and crushed stoned] is regulated by § 26-58-113 and is also divided 50% to Common School and 50% Road. *These severance taxes are reported to you by the State Treasurer as "Severance Tax".*

The Severance Tax that is credited to the Common School Fund is apportioned by the County Treasurer to the school districts in the county based upon the average daily membership [ADM] of the districts within the county on a pro rate basis.

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Receive "Boating Safety" funds from State Treasurer and credit to the Boating Safety Enforcement Fund or the County Emergency Rescue Fund. ACA 27-101-111

Receive highway turnback by electronic transfer from the State Treasurer's County Aid Fund by the tenth day of each month, a dedicated revenue to be deposited to the Road Fund. ACA 27-70-207

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Receive General Turnback by electronic transfer from the State Treasurer's County Aid Fund by the tenth day of each month for deposit to the County General Fund to be used for general county purposes, unless otherwise appropriated by the quorum court. ACA 19-5-602

In July there are three (3) general turnback distributions: (1) regular distribution; (2) a one month advance to help counties meet cash flow needs (The loan is repaid in equal installments from general turnback distributions each month during the fiscal year for which the loan was made.); and (3) the Real Estate Transfer Tax Distribution from Administration of Justice. ACA 26-60-112

Receive and distribute County Property Tax Relief Funds. ACA 26-26-310

Distribute tax money monthly received from land redemptions, delinquent personal and current tax after receipt of certificate of distribution from County Clerk or other appointed official. ACA 26-36-209, ACA 26-37-109, ACA 26-37-205, ACA 26-39-201, ACA 26-39-406

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AUGUST

Fees and fines collected to be deposited with the Treasurer on the first day of each month and no later than the tenth day of the month from other county officials and county departments, including district court. ACA 21-6-310 and 16-10-209

Receive all money paid to the county treasury on the first of each month or within ten days thereafter from other county officials. ACA 26-39-201

On or before the 15th day of each month, the county treasurer shall remit to the DF&A all court costs and fees required by ACA 16-10-307 et seq. [Admin of Justice]

Monthly financial reports submitted to Quorum Court. ACA 14-20-105

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NOVEMBER

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Receive all money paid to the county treasury on the first of each month or within ten days thereafter from other county officials. ACA 26-39-201

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DECEMBER

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In addition to the normal monthly tax settlements, the Final Tax Settlement is to be filed with the County Court on or before the fourth Monday in December. The County Court [County Judge] must approve, reject or restate the final tax settlement for distribution on or before December 31. The County Treasurer distributes the Final Tax Settlement.

Receive highway turnback by electronic transfer from the State Treasurer's County Aid Fund by the tenth day of each month, a dedicated revenue to be deposited to the Road Fund. ACA 27-70-207

Receive severance tax on natural gas by electronic transfer from the State Treasurer by the tenth day of each month, a dedicated revenue to be deposited to the Road Fund. ACA 26-58-124 and 27-70-201 et seq.

Receive General Turnback by electronic transfer from the State Treasurer's County Aid Fund by the tenth day of each month for deposit to the County General Fund to be used for general county purposes, unless otherwise appropriated by the quorum court. ACA 19-5-602

Receive local sales taxes by electronic transfer from the State Treasurer - usually on the 22nd to 25th of each month.

Monthly either the Treasurer or District Court Clerk shall file a report and forward all game and fish fines collected to the Arkansas Game & Fish Commission on forms provided by the Commission. ACA 15-41-209

Reconcile, on a monthly basis, the bank balance of all bank accounts to the treasurer's book balance. The book balance is what the treasurer is trying to prove. Reconciliations shall be retained and filed with the bank statements. ACA 14-25-107 and 14-25-114(a)(5) *Note: With on-line banking reconciliation is easily accomplished more often than monthly - even daily with the official monthly reconciliation at month end.*

Compile a Security Pledge Report at the end of the month to ascertain that all county deposits are properly collateralized. *Note: This should be kept up with daily to protect the county's deposits but an end of the month report should be compiled showing the EOM market value of the pledged collateral.*

Remit all balances not belonging to the County and awaiting clearance on or before December 31. ACA 14-25-114

Note: The following Treasurer check-list is not all inclusive. It is provided as a start-list for your office. Although many of the items on this list will be duties performed in every County Treasurer office, you may find some that do not apply to your county. And you will learn that there are items not on this list that should be for your county. But it is good to develop a check list for your office. A new Treasurer will find that

they need it, at least for a while, to make sure every function is performed. It is also a good tool for your deputy or deputies - especially

when the time comes that you have to hire new personnel.

COUNTY TREASURER'S OFFICE

CHECK LIST OF THINGS TO BE DONE

CHECKS MONTHLY

CRIME LAB / LAW SCHOOL

COUNTY ADMIN OF JUSTICE

UNIFORM RATE OF TAX OUT

SCHOOL CHECKS

CITY CHECKS

CHECKS QUARTERLY

TIMBER TAX-ARK FORESTRY COMMISSION (MAR, JUNE, SEPT, DEC)

DIRECT DEPOSITS

GENERAL REVENUE TURNBACK

HIGHWAY REVENUE TURNBACK

REAL ESTATE TRANSFER TAX

1% PROPERTY TAX RELIEF-ASSESSOR

SEVERANCE TAX

PILT

BOATING SAFETY-EMERGENCY & RESCUE

PROPERTY TAX RELIEF

STATE LAND SALES / REDEMPTION

STATE SALES TAX

COUNTY SALES AND USE TAX

SOCIAL SECURITY ADMIN

UNIFORM RATE OF TAX

ARKANSAS BANKER' BANK INTEREST

BANK'S CHECKING INTEREST

CENTURYLINK

REAL PROPERTY REAPPRAISAL

MONTHLY REPORTS

TRANSFER STATION STATEMENTS

COUNTY CLERK

CIRCUIT CLERK

SHERIFF

DISTRICT COURT

DISTRICT COURT PROBATION FEE

TAX COLLECTOR

LIBRARY REPORTS

COUNTY ADMIN OF JUSTICE

CRIME LAB / LAW SCHOOL

FINANCIAL REPORT

PLEDGE REPORT

BANKS PROOF OF CASH

BANK STATEMENTS

LOTTERY SALES

COUNTY SALES TAX LEDGERS

BOND LEDGER UPDATES

DEPOSITORY BOARD UPDATES

MONTHLY SUMMARY TO BALANCE WITH COUNTY CLERK

ALL MONTHLY LEDGERS TO KEEP

SAFETY REPORT / FIREEXTINGUISHER

REPORTS DURING THE YEAR

DRUG CONTROL - JANUARY AND JULY

REAL PROPERTY REAPPRAISAL-MAR, JUNE, SEPT ,DEC (YTD)

TAX DISTRIBUTIONS

CURRENT TAXES

DELINQUENT PERSONAL

DELINQUENT REAL

DELINQUENT IMPROVEMENT

INTEREST DISTRIBUTION

PROPERTY TAX RELIEF

STATE LAND SALES
REAL PROPERTY REAPPRAISAL
SEVERANCE TAXES
COUNTY SALES AND USE TAX
COMMON SCHOOL

<u>MONTHLY TRANSFERS / OR APPROPRIATED TRANSFERS</u>
COUNTY ADMIN OF JUSTICE
10% TREASURER'S COMMISSION
COUNTY SHERIFF'S OFFICE FUND TRANSFER
APPROPRIATED TRANSFERS

<u>INVOICES MONTHLY</u>
DISTRICT COURT
JUVENILE PROBATION-COUNTY GENERAL
WESTLAW
<u>DAILY DUTIES</u>
RECEIPTS
DEPOSITS
CHECKS
TRANSFERS
TAX DISTRIBUTIONS
SOLID WASTE WORK
SOLID WASTE HISTORY
BALANCE DAILY IF POSSIBLE
ORDINANCES - UPDATED
RESOLUTIONS - UPDATED
CONDITIONS OF BANKS

Chapter Four - RECORD RETENTION SCHEDULE

13-4-201. Electronic reproduction of court records.

Court clerks and any other public officers whose duty it is to make and maintain court records are authorized to use and employ an approved system of photographic recording, photostatic recording, microfilm, microcard, miniature photographic recording, digital compact disc, optical disc, and any other process that accurately reproduces or forms a durable medium for reproducing the original.

13-4-202. Requirements for format and storage of records.

When equipment necessary for such methods of recording is used to record court records, it shall meet all of the following requirements:

(1) The information retained shall be in a usable and accessible format capable of accurately reproducing the original over the time periods specified in § 13-4-301 et seq.;

(2) Operational procedures shall ensure that the authenticity, confidentiality, accuracy, reliability, and appropriate level of security are provided to safeguard the integrity of the information;

(3) Procedures shall be available for the backup, recovery, and storage of records to protect those records against media destruction or deterioration and information loss; and

(4) A retention conversion-review schedule shall be established to ensure that electronically or optically stored information is reviewed for data conversion or recertification at least one (1) time every five (5) years or more frequently when necessary to prevent the physical loss of data or technological obsolescence of the medium.

13-4-204. Destruction of original.

(a) When any document is recorded by the means prescribed by § 13-4-201, the paper original may be destroyed unless the document is over fifty (50) years old and handwritten or has been determined to be of historical value by the Arkansas History Commission.

(b) If the paper original does not meet these criteria, the electronically stored document shall be considered the "original" document and shall be treated as such when proffered with the recorder's certification.

13-4-301. - Retention required — Destruction — Electronic Reproduction.

(a) (1) A county shall maintain the records named in this subchapter for the period of time provided for in this subchapter, after which time the records may be destroyed.

(2) (A) The records named in this subchapter shall not be destroyed until at least one (1) year after an audit by Arkansas Legislative Audit or a private audit is completed and approved.

(B) A record named in this subchapter that is over fifty (50) years old shall not be destroyed before written notice by the custodian of the records and describing the scope and nature of the records in question has been furnished

to the Arkansas State Archives, at least sixty (60) days before the destruction of the records.

(b) (1) If a record is photographically or electronically transferred to other media of a permanent nature, the original documents may be destroyed, except that no handwritten records over fifty (50) years old shall be destroyed.

(2) A county record that is photographically or electronically transferred to other media of a permanent nature shall be transferred by a process that accurately reproduces or forms a durable medium for reproducing the original.

(c) When county records are transferred to other media of a permanent nature, the resulting transfer shall meet the following requirements:

(1) The information in the county record retained shall be transferred into a usable and accessible format capable of accurately reproducing the original over the time periods specified in this section and §§ 13-4-302 – 13-4-308;

(2) Operational procedures shall ensure that the authenticity, confidentiality, accuracy, reliability, and appropriate level of security are provided to safeguard the integrity of the information in the county record;

(3) Procedures shall be available for the backup, recovery, and storage of records to protect the records against media destruction or deterioration and information loss; and

(4) A retention conversion-and-review schedule shall be established by each county official to ensure that electronically or optically stored information, for records required to be kept permanently, is reviewed for data conversion at least one (1) time every four (4) years or more frequently when necessary to prevent the physical loss of data or loss due to technological obsolescence of the medium.

(d) Before a record is destroyed, the custodian of the record shall document the date and type of document.

(e) Records not addressed explicitly under this subchapter may be destroyed no sooner than three (3) years after an audit by Arkansas Legislative Audit or any private auditor is completed and approved.

13-4-302. Court records.

If a county of the State of Arkansas maintains records for the county courts, the county shall maintain these records as follows:

(1) (A) For circuit court, civil and criminal, domestic relations, and probate records:

(I) The county shall permanently maintain:

(a) Complete case files and written exhibits for all courts;

(b) Case indices for all courts;

(c) Case dockets for all courts;

(d) Grand jury reports;

(e) Grand juror lists;

(f) Petit jury lists in criminal cases;

(g) Original records, documents, and transcripts relating to the summoning of jurors and jury selection for a petit jury in a criminal case; and

(h) All probate records required to be maintained under § 28-1-108;

(ii) The county shall maintain for ten (10) years, after audit by Arkansas Legislative Audit:

(a) Records and reports of costs; and

(b) Fees assessed and collected; and

(iii) The county shall maintain for three (3) years, after audit by Arkansas Legislative Audit:

(a) Canceled checks;

(b) Bank statements;

(c) Petit jury lists in civil cases and original records, documents, and transcripts relating to the summoning of jurors and jury selection for a petit jury in a civil case; and

(d) Served and quashed warrants.

(B) The county shall maintain records of the juvenile division of circuit court, in accordance with § 9-27-309 and other provisions of Title 9 and the Arkansas Juvenile Code of 1989, § 9-27-301 et seq.;

(2) For county court records:

(A) The county shall permanently maintain:

(i) County court records;

(ii) Cemetery permits;

(iii) Statements of receipt and expenditures; and

(iv) County improvement district reports; and

(B) The county shall maintain for ten (10) years, after audit by Arkansas Legislative Audit:

(i) County court files;

(ii) County general claims dockets;

(iii) County road claims dockets;

(iv) Contracts for lease-purchase on rental payments;

(v) County school board financial reports;

(vi) Solid waste disposal revenue bonds; and

(vii) Allocations of state funds for solid waste disposal; and

(3) For quorum court records:

(A) The county shall permanently maintain:

(i) Ordinance, appropriation ordinance, and resolution registers;

(ii) Records of proceedings;

(iii) Codification of ordinances;

(iv) Registers of county advisory and administrative boards;

(v) Appointments to subordinate service districts; and

(vi) Quorum court minutes; and

(B) The county shall maintain for one (1) year the county treasurer's monthly financial report.

13-4-303. Tax and assessment records.

All counties of the State of Arkansas shall maintain county tax and assessment records as follows, if they are currently being maintained:

(1) For tax and assessment records:

(A) Permanently maintain:

(i) Real estate, personal, and mineral tax book;

(ii) Delinquent real estate;

(iii) Personal property list;

(iv) Lands forfeited to the state, and minerals;

(v) Land book of state and federally owned lands;

(vi) Clerk's deed of land sold for taxes;

(vii) Journal of proceedings of the county

equalization board;

(viii) Final settlement of tax books; and

(ix) Original charge for all taxing units and certification;

(B) Maintain for seven (7) years:

(i) Real estate and personal assessment record;

(ii) Real estate and personal tax receipts recorded in tax books; and

(iii) Redemption certificate;

(C) Maintain for five (5) years after rollback is complete: Certification of tax adjustment for public utilities and regulated carriers (computation of utility tax);

(D) Maintain for three (3) years:

(i) Delinquent personal tax settlement;

(ii) Land redemption report;

(iii) State lands distribution; and

(iv) Monthly tax distribution;

(E) Maintain for one (1) year, after audit by the Division of Legislative Audit:

(i) Valuation of real and personal property of utilities; and

(ii) Real and personal property tax correction forms;

(2) (A) For county assessor's records, maintain for five (5) years:

(i) Real estate appraisal card after reappraisal;

(ii) Lists of names of taxpayers furnished to assessor by school boards; and

(iii) The personal, commercial, and industrial assessment forms.

(iv) Inactive homestead credit documents.

(B) Prior to destruction of these forms, they will be made available to the county collector;

(3) For county collector's records:

(A) Maintain permanently:

(i) Certified delinquent real estate list with publication certificate;

(ii) Certified delinquent list for real estate forfeited to the Commissioner of State Lands with publication certification;

(iii) Personal property tax book;

(iv) Certified delinquent personal property list; and

(v) Delinquent ad valorem tax lists for oil and gas interests;

(B) Maintain for ten (10) years: Tax settlements;

(C) Maintain for seven (7) years:

(i) Real estate redemption certificates;

(ii) Cash receipts and disbursement journal; and

(iii) Collector's copy of tax receipts; and

(D) Maintain for three (3) years:

(i) Daily collection reports; and

(ii) Distraint of goods and garnishment to pay delinquent personal taxes.

13-4-304. Financial records.

All counties of the State of Arkansas shall maintain financial records for the county as follows, if they are currently being maintained:

(1) FICA — Social Security and federal income tax records maintained per federal regulations;

(2) State Income Tax records maintained per state law and regulations;

(3) Wage garnishments maintained until after a lien is satisfied;

(4) (A) Maintain for seventy-five (75) years:

(i) Payroll records and ledger; and

(ii) Retirement records;

(B) Maintain for ten (10) years:

(i) Appropriation journal (record of disbursements);

and

(ii) Warrant register or check disbursement record;

(C) Maintain for seven (7) years:

(i) County general claims certificate or invoice;

(ii) County road claims certificate or invoice; and

(iii) County school claims certificate or invoice;

(D) Maintain for five (5) years:

(i) Unemployment insurance state contribution;

and

(ii) Workers' compensation insurance payment;

and

(E) Maintain for three (3) years:

(i) Warrants or checks, or both, with documentation;

(ii) Bank records for trust, agency, fee, and court accounts (bank statements and cancelled checks); and

(iii) Receipt books and disbursement journal;

(5) For county treasurer's records:

(A) Maintain permanently:

(i) Treasurer's operating and clearing account ledgers;

(ii) Treasurer's trust and agency account ledgers;

(iii) Treasurer's city account ledgers;

(iv) Treasurer's improvement district account ledgers; and

(v) Treasurer's school district account ledgers;

(B) Maintain for seven (7) years:

(i) Land redemption receipts;

(ii) Annual settlement with county court; and

(iii) Record of school bond indebtedness and school district bonds — matured; and

(C) Maintain for three (3) years:

(i) Receipt books;

(ii) Bank statements and cancelled checks;

(iii) Cancelled warrants;

(iv) Treasurer's monthly reconciliation;

(v) Treasurer's monthly report to quorum court;

(vi) Delinquent land redemption distribution reports;

(vii) Delinquent personal distribution reports;

(viii) County officials' monthly reports;

(ix) Municipal court monthly reports;

(x) Treasurer's monthly report to prosecuting attorney;

(xi) School district bank statements;

(xii) Annual report to county school supervisor;

(xiii) Register of school warrants;

(xiv) Teachers and school employee contracts; and

(xv) Surety bond of school district treasurer and superintendent.

13-4-305. Recorder's records.

All counties of the State of Arkansas shall maintain county recorder's records for the county as follows, if they are currently being maintained:

(1) Maintain permanently:

(A) Deeds, mortgages, assignments, and all other conveyance records;

(B) Forfeited land records;

(C) Timber, mineral, oil and gas deeds and leases;

(D) Surveys;

(E) Subdivision plats;

(F) Lien records;

(G) Military discharge records; and

(H) Indices to all records; and

(2) Maintain for ten (10) years: Notary public bonds and official appointment bonds.

13-4-306. Voter registration and election records.

All counties shall maintain county voter registration and election records for the county as follows, if the records are currently being maintained:

(1) Maintained permanently:

(A) Voter registration record files;

(B) Maps of election precincts from the county election commission;

(C) Certificates of election; and

(D) Ordinance election results; and

(2) (A) Maintained for ten (10) years, after cancelled: A person's voter registration record and reason for cancellation of a person's voter registration.

(B) Maintained for ten (10) years:

(i) Minutes of board of election commission; and

(ii) Election files.

(C) Maintained for five (5) years:

(i) Petition, certificate, and notices for ordinance;

(ii) Political practice pledges;

(iii) Campaign contribution and expenditure sheets;

(iv) Code of ethics statements; and

(v) Financial disclosures.

(D) Maintained for two (2) years:

(i) Acknowledgement notices giving the disposition of a person's voter registration application;

(ii) Precinct voter registration lists prepared for each election;

(iii) Confirmation notices mailed by a county clerk to confirm a voter's change of residence or name;

(iv) Confirmation return cards received in response to a confirmation notice; and

(v) Absentee ballot applications and lists, except where litigation follows or federal law governs.

(vi) Voter registration cards; and

(E) Until an election is certified to the Secretary of State under § 7-5-701, all unused ballots.

13-4-307. Marriage records — License and bond records.

All counties of the State of Arkansas shall maintain county marriage records, licenses, and bonds records for the county as follows, if they are currently being maintained:

(1) Maintain permanently:

- (A) Marriage record and index;
- (B) Clerical licenses and credentials;
- (C) Medical license for physicians, physical therapists, podiatrists, osteopaths, and chiropractors; and
- (D) Record of marks and brands;
- (2) Maintain for seven (7) years:
 - (A) Surety bonds for county and township officials (until 1986);
 - (B) County employees blanket bonds;
 - (C) Oaths and bonds of county officials; and
 - (D) Deputies, school supervisors, etc.; and
- (3) Maintain for one (1) year:
 - (A) Notice of intention to wed;
 - (B) Going-out-of-business sale license;
 - (C) Bond for going-out-of-business sale license;
 - (D) Transient merchant license;
 - (E) Transient merchant license bond;
 - (F) Garnishment bonds; and
 - (G) Mercury refiners license.

13-4-308. Corporation records.

All counties of the State of Arkansas shall maintain corporation records for the county, if they are currently being maintained, permanently as follows:

- (1) Articles of incorporation;
- (2) Certificate of business under assumed name;
- (3) Articles of amendment;
- (4) Registration of fictitious names of corporation;
- (5) Articles of merger or consolidation;
- (6) Change of registered office or agent;
- (7) Authorized share of stock;
- (8) Cancellation of shares; and
- (9) Certificate of dissolution of corporation.

28-1-108. Records.

The following records of the court shall be maintained:

- (1) An index in which files pertaining to estates of deceased persons shall be indexed under the name of the decedent, and those pertaining to guardianships under the name of the ward. The file and docket number shall be shown after the name of each file;
- (2) A docket in which shall be listed in chronological order under the name of the decedent or ward all documents filed or issued and all orders made pertaining to the estate, including:
 - (A) The dates thereof;
 - (B) The names and addresses of fiduciaries and of attorneys for parties in interest when and as known to the clerk;
 - (C) Reference to the volume and page of any record which shall have been made of the document or order; and
 - (D) Other data as the court may direct;
- (3) A record of wills, properly indexed, in which shall be recorded all wills admitted to probate with the certificate of probate thereof;
- (4) Other records as may be required by law or the court.

QUESTION:

Can a county official destroy original documents if the documents have been imaged? [AG Opinion No. 96-126]

ANSWER:

This is a question that is becoming more common with the implementation of automated equipment and document imaging. Many county offices are proud of the fact that they are becoming “paperless”. So this question arises about older paper documents and even the current paper documents that have been imaged in some fashion.

Arkansas Code Title 13, Chapter 4, Subchapter 2 deals specifically with electronic court records and Subchapter 3 deals with county records retention and the destruction of those records in general. A.C.A. 13-4-301(b) dealing with county records says, “If a record is photographically or electronically transferred to other media of a permanent nature, the original documents may be destroyed, *except that no handwritten records over fifty (50) years old shall be destroyed.*”

An original document can be destroyed in accordance with proper destruction denoted in A.C.A. 13-4-301(d) if the original has been “photographically or electronically transferred to other media of a permanent nature”. This brings up another question. What is a “permanent nature”? Plain language law would indicate that it means that the original paper document has been transferred to other media that will endure for the period of time that type of document is required to be retained by the county.

According to county record retention laws we understand that some records are permanent – meaning that they should always be retained. Other records have to be retained for various periods of time. When a county official is making the decision to destroy original documents in order to save space or be more efficient – serious consideration must be given to the medium being used to transfer the image and to what degree that transferred image is of a “permanent nature”.

It is now a requirement of the general county records retention law in A.C.A. 13-4-301 when a county official converts to electronic records and destroys original records certain requirements must be met in order to safely maintain the records in a usable format - making sure the equipment does not become obsolete causing the inability to retrieve or search records. Those requirements include the following:

1. The information converted to electronic record shall be in a usable and accessible format capable of accurately reproducing the original over the period of time that type of record is required to be kept by the county.
2. Operational procedures must ensure that the authenticity, confidentiality, accuracy, reliability, and appropriate level of security are provided to safeguard the integrity of the information.

3. Procedures must be put in place for the backup, recovery, and storage of records to protect the records against media destruction or deterioration and information loss.
4. A retention conversion-review schedule must be established to make sure that electronically or

optically stored information is reviewed for data conversion at least one (1) time every four (4) years or more frequently if necessary to prevent the physical loss of data or technological obsolescence of the medium.

Chapter Five - DESCRIPTION OF RECORD FILES-(BOOKS)

This section was included to assist newly elected County Treasurers by describing the commonly kept record files in the office of Treasurer. The following is a description of the records that are kept in some Treasurers' offices around the state. These records are not necessarily required by law to be kept in this format, but are kept in this manner as a practice of good office management.

RECORDS KEPT BY TREASURER

SCHOOL DISTRICT TREASURER'S CERTIFICATE - (ACA 6-13-701) - The Treasurer maintains a file containing a duly executed certificate of appointment of the School District Treasurer.

TIMBER TAX - (ACA 26-61-110) - The county treasurer shall, on or before the twentieth day following the end of each calendar quarter, transmit to the Arkansas Forestry Commission all taxes collected under the provisions of this chapter during the proceeding calendar quarter.

ACCOUNTS LEDGER

The Treasurer maintains an accounts ledger that lists every account or fund required to be on the books of the county. The accounts ledger shows all the activity on each account that includes all deposits, expenditures, source of the deposit, source of the expenditure, the date made, and the number of the warrant or check.

BANK LEDGER

The Treasurer maintains a bank ledger which contains the balances of the county at each bank. The bank ledger shows all the activity, the deposit and withdrawals associated with each bank. The following information is kept:

- date of transaction
- check number
- source of the deposit or expenditure
- receipt number
- deposits
- checks
- balance

BOND BOOK

The Treasurer keeps a book that contains information on all long-term debt to which the county or school district is obligated. The type of information contained is as follows:

- type of the bond
- paying agent
- amount of the issue
- interest rate
- purpose of the bond issue

- schedule of payments

RECEIPT BOOK

The Treasurer is required to receipt all moneys that come into the possession of the county. Receipts are to be pre-numbered and made in duplicate with:

- 1 copy to the remitter
- 1 copy to remain in the receipt book

Also the receipt book needs to have a printer's certificate which shows the number of receipts in the book and numerical series of receipts. (ACA 14-25-108)

RECONCILIATION FORM

This is a form designed to assist the Treasurer in the monthly reconciliation of accounts. The form lists each account in the accounts ledger and includes the city funds, school district funds, and county funds. It has two columns for each account and they are the Treasurer's balance and overdraft. Also, it lists each bank in the county and has a place for the balance in each one as well as cash on hand account unreconciled and totaled. (ACA 14-25-107)

COUNTY GOVERNMENT FINANCE

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

The Federal revenues include payments-in-lieu of taxes on federally owned land in the county, and various federal grant-in-aid programs.

The state revenues include severance taxes, general turnback, road turnback, county property tax relief funds (a sales tax) and various state grant-in-aid programs.

The local revenues include the general property tax millage, road tax millage, fines and costs, fees and commissions. The local option sales tax is also considered a local revenue.

The reliance on these sources of funding has changed significantly over the past 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 sources 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. Local governments now are being forced to look for locally generated sources of revenue.

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 assessment the following year. The collection period is from the first business day in March until October 15th of each year. This 7 month tax collection period causes most taxpayers to wait until the October 15th deadline to pay their taxes.

The current collection system of local property tax was designed to collect revenue in one year to be appropriated and spent in the next year. This is a good system and has worked well for years, but increased costs over the past decade have caused many counties to utilize part of these revenues before the next fiscal year. Once a county starts to appropriate and spend these revenues early, it just compounds the problem and causes a more severe cash flow dilemma the next year.

INVESTMENTS

The County Treasurer along with the County Judge and the County Collector make up the County Depository Board. It is up to this Depository Board to supervise the depositing and investing of all county funds held by the County Treasurer. (ACA 19-1-504 and 19-8-106)

County Treasurers are required to make timely investments of public funds in order to earn optimum interest consistent with the prudent investor rule for investments as defined by Arkansas law. (ACA 19-8-107) In accordance with ACA 19-3-605 the prudent investor rule means that, in making investments, the fiduciaries shall exercise the judgment and care under the prevailing circumstances that an institutional investor of ordinary prudence, discretion, and intelligence exercises in the management of large investments entrusted to it, not for speculation but for investment, considering the permanent disposition of funds, and the probably safety of capital as well as probable income.

County Treasurers shall require collateralization for the "deposit" of public funds for amounts not fully insured directly by the United States. The deposit of public funds is defined as a demand deposit [checking account], a savings deposit, or a time deposit [certificate of deposit] (ACA 19-8-107)

Arkansas Code § 19-1-501 and 19-1-504 also allows counties to invest public funds in a direct or guaranteed obligation of the United States; a direct obligation of an agency, instrumentality, or government-sponsored enterprise; and a bond or other debt of the state, a school district, a county government, a municipal government, or an authority of a governmental entity as long as it has a debt rating of "A" or better at the time of purchase.

When a county government purchases any of the legal securities delineated in ACA 19-1-501 the county actually purchases and owns the investment and your security is either the full faith and credit of the United States Government or the implied backing of the U.S. government – depending on the investment security purchased. This

type of public funds investment is not a deposit of any financial institution.

For more complete details concerning proper and legal investments, procedures and agreements for perfecting security of public funds for county government read in their entirety Arkansas Codes § 19-1-501, 19-1-504, 19-8-104 and 19-8-107.

A bank may secure the deposit of public funds by the pledge or escrow of several types of securities, a surety bond, private deposit insurance or an irrevocable letter of credit issued by a Federal Home Loan Bank, subject to the depositor's discretion regarding the suitability of the collateral. (ACA 19-8-108, 19-8-109, 19-8-110, 19-8-203, 23-47-203).

In addition to consummating a depository agreement with each financial institution designated as a depository for public funds of a county the county treasurer must also consummate all other supplemental agreements necessary to perfect security of any deposited public funds not fully insured directly by the United States. Currently the FDIC requires a Security Agreement for Public Funds in Deposit, a Certificate of Corporate Resolutions, and a Custodial Services Agreement to perfect security. A copy of these agreement forms may be found in the back of this manual.

In the matter of interest distribution, counties in Arkansas usually follow the general accounting principal that "interest follows principal". However, a few county quorum courts have passed ordinances that override that generally accepted rule and distribute county interest in other fashions. The Division of Legislative Audit recommends that interest follow principal. Specifically, after January 1, 1992, all interest earned on county road fund moneys must be credited to the county road fund. (ACA 26-79-106)

WORK PROCESS DESCRIPTIONS

This section of the manual is designed to assist County Treasurers newly elected and experienced, with daily office operations. The processes enumerated were selected because they comprise the major functions of the County Treasurer's office.

In reading the work processes 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.

Processing Warrants "Batch-Redeem System"

STEP 1) Receive the warrants daily, twice a day, or every two days from the various banks in the county. A statement will usually accompany these warrants and indicate the total amount of withdrawals. These totals should be double checked for accuracy.

STEP 2) The next step is to sort out the warrants by the type of account it is issued against.

STEP 3) Then a check is issued to the various banks for the total amount of the warrants drawn on that bank.

STEP 4) The warrants are then stamped paid with the date and the Treasurer's name. Next the name of the bank and the check number are stamped on each warrant. This makes it easier to locate a mistake or resolve an out of balance problem when one arises.

STEP 5) The warrants are then posted to the accounts ledger. This posting includes the warrant number, date paid, to whom it was issued, the amount of the warrant, and check number paying the same.

STEP 6) The warrants are then filed by account name to allow the Treasurer to easily reconcile the accounts monthly.

STEP 7) Then the checks are posted in the bank book. The posting includes the date, check number, amount of the check, bank name, and the balance.

NOTE:

A county may change or modify the above described warrant system to better comply with current business and banking practices. (ACA 14-24-201 through 14-24-206). Only one or two counties still use the "batch-redeem system".

Monthly Account Reconciliation

STEP 1) Total the warrants for the month and total accounts ledger for the month.

STEP 2) Take last month's balance from the bank book and add what was received (deposits) for the current month and

subtract all the disbursements for the month. This should give you the balance for the current month.

STEP 3) Record the balances from the account book onto the reconciliation form and total all accounts on the reconciliation form.

STEP 4) Add the bank book for the month and reconcile the bank statements to make certain that the bank statements balance with the bank book.

STEP 5) List the outstanding checks which have been written, but do not show up in the bank statement. It is also recommended that this list of outstanding checks be kept for the Legislative Audit Division.

This monthly reconciliation is set up to reconcile two things:

- 1) Reconcile the bank statements to the Bank Book.
- 2) Reconcile the accounts ledger to the bank balance.

BEST PRACTICES for Receiving, Disbursing and Reporting Prisoner Telephone Commissions & Profits Earned from Prisoner Commissary Services

STEP 1) Sheriff's Office/Jail or vendor sends check to the Treasurer for the amount of commissions from prisoner telephone services (revenue code 7804) and profits from prisoner commissary services (revenue code 7805). Commissary service profits are derived from the sale of any products/services to inmates. ACA 12-41-105(a)(1)

STEP 2) Treasurer credits these monies to the County Sheriff's Office Fund (Fund 6017), an agency fund. This fund is used to account for monies held by the Treasurer as an agent for the Sheriff until transferred. The transfer of monies is not subject to appropriation by the Quorum Court. ACA 12-41-105 (a)(2)(A)(B)

STEP 3) The transfer of 100% of these monies is made to the Communications Facility and Equipment Fund monthly. If the Sheriff has this fund on his/her books, as established by law, issue a Treasurer's check from the County Sheriff's Office Fund to the Sheriff. If the Treasurer has this fund on the books of the county, as requested by the Sheriff, use a county court order to transfer these monies from the County Sheriff's Office Fund to the Communications Facility and Equipment Fund (Fund 3014). ACA 12-41-105(b)(1)

STEP 4) The County Sheriff **must** annually allocate a percentage (up to 75%) of the commissions and profits credited to the Communications Facility and Equipment Fund for the maintenance and operation of the county jail. ACA 12-41-105(b)(2)

STEP 5) The Sheriff shall provide a reconciled accounting of the Sheriff's Communication Facility and Equipment Fund, including the receipts, disbursements and balance, to the County Treasurer by the tenth day of each calendar month. This same type reporting is required for any other operational fund that is held by the Sheriff and not on the books of the County Treasurer. ACA 14-25-112(f)

Deposit Procedure

STEP 1) Treasurer makes out the deposit slip and lists on it:
- the receipt number in numerical order
- who receipted to
- amount of receipt
- note amount of any cash that is deposited

STEP 2) Treasurer should write the name of the bank deposited in on various receipts to aid in rectifying a mistake if one is made.

Monthly Quorum Court Report

STEP 1) Take the previous months end-of-month balance from the account ledger.

STEP 2) Record all accounts ledger transactions including all amounts received and disbursements made for each account.

STEP 3) Compute current month balances for each account having recorded previous months balances and all transaction activity.

STEP 4) Compute year-to-date balances including receipts and expenditures by account.

STEP 5) Provide quorum court with recap of revenues by classification for all operating accounts showing current month, year-to-date actual, year-to-date projection and total year projection for each source of revenue.

STEP 6) Attach a letter stating that the attached report is true and correct to the best of your knowledge.

Monthly Tax Settlement

STEP 1) Collector provides Treasurer with the total amount of current taxes collected for the month.

STEP 2) Treasurer posts total amount collected for the month into the Collector's unapportioned account.

STEP 3) County Clerk or the Collector computes the 90% amount of taxes that go into each account and provides that information to the Treasurer. Ten percent (10%) is held in reserve in the collector's unapportioned account for the final tax settlement.

STEP 4) Treasurer then transfers money to various accounts based on the County Clerk's or other officials' certified computations and posts information in the accounts ledger.

STEP 5) Treasurer remits to the various cities in the county and to each school district with a district treasurer, their amount of tax for the month.

Final Tax Settlement

STEP 1) The county clerk or other official appointed by the quorum court computes the final tax settlement of the county collector using the 10% reserve in the collector's unapportioned account held by the county treasurer. The proper official sets forth the amount due to or from the various taxing entities. The final tax settlement is filed with the county court (Judge) on or before the fourth Monday of December each year.

STEP 2) The county court (Judge) approves, rejects or restates the final tax settlement on or before December 31 of each year.

STEP 3) The treasurer then transfers money to various accounts based on the computations in the final settlement and posts information in the accounts ledger. The account is zeroed out each year and all of the money is transferred to other accounts.

STEP 4) Treasurer remits to the various cities in the county, to each school district treasurer, to each improvement district and to any other entity for which the county acts solely as a collecting agent, their amount of the tax.

Delinquent Personal Tax Settlement

STEP 1) Collector provides Treasurer with the total amount of delinquent personal taxes collected for the month.

STEP 2) Treasurer posts total amount collected for the month into the Delinquent Personal Account.

STEP 3) County Clerk or the Collector computes the amount of taxes that go into each account and provides that information to the Treasurer. No 10% reserve fund is established for delinquent personal taxes.

STEP 4) Treasurer then transfers money to various accounts based on the computations and posts information in the account ledger.

STEP 5) Treasurer remits to the various cities in the county and to each school district with a district treasurer, their amount of tax for the month.

Note: All costs associated with delinquent personal property taxes are prorated to the original taxing entities. One hundred percent (100%) of the penalties associated with delinquent personal property taxes are county revenues credited to the County General Fund. (ACA 26-36-201)

Delinquent Real Estate

Transfer of tax delinquent lands.

ACA 26-37-101 provides: (a) (1) All lands upon which the taxes have not been paid for one (1) year following the date the taxes were due, October 15, shall be forfeited to the State of Arkansas and transmitted by certification to the Commissioner of State Lands for collection or sale. (2) No tax-delinquent lands shall be sold at the county level.

(b) The county collector shall hold all tax-delinquent lands in the county for one (1) year after the date of delinquency, and, if the lands are not redeemed by the certification date, which shall be no later than July 1 of the following year, the collector shall transmit it to the state by certification, after notice as provided in this chapter, indicating all taxes, penalties, interest, and costs due and the name and last known address of the owner of record of the tax-delinquent lands.

(c) Upon receipt of the certification, title to the tax delinquent lands shall vest in the State of Arkansas in care of the Commissioner of State Lands.

Distribution of funds.

ACA 26-37-205 provides (a) All moneys collected by the Commissioner of State Lands from the sale or redemption of tax delinquent lands shall be distributed as follows:

(1)(A) First, to the Commissioner of State Lands, the penalties, the collection fees, the sale costs, and the other costs as prescribed by law. (B) The sale costs shall include, but not be limited to, fees for title work; (2) Second, to each county an amount equal to the taxes due plus interest and costs to the county as certified by the county collector, which amount shall be held in an escrow fund administered by and remitted to the counties within one (1) calendar year of their receipt by the Commissioner of State Lands; (3)(A) Third, to each county an amount equal to the delinquent personal property taxes, plus penalty, of the owner or owners of the delinquent land as certified by the county collector, which amount shall be held in an escrow fund administered by and remitted to the counties after one (1) calendar year of their receipt by the Commissioner of State Lands. (B) The Commissioner of State Lands shall review the information provided by the county collector and any other interested party to ascertain: (i) Whether the personal property tax and penalty qualifies to be withheld from the delinquent land sale proceeds; and (ii) The amount of personal property tax and penalty that qualifies under this subdivision (a)(3) to be withheld. (C) If the Commissioner of State Lands is required to make a refund of the personal property taxes withheld under subdivision (a)(3)(A) of this section to a purchaser of delinquent lands for any reason, the amount of the refund shall be recovered by the Commissioner of State Lands from the county or counties that originally received the proceeds under this subdivision (a)(3) of this section of the delinquent land sale. (D) The Commissioner of State Lands shall promulgate rules and forms needed to administer this subdivision (a)(3). (E) This section does not require the Commissioner of State Lands to search county records to determine whether an owner of tax delinquent land owes delinquent personal property taxes. (F) This section does not grant a county a right to a lien against real property for the payment of delinquent personal property tax; and (4) Fourth, to be placed in another escrow fund administered by the Commissioner of State Lands, the remainder, if any. (b) If no actions are brought within the time limits prescribed under this subchapter, the remaining funds, if any, shall be distributed by the Commissioner of State Lands as follows: (1) Ten percent (10%) of the remaining funds up to a maximum amount of five hundred dollars (\$500) shall be paid to the Commissioner of State Lands for the administration of the distribution of the funds; (2)(A) After payment is made to the Commissioner of State Lands pursuant to subdivision (b)(1) of this section, the amount left in the remaining funds shall be paid to the former owners of the tax delinquent land. (B)(i) "Former owner" means a person, partnership, corporation, or other legal entity capable of owning real property in the State of Arkansas and that holds record title to the real property on the date of sale by the Commissioner of State Lands. (ii) "Former owner" does not include heirs or relations beyond the first degree of consanguinity. (C)(i) A former owner must file an application with the Commissioner of State Lands requesting the release of the funds. (ii) The application shall be provided by the Commissioner of State Lands and shall require proof of ownership of the tax delinquent land as well as proof of authority to act on behalf of the owner. (iii) The application may require other information the Commissioner of State

Lands deems necessary before the release of the funds. (D)(i) The former owner shall release and relinquish all rights, title, and interests in and to the tax delinquent land. (ii) The Commissioner of State Lands shall provide a release deed to the former owner to execute. (E) In the event of any dispute, claim, or multiple claims of ownership or controversy regarding the release of the funds, the Commissioner of State Lands may require the party or parties to provide a court order to resolve the issues and to establish the party or parties entitled to the remaining funds. (F) An agreement by a former owner, the primary purpose of which is to locate, deliver, recover, or assist in the recovery of remaining funds, is enforceable only if the agreement: (i) Is in writing; (ii) Clearly sets forth the nature of the property and the services to be rendered; (iii) Provides a fee of not more than ten percent (10%) of the recovery; (iv) Is signed by the former owner; and (v) States the value of the remaining funds before and after the fee or other compensation has been deducted. (G)(i) An agreement covered by subdivision (b)(2)(F) of this section that provides for compensation that is unconscionable is unenforceable except by the former owner. (ii) A former owner who has agreed to pay compensation that is unconscionable may maintain an action to reduce the compensation to a conscionable amount. (iii) The court may award reasonable attorney's fees to a former owner that prevails in the action. (H) Subdivision (b)(2)(G) of this section does not preclude a former owner from asserting that an agreement covered by subdivision (b)(2)(F) of this section is invalid on grounds other than unconscionable compensation. (I)(i) The Commissioner of State Lands shall make all funds payable to the former owner. (ii) No funds shall be made payable to any other person or entity other than the former owner without a court order directing the payment to the other person or entity. (iii) No interest shall be paid to the former owner on the funds. (J)(i) Anyone filing a claim or assisting with the filing of a claim that results in the erroneous payment of a claim is responsible for the repayment of all funds paid. (ii) Any claim filed fraudulently is punishable as a Class D felony; and (3)(A) Any funds placed in escrow prior to July 1, 2005, shall be held in escrow for five (5) years and at the end of the five-year period, if the funds have not been distributed, the escrow funds shall escheat to the county in which the property is located. (B) Any funds placed in escrow on and after July 1, 2005, shall be held for three (3) years, and at the end of the three-year period, if the funds have not been distributed, the escrow funds shall escheat to the county in which the property is located. (c) All funds distributed to each county by the Commissioner of State Lands from the redemption or sale of tax-delinquent lands, including any interest and costs, are to be distributed to the applicable taxing units where the delinquent land is located within the county in the manner and proportion that the taxes would have been distributed if they had been collected in the year due. (d) All funds received by a county from the redemption of tax-delinquent land at the county level, including any penalty, interest, and costs, are to be distributed to the applicable taxing units where the delinquent land is located within the county in the manner and proportion that the taxes would have been distributed if they had been collected in the year due. (e) This section shall be

severable, and if any phrase, clause, sentence, or provision of this section is declared to be contrary to the laws of this state, the validity of the remainder of this section shall not be affected.

Redemption of lands not transferred

ACA 26-37-109 provides: (a)(1) The county collector may charge a fee of two dollars and fifty cents (\$2.50) for the issuance of each certificate of land redemption for each parcel of tax delinquent land redeemed in their office.

(2) This fee shall be deposited in the County General Fund.

(b) The county collector shall accept payment for the redemption of tax-delinquent land that has not been transferred to the Commissioner of State Lands.

(c) The county collector shall pay over to the county treasurer on the first of each month or within ten (10) days thereafter all amounts collected under this section. However, upon a certificate of distribution of the amounts collected under this section being prepared by the county clerk or county collector, which certificate shall be issued on or before the thirtieth day of each month, the county treasurer will transfer to the various funds the amount due each fund, such as the county, school, or municipality fund, from the amounts collected under this section.

Notes on Distribution of Penalties, Interest, and Costs on Delinquent Real:

The general rule of thumb is for penalties, interest and costs assessed and collected on delinquent real to be prorated to the various taxing units [ACA 26-37-205(c)(d)]. There are a couple of exceptions - and they are not really penalties, interest, or costs. One of them is "unclaimed excess proceeds" received from the State Land Commissioner. They are not subject to proration and are county funds in accordance with a 1997 AG Opinion [97-239] and are general funds of the county. The other exception to the rule is the Collector's Land Redemption Fee - \$2.50 for each parcel of tax-delinquent land

redeemed at the county level. This fee is deposited in the County General Fund in accordance with ACA 26-37-109(a)(2).

Financial Management System

This system was mandated by Act I22 of I98I, codified at ACA 14-21-101 and will be a very important part of the work of the County Treasurer. The Financial Management System was developed by the Legislative Audit Staff and was implemented by the various counties in the state January I, 1983. A revised County Financial Management System Manual was developed by the Division of Legislative Audit that was required to be implemented by the counties of Arkansas by January 1, 2014. The July 2015 edition of the manual is the latest version.

The Division of Legislative Audit has published a booklet entitled County Financial Management System Manual. The Association of Arkansas Counties recommends that each Treasurer obtain a copy of this manual. A copy can be obtained from

Division of Legislative Audit
172 State Capitol
Little Rock, AR 72201-1099
Telephone: 683-8600

This manual is also available for download at www.legaudit.state.ar.us under the "Resources" link.

Also available under the Legislative Audit website "Resource" link is an Information Systems Best Practices Guide.

Chapter Six – COUNTY LINES ARTICLES AND FAQs

County Lines Articles:

Smooth, Effective Meetings

They don't just happen!

By: Eddie A. Jones

County Government Consultant

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

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

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

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

- **Brief.** You should summarize discussions and decisions rather than attempt to get them down verbatim.

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

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

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

Public Speaking is a Necessity for County Officials!

***By: Eddie A. Jones
County Government Consultant***

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

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

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

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

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

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

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

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

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

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

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

Being an Effective Public Speaker

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

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

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

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

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

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

Big Public Speaking Mistakes

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

- **Starting with a whimper.** Do not start with a whimper – a start like the “dead-fish handshake”. Start with a bang! Give the audience a startling statistic, an interesting quote, a news headline, a funny story – something powerful that will get their attention immediately.

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

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

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

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

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

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

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

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

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

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

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

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

“Bob, I appreciate that.”

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

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

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

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

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

Leadership - The Learned Art

A shared point of view –

By: Eddie A. Jones

County Government Consultant

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

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

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

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

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

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

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

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

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

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

3. Leadership starts with a positive attitude.

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

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

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

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

4. Leadership simplified.

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

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

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

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

5. Running a county is a team effort.

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

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

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

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

6. Improving the effectiveness of the county team.

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

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

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

7. Leaders have certain competencies.

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

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

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

8. Skills and attributes of the leader.

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

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

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

That’s my point of view!

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

By: Eddie A. Jones

County Government Consultant

Working for the People is a Public Trust

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

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

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

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

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

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

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

Fraud Increases during an Economic Downturn

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

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

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

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

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

Types of Theft and What to Watch For

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

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

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

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

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

How Fraud Happens

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

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

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

Procedures to Reduce the Risk of Theft

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

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

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

My Old “Stump Speech” About Budgeting

***By: Eddie A. Jones, Consultant
Association of Arkansas Counties***

It's that time of year again. Time for me to get on a stump – time for the “wailing and gnashing” about what is needed for sound county budgeting.

To the younger political generation, I may need to first expound a little about the definition of a stump speech. Stump speech is a term used today to describe a candidate's standard speech, but in the 19th century the phrase held a much more colorful meaning.

The terminology became widespread in the early decades of the 1800s, and stump speeches got their name for a good reason: they would often be delivered by candidates who literally stood atop a tree stump. The ability to give an effective stump speech was considered an essential political skill.

Although a candidate usually did his homework and peppered the speech with local references, most of the speech remained identical from day to day. The need for a stump speech stems from a desire to keep candidates focused on their message and to consistently present certain arguments or point out certain aspects of their political platform.

My old “stump speech” about county budgeting may be rather standard – but I want to pepper it with some ideas and tools that should help counties develop a plan that will bring them back from the brink of financial disaster. I know some think I’m using a soap box – but I prefer to think of this as my “stump speech”.

It is no easy task to run a county government – and we have 75 of them in Arkansas ranging in size from about 5,400 to almost 383,000. With dwindling resources the task becomes even tougher. Most counties are struggling, especially in the area of general operations which covers so many areas of required services.

What are the *required* areas of service? They are these, as set forth in Arkansas law in § 14-14-802(a):

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.

Everything else that a county can legally provide for its residents is secondary and can be found listed in § 14-14-802(b).

A variety of pressures affect county government finances, including declining or static tax bases, stagnant levels of state aid, escalating healthcare and employee benefit costs, the lack of mandate relief, the need to ensure costly public safety, and one that many probably don’t think of – too many rigidly restricted revenues. The latter is a very real obstacle to appropriating and expending money where it’s needed – but by no means is the only culprit.

County government, more than any other level of government, is expected to provide more for less. County government provides for every citizen of the county...even those within municipalities. County government serves the entire populace of Arkansas just like the State of Arkansas.

Understanding the financial condition of your county government is important for elected officials as you work to align revenues with public demands for services, while maintaining financial solvency. This task becomes even more important when the economic and financial environment, over which you have little to no control, goes up and down like a yoyo. And it’s been down more than up in recent years.

The Governmental Accounting Standards Board (GASB) defines a government’s financial condition as “a composite of a government’s financial health and its ability and willingness to meet its financial obligations and commitments to provide services”. The challenge in conducting these analyses then becomes how to appropriately measure these concepts.

I’ll just flat tell you, that’s way beyond this old country boy’s pay grade. I believe what we have to do here in Arkansas to achieve better and realistic county budgets that will help put our counties back on sound financial ground is use some good “common sense”. You do it this way. You use common sense to:

- Discipline yourself to actually spend the time to learn and understand the county’s financial condition – including the monthly flow of expenditures, the flow of revenues, the revenues available to a county, whether or not those revenues have been availed for your county, how those revenues can be spent, what you must fund, what you don’t have to fund. In other words, get a handle on the county budget process and what’s available to you. Know the law inside and out in order to maximize the funding available to your county.
- Be creative in solving your problems. Many of us fall into the trap of doing things the same old way. Just because it’s always been done that way in your county doesn’t mean it should still be done that way. There may be a better way. If there’s a better way to do it and stay within the law – then do it. Do what is in the best financial interest of your county and still provide necessary services and compensate fairly.
- Leaders have to be willing to make tough decisions. There are counties today in Arkansas that are at the point of collapse because tough decisions have been delayed too long – decisions that should have been made several years ago to avert the current financial crisis. You can bellyache all day about what should have been done 4 years ago – but it wasn’t. So those of your in office now have to make the decision. It needs to be made forthwith. But make sure you are making a well-reasoned financial decision for your county. Don’t just make some rash decision or a decision based on personalities. You were elected to make good and right decisions for all residents of your county.

In an attempt to close budget gaps for the 2016 budget year, many Arkansas counties will have to consider job cuts, service reductions, property or other tax increases, fee and/or fine increases allowed by law – or a combination of these measures. Establishing a successful financial course for any county in these challenging times requires all of those things I mentioned – discipline, creative solutions and tough but fair decisions.

While every budget has a number of “at risk” items, any budget adopted in a time of economic insecurity, should not include optimistic revenue projections. A flush revenue forecast may make it easier to make a budget – but, will probably prove to be impossible to maintain. When you have one or two sources of revenue that provide a large percentage of any budget, such as a sales tax, be extremely cautious – you cannot afford to be overly optimistic. A budget is only as good as the revenue forecast on which it is built. Hope for the best – plan for the worst.

One of the worst budget habits that counties have developed – and the State of Arkansas has started doing it, too – is the reliance on one-time money for on-going expenses. It may buy a little time, but it is not the solution. Using one-time money to fund initiatives that result in recurring costs is a slippery slope that will lead to a structurally unbalanced budget. Unrestricted, unappropriated carry-over fund balances seem to be screaming, “Use me. Use me. I’m the easy answer to your problems.”

That’s exactly what they are – the easy answer....but not a good answer. The problem with using a carryover fund balance or any other one-time money source to finance recurring expenses is that it’s a temporary fix to a permanent problem. The deficit being plugged will continue to exist long after the once available funds have been depleted. Appropriating a carryover fund balance for ongoing operating expenses should be looked at as the deferment of a tax increase or a service reduction.

A county that year after year develops a budget calling for the use of carryover fund balances and other one-shot revenues is a county that has repeatedly failed to address the recurring structural imbalance in its annual budget. At the end of the rope the result is a county that has depleted its reserves and now has to replace those revenue sources or cut services to balance the budget. Dependence on surplus dollars to cover operating costs will be short-lived at best. It will cripple a county financially. And we have many financially crippled counties in Arkansas.

I realize that it is difficult for many of you to imagine making a county budget without relying on the assistance of surplus dollars. It may be next to impossible to cut it out completely all at once for the vast majority of Arkansas counties that have historically used carryover fund balances to make the following year’s budget. But it can be done. *That’s where the discipline, creative problem solving and tough decision making come in.* Counties of Arkansas will not become structurally balanced financially and have continuous positive cash flow until they refrain from relying on carryover fund balances and other one-shot money sources for ongoing budget expenses.

If a county *must* rely partially on the assistance of surplus dollars, it needs to be a managed use – a part of a county’s multi-year budget plan. A multi-year plan will help a county improve their fiscal management. While one cannot ignore the external factors that force the issue of appropriating at least part of the carryover fund balances, there are a few things that can be done to mitigate the adverse effects of such a decision.

- Use one-shot money on one-shot expenses. Use it for infrastructure or capital items that won’t have to be replaced for a number of years. Don’t use one-time money for on-going operations. What source of revenue will you have to fund that operation in the next budget cycle?
- Don’t use all of the available resources at once. Use the minimum that can be afforded after strategically reducing, cutting, and consolidating wherever possible.
- Keep a record of a multiple year trend of the available carryover fund balances. At most, the appropriation thereof should not exceed the county’s trend. And absolutely never appropriate the full 90% allowed by law of a carryover fund balance. *[Yes, the 90% Rule applies to carry-over balances – AG Opinion No. 1986-51.]* It is the building of a carryover fund balance that can and should become your county’s reserve for emergency situations. And those emergency situations do arise.

Arkansas law [Arkansas Code § 14-21-106] actually ascribes the term “surplus” to any moneys left remaining unexpended and unappropriated in any county fund from any previous year. In accordance with law the county court, the County Judge in his/her judicial capacity, may enter a court order to add the surplus to the respective funds of which the surplus remains unexpended and use it as revenue for the current fiscal year. So, it is actually the County Judge that gets to decide whether or not to use the surplus or carryover cash from any fund in making the current year budget. More County Judges should exercise the authority this law provides to hold back all or part of the carryover fund balances to put the county in a better financial operating position – especially as it relates to cash flow and preparation for emergencies.

The counties with the best cash flow, of course, are the very few that do not use the carryover cash balances to make their budget for the following year. They use it as a “surplus” or “reserve”, as the law intended, to make additional appropriations

during the course of the year as unexpected needs arise for capital expenditures, infrastructure expenses, and other emergency type expenditures.

Using the carryover fund balances recklessly does not exonerate or absolve the sin of bad finance management and budgeting. It simply buys a little time! If a county will still be in the same or possibly a worse situation once the clock has run out, using the fund balance will prove moot. Deferring the inevitable impact of over reliance on fund balances is synonymous with mortgaging the future. Counties should deal with current problems with current resources. This means saying “no” to frivolous expenses, unnecessary projects and unsustainable tax/revenue reductions – and saying “yes” to available revenue sources such as fees and fines allowed by law, sales taxes and even the dreaded property tax for those counties that have not maximized their general and road millage....and there are still several counties that have not. By the way, the property tax is the most reliable and constant source of revenue in good times and bad. And remember, the law clearly defines those things that a county must fund and those things a county may fund – but are not required to [A.C.A. 14-14-802]. *A county must prioritize! Don't try to fund more than you have finances for!*

A woman proudly told her friend, “I’m responsible for making my husband a millionaire.” “Well, what was he before he married you?” the friend asked. “A billionaire.” Don’t be a county or district official that takes a county backwards financially. There are many new and relatively new county and district officials in the State of Arkansas – so I know there is a lot to be learned. Be a student so long as you still have something to learn, and this means as long as you serve. There is so much county law to learn and many laws change every time the legislature meets. So, even if you knew it all.....you wouldn’t know it all very long.

Well, that’s one of my standard “stump speeches” concerning county budgeting. I am fully aware that I’m no Abraham Lincoln who was known as a skilled stump speaker with his droll ways and dry jokes. A classic story about Lincoln described an incident that occurred “on the stump” when he was 27 years old and still living in New Salem, Illinois.

Riding into Springfield, Illinois, to give a stump speech on behalf of the Whig Party in the 1836 elections, Lincoln heard about a local politician, George Forquer, who had switched from Whig to Democrat. Forquer had been generously rewarded, as part of the Spoils System of the Jackson administration, with a lucrative government job. Forquer had built an impressive house, the first house in Springfield to have a lightning rod.

That afternoon Lincoln delivered his speech for the Whigs, and then Forquer stood to speak for the Democrats. He attacked Lincoln, making sarcastic remarks about Lincoln’s youth.

Given the chance to respond, Lincoln said: “I am not so young in years as I am in the tricks and trades of a politician. But, live long or die young, I would rather die now, than, like the gentleman.” – at this point Lincoln pointed at Forquer – “change my politics, and with the change receive an office worth three thousand dollars a year. And then feel obliged to erect a lightning rod over my house to protect a guilty conscience from an offended God.” From that day forward Lincoln was respected as a devastating stump speaker.

I believe all would agree that keeping our counties running efficiently, effectively and financially sound is a painful process, requiring shared sacrifice and pain. Making tough choices is what county and district officials do to keep counties solvent and moving forward. As an elected official you took an oath of office that binds you to uphold the law and perform the duties of your office. You did not have to swear to “please everyone”. Elected officials are elected to perform first and foremost. Pleasing everyone is a luxury no county can afford.

County budgeting is an intricate process – a laborious process....but a necessary process. You must spend the time and make the effort to develop a solid financial plan and county budget. Like many other things, county budgeting requires pure common sense. Use that common sense to: (1) Discipline yourself to actually spend the time and exert the effort to learn and understand the county’s financial condition; (2) Be creative, but lawful, in solving your problems; and (3) Be willing to make the tough decisions that have to be made to put your county on solid financial footing.

All county and district officials must be cognizant of the fact that you are together on the same ship. If the ship goes down – everyone goes down. The people of your county suffer. Be real leaders. Make the decisions that will keep the ship afloat. Don’t buy a little time. Find a real solution!

Now, for the erection of a lightning rod over my house!

County Office Success – Be the Right Kind of Leader and Hire the Right Employees

**By: Eddie A. Jones, Consultant
Association of Arkansas Counties**

The true measure of a leader is how they treat their employees, not their equals. The flip side of that is that most employees don't quit jobs; they quit their bosses.

Counties have many resources but the one that we often overlook when doing an inventory is the talent and skill of the men and women who work for county government. From custodians to administrators; from truck drivers and heavy equipment operators to office personnel; from law enforcement officers to road department laborers; we are fortunate to have individuals who, in many cases, have dedicated their work lives to serving residents of our counties. We cannot all do the same job – but the job requires us all. Every calling is great when greatly pursued. We need the right person in the right position and we need to adequately compensate in order to keep the right people.

As an elected county official or department head do you hire the right person or do you just fill the position? If you don't hire the right person you're just asking for problems.

If you wonder why some private sector companies take so long in deciding which candidate to hire for a particular position, it's because they're looking for the right person. They know that selecting the wrong person can run into thousands upon thousands of dollars, not to mention the potential negative impact to morale and productivity.

During an interview an applicant gave an unusual response when asked how she would solve an issue. She said "Nike". When asked what that meant, she said, I "just do it". She then continued to answer most questions with the Nike response – I "just do it". Although "Just Do It" has been a successful trademark tagline for Nike commercials since 1988 it is not the "be all do all" answer to every job interview question. I assume she was not hired.

The Harvard Business Review points out that as much as 80% of employee turnover is due to bad hiring decisions. In Arkansas County government we like to blame a low pay scale for the employee turnover. No doubt, that is a significant cause for turnover in Arkansas county government – but there is no good reason to doubt the studies that have been done that blame a lot of the turnover on bad hiring decisions – hiring someone that is not a good fit for the job and or the rest of the staff or making a sympathy hire. Don't do it!

The interview process should be thorough and exhaustive. Pay attention to what the applicant says during the interview and to their reactions to your questions and comments. One man said he was interviewing a young man for a customer service position [most county government jobs are customer service positions]. He had worked at a hair salon and in describing his experience there, he said, "I had to deal with a lot of old biddies." Needless to say, that's where his candidacy ended.

In another true story, a woman was being interviewed for a clerical position. On her application, she checked "Yes" to a felony conviction and wrote, "Will explain during the interview." She said she got mad at her now-ex-husband and hired someone to kill him. But at the last minute she called it off, and he is still alive. She stated she was now on medication and is "all right." The interviewer said, "She was a great interview up until that point."

The success of your office operation or department depends on the quality of your employees. One bad hire can ruin the entire team's productivity. With many relatively small office operations in county government you should consider obsessing over hiring!

Here are some hiring pointers from successful entrepreneurs and companies:

- Always look for integrity. Often it is more important than experience.
- Attitude and work ethic are always more important than a set of technical skills. Almost all skills can be trained, but a person's personality and demeanor are very difficult to adjust. Make sure they will fit your team.
- Let the applicant do 90% of the talking. It's amazing what they will say. All you need to do is listen.
- Pick people with natural enthusiasm for life and a connection to the cause and mission.
- Identify candidates willing to roll up their sleeves and make things happen.
- Look for – and hire – humble, hungry and smart people! These are the key ingredients to building a great team, and when those traits are in balance, great things happen.
- The most important criteria for hiring are competency and fitting the team.
- Hire for passion first, experience second, and credentials third. Attitude and aptitude come first. You can train for skill.

- Never make a compromise hire. You are better off waiting to get the right person than settling for a less than ideal candidate. You can't get best results with a mediocre employee. Never compromise your hiring standards.

We have addressed the hiring of the right employees, now let's see if you're the right kind of boss. At this point you may be like the parishioner who said, "The preacher has stopped preaching and started meddling!" But I believe if you're the elected official or department head you should be and want to be then you want to be a real leader – a true public servant. Leading is not about your position. It's more about your passion for excellence and making a difference. You can lead without a title.

C.S. Lewis wisely said, "*Do the right thing, even when no one is looking. It is called integrity.*" Integrity is by far the most important asset of a leader. It is refreshing and motivating to employees to have a leader – a boss – that strives to do the right thing no matter how difficult.

Never punish loyal employees for being honest. Loyal employees tell you what you need to hear, not necessarily what you want to hear. To be leaders, we have to understand that 1) loyal criticism is a true blessing; 2) loyalty is built on honesty and trust; and 3) loyal employees are precious gems, not stepping stones. Never push loyal people to the point where they don't care anymore! If we are not ready to be loyal to our loyal employees, we are not ready to lead them.

Loyal people are those who have these characteristics:

- They care about success – of the team, of the boss, and their own;
- They tell you what you need to hear;
- They do not disagree with you in public and support your decisions publicly; and
- They work hard and are dependable.

To earn their loyalty you must:

- Take their problems as your own;
- Be there for them when they need you;
- Create an atmosphere of appreciation and mutual trust;
- Never patronize them, never criticize them in public; and
- Create opportunities for them.

As a general rule, people don't quit jobs. They quit their bosses. The worst place an employee can be, is stuck in a situation with a micro-manager who doesn't care about their development and there are no opportunities for growth and advancement.

Micromanagement is a complete waste of everybody's time. It sucks the life out of employees, fosters anxiety and creates a high stress work environment. Hire the right people and give them room to get on with the job. If things aren't going the way you desire in your office or department – there is always a better way than micromanaging people. Train, mentor and coach employees and give them clear objectives. Then get out of their way. The best ideas and advancements in an operation come as a result of empowering your team.

Bad bosses keep employees down. Good bosses lift employees up. Never take employees for granted. They need:

- Opportunities to excel;
- To be listened to;
- Feedback to help them be their best;
- Recognition and reward for a job well done;
- Less stress and more support;
- Honesty and integrity from leadership;
- Respect, trust and empowerment; and
- Leadership that is ready to go to the moon and back for them.

If you take care of your employees, they will take care of your constituents – your county. If you treat employees like they don't make a difference, they won't. If you don't show appreciation to those that deserve it, they'll learn to stop doing the things you appreciate. Employees are tired of being treated like dirt.

A great county operation depends on hiring the right people and being the right kind of boss. You don't hire people like those recently listed in a survey of human resource professionals that shared excuses from employees arriving late to work that are so horrible, they're funny. A few of the "crown jewel" excuses for being late:

1. **Rough night.** Employee woke up on the front lawn of a house two blocks away from his home.
2. **Cozy parking.** Employee was late to work because he fell asleep in the car when he got to work.
3. **Free candy = national holiday.** Employee thought Halloween was a work holiday.
4. **The suspense was brutal.** Employee was watching something on TV and really wanted to see the end.
5. **Short-term memory loss.** Employee forgot that the company had changed locations.

Take the time and make the effort to hire the right people for the job and then treat them like a real leader should. Hire tough so you can manage easy. Promote the right ones for the right reasons. Albert Einstein said, "I was raised to treat the janitor with the same respect as the CEO." That goes back to what I said in the beginning – The true measure of a leader is how they treat their employees, not their equals. You can tell a lot about a person by how they treat people – especially those that may be below them in position. We should all take note of what Dalai Lama said, "Be kind whenever possible. It is always possible."

Note: Quorum Courts should take note. Although, in most cases, the quorum court does not have direct employees under their supervision, they must provide the funding – the appropriation – to properly compensate both the employees and the county elected officials of their county. To some degree, the success of the implementation of the precepts of this article depend on proper funding.

Do County Officials Have a Responsibility to Stay Within Budget?

***By: Eddie A. Jones, Consultant
Association of Arkansas Counties***

The short answer to the question is "yes". A county official is responsible for staying within his or her budget – the appropriation provided by the quorum court. There is also a responsibility to live within the cash available at any given time. A budget is based on projected revenues expected to come in over a 12 month period. The budget is not based on "cash in the bank" on day one of the year.

Some county officials "go over their budgets" very carefully – week after week, month after month making sure they remain in compliance with the constraints of the appropriated funds for their office operations. Other county officials just "go over their budgets". That should not be.

Budgets are real and should be realistic. Jacob Lew, a former U.S. Secretary of the Treasury, said in reference to the Federal budget, "The budget is not just a collection of numbers, but an expression of our values and aspirations." The county budget should be the same – not just a collection of numbers, but an expression of priorities as established by the Quorum Court. Yes, they get to set the priorities. Some years you may like it – other times – maybe not. But it's your job as an elected official to work within the financial perimeters set by the court.

As the legislative branch of county government the Quorum Court is given the authority by the state constitution [Amendment 55] and state law to adopt ordinances necessary for the government of the county including the adoption of a county budget through an appropriation ordinance as prescribed in Title 14, Chapter 14, Subchapter 9 of Arkansas Code Annotated.

Senator Everett Dirksen, a Republican U.S. Senator from Illinois in the 1950's and 60's was attributed with saying, "A billion here, a billion there – sooner or later it adds up to real money." In Arkansas county government we would say "a thousand here, a thousand there – before long it adds up to real money."

County Quorum Courts should be, in fact must be, in tune with the county's needs and then be thoughtful and professional in allocating precious financial resources in the form of appropriations so that the fiscal affairs of the county are conducted on a sound financial basis in accordance with Arkansas Constitution, Article 12, § 4. It is also the court's responsibility to properly

establish priorities as set forth in § 14-14-802. Each county official and department head must then be diligent in how they expend the appropriated funds for their office to get the best bang for the buck and serve their constituency to the best of their ability under the constraints of the budget given them – the legal limit of their spending.

Does the Quorum Court get to tell a county official how and for what to expend their appropriation? The simple answer to that question is “no”. While the Quorum Court should always be concerned with ensuring fiscal responsibility – there is this thing called “separation of powers doctrine”.

County government is somewhat like state government. County government is comprised of separate branches in order to provide a system of checks and balances. Under the classic division of powers, the legislature [quorum court] makes the laws and appropriates public revenues, the executive branch [county officials] administers the laws and expends the appropriations, and the judiciary interprets the laws.

No one questions the power of the Quorum Court, the legislative branch of county government, to appropriate county funds. However, it does not follow that a legislative body retains the right to administer a previously approved appropriation. The Arkansas Supreme Court recognized this principle of separation of powers in the case of *Chaffin v. Arkansas Game and Fish Commission* (1988).

The Arkansas Attorney General has issued several opinions over the years addressing this issue. The opinions cite case law and the separation of powers doctrine. To summarize the conclusion of these opinions – the quorum court may not attach conditions to an appropriation which purport to reserve to the quorum court powers of close supervision that are executive in character. The quorum court cannot do indirectly through means of line item appropriations and conditions what it is impermissible for it to do directly. Line item appropriations become constitutionally impermissible when the authority of the executive branch [county officials] is infringed by legislative control over expenditures.

In other words, a county official does not have to come before the quorum court for approval before purchasing equipment or anything else as long as there is a validly adopted existing appropriation by the quorum court for the expenditure. Neither can an appropriation ordinance get into the specifics of requiring that an official buy a specific brand or do business with a specific vendor. Remember, the appropriation is made by the legislative branch – the quorum court; and the expending of the appropriation is administered by the executive branch – the county officials.

Many counties have an article/section in their budget ordinance addressing nonrestricted expenditure categories, which basically allows for the transfer between line items in each of the major categories of expenditures – except for the Personal Services Category. Under this scenario, usually the County Judge is required to report to the Quorum Court each month the line item transfers made during the previous month.

Some counties enact their budget ordinance with an article/section that provides that any transfer of monies between the major categories of expenditures can be made only with prior approval of the Quorum Court. Either way is proper and constitutional. It is simply a matter of how much latitude a county quorum court wants to provide. An AG opinion released in 2002 did not view this type restriction as an encroachment on the executive branch, “rather by requiring its approval of the transfers of monies, the Quorum Court has simply ensured that it retains its appropriation authority.”

Case law has rendered that an **official must live within their appropriation**. In a 1988 case, *Venhaus v. Adams*, the Supreme Court ruled that “an agency of county government which performs a function imposed by law must live within its appropriation unless that appropriation is unreasonable.” So, there is an onus on the Quorum Court to be reasonable in making appropriations for the various offices and departments of county government.

However, appropriations made by the Quorum Court are **presumed to be reasonable and the burden rests on the office or entity filing the claim in excess of an appropriation to prove unreasonableness**. So said the Arkansas Supreme Court in another case – *Union County v. Union County Election Commission*.

The penchant to overspend should be stopped on the front end. I believe we all understand that the Quorum Court is the authority when it comes to appropriating county funds. Arkansas Code § 14-14-801(b)(2) lists one of the court’s responsibilities is to “appropriate public funds for the expenses of the county in a manner prescribed by ordinance.” As it relates to the annual budget, Arkansas Code § 14-14-904(b)(1)(A)(ii) requires, “Before the end of each fiscal year, the quorum court shall make appropriations for the expenses of county government for the following year.”

At the point of appropriation, it then becomes the duty of the executive branch to administer the expense side of the budget. The County Judge, under the authority of Amendment 55 and § 14-14-1101(a)(2) must authorize and approve disbursement of appropriated county funds. More specifically, § 14-14-1102(b)(2)(B) provides in pertinent part:

- (B) Before approving any voucher for the payment of county funds, the county judge, or his designated representative, shall determine that:

- (i) There is a sufficient appropriation available for the purpose and there is a sufficient unencumbered balance of funds on hand [cash] in the appropriate county fund to pay therefor;
- (ii) The expenditure is in compliance with the purposes for which the funds are appropriated;
- (iii) All state purchasing laws and other state laws or ordinance of the quorum court are complied with in the expenditure of the moneys;
- (iv) The good or services for which expenditure is to be made have been rendered and the payment thereof has been incurred in a lawful manner and is owed by the county.....
- (C)(i) No money shall be paid out of the treasury until it shall have been appropriated by law and then only in accordance with the appropriation.

The County Judge can do a lot to stop overspending by following this section of law. And if a claim gets approved where the cash is not in the fund on which the claim has been approved the Treasurer has a duty to refuse to issue payment. Arkansas Code § 14-15-805 basically says that the Treasurer shall refuse payment of any warrant or check that would cause a deficit balance in a special revenue fund or a deficit balance of the general fund in aggregate.

What happens if a county official overspends his or her appropriation and the county receives goods and/or services as a result of the over expenditure? Does the county have a cause of action against the official to recover all or part of the over expenditure? That's a good question that is not specifically addressed in law.

But there are any number of codes that deal with misconduct with respect to an official's budget, such as:

- § 14-22-103 declares it a misdemeanor, subject to a fine and removal from office, for any county official to violate the procedures for purchasing;
- § 14-23-202 declares it a misdemeanor, subject to removal from office, for any county official to violate the rules with respect to the handling of claims presented to the county;
- § 14-23-106(b) clearly declares it a misdemeanor, subject to a fine and removal from office, for a county court, a county judge or a county clerk to willfully violate or neglect to perform his or her duties concerning the handling of claims against the county and specifically forbids paying any claimant more than he is due; and
- § 14-14-1202(d)(3) declares it a misdemeanor, subject to a fine and removal from office, for any county official to violate the ethical rules of conduct.

Also, misconduct with respect to an official's budget could very well amount to nonfeasance or malfeasance in office. The failure to perform the duties of one's office [which include the administration of a budget] could amount to nonfeasance, if based purely upon negligence.....or to malfeasance, if the failure is based upon some intentional motivation. Of course, removal from office is under the jurisdiction of the circuit court in accordance with Arkansas Constitution, Article 7, § 27.

In summary, under the classic division of powers, the legislative branch makes the laws and appropriates public funds and the executive branch administers the laws and expends the appropriations. But it is the job of the Quorum Court to be the watchdog of public funds. The quorum court has the authority and duty to appropriate county funds, and the statutory authority to "adopt, amend, or repeal an appropriation ordinance" [§ 14-14-907(b)].

Remember the Old Testament story of Job? Job said, "The Lord giveth, and the Lord taketh away." Arkansas law is written in such a manner that the Quorum Court can give and take away. Sometimes it is necessary – either because of a shortfall in revenues or because a county official does not control their spending. A county official only has the legal authority to spend the amount appropriated by the court for his or her operation – no more!

The Quorum Court has a responsibility to make a reasonable appropriation and then the county official has the responsibility to stay within that appropriation – so ruled the courts.

Dave Ramsey, America's trusted voice on money, said, "A budget is telling your money where to go instead of wondering where it went." The county budget is not a "play pretty" it is a "real tool" and should be used as such. No county official wants to hear "the light at the end of the tunnel has been turned off due to budget cuts."

Role of the Public Servant – Serve with Excellence and do it with a Sense of Humor

***By: Eddie A. Jones, Consultant
Association of Arkansas Counties***

“Give me a sentence about a public servant,” said the Mother helping her son at home. The small boy wrote: “The fireman came down the ladder pregnant.” The Mother took her son aside to correct him. “Don’t you know what pregnant means? she asked. “Sure,” said the young boy confidently. “It means carrying a child.”

The boy may have been a little confused – but what is a public servant? The definition of a public servant is a person holding a government office or job by election or appointment; a person in public service. And public service is defined as a service provided or facilitated by the government for the general public’s convenience and benefit. As Father Kramer said, as quoted in Sweet Charity, “We believe that only government has the capacity – not to mention the political and moral responsibility, to promote the general welfare.”

Public servants are employed by the government in what is known as the public sector – the part of the economy that is controlled by the government. Taxpayers and public funds pay your salaries, which is why you are known as servants of the public. The duties of public servants are as diverse as the duties and responsibilities of the government.

It is the duty of all public servants to ensure that the public’s money is spent as efficiently as possible and that programs and services are provided effectively. As an elected official you have learned or are learning the specific duties of your office. And that’s what you should do, but there’s more to public service than just knowing and doing the lawful functions of your particular office.

As professionals, public servants play a vital role in our society. True public servants are committed to the highest degrees of integrity. They are committed to deliver the best administration possible. They are committed to fair governance, to delivering high quality services, to a stewardship of government funds that will maximize cost-effectiveness and for accountability.

Public servants are committed to reflecting on their roles and responsibilities. They are committed to test and measure their values, their ethics, and their actions as they serve the government and the people.

Although no longer an elected official, I still consider myself a professional public servant. Public service is a high calling and without the real heart to serve your election or appointment to office will be more “job” than “service”.

Public service is a tough profession. You don’t always get treated right – but a good public servant will always treat others right. That’s one reason a good sense of humor comes in handy.

Grover Cleveland, the only man to serve two different times as U.S. President, said “These are days of special perplexity and the path of public duty is unusually rugged.” He was right. Public service is rough and rugged. But a good sense of humor helps get you and those around you through it and much good is accomplished in the process of serving.

Only one sitting president in the Gridiron Club’s lifetime declined all invitations to club dinners – Grover Cleveland. I guess he knew that a requirement for appearance and participation in a program of the Gridiron Club was a sense of humor. Grover Cleveland lacked a sense of humor. Considering that his campaign for the presidency in 1884 may have been the most bitter in American history up to that time makes his attitude almost understandable. But an effective public servant rolls with the punches. A sense of humor would have made his service more enjoyable and, no doubt, more accepted and profitable.

Ronald Reagan provided many good examples. Of course, he developed his poise and timing as an actor and speaker. He was a master at telling anecdotes to illustrate his arguments and was fond – even expert at delivering one-liners. He once told a Gridiron audience, since he was given much grief over a burgeoning federal deficit, “I am not worried about the deficit. It is big enough to take care of itself.”

A sense of humor puts people at ease – especially self-deprecating humor. It lets your constituents know that you are human....you are just like them. A little laughter is lifesaving medicine. It’s good for all of us – especially in tough situations.

Let’s take a look at the role of the public servant and the use of humor while serving the people who elected you to office. The role of a public servant includes:

1. ***A strong commitment to personal integrity. To maintain and broaden public confidence, public servants are committed to perform all their responsibilities with the highest sense of integrity. Integrity includes:***

- **Conscientiousness** – The public servant is committed to exercising conscience in the defense of good government.
 - **Confidentiality** – The public servant is committed to ensuring that sensitive information is treated with discretion and responsibility in order to protect the privacy and security of the public and the efficiency of government.
 - **Fairness** – The public servant exercises some level of discretionary authority in the daily course of activities, but is committed to ensuring that discretion never results in discrimination – treating all members of the public with equality and fairness.
 - **Courage** – The public servant is committed to exercising courage in the fulfillment of duties: the courage to take a position, to speak objectively, and to take responsibility.
2. *A strong commitment to democratic governance.* *Public servants accept the obligation to act to serve the public interest through time; to promote public trust in the system; and to demonstrate commitment to professionalism. These are accomplished through:*
- **Non-Partisanship** – The true public servant is committed to working with the “government-of-the-day”. Once elected or appointed a true public servant is not a Democrat or Republican – but a servant of the people to accomplish what is in the best interest of the people.
 - **Providing Accountability** – The public servant is committed to promote dialogue and engagement of the public and to report accurately, clearly and fully on the activities and duties of their office.
 - **Public Interest** – The public servant is committed to understanding the public interest as it is expressed through time and then fulfills the public interest by service.
3. *A strong commitment to respectfulness.* *In carrying out your responsibilities as a professional, public servants must exercise sensitive professional and moral judgments in everything you do. The commitment to respectfulness is applicable to respectfulness with :*
- **The elected** – Any good public servant is committed to serving the elected government and his/her elected cohorts with dignity and respect – regardless of political party preference.
 - **The public** – The public servant is committed to communicating with the public in a respectful manner that acknowledges that they are the reason you became a public servant. The real public servant will make the experience of dealing with government as congenial, satisfying and constructive as possible.
 - **Colleagues** – Public servants are committed to making the workplace a productive and healthy environment. Those who work for and with you and for other elected officials should be treated with respect, tolerance and courtesy.
4. *A strong commitment to continual learning and innovation.* *The top-notch public servant is committed to monitoring the ever-changing work environment and to strive to continually improve competence and the quality of service. A public servant must continue to learn in order to:*
- **Improve performance** – The public servant is committed to the learning and innovation necessary to enhance the delivery of policy and service.
 - **Personal Improvement** – The best public servants are committed to a life-long pursuit of formal and informal education endeavors to elevate the overall quality of public service. Elected county officials in Arkansas have the opportunity to learn through their particular affiliate association; through continuing education programs established by law; and through seminars hosted by the Association of Arkansas Counties.

In addition to these things the public servant must be committed to observing the highest ethical stands, to maintaining objectivity and be free of conflicts of interest in discharging their professional responsibilities.

The life of the public servant is not easy. The road is not always smooth. You are not always treated fairly. Things said about you are not always true. It can be very stressful. That’s why it’s best lived and performed with a sense of humor.

Some of our Presidents have had a good sense of humor. Ronald Reagan said, “I’ve left orders to be awakened at any time in case of a national emergency, even if I’m in a cabinet meeting.” Lyndon Johnson said, “If one morning I walked on top of the water across the Potomac River, the headline that afternoon would read, “President Can’t Swim.”

The 16th President, Abraham Lincoln said, “If I were two-faced, would I be wearing this one?” When someone asked President John Kennedy how he became a war hero, Kennedy said, “It was absolutely involuntary. They sank my boat.”

The job of a public servant is extremely important. Whether you are the County Judge, Sheriff, County Clerk, Circuit Clerk, County Treasurer, County Collector, Assessor, Coroner, Justice of the Peace, State Legislator or any other public servant

you have a specific function in government and that function is important. The job should be performed with excellence in accordance with law and using the guidelines provided in this article.

But humor is also very important in performing your public service. Government, at all levels, seems to be inherently complex – not that it always needs to be. John and Jane Q. Public have problems and responsibilities of their own. They don't have time to fully study and understand all of the intricacies of county government. As a learned public servant it is your job to be able to adequately summarize and get to the heart of a complicated but important question your constituent has. Humor can come in very handy in this context. People can identify with a leader who has a sense of humor.

We all want to be liked! As elected public servants it really comes in handy. Democrats and Republicans alike envied John Kennedy's great ability to keep potentially tense or confrontational situations light. The benefit of humor as practiced by Kennedy was obvious. Reporters love any comments that provide good copy. Just one well-turned phrase can give a reporter something to write about. A good public servant should not always be looking for a newspaper, radio or TV audience. Much of your humor will be in one-on-one situations. Whether you use your humor as a public servant publicly or privately use it as a tool to ingratiate your constituency.

Everyone's brand of humor is based on their personality. Harry Truman, with his quick and crusty manner, seemed to enjoy the give and take of pointed humor. By contrast, Dwight Eisenhower maintained a more reserved, conservative posture when it came to engaging in any repartee. More than likely his military background was responsible for his reserved public personality.

I tend to fall more in line with President Calvin Coolidge who was known for few words and a dry wit. One Sunday Mrs. Coolidge was sick and stayed home from church. President Coolidge went to church by himself. When he returned home, his wife asked, "What did the minister preach about?" The President replied, "Sin." She asked, "What did he say about it?" The President said, "He was against it."

When I was in public office, my opponent and I were having a debate that was becoming heated. At one point he jumped up and said, "What about the powerful interest that controls you?" I politely stood up to the podium and retorted, "You leave my wife out of this!" Attendees roared with laughter, including my opponent. The tenor of the situation changed. People were put at ease with a little humor and laughter.

Public service is a high calling. Serve honorably – but serve with a sense of humor. Humor makes the good times better. It makes the tough times easier.

What in the World Does Jazz Have to do With Public Speaking?

**By: Eddie A. Jones, Consultant
Association of Arkansas Counties**

One recent early morning I was listening to music, sipping hot coffee, and contemplating the day – specifically thinking about the topic of my next article for County Lines. Some mornings I listen to music, sip coffee and drift off to slumber land in my recliner. But not on this morning.

I was listening to the Beegie Adair Jazz Trio. Jazz is one of my favorite music genres. My mind was actually moving in two directions that morning as I contemplated the topic of my article. I was thinking about the Public Speaking Seminar that had

just been held by the Association of Arkansas Counties and about music – jazz in particular. The next think I knew, being a musician myself, I was tying the two together – thinking about what jazz can teach us about public speaking.

Although I have written articles and given presentations on public speaking many times before, this article will look at public speaking for the county official in a different light.

Back in November AAC conducted a Public Speaking seminar. Eighty or so county and district officials attended – 80 out of around 1,300 county and district officials. The Association of Arkansas Counties intends to hold a public speaking seminar occasionally for the benefit of county and district officials.

Why? Because county officials are the voice of county government. Your constituents need to know and understand county government. We need more county officials willing to go to the podium and proclaim the message as the ministers of county government. We need people who can do it eloquently – but in their own way. That's what jazz is. Interpreting a piece of music in your own way – using improvisation.

According to surveys many people are more afraid of public speaking than they are of snakes. That doesn't make sense to me. I mean, you don't see someone walking through the desert, suddenly shouting, "Watch out! A podium!" Picture yourself in a living room having a chat with your friends. You would be relaxed and comfortable talking to them. The same applies when public speaking. You treat them like friends in your living room.

Public speakers live some intense moments in the limelight, on stage or on a panel in front of an audience. And you know what it is to make mistakes. Mistakes can be looked at differently and are. Some are so terrified of mistakes that it takes all the joy out of the moment. Others just view mistakes as a part of life – while others believe mistakes are opportunities. If I had let mistakes stop me from speaking, I would have stopped long ago.

Stefon Harris, an accomplished jazz performer on the vibraphone, gave a spirited explanation of what mistakes mean to jazz performers in a talk a few years ago. Stefon says, "There are no mistakes in jazz". You see jazz is taking the music and giving it your own interpretation – improvisation or "improv" as they call it in the music world. Those of us who live in the public speaking world – including those of you who need to begin or enhance your public speaking should embrace his attitude. *There are no mistakes.*

In my studies of speech and public speaking there have been any number of times when I was asked to give an "improv speech" – given a topic and a few minutes to collect my thoughts – get ready, set, go! As soon as you let go of the idea of right and wrong, you start loosening up and getting good at improvisation. The attitude of "there are no mistakes" is liberating for public speakers.

The audience doesn't know what you haven't said. So don't get hung up about getting every word or phrase exactly right according to some text, or to some idea of perfection. Just deliver your message **as best you can**, with passion, to your audience. In the end, it's about the audience anyway – not you.

It's all about the present. Everyone tells us to be in the moment. Stefon says jazz musicians have to be in the moment because there's so much going on – they are all improvising – you can't possibly worry about the past or stress about the future. Public speakers [county officials] take note, and focus on the moment.

Leading is about influence – and influence is about listening. Mr. Harris demonstrated the difference between coming into a session and insisting on your musical ideas no matter what anyone else says, and listening. If you listen, then you're inclined to pull ideas from people around you, and they're far more likely to follow your lead when the time comes. With enthusiasm. Public speakers, audiences need the same treatment.

Good music comes from awareness and acceptance. When you're playing jazz you've got to be aware of your fellow musicians, and your audience, and you accept what comes at you so that you can turn it into music. The same attitude helps public speakers deal with the inevitable differences in the setting, the audience, and the moment.

Of course, county officials as public speakers have a road map in their heads about where they want their speeches to go. But if we can relax a little about the precise road we take and allow the moment to dictate direction to us – then just like a jazz musician, we can find serendipity or value in each unique occasion. And if you have done much public speaking you know that each audience is somewhat different.

Let's go back to what I said a little earlier. Deliver your message as best you can. That's not a copout phrase to just get up and shoot from the hip. I actually meant "do the best you can". And no one does the best they can without preparation. It was Dale Carnegie, the great trainer of public speaking and interpersonal skills, who said, "Only the prepared speaker deserves to be confident." Mark Twain said, "It usually takes more than three weeks to prepare a good impromptu speech."

Always know your material. Know more about your subject than you include in your speech or presentation. In other words – over prepare. You may need the additional information for questions that may be asked.

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 use personal stories. Well executed humor and stories hold the power to deliver messages in an entertaining fashion. Once you get people laughing – or at least lighten the mood – they're listening and you can sell your points.

Be sure to start and finish strong. Don't start with a whimper – a start like the “dead-fish handshake”. Start with a bang! Give the audience something to remember like a startling statistic, an interesting quote, a news headline – something that will get their attention immediately.

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. The audience tends to remember the last words they hear you say, so it is vital that your key message or messages are restated in your conclusion. As you put the final touches on your speech, make sure your presentation comes full circle by relating your conclusion back to your introduction – tie it together. Close 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. Patricia Fripp made this very apropos statement, “The first 30 seconds and the last 30 seconds have the most impact in a presentation.”

So what in the world does jazz have to do with public speaking? Well, in addition to what I've already mentioned:

Learn the tunes – Don't just memorize a speech, but really study your subject and consider the possible questions and challenges. That will make it easier for you to be on your toes.....think on your feet and adapt what you say to the situation. If I'm giving a speech or presenting a seminar for which I've been given time to prepare, I usually work from a written text to keep me on point. But I can and do stray from that text often to adapt to the audience and any situation that arises in the presentation.

Listen to the band – If you are playing in a jazz band you must listen to the entire band because everyone is improvising and you must listen in order to sound like a cohesive band. If you're on a program with other speakers, listen to what they have to say and refer to it in your talk. If you're on a panel, try to build on what the others are saying, to turn the presentation into a conversation.

Play with intent – Whatever you say, say it like you mean it. If you speak with conviction, your audience will pay attention. If you sound like you doubt yourself, the audience will doubt you.

Don't step on the soloist – When you're on stage and not speaking, pay attention to the people who are and give them the space to shine. If you're paying attention, the audience and you're fellow speakers will too. I'll never forget the time in the fall of 1988 when I was on the stage as one of the speakers at a conference. I had not slept well the night before and had driven several hours to arrive at this afternoon meeting. While sitting on stage and listening to a speaker before me....one who had not done a very good job of preparing.....I kept falling asleep and almost falling out of my chair. Everyone was watching me instead of listening to the speaker. I was stepping on the soloist. I was young then and apparently not very wise. I should have excused myself from the stage and let the soloist shine (the best he could).

Have fun and swing! – Speaking in public should be fun for you and for your audience. If you're relaxed and enjoying yourself, your audience will relax and enjoy themselves, and everyone can swing together!

There's nothing quite like the sound of elegant tickling of the ivories and the accompanying upright bass and drums in a jazz band capturing the warmth of a familiar song, a room filled with close friends and an atmosphere of laughter, conversation and good cheer. That same atmosphere can be created with a good, well-prepared speech.

County and district officials are the voice of county government. It is your job to tell the county government story. The single most important skill you must have to lead is the ability to tell your story – the county story. As author Fred Miller said, “The worst speech you'll ever give, will be far better than the one you never give.”

FAQ Positions and Topics

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

General FAQs:

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

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

Is county government exempt from paying sales taxes?

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

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

County Judge FAQs:

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

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

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

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

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

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

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

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

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

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

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

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 if they choose to decrease the salaries?

County Clerk FAQs:

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

Circuit Clerk FAQs:

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

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

Treasurers FAQs:

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

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

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

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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 Sheriffs 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? Do the registered voters of a county have to approve the tax levy?

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

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 Seven- ATTORNEY GENERAL OPINIONS

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

FOIA Generally

See Ops. Att'y Gen. 2003-006 (Application of ACA 25-19-108 to counties)

See Ops. Att'y Gen. 2005-298 (Response to absence of records)

See Ops. Att'y Gen. 2008-162 (Digital pictures of records)

See Ops. Att'y Gen. 99-134 (Records on county web site/fees)

See Ops. Att'y Gen. 2000-096 (Discussion of "meetings" under FOIA)

See Ops. Att'y Gen. 2001-382 (Location/Access to meetings)

See Ops. Att'y Gen. 2002-092 (Meetings)

FOIA – Personnel Records Generally

See Ops. Att'y Gen. 1999-398 (Job applications and resumes)

See Ops. Att'y Gen. 2000-058 (Harassment complaints)

See Ops. Att'y Gen. 2000-201 (Internal affairs investigatory files)

See Ops. Att'y Gen. 2000-242 (Suspension letters)

See Ops. Att'y Gen. 2001-130 (Access)

See Ops. Att'y Gen. 2001-368 (Employee objections to release)

See Ops. Att'y Gen. 2002-043 (Payroll, status change, benefits package information)

See Ops. Att'y Gen. 2003-055 (Privacy interests)

See Ops. Att'y Gen. 2003-352 (Time cards)

See Ops. Att'y Gen. 99-168 (Notification to subject of records)

Other Attorney General Opinions

Attorney General Opinion No. 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 interest in knowing the most qualified applicant was hired and therefore the scores of the person hired to the interview questions should be released and not redacted.

Attorney General Opinion No. 2012-123 the AG determined from submission of the necessary information that the custodian's decision to not release an employee evaluation that did not according to the custodian play a part in the subject termination.

Under Attorney General Opinion No. 2012-144 the AG agreed with the custodian's decision to release a transcription of two emails by a former employee, one to department heads and one to the employees generally, tendering his resignation. However, the Ag found that the redactions made by the custodian were inconsistent with the FOIA. Resignation letters are generally subject to release under the FOIA, however, the custodian may be able redact certain information as an unwarranted invasion of privacy. Because the two resignation letters were not provided and the release of information to the requesting

party was a transcription of the two emails, the AG could not determine that the custodian acted inconsistent with the FOIA. At a minimum the amount of information deleted shall be indicated on the released portion of the record, and if feasible at the place the redaction was made. The use of a transcription was inconsistent with these methods of disclosure and redaction under the FIOA.

Attorney General Opinion No. 2012-112: 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. 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. 2013-050: The AG examined the law on treasurer's commissions on funds handled by the collector for suburban improvement districts; and concluded that the law does not envision the treasurer handling suburban improvement district assessments and does not provide for a treasurer's commission for those funds. Unless otherwise provided by ACA §§ 6-13-701, 6-17-908, 6-20-221, 14-90-913, 14-284-403 and 21-6-104, the county treasurers shall be required to collect as a treasurer's commission two percent (2%) on all funds coming into their hands as treasurers and to be paid out of the respective funds. However, Act 41 of 1941, codified as ACA 14-92-230, contemplates the collector to directly pay the SID and does not contemplate any handling by the treasurer.

Attorney General Opinion No. 2010-093: This opinion examines in great detail the interpretation of the school funding formula, Amendment 74 and ACA § 6-20-2305. The uniform rate of tax ("URT") is the 25-mill minimum property tax mandated under Amendment 74 and the absolute minimum rate of taxation that must be dedicated for school maintenance and operations ("M & O"). "Foundation funding" aid is to assure each district receives adequate funding. The foundation aid is calculated as: the difference between the foundation funding amount and the sum of 98% of the URT multiplied by the

property tax assessment of the district plus miscellaneous funds. The Attorney General noted that built into the calculation is the unrealistic assumption that a school district will in fact collect 98% of the amount imposed by the URT. If the actual collections fall short of the presumed collection rate, the state will be obligated to make up the shortfall in the constitutionally mandated funding amount. The Attorney General opined that: the state is entitled to recoup the excess; and the excess shall not be retained by the state but shall be distributed to the school districts. He says that while the Department of Education is obligated to distribute the excess to one or more schools, the Department is not necessarily obligated to return the excess to the district that generated the funds. The state is entitled to redistribute only that portion of net revenues in a given district that exceeds the foundation funding amount the state owes that district.

Attorney General Opinion No. 2012-107: What is a county official allowed to do under Act 569 of 2009 codified as § 14-14-111 [Electronic records]? Q2) Under § 14-14-111, can a county treasurer/collector download discs, install or move printers and reset passwords? Are there any limits to administrative rights under this Act? RESPONSE: Q1) The legislation generally allows a county official to exercise "administrative rights," certain of which are enumerated in the statute, in order to ensure the officials "complete access" to "public records" in his or her charge. With respect to the specific activities recited in your second question, a county treasurer/collector, as the official custodian of records, is authorized under the statute to engage in any activities, including those expressly recited, so long as doing so marks an exercise of "administrative rights" as defined.

Attorney General Opinion No. 2015-147: Are county treasurers authorized to commission the profits from prisoner commissary and telephone services that are deposited with them by the county sheriff for credit to the County Sheriff's Office Fund before being credited to the Communications Facility and Equipment Fund? Q2) Is the answer different if the Communications Facility and Equipment Fund is established on the books of the county, instead of on the books of the sheriff? RESPONSE: Q1) "Yes." Arkansas Code Annotated 21-6-302 is unambiguous in requiring, with certain exceptions that do not apply in this case, the 2% commission "on all funds coming into [the treasurers'] hands as treasurers." Q2) "No."

Attorney General Opinion No. 2016-048: Is it permissible for counties and cities to maintain district court automation funds? Q2) Who determines how these funds are used? Q3) Does their spending require approval of the quorum court or city council? RESPONSE: Q1) It is my opinion that the fund entitled "the district court automation fund" under Ark. Code Ann. 16-13-704(b)(3) cannot be maintained by both the county and the cities. Rather, because the district courts in Yell County are reportedly funded by both Yell County and the cities, these automation funds must be maintained by the cities in which the courts are located. Q2) In my opinion, the district court judges determine how the automation funds collected under this statute are used. Q3) City council "approval" is required in the sense that expenditures from a district court automation fund must be preceded by an appropriation adopted by the city council. The only time that the district court automation fund should be on the books of the county treasurer is when the county pays for the entire operation of district court.

Attorney General Opinion No. 2018-013: Can the salary of an elected county officer, including the treasurer, be reduced during his or her term? If not, when may the salary of an elected county position be reduced? Q2) If a county quorum court provides for "other compensation" for an elected county treasurer meant to cover pay for agreed-upon additional job duties that fall outside the normal responsibilities of an elected county treasurer, would that "other compensation" constitute salary? If the additional pay is considered salary, can that "other compensation" be reduced during his or her term? If not, when may that "other compensation" be reduced? RESPONSE: The answer to your first question is "no," in my opinion. The salary of an elected county officer may not be decreased during the officer's current term. Any decrease in the annual salary for an elected county office will not take effect until January 1 following the next general election for that office, when the incumbent's term-of-office expires. In response to your second question, whether the treasurer's "additional pay" is salary is a question of fact that is beyond the scope of an attorney general's opinion. But importantly, if this additional pay constitutes either salary or compensation, as construed under the relevant statute, then it also cannot be reduced during the treasurer's current term.

Chapter Eight - TREASURERS' COMMISSIONS AND FEES

ACA 21-6-302 County treasurers.

(a) The General Assembly finds that:

(1) Requiring the collection of commissions from funds under this section provides for fair and equitable treatment of the entities on the books of the county;

(2) The exceptions to the collection of commissions from funds are valid exceptions; and

(3) The exceptions to the collection of county treasurer commissions under this section are the only valid exceptions.

(b) Unless otherwise provided under subdivision (f)(1) of this section or subsection (g) of this section or under § 6-13-701, § 6-17-908, § 6-20-221, § 8-15-111, § 14-90-913, § 14-174-109, § 14-284-403, or § 19-5-1096, the county treasurers shall collect, as a treasurer's commission, two percent (2%) on all funds coming into their hands as treasurers and to be paid out of the respective funds.

(c) The commissions collected under this section shall be paid into the county treasury to the credit of the county treasurer's commission fund.

(d) The moneys collected by the treasurer as commissions shall be used by the treasurer to offset administrative costs.

(e) (1) The treasurer may set aside up to ten percent (10%) of the gross commissions collected annually to be credited to the county treasurer's automation fund to be used:

(A) To operate the office of the county treasurer;

(B) For administrative costs; and

(C) To purchase, maintain, and operate an automated accounting and record-keeping system.

(2) The acquisition and update of software for the automated accounting and record-keeping system are permitted uses of these funds.

(3) (A) Moneys deposited into the county treasurer's automation fund may accumulate and are not subject to the distribution of excess commission.

(B) The moneys shall be appropriated and expended for the uses designated in this section by the quorum court at the direction of the treasurer.

(f) (1) The treasurer shall not receive a commission for the handling of revolving loan, equalizing, and vocational education funds, proceeds of school bond sales, money collected from insurance or risk management funds on losses, federal or state grants, funds the county treasurer is not statutorily or by ordinance authorized to manage, and nonrevenue receipts.

(2) As used in this subsection, "nonrevenue receipts" means reimbursement of all or a part of a payment made by the county.

(g) (1) Except as provided in subdivision (g)(2) of this section, in the case of funds of a school district composed of area in two (2) or more counties, only the county treasurer of the county in which the district is administered shall be allowed a commission on the funds.

(2) If the school district has a district treasurer, the county treasurer collecting the school district funds and remitting them to the district treasurer is allowed a commission on the funds of that school district in accordance with §§ 6-13-701 and 6-20-221.

(h) Annual commissions not used for the operation of the county treasurer's office, except those commissions set aside in the county treasurer's automation fund, shall be prorated to the appropriate entities as excess commission.

ACA 6-20-221 County treasurer's commission on school funds - Exceptions.

(a) Unless otherwise provided by law, the county treasurer shall be allowed a commission of two percent (2%) on all school funds paid into his hands, except on borrowed money, or the proceeds of the sale of bonds and all other funds on which the law shall not allow commission. In the case of a school district which is comprised of area in two (2) or more counties, only the county treasurer of the county in which the school district is administered shall be allowed a commission on the funds of the school district unless the school district has a district treasurer, in which case the treasurer of the county collecting the school district funds shall be allowed a commission on the funds of that school district.

(b) The county school funds shall pay such proportional part of the salaries and expenses of the county treasurer's office as the total county treasurer's commissions on all funds.

ACA 6-13-701 Compensation of treasurer - School districts which employ their own school district treasurer.

The county treasurer shall receive as commission for handling the funds of such districts only one-fourth (1/4) of one per-cent of all funds passing through his hands on which county treasurers are authorized by law to charge commissions.

ACA 21-6-103 Illegal fees - Penalty.

If any officer shall charge, demand, or receive any more or greater fees for his or her services than are allowed by law, or shall demand, charge, or receive any such fees without having performed the services for which the fees are charged, the officer for every offense shall forfeit to the injured party, or the party against whom the fees may be charged, the amount of fees illegally charged, and five dollars (\$5.00) for each item illegally demanded, charged, or received, with cost, and shall also be subject to an indictment for extortion.

ACA 14-90-913 Clerk's fees for extension of annual installments on municipal improvement districts - Fees of collector and treasurer.

For services in disbursing the moneys, the district shall pay the County Treasurer one-eighth (1/8) of one percent of the amount received by him from the Collector, which he may withhold.

ACA 6-17-908 Commission for handling teacher's salary fund prohibited.

No officer, agent, or other person shall charge or collect any commission for handling any part of the teacher's salary fund.

ACA 14-284-403 Commission for handling Fire Protection Premium Funds prohibited

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

QUESTION:

What revenues should a county treasurer commission? Are there exceptions to the rule and are there any revenues that the county treasurer cannot commission?

ANSWER:

The primary county treasurer commission code is Arkansas Code §21-6-302. The first section of that code says, "the county treasurers shall be required to collect, as a treasurer's commission, two percent (2%) on all funds coming into their hands as treasurers and to be paid out of the respective funds". *That is the general rule.* The 1999 amendment to this code that inserted the words "shall be required" was intended to cause every fund or entity to pay a proportionate share of the county treasurer's salary and office operation and not allow any fund or entity to pay a disproportionate share. Case law had already established the ruling of proportionate contributions. [Hodges v. Prairie County, 80 Ark. 62, 95 S.W. 988 (1906)] In a 2017 amendment to this code the General Assembly affirmed the ruling of the courts in 21-6-302(a).

Of course, there are always "exceptions" to the general rule. A.C.A. 21-6-302 lists some of those exceptions and some exceptions are found elsewhere. They are:

- School property tax collections where the school district has a district treasurer in which case the rate of commission is established at ¼ of 1%. [ACA 6-13-701]
- No commission is allowed on the Teacher Salary Fund - although most county treasurers no longer have a Teacher Salary Fund on their books. [ACA 6-17-908]
- The county treasurer, if treasurer of the school district, is allowed a 2% commission on school district property tax collections. If the school district is composed of area in two or more counties, only the county treasurer of the county in which the school is administered is allowed a commission - unless the school district has a district treasurer, in which case the county treasurer collecting the funds shall be allowed a commission of ¼ of 1% since the money flows

directly from the collecting county to the school district treasurer. [ACA 6-20-221]

- The county treasurer is allowed only one-eighth percent (0.125%) for services in disbursing the moneys collected for district assessments under the Property Assessed Clean Energy Act. [ACA 8-15-111]
- The county treasurer is allowed a 1/8 of 1% commission on Municipal Improvement District moneys. [ACA 14-90-913]
- No commission is allowed on a sales tax levied under Title 14, Chapter 174, Subchapter 1 to be used for the sole use and benefit of a corporation organized under the Public Corporation for Economic Development Act. [ACA 14-174-109]
- No commission is allowed on Fire Protection Premium Funds, normally referred to as Act 833 of 1991 money. [ACA 14-284-403]
- No commission is allowed on the Property Reappraisal Funds received from the State of Arkansas. [ACA 19-5-1096]
- The county treasurer is not allowed a commission for the handling of revolving loan, equalizing, and vocational education funds, proceeds of bond sales, money collected from insurance or risk management funds on losses, federal or state grants, and all non-revenue receipts. Non-revenue receipts are defined in the law as reimbursement revenue - reimbursements of all or parts of a payment made by the county. [A.C.A. 21-6-302(f)(1)(2)]

There are other sources of revenue that a county treasurer should not commission - those for which there is no statutory authorization for the funds to go through the hands of the treasurer. *This is listed as a reason for not taking commission in 21-6-302(f)(1).* The precedent for this line of thinking comes from Attorney General Opinion No. 84-208. It was reiterated in AG Opinion No. 2013-050 concerning the treasurer commissioning Suburban Improvement District funds. If the law purports that the collecting officer should be remitting certain revenues to the State or some agency rather than the county treasurer there is a strong argument that the county treasurer should not commission the funds if they are remitted to the treasurer without statutory authorization for the funds to go through the hands of the treasurer.

Although the general rule is that "the county treasurers shall be required to collect, as a treasurer's commission, two percent on all funds coming into their hands as treasurers" - you can see there are several exceptions to the rule.

GLOSSARY OF TERMS

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

BOND (of indebtedness) - a certificate or evidence of a debt. Currently, the only type of long-term indebtedness available to a county.

SHORT TERM FINANCING - the ability for counties to incur debt and pay interest for acquiring, constructing, installing, and renting real property or tangible personal property having an expected useful life of more than one year. The period of financing must be five years or less. Amendment 78 and ACA 14-78-101 through 110

BOND (fidelity) - Surety coverage on all officers and employees who receipt for cash funds or disburse public funds of a county by virtue of their office or employment. (ACA 14-14-1201) Fidelity Bond Program (21-2-701 et. seq.)

BONDS OF THE UNITED STATES - Direct obligations of the United States of America; The obligation, principle and interest on which are fully guaranteed by the United States of America.

WARRANT - Authorized payment out of any money in the treasury in the following form: "No. _____ Treasurer of the County of _____ pay to _____, or order _____ dollars, out of any money in the treasury appropriated for county expenditures, (or express the particular fund out of which the warrant is to be paid). Given at _____, this _____ day of _____, 20____.
\$ _____

A.B., Clerk"

CANCELED WARRANT - A warrant which has been voided, all warrants which have not been redeemed one year after date of issuance will be canceled.

REDEEMED WARRANT - A warrant that has been converted into cash.

COUNTY COURT - Has exclusive original jurisdiction in all matters relating to county taxes, ferries, paupers, vagrants, the apprenticeship of minors, the disbursement of money for county purposes, and in every other case that may be necessary to the internal improvement and local concerns of the respective counties. The County Judge is the Judge of the County Court. (Article 7, Section 28 of the Constitution of Arkansas)

COUNTY DEPOSITORY BOARD - Composed of County Judge, Treasurer, and Collector (or the Sheriff when acting as ex-officio Tax Collector) with the duties of designating depositories and supervising the depositing of all county funds, and all other public funds held by the County Treasurer (except funds of a school district) and designating depositories and supervising the depositing of funds

collected and held by the County Collector. (ACA 19-8-104 and 19-8-106)

NON-REVENUE RECEIPTS - Reimbursement of all or a part of a payment made by the county. ACA 21-6-302

PUBLIC FUNDS - Any and all funds that may come into the hands of all treasurers, collectors, commissioners, sheriffs, and clerks by reason of their official capacity. ACA 19-8-101 et. seq.

PUBLIC MEETING - All meetings of a county government governing body, board, committee, or any other entity created by, or subordinate to, a county government shall be open to the public except for the following exception. A meeting, or part of a meeting, which involves or affects the employment, appointment, promotion, demotion, disciplining, dismissal, or resignation of a county government official or employee need not be open to the public unless the local government officer or employee requests a public meeting. In any meeting required to be open to the public, the county quorum court, committee, board, or other entity shall adopt rules for conducting the meeting which afford citizens a reasonable opportunity to participate prior to the final decision. Appropriate minutes shall be kept of all public meetings and shall be made available to the public for inspection and copying. ACA 14-14-109

PUBLIC RECORDS - All records and other written materials in the possession of a local government shall be available for inspection and copying by any person during normal office hours. The exception to this is that personal records, medical records, and other records which relate to matters in which the right to individual privacy exceeds the merits of public disclosure shall not be available to the public unless the person they concern requests they be made public. ACA 14-14-110

TREASURER OF THE COUNTY OF _____, AR
SECURITY AGREEMENT FOR FUNDS HELD IN DEPOSIT

This Agreement entered into as of the ____ day of _____, _____, by and between _____, Treasurer of the County of _____, ("**Depositor**") and ("**Institution**") _____, (City, State and Zip Code) _____

WITNESSETH

WHEREAS, the **Depositor** is the duly elected Treasurer of _____ ("County"), and, as such, custodian for various county and agency funds under the laws of the State of Arkansas; and

WHEREAS, pursuant to *Arkansas Code Annotated §19-8-101 et. seq.*, the **Institution** has been designated as a depository of public funds; and

WHEREAS, the **Institution** has agreed to secure the funds of the **Depositor** so deposited with it by conveying to the Depositor a security interest in eligible securities owned by the **Institution**, as allowed by 12 U.S.C. §90 and as provided in *Arkansas Code Annotated §19-8-203 and §23-47-203*, as amended;

NOW, THEREFORE, in consideration of the **Depositor** depositing certain of its funds with the **Institution**, and for other good and valuable consideration, it is agreed between the **Depositor** and the **Institution** as follows:

1. For the purpose of securing the funds deposited by the **Depositor** with the **Institution**, the **Institution** hereby agrees to assign, transfer, pledge and convey to the **Depositor** a perfected security interest in eligible securities owned by the **Institution**, as allowed by 12 U.S.C. §90 and as provided in *Arkansas Code Annotated §19-8-203 and §23-47-203*, as amended. The securities pledged as collateral hereunder ("Collateral") shall at all times have a market value, as determined by the **Depositor** equal to at least 105% (the "**Maintenance Percentage**") of the amount of funds of the **Depositor** so deposited with the **Institution**. Each pledge of securities as **Collateral** hereunder shall be made as follows:
 - a. In the case of any uncertificated securities issued by the United States and registered in the name of the **Institution** by the Federal Reserve Bank of St. Louis or any branch thereof, by delivery by the **Institution** to the **Depositor** of a written confirmation setting forth the securities pledged and also by the **Institution** identifying on its books and records as being pledged to the **Depositor** specific securities or a quantity of specific securities that constitute or are part of a fungible bulk of securities owned by the **Institution**;
 - b. In the case of any uncertificated securities issued by the United States and held for the account of the **Institution** by another financial intermediary (a bank or a securities broker-dealer), by delivery by the financial intermediary to the **Institution** and the **Depositor** of a written confirmation setting forth the securities pledged, together with identification by the **Institution** on its books and records of the pledge of such securities to the **Depositor** and identification by the financial intermediary on its books and records of the pledge of such securities to the **Depositor**;
 - c. In the case of any securities issued in the form of certificates and held in the **Institution's** possession, by delivery or transfer of such certificates (in bearer form or with instruments of transfer duly endorsed in blank) to the address or account of the **Depositor**; and

- d. In the case of any securities issued in the form of certificates and held in the possession of a financial intermediary (a bank or a securities broker-dealer) for the account of the **Institution**, by delivery or transfer of such certificates (in bearer form or with instruments of transfer duly endorsed in blank) to the address or account of the **Depositor** or by delivery by the financial intermediary to the **Depositor** and the Institution of a written confirmation setting forth the securities pledged together with identification by the Institution on its books and records of the pledge to the **Depositor** of the specific certificated securities held in the financial intermediary's possession and identification by the financial intermediary on its books and records of the pledge to the **Depositor** of the specific certificated securities held in its possession for the account of the **Institution**. Each written confirmation delivered to the **Depositor** pursuant to this Agreement shall set forth, at a minimum, (i) a description of the securities pledged as collateral hereunder, including the type, cusip number, maturity date, interest rate and par amount of each security pledged, (ii) the amount of funds of the **Depositor** on deposit as of the date of the confirmation, (iii) the market value of the securities pledged as collateral as of a recent date, and (iv) a statement that the confirmation has been delivered to the **Depositor** pursuant to the terms of this Agreement.
 - e. In the case of letters of credit, surety bonds and private deposit insurance policies, the issuer will be identified along with the coverage amount. The instrument will permit **Depositor** to make a claim directly on the issuer of the instrument in the event of default, financial failure or insolvency of the **Institution**. These instruments will be delivered to **Depositor** and risk of loss shall be with the **Institution** until the instrument is actually received by **Depositor**. **Institution** will also require the issuer of the Instrument to forward a copy of notification of coverage or insured limit to **Depositor**. As relevant to surety bonds, any surety bond pledged as collateral is irrevocable and absolute, and issuer of the surety bond cannot provide surety bonds for any one bank or financial institution in an amount that exceeds ten percent (10%) of the surety bond insurer's policyholders' surplus and contingency reserve, net of reinsurance.
 - f. Each written confirmation delivered to the **Depositor** pursuant to this **Agreement** shall set forth, at a minimum, (i) a description of the securities pledged as collateral hereunder, including the type, cusip number, maturity date, interest rate and par amount of each security pledged, (ii) the amount of funds of the **Depositor** on deposit with the Institution as of the date of the confirmation, (iii) the market value of the securities pledged as collateral as of a recent date, and (iv) a statement that the confirmation has been delivered to the **Depositor** pursuant to the terms of this **Agreement**. A current statement reflecting pledged Collateral will be provided to both Depositor and Pledgor by Custodian, the holder of Depositor's Collateral, on a monthly basis.
2. If at any time the ratio of the market value of the **Collateral** to the amount of funds on deposit is less than the **Maintenance Percentage**, then the **Institution** shall assign, pledge and convey a security interest and transfer to the **Depositor** securities of the type eligible to be pledged pursuant to *Arkansas Code Annotated §19-8-203 and §23-47-203*, as amended, and in such amount so that the ratio of the market value of such pledged securities to the amount of funds on deposit shall be at least equal to the **Maintenance Percentage**. Any additional pledge of **Collateral** hereunder shall be approved by an officer of the **Institution** duly authorized by resolutions of the Board of Directors to

approve substitutions of collateral, releases of collateral, and additional pledges of collateral under this Agreement ("**Duly Authorized Institution Officer**").

3. The **Institution** shall have the right, from time to time, after approval thereof by a **Duly Authorized Institution Officer**, to withdraw any of the pledged securities and substitute therefore other pledged securities of the same type and of like amount of the securities withdrawn upon compliance with the requirements of paragraph 1 hereof and delivery to the **Depositor** of written notice of such substitution, specifically identifying the securities withdrawn and the securities substituted therefore.
4. Any pledge hereunder shall be a continuing pledge and shall secure not only such deposits that are held by the **Institution** at the time of the transfer of the **Collateral** to the **Depositor** hereunder, but also any and all subsequent deposits of funds with the **Institution** by the **Depositor**, notwithstanding the account or accounts in which such funds may be held or identified by the **Institution**.
5. The pledge of **Collateral** by the **Institution** to secure the deposits of the **Depositor** shall be in addition to, and shall in no way eliminate or diminish, any insurance coverage to which the **Depositor** may be entitled under the rules and regulations of the Federal Deposit Insurance Corporation or any private insurance carried by the **Institution** for the purpose of protecting the claims and rights of its depositors.
6. It is agreed that when the **Institution** shall have paid out and accounted for all the funds of the **Depositor** so deposited with the **Institution**, then and in that event any and all securities pledged as **Collateral** under this Agreement shall be released from the security interest created hereunder, and the **Institution** and the **Depositor** shall take whatever actions may be necessary to cause a transfer of such securities to the **Institution** free and clear of any liens created hereunder.
7. The **Institution** hereby represents to the **Depositor** that (i) it is a national bank, state bank, out-of-state bank with Certificate of Authority under *Arkansas Code Annotated §23-48-1001* or savings and loan association, duly organized and validly existing under the laws of the United States or the State of Arkansas, (ii) it has, or will have at the time of delivery of any securities as **Collateral** under this Agreement, the right, power and authority to grant a security interest therein with priority over any other rights or interests therein, (iii) the execution and delivery of this Agreement and the pledge of securities as **Collateral** hereunder has been approved by its Board of Directors, and (iv) the execution and delivery of this Agreement and the pledge of securities as **Collateral** hereunder will not violate or be in conflict with the Articles of Association or By-laws of the **Institution**, any agreement or instrument to which the **Institution** may be a party, any rule, regulation or order of any banking regulator applicable to the **Institution**, or any internal policy of the **Institution** adopted by its Board of Directors.
8. All of the terms and provisions of this Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns.
9. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original and all of which taken together shall constitute one and the same instrument.
10. In any action or proceeding which a party may be required to prosecute to enforce its respective rights hereunder, the unsuccessful party therein agrees to pay all reasonable costs incurred by the prevailing party therein, including reasonable attorney's fees, to be fixed by the court, and said costs and attorney's fees shall be made a part of the judgment of said action.

11. This Agreement shall be governed by and construed in accordance with the laws of the State of Arkansas and it supersedes any and all prior agreements, arrangements or understandings with respect to the subject matter hereof.
12. No provision of this Agreement may be waived except by a writing signed by the party to be bound thereby and any waiver of any nature shall not be construed to act as a waiver of subsequent acts.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first written above.

INSTITUTION:

Bank Name

City, State, Zip

Address for Notices:

Signature

Title

ATTEST:

DEPOSITOR:

Treasurer Name

TREASURER OF _____

County

Address for Notices:

ATTEST:

Signature

TREASURER OF THE COUNTY OF _____, AR
CUSTODIAL SERVICES AGREEMENT

This CUSTODIAL SERVICES AGREEMENT (“**Agreement**”) is entered into as of this _____ day of _____, _____ by and between _____ (“**Depositor**”) with its principal office at _____ and _____ (“**Institution**”) with its principal office at _____ and _____ (“**Custodian**”) with its principal office at _____.

WITNESSETH

WHEREAS, the **Depositor** has agreed to deposit funds with the **Institution** pursuant to the terms and provisions of that certain Security Agreement for Funds Held in Deposit (“**Security Agreement**”) by and between the **Depositor** and the **Institution** dated as of _____; and

WHEREAS, pursuant to the terms and provisions of the **Security Agreement**, the **Institution** has agreed to assign, transfer, pledge and convey to the **Depositor** a perfected security interest in certain eligible securities owned by the **Institution** (the “**Collateral**”); and

WHEREAS, in order to perfect the **Depositor's** security interest in the **Collateral**, the **Custodian**, as agent for the **Depositor**, will accept from the **Institution**, take possession of and hold such **Collateral** solely for the benefit of the **Depositor**.

NOW, THEREFORE, in consideration of the mutual covenants and premises herein contained, the parties do hereby agree as follows:

1. The **Custodian** hereby accepts employment as the **Depositor's** custodian and depository pursuant to the terms of this **Agreement**.
2. The **Custodian** shall accept and retain as **Custodian** solely for the benefit of the **Depositor** all securities tendered by the **Institution** as **Collateral** for its obligations under the **Security Agreement**. For the purposes of this **Agreement**, the term “securities” shall have the same meaning as set forth in the **Security Agreement**. Upon receipt of **Collateral** from the **Institution** for the benefit of the **Depositor**, the **Custodian** shall (i) immediately notify the **Depositor**, by telephone or otherwise, of the **Collateral** pledged, (ii) issue a written receipt to the **Institution** evidencing **Custodian's** receipt of the **Collateral**, and (iii) within three business days issue and provide delivery to **Depositor** written confirmation evidencing **Institution** has pledged and **Custodian** has received **Collateral**.
3. The **Custodian** shall identify on its books and records as being pledged to the **Depositor** specific securities or a quantity of specific securities received by it for, or for the account of, the **Depositor**. The **Custodian** shall have no power or authority to transfer, assign, hypothecate, pledge or otherwise dispose of any such securities, except pursuant to instructions from the **Depositor** and pursuant to the terms of this **Agreement**.
4. If at any time the ratio of the market value of the **Collateral** to the amount of funds on deposit is less than the Maintenance Percentage, then the **Institution** shall assign, pledge and convey a security interest and transfer to the **Depositor** securities of the type eligible to be pledged pursuant to *Arkansas Code Annotated §19-8-203 and §23-47-203*, as amended, and in such amount so that the ratio of the market value of such pledged securities to the amount of funds on deposit shall be at least equal to the Maintenance Percentage. Failure by **Institution** to provide securities of the type eligible to be pledged pursuant to *Arkansas Code Annotated §19-8-203 and §23-47-203*, as amended, in such amount so that the ratio of the market value of such pledged securities to the amount of funds on deposit is at least equal to the Maintenance Percentage, shall at the discretion of the Treasurer of _____ County, AR make all funds of the **Depositor** held by the **Institution** subject to immediate withdrawal without penalty and with interest being due and payable to the date of withdrawal.
5. The **Custodian** shall, on the first business day following receipt by the **Custodian** of prior written notice, allow

the **Institution** to withdraw any of the securities constituting the **Collateral**, if the **Institution** shall simultaneously deliver to the **Custodian** as additional **Collateral** securities of the same type and having at least the same market value as the securities withdrawn.

6. The **Custodian** is hereby authorized and directed to promptly distribute to the **Institution** any cash received by the **Custodian** as payment of accrued interest on any of the securities constituting the **Collateral**.

7. Except as specifically provided in the foregoing paragraphs 5 and 6, the **Custodian** will not release or transfer to the **Institution** any securities constituting the **Collateral** without prior written instructions from the **Depositor**, except that the **Custodian** may elect to release or transfer to the **Institution** securities constituting the **Collateral** upon receipt of verbal instructions from the **Depositor**, if (i) the verbal instructions are electronically recorded and the **Custodian** has obtained independent and separate confirmation of the verbal instructions from an authorized officer of the **Depositor**, (ii) the **Custodian** provides immediate written confirmation of the verbal instructions to the **Depositor** and (iii) the **Depositor** provides immediate written confirmation of the verbal instructions to the **Custodian**. The **Depositor** and the **Custodian** agree that in the case of any conflict between written and verbal instructions, the written instructions will be binding.

8. The **Custodian** agrees to provide to the **Depositor** a monthly statement of holdings reflecting the securities pledged by the **Institution**. In addition, the **Institution** agrees to provide to the **Custodian** current market price valuations of the securities constituting the **Collateral**, as may be required or requested by the **Depositor**.

9. In the absence of bad faith on the part of the **Custodian**, the **Custodian** shall be permitted to rely upon the authenticity of, and the truth of the statements and the accuracy of the opinions expressed in, and will be protected in acting upon, any document believed by the **Custodian** to be genuine and to have been signed, affixed or presented by the proper party or parties. The **Custodian** shall not be liable with respect to any action taken or omitted to be taken by it in accordance with any instruction or request of the **Depositor**. In addition, the **Custodian** shall not be liable for any error of judgment made in good faith by an officer of this **Custodian**, unless it shall be proved that the **Custodian** was grossly negligent in ascertaining the pertinent facts. In the event the **Custodian** receives substantially contemporaneously contrary written instructions from the **Depositor** and the **Institution**, then the **Custodian** may, at its election and without liability to either the **Depositor** or the **Institution**, interplead the securities constituting the **Collateral** in a court of competent jurisdiction, and the **Depositor's** and the **Institution's** sole recourse shall be against each other and the securities constituting the **Collateral** so interpled.

10. This **Agreement** may be amended at any time by written agreement between the **Depositor** and the **Custodian**, with prior written notice to the **Institution**.

11. This **Agreement** shall be subject to and construed in accordance with the laws of the State of Arkansas.

12. This **Agreement** may be simultaneously executed in two or more counterparts, each of which shall be deemed to be an original.

13. Notices and other writings shall be delivered or mailed postage prepaid to the parties at the addresses set forth on the signature page hereof.

IN WITNESS WHEREOF, the parties hereto, each acting through its respective duly authorized representative, have caused this **Agreement** to be signed in their name and delivered as of the date first above written.

DEPOSITOR:

TREASURER OF THE COUNTY OF _____, AR

Address for Notices:

_____, AR _____

Signature

CUSTODIAN:

Address for Notices:

By:

Title:

INSTITUTION:

Address for Notices:

By:

Title:

CERTIFICATE OF CORPORATE RESOLUTIONS

I, _____, the duly elected, qualified and acting Secretary of _____, ("**Institution**"), do hereby certify that set forth below is a true, correct and complete copy of resolutions adopted by the Board of Directors or Loan Committee of the **Institution** at a meeting duly convened and held, pursuant to notice properly given or waivers of notice properly made pursuant to applicable banking laws, on _____, _____, 20____, at (**Time**), ___ at which meeting a quorum for the transaction of business was at all times present and acting, and that said resolutions, approvals and authorizations have not been amended or revoked and are now in full force and effect:

RESOLVED, that the Security Agreement for Funds Held in Deposit ("**Agreement**") by and between (**Institution**) and _____ ("**Depositor**"), dated as of _____, is hereby approved and the President and the Secretary of the **Institution** be, and they hereby are, authorized, empowered and directed, for and in the name of and on behalf of the **Institution**, to execute such **Agreement** and deliver it to **Depositor**; and

FURTHER RESOLVED, that during the term of the **Agreement** the **Institution** is hereby authorized and empowered to pledge and transfer as collateral thereunder such securities of the **Institution** as determined by a Duly Authorized Institution Officer; and

FURTHER RESOLVED, that the Secretary of the **Institution** be, and he hereby is, authorized, empowered and directed to maintain the **Agreement** as an official record of the **Institution** until its revocation, rescission or termination; and

FURTHER RESOLVED, that the officers of the **Institution** be, and they hereby are, authorized, empowered and directed to take such actions and to execute and deliver such documents and instruments as they may deem necessary to satisfy the obligations and covenants of the **Institution** under such **Agreement** and to carry out the intents, purposes and objects of these resolutions; and

FURTHER RESOLVED, that the officers of the **Institution** listed below are hereby designated as the Duly Authorized Institution Officers under the **Agreement**, with full power and authority to determine the initial securities to be pledged as collateral thereunder and to approve all substitutions of collateral, releases of collateral, and additional pledges of collateral thereunder, and if needed, to designate representatives of the **Institution** to transact business with the **Depositor**.

DESIGNATED DULY AUTHORIZED INSTITUTION OFFICERS

NAME/TITLE

NAME/TITLE

NAME/TITLE

NAME/TITLE

NAME/TITLE

NAME/TITLE

WITNESS my hand and seal this ____ day of _____, 20____.

(SEAL)

Secretary

Collateralizing Public Deposits

County officials in Arkansas are required to collateralize the deposit of public funds for the amounts not fully insured directly by the United States – as in Federal Deposit Insurance through the FDIC. Each official is required to enter into any supplemental agreements with the depository institution that would perfect the security. [Arkansas Code § 19-8-107(c)(1)(A)(B)(2)(A)(B)]

The safety of public funds should be the foremost objective in public funds management. Collateralization of public deposits through the pledging of securities owned by the financial institution or other instruments such as surety bonds or an irrevocable letter of credit issued by a Federal Home Loan Bank is an important safeguard for such deposits. For counties in Arkansas it is not just an important safeguard – it is a requirement of law!

What can a county official accept as collateral for the public funds he or she has on deposit with an Arkansas financial institution? Identical eligible security for deposits is found both in Title 19 [Public Finance] and in Title 23, Chapter 47 [Banking Code]. Here is the list from §19-8-203(a):

(1) The pledge or escrow of the assets of the bank consisting of any investment in which a state bank may invest pursuant to § 23-47-401;

(2) A surety bond issued by an insurance company licensed under the laws of the State of Arkansas and either:

(A) Rated "A" or better by any one (1) or more of the following rating agencies:

(i) A.M. Best Company, Inc.;

(ii) Standard & Poor's Insurance Rating Service;

(iii) Moody's Investors Service, Inc.; or

(iv) Duff & Phelps Credit Rating Co.; or

(B) Listed on the then-current United States Department of the Treasury Listing of Approved Sureties;

(3) Private deposit insurance issued by an insurance company licensed under the laws of the State of Arkansas and either:

(A) Rated "A" or better by any one (1) or more of the following rating agencies:

(i) A.M. Best Company, Inc.;

(ii) Standard & Poor's Insurance Rating Service;

(iii) Moody's Investors Service, Inc.; or

(iv) Duff & Phelps Credit Rating Co.; or

(B) Listed on the then-current United States Department of the Treasury Listing of Approved Sureties;

or

(4) An irrevocable standby letter of credit issued by a Federal Home Loan Bank.

You, as the public funds depositor, get to make the decision on whether or not to accept the security offered as collateral. You have the discretion, by law, to say yes or no regarding the suitability of the collateral [§ 19-8-203(a) and 23-47-203(c)(1)]. You may want to say “no” to certain securities offered as collateral if the market value tends to be volatile.

A county should establish adequate and efficient administrative systems to monitor pledged collateral. Monitoring informs you of under collateralization, which may threaten the safety of your deposits. It can also reveal over collateralization which may increase the cost of banking services.

A county official should make every effort to comply with state and federal requirements in order to ensure that their security interests in collateral pledged to secure deposits are enforceable against the receiver of a failed financial institution. Federal law provides that a depositor's security agreement, which tends to diminish or defeat the interest of the FDIC in an asset acquired by it as receiver of an insured depository, shall not be valid against the FDIC unless the agreement:

- Is in writing;
- Was approved by the board of directors of the depository or its loan committee; and
- Has been, continuously, from the time of its execution, an official record of the depository institution.

A county official should have all pledged collateral held at an independent third-party institution outside the holding company of their bank, and evidenced by a written agreement in order to satisfy the Uniform Commercial Code (UCC) requirement for control. The UCC states that the depositor does not have a perfected interest in a security unless the depositor controls it. Control means that swaps, sales, and transfers cannot occur without the depositor's written approval.

- The value of the pledged collateral should be marked to market monthly, at a minimum, or more frequently depending on the volatility of the collateral pledged. Arkansas law requires that the aggregate market value of security pledged or the face amount of the surety bond, private deposit insurance or letter of credit securing the deposits of public funds “must be equal to or exceed the amount of the deposit to be secured.”
- Substitutions of collateral should meet the requirements of the collateral agreement, be approved by the county in writing prior to release, and the collateral should not be released until the replacement collateral has been received.
- The county should require reporting directly from the custodian of the collateral – the third-party institution. The custodian agreement should be a three-party agreement between the county [depositor], the bank, and the third-party institution.
- Reporting by the third party institution should be, at a minimum, monthly.

Counties that use surety bonds or private deposit insurance in lieu of collateral must limit the insurers to those of the highest credit quality, rated “A” or better, by a nationally recognized insurance rating agency [§ 19-8-203(a)(2)(3)].

A county should thoroughly review the terms and conditions of any letter of credit issued as security. Please note that an Arkansas county may only accept an “irrevocable letter of credit issued by a Federal Home Loan Bank”.

It is extremely important for a county official to create an enforceable perfected security interest in all collateral for their public deposits. When a banking institution fails and goes into receivership the FDIC comes into settle on the assets of a bank. FDIC makes the decision on what is perfected security – not the county as the depositor and not the bank that pledged the security. If everything is not in accordance with

state and federal laws to create an enforceable perfected security the FDIC may void any agreements and leave the county with only the right to share with other creditors in the pro rata distribution of the assets of a failed institution for the amount of deposits that exceed the FDIC coverage. So, it is extremely important to collateralize correctly – remembering that the safety of public funds is a top objective of a county official.

To perfect security a county official should have all agreements in writing and the required consummated agreements include:

- Depository Agreement [19-8-107];
- Security Agreement [FDIC regulations];
- Custodial Services Agreement [Uniform Commercial Code]; and
- Certificate of Corporate Resolutions (approval by the board of directors of the depository or its loan committee) [FDIC regulations]

Notes:

- It should be noted, that as a result of an Arkansas court case during the administration of State Treasurer Jimmie Lou Fisher [North Arkansas Medical Center v. Barrett 1992], the FDIC issued a policy statement that was then officially enacted by Section 317 of the Riegle Community Development and Regulatory Improvement Act of 1994 [Public Law 103-325] that liberalized the contemporaneous execution requirement. FDIC regulations now say that 'an agreement to provide for the lawful collateralization of deposits of a Federal, State, or local governmental entity shall not be deemed to be invalid *solely* because the agreement was not executed contemporaneously with the acquisition of the collateral or with any changes in the collateral made in accordance with such agreement.'
- Another note to the required agreements for perfected security is that the FDIC does not require every transaction to be reviewed and approved by the board of directors. The board may fulfill this function by setting parameters and authorizing a particular officer or officers to carry out its wishes in the Certificate of Corporate Resolutions. The officer would be performing ministerial acts on behalf of the board [FDIC Interpretive Letters].
- One more note – In securing collateral for your public deposits not covered by FDIC insurance, keep in mind that in accordance with Section 330.15 of the FDIC's regulations [12 C.F.R. 330.15] the official custodian of the funds – rather than the public unit itself – is insured as the depositor. So it is doubtful that the FDIC would recognize any collateral securing funds that you are not the official custodian of.

Deposit Insurance for Public Funds

FDIC [Federal Deposit Insurance Corporation] has provided deposit insurance since 1933 – established on the heels of the Great Depression. The FDIC is backed by the full faith and credit of the United State government.

FDIC deposit insurance coverage depends on two things: (1) whether your chosen financial products is a deposit product; and (2) whether you bank is FDIC-insured.

The FDIC covers:

- Checking accounts
- Negotiable Order of Withdrawal (NOW) accounts
- Savings accounts
- Money Market Deposit Accounts (MMDAs)
- Time deposits such as certificates of deposit (CDs)
- Cashier's checks, money orders, and other official items issued by a bank

The FDIC does not cover:

- Stock investments
- Bond investments
- Mutual funds
- Life insurance policies
- Annuities
- Municipal securities
- Safe deposit boxes or their contents
- U.S. Treasury bill, bonds or notes

The standard FDIC insurance amounts is \$250,000 per depositor, per insured bank, for each account ownership category.

Coverage is a little different for government accounts. The category known as government accounts (also called Public Unit accounts) includes deposit accounts owned by:

- The United States, including federal agencies
- Any state, county, municipality (or a political subdivision of any state, county or municipality), the District of Columbia, Puerto Rico and other government possessions and territories
- An Indian tribe

Insurance coverage of a government accounts is unique in that the insurance coverage extends to the official custodian of the deposits belonging to the government public unit, rather than to the government unit itself.

Accounts held by an official custodian of a government unit will be insured as follows:

In-state accounts:

- Up to \$250,000 for the combined amount of all time and savings accounts [including NOW accounts]

- Up to \$250,000 for the combined amount of all interest-bearing and noninterest bearing demand deposit accounts

Out-of-state accounts:

- Up to \$250,000 for the combined amount of all deposit accounts

Governance:

Section 330.15 of the FDIC's regulations [12 C.F.R. 330-15] governs the insurance coverage of public unit accounts. For deposit insurance purposes, the term "public unit" includes a state, county, municipality, or any "political subdivision" of the public unit. The term "political subdivision" also includes any subdivision or principal department of a public unit if the subdivision or department meets the following tests:

- The creation of the subdivision or department has been expressly authorized by the law of such public unit;
- Some functions of government have been delegated to the subdivision or department by such law; and
- The subdivision or department is empowered to exercise exclusive control over funds for its exclusive use.

Under section 330-15, the "official custodian" of the funds belonging to the public unit – rather than the public unit itself – is insured as the depositor. An official custodian is an officer, employee, or agent of a public unit having official custody of public funds and lawfully depositing the funds in an insured institution. In order to qualify as an official custodian, a person must have plenary authority – including control – over the funds. Control of public funds includes possession as well as the authority to establish accounts in insured depository institutions and to make deposits, withdrawals and disbursements.

