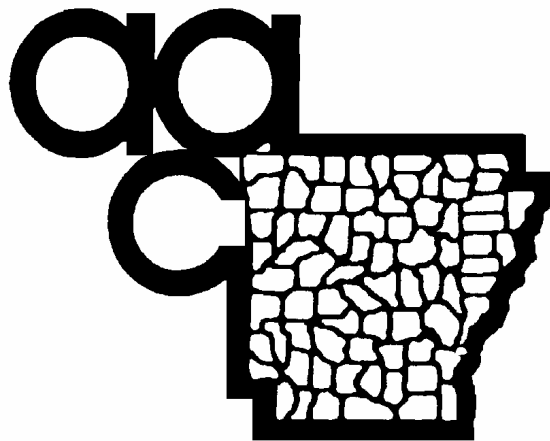


*Arkansas
Justice of the Peace
Procedural Manual*



August, 2006

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FOREWORD

This County Quorum Court procedures manual was compiled by the Association of Arkansas Counties staff and reviewed by AAC General Counsel Mark Whitmore and Jonathan Greer. It reflects the current law through the 2005 legislative session and the 2006 special legislative session and includes a description of the duties, responsibilities, and procedures of the Justice of the Peace'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.

Brenda Pruitt
Executive Director

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Chapter One - INTRODUCTION TO COUNTY GOVERNMENT

County government is a political subdivision, which provides services to all of the citizens of the county, and every resident of Arkansas lives in a county somewhere. These services include law enforcement, county roads, sanitation, judicial, emergency medical, fire protection, elections, jails, assessment, collection and distribution of property tax proceeds, the management of public records and many other services.

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 and sheriff/collector. Also, not all counties elect a surveyor or a coroner and in the counties that do elect them, these jobs are usually not full-time positions. 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 - 1103)

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, (ACA 14-14-1105), and those powers removed by Amendment 67 as they pertain to the Bastardy and Juvenile Court.

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 and chancery 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 and chancery court, notifies residents selected to jury duty and assists in handling witnesses and prisoners during a given court term.

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

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

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

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 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 often handles most of the administrative details of each election for the County

Board of Election Commissioners that are required by 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, chancery court, and juvenile court and usually acts as the ex-officio recorder of the county.

The administrative duties of the circuit clerk are to maintain a record of all proceedings of the circuit courts and to prepare the dockets for these courts (ACA 16-20-102). The circuit clerk prepares summons, warrants, orders, judgments, and injunctions authorized by the circuit court for delivery by the county sheriff. The circuit clerk also maintains a file of all cases pending in either court, as well as a record of all past court cases and their disposition (ACA 16-20-303 and 16-20-304). In addition, the circuit clerk acts as a secretary to the jury commission by keeping a list of all prospective jurors (ACA 16-32-105).

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 14-15-402). The circuit clerk maintains a record of many miscellaneous items, and files certain licenses. The circuit clerk also swears in all notaries public and files regulations of state agencies which license trade or professional workers.

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

Any real or personal property taxes not paid by the tenth day of October are considered delinquent and the collector extends a 10% penalty against the taxpayer (ACA 26-36-201). Before December 1st of each year, the collector of taxes shall prepare a list of delinquent personal property taxes and deliver a copy of the list to a legal newspaper in the county. Within seven (7) days thereafter, the newspaper shall publish the list. If there is no newspaper in the county or district, the publication shall be in the nearest newspaper having a general circulation in the county or districts for

which the list is being published. (ACA 26-36-203) The collector shall, by the fourth Wednesday of October in each year, file with the clerk of the county court a list of taxes levied on real estate that the collector has been unable to collect.

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

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

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

The county treasurer is the disbursement officer of the county, and is the unofficial or quasi comptroller. A few counties do have a county comptroller. The treasurer is responsible for the custody and disbursement of all county funds and school district funds. The treasurer, therefore, receives county tax collections, county turnback funds, federal matching funds, state aid to school district funds and revenues from various other sources. The treasurer, after receiving this revenue, distributes the money to the various taxing units of the county. The county treasurer signs checks, prepared and signed by the county clerk indicating that the expenditure has been authorized by the county court, to pay employees and creditors of the county. A copy of each check serves as a warrant and is filed in the county financial records.

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

The county treasurer is allowed a two percent commission on all funds coming to his/her office. This commission is allowed on all funds including county and school district funds (except revolving loan, equalizing, vocational education funds and proceeds of bond sales and insurance claims and other nonrevenue receipts) that the treasurer receives. (ACA 21-6-302) Also, the county treasurer is allowed a smaller commission (less than 2%) from school districts that employ their own treasurer. (ACA 6-20-221) The 2% commission is not kept by the treasurer but is intended to create a source of revenue accruing to the office from which the salary or operation of the office could be paid. Any excess treasurer's commissions shall be redistributed to the various taxing units.

The county coroner is is a 24/7 position in county government. 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 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 charged, by law, to conserve the peace in his township (ACA 16-19-301).

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 (ACA 14-14-801).

As provided by Amendment No. 55 of the Arkansas Constitution, a county government acting through its quorum court may exercise local legislation 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 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 Justice of the Peace is an elected official in county government. The Constitution of the State of Arkansas provides for the election of the Justice of the Peace to a two-year term of office with the requirements that he/she be a qualified elector and resident. In the event of a vacancy in office, the Governor fills the vacancy by appointment, and the appointee serves until the next general election, when a successor is elected.

Before beginning his/her duties, the Justice of the Peace must take the constitutional oath of office. The Justice of the Peace is entitled to per diem compensation for attending any official, regular, special or committee meetings of the Quorum Court, as long as the compensation does not exceed the specified amount for that size county as prescribed by state law for the calendar year. ACA 14-14-1205 Compensation of township officers.

The per diem compensation of justices shall be not less than one hundred twenty dollars (\$120) per diem for each regular meeting nor exceed seven thousand dollars (\$7,000) per calendar year in counties having a population of less than seventy thousand (70,000) and shall not exceed eight thousand five hundred ninety-five dollars (\$8,595) per calendar year in counties having a population of at least seventy thousand (70,000) and less than two hundred thousand (200,000), and shall not exceed ten thousand dollars (\$11,400) per calendar year in counties having a population of two hundred thousand (200,000) or more.

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. These officers representing districts within the county 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 3/5 vote of the total membership of the Quorum Court.

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. Some limitations are: The Quorum Court cannot declare any act a felony (felonies are covered by the State Criminal Code); Quorum Court may exercise no authority unrelated to county affairs.

The Quorum Court may exercise the following powers, but are not limited to: A) the levy of taxes in manner prescribed by law; B) Appropriate public finds for the expenses of the county in a manner prescribed by ordinances; 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 any other county, or with any political sub-division 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 14-14-802)

Chapter Three - TIMETABLE

This section was included to assist newly elected Justices of the Peace by outlining the most pertinent activities and placing them in calendar format. This allows the Justice of the Peace to review the major activities of the position

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

JUSTICES OF THE PEACE TIMETABLE

JANUARY

The county judge shall act as presiding officer over all regular and special meetings of the Quorum Court, without a vote, but with the power of veto. (ACA 14-14-1101).

The Justices of the Peace elected in each of the several counties shall assemble and organize as a Quorum Court body on the first Monday, excepting holidays, after the beginning of the Justices' term in office. If the first meeting is not held on the Quorum Court's established regular meeting day, the Quorum Court may declare the first meeting to be in lieu of the established January meeting. Thereafter, the Justices shall assemble each calendar month in their respective counties to perform the duties of a Quorum Court, except that more frequent meetings may be required by ordinance. The time and place of the initial assembly of Justices shall be designated by written notice of the county judge. The Justices thereafter, shall meet as a Quorum Court at a regular time and place established by ordinance. (ACA 14-14-904).

January 1 of each year, the person primarily responsible for collection must be designated. (ACA 16-13-709)

The county treasurer should receive highway and general turnback from the state treasurer by the tenth day of each month. (ACA27-70-207(a) and ACA 19-5-602(b)).

The county treasurer shall submit each month to the county Quorum Court a full report and a detailed statement of the county, showing receipts, disbursements, and balance on hand, together with all liabilities of the county. (ACA 14-20-105).

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

FEBRUARY

The county treasurer should receive highway and general turnback from the state treasurer by the tenth day of each month. (ACA27-70-207(a) and ACA 19-5-602(b)).

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

Fees and fines collected by each county official are to be deposited with the county treasurer on the first day of each month and 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. The report shall be published between January 15 and February 15 of each year for the previous fiscal year of the county. (14-21-102(b)(1)).

MARCH

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

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

APRIL

The county treasurer should receive highway and general turnback from the state treasurer by the tenth day of each month. (ACA27-70-207(a) and ACA 19-5-602(b)).

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

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

Deadline for assessing all real property for ad valorem tax purposes is July 31 of each year (ACA 26-26-1101)

MAY

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

The county judge and the quorum court shall make appointment of the Equalization Board for the term of the expiring member during the month of May. (ACA 26-27-304)

Time for assessment and payment (a) (1) On and after January 1, 1991, taxpayers shall annually assess their tangible personal property for ad-valorem taxes during the period from January 1 through May 31. Taxable tangible personal property of new residents and businesses established between January 1 and May 31, and taxable tangible personal property acquired by residents during the period from January 1 through May 31, except property acquired during the period of May 2 through May 31, shall be assessable without delinquency within twenty (20) days following the date of its acquisition. All taxable tangible personal property assessable this period shall be assessed according to its market value as of the first day of January of the year of the assessment. (ACA 26-26-1408)

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

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

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JUNE

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

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

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

JULY

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

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

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

On or before August 1st, the assessor must make an abstract of assessments showing the total assessed value of the county. (ACA 26-26-304)

Deadline for assessing all taxable, tangible personal property acquired after May 31st is July 31st. (ACA 26-26-1408(6)).

AUGUST

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

The county assessor shall, on or before August 1st of each year, deliver to the clerk of the Board of Equalization his completed assessment tax record, showing the total assessment of the county as made by the assessor. He shall also furnish such other information as the board may request of the assessor. (ACA 26-26-1103(a).

On or before August 1st the assessor must make an abstract of assessments showing the total assessed value of the county (ACA 26-26-304).

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

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

Board of Equalization meets to equalize assessments within the county. (26-27-309).

SEPTEMBER

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

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

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

OCTOBER

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

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

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

NOVEMBER

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

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

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

The Quorum Court, at its regular meeting in November of each year, shall levy the county, municipal and school taxes for current year; and, before the end of each fiscal year the county shall make appropriations for the expenses of county government for the following year. Provided that nothing in this section shall prohibit the Quorum Court from making appropriation amendments at any time during the current fiscal year. (ACA 14-14-904)

DECEMBER

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

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

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

It is hereby made the duty of the county courts to pass upon the settlements of county collectors and to approve, reject or same on or before the thirty-first of December of settlements of said collectors within said period of time shall constitute a misfeasance of office and shall be deemed a misdemeanor, by a fine of \$100.00 or removal from office. (ACA 26-28-306)

Chapter Four - REVENUE SOURCES

- A. Ad Valorem Property Taxes
 - 1. General Purpose Tax Article 16, Sec. 9
 - 2. Road Tax Amend. 61 & §§26-79-101
 - 3. Construction Tax Amends. 62 & 65
 - 4. Hospital Tax Amend. 32
 - 5. Library Tax Amend. 72
- B. Non-Property Taxes
 - 1. Vehicle Tax §§26-78-101 - 119
 - 2. Liquor Tax §§3-4-201, 3-4-202, 3-4-208
 - 3. Beer Tax §§3-5-101, 3-5-103, 3-5-201 - 225
 - 5. Privilege Tax §§26-76-108
 - 6. Privilege Tax §§27-87-202, 203, 205, 206, 209
 - 7. Marriage License Tax §§14-20-111
 - 8. Mixed Drink Tax §§3-9-213
 - 9. Private Club Tax §§3-9-221 - 225
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- H. Miscellaneous
 - 1. Lease of County Property §14-16-110

- | | |
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| 2. Lease/Sale of Co. Hospital | §14-16-108 |
| 3. Sale of Property | §14-16-105 |

COUNTY GOVERNMENT FINANCE

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

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

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

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

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

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

The current collection system of local property tax was designed to collect revenue in one year (by October 10) to be appropriated and spent in the next year. This is a good system and has worked well for years, but runaway inflation over the past decade has 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

Counties, which, from time to time, have idle funds, may invest them in certificates of deposit (CD's), treasury bills (T-bills), or money market certificates. All of these are insured by the Federal Deposit Insurance Corporation (FDIC) and/or the "full faith and credit of the Federal Government". Such investments range in time periods from 30 days to 1 year.

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

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

COUNTY REVENUES

A. AD VALOREM PROPERTY TAXES

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

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

Whenever the August 1 ratio for the classifications of market value real estate, personal property (business), or personal property (auto and other) falls below eighteen percent (18%) or above twenty-two percent (22%) of full fair market value for the second consecutive August 1 ratio study, the county shall be deemed to have failed the ratio study and shall be subject to penalties and corrective actions.

Further, where the weighted coefficient of dispersion about the median ratio, as defined by the Assessment Coordination Department for market value real estate exceeds twenty (20) for the second consecutive August 1 ratio study, the county

shall be deemed to have failed the ratio study and will be subject to penalties and corrective actions or the withholding of five percent (5%) of all state turnback funds for all taxing units in the county, whichever is greater.

This shall be effective beginning with the August preliminary ratio study for 1998. (ACA 26-26-304)

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1. General Purpose Tax

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

Use: Support all purposes of county government.

Implementation: Imposed annually by action of the quorum court.

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

2. Road Tax

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

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

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

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

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

3. Construction Tax

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

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

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

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

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

4. Hospital Tax

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

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

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

Authority: Constitution of Arkansas, Amendment 32.

5. Library Tax

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

Use: For the purpose of maintaining a public county library or a county library service or system to include coordinated

services of a city public library and a county public library or coordinated services of libraries of different counties. The construction of or capitol improvements to existing county public library for up to the three (3) mills.

Implementation: By petition of 100 or more electors to the county court which shall then submit the question to the voters at a general election. If a majority of those voting on the question vote for a tax, it will be continually levied until raised, lowered, or abolished at a subsequent general election. County quorum court may establish a filing fee not to exceed \$2000 for petitions for special election.

Authority: Constitution of Arkansas, Amendments 38 and 72, Act 1377 of 2001.

COUNTY REVENUES

B. NON-PROPERTY TAXES

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

1. Vehicle Tax

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

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

Implementation: Adopted by resolution of the quorum court and submitted in a special election to the voters (in case tax is on those residing outside municipalities only those are

eligible to vote). If a majority of those voting on the question vote for the tax, a tax can be continually imposed annually by the quorum court not to exceed the amount approved by the voters.

Authority: ACA 26-78-101 through ACA 26-78-119.

2. Liquor Tax

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

Use: Support all purposes of county government.

Implementation: By the county court.

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

3. Beer Tax

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

Use: Support all purposes of county government.

Implementation: By the County Court.

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

4. Privilege Tax: Public Exhibitions

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

Use: Support all purposes of county government.

Implementation: Imposed by county court.

Authority: ACA 26-76-202.

5. Privilege Tax: Ferries

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

Use: Support all purposes of county government.

Implementation: ACA 27-87-205.

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

6. Additional Marriage License Tax

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

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

Implementation: Imposed by the quorum court.

Authority: ACA 14-20-111.

7. Mixed Drink Tax

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

Hotel having fewer than 100 rooms:	\$ 500.00
Hotel having 100 or more rooms:	\$1,000.00
Restaurant having a seating capacity of less than 100 persons:	\$500.00
Restaurant having a seating capacity of 100 or more persons:	\$1,000.00

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

Use: Support all purposes of county government.

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

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

8. Private Club Tax

Source: A license fee and/or supplemental tax on private clubs licensed to operate by the state within the county outside limits of incorporations. License fee shall not exceed two hundred fifty dollars (\$250.00). In addition, the county may also levy a tax not to exceed five percent (5%) upon the gross proceeds or gross receipts derived from the private clubs from charges to members for preparation, serving or cooling mixed drinks, beer and wine. There is an exemption for professional or charitable golf tournaments.

Use: Support all purposes of county government.

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

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

9. County Sales & Use Tax

Source: A .125, .25, .50, .75, or 1.0 percent (1/4, 1/2, 3/4 or 1%) countywide sales and use tax is now permissive in counties beginning with the passage of Act 26 of 1981 as amended. This is Arkansas Code Annotated 26-74-207. Up to a one percent (1%) tax shall apply on the gross receipts from the sale of retail, within the county, on all items which are now subject to the Arkansas Gross Receipts Tax, as set forth in the provisions of ACA 26-52-101. In counties where a .125, .25, .50, .75, or 1.0 percent (1/4, 1/2, 3/4, or 1%) sales and use tax is levied, the tax imposed also applies an excise tax on the storage, use or consumption within such county of tangible personal property purchased, leased or rented from any retailer outside the state after the effective date of the sales and use tax for storage, use or other consumption in such county at a rate of .125, .25, .50, .75, or 1.0 percent (1/4, 1/2, 3/4, or 1%) of the sale price of the property or, in the case of leases or rentals, of said lease or rental price, the rate of said use tax to correspond to the rate of the sales tax portion of said tax. Provided that the use tax portion of said local sales and use tax shall be collected according to the provisions of the Arkansas Compensating Use Tax (ACA 26-53-101). A county which levies such tax shall provide, by ordinance, for a rebate from the county for taxes collected pursuant to the Act in excess of the tax on the first two thousand five hundred dollars (\$2,500.00) of gross receipts, gross proceeds or sales price from a single transaction.

Use: Support all purposes of county government.

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

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

Note:¹³ Since the legislation regarding sales and use taxes is now complex and so complicated, the Association of Arkansas Counties recommends obtaining the services of adequate legal counsel on all county sales and use tax matters.

10. County Sales Tax for Capital Improvements

Source: A .25, .50, .75, or 1.0 percent (1/4%, 1/2%, 3/4%, or 1%) countywide sales and use tax is now permissive in counties with the passage of Act 871 of 1985 as amended. This is Arkansas Code Annotated 14-164-301 through 14-164-339. The Act was passed to implement Amendment 62 of the Arkansas Constitution to allow the financing of capital improvements of a public nature and the financing of facilities for the securing and developing of industry. The financing may be done by bonded indebtedness or if a legislative body determines that a .25, .50, .75, or 1.0 percent (1/4%, 1/2%, 3/4%, or 1%) sales or use tax or any other local tax authorized by law would, if levied for no longer than twenty-four (24) months, and thirty-six (36) months for criminal justice facilities, produce sufficient revenue to finance capital improvements of a public nature without resorting to a bond issue, the legislative body may dispense with the issuance of bonds, levy the tax for no longer than twenty-four (24) months and thirty-six (36) months for criminal justice facilities, and appropriate the resulting revenues, subject to the Arkansas Constitution, Article 12, Section 4, paragraphs 2 through 4.

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

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

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

11. County Sales and Use Tax

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

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

Use: Support all purposes of county government.

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

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

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

12. County Income Tax

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

Use: Support all purposes of county government.

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

Authority: ACA 26-73-103.

COUNTY REVENUES

C. AD VALOREM BONDS

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

1. Construction: Source, Use & Conditions

The legislative body of a county, with the consent of a majority of the qualified electors voting on the question at an election called for that purpose, may authorize the issuance of bonds, to bear interest at a rate not to exceed two percent (2%) per annum above the federal reserve rate at the time of the election authorizing the bonds for capital improvements of a public nature, as defined by the General Assembly (ACA 14-164-303) in amounts approved by a majority of those voting on the question either at an election called for that purpose or at a general election.

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

Authority: Constitution of Arkansas, Amendments 17, 25, 62 and 65.

2. Industrial Development: Source, Use & Conditions

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

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

Authority: Constitution of Arkansas, Amendments 49 & 62.

COUNTY REVENUES

D. REVENUE BONDS

1. Highways

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

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

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

Authority: ACA 26-78-102 through 26-78-119.

2. Hospital, Nursing Home or Rest Home

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

Use: For purposes in connection with the county authority to own, acquire, construct, reconstruct, extend, equip, improve, maintain, operate, sell, lease, contract concerning, or otherwise deal in or dispose of any land, buildings or facilities of any and every nature that can be used for a hospital, nursing home or rest home in the county.

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

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

3. Industrial Development

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

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

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

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

4. Parks and Recreational Facilities

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

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

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

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

5. Pollution Control Facilities

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

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

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

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

6. Port Facilities

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

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

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

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

7. Solid Waste Management

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

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

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

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

8. Tourism

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

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

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

Authority: ACA 19-9-601 through 19-9-607 and Amendment 65⁶

COUNTY REVENUES

E. FINES, FORFEITURES AND COURT COSTS

Source: All fines, penalties and forfeitures imposed by any court or board of officers whatsoever, except fines and penalties of city courts and courts of incorporated towns for violations of city and town ordinances, shall be paid into the county treasury.

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

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

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

Implementation: By provisions of the Arkansas Code Annotated.

Authority: ACA 16-92-113, 16-96-403, 16-68-301 and 16-84-202

COUNTY REVENUES

F. FEES AND COMMISSIONS

Fees and commissions represent charges authorized to be made by county officials for providing a specific service. Fees are charges made at a specified rate for a particular act such as a fee authorized to be charged by the county sheriff

for serving each warrant of arrest. Commissions are also charges for services rendered but are in terms of a percentage of the amount of funds handled, e.g., the county collector is authorized a percentage commission of all vehicle taxes collected. Not all fees and commissions represent revenues for the county since some are paid from county funds.

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

COUNTY REVENUES

G. INTERGOVERNMENTAL TRANSFERS

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

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

1. State General Turnback

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

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

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

2. State Highway Revenue Turnback

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

Funds are apportioned to counties on the following basis:

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

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

Authority: ACA 27-70-207.

3. State Aid to Secondary Roads

Source: Apportioned to counties from State Aid Road Fund of moneys collected from an excise tax of one cent (1¢) per gallon on motor fuel and distillate special motor fuel not to exceed thirteen million dollars (\$13,000,000.00) per year. For a county to receive funds, they must be matched in the ratio of ninety percent (90%) state aid road funds to not less than ten percent (10%) county matching funds. Funds are apportioned to the counties on the basis of mileage in the state aid system which shall be allocated in the following proportions:

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

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

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

4. State Severance Taxes

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

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

Authority: ACA 26-58-113.

5. State Sale of Tax Forfeited Land

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

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

Authority: ACA 26-37-205

6. Revenue from Forest Reserves

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

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

Authority: ACA 19-7-401 through 19-7-404.

7. Revenue from Sale or Lease of Public Domain

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

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

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

COUNTY REVENUES

H. MISCELLANEOUS

1. Lease of County Property

Source: Revenues may be derived by lease of county real or personal property belonging to the county to nonsectarian

educational institutions or any lawfully incorporated nonprofit, nonsectarian Boy's Club or Girl's Club. Terms and conditions of the lease are fixed by the county court.

Use: Support all purposes of county government.

Authority: ACA 14-16-110.

2. Lease or Sale of County Hospital

Source: Revenues may be derived from lease or sale of a county hospital located within the county where there is no outstanding bonded indebtedness. Provided, however, that the quorum court shall approve the conditions of a lease and a sale requires voter approval.

Use: Support all purposes of county government.

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

3. Sale of County Property

Source: The county court of each county shall have the power to sell any real estate or personal property of the county. Sale of property with an appraised value of less than one thousand dollars (\$1000.00) can be affected by the county judge at private sale. Sale of property with an appraised value of over one thousand dollars (\$1000.00) must be sold to the highest and best bidder upon sealed bids.

Use: Support all purposes of county government.

Authority: ACA 14-16-105

Also, if it is determined by the county judge to be surplus, any personal or real property owned by a county may be sold at public auction to the highest bidder. Notice of the public auction shall be published at least once a week for two (2) consecutive weeks in a newspaper having general circulation in the county. The notice shall specify the description of the property to be sold and the time and place of the public auction. (ACA 14-16-106)

4. Solid Waste Management Fees

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

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

Authority: ACA 8-6-212.

Chapter Five - COUNTY GOVERNMENT OPERATIONS

LEGISLATIVE POWERS OF COUNTY GOVERNMENT

This section of the manual is designed to assist Justices of the Peace, newly elected and experienced, with the basic powers and responsibilities of the legislative branch of county government. Amendment No. 55 to the Arkansas Constitution of 1874, which substantially altered the structure and powers of county government, has been reprinted for your reference.

Also included is information regarding filling vacancies of the Quorum Court and in all county offices, legislative procedures, Quorum Court and in all county offices, legislative procedures, Quorum Court administration and ethics for county officials.

COUNTY GOVERNMENT OPERATIONS LEGISLATIVE POWERS OF COUNTY GOVERNMENT

The following is a listing of each topic as it appears in this chapter. These were selected because they represent the basic responsibilities and powers of the office of the Justice of the Peace.

Amendment 55

Legislative Powers of County Government

Legislative Powers Denied

Penalty for Violation of Ordinance

Quorum Court Administration

Legislative Powers Requiring State Delegation

Prohibition of Legislative Power of County

Consistency with State Regulations Required

Concurrent Powers

Quorum Court Record of Proceedings

Vacancy in County, Quorum Court District and Township Offices

Filling Vacancy on the Quorum Court

Declaration of Vacancies in County, Quorum Court District and Township Offices

Filling Vacancies in Elective County Offices

Legislative Authority

County Legislative Procedure

Ethics for County Officials and Employees

Distribution of Powers

AMENDMENT NO. 55
(REVISION OF COUNTY GOVERNMENT)

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Section 1 Power of Quorum Court.

(a) A county acting through its Quorum Court may exercise local legislative authority not denied by the constitution or by law.

(b) No county may declare any act a felony or exercise any authority not related to county affairs.

(c) A county may, for any public purpose, contract, cooperate, or join with any other county, or with any political subdivision of the State or any other states or their political subdivisions, or with the United States.

Section 2 Number of justices comprising Quorum Court - Powers.

(a) No county's Quorum Court shall be comprised of fewer than nine (9) justices of the peace, nor comprised of more than fifteen (15) justices of the peace. The number of justices of the peace that comprise a county's Quorum Court shall be determined by law. The county's Election Commission shall, after each decennial census, divide the county into convenient and single member districts so that the Quorum Court shall be based upon the inhabitants of the county with each member representing, as nearly as practicable, an equal number thereof.

(b) The Quorum Court may create, consolidate, separate, revise, or abandon any elective county 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.

Section 3 Power of county judge.

The county judge, in addition to other powers and duties provided for by the Constitution and by law, shall preside over the Quorum Court without a vote but with the power of veto; authorize and approve disbursement of appropriated county funds; operate the system of county roads; administer ordinances enacted by the Quorum Court; have custody of county property; hire county employees, except those persons employed by other elected officials of the county.

Section 4 Veto power of Quorum Court.

In addition to other powers conferred by the Constitution and by laws, the Quorum Court shall have the power to override the veto of the county judge by a vote of three-fifths of the

total membership; fix number and compensation of deputies and county employees; fill vacancies in elective county offices; and adopt ordinances necessary for the government of the county. The Quorum Court shall meet and exercise all such powers as provided by law.

Section 5 Compensation of county officers fixed by Quorum Court.

Compensation of each county officer shall be fixed by the Quorum court within a minimum and maximum to be determined by law. Compensation may not be decreased during a current term; provided, however, during the interim, from the date of adoption of this Amendment until the first day of the next succeeding month following the date of approval of salaries by the Quorum Court, salaries of county officials shall be determined by law. Fees of the office shall not be the basis of compensation for officers or employees of county officers. Per Diem compensation for members of the Quorum Court shall be fixed by law.

Section 6 Bonding of county officers.

All county officers shall be bonded as provided by law.

Section 7 Effective Date.

Sections 1 and 4 of this Amendment shall be effective January 1, 1977, and all other provisions hereof shall be effective when the Amendment is adopted.

Section 8 Repealer.

All parts of the Constitution of Arkansas in conflict with this Amendment are repealed.

Proposed by the General Assembly and filed in the office of the Secretary of State on April 10, 1973. Voted upon at the General Election, November 5, 1974. Returns: For 242, 419; Against: 230,014.

SELF-GOVERNMENT POWERS

As provided by Amendment No. 55, Section 1(a) 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. These powers include, but are not limited to:

- (a) the levy of taxes in a manner prescribed by law;
- (b) appropriate public funds for the expenses of the county in a manner prescribed by ordinance;
- (c) preserve 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 any other 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 within a minimum and maximum to be determined by law;
- (h) fill vacancies in elected county offices;
- (i) have the power to override the veto of the county judge by a vote of three-fifths (3/5ths) of the total membership of the Quorum Court;
- (j) provide for any service or performance of any function relating to county affairs;
- (k) impose a special assessment reasonably related to the cost of any special service or special benefit provided by county government or impose a fee for the provisions of a service;
- (l) provide for its own organization and management of its affairs; and
- (m) to exercise other powers, not inconsistent with law, necessary for effective administration of authorized services and functions. (ACA 14-14-801)

LEGISLATIVE POWERS OF COUNTY GOVERNMENT

(1) A county government, acting through the Quorum court, shall provide through ordinance for the following necessary service for its citizens:

- (a) the administration of justice through the several courts of records of the county;
- (b) law enforcement protection services and the custody of persons accused or convicted of crimes;
- (c) real and personal property tax administration, including assessment, collection, and custody of tax proceeds;
- (d) court and public records management, as provided by law, including registration, recording, and custody of public records; and
- (e) all other services prescribed by state law for performance by each of the several elected county officers or departments of county government.

(2) A county government, acting through the Quorum Court may provide through ordinance for the establishment of any service or performance of any function expressly prohibited by the Arkansas Constitution or by law. These legislative services and functions include, but are not limited to, the following services and facilities:

- (a) agricultural services, including: extension services, including agricultural, home economic, and community development; fairs and livestock shows and sales services; livestock inspection and protection services; market and marketing services; rodent, predator, and vertebra control services; and weed and insect control services.
- (b) community and rural development services, including: economic development services; housing services; open spaces; planning zoning, and subdivision control services; urban and rural development, rehabilitation and redevelopment services; and watercourse, drainage, irrigation, and flood control services.
- (c) community services, including: animal control services; cemetery, burial, and memorial services; consumer education and protection services; exhibition and show services; libraries, museums, civic center auditoriums, and historical, cultural or natural site services; park and recreation services; and public camping services.
- (d) emergency services, including ambulance services, civil defense services; fire prevention and protection services; and juvenile attention services.
- (e) child care, youth, and senior citizen services; public health and hospital services; public nursing and extended care services and social and rehabilitative services.
- (f) solid waste services, including: recycling services; and solid waste collection and disposal services.
- (g) transportation services, including: roads, bridges, airports and aviation services; ferries, wharves, docks and other marine services parking services; and public transportation services;
- (h) water, sewer and other utility services and waste and disposal services.
- (i) other services related to county affairs. (ACA 14-14-802)

LEGISLATIVE POWERS DENIED

Each of the several Quorum Courts in the State of Arkansas exercising local legislative authority is prohibited the exercise of the following:

- (a) any legislative act that applies to or affects any private civil relationship; except as an incident to the exercise of local legislative authority;
- (b) any legislative act that applies to or affects the provision of collective bargaining, retirement, workers' compensation, or unemployment compensation; provided, however, that subject to the limitations imposed by the Constitution and State law regarding these subject areas, a Quorum Court may exercise any legislative authority with regard to employee policy and practices of a general nature, including, but not limited to, establishment of general vacation and sick leave policies, general office hour policies, general policies with reference to nepotism or general policies to be applicable in the hiring of county employees. Legislation promulgated by the several Quorum Courts dealing with matters of employee policy and practices shall be applicable only to employees of the several counties and shall not apply to the elected county officers of the several counties. Further, such legislation applying to employee policy practices shall be only of a general nature and shall be uniform in application to all employees of the county. The day to day administrative responsibility of each county office shall continue to rest within the discretion of the elected county officials.
- (c) any legislative act that applies to or affects the public school system except that a county government may impose an assessment, where established by the General Assembly, reasonably related to the cost of any service or specific benefit provided by county government and shall exercise any legislative authority which it is required by law to exercise regarding (the) public school system;
- (d) any legislative act which prohibits the grant or denial of a certificate of a public convenience and necessity
- (e) any legislative act that establishes a rate or price otherwise determined by a state agency;
- (f) any legislative act that defines as an offense conduct made criminal by state law, or which defines as an offense as a felony or which fixes the penalty or sentence for a misdemeanor in excess of a fine of five hundred dollars (\$500.00) for any one (1) specified offense or violation, or double that sum for repetition of the offense or violation. If an act prohibited or rendered unlawful is in its nature, continuous in respect to time, the fine or penalty for allowing the continuance thereof, in violation of the ordinance, shall not exceed two hundred fifty dollars (\$250.00) for each day that the same may be unlawfully continued.

- (g) legislative act that applies to or affects the standards of professional or occupational competence as prerequisites to the carrying on of a profession or occupation;
- (h) any legislative act of attainder, ex-post-facto law or law impairing the obligations of contract shall not be enacted, and no conviction shall work corruption of blood or forfeiture of estate;
- (i) any legislative act which grants to any citizen or class of citizens privileges or immunities which upon the terms shall not equally belong to all citizens;
- (j) any legislative act which denies the individual right of property without just compensation;
- (k) any legislative act which lends the credit of the county for any purpose whatsoever or any interest-bearing evidence of indebtedness except such bonds as may be provided for by the Constitution; provided, however, that this provision does not apply to revenue bonds which are deemed not to be a general obligation of the county;
- (l) any legislative act that conflicts with the exercise by municipalities any expressed, implied or essential powers of municipal government.
- (m) any legislative act contrary to the general laws of the State. (ACA 14-14-805).

PENALTY FOR VIOLATION OF ORDINANCES

(a) Authority to Establish. A Quorum Court may fix penalties for the violation of any ordinance and such penalties may be enforced by the imposition of fines, forfeitures, and penalties on any person or persons offending against or violating such ordinance. The fine, forfeiture, or penalty shall be prescribed in each particular ordinance or in an ordinance prescribing fines, forfeitures, and penalties in general. A Quorum Court shall have power to provide by ordinance for the prosecution, recovery and collection of such fines, forfeitures, and penalties; provided, however, that a Quorum Court shall not have power to define an offense as a felony or to impose any fine or penalty in excess of five hundred dollars (\$500.00) for any one (1) specified offense or violation, or double that sum for each repetition of the offense or violation. If an act prohibited or rendered unlawful is, in its nature, continuous in respect to time, the fine or penalty for allowing the continuance thereof in violation of the ordinance, shall not exceed two hundred and fifty dollars (\$250.00) for each day that the same may be unlawfully continued.

(b) All fines and penalties imposed for violation of any county ordinance shall be paid into the County General Fund. (ACA 14-14-906)

QUORUM COURT ADMINISTRATION

(1) Secretariat.

(a) County Clerk to Serve as Secretariat. The secretariat of the Quorum Court shall be the clerk of the county court of each of the several counties unless otherwise provided by county ordinance.

(b) Alternative Designation of Secretariat. A Quorum Court may by county ordinance provide for the establishment of minimum qualifications and an appropriation for the employment of a secretariat of the court; provided, however, that such employee so designated shall be a staff member of the county clerk or county judge as may be specified by such ordinance. Where the separate position of Secretariat is created by ordinance, all legislative duties prescribed in this Act for a county clerk shall thereafter become the duties of such secretariat.

(c) Duties of the County Clerk. Unless otherwise provided for by county ordinance, the clerk and/or the deputy clerk shall attend all regular and special meetings of the court; shall perform all administrative and record keeping duties prescribed in this Act; and perform all other duties as may be required by Quorum Court through county ordinance.

(D) Legal Counsel.

(a) Legal Counsel. The prosecuting attorney or his deputy serving each of the several counties shall serve as legal counsel of the Quorum Court unless otherwise provided by county ordinance.

(b) Alternative Designation of Legal Counsel. A Quorum Court may by county ordinance provide for the appropriation of county funds for the employment of legal counsel to serve the court.

(c) Duties of Legal Counsel. The legal counsel of a Quorum Court shall attend all regular and special meetings of the court; perform all duties prescribed in this Act; and perform all other duties as may be required by a Quorum Court.

(E) Other Administrative Services.

A Quorum Court may authorize and provide through ordinance for the employment of any additional staff or the purchase of technical services in support of legislative affairs. (ACA14-14-902).

LEGISLATIVE POWERS REQUIRING STATE DELEGATION

Each of the several Quorum Courts of the state of Arkansas exercising local legislative authority is prohibited the exercise

of the following powers unless the power is specifically delegated by the General Assembly:

(a) the legislative power to authorize a tax on income or the sale of goods or services. This section shall not be construed to limit the authority of county government to levy any other tax or establish the rate of any other tax which is not inconsistent with the Constitution or law;

(b) the legislative power to regulate private activities beyond its geographic limits.

(c) the legislative power to impose a duty on or regulate another unit of local government, except that nothing in this limitation shall affect the right of a county to enter into and enforce an agreement of intergovernmental cooperation;

(d) the legislative power to regulate any form of gambling, lotteries, or gift enterprises. (ACA 14-14-806)

PROHIBITION ON LEGISLATIVE POWER OF A COUNTY

A county exercising local legislative power is subject to the following provisions. These provisions are a prohibition on the legislative power of a county acting other than as provided:

(a) all state laws providing for the corporation or disincorporation of cities and towns, for the annexation, disannexation or exclusion of territory from a city or town, and for the creation, abandonment or boundary alteration of counties;

(b) all state laws establishing legislative procedures or requirements for county government;

(c) all laws requiring elections;

(d) All laws which regulate planning or zoning; provided, however, a Quorum Court may in the exercise of its local legislative power, accept, modify or reject recommendations of the County Planning Board. Modification of such recommendations shall be made by the procedures provided in Act 422 of 1977 (ACA 14-17-201); and provided further, the Quorum Court is hereby empowered to initiate its own planning and zoning laws.

(e) all laws directing or requiring a county government to carry out any function or provide any service; provided, however, that nothing in this provision shall be construed to prevent counties from abolishing or consolidating an office or offices under the provisions of Amendment No. 55, Section 2(b), nor the reassignment of statutory delegated functions services which such reassignment is permitted by law; provided that such abolition, consolidation or reassignment is permitted by law;

provided that such abolition, consolidation or reassignment shall not alter the obligation of the county to continue providing the services previously provided by such abolished or consolidated office or offices;

(f) all laws regulating finance or borrowing procedures and powers of local government;

(g) all laws governing eminent domain;

(h) all laws governing public information and open meetings; and

(i) all laws governing the vacation of roads, streets, or alleys. (ACA14-14-807)

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CONSISTENCY WITH STATE REGULATIONS REQUIRED

(a) A county government exercising local legislative authority prohibited the exercise of any power in any manner inconsistent with state law or administrative regulation in any area affirmatively subjected bylaw to state regulation or control.

(b) The exercise of legislative authority is inconsistent with state law or regulation if it establishes standards or requirements which are lower or less stringent than those imposed by state law or regulation.

(c) An area is affirmatively subjected to state control if a state agency or officer is directed to establish administrative rules and regulations governing the matter, or if enforcement of standards or requirements established by statute is vested in a state officer or agency.

(ACA 14-14-808)

CONCURRENT POWERS

(a) If a county government is authorized to regulate an area which the state by statute or administrative regulation also regulates, the local government may regulate the area only by enacting ordinances which are consistent with state law or administrative regulation.

(b) If state statute or administrative regulation prescribes a single standard of conduct, an ordinance is consistent if it is identical to the state statute or administrative regulation.

(c) If state or administrative regulation prescribes a minimal standard of conduct, an ordinance is consistent if it establishes a standard which is the same as, or higher, or more stringent than the state standard.

(d) A county government may adopt ordinances which incorporate reference state statutes and administrative regulations in areas in which a local government is authorized to act. (ACA 14-14-809)

QUORUM COURT RECORD OF PROCEEDINGS

(1) **Minutes.** The Quorum Court of each of the several counties shall provide for the keeping of written minutes which include the final vote on each ordinance or resolution indicating the vote of each individual member on the question.

(2) **County Ordinance and Resolution and Register.** There shall be maintained by each Quorum Court a "County Ordinance and Resolution" register for all ordinances, resolutions, and amendments to each adopted and approved by the court. Entries in such register shall be sequentially numbered in the order adopted and approved and shall be further designated by the year of adoption and approval; provided, however, that a separate sequential numbering system shall be maintained for both ordinances and resolutions. Such register number shall be the official reference number designating an enactment. The County Ordinance and Resolution register shall be maintained as a permanent record of the court; and shall contain, in addition to the sequential register number, the following items of information:

(a) an index number which shall be the originating legislative agenda number of the enactment;

(b) the comprehensive title of the enactment;

(c) the type of ordinance or amendment, general, emergency, appropriation, initiative or referendum;

(d) the date adopted by Quorum Court;

(e) the date approved by the county judge; or date of veto override; or date enacted by electors;

(f) the effective date of the enactment;

(g) the expiration date of the enactment; and

(h) a recording index number designating the location of said enactment's.

(3) **Permanent Record of Ordinances and Resolutions.** There shall be maintained a permanent record of all ordinances and resolutions in which each enactment is entered in full after passage and approval, except when a code or budget is adopted by reference. When a code or budget is adopted by reference, the date and source of the code shall be entered. Such location, and retrieval of all ordinances and resolutions by subject, register number, and date enacted. Such permanent record indexing may be by book and page.

(4) **Codification of Ordinances.** No later than 1980 and at five (5) year intervals thereafter, all county ordinances enacted in each of the several counties shall be compiled into a uniform code and published. (ACA 14-14-903)

VACANCY IN COUNTY, QUORUM COURT DISTRICT AND TOWNSHIP OFFICES

A county, Quorum Court District or township office shall be considered vacant if any one (1) of the following conditions exists:

- (1) the incumbent fails to meet the qualifications for office prescribed by law as evidenced by failure to be commissioned;
- (2) the incumbent refuses or neglects to take and subscribe to the official oath required by law as evidenced by failure to be commissioned;
- (3) the incumbent refuses, neglects, or for any other reason fails to secure an official bond required by law as evidenced by failure to be commissioned;
- 25 (4) the incumbent resigns;
- (5) the incumbent ceases to meet any residence requirements for office;
- (6) the incumbent is removed from office by judicial proceedings;
- (7) the election or appointment is declared void by a judicial proceeding;
- (8) the incumbent is convicted of a felony, competency, corruption, gross immorality, criminal conduct, malfeasance, misfeasance, or nonfeasance in office by judicial proceedings;
- (9) the incumbent ceases to discharge the duties of his office for a period of three (3) months, except when prevented by sickness or excused by a Quorum Court through resolution;
- (10) the incumbent is declared of unsound mind by judicial proceedings;
- (11) the Quorum Court determines that the incumbent has become disabled to the degree that he cannot perform the duties of his office;
- (12) the incumbent holds more than one (1) office or position in conflict with the provisions of Article 4, Section 2, or Article 19, Section 6 of the Arkansas Constitution;
- (13) the Quorum Court separates elective offices as provided by law; or
- (14) the incumbent dies. (ACA 14-14-1308)

FILLING VACANCIES IN ELECTIVE COUNTY OFFICES

The power to fill a vacancy in the office of the Justice of the Peace is somewhat confusing. Amendment 29 to the Arkansas Constitution provides that vacancies in the office of the United States Senator and in all elective state, district, circuit, county and township offices shall be filled by appointment of the Governor. That amendment has been modified to some extent by Amendment 55 that provides

that the county Quorum Courts shall have the power to fill vacancies in elective county offices.

The original intent of Act 742 of 1977 was to allow the Quorum Courts the authority to appoint the Justices of the Peace but since Amendment #55 did not specifically include district offices, a conflict developed. In 1979, the Attorney General issued an opinion (79-79) which stated that in compliance with Amendment #29 to the Arkansas Constitution, the Governor must make the appointments after the process of resolutions as prescribed by law. Provided, however, that the resolution shall have been published in a newspaper with a countywide circulation at least one time before the Quorum Court of a county shall have acted upon it.

Act 682 of 1985 amended Sections 51 and 52 of Act 742 of 1977 which is Arkansas Statute 14-14-1310, Section 1, to provide that vacancies in all county elective offices shall be filled by the Quorum Court through the process of resolutions as prescribed by law.

Section 2. Eligibility requirements and term of office.

A. Qualifications. All officers appointed to fill a vacant county elective office shall meet all of the requirements for election to that office.

B. Term of Office. All officers so appointed shall serve until their successor is elected and qualified.

C. Successive Terms of Appointed Officer Prohibited. No person appointed to fulfill a vacant or unexpired term of an elective county office shall be eligible for appointment or election to succeed himself.

Section 3. ACA 14-14-1310. Filling vacancies in elective township offices.

All vacancies in elective township offices, inclusive of Justice of the Peace offices, shall be filled by the Governor.

DECLARATION OF VACANCIES IN COUNTY, QUORUM COURT DISTRICT AND TOWNSHIP OFFICES

The Quorum Court of each of the several counties shall declare a county, Quorum Court district or township office vacant where conditions of vacancy exist as demonstrated in the following manner:

- (a) upon receipt of certification that a condition of vacancy exists as evidenced by failure of an officer to be commissioned or finding of judicial proceedings where such conditions serve as the cause of vacancy;

(b) upon determination by a Quorum Court that a condition of vacancy exists in all other causes not governed by failure to be commissioned or finding of judicial proceedings. Such determination by a Quorum Court shall be conducted through the process of resolution as prescribed by law; provided, however, that such resolution shall have been published prior to the meeting date in which such resolution is to be considered by the Court;

(c) APPEAL. Appeals by the county, Quorum Court district or township officer so affected from a declaration of vacancy by the Quorum Court may be taken to the Circuit Court; provided that such appeal shall be filed within thirty (30) calendar days from the date of publication as required for county resolutions;

26 (d) NOTIFICATION OF GOVERNOR. The Quorum Court shall upon declaration of a vacancy, or within ten (10) calendar days thereafter, in any elective township office cause such declaration to be filed in writing with the Governor. (ACA 14-14-1309)

VACANCIES IN COUNTY OFFICES

(1) AUTHORITY TO APPOINT. Vacancies in all county elective offices shall be filled by the Quorum Court through the process of resolution as prescribed by law. Provided, however, that the resolution shall have been published in a newspaper with countywide circulation at least one time before the Quorum Court of a county shall have acted upon it.

(2) ELIGIBILITY REQUIREMENTS AND TERM OF OFFICE.

(a) Qualifications. All officers appointed to fill a vacant county elective office shall meet all of the requirements for election to that office.

(b) Requirements. All officers appointed by a Quorum Court shall subscribe to the oath of office, be commissioned, and bonded as is or may be prescribed by law.

(c) Persons Ineligible for Appointment. Any member of the Quorum Court shall be ineligible for appointment to fill any vacancy occurring in any county office and resignation shall not remove such ineligibility. Husbands and wives of Justices of the Peace, and relatives of such Justices, or of their husbands and wives within the fourth degree of consanguinity of affinity shall likewise be ineligible.

(d) Term of Office. All officers so appointed shall serve until their successor is elected and qualified.

(e) Successive Terms of Appointed Officer Prohibited. No person appointed to fulfill a vacant or unexpired term of an elective county office shall be eligible for appointment or election to succeed himself. (ACA 14-14-1310)

REMOVAL OF OFFICER

The circuit court shall have jurisdiction upon information, presentment, or indictment to remove any county or township officer from office for incompetence corruption, gross immorality, criminal conduct, malfeasance, misfeasance, or nonfeasance in office. (Ark. Const., Art. 7, Section 27)

LEGISLATIVE AUTHORITY

The legislative power of county government is vested in the Quorum Court of each of the several counties of the state subject to the limitations imposed by the Constitution and by state law. (ACA 14-14-904)

COUNTY LEGISLATIVE PROCEDURE

(1) Time and Place of Quorum Court Assembly. The Justices of the Peace elected in each of the several counties shall assemble and organize as a Quorum Court body on the first Monday, excepting holidays, after the beginning of the Justices' term in office. If the first meeting is not held on the Quorum Court's established regular meeting day, the Quorum Court may declare the first meeting to be in lieu of the established January meeting. Thereafter, the Justices shall assemble each calendar month in their respective counties to perform the duties of a Quorum Court, except that more frequent meetings may be required by ordinance. The time and place of the initial assembly of Justices shall be designated by written notice of the county judge. The Justices, thereafter, shall meet as a Quorum Court at a regular time and place established by ordinance.

(2) Levy of Taxes and Making Appropriations. The Quorum Court, at its regular meeting in November of each year, shall levy the county, municipal and school taxes for the current year; and, before the end of each fiscal year the county shall make appropriations for the expenses of county government for the following year. Provided that nothing in this Section shall prohibit the Quorum Court from making appropriation amendments at any time during the current fiscal year. If a County Court determines that the levy of taxes by the Quorum Court is incorrect due to clerical errors, scrivener's errors or failure of a taxing entity to report the correct millage rate to the Quorum Court, the County Court shall issue an order directing the County Clerk to correct the error in order to correct the millage levy.

(3) Special Meetings of Quorum Court. The county judge or a majority of the elected Justices may call a special meeting of the Quorum court upon at least twenty-four (24) hours notice in such manner as may be prescribed by local ordinance; provided, however, that in the absence of procedural rules, the county judge or a majority of the

elected Justices may call a special meeting of the Quorum Court upon written notification of all members not less than two (2) calendar days prior to the calendar day fixed for the time of such meeting. Such notice of special meeting shall specify the subject(s), date, time, and designated location of such special meeting.

(4) Presiding Officer. The county judge shall preside over the Quorum Court without a vote but with the power of veto; provided, however, that in the absence of the county judge a quorum of the Justices by majority vote shall elect one (1) of their number to preside, but without the power to veto. The Presiding officer shall appoint procedural rules that may be adopted by ordinance.

(5) Procedural and Attendance of Meetings. Except as otherwise provided by law, the Quorum Court of each of the several counties shall determine its rules of procedure and may compel the attendance of absent members in such manner and under such penalties as may be prescribed by ordinance.

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

(7) Legislative Affairs. All legislative affairs of a Quorum Court shall be conducted through the passage of ordinances, resolutions, or motions.

(8) Majority Vote Required. All legislative actions of a Quorum Court, excluding the adoption of a motion, shall require a majority vote of the whole number of Justices comprising a Quorum Court unless otherwise provided by the Constitution or by law. A motion shall require a majority vote of the whole number of Justices comprising a quorum for passage.

(9) County Ordinance. A county ordinance is hereby defined as an enactment of compulsory law for a Quorum Court that defines and establishes the permanent or temporary organization and system of principles of a county government for the control and conduct of county affairs.

(10) County Resolution. A county resolution is hereby defined as the adoption of formal statement of policy by a Quorum Court, the subject of the matter of which would not properly constitute an ordinance. A resolution may be used whenever the Quorum Court wishes merely to express an opinion as to some matter of county affairs and such resolution shall not serve to compel any executive action.

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

(12) Ordinances may be amended and repealed only by ordinances.

(13) Resolutions may be amended and repealed only by resolution.

(14) All ordinances shall be subject to initiative and referendum as provided for through Amendment Number 7 to the Arkansas Constitution. (ACA 14-14-904)

ETHICS FOR COUNTY OFFICIALS AND EMPLOYEE

(a) PUBLIC TRUST. The holding of public office or employment is a public trust created by the confidence that the electorate reposes in the integrity of officers and employees of county government. An officer or employee shall carry out all duties assigned by law for the benefit of the people of the county. The officer or employee may not use his office, the influence created by his official position, or information gained by virtue of his position to advance his individual personal economic interest or that of an immediate member of his family or an associate, other than advancing strictly incidental benefits as may accrue to any of them from the enactment or administration of law affecting the public generally.

(b)(1) **OFFICERS AND EMPLOYEES OF COUNTY GOVERNMENT DEFINED.** For purposes of this section, officers and employees of county government shall include:

- (A) All elected county and township officers;
- (B) All district judicial officers serving a county;
- (C) All members of county boards, advisory, administrative, or subordinate service districts; and
- (D) All employees thereof.

(2) Officials who are considered to be state officers or deputy prosecuting attorneys are not covered by this subsection.

(c)(1) **RULES OF CONDUCT.** No officer or employee of county government shall:

(A) Be interested, either directly or indirectly, in any contract or transaction made, authorized, or entered into on behalf of the county or an entity created by the county, or accept or receive any property, money, or other valuable thing, for his use or benefit on account of, connected with, or growing out of any contract or transaction of a county. If, in the purchase of any materials, supplies, equipment, or machinery for the county, any discounts, credits, or allowances are given or allowed, they shall be for the benefit of the county. It shall be unlawful for any officer or employee to accept or retain them for his own use or benefit;

(B) Be a purchaser at any sale nor a vendor of any purchase made by him in his official capacity;

(C) Acquire an interest in any business or undertaking that he has to believe may be directly affected to its economic benefit by official action to be taken by county government;

(D) Perform an official act directly affecting a business or other undertaking to its economic detriment when he has a substantial financial interest in a competing firm or undertaking. Substantial financial interest is defined for purposes of this section as provided in Acts 1971, No. 13, 7 Repealed. (2) (A) If the Quorum Court determines that it is in the best interest of the county, the Quorum Court may by ordinance permit the county to purchase goods or services directly or indirectly from Quorum court members, county officers, or county employees due to unusual circumstances under which purchases are allowed and the limitations of such authority.

(B) Any Quorum Court member having any interest in the goods or services being considered under these procedures shall not be entitled to vote upon the approval of such goods or services.

(C) If goods or services are purchased under these procedures, the county judge must file an affidavit with the county clerk certifying that each disbursement has been made in accordance with the provisions of the ordinance, together with a copy of the voucher and other documents supporting the disbursement.

(D) REMOVAL FROM OFFICE OR EMPLOYMENT. (1) COURT OF JURISDICTION

Any citizen of a county or the prosecuting attorney of a county may bring an action in the circuit court in which the county government is located to remove from office any officer or employee who has violated the rules of conduct set forth in this section.

(2) SUSPENSION PRIOR TO FINAL JUDGMENT. Pending final judgment, an officer or employee who has been charged as provided in this section may be suspended from his office or position of employment without pay. Suspension of any officer or employee pending final judgment shall be upon order of the circuit court, or judge thereof in vacation.

(3) PUNISHMENT. Judgment upon conviction for violation of the rules of conduct set forth in this section shall be deemed a misdemeanor. Punishment shall be by a fine of not less than three hundred dollars (\$300) nor more than one thousand dollars (\$1,000), and the officer or employee shall be removed from office or employment of the county.

(4) ACQUITTAL. Upon acquittal, an officer or employee shall be reinstated in his office or position of employment and shall receive all back pay.

(5) LEGAL FEES. Any officer or employee charged as provided in this section and subsequently acquitted shall be awarded reasonable legal fees incurred in his defense. Reasonable legal fees shall be determined by the circuit court or state Supreme Court on appeal, and such legal fees

shall be ordered paid out of the general fund of the county treasury. (ACA 14-14-1202)

DISTRIBUTION OF POWERS

The powers of the several county governments of the state of Arkansas shall be divided into three (3) distinct departments, each of them to be confined to a separate body, to wit: those which are legislative to one those which are executive to another, and those which are judicial to another.

(a) **LEGISLATIVE.** All legislative powers of the several county governments are vested in the Quorum Court. The people reserve to themselves the power to propose county legislative measures and to enact or reject the same at the polls independent of the Quorum Court.

(b) **EXECUTIVE.** The executive divisions of a county government shall consist of the county judge, who shall perform the duties of the chief executive officer of the county as provided in Section 3 of Amendment 55 to the Arkansas Constitution, and as implemented herein, and who shall preside over the Quorum Court without a vote but with the power of veto; one (1) sheriff, who shall be ex-officio collector of taxes, unless otherwise provided by law; one (1) assessor; one (1) coroner; one (1) treasurer, who shall be the ex-officio treasurer of the common school fund of the county; one (1) surveyor; and one (1) clerk of the circuit court, who shall be ex-officio clerk of the county and probate courts and recorder; provided, however, there may be elected a county clerk in like manner as a circuit clerk, and in such cases the county clerk may be ex-officio of the probate division of circuit court, if such division exists, of such county until otherwise provided by the General Assembly.

(c) **JUDICIAL.** The judicial divisions of a county government are vested in the county court, except with respect to those powers formerly vested in the county court which, by the provisions of Amendment 55, are to be performed by the county judge, and in the respective courts of this state as provided by law.

(d) **LIMITATIONS.** No person or collection of persons being one of these departments, legislative, executive, or judicial, shall exercise any power belonging to either of the others, except in the instances hereinafter expressly directed or permitted. (ACA 14-14-502)

Chapter 6

PROCEDURAL GUIDE FOR ARKANSAS

COUNTY QUORUM COURT MEETING

(Revised Edition)

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

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PREFACE

Act 742 of 1977, as amended by Act 413 of 1979, implements the provisions of Amendment 55 to the Arkansas Constitution. ACA 14-14-904 provides "The justices organize as a quorum court body on a date chosen by the county judge and held within five (5) days, excepting holidays, after the beginning of the justices' term in office. Thereafter, the justices shall assemble each calendar month in their respective counties to perform the duties of quorum court, except that more frequent meetings may be required by ordinance. The time and place of the initial assembly of the justices shall be designated by written notice of the county judge. The justices, thereafter, shall meet as a quorum court at a regular time and place specified by ordinance."

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

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

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

I. QUORUM

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

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

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

II. THE PRESIDING OFFICER

A. THE COUNTY JUDGE AS PRESIDING OFFICER

ACA 14-14-904 provides, The county judge shall preside over the quorum court without a vote but with the power of veto. In the absence of the county judge, a quorum of justices by majority vote shall elect one (1) of their number to preside but without the power to veto. The presiding officer shall appoint all regular and special committees of the quorum court subject to any procedural rules that may be adopted by the ordinance.

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

B. JUSTICE OF THE PEACE PRESIDING OFFICER

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

When due to the absence of the county judge, a justice is elected to the office of presiding officer, that justice forfeits the right to propose motions and to participate in debate. However, it is important to note that while the county judge has no vote as presiding officer, when a justice presides he/she does not lose the right to vote on matters before the assembly.

C. RESPONSIBILITIES OF THE PRESIDING OFFICER

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

Among the duties of the presiding officer are the following:

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

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

III. ORDER OF BUSINESS

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

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

- Adjournment

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

A. CALL TO ORDER AND ROLL CALL

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

B. READING AND DISPOSITION OF MINUTES

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

C. REPORTS OF COMMITTEES

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

D. UNFINISHED BUSINESS

The presiding officer indicates that discussion under this section is appropriate by a statement to the effect that "Unfinished business is now in order." Unfinished business

consists of all business which was pending at the conclusion of the last meeting. It is the duty of the presiding officer to present any item of unfinished business that some other member does not present. This is done by stating, "We will now consider the motion proposed at our last meeting..."

E. NEW BUSINESS

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

F. ANNOUNCEMENTS

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

G. ADJOURNMENT

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

H. COMMENTS OR QUESTIONS FROM THE PUBLIC

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

I. AGENDA

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

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

IV. HOW MOTIONS ARE HANDLED

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

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

A. ADDRESSING THE PRESIDING OFFICER

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

for the purpose of presenting a motion or discussing a motion already presented.

B. RECOGNITION BY THE PRESIDING OFFICER

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

C. STATEMENT OF THE MOTION BY THE MEMBER

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

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

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

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

D. SECONDING MOTIONS

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

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

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

E. STATEMENT OF THE MOTION BY THE PRESIDING OFFICER

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

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

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

F. DISCUSSING THE MOTION

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

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

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

Speakers should address their remarks to the chair in a courteous manner. While a speaker may attack a motion for any reason, he/she should never attack the motives, character or personality of the member who made the

motion. It is the duty of the presiding officer to stop any member whose discourse drifts to the merits of any individual rather than to the merits of the motion.

G. VOTING ON THE MOTION

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

1. Roll Call Vote

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

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

2. Voice Vote

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

3. Show of Hands

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

4. Vote by Unanimous Consent

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

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

A. REQUIREMENTS FOR PASSAGE

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

All ordinances or amendments to existing ordinances of a general or permanent nature shall be fully and distinctly read on three (3) different days, unless two-thirds (2/3) of the members-comprising-the quorum court (not just of those present if less than full membership) shall dispense with the rule.

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

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

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

1. First reading.

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

3. Second reading. Can be by title only.

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

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

No vote is required after each individual reading, only a vote after the third reading and it is not required to read the ordinance in its entirety all three times.

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

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

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

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

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

D. REFERRAL TO VOTERS

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

Such action of the quorum court shall-not-be-subject-to-veto. It shall constitute a referendum measure and from that point

the procedure of election shall be as required by Amendment 7 to the Arkansas Constitution and bylaw.

VI. PASSAGE OF APPROPRIATION AND EMERGENCY ORDINANCES

A. APPROPRIATION ORDINANCES

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

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

B. EMERGENCY ORDINANCES

An emergency ordinance may be enacted only to meet public emergencies affecting life, health, safety or property of the people (Act 742, ACA 14-14-908). The ordinance must contain a declaration that an emergency exists and define the emergency.

An emergency ordinance or an emergency amendment to an existing ordinance does not require separate readings or prior publication provided, however, that publication shall be initiated within two (2) calendar days after approval by the county judge.

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

VII. VETO

A. EXERCISE OF BY COUNTY JUDGE

Act 742 (ACA 14-14-911) provides that, "The county judge of each of the several counties shall preside over the quorum court with the power of veto." Further,

1. Power of veto is limited to the total text of an ordinance or an amendment to an existing ordinance. Veto of a single part, section or line item is not permitted.

2. Veto must be exercised within seven (7) calendar days after passage.

3. It shall be authenticated by the county judge and demonstrated by filing a written statement of the reason of veto with the county clerk.

4. Written notification of a veto shall immediately be provided to each member of the quorum court by the county clerk and the county clerk shall provide each with a copy of the veto statement filed by the county judge.

5. The power of veto shall not apply to measures enacted through initiative or referendum.

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

B. VETO OVERRIDE BY QUORUM COURT

ACA 14-14-912 provides that, "The quorum court of each of the several counties shall have the power to override the veto of the county judge." Further,

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

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

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

VIII. PASSAGE OF RESOLUTIONS

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

Resolutions or amendments to existing resolutions may be introduced and adopted in a single meeting on a single reading. All resolutions are effective immediately unless a

delayed date is specified. Resolutions or amendments to resolutions are not subject to veto.

IX. GLOSSARY OF MOTIONS MOST OFTEN USED

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

A. THE MAIN MOTION

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

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

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

B. PRIVILEGED MOTIONS

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

There are three privileged motions essential to conducting business:

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

2. Vote Immediately (Previous Question) - For one reason or another, debate may continue even after everything of

relevance has been said. The motion to vote immediately serves to expedite the business of the quorum court by shutting off further debate and bringing the issue in question to a vote. A motion to vote immediately is not a privileged motion. The practice of calling, "Question, Question!" is not correct and should be ignored by the presiding officer.

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

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

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

6. Amend - The major purpose of a motion to amend is to modify or change a pending motion so that it is better suited for what is needed. Amendment may be accomplished by inserting additional terms or by substituting entirely new language for that used in the original motion. An amendment, however accomplished, must be germane to the pending question. It must be relevant to or have a direct bearing on the proposal in issue.

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

7. Postpone Indefinitely - Actually the title of this motion is misleading. Its effect is not to postpone consideration of a

pending motion at all. Rather it serves to indirectly defeat or kill the main motion. This motion is often used by opponents of a proposal to learn who favors and who opposes it, without running the risk of having the motion adopted by calling it to vote.

C. INCIDENTAL MOTIONS

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

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

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

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

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

4. Withdraw-a-Motion - It may be that a motion has been proposed without thorough consideration of its possible ramifications or that more urgent business than what is under consideration arises. In such a situation, a motion

to withdraw may be appropriate. A member has the right to withdraw a motion before it has been seconded and restated to the assembly by the presiding officer. However, once it has been stated by the presiding officer to the assembly, the member must secure the consent of that assembly before being allowed to withdraw the motion. Withdrawal of a motion also withdraws all motions adhering to it.

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

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

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

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

At another time without a main motion pending, a motion that all future appointments be voted on by ballot would not be an incidental motion but a main motion. The classification of motions may vary with the situation in which they arise. Further examples of motions that may arise

incidentally are: to consider an ordinance paragraph by paragraph; to excuse a member from voting; to close nominations.

X. PRECEDENCE OF MOTIONS

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

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

There are two important rules of precedence:

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

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

XI. TABLE OF RULES GOVERNING MOTIONS

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

DEFINITIONS OF TERMS

Adjourn - To end a meeting officially.

Adopt - To approve, to put into effect.

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

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

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

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

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

Annul - To void or cancel an action previously taken.

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

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

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

Debatable - Capable of being discussed.

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

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

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

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

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

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

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

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

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

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

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

Ordinance - Law made by legislative body of a county.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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Chapter 7 - GLOSSARY OF TERMS

These definitions are everyday terms that are used by the Justices of the Peace. These terms are defined and referenced to the various statutes that describe them.

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

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

COUNTY BOARD OF EDUCATION - A board composed of five (5) members that give general direction and supervision to the public schools, except those schools in districts that employ a superintendent of schools. (ACA 6-12-101)

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

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

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

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

County fiscal year - January 1 - December 31

State fiscal year - July 1 - June 30

Federal fiscal year - October 1 - September 30

FORMAL BIDDING - The procedure to be followed in the solicitation and receipt of sealed bids, wherein: 1) notice shall be given of the date, time, and place of opening bids, and the names or a brief description and the specifications of the commodities for which bids are to be received, by one (1) insertion in a newspaper with a general circulation in the county, not less than ten (10) days nor more than thirty (30) days prior to the date fixed for opening such bids; 2) the furnishing, not less than ten (10) days in advance of the date fixed for opening the bids, of notice and bid forms to all eligible bidders on the bid list for the class of commodities on which bids are to be received, and the furnishing of notices and bid forms to all others requesting the same; and 3) by posting in a conspicuous place in the county courthouse, at least ten (10) days in advance of the date fixed for opening bids, a copy of the notice of invitation to bid. (ACA 14-22-101)

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

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

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

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

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

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

STATE AID ROADS - The classification of county roads composing the major collector and minor collector routes feeding into local trade areas or into the state highway

system, which are not designated as state highways, and particularly those essential to the conservation and development of natural resources of economic and social value, and encouraging desirable land utilization, having in addition one or more of the following characteristics:

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

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

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