

**ASSOCIATION OF
ARKANSAS COUNTIES
GENERAL PROPOSED LEGISLATION**

1 State of Arkansas As Engrossed: S3/15/17 S3/20/17 H3/29/17

2 91st General Assembly

A Bill

3 Regular Session, 2017

SENATE BILL 723

4
5 By: Senator D. Wallace

For An Act To Be Entitled

8 AN ACT TO AMEND THE LAW CONCERNING THE DATES FOR
9 CERTAIN SPECIAL ELECTIONS; TO PROMOTE VOTER TURNOUT;
10 AND FOR OTHER PURPOSES.

Subtitle

14 TO AMEND THE LAW CONCERNING THE DATES FOR
15 CERTAIN SPECIAL ELECTIONS; AND TO PROMOTE
16 VOTER TURNOUT.

19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

21 *SECTION 1. Arkansas Code Title 7, Chapter 11, Subchapter 3, is amended*
22 *to add an additional section to read as follows:*

23 *7-11-304. Dates of special elections.*

24 *(a) The proclamation, ordinance, resolution, order, or other*
25 *authorized document calling for a special election shall:*

26 *(1) Set the date of the special election; and*

27 *(2) Be filed at least seventy-five (75) days before the date the*
28 *special election is to be held.*

29 *(b) If a special election is called in a year in which a preferential*
30 *primary election or general election is held, the special election shall be*
31 *held with the preferential primary election or general election.*

32 *(c) If a special election is called in a year in which a preferential*
33 *primary election or general election is not held, the special election shall*
34 *be held on the Tuesday next after the first Monday in May or the Tuesday next*
35 *after the first Monday in November.*

36 *(d) This section does not apply to special elections to fill vacancies*



1 in office, special runoff elections, or special elections otherwise provided
 2 for by law.

3 (e)(1) An emergency special election may be held on a date other than
 4 the dates specified under subsections (b) and (c) of this section if an
 5 emergency requires that the election be held on a date other than the dates
 6 specified in subsections (b) and (c) of this section.

7 (2) As used in this section "emergency" means:

8 (A) Either a substantial change in:

9 (i) The interpretation of the law by the federal or
 10 state courts which if not addressed by an election will render the governing
 11 entity incapable of performing its lawful duties and obligations;

12 (ii) Circumstances due to a fire, flood, tornado, or
 13 other natural disaster which if not addressed by an election will render the
 14 governing entity financially incapable of performing its lawful duties and
 15 obligations; or

16 (iii) Circumstances determined by the governing body
 17 of the entity requesting the election to be an imminent danger to public
 18 health and safety; and

19 (B) A delay of the special election that, until the next
 20 date under subsections (b) and (c) of this section, would cause a substantial
 21 and undue hardship to the governing entity.

22
 23 SECTION 2. Arkansas Code § 2-16-504(b)(1), concerning elections to
 24 establish Johnson grass control and eradication districts, is amended to read
 25 as follows:

26 (b)(1) ~~Immediately upon the submission of~~ If the petition to the
 27 ~~county court or courts~~ is submitted under subdivision (a)(1) of this section,
 28 ~~the court or courts shall issue a proclamation calling the election in~~
 29 ~~accordance with~~ under § 7-11-201 et seq. and notify the county board or
 30 ~~boards of election commissioners in writing. The election shall be held on a~~
 31 ~~date in accordance with~~ under § 7-11-201 et seq. but in no event more than
 32 ~~ninety (90) days following publication of the proclamation.~~

33
 34 SECTION 3. Arkansas Code § 3-8-205(e)(3), concerning an election date
 35 by petition regarding local option, is amended to read as follows:

36 (3) If the decision is in favor of the petitioners, then the county

1 board of election commissioners shall set the day for the election, which
2 shall be not earlier than sixty-five (65) days ~~nor later than ninety (90)~~
3 ~~days~~ after the final decision of the Supreme Court and shall be held on a
4 date authorized under § 7-11-201 et seq.

5
6 SECTION 4. Arkansas Code § 6-14-118(a), concerning reimbursement for
7 the cost of school elections, is amended to read as follows:

8 (a)~~(1)~~ In school elections, the school districts in the county shall
9 reimburse the county for the ~~cost of the election less expenses incurred for~~
10 ~~election officials at individual polling places~~ additional election costs
11 originating from the school election, with each school district's share of
12 the total being determined by multiplying the total cost of the additional
13 election costs originating from the school election by a fraction, the
14 numerator of which is the number of votes cast in the specific school
15 election and the denominator of which is the total number of votes cast in
16 the entire election.

17 ~~(2) Expenses incurred for election officials at individual~~
18 ~~polling places shall be paid by the school district in which the polling~~
19 ~~place is located.~~

20
21 SECTION 5. Arkansas Code § 6-14-122(b), concerning dates for elections
22 regarding the consolidation, annexation, or merger of school districts, is
23 amended to read as follows:

24 (b) The boards of directors of the school districts may, by
25 resolution duly adopted and with the approval of the Commissioner of
26 Education, set a date for the annual school election in that year for the
27 school districts involved on a date ~~other than the date set in § 6-14-102 for~~
28 ~~all school districts~~ under § 7-11-304, provided only one (1) annual school
29 election may be held in any school district in ~~one (1)~~ a calendar year.

30
31 SECTION 6. Arkansas Code § 6-53-602(b)(2), concerning publication of
32 proclamation by a community college, is amended to read as follows:

33 (2)(A) The local board or acting local board shall issue a
34 proclamation and set a date for the election under § 7-11-201 et seq., ~~but~~
35 ~~the date set for the election shall not be later than~~

36 (B) The local board or acting local board shall publish

1 ~~the proclamation at least ninety (90) days after the publication of the~~
2 ~~proclamation before the election date.~~

3
4 SECTION 7. Arkansas Code § 6-53-603(a)(2), concerning the date of
5 election for a tax levy called by a local board of a community college, is
6 amended to read as follows:

7 (2) ~~It~~ The tax may be reduced or repealed, with the exception of
8 the amount of tax required to service any an outstanding bonds bond, or the
9 tax may be increased upon approval thereof by a majority of the qualified
10 electors of the district voting on the issue at an the next election called
11 by the local board or acting local board to be held at least thirty (30)
12 calendar days after the local board or acting local board notifies the county
13 boards of election commissioners under § 7-11-304.

14
15 SECTION 8. Arkansas Code § 6-53-604(b), concerning dissolution of a
16 technical college district, is amended to read as follows:

17 (b)(1) ~~The petitions~~ A petition shall be filed with the Secretary of
18 State, ~~who, within.~~

19 (2) The Secretary of State, within ten (10) days of the receipt
20 and verification by the Secretary of State of the sufficiency of ~~the~~
21 petitions, a petition, shall notify the county ~~boards~~ board of election
22 commissioners in each county in the district that an election shall is to be
23 held at a time not less than thirty (30) days nor more than one hundred
24 eighty (180) days from the date of notification under § 7-11-304.

25
26 SECTION 9. Arkansas Code § 7-1-101(16), concerning the definition of
27 "general or special election", is amended to read as follows:

28 (16) "General or special election" means the regular biennial or annual
29 election for election of United States, state, district, county, township,
30 and municipal officials and the special elections to fill vacancies therein
31 and special elections to approve any measure. ~~The term as used in this act~~
32 ~~shall not apply to school elections for officials of school districts;~~

33
34 SECTION 10. Arkansas Code § 7-11-205 is amended to read as follows:
35 7-11-205. Dates of special elections on measures and questions -
36 Exceptions - Separate ballots.

1 ~~(a)(1)(A) Except as provided in subdivision (a)(1)(B) of this section,~~
2 ~~all special elections A special election on measures a measure or questions a~~
3 ~~question shall be held on the second Tuesday of any month, except special~~
4 ~~elections held under this section in a month in which a preferential primary~~
5 ~~election or general election is scheduled to occur shall be held on the date~~
6 ~~of the preferential primary election or general election under § 7-11-304.~~

7 ~~(B)(i) Special elections scheduled to occur in a month in~~
8 ~~which the second Tuesday is a legal holiday shall be held on the third~~
9 ~~Tuesday of the month.~~

10 ~~(ii) A special election called in June of an even-~~
11 ~~numbered year shall be held on the fourth Tuesday of the month.~~

12 ~~(2)(A)(b)(1) If a special election is held on the date of the~~
13 ~~preferential primary election, the issue or issues to be voted upon at the~~
14 ~~special election shall be included on the ballot of each political party.~~

15 ~~(B)(2) The portion of the ballot containing the special~~
16 ~~election shall be labeled with a heading stating "SPECIAL ELECTION ON~~
17 _____ " with
18 a brief description of the measure or question to be decided in the election.

19 ~~(3)(c) Separate ballots containing the issue or issues to be~~
20 ~~voted on at the special election and candidates for nonpartisan judicial~~
21 ~~office shall be prepared and made available to voters requesting a separate~~
22 ~~ballot.~~

23 ~~(4)(d) A voter shall not be required to vote in a political~~
24 ~~party's preferential primary in order to be able to vote in the special~~
25 ~~election.~~

26 ~~(b)(1) A special election shall be held not less than seventy (70)~~
27 ~~days following the date that the proclamation, ordinance, resolution, order,~~
28 ~~or other authorized document is filed with the county clerk when the special~~
29 ~~election is to be held on the date of the preferential primary election or~~
30 ~~general election.~~

31 ~~(2) If the special election is not held at the same time as a~~
32 ~~preferential primary election or general election, the special election shall~~
33 ~~be held not less than sixty (60) days following the date that the~~
34 ~~proclamation, ordinance, resolution, order, or other authorized document is~~
35 ~~filed with the county clerk.~~

36

1 ~~the clerk's certification.~~

2

3 SECTION 15. Arkansas Code § 14-57-704(a)(2), concerning special
4 elections for the levy of a vehicle tax, is amended to read as follows:

5 (2) ~~This~~ The election shall be held ~~not more than ninety (90)~~
6 ~~days from the date of the publication of the proclamation, at which the~~
7 ~~qualified electors of the city or town shall vote on the question of the levy~~
8 ~~of the tax at the next special election date under § 7-11-304.~~

9

10 SECTION 16. Arkansas Code § 14-61-113(1)(C), concerning special
11 elections called by petition, is amended to read as follows:

12 (C) The special election shall be held ~~not more than sixty~~
13 ~~(60) days at the next special election date under § 7-11-304~~ after the
14 proclamation calling the election, ~~provided that if the county board of~~
15 ~~election commissioners certifies in writing that it cannot prepare the~~
16 ~~ballots because of other pending elections, then the election can be held not~~
17 ~~more than ninety (90) days after the proclamation.~~

18

19 SECTION 17. Arkansas Code § 14-120-102(a), concerning elections in
20 certain combination levee and drainage districts, is amended to read as
21 follows:

22 (a)(1) ~~There shall be held an~~ An election shall be held annually on
23 the Tuesday next after the first Monday in May in all combination levee and
24 drainage districts where the boundaries of the districts embrace all of the
25 lands within the corporate limits of a city of the first class and no lands
26 situated more than three (3) miles from the corporate limits, for the
27 election of one (1) member of the board of improvement.

28 (2) The judges of the election ~~are to~~ shall be appointed by the
29 county board of election commissioners.

30

31 SECTION 18. Arkansas Code § 14-122-104 is amended to read as follows:
32 14-122-104. Filing referendum petitions – Special election.

33 If petitions signed by not less than fifteen percent (15%) of the
34 qualified electors voting on the office of mayor in the city at the last
35 preceding general election are filed with the city clerk of the city within
36 forty-five (45) days after the enactment of the ordinance creating the

1 municipal drainage improvement district requesting that the ordinance be
 2 referred to a vote of the qualified electors of the district, the petitions
 3 shall be referred to the people at a special election to be called by the
 4 mayor of the municipality in accordance with § 7-11-201 et seq. to be held
 5 ~~not more than ninety (90) days after the proclamation at the next special~~
 6 election date under § 7-11-304.

7
 8 SECTION 19. Arkansas Code § 14-125-302(c)(2)(A), concerning election
 9 dates for board of directors of conservation districts, is amended to read as
 10 follows:

11 (A) On the first Tuesday in March, 2000, and ~~on the first~~
 12 ~~Tuesday in March~~ every third year thereafter on the date the preferential
 13 primary is held or, if no preferential primary is held, on the Tuesday next
 14 after the first Monday in May, in those districts ~~which~~ that have the
 15 greatest amount of district territory in the following counties:

- | | | |
|----|-----------|--------------|
| 16 | Boone | Little River |
| 17 | Carroll | Logan |
| 18 | Clark | Lonoke |
| 19 | Clay | Poinsett |
| 20 | Cleburne | Polk |
| 21 | Cleveland | Saline |
| 22 | Columbia | Scott |
| 23 | Conway | Searcy |
| 24 | Crawford | St. Francis |
| 25 | Cross | White |
| 26 | Fulton | Woodruff |
| 27 | Greene | Yell |
| 28 | Jefferson | |

29
 30 SECTION 20. Arkansas Code § 14-201-316(a), concerning election of
 31 members of the board of public utilities, is amended to read as follows:

32 (a) In all cities and towns where a board of public utilities ~~shall be~~
 33 is created under ~~the provisions of this subchapter, there shall be held, on a~~
 34 ~~day to be designated by the county board of election commissioners not less~~
 35 ~~than thirty (30) days nor more than sixty (60) days at the next special~~
 36 election date under § 7-11-304 before the expiration of the term of office of

1 any member of the board of public utilities, an election for the purpose of
2 electing a member of the board to succeed the outgoing member.

3
4 SECTION 21. Arkansas Code § 14-284-212(g)(2)(B), concerning elections
5 to approve increased assessments in fire protection districts outside of
6 cities and towns, is amended to read as follows:

7 (B) The election called by the elected board of commissioners
8 for an increase in the flat fee assessment shall be held ~~within ninety (90)~~
9 ~~days at the next special election date under § 7-11-304~~ after the board of
10 commissioners' meeting that approves the assessment increase.

11
12 SECTION 22. Arkansas Code § 14-286-103(a), concerning special
13 elections on the question of the establishment and financing of a red
14 imported fire ant abatement district, is amended to read as follows:

15 (a) The special election called by the county court to submit the
16 question of the establishment and financing of a red imported fire ant
17 abatement district to the electors of the proposed district shall be held in
18 accordance with § 7-11-201 et seq. ~~no later than ninety (90) days after the~~
19 ~~proclamation of the election and at the next special election date under § 7-~~
20 ~~11-304.~~

21
22 SECTION 23. Arkansas Code § 14-386-403(a), concerning elections on
23 enclosures in fencing districts, is amended to read as follows:

24 (a) The county court shall in the same publication prescribed by § 14-
25 386-402 give notice of and cause an election to be held ~~within thirty (30)~~
26 ~~days of the date of~~ on the next special election date under § 7-11-304 the
27 filing of the petition, in the townships or parts of townships included in
28 the petition, where the question of the creation of the proposed fencing
29 district shall be submitted to the qualified electors living or owning land
30 in the proposed district.

31
32 SECTION 24. Arkansas Code § 15-43-204(a)(1), concerning local
33 elections to redetermine doe killing areas, is amended to read as follows:

34 (a)(1) Whenever fifty (50) or more qualified electors residing within
35 an area wholly or partly located within their particular county that has been
36 designated by regulation of the Arkansas State Game and Fish Commission as a

1 *doe-killing area petition the appropriate county court, praying that an*
 2 *election be held to determine whether or not such an area or portion thereof*
 3 *should remain a doe-killing area, the county court shall order a special*
 4 *election in accordance with § 7-11-201 et seq. to be held ~~not more than~~*
 5 *ninety (90) days after the date of filing of the petition at the next special*
 6 *election date under § 7-11-304.*

7
 8 *SECTION 25. Arkansas Code § 23-111-306(b)(1), concerning referendum*
 9 *elections on continuing greyhound racing, is amended to read as follows:*

10 *(b)(1) The date of the special election shall be fixed by the board ~~on~~*
 11 *~~a day not more than ninety (90) days following the date of filing the~~*
 12 *petitions under § 7-11-304. The deposit of the funds as provided in*
 13 *subsection (a) of this section and the election shall be conducted and shall*
 14 *be subject to contest under the general election laws of this state.*

15
 16 *SECTION 26. Arkansas Code § 23-113-201(a)(2)(E), concerning elections*
 17 *to conduct wagering on electronic games of skill, is amended to read as*
 18 *follows:*

19 *(E) The election shall be held ~~no earlier than thirty one~~*
 20 *~~(31) calendar days, and no later than one hundred twenty (120) calendar days,~~*
 21 *~~after the effective date of the ordinance in which the election is called by~~*
 22 *the governing body at the next special election date after the ordinance is*
 23 *filed under § 7-11-304.*

24
 25 *SECTION 27. DO NOT CODIFY. Applicability.*

26 *This act shall become effective contingent upon sufficient*
 27 *appropriation and funding, and the implementation of adequate and updated*
 28 *voting equipment throughout the counties of this state.*

29
 30 /s/D. Wallace
 31
 32
 33
 34
 35
 36

Stricken language would be deleted from and underlined language would be added to present law.

1 State of Arkansas
2 92nd General Assembly
3 Regular Session, 2019

A Bill

DRAFT JLL/JLL
SENATE BILL

4
5 By: Senator <NA>
6

7 For An Act To Be Entitled

8 AN ACT TO AMEND THE LAW ON THE TAXES LEVIED ON
9 PRODUCTS AND SERVICES; TO AMEND THE ARKANSAS GROSS
10 RECEIPTS ACT OF 1941; TO REQUIRE THE COLLECTION OF
11 SALES AND USE TAX BY REMOTE SELLERS; TO EXEMPT CAR
12 WASHES FROM SALES TAX; TO LEVY A FEE ON CAR WASHES IN
13 LIEU OF THE SALES TAX; TO REPEAL THE SALES AND USE
14 TAX EXEMPTION FOR PUBLICATIONS SOLD THROUGH A
15 SUBSCRIPTION; TO REQUIRE THAT THE SALES AND USE TAX
16 EXEMPTION FOR ALL-TERRAIN VEHICLES USED EXCLUSIVELY
17 FOR FARMING BE ADMINISTERED AS A REBATE; TO IMPLEMENT
18 A CAP ON THE TOTAL AMOUNT OF SALES AND USE TAX THAT
19 MAY BE LEVIED BY A COUNTY OR CITY; AND FOR OTHER
20 PURPOSES.

21
22
23 Subtitle

24 TO AMEND THE ARKANSAS GROSS RECEIPTS ACT
25 OF 1941 CONCERNING REMOTE SELLERS, CAR
26 WASHES, PUBLICATION SUBSCRIPTIONS, AND
27 FARMING MACHINERY AND EQUIPMENT; AND TO
28 IMPLEMENT A LOCAL SALES AND USE TAX CAP.

29
30
31 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

32
33 SECTION 1. DO NOT CODIFY. Legislative findings.

34 The General Assembly finds that:

35 (1) The inability to effectively collect any Arkansas sales or
36 use tax from remote sellers who deliver tangible personal property, other

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1 property subject to Arkansas sales and use tax, or services directly into the
 2 state is seriously eroding the sales and use tax base of this state, causing
 3 revenue losses and imminent harm to the state through the loss of critical
 4 funding for state and local services;

5 (2) The harm from the loss of revenue is especially serious in
 6 Arkansas because sales and use tax revenues are essential in funding state
 7 and local services;

8 (3) Despite the fact that a use tax is owed on tangible personal
 9 property, certain other property, or services delivered for use in this
 10 state, many remote sellers actively market sales as tax-free or as
 11 transactions not subject to sales and use tax;

12 (4) The structural advantages of remote sellers, including the
 13 absence of point-of-sale tax collection and the general growth of online
 14 retail, make clear that further erosion of this state's sales and use tax
 15 base is likely to occur in the near future;

16 (5) Remote sellers that make a substantial number of deliveries
 17 into Arkansas or collect large gross revenues from Arkansas benefit
 18 extensively from this state's market, economy, and infrastructure;

19 (6) In contrast with the increasing harm caused to the state by
 20 the exemption of remote sellers from sales and use tax collection duties, the
 21 costs of such collection have decreased because advanced computing and
 22 software options have made it neither difficult nor burdensome for remote
 23 sellers to collect and remit sales and use taxes associated with sales of
 24 goods and services to residents of this state; and

25 (7) The United States Supreme Court recently upheld the ability
 26 of states to compel out-of-state sellers with no physical presence in the
 27 state to collect state sales and use taxes.

28
 29 SECTION 2. Arkansas Code § 26-52-110 is repealed.

30 ~~26-52-110. Sellers and affiliated persons—Referral agreements—~~
 31 ~~Notice required—Definitions.~~

32 ~~(a) As used in this section:~~

33 ~~(1) "Affiliated person" means:~~

34 ~~(A) A person that is a member of the same controlled group~~
 35 ~~of corporations as the seller; or~~

36 ~~(B) Another entity that, notwithstanding its form of~~

1 ~~organization, bears the same ownership relationship to the seller as a~~
2 ~~corporation that is a member of the same controlled group of corporations;~~
3 ~~and~~

4 ~~(2) "Controlled group of corporations" means the same as in 26~~
5 ~~U.S.C. § 1563(a), as it existed on January 1, 2011.~~

6 ~~(b) A seller is presumed to be engaged in the business of selling~~
7 ~~tangible personal property, specified digital products, a digital code, or~~
8 ~~taxable services for use in the state if an affiliated person is subject to~~
9 ~~the sales and use tax jurisdiction of the state and the:~~

10 ~~(1) Seller sells a similar line of products as the affiliated~~
11 ~~person and sells the products under the same business name or a similar~~
12 ~~business name;~~

13 ~~(2) Affiliated person uses his, her, or its in state employees~~
14 ~~or in state facilities to advertise, promote, or facilitate sales by the~~
15 ~~seller to consumers;~~

16 ~~(3) Affiliated person maintains an office, distribution~~
17 ~~facility, warehouse or storage place, or similar place of business to~~
18 ~~facilitate the delivery of property, specified digital products, a digital~~
19 ~~code, or services sold by the seller to the seller's business;~~

20 ~~(4) Affiliated person uses trademarks, service marks, or trade~~
21 ~~names in the state that are the same or substantially similar to those used~~
22 ~~by the seller; or~~

23 ~~(5) Affiliated person delivers, installs, assembles, or performs~~
24 ~~maintenance services for the seller's purchasers within the state.~~

25 ~~(c) The presumption in subsection (b) of this section may be rebutted~~
26 ~~by demonstrating that the affiliated person's activities in the state are not~~
27 ~~significantly associated with the seller's ability to establish or maintain a~~
28 ~~market in the state for the seller's sales.~~

29 ~~(d)(1) If there is not an affiliated person with respect to a seller~~
30 ~~in the state, the seller is presumed to be engaged in the business of selling~~
31 ~~tangible personal property, specified digital products, a digital code, or~~
32 ~~taxable services for use in the state if the seller enters into an agreement~~
33 ~~with one (1) or more residents of the state under which the residents, for a~~
34 ~~commission or other consideration, directly or indirectly refer potential~~
35 ~~purchasers, whether by a link on an Internet website or otherwise, to the~~
36 ~~seller.~~

~~(2) However, subdivision (d)(1) of this section applies only if the cumulative gross receipts from sales by the seller to purchasers in the state who are referred to the seller by all residents according to the type of agreement described in subdivision (d)(1) of this section exceed ten thousand dollars (\$10,000) during the preceding twelve (12) months.~~

~~(e)(1) The presumption in subsection (d) of this section may be rebutted by submitting proof that the residents with whom the seller has an agreement did not engage in any activity within the state that was significantly associated with the seller's ability to establish or maintain the seller's market in the state during the preceding twelve (12) months.~~

~~(2) Proof provided under subdivision (e)(1) of this section may consist of written statements from all of the residents with whom the seller has an agreement stating that they did not engage in any solicitation in the state on behalf of the seller during the preceding twelve (12) months if the statements were provided and obtained in good faith.~~

~~(f) The Director of the Department of Finance and Administration shall promulgate rules to implement this section.~~

SECTION 3. Arkansas Code Title 26, Chapter 52, Subchapter 1, is amended to add an additional section to read as follows:

26-52-111. Collection by remote sellers.

(a) A seller selling tangible personal property, other property subject to Arkansas sales and use tax, or services for delivery into Arkansas that does not have a physical presence in this state:

(1) Is subject to the provisions of this chapter and the Arkansas Compensating Tax Act of 1949, § 26-53-101 et seq.; and

(2) Shall remit the sales and use tax and follow all applicable procedures and requirements of law as if the seller had a physical presence in the state if the seller meets either of the following criteria for the previous calendar year or the current calendar year:

(A) The seller's gross revenue from the sale of tangible personal property, other property subject to Arkansas sales and use tax, and services for delivery into Arkansas exceeds one hundred thousand dollars (\$100,000); or

(B) The seller sold tangible personal property, other property subject to Arkansas sales and use tax, services, or any combination

1 of tangible personal property, other property subject to Arkansas sales and
 2 use tax, and services for delivery into Arkansas in at least two hundred
 3 (200) separate transactions.

4 (b) The obligation to remit the sales and use tax required under this
 5 section shall not be applied retroactively.

6 (c) A taxpayer complying with this section may seek a recovery of
 7 taxes, penalties, or interest only by following the procedures established in
 8 the Arkansas Tax Procedure Act, § 26-18-101 et seq.

9 (d) This section does not limit the ability of a taxpayer to obtain a
 10 refund for any other reason, including without limitation a mistake of fact
 11 or a mathematical miscalculation of the applicable tax.

12 (e) A seller that remits sales and use tax under this section is not
 13 liable to a purchaser if the seller was not required to collect sales and use
 14 tax because a provision of this section is later deemed unlawful.

15 (f) This section does not affect the obligation of a purchaser from
 16 this state to remit use tax on any applicable transaction in which the seller
 17 does not collect and remit sales and use tax.

18 (g) This section does not affect or impair the:

19 (1) Obligation of a seller, when the seller is transacting
 20 business in the state and a point-of-sale tax is collected on the
 21 transaction, to remit all state and local taxes on any applicable transaction
 22 in which the seller provides goods or furnishes services within the state; or

23 (2) Ability of a state entity to immediately collect the taxes
 24 described in subdivision (g)(1) of this section.

25
 26 SECTION 4. Arkansas Code § 26-52-301(B)(3)(ii)(a)-(b), concerning the
 27 levy of sales tax on certain products and services, is amended to read as
 28 follows:

29 (ii)(a) However, the provisions of this section
 30 shall do not apply to a coin-operated car wash.

31 (b) As used in subdivision (3)(B)(ii)(a) of
 32 this section, "coin-operated car wash" means a car wash in which the car
 33 washing equipment is activated by the insertion of coins into a slot or
 34 receptacle and the labor of washing the exterior of the car or motor vehicle
 35 is performed solely by the customer or by mechanical equipment.

36

1 SECTION 5. Arkansas Code § 26-52-401(14), concerning various products
2 and services that are exempt from sales and use tax, is repealed.

3 ~~(14) Gross receipts or gross proceeds derived from sales of~~
4 ~~publications sold through regular subscription, regardless of the type or~~
5 ~~content of the publication or the place printed or published.~~

6
7 SECTION 6. Arkansas Code § 26-52-403(b) and (c), concerning the sales
8 and use tax exemption for farm equipment and machinery, is amended to read as
9 follows:

10 (b)(1) The gross receipts or gross proceeds derived from the sale of
11 new and used farm equipment and machinery are exempt from the Arkansas gross
12 receipts tax levied by this chapter.

13 (2) However, to the extent that the exemption provided for under
14 this section applies to all-terrain vehicles that are not subject to
15 licensing or registration for use on the highways, the exemption shall be
16 administered as a rebate.

17 (c) The Director of the Department of Finance and Administration shall
18 promulgate rules and prescribe forms for claiming the exemption and rebate
19 provided by this section.

20
21 SECTION 7. Arkansas Code Title 26, Chapter 57, is amended to add an
22 additional subchapter to read as follows:

23 Subchapter 16 – Car Washes

24
25 26-57-1601. Definitions.

26 As used in this subchapter:

27 (1) "Automatic car wash" means a car wash bay that provides a
28 car wash using mechanical equipment that cleans the motor vehicle while the
29 motor vehicle remains stationary;

30 (2) "Car wash tunnel" means a car wash bay that provides a fully
31 automated car wash in which the motor vehicle is moved through a tunnel by a
32 conveyor system; and

33 (3) "Self-service bay" means a car wash bay that allows a person
34 to manually wash a motor vehicle using equipment and supplies provided by the
35 car wash operator.

1 26-57-1602. Registration.

2 (a) A person that is the operator of a car wash in this state that is
3 made available for use by the general public shall pay the fee required under
4 § 26-57-1603 in lieu of paying the sales tax under the Arkansas Gross
5 Receipts Act of 1941, § 26-52-101 et seq., and the compensating use tax under
6 the Arkansas Compensating Tax Act of 1949, § 26-53-101 et seq.

7 (b) A car wash operator that is required to pay a fee under § 26-57-
8 1603 shall register with the Director of the Department of Finance and
9 Administration before a self-service bay, an automatic car wash, or a car
10 wash tunnel is made available for use by the general public.

11 (c) The registration form provided for in this section shall:

12 (1) Be in the form prescribed by the director; and

13 (2) Contain the information required by rules adopted by the
14 director to implement this subchapter.

15
16 26-57-1603. Fees.

17 (a) A car wash operator that uses water from a public water system
18 shall pay to the Director of the Department of Finance and Administration the
19 following monthly fee:

20 (1) For a car wash operator that operates only one (1) or more
21 car wash tunnels, the car wash operator shall calculate the monthly fee due
22 under this subsection as follows:

23 (A) Multiply by nine-tenths (0.9) the total aggregate
24 number of gallons of water the car wash operator used during the preceding
25 month for all of the car wash operator's car wash tunnels; and

26 (B) Multiply the product obtained under subdivision
27 (a)(1)(A) of this section by seventy-five hundredths of one cent (\$0.0075);
28 and

29 (2) For a car wash operator that operates one (1) or more car
30 wash tunnels and one (1) or more self-service bays or automatic car washes,
31 or both, the car wash operator shall calculate the monthly fee due under this
32 subsection as follows:

33 (A) Multiply the number of self-service bays and automatic
34 car washes by one-tenth (0.1);

35 (B) Subtract the lesser of five-tenths (0.5) or the
36 product obtained under subdivision (a)(2)(A) of this section from nine-tenths

1 (0.9);

2 (C) Multiply the total aggregate number of gallons of
 3 water the car wash operator used during the preceding month for all of the
 4 car wash operator's car wash tunnels by the difference obtained under
 5 subdivision (a)(2)(B) of this section; and

6 (D) Multiply the product obtained under subdivision
 7 (a)(2)(C) of this section by seventy-five hundredths of one cent (\$0.0075).

8 (b)(1) Except as otherwise provided in this subsection, a car wash
 9 operator that uses water from a private well or nonpublic water system shall
 10 pay to the director an annual fee of:

11 (A) One hundred dollars (\$100) for each self-service bay
 12 operated by the car wash operator; and

13 (B) Five hundred dollars (\$500) for each automatic car
 14 wash operated by the car wash operator.

15 (2) A car wash operator that has one (1) or more self-service
 16 bays and one (1) or more automatic car washes at the same location is not
 17 required to pay the fee levied under subdivision (b)(1)(A) of this section on
 18 the self-service bays.

19 (3) A fee paid for a self-service bay or automatic car wash
 20 operated only during the last six (6) months of the fiscal year shall be
 21 equal to one-half ($\frac{1}{2}$) of the annual fee levied under this subsection.

22
 23 26-57-1604. Distribution of revenues.

24 All revenue collected under this subchapter shall be general revenues
 25 and shall be deposited into the State Treasury to the credit of the State
 26 Apportionment Fund.

27
 28 SECTION 8. Arkansas Code Title 26, Chapter 73, Subchapter 1, is
 29 amended to add an additional section to read as follows:

30 26-73-116. Cap on local sales and use tax.

31 (a) As used in this section, "municipality" means a city of the first
 32 class, a city of the second class, or an incorporated town.

33 (b) The total aggregate amount of sales and use tax that may be levied
 34 by a county for any purpose shall not exceed a total aggregate rate of three
 35 percent (3%).

36 (c) The total aggregate amount of sales and use tax that may be levied

1 by a municipality for any purpose shall not exceed a total aggregate rate of
2 four percent (4%).

3 (d) A county or municipality that has a total aggregate sales and use
4 tax rate as of January 1, 2019, that exceeds the maximum amount allowed under
5 this section may continue to levy sales and use tax in excess of the maximum
6 amount until the total aggregate amount of sales and use tax falls below the
7 maximum amount by the expiration or abolishment of one (1) or more sales and
8 use tax levies.

9
10 SECTION 9. DO NOT CODIFY. Rules.

11 When adopting any initial rules required under this act, the final
12 rules shall be filed with the Secretary of State for adoption under § 25-15-
13 204(f):

14 (A) On or before January 1, 2020; or

15 (B) If approval under § 10-3-309 has not occurred by
16 January 1, 2020, as soon as practicable after approval under § 10-3-309.

17 (2) The Director of the Department of Finance and Administration
18 shall file the proposed rules with the Legislative Council under § 10-3-
19 309(c) sufficiently in advance of January 1, 2020, so that the Legislative
20 Council may consider the rules for approval before January 1, 2020.

21
22 SECTION 10. EFFECTIVE DATES.

23 (a) Sections 4 and 7 of this act are effective on and after July 1,
24 2019.

25 (b) Sections 1 - 3, 5, 6, 8, and 9 of this act are effective for tax
26 years beginning on and after January 1, 2019.

Stricken language would be deleted from and underlined language would be added to present law.

1 State of Arkansas
2 91st General Assembly
3 Third Extraordinary Session, 2018

A Bill

DRAFT GRE/GRE
HOUSE BILL

4
5 By: Representative L. Fite

For An Act To Be Entitled

6
7
8 AN ACT TO AMEND THE HOMESTEAD PROPERTY TAX CREDIT; TO
9 AMEND THE PERCENTAGE OF EXCESS FUNDS FROM THE
10 PROPERTY TAX RELIEF TRUST FUND USED TO ADMINISTER THE
11 HOMESTEAD PROPERTY TAX CREDIT; TO CREATE A FORMULA
12 FOR DETERMINING THE AMOUNT OF THE HOMESTEAD PROPERTY
13 TAX CREDIT; AND FOR OTHER PURPOSES.

Subtitle

14
15
16
17 TO AMEND THE HOMESTEAD PROPERTY TAX
18 CREDIT; TO AMEND THE PROPERTY TAX FUND
19 USED TO ADMINISTER THE HOMESTEAD PROPERTY
20 TAX CREDIT; AND TO CREATE A FORMULA FOR
21 DETERMINING THE AMOUNT OF THE HOMESTEAD
22 PROPERTY TAX CREDIT.

23
24
25 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

26
27 SECTION 1. Arkansas Code § 26-26-310(b)(2)(C)(ii), concerning the
28 certification of the amount of property tax reduction, is amended to read as
29 follows:

30 (ii) Beginning December 31, ~~2005~~ 2018, and on
31 December 31 of each subsequent year, the Treasurer of State shall:

32 (a) Calculate an amount equal to ~~one percent~~
33 ~~(1%)~~ two percent (2%) of the amount of the excess funds certified in
34 subdivision (b)(2)(C)(i) of this section;

35 (b) Calculate each county's proportionate
36 share of the amount calculated in subdivision (b)(2)(C)(ii)(a) of this

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1 section based on the proportions used to reimburse the county for property
2 tax reductions under subsection (a) of this section; and

3 (c) Transfer the amount calculated under
4 subdivision (b)(2)(C)(ii)(b) of this section to the county treasurer for
5 allocation to the county assessor.

6
7 SECTION 2. Arkansas Code § 26-26-1118 is amended to read as follows:

8 26-26-1118. ~~Limitation on increase of property's assessed value~~
9 Homestead property tax credit calculation and administration.

10 (a) As used in this section:

11 (1) "Eligible homestead tax credit residences" means the total
12 number of parcels of real property that are used as homesteads, as defined
13 under § 26-26-1122, eligible for the homestead property tax credit;

14 (2) "Homestead property tax credit index" means the homestead
15 property tax credit amount in effect on October 15 of the current calendar
16 year; and

17 (3) "Property Tax Relief Trust Fund adjusted balance" means the
18 anticipated balance of the Property Tax Relief Trust Fund on December 31 of
19 the current calendar year.

20 (b)(1) By December 1 of each year, the county assessor of each county
21 shall calculate and certify to the Director of the Department of Finance and
22 Administration the eligible homestead tax credit residences for the county
23 for the current calendar year.

24 (2) By December 15 of each year, the Director of the Department
25 of Finance and Administration shall:

26 (A) Calculate and certify the total number of eligible
27 homestead tax credit residences for the state in the current calendar year
28 based upon the number of eligible homestead tax credit residences certified
29 by the county assessor of each county under subdivision (b)(1) of this
30 section; and

31 (B) Notify the Executive Director of the Association of
32 Arkansas Counties of the total number of eligible homestead tax credit
33 residences for the state calculated under subdivision (b)(2)(A) of this
34 section.

35 (c) By December 31 of each year, the Director of the Department of
36 Finance and Administration shall:

1 (1) Calculate and certify the Property Tax Relief Trust Fund
 2 adjusted balance;

3 (2) Calculate the homestead property tax credit to be used under
 4 subdivision (d)(1)(B) of this section by:

5 (A) Subtracting forty million dollars (\$40,000,000) from
 6 the Property Tax Relief Trust Fund adjusted balance under subdivision (c)(1)
 7 of this section;

8 (B) Dividing the difference under subdivision (c)(2)(A) of
 9 this section by the number of eligible homestead tax credit residences
 10 certified under subdivision (b)(2)(A) of this section;

11 (C) Rounding the quotient under subdivision (c)(2)(B) as
 12 follows:

13 (i) If the quotient is greater than zero dollars
 14 (\$0.00) but less than twenty-five dollars (\$25.00), then the quotient shall
 15 be rounded down to zero dollars (\$0.00);

16 (ii) If the quotient is greater than twenty-five
 17 dollars (\$25.00) but less than fifty dollars (\$50.00), then the quotient
 18 shall be rounded down to twenty-five dollars (\$25.00);

19 (iii) If the quotient is greater than fifty dollars
 20 (\$50.00) but less than seventy-five dollars (\$75.00), then the quotient shall
 21 be rounded down to fifty dollars (\$50.00);

22 (iv) If the quotient is greater than seventy-five
 23 dollars (\$75.00), then the quotient shall be rounded down to seventy-five
 24 dollars (\$75.00);

25 (v) If the quotient is less than zero dollars
 26 (\$0.00) but greater than negative twenty-five dollars (-\$25.00), then the
 27 quotient shall be rounded up to zero dollars (\$0.00); or

28 (vi) If the quotient is less than negative twenty-
 29 five dollars (-\$25.00), then the quotient shall be rounded up to the nearest
 30 increment of negative twenty-five dollars (-\$25.00); and

31 (D)(i) Adding the rounded amount under subdivision
 32 (c)(2)(C) of this section to the homestead property tax credit index.

33 (ii) However, the homestead property tax credit
 34 shall not be reduced to an amount less than three hundred dollars (\$300);

35 (3) Certify the homestead property tax credit amount calculated
 36 in subdivision (c)(2)(D) of this section to the Executive Director of the

1 Association of Arkansas Counties; and

2 (4) Notify each county assessor in the state of the homestead
 3 property tax credit amount certified under subdivision (c)(3) of this
 4 section.

5 ~~(a)(1)(A)~~ (d)(1)(A) For the assessment year beginning January 1, 2019,
 6 There there is established a homestead property tax credit for each
 7 assessment year that reduces the amount of real property taxes assessed on
 8 the homestead of each property owner by three hundred fifty dollars (\$350)
 9 four hundred dollars (\$400).

10 (B) For assessment years beginning on or after January 1,
 11 2020, there is a homestead property tax credit for each assessment year that
 12 reduces the amount of real property taxes assessed on the homestead of each
 13 property owner by the homestead property tax credit amount certified by the
 14 Director of the Department of Finance and Administration under subsection (c)
 15 of this section in the previous calendar year.

16 ~~(B)~~ (C) However, an assessment shall not be reduced to
 17 less than zero dollars (\$0.00).

18 (2) Each property owner shall pay the reduced tax amount to the
 19 county.

20 (3) The homestead property tax credit adopted by this section
 21 shall be reflected on the tax bill sent to the property owner by the county
 22 collector.

23 (4) The county and taxing units within the county are entitled
 24 to reimbursement of the tax reduction resulting from the homestead property
 25 tax credit in accordance with § 26-26-310.

26 ~~(b)(1)~~ (e)(1) Each county assessor is responsible for identifying the
 27 parcels of real property that are used as homestead residences before issuing
 28 tax bills.

29 (2)(A) Each property owner shall register with the county
 30 assessor proof of eligibility for the property tax credit if the property
 31 owner intends to claim a property tax credit.

32 (B)(i) The registration may be attached to the deed or
 33 other instrument conveying an interest in real property and filed with the
 34 circuit clerk, who shall remit the registration to the county assessor.

35 (ii) The circuit clerk shall not file the
 36 registration described in this subdivision (b)(2).

1 (C) The property owner may submit a registration for the
2 property tax credit directly to the county assessor.

3 (3)(A) The homestead property tax credit authorized by
4 subdivision (a)(1) of this section is not allowed after October 15 of the
5 year after the assessment.

6 (B) If October 15 falls on a Saturday, Sunday, or holiday
7 observed by the United States Postal Service, the homestead property tax
8 credit is allowed on, but no later than, the following business day that is
9 not a holiday observed by the United States Postal Service.

10 (4)(A) A parcel of real property shall qualify as a homestead
11 prior to January 1 of the year after assessment to be eligible for the
12 property tax credit.

13 (B) Once a parcel of real property is determined to be
14 eligible for the property tax credit, the parcel of real property shall
15 remain eligible for that year regardless of a change in the use of the parcel
16 of real property during the year.

17 (C) Under no circumstance may a property owner claim more
18 than one (1) homestead property tax credit per calendar year.

19 (5)(A) The parties to a transfer of real property may prorate,
20 as between themselves, the property tax credit and the benefits of the
21 property tax credit by agreement of the parties.

22 (B) If a parcel of real property qualifies for the
23 property tax credit, the property tax credit shall apply regardless of who or
24 what entity pays the property tax.

25 (6)(A) When real property is transferred, the purchaser of the
26 real property shall notify the county assessor of the new use of the real
27 property.

28 (B) The notification may be by affidavit provided by the
29 purchaser of the real property or on a form provided by the county assessor.

30 (7) The Division of Vital Records of the Department of Health
31 shall send to the county assessor by electronic mail a monthly report listing
32 the residents of that county who have died.

33
34 SECTION 3. Arkansas Code § 26-26-1119(a)(2)(C), concerning prohibited
35 conduct and penalties, is amended to read as follows:

36 (C) In order to qualify for the homestead property tax

1 credit after repayment of an unlawfully claimed homestead property tax credit
2 and payment of a penalty, the property owner shall register with the county
3 assessor according to ~~§ 26-26-1118(b)(2)(A)~~ § 26-26-1118(e)(2)(A).

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SECTION 4. Arkansas Code § 26-26-1119(f)(3), concerning prohibited
conduct and penalties, is amended to read as follows:

(3) This section does not alter the property owner's deadline to
claim the homestead property tax credit as provided in ~~§ 26-26-1118(b)(3)~~ §
26-26-1118(e)(3).

**COUNTY ASSESSORS
PROPOSED LEGISLATION**

1 State of Arkansas
2 92nd General Assembly
3 Regular Session, 2019
4

A Bill

DRAFT JLL/JLL
HOUSE BILL

5 By: Representative <NA>
6

For An Act To Be Entitled

8 AN ACT TO AMEND THE LAW CONCERNING THE ASSESSMENT OF
9 PRODUCING MINERAL RIGHTS; TO AMEND THE JURISDICTION
10 OF COUNTY EQUALIZATION BOARDS WITH RESPECT TO
11 PRODUCING MINERAL RIGHTS; AND FOR OTHER PURPOSES.
12
13

Subtitle

14 TO AMEND THE LAW CONCERNING THE
15 ASSESSMENT OF PRODUCING MINERAL RIGHTS;
16 AND TO AMEND THE JURISDICTION OF COUNTY
17 EQUALIZATION BOARDS WITH RESPECT TO
18 PRODUCING MINERAL RIGHTS.
19
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21

22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
23

24 SECTION 1. Arkansas Code § 26-26-1110(c)(4), concerning the assessment
25 of mineral rights for taxation purposes, is amended to read as follows:

26 (4) When a nonproducing mineral right begins producing minerals,
27 the mineral right shall be assessed for tax purposes in accordance with ~~rules~~
28 the directions and methods established by the department.
29

30 SECTION 2. Arkansas Code § 26-27-317(a)(3), concerning applications
31 for adjustment to a county equalization board, is amended to read as follows:

32 (3) The county equalization board does not have jurisdiction
33 over and ~~may~~ shall not accept or consider a petition or letter under
34 subdivision (a)(1) of this section for the adjustment of the:

35 (A) County assessor's determination of a property's tax-
36 exempt status under Arkansas Constitution, Article 16, § 5(b); ~~or~~

1 (B) Valuation of agricultural land, pasture land, or
2 timberland derived by the guidelines and methods set forth by the Assessment
3 Coordination Department under § 26-26-407; or

4 (C) Valuation of producing mineral rights in accordance
5 with the directions and methods established by the department under § 26-26-
6 1110.

7
8 SECTION 3. EFFECTIVE DATE. This act is effective for assessment years
9 beginning on or after January 1, 2019.

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1 State of Arkansas
2 92nd General Assembly
3 Regular Session, 2019
4

A Bill

DRAFT JLL/JLL
HOUSE BILL

5 By: Representative <NA>
6

For An Act To Be Entitled

8 AN ACT TO AMEND THE LAW CONCERNING THE ASSESSMENT OF
9 MINERAL RIGHTS FOR PURPOSES OF PROPERTY TAXES; TO
10 REQUIRE SUBMISSION OF A DIVISION ORDER OR DECLARATION
11 OF INTEREST TO THE COUNTY ASSESSOR; AND FOR OTHER
12 PURPOSES.
13
14

Subtitle

15 TO AMEND THE LAW CONCERNING THE
16 ASSESSMENT OF MINERAL RIGHTS FOR PURPOSES
17 OF PROPERTY TAXES; AND TO REQUIRE
18 SUBMISSION OF A DIVISION ORDER OR
19 DECLARATION OF INTEREST TO THE COUNTY
20 ASSESSOR.
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23

24 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
25

26 SECTION 1. Arkansas Code § 26-26-1110, concerning the assessment of
27 mineral rights for purposes of property taxes, is amended to add an
28 additional subsection to read as follows:

29 (e)(1) Except as otherwise provided in this subsection, if mineral
30 rights are subject to a division order or declaration of interest, the
31 division order or declaration of interest shall be:

32 (A) In the format established by the department; and

33 (B) Submitted electronically to the county assessor by
34 March 31 of each year.

35 (2)(A) A county assessor shall assess a penalty on a taxpayer
36 equal to ten percent (10%) of the property taxes due on the mineral interests

1 contained in a division order or declaration of interest that was not
2 submitted as required under this subsection.

3 (B) A penalty assessed under this section shall be:

4 (i) Collected by the county collector in the same
5 manner as other penalties related to property taxes; and

6 (ii) Paid into a late assessment fee fund
7 established on the books of the county treasurer for the county assessor.

8 (3) A division order or declaration of interest submitted to a
9 county assessor under this subsection is exempt from the Freedom of
10 Information Act of 1967, § 25-19-101 et seq.

11 (4) A taxpayer that pays one hundred percent (100%) of the
12 property taxes due on assessed mineral interests:

13 (A) Is not subject to the requirements of subdivision
14 (e)(1) of this section; and

15 (B) Shall provide written notice of the taxpayer's intent
16 to submit a division order or declaration of interest under subdivision
17 (e)(1) of this section that applies to the assessed mineral interests at
18 least two (2) years before the division order or declaration of interest is
19 submitted under subdivision (e)(1) of this section.

20
21 SECTION 2. EFFECTIVE DATE. This act is effective for assessment years
22 beginning on or after January 1, 2019.

1 State of Arkansas
2 92nd General Assembly
3 Regular Session, 2019
4

A Bill

DRAFT KLC/KLC
HOUSE BILL

5 By: Representative <NA>
6

For An Act To Be Entitled

8 AN ACT TO AMEND THE LAW CONCERNING NOTICE OF THE SALE
9 OF PROPERTY TO CERTAIN COUNTY OFFICERS; AND FOR OTHER
10 PURPOSES.
11

Subtitle

12
13 TO AMEND THE LAW CONCERNING NOTICE OF THE
14 SALE OF PROPERTY TO CERTAIN COUNTY
15 OFFICERS.
16
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18

19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
20

21 SECTION 1. Arkansas Code § 14-164-704(b), concerning notice of the sale
22 of property, is amended to read as follows:

23 (b) Before a meeting of municipal officials or county officials or
24 officials of the authority in which action ~~might~~ may be taken regarding
25 approval of in-lieu-of-tax payments, the authority, municipality, or county
26 shall give at least ten (10) days' notice of the date, time, and place of the
27 meeting to the:

28 (1) Superintendent of each school district in which all or any
29 part of the property that is subject to the lease or contract of sale is
30 located; ~~and~~

31 (2) Chief Fiscal Officer of the State; and

32 (3) County assessor, county tax collector, and county treasurer
33 of the county in which the property is located.
34
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36

**COUNTY JUDGES
PROPOSED LEGISLATION**

INTEROFFICE MEMORANDUM

To: County Judges **DRAFT**

From: Hon. Frank Weaver, CJAA President
Hon. Brandon Ellison, CJAA VP & Leg Chair

By: Mark Whitmore, AAC Chief Counsel

Re: CJAA Legislative Package

Date: *December 4, 2018*

Below you will find a brief description of the CJAA Legislative matters, Items 1-13. Several bills have been drafted and are attached. Some matters are not yet in bill form and/or in the control of other stakeholders, the Governor and state agencies. The AAC Legislative Committee has met and reviewed the CJAA Legislative Package. There are no apparent or known conflicts with the proposed legislation and other county officials or their duties.

We also have item #14 which regards the proposed legislation of the ADEQ on waste tire legislation (which were submitted, reviewed and considered by the stakeholders: the tire districts, the CJAA and ADEQ). In 2015, the CJAA committed to collaborate with Rep. Lanny Fite and stakeholders to support improvements, if necessary, to the 2015 waste tire legislation. The CJAA Legislative Committee and CJAA General Membership voted to support the affirmative proposals of the ADEQ and the Governor.

We also have item #15 which regards issues with water and sewer providers in treating citizens and customers differently on the basis of whether their property is situated in the city or in the unincorporated areas of the county. Some cities are bad actors and are requiring annexation in order to enhance the level of water supply to customer-citizens. Susanna Watt with JCD Consulting has been attending meetings of the Water Provider Legislative Task Force and is fully apprised of these issues.

Action Item: Please review and become familiar with these legislative priorities 1-13. Please meet with the State Representative(s) and State Senator(s) that represent your county: go over these legislative priorities, provide them a copy of this memo, the draft bills and the speaking points. If you or your legislators have any questions they may have or direct them to me, Josh, Chase, Susanna or Lauren.

The General Assembly has a level of trust with their local officials. They often like to hear directly from their local officials on legislative matters. At your convenience contact us and report any feedback from your meeting with your local legislators (such as any questions or level of support for or against certain legislative proposals). Below you will find a quick synopsis of the CJAA Legislative package followed by speaking points for the proposed legislation; and draft legislation where available.

(1). 911 Funding and Efficiencies: Josh Curtis, Blake Gary, Greene County Judge Rusty McMillon and our consultant lobbyist have been working diligently on the fundamentals and draft legislation and for 911 funding and efficiencies. The CJAA, AQCA (Arkansas Quorum Court Association), and ASA (Arkansas Sheriffs Association) voted to support the fundamentals of the CJAA 911 legislative proposal. Each association adopted resolutions which were submitted to the Governor and legislators. Attached is a copy of the resolution and a summary of the fundamental proposal. Funding and efficiencies for 911 is the highest priority for the CJAA.

(2). State and Local Road and Bridge Funding: The AAC and the CJAA have participating in a broad stakeholders group to provide the Governor a plan for responsibly increasing funding for state and local roads and bridges. The Governor proclaimed a need for increased funding and appointed a Blue-Ribbon Committee. The committee providing a report that identified a litany of possible funding options prior to the 2017. The Governor included the subject matter in a special session and the 2017 regular session. Both efforts were unsuccessful. CJAA previously adopted a resolution in support of funding options and the need to maintain the traditional 70-15-15 split. The CJAA engaged a consultant civil engineer to provide a preliminary and final report of local road and bridge maintenance needs. The Governor attended the annual meeting of the Good Roads Foundation at the AAC on November the 13th and pledge to make a new highway funding plan a priority; and called upon industry and local leaders to work with the Legislature. Legislators and our coalition have been meeting in order to form a plan. Attached you'll find information on the county road and bridge maintenance needs. We've requested a brief summary of the state road and bridge maintenance and construction needs.

(3). Internet Sales Tax: The CJAA is advocating for adoption of laws (or actually exemptions) for state and local sales and use taxes for sales over the internet with points of destination in Arkansas. Following the decision of *South Dakota v. Wayfair*, etc. many internet sales entities have commenced payment of state and local sales and use taxes in Arkansas. Over the years voluntary participation has included Walmart, Amazon and the various participants under the streamline sales

tax compact. The CJAA advocate for the adoption of laws similar to South Dakota for making plain that sellers with an economic nexus or presence in Arkansas by virtue of a threshold of annual sales over the internet are subject to the state and local sales and use taxes. CJAA previously adopted a resolution in support and have been engaged upcoming legislative efforts. We support a clean bill for internet sales tax. Rep. Dan Douglas has filed a clean bill on internet sales, HB 1002 of 2009 is attached.

(4). Arkansas Unpaved Roads User Group Program: The CJAA and AAC are seeking sustainable funding for the program. The Arkansas Game and Fish Commission has committed to and provided long-term funding. In the past the Governor supported the program and provided rainy-day funding. The CJAA and TNC (the Nature Conservancy) are seeking sustainable state and/or federal funding for the program including partnerships with the Arkansas Natural Resources Council and ADEQ.

(5). Amending ACA 14-16-105 (eliminating the board of approval and other purposes): The bill seeks to eliminate reference to a board of approval following a sale of county property. Reference and use of a board of approval for a sale of county property is unnecessary, and not consistent with practices or commerce. Also, the bill seeks an increase from \$2,000 to \$5,000 in the threshold for a formal sale (an increase has not been made in over 12 years).

(6). Amending ACA 14-16-106 (on internet sales): The law needs to be clear that sale of county property over the internet does not require notice in a newspaper of general circulation. In 2011, two bills on this section of code were adopted. Sen Wyatt filed a bill on behalf of the CJAA seeking to allow for notice of sale over the internet by posting over the internet. His bill was subsequently superseded by a second and unrelated bill-which convoluted the law, by reinserting the stricken language on publication of notice via newspaper. The CJAA has approved the attached draft bill.

(7). Amending Act 1112 of 2017: The subject Act needs to be amended to support the proper relationship, notice and input for counties in the grant of applications for private club and alcohol sales permits. Adam Fogleman, Pulaski County Attorney, has drafted a bill which is attached which was approved by the CJAA.

(8). Improvement District Legislation: Former County Judge, Rep. Lanny Fite, seeks legislation which addresses and protects concerns with the operations of improvement districts (from the activities of bad actors). The issues are as follows:

assuring records on finances and contractual obligations are retained; assuring super majorities are required for borrowing funds (not including debts incurred the initial formation); addressing issues with zero or nominal valuation lots; and addressing issues with application of standards for construction of improvements, etc.

The CJAA is working with Rep. Fite, the Arkansas Municipal League (AML) and stakeholder improvement district professionals to draft proper legislation to address these issues.

(9). Amending ACA 14-16-116 (exchange of property): Counties need to be able to exchange real property with the public. The current law allows exchange of real or personal property of the county between other counties, cities or community colleges. The attached bill approved by the CJAA seeks to allow the exchange of real property with the public when in the transaction is in best interest of the county and voted upon the Quorum Court by two-thirds vote.

(10). Civil Office Bill: During the 2016 General Election, Arkansans approved Issue #1 which extended the length of terms for county officials from (2) two years to (4) four years. Issue 1 also amends Article 7 of the Arkansas Constitution by adding § 53, which states: “a person elected or appointed to any . . . county offices shall not, during the term for which he or she has been elected, be appointed or elected to any civil office in this state.” Article 7 § 53 is almost identical to the Article 5 § 10 provision that applies to members of the Arkansas General Assembly. The CJAA and the AAC propose an act to assist in the implementation of the “civil office” provisions of Amendment 95.

(11). Amendment of Meeks Act/Ark Code 26-35-802: We need an act in contest of property assessment litigation to require payment to the collector the sum of real property taxes not in dispute and escrow of the disputed amount into the registry of the circuit court pending appeal (in the same manner as the current law for personal property tax disputes).

(12). Issues on Funding of Public Defenders: Counties are under pressure to increase funding for a greater number of public defenders, staff and office expenses. The State needs to address these funding needs. We seek to collaborate with the public defender commission for a study.

(13). Net Metering: Several counties are looking at solar panels to help defray the costs of energy/electricity say for the local jail or courthouse; to make these improvements feasible the counties, cities and other entities need the capacity to net meter (or procure credit for unused energy sent into the electric grid). Adam

Fogleman, Pulaski County Attorney, has drafted a bill which is attached which was approved by the CJAA.

II. ITEMS SUBMITTED FOR CONSIDERATION, REVIEWED AND DEEMED ACCEPTABLE:

(14). Waste Tire Laws: The CJAA have had several meetings and discussions with stakeholders and ADEQ on potential amendments to Act 317 of 2017 on the collection, disposal and use of waste tires in Arkansas. ADEQ and a group of stakeholders have worked through post Act 317 interpretation issues; and regulatory issues under Regulation 36. The CJAA Legislative Committee voted to support certain legislative proposals of ADEQ (see attached draft bills and speaking points).

ADEQ has proposed the following changes to the Used Tire Recycling and Accountability Act:

- Adding provisions in the definition of XL tires to include wide-base or extra-wide single tires;
- Adding definitions for Operator and Owner to be consistent with the SW Management Act;
- Modifying the definitions of L and S tires by removing the rim sizes; not necessary to the program which is based on rim removal fees for new and used tires;
- Making grammatical and stylistic changes (adding hypens, etc.);
- Removing criteria for generators to use the e-manifest system to track rim removal activities. First point is the generators can use a paper version. Second point is the e-manifest/paper version does not track rim removal activities; only movement of tires from one point to another; and
- Removing reference to Level 2 funding for IDCO language.

III. ITEMS NOT YET SUBMITTED FOR CONSIDERATION:

(15). Water and Sewer Issues: There are issues with water and sewer providers in treating citizens and customers differently on the basis of whether their property is situated in the city or in the unincorporated areas of the county. Some cities are bad actors and are requiring annexation in order to enhance the level of water supply to customer-citizens. Susanna Watt with JCD Consulting has been attending meetings of the Water Provider Legislative Task Force and is fully apprised of these issues. There's a legislative created the Water Provider Legislative Task Force—which has been diligently working on these issues and should have a final report and some draft legislation for consideration forthcoming.

(1). 911 Funding and Efficiencies:

(2). State and Local Road and Bridge Funding: The AAC and the CJAA have participating in a broad stakeholders group to provide the Governor a plan for responsibly increasing funding for state and local roads and bridges. The Governor proclaimed a need for increased funding and appointed a Blue-Ribbon Committee. The committee providing a report that identified a litany of possible funding options prior to the 2017. The Governor included the subject matter in a special session and the 2017 regular session. Both efforts were unsuccessful. CJAA previously adopted a resolution in support of funding options and the need to maintain the traditional 70-15-15 split. The CJAA engaged a consultant civil engineer to provide a preliminary and final report of local road and bridge maintenance needs. The Governor attended the annual meeting of the Good Roads Foundation at the AAC on November the 13th and pledge to make a new highway funding plan a priority; and called upon industry and local leaders to work with the Legislature. Legislators and our coalition have been meeting in order to form a plan. Attached you'll find information on the county road and bridge maintenance needs. We've requested a brief summary of the state road and bridge maintenance and construction needs.

(3). **Internet Sales Tax**: The CJAA is advocating for adoption of laws (or actually exemptions) for state and local sales and use taxes for sales over the internet with points of destination in Arkansas. The CJAA and AML (Arkansas Municipal League) have advocated for market place fairness for over a dozen years. It's not fair that retailers in our communities with a brick and mortar presence have to remit state and local sales taxes upon transactions, while sales over the internet by businesses (without a physical presence in a state do not). The legislation seeks to enforce the existing law on state and local sales taxes (and not create a new tax).

Following the decision of *South Dakota v. Wayfair*, etc. many internet sales entities have commenced payment of state and local sales and use taxes in Arkansas. Over the years voluntary participation has included Walmart, Amazon and the various participants under the streamline sales tax compact. The CJAA advocate for the adoption of laws similar to South Dakota for making plain that sellers with an economic nexus or presence in Arkansas by virtue of a threshold of annual sales over the internet are subject to the state and local sales and use taxes. CJAA previously adopted a resolution in support and have been engaged upcoming legislative efforts. We support a clean bill for internet sales tax. Rep. Dan Douglas has filed a clean bill on internet sales, HB 1002 of 2009 is attached.

Stricken language would be deleted from and underlined language would be added to present law.

1 State of Arkansas
2 92nd General Assembly
3 Regular Session, 2019

A Bill

HOUSE BILL 1002

4
5 By: Representative D. Douglas

For An Act To Be Entitled

8 AN ACT TO AMEND THE LAW CONCERNING SALES AND USE TAX;
9 TO REQUIRE CERTAIN OUT-OF-STATE SELLERS TO COLLECT
10 AND REMIT ARKANSAS SALES AND USE TAX; TO REPEAL THE
11 SALES AND USE TAX LAW ON SELLERS AND AFFILIATED
12 PERSONS; AND FOR OTHER PURPOSES.

Subtitle

15 TO REQUIRE CERTAIN OUT-OF-STATE SELLERS
16 TO COLLECT AND REMIT ARKANSAS SALES AND
17 USE TAX.
18

19
20
21 BE IT, ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

22
23 SECTION 1. DO NOT CODIFY. Legislative findings.

24 The General Assembly finds that:

25 (1) The inability to effectively collect any Arkansas sales or
26 use tax from remote sellers who deliver tangible personal property, other
27 property subject to Arkansas sales and use tax, or services directly into the
28 state is seriously eroding the sales and use tax base of this state, causing
29 revenue losses and imminent harm to the state through the loss of critical
30 funding for state and local services:

31 (2) The harm from the loss of revenue is especially serious in
32 Arkansas because sales and use tax revenues are essential in funding state
33 and local services:

34 (3) Despite the fact that a use tax is owed on tangible personal
35 property, certain other property, or services delivered for use in this
36 state, many remote sellers actively market sales as tax-free or as



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1 transactions not subject to sales and use tax:

2 (4) The structural advantages of remote sellers, including the
 3 absence of point-of-sale tax collection and the general growth of online
 4 retail, make clear that further erosion of this state's sales and use tax
 5 base is likely to occur in the near future:

6 (5) Remote sellers that make a substantial number of deliveries
 7 into Arkansas or collect large gross revenues from Arkansas benefit
 8 extensively from this state's market, economy, and infrastructure:

9 (6) In contrast with the increasing harm caused to the state by
 10 the exemption of remote sellers from sales and use tax collection duties, the
 11 costs of such collection have decreased because advanced computing and
 12 software options have made it neither difficult nor burdensome for remote
 13 sellers to collect and remit sales and use taxes associated with sales of
 14 goods and services to residents of this state; and

15 (7) The United States Supreme Court recently upheld the ability
 16 of states to compel out-of-state sellers with no physical presence in the
 17 state to collect state sales and use taxes.

18
 19 SECTION 2. Arkansas Code § 26-52-110 is repealed.

20 ~~26-52-110. Sellers and affiliated persons — Referral agreements —~~
 21 ~~Notice required — Definitions.~~

22 ~~(a) As used in this section:~~

23 ~~(1) "Affiliated person" means:~~

24 ~~(A) A person that is a member of the same controlled group~~
 25 ~~of corporations as the seller; or~~

26 ~~(B) Another entity that, notwithstanding its form of~~
 27 ~~organization, bears the same ownership relationship to the seller as a~~
 28 ~~corporation that is a member of the same controlled group of corporations;~~
 29 ~~and~~

30 ~~(2) "Controlled group of corporations" means the same as in 26~~
 31 ~~U.S.C. § 1563(a), as it existed on January 1, 2011.~~

32 ~~(b) A seller is presumed to be engaged in the business of selling~~
 33 ~~tangible personal property, specified digital products, a digital code, or~~
 34 ~~taxable services for use in the state if an affiliated person is subject to~~
 35 ~~the sales and use tax jurisdiction of the state and the~~

36 ~~(1) Seller sells a similar line of products as the affiliated~~

1 ~~person and sells the products under the same business name or a similar~~
 2 ~~business name;~~

3 ~~(2) Affiliated person uses his, her, or its in-state employees~~
 4 ~~or in-state facilities to advertise, promote, or facilitate sales by the~~
 5 ~~seller to consumers;~~

6 ~~(3) Affiliated person maintains an office, distribution~~
 7 ~~facility, warehouse or storage place, or similar place of business to~~
 8 ~~facilitate the delivery of property, specified digital products, a digital~~
 9 ~~code, or services sold by the seller to the seller's business;~~

10 ~~(4) Affiliated person uses trademarks, service marks, or trade~~
 11 ~~names in the state that are the same or substantially similar to those used~~
 12 ~~by the seller; or~~

13 ~~(5) Affiliated person delivers, installs, assembles, or performs~~
 14 ~~maintenance services for the seller's purchasers within the state.~~

15 ~~(c) The presumption in subsection (b) of this section may be rebutted~~
 16 ~~by demonstrating that the affiliated person's activities in the state are not~~
 17 ~~significantly associated with the seller's ability to establish or maintain a~~
 18 ~~market in the state for the seller's sales.~~

19 ~~(d)(1) If there is not an affiliated person with respect to a seller~~
 20 ~~in the state, the seller is presumed to be engaged in the business of selling~~
 21 ~~tangible personal property, specified digital products, a digital code, or~~
 22 ~~taxable services for use in the state if the seller enters into an agreement~~
 23 ~~with one (1) or more residents of the state under which the residents, for a~~
 24 ~~commission or other consideration, directly or indirectly refer potential~~
 25 ~~purchasers, whether by a link on an Internet website or otherwise, to the~~
 26 ~~seller.~~

27 ~~(2) However, subdivision (d)(1) of this section applies only if~~
 28 ~~the cumulative gross receipts from sales by the seller to purchasers in the~~
 29 ~~state who are referred to the seller by all residents according to the type~~
 30 ~~of agreement described in subdivision (d)(1) of this section exceed ten~~
 31 ~~thousand dollars (\$10,000) during the preceding twelve (12) months.~~

32 ~~(e)(1) The presumption in subsection (d) of this section may be~~
 33 ~~rebutted by submitting proof that the residents with whom the seller has an~~
 34 ~~agreement did not engage in any activity within the state that was~~
 35 ~~significantly associated with the seller's ability to establish or maintain~~
 36 ~~the seller's market in the state during the preceding twelve (12) months.~~

~~(2) Proof provided under subdivision (c)(1) of this section may consist of written statements from all of the residents with whom the seller has an agreement stating that they did not engage in any solicitation in the state on behalf of the seller during the preceding twelve (12) months if the statements were provided and obtained in good faith.~~

~~(f) The Director of the Department of Finance and Administration shall promulgate rules to implement this section.~~

SECTION 3. Arkansas Code Title 26, Chapter 52, Subchapter 1, is amended to add an additional section to read as follows:

26-52-111. Collection by remote sellers.

(a) A seller selling tangible personal property, other property subject to Arkansas sales and use tax, or services for delivery into Arkansas that does not have a physical presence in this state:

(1) Is subject to the provisions of this chapter and the Arkansas Compensating Tax Act of 1949, § 26-53-101 et seq.; and

(2) Shall remit the sales and use tax and follow all applicable procedures and requirements of law as if the seller had a physical presence in the state if the seller meets either of the following criteria for the previous calendar year or the current calendar year:

(A) The seller's gross revenue from the sale of tangible personal property, other property subject to Arkansas sales and use tax, and services for delivery into Arkansas exceeds one hundred thousand dollars (\$100,000); or

(B) The seller sold tangible personal property, other property subject to Arkansas sales and use tax, or services or any combination of tangible personal property, other property subject to Arkansas sales and use tax, and services for delivery into Arkansas in at least two hundred (200) separate transactions.

(b) The obligation to remit the sales and use tax required under this section shall not be applied retroactively.

(c) A taxpayer complying with this section may seek a recovery of taxes, penalties, or interest only by following the procedures established in the Arkansas Tax Procedure Act, § 26-18-101 et seq.

(d) This section does not limit the ability of a taxpayer to obtain a refund for any other reason, including without limitation a mistake of fact

1 or mathematical miscalculation of the applicable tax.

2 (e) A seller that remits sales and use tax under this section is not
3 liable to a purchaser if the seller was not required to collect sales and use
4 tax because a provision of this section is later deemed unlawful.

5 (f) This section does not affect the obligation of a purchaser from
6 this state to remit use tax on any applicable transaction in which the seller
7 does not collect and remit sales and use tax.

8 (g) This section does not affect or impair the:

9 (1) Obligation of a seller, when the seller is transacting
10 business in the state and a point-of-sale tax is collected on the
11 transaction, to remit all state and local taxes on any applicable transaction
12 in which the seller provides goods or furnishes services within the state; or

13 (2) Ability of a state entity to immediately collect the taxes
14 described in subdivision (g)(1) of this section.

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16 SECTION 4. EFFECTIVE DATE. Sections 1 through 3 of this act are
17 effective on the first day of the calendar quarter following the effective
18 date of this act.

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(4). Arkansas Unpaved Roads User Group Program:

We need sustainable funding for the Unpaved Roads Program. Sustainable funding for the AURP is a necessary as part any plan for protecting our natural water resources in the State of Arkansas.

Act 898 of 2015, codified as Ark code § 14-305-101 et. seq., established the Arkansas Unpaved Roads Program (“AURP”): to address erosion of unpaved roads, which can have negative effects on the state's economy, tourism, and natural resources. Act 898 of 2015, Ark. Code § 14-305-101(b) seeks to: combine the resources of public and private organizations; and provide incentives for the maintenance of select low-volume, unpaved public roads maintained by counties in Arkansas for the purpose of maintaining and improving the health of the state's economy and natural resources.

The University of Arkansas Center for Training Transportation Professionals, AEDC Division of Rural Services and the Nature Conservancy have conducted (10) ten Dirt and Gravel Road Workshops which included over 150 road construction and maintenance professionals in attendance, representing 50 counties, municipalities and private land owners.

The unpaved roads program has resulted in (10) ten projects demonstrating best management practices to the public, trainees and road crews. The AURP Arkansas is being proactive and addressing sedimentation impacts upon clean water—which will assist in defense from litigation from environmental groups demanding more road and trail closures. The Arkansas Game and Fish Commission (AGFC”) has been a key supporter and has followed through on the legislative call for leveraging funding by committing financial support for the (“AURP”) for (5) five years in the sum of \$150,000 annually. Governor ASA Hutchinson, expressed his support for the program and provided the sum of \$300,000 funds to keep the program viable and moving forward. The Nature Conservancy has been an indispensable party, in providing training, leadership and private funding for this important public-private partnership. The U.S. Fish and Wildlife Service (“USFWS”) recognized the “AURP” and the Arkansas Unpaved Roads User Group their 2014 regional award. 14-305-109(a). directs various agencies and entities were encouraged to provide funding for the unpaved roads projects under this Chapter (and to reduce the silo aspects of their missions in this realm and leverage funding). *We need to pursue and procure sustainable funding from various state and private sources.*

(5). Amending ACA 14-16-105 (eliminating the board of approval and other purposes): The bill seeks to eliminate reference to a board of approval following a sale of county property. Reference and use of a board of approval for a sale of county property is unnecessary, and not consistent with practices or commerce. Also, the bill seeks an increase from \$2,000 to \$5,000 in the threshold for a formal sale (an increase has not been made in over 12 years).

1 State of Arkansas
2 91st General Assembly
3 Third Extraordinary Session, 2018
4

A Bill

DRAFT KLC/KLC
HOUSE BILL

5 By: Representative Speaks
6

For An Act To Be Entitled

8 AN ACT TO AMEND THE LAW CONCERNING THE SALE OF COUNTY
9 PROPERTY; AND FOR OTHER PURPOSES.

Subtitle

10
11
12 TO AMEND THE LAW CONCERNING THE SALE OF
13 COUNTY PROPERTY.
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16

17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
18

19 SECTION 1. Arkansas Code § 14-16-105(d) and (e), concerning the sale
20 of county property, are amended to read as follows:

21 (d)(1) If the appraised value of the property described in the order
22 is less than ~~the sum of two thousand dollars (\$2,000)~~ five thousand dollars
23 (\$5,000), the property may thereafter be sold and conveyed by the county
24 judge, either at public or private sale, by sealed bids or ~~Internet~~ internet
25 sale for not less than three-fourths ($\frac{3}{4}$) of the appraised value as shown by
26 the certificate of appraisal filed by the assessor.

27 (2)(A) If the property will be sold by ~~Internet~~ internet sale,
28 the notice of sale shall be placed on the website of the ~~Internet~~ internet
29 vendor for no less than eight (8) consecutive days before the date of sale
30 and shall contain a description of the property to be sold and the time of
31 the sale.

32 (B) An additional notice may be posted on a county-owned
33 or county-affiliated website, trade website, or business website for no less
34 than eight (8) consecutive days before the date of sale.

35 (3)(A) When the sale has been completed, the county court shall
36 enter its order approving the sale.

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- (B) The order shall set forth:
 - (i) The description of the property sold;
 - (ii) The name of the purchaser;
 - (iii) The terms of the sale;
 - (iv) That the proceeds of the sale have been deposited with the county treasurer; and
 - (v) The fund or funds to which the proceeds were credited by the county treasurer.

(e)(1)(A)~~(4)~~ If the appraised value of the property to be sold exceeds ~~the sum of two thousand dollars (\$2,000)~~ five thousand dollars (\$5,000), the county judge may sell the property to the highest ~~and best~~ bidder, upon sealed bids received by the judge or by ~~Internet~~ internet sale.

~~(ii) The sheriff, the treasurer, and the circuit clerk of the county in which the property is to be sold shall constitute a board of approval for the sales, and the judge shall be the ex officio chair of the board without a vote.~~

(B) ~~The property, when it exceeds the appraised value of two thousand dollars (\$2,000), shall not be sold~~ The county judge shall not sell property under subdivision (e)(1)(A) of this section for less than three-fourths ($\frac{3}{4}$) of ~~its~~ the appraised value of the property as determined by the certificate of the assessor.

(2)(A) Notice of the sale shall be published for two (2) consecutive weekly insertions in some newspaper published and having a general circulation in the county.

- (B) The notice shall specify:
 - (i) The description of the property to be sold;
 - (ii) The time and place for submitting written bids, ~~including that the sale may be conducted on the Internet;~~ and
 - (iii) The appraised value of the property to be sold.

(C) The notice shall be dated and signed by the judge.

(D) If the sale is conducted on the ~~Internet~~ internet, the notice shall be placed on the ~~Internet~~ internet under this section, and the invoice from the ~~Internet~~ internet vendor or publisher shall be accompanied by a statement from the ~~Internet~~ internet vendor or publisher that the sale was published and conducted on the ~~Internet~~ internet.

1 (3) The judge shall have the right to reject any bids received
2 by him or her under the notice.

3 (4)(A) When the judge has accepted a bid for the property ~~and if~~
4 ~~a majority of the board approves the sale~~, the judge may sell and convey the
5 property to the highest bidder.

6 (B) When the sale has been approved and completed, the
7 county court shall enter an order approving the sale, which shall set forth
8 the details of the sale as provided in subdivision (d)(2)(B) of this section.

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(6). Amending ACA 14-16-106 (on internet sales): The law needs to be clear that sale of county property over the internet does not require notice in a newspaper of general circulation. In 2011, two bills on this section of code were adopted. Sen Wyatt filed a bill on behalf of the CJAA seeking to allow for notice of sale over the internet by posting over the internet. His bill was subsequently superseded by a second and unrelated bill-which convoluted the law, by reinserting the stricken language on publication of notice via newspaper. The CJAA has approved the attached draft bill.

Stricken language would be deleted from and underlined language would be added to present law.

1 State of Arkansas
2 91st General Assembly
3 Third Extraordinary Session, 2018
4

A Bill

**DRAFT KLC/KLC
HOUSE BILL**

5 By: Representative McElroy
6

For An Act To Be Entitled

8 AN ACT TO AMEND THE LAW CONCERNING PUBLICATION
9 REQUIREMENTS FOR SALE OR DISPOSAL OF COUNTY PROPERTY;
10 AND FOR OTHER PURPOSES.
11

Subtitle

12
13 TO AMEND THE LAW CONCERNING PUBLICATION
14 REQUIREMENTS FOR SALE OR DISPOSAL OF
15 COUNTY PROPERTY.
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19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
20

21 SECTION 1. Arkansas Code § 14-16-106(b)(1), concerning sale or
22 disposal of surplus property, is amended to read as follows:

23 (b)(1) Notice of the public auction ~~or Internet sale~~ shall be
24 published at least one (1) time a week for two (2) consecutive weeks in a
25 newspaper having general circulation in the county.
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(7). Amending Act 1112 of 2017: The subject Act needs to be amended to support the proper relationship, notice and input for counties in the grant of applications for private club and alcohol sales permits. Adam Fogleman, Pulaski County Attorney, has drafted a bill which is attached which was approved by the CJAA.

Stricken language would be deleted from and underlined language would be added to present law.

1 State of Arkansas
2 91st General Assembly
3 Fiscal Session, 2018
4

A Bill

DRAFT MGF/MGF
HOUSE BILL

5 By: Representative <NA>
6

For An Act To Be Entitled

7
8 AN ACT TO CLARIFY THE PROCEDURES FOR OBTAINING OR
9 TRANSFERRING A PERMIT FOR A PRIVATE CLUB; AND FOR
10 OTHER PURPOSES.
11

Subtitle

12
13 TO CLARIFY THE PROCEDURES FOR OBTAINING
14 OR TRANSFERRING A PERMIT FOR A PRIVATE
15 CLUB.
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18
19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
20

21 SECTION 1. Arkansas Code § 3-9-222(a), concerning procedures for
22 obtaining permit for a private club, is amended to read as follows:

23 (a)(1) Application for a permit to operate as a private club or to
24 transfer the location of an existing private club to a new location may be
25 made to the governing body of the county or municipality in which the private
26 club seeks to be located Director of the Alcoholic Beverage Control Division.

27 (2) Within ten (10) business days of receipt of an application
28 under subdivision (a)(1) of this section, the director shall provide a copy
29 of the application made to each member of the governing body of:

30 (A) The city, if located in a city or within a city's
31 extraterritorial zoning jurisdiction; or

32 (B) The county, if located in the unincorporated county,
33 where the private club is proposed to be opened or transferred.

34 ~~(2)(3)(A)~~ If the The governing body of the county or
35 municipality approves by ordinance city or county may express its support or
36 disapproval by resolution of an application for a permit to operate as a

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1 private club or to transfer the location of an existing private club under
2 subdivision (a)(1) of this section.

3 (B) A city or county that enacts a resolution under
4 subdivision (a)(3)(A) of this section shall immediately provide a copy of the
5 resolution to the director.

6 (4) ~~the~~ The Alcoholic Beverage Control Division ~~may issue~~ shall
7 consider a resolution enacted under subdivision (a)(3)(A) of this section
8 before issuing a permit to:

9 (A) ~~operate~~ Operate as a private club to the applicant for
10 the proposed new private club; or

11 (B) Transfer the location of an existing private club.

12 (5) The division shall not take action on an application under
13 subsection (a)(1) of this section until the earlier of:

14 (A) Sixty (60) days after the director provides notice
15 under subdivision (a)(2) of this section; or

16 (B) The date the director receives notice of the adoption
17 of a resolution by the governing body of a city or county under subdivision
18 (a)(3) of this section.

19
20 SECTION 2. Arkansas Code § 3-9-222(e), concerning procedures for
21 obtaining a permit for a private club, is amended to read as follows:

22 (e)(1)(A) Upon receipt by the director of an application for a permit,
23 written notice thereof, which shall include a copy of the application, the
24 application shall immediately be mailed by the director to the sheriff, the
25 chief of police, if located within a city, and the prosecuting attorney of
26 the locality in which the premises are situated, ~~and city board of directors~~
27 ~~or other governing body of the city in which the premises are situated if~~
28 ~~within an incorporated area.~~

29 (B) The provisions of this section shall be retroactive to
30 July 28, 1995.

31 (2) ~~No license shall be issued by the~~ The director shall not
32 issue a permit until:

33 (A) The director has received notice of a resolution by a
34 governing body under subdivision (a)(3) of this section; or

35 (B) ~~at least thirty (30)~~ At least sixty (60) days have
36 passed from the mailing by the director of the notices required by this

1 section.

2 (3) Upon receipt by the director within the ~~thirty (30)~~ sixty
3 (60) days of a protest against the issuance of a permit by a governing
4 official of the city or county to whom the notice of an application for a
5 permit has been mailed, the director shall not issue the license permit until
6 he or she has held a public hearing.

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(8). Improvement District Legislation: Former County Judge, Rep. Lanny Fite, has a draft bill the CJAA has approved which addresses and protects concerns with the operations of improvement districts (from the activities of bad actors). The CJAA has approved the attached draft bill.

Stricken language would be deleted from and underlined language would be added to present law.

1 State of Arkansas
2 91st General Assembly
3 Third Extraordinary Session, 2018
4

A Bill

DRAFT KLC/KLC
HOUSE BILL

5 By: Representative L. Fite
6

For An Act To Be Entitled

8 AN ACT TO AMEND THE LAW CONCERNING CERTAIN PROCEDURES
9 OF SUBURBAN AND PROPERTY OWNERS' IMPROVEMENT
10 DISTRICTS; AND FOR OTHER PURPOSES.
11

Subtitle

12
13 TO AMEND THE LAW CONCERNING CERTAIN
14 PROCEDURES OF SUBURBAN AND PROPERTY
15 OWNERS' IMPROVEMENT DISTRICTS.
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18

19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
20

21 SECTION 1. Arkansas Code § 14-86-607 is amended to read as follows:
22 14-86-607. Exclusions.

23 (a) ~~At its option, any~~ Any state agency or commission may choose to be
24 excluded from any newly formed levee, drainage, or other improvement or
25 special assessment districts district.

26 (b) ~~If the purpose of the improvement district does not benefit the~~
27 ~~affected lands, then no taxes or assessments will apply to the reserved~~
28 ~~lands. Sections 14-86-606 and 14-86-607 shall~~ This section and § 14-86-606 do
29 not apply to the Commissioner of State Lands.

30 (c) All lands shall be assessed and taxed within the boundaries of the
31 improvement or special assessment district, and no exclusions or nominal
32 assessments apply except under subsection (a) of this section.
33

34 SECTION 2. Arkansas Code § 14-92-219 is amended to read as follows:
35 14-92-219. Purposes for which district organized.

36 A suburban improvement district may be organized for any one (1) or

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1 more of the following purposes:

2 (1) To purchase, accept as a gift, or construct a waterworks
3 system or betterments, improvements, and extensions to ~~such~~ the waterworks
4 system, either within or without the boundaries of the district, if the
5 property of the district will benefit, and to operate and maintain any such
6 waterworks system ~~at the district~~ the district may purchase, construct, or own;

7 (2) To purchase, accept as a gift, or construct, either within
8 or without the boundaries of the district, if the property of the district
9 will benefit, a sewage collection system or a sewage treatment plant or
10 intercepting sewers, outfall sewers, force mains, pumping stations, ejector
11 stations, and all other appurtenances necessary or useful and convenient for
12 the collection or treatment, purification, and disposal, in a sanitary
13 manner, of the liquid and solid waste, sewage, night soil, and industrial
14 waste of the area within the boundaries of the district or adjacent thereto
15 to the district, and to operate and maintain any such sewage system and
16 facilities;

17 (3)(A) To open, grade, drain, pave, curb, gutter, or otherwise
18 improve streets, roads, highways, and every other way for passage and use of
19 vehicles, including viaducts and underpasses, either within or without the
20 boundaries of the district, if the property of the district will benefit.

21 (B) ~~Such purpose shall include the acquisition of~~ The
22 purpose set out in subdivision (a) (3) (A) of this section includes the
23 acquisition of rights-of-way by purchase or the exercise of the power of
24 eminent domain, and to maintain such the streets, roads, highways, and every
25 other way for passage and use by vehicles, lying within the boundaries of the
26 district or ~~beyond~~ without the boundaries of the district, if the property of
27 the district will benefit;

28 (4) To build, purchase, or accept as a gift recreational
29 facilities ~~such as, but not limited to,~~ including without limitation parks,
30 lakes, golf courses, playgrounds, clubhouses, stadiums, auditoriums, arts and
31 crafts centers, folklore centers, interpretative centers, camping areas,
32 greenbelt areas, and any other facilities to provide for the recreation and
33 cultural needs of the owners of the lands within the district and also to
34 care for, maintain, and operate any such recreational facilities;

35 (5) To lay and maintain sidewalks;

36 (6)(A) To lay, own, extend, operate, and maintain gas pipelines.

1 connecting with gas systems.

2 ~~(B)(i) Nothing in this subchapter shall be construed to~~
 3 This subchapter does not allow the purchase of an existing natural gas system
 4 or any part thereof of an existing natural gas system.

5 (ii) Any such gas system shall be subject to the
 6 jurisdiction of the Pipeline Safety Division of the Arkansas Public Service
 7 Commission and shall be subject to all provisions of the Arkansas Gas
 8 Pipeline Code;

9 (7) To build telephone lines to connect with the telephone
 10 systems operating in nearby or adjacent municipalities;

11 (8) To establish, equip, and maintain rural fire departments,
 12 including construction of fire department buildings, and purchase of fire
 13 trucks, fire boats, and other firefighting equipment;

14 (9) To own, acquire, construct, reconstruct, extend, equip,
 15 improve, maintain, and operate hospitals or to acquire appropriate vehicles
 16 and equipment for, ~~maintain, and operate~~ the maintenance and operation of
 17 ambulance services;

18 (10) To own, acquire, construct, reconstruct, extend, equip,
 19 improve, maintain, and operate libraries; and

20 (11)(A) To provide a solid waste management system to adequately
 21 provide for the collection and disposal of all solid wastes waste generated
 22 or existing within the boundaries of the district in accordance with the
 23 rules, regulations, and orders of the Arkansas Pollution Control and Ecology
 24 Commission.

25 (B)(i) The governing body of the district may enter into
 26 an agreement with one (1) or more municipalities, counties, county solid
 27 waste authorities, regional solid waste management districts, private
 28 persons, private trusts, or any combination thereof, to provide a solid waste
 29 management system or any part of a system for the district.

30 (ii)(a) The district may levy and collect fees and
 31 require licenses as determined appropriate to discharge the responsibilities
 32 of the district.

33 (b) Any fees, charges, and licenses shall be
 34 based upon a schedule set forth by the district.

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 36

SECTION 3. Arkansas Code § 14-92-234, concerning notes, bonds, or

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1 evidences of debt, is amended to add an additional subsection to read as
2 follows:

3 (d) Before bonds and notes are issued under the authority of this
4 chapter, two-thirds (2/3) of the owners of record in the district shall
5 authorize the issuance of bonds and notes by a vote called by the board for
6 that purpose.

7
8 SECTION 4. Arkansas Code § 14-92-237(c)(1)(C), concerning the
9 dissolution or conversion of a suburban improvement district, is amended to
10 read as follows:

11 (C)(1) Within ninety (90) days after the distribution of
12 the surplus funds has been completed, the board shall file a copy of the
13 resolution of dissolution and a financial statement of the improvement
14 district, verified by all commissioners, in the office of the county clerk in
15 the county in which the district is located.

16 (ii) The financial statement shall include all
17 financial records and bank statements relating to the bonds, notes, or other
18 evidences of indebtedness issued by the improvement district.

19
20 SECTION 5. Arkansas Code Title 14, Chapter 92, Subchapter 2, is
21 amended to add an additional section to read as follows:

22 14-92-241. Record retention and public examination of records.

23 (a) An improvement district organized under this chapter shall retain
24 all financial records and bank statements relating to the bonds, notes, or
25 other evidences of indebtedness issued by the improvement district during the
26 existence of the improvement district.

27 (b) The Freedom of Information Act of 1967, § 25-19-101 et seq.,
28 applies to records retained under this chapter.

29
30 SECTION 6. Arkansas Code § 14-92-501 is repealed.

31 ~~14-92-501. Applicability.~~

32 ~~Any municipality that has a population of twenty-five thousand (25,000)~~
33 ~~or more according to the last federal census shall be entitled to exercise~~
34 ~~the authority conferred by this subchapter.~~

35
36 SECTION 7. Arkansas Code § 14-92-502 is amended to read as follows:

1 14-92-502. ~~Water or sewer systems~~ Improvements turned over to
2 municipalities.

3 (a) In those cases where in which improvement districts have been
4 organized under the suburban improvement district law, or any consolidation
5 of suburban and municipal improvement districts, ~~either for furnishing of~~
6 ~~water or sewer services, or both,~~ and all, or any part, of it lies outside a
7 municipality ~~within the class affected by this subchapter which desires to~~
8 ~~operate it as a municipal waterworks or a municipal sewer system,~~ the boards
9 of commissioners of the suburban district, in order to secure more adequate
10 service for the inhabitants within the district, shall ~~have the authority to~~
11 turn over to the municipality the operation and maintenance of the system
12 improvements.

13 (b)(1) The municipality may issue revenue bonds, fix the rates for the
14 services, and use the net revenues from the operation of the improvements to
15 pay the ~~principal and interest~~ principal, interest, and paying charges of its
16 revenue bonds for payment and discharge of the outstanding bonds of the
17 districts.

18 (2) If the net revenues are not sufficient to prevent a default
19 in the bonds or interest, a tax sufficient to produce enough revenue to cure
20 the default shall be levied on the assessments of benefits in the districts.

21 (3) ~~Nothing in this section shall~~ This section does not impair
22 the rights of the holders of the outstanding bonds to demand and receive
23 sufficient annual collections on the assessments of benefits to meet interest
24 and principal payments as they become due.

25
26 SECTION 8. Arkansas Code § 14-93-110 is amended to read as follows:

27 14-93-110. Purposes for which district organized.

28 Any district may be organized for any one (1) or more of the following
29 purposes:

30 (1) To purchase, accept as a gift, or construct a waterworks
31 system or betterments, improvements, and extensions to ~~such~~ the waterworks
32 system, either within or without the boundaries of the district, if the
33 property of the district will ~~be benefited thereby~~ benefit, and to operate
34 and maintain any such waterworks system ~~it~~ the district may purchase,
35 construct, or own;

36 (2) To purchase, accept as a gift, or construct, either within

1 or without the boundaries of the district, if the property of the district
 2 will be benefited thereby benefit, a sewage collection system or a sewage
 3 treatment plant, intercepting sewers, outfall sewers, force mains, pumping
 4 stations, ejector stations, and all other appurtenances necessary or useful
 5 and convenient for the collection or treatment, purification, and disposal of
 6 industrial or domestic sewage;

7 (3) To open, grade, drain, pave, curb, gutter, or otherwise
 8 improve streets, roads, highways, and every other way, including viaducts and
 9 underpasses for passage and use of vehicles, either within or without the
 10 boundaries of the district, if the property of the district will be benefited
 11 thereby benefit. Such purpose shall include the acquisition of rights-of-way
 12 by purchase or the exercise of the power of eminent domain, and to maintain
 13 such the streets, roads, highways, and every other way for passage and use by
 14 vehicles, lying within the boundaries of the district or ~~beyond~~ without the
 15 boundaries of the district, if the property of the district will be benefited
 16 thereby benefit;

17 (4) To build, purchase, or accept as a gift recreational
 18 facilities ~~such as, but not limited to,~~ including without limitation parks,
 19 lakes, golf courses, playgrounds, clubhouses, stadiums, auditoriums, arts and
 20 crafts centers, folklore centers, interpretative centers, camping areas,
 21 green belt areas, and any other facilities to provide for the recreation and
 22 cultural needs of the owners of the lands within the district;

23 (5) To lay and maintain sidewalks;

24 (6) To lay gas pipelines connecting with gas systems in nearby
 25 or adjacent municipalities;

26 (7) To build telephone lines to connect with the telephone
 27 system operating in nearby or adjacent municipalities; and

28 (8) To establish, equip, and maintain rural fire departments,
 29 including construction of fire department buildings, and purchase of fire
 30 trucks, fire boats, and other ~~fire-fighting~~ firefighting equipment.

31
 32 SECTION 9. Arkansas Code § 14-93-124, concerning negotiable notes,
 33 bonds, or evidences of debt of a property owners' improvement district, is
 34 amended to add an additional subsection to read as follows:

35 (c) Before bonds and notes are issued under the authority of this
 36 chapter, two-thirds (2/3) of the owners of record in the district shall

1 authorize the issuance of bonds and notes by a vote called by the board for
 2 that purpose.

3
 4 SECTION 10. Arkansas Code § 14-93-127(b)(1)(C), concerning the
 5 dissolution of a property owners' improvement district, is amended to read as
 6 follows:

7 (C)(i) Within ninety (90) days after the distribution of
 8 the surplus funds has been completed, the board shall file a copy of the
 9 resolution of dissolution and a financial statement of the district, verified
 10 by all its members, in the office of the county clerk in the county in which
 11 the district is located.

12 (ii) The financial statement shall include all
 13 financial records relating to the bonds, notes, or other evidences of
 14 indebtedness issued by the district.

15
 16 SECTION 11. Arkansas Code § 14-93-130 is amended to read as follows:

17 14-93-130. Systems Improvements turned over to municipality.

18 (a) In those cases ~~where~~ in which improvement districts have been
 19 organized under this chapter or any consolidation of districts organized
 20 under this chapter with one another or with suburban or municipal improvement
 21 districts, ~~either for furnishing of water or sewer services, or both, and all~~
 22 ~~or any part thereof lies outside a municipality within the class affected by~~
 23 ~~this chapter which desires to operate them as a municipal waterworks or a~~
 24 ~~municipal sewer system,~~ the boards of these districts, in order to secure
 25 more adequate service for the inhabitants within the districts, shall ~~have~~
 26 ~~the authority to~~ turn over to the municipality the operation and maintenance
 27 of the systems improvements.

28 (b)(1) The municipality may issue revenue bonds and ~~and~~ fix the rates for
 29 the services, and use the net revenues from the operation of the improvements
 30 to pay the principal and interest, and paying charges of its revenue bonds
 31 for payment and discharge of the outstanding bonds of the district.

32 (2) If the net revenues are ~~not sufficient~~ insufficient to
 33 prevent a default in the bonds or interest, a tax sufficient to produce
 34 enough revenue to cure the default shall be levied on the assessments of
 35 benefits in the district and nothing in this section shall impair the rights
 36 of the holders of the outstanding bonds to demand and receive sufficient

1 annual collections on the assessments of benefits to meet interest and
2 principal payments as they become due.

3
4 SECTION 12. Arkansas Code Title 14, Chapter 93, Subchapter 1, is
5 amended to add an additional section to read as follows:

6 14-93-134. Record retention and public examination of records.

7 (a) An improvement district organized under this chapter shall retain
8 all financial records and bank statements relating to the bonds, notes, or
9 other evidences of indebtedness issued by the improvement district during the
10 existence of the improvement district.

11 (b) The Freedom of Information Act of 1967, § 25-19-101 et seq.,
12 applies to records retained under this chapter.

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(9). Amending ACA 14-16-116 (exchange of property): Counties need to be able to exchange real property with the public. The current law allows exchange of real or personal property of the county between other counties, cities or community colleges. The attached bill approved by the CJAA seeks to allow the exchange of real property with the public when in the transaction is in best interest of the county and voted upon the Quorum Court by two-thirds vote.

Stricken language would be deleted from and underlined language would be added to present law.

1 State of Arkansas
2 92nd General Assembly
3 Regular Session
4

A Bill

DRAFT KLC/KLC
HOUSE BILL

5 By: Representative Maddox
6

For An Act To Be Entitled

8 AN ACT TO AMEND THE LAW CONCERNING PROPERTY EXCHANGE
9 OR TRANSFER BY COUNTIES; AND FOR OTHER PURPOSES.

Subtitle

12 TO AMEND THE LAW CONCERNING PROPERTY
13 EXCHANGE OR TRANSFER BY COUNTIES.
14
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16

17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
18

19 SECTION 1. Arkansas Code § 14-16-116 is amended to read as follows:
20 14-16-116. Property exchange or transfer by counties.

21 ~~(a) Counties are authorized to exchange~~ A county may:

22 (1) Exchange or transfer properties, real or personal, with
23 other counties, municipalities, community colleges, or institutions of higher
24 education; and

25 (2) Exchange or transfer real property with individuals,
26 corporations, partnerships, or nonprofit corporations when in the best
27 interest of the county.

28 (b)(1) An exchange or transfer under this section shall be:

29 (A) Authorized, approved, or confirmed by ordinances resolution
30 of the quorum court; and

31 (B) ~~accomplished~~ Accomplished in accordance with procedures
32 prescribed or confirmed by the quorum court.

33 (2) A resolution adopted by the quorum court under this section
34 shall be:

35 (A) Confirmed by a two-thirds (2/3) vote of the quorum
36 court;

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(B) Filed with the county clerk and include a copy of the bill of sale setting forth the terms and conditions of the sale, transfer, or conveyance; and

(C) Published on the county website or county affiliated-website and posted at three (3) public places in the county.

(c) An agreement for service, legal tender, or other consideration may be accepted in exchange for real or personal property under this section.

(d) A transfer made under this section is exempt from §§ 14-16-105 and 14-16-106, § 14-22-101 et seq., and the Arkansas Procurement Law, § 19-11-201 et seq.

(10). Civil Office Bill: During the 2016 General Election, Arkansans approved Issue #1 which extended the length of terms for county officials from (2) two years to (4) four years. Issue 1 also amends Article 7 of the Arkansas Constitution by adding § 53, which states: “a person elected or appointed to any . . . county offices shall not, during the term for which he or she has been elected, be appointed or elected to any civil office in this state.” Article 7 § 53 is almost identical to the Article 5 § 10 provision that applies to members of the Arkansas General Assembly. The CJAA and the AAC propose an act to assist in the implementation of the “civil office” provisions of Amendment 95.

Stricken language would be deleted from and underlined language would be added to present law.

1 State of Arkansas
2 92nd General Assembly
3 Regular Session, 2019

A Bill

DRAFT KLC/KLC
HOUSE BILL

4
5 By: Representative Holcomb

6
7 **For An Act To Be Entitled**
8 **AN ACT TO AMEND THE LAW CONCERNING COUNTY OFFICIALS**
9 **AND CIVIL OFFICE-HOLDING; AND FOR OTHER PURPOSES.**

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12 **Subtitle**
13 **TO AMEND THE LAW CONCERNING COUNTY**
14 **OFFICIALS AND CIVIL OFFICE-HOLDING.**

15
16
17 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:**

18
19 SECTION 1. Arkansas Code Title 14, Chapter 14, Subchapter 1, is
20 amended to add an additional section to read as follows:
21 14-14-115. Civil office-holding.
22 (a)(1) A person elected or appointed to any of the following county
23 offices shall not be elected or appointed to another civil office during the
24 term for which he or she has been elected:
25 (A) County judge;
26 (B) Justice of the peace;
27 (C) Sheriff;
28 (D) Circuit clerk;
29 (E) County clerk;
30 (F) Assessor;
31 (G) Coroner;
32 (H) Treasurer;
33 (I) County surveyor; or
34 (J) Collector.
35 (2) An elected county official under subdivision (a)(1) of this
36 section may run for a civil office during the term for which he or she has

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1 been elected.

2 (b)(1) As used in this section, "civil office" means the following
 3 election or appointed positions, including without limitation:

- 4 (A) County election commissioner;
- 5 (B) Member of the Parole Board;
- 6 (C) Member of a school board;
- 7 (D) Prosecuting attorney and deputy prosecuting attorney;
- 8 (E) Constable;
- 9 (F) Sheriff and deputy sheriff;
- 10 (G) Chief of police and city police officer;
- 11 (H) City attorney;
- 12 (I) City council member;
- 13 (J) Member of a drainage improvement district board;
- 14 (K) Member of a public facilities board;
- 15 (L) Member of a soil conservation district;
- 16 (M) Member of a county library board;
- 17 (N) Member of a rural development authority;
- 18 (O) Member of a rural waterworks facilities board or
 19 regional water distribution board;
- 20 (P) Member of an airport commission;
- 21 (Q) Member of a county or district board of health; and
- 22 (R) Member of a levee board or levee improvement district.

23 (2) As used in this section, "civil office" does not include a
 24 position that a county official may be appointed to on an advisory board,
 25 administrative board, or task force established to assist:

- 26 (A) The Governor;
- 27 (B) The General Assembly;
- 28 (C) A state agency;
- 29 (D) A state department;
- 30 (E) A county office;
- 31 (F) A county department; or
- 32 (G) A subordinate service district.

33 (3) As used in this section, "civil office" does not mean a
 34 position that a county official is required to serve by law, including
 35 without limitation:

- 36 (A) A member of an intergovernmental cooperation council;

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(B) A member of a county equalization board;

(C) A member of a regional solid waste management district;

(D) A member of a planning and development district;

(E) A member of the Arkansas Commission on Law Enforcement

Standards and Training;

(F) A member of the Electronic Recording Commission;

(G) A member of a county hospital board;

(H) A member of the Arkansas Workforce Development Board;

and

(I) A member of the State Board of Election Commissioners.

(11). Amendment of Meeks Act/Ark Code 26-35-802: We need an act in contest of property assessment litigation to require payment to the collector the sum of real property taxes not in dispute and escrow of the disputed amount into the registry of the circuit court pending appeal (in the same manner as the current law for personal property tax disputes).

1 State of Arkansas
2 92nd General Assembly
3 Regular Session, 2019

A Bill

DRAFT KLC/KLC
SENATE BILL

4
5 By: Senator Irvin
6

For An Act To Be Entitled

8 AN ACT TO AMEND THE LAW CONCERNING PAYMENT DURING AN
9 ASSESSMENT APPEAL PROCESS; AND FOR OTHER PURPOSES.

Subtitle

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12 TO AMEND THE LAW CONCERNING PAYMENT
13 DURING AN ASSESSMENT APPEAL PROCESS.
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17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
18

19 SECTION 1. Arkansas Code § 26-35-802 is amended to read as follows:
20 26-35-802. Payment not required pending assessment appeal.

21 (a) Real or personal property shall not be returned as delinquent for
22 nonpayment of taxes, nor shall any penalty or interest be added to taxes due
23 while there is pending in the circuit court, Court of Appeals, or the Supreme
24 Court an appeal from an order of the county court fixing the assessed value
25 of property.

26 (b) If there has been no final disposition of an appeal ~~prior to~~
27 before the last day fixed by law for the payment of the taxes without
28 penalty, the taxpayer shall have thirty (30) days after final disposition of
29 the appeal within which to pay the taxes without penalty.

30 (c) Upon appeal of a real or personal property tax assessment to the
31 circuit court, the taxpayer appealing the real or personal property tax
32 assessment shall pay:

33 (1) To the county collector as otherwise provided by law the
34 amount the taxpayer claims is owed under the real or personal property tax
35 assessment; and

36 (2) Into the registry of the circuit court an amount equal to

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1 the difference between the real or personal property tax assessment and the
2 amount the taxpayer claims is owed under the real or personal property tax
3 assessment.

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(12). Issues on Funding of Public Defenders: Counties are under pressure to increase funding for a greater number of public defenders, staff and office expenses. The State needs to address these funding needs. We seek to collaborate with the public defender commission for a study.

(13). Net Metering: Several counties are looking at solar panels to help defray the costs of energy/electricity say for the local jail or courthouse; to make these improvements feasible the counties, cities and other entities need the capacity to net meter (or procure credit for unused energy sent into the electric grid). Adam Fogleman, Pulaski County Attorney, has drafted a bill which is attached which was approved by the CJAA.

For An Act to Be Entitled
AN ACT TO AMEND THE LAW DEFINING
NET-METERING CUSTOMER UNDER
THE ARKANSAS RENEWABLE ENERGY
DEVELOPMENT ACT OF 2001 FOR THE
PURPOSE OF MAKING COST-SAVING ENERGY
OPTIONS AVAILABLE TO ARKANSAS'S
LOCAL GOVERNMENTS

Subtitle
TO OPEN COST-SAVING ENERGY OPTIONS
AVAILABLE TO ARKANSAS'S LOCAL GOVERNMENTS

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. DO NOT CODIFY. Legislative findings.

The General Assembly finds that:

- (1) It is in the public interest that local governments have the option to obtain energy that is generated from renewable sources, when that energy costs less than energy from other sources;
- (2) That regulatory barriers currently stand in the way of local governments achieving cost savings that are available to other entities; and
- (3) The purpose of this Act is to bring finance options for renewable energy facilities into conformity with federal tax law.

SECTION 2. Arkansas Code § 23-18-603(5), concerning the definition of "net-metering customer" under the Arkansas Renewable Energy Development Act of 2001, is amended to read as follows:

- (4) "Net-metering customer" means:
 - (A) an An owner of a net-metering facility;
 - (B) A county as defined in § 14-14-102 or an instrumentality of such a county that obtains electrical energy from a net-metering facility under a service contract as contemplated by 26 United States Code § 7701(e)(3)(A); or
 - (C) A municipal government as described under § 14-37-101 et seq. or an instrumentality of such a municipal government that obtains electrical energy from a net-metering facility under a service contract as contemplated by 26 United States Code § 7701(e)(3)(A)

ITEMS SUBMITTED FOR CONSIDERATION, REVIEWED AND DEEMED ACCEPTABLE:

(14). **Waste Tire Laws:** The CJAA have had several meetings and discussions with stakeholders and ADEQ on potential amendments to Act 317 of 2017 on the collection, disposal and use of waste tires in Arkansas. ADEQ and a group of stakeholders have worked through post Act 317 interpretation issues; and regulatory issues under Regulation 36. The CJAA Legislative Committee voted to accept and support certain legislative proposals of ADEQ (see attached draft bills and speaking points).

ADEQ has proposed the following changes to the Used Tire Recycling and Accountability Act:

- Adding provisions in the definition of XL tires to include wide-base or extra-wide single tires;
- Adding definitions for Operator and Owner to be consistent with the SW Management Act;
- Modifying the definitions of L and S tires by removing the rim sizes; not necessary to the program which is based on rim removal fees for new and used tires;
- Making grammatical and stylistic changes (adding hypens, etc.);
- Removing criteria for generators to use the e-manifest system to track rim removal activities. First point is the generators can use a paper version. Second point is the e-manifest/paper version does not track rim removal activities; only movement of tires from one point to another; and
- Removing reference to Level 2 funding for IDCO language.

2019 Tire Accountability Program OLR Proposed Legislative Changes

Solid Waste Management Act:

8-6-207 (a)(11) Allow ADEQ or its successor to have the power and duties to conduct inspections in accordance with regulations The current reading of the law provides ADEQ these powers and duties but further defines the periodic inspections must be done "not less than quarterly". It is ADEQ's intent to set up internal procedures defining the timeline for conducting certain inspections either quarterly or annually.

Illegal Dump Eradication and Corrective Action Program Act:

- Adding "waste tires" in several areas of the law in addition to solid waste. This is for legal clarity.
 - Removing the definition of IDCO and adding one for Environmental Officer.
- Adding "tire collection center, tire processing facility" has criteria where SW can be legally disposed/recycled.
- Removing from the law language implying the ADEQ employees are subject to licensing and certification. They are certainly going to continue to participate in the training.
- Removing reference to the agency's SWMD and only listing ADEQ or its successor.

8-6-502 Add "waste tires" along with solid waste to the law.

8-6-503 (4) through (6) Add a new paragraph (4) including a definition for an "Environmental Officer". The old paragraph (4) is changed to (5) adding "including but not limited to waste tires" in the definition of Illegal Dump. The old paragraph (5) is changed to (6) adding "including but not limited to waste tires" in the definition of Illegal Dumping of Solid Waste. Proposing to delete the old paragraph (6) which is the definition of "Illegal dumps control officer".

8-6-505(b)(3)(B) Add "tire collection center, tire processing facility" to the criteria where SW could be legally disposed/recycled.

8-6-508(a)(1) Replace Illegal Dump Control Officers with Environmental Officers

8-6-508(a)(2) Replace Illegal Dump Control Officers with Environmental Officers

8-6-508(a)(3)(B) Replace Illegal Dump Control Officers with Environmental Officers

8-6-508(a)(4) Replace Illegal Dump Control Officers with Environmental Officers and Add "including by not limited to waste tire sites".

8-6-504(a)(4)(B)(vii) Replace Illegal Dump Control Officers with Environmental Officers

8-6-508(b) Delete; ADEQ employees are not subject to licensing and certification but will certainly participate in the training

8-6-508(c) Replace Illegal Dump Control Officers with Environmental Officers

8-6-510 Add Regulation 36; Delete "Solid Waste Management Division of the"

Statute for Districts and Boards:

8-6-714(a)(B)(i)(a) Remove "including the Illegal Dump Eradication and Corrective Action Program Act, § 8-6-501 et seq".

Licensing of SW Operators:

- Adding "waste tire site or used tire facility" in several areas of this law in addition to solid waste. This is for legal clarity.
- Removing the definition of IDCO and adding one for Environmental Officer.

8-6-901(4) Delete definition of Illegal Dump Control Officer and add definition of Environmental Officer

8-6-901(7)(A) Deleted "of a solid waste management facility" and Added "at a solid waste management facility"; inserted "used tire facility, or waste tire site" in two locations.

Used Tire Recycling and Accountability Act:

- Adding provisions in the definition of XL tires to include wide-base or extra-wide single tires (District request).
- Adding definitions for Operator and Owner consistent with the SW Management Act.
- Modifying the definitions of L and S tires by removing the rim sizes; not necessary to the program which is based on rim removal fees for new and used tires.
- Making grammatical and stylistic changes (adding hypens, etc.).
- Removing criteria for generators to use the e-manifest system to track rim removal activities. First point is the generators can use a paper version. Second point is the e-manifest/paper version does not track rim removal activities; only movement of tires from one point to another.
- Removed reference to Level 2 funding/IDCO language.

8-9-401(4)(A) Added "This includes a wide-base or extra-wide single tire."

8-9-401(6) Removed "a rim size greater than nineteen inches (19") and" ; removed "including without limitation a wide-base or extra-wide single tire".

8-9-401(8) Added definition of Operator

8-9-401(9) Added definition of Owner

8-9-401(12)(A) Removed "or lower and a rim size of nineteen inches (19") or smaller"; added "lower than" in front of F.

8-9-401(13)(A)(i) Corrected grammar for "semi-pneumatic"

8-9-401(13)(B) Corrected grammar for "non-motorized"

8-9-404(a)(3)(D) The retailer is not required to use the e-manifest; only the paper version.

More importantly, the manifest system does not track rim removal activities.

8-9-404(c)(1)(B) Deleted reference to electronic uniform manifest since currently the generator can utilize the paper version of the manifest.

8-9-404(d)(3)(C)(ii) Deleted reference to electronic uniform manifest since currently the generator can utilize the paper version of the manifest.

8-9-405(b)(9)(A)(ii) Deleted reference to electronic uniform.

8-9-405(e) and (f) Remove Level 2 IDCO; remove Level 3 requiring the Districts to be solely responsible for their maintenance and repairs

8-9-410(b)(1) Delete this paragraph since Level 2 funding, at a minimum, goes away

8-9-410(b)(1)and (2) Delete this paragraph since Level 2 funding, at a minimum, goes away

ITEMS NOT YET SUBMITTED FOR CONSIDERATION:

(15). Water and Sewer Issues: There are issues with water and sewer providers in treating citizens and customers differently on the basis of whether their property is situated in the city or in the unincorporated areas of the county. Some cities are bad actors and are requiring annexation in order to enhance the level of water supply to customer-citizens. There's a legislative created commission that has been diligently working on these issues and should have a final report and some draft legislation for consideration forthcoming.

**COUNTY COLLECTORS
PROPOSED LEGISLATION
(NO PROPOSED LEGISLATION FOR THE COLLECTORS)**

**COUNTY CORONERS
PROPOSED LEGISLATION**

To: Mark Whitmore, AAC Counsel
From: Jessica Fontenot, AAC Clerk
Date: October 22, 2018
RE: Unclaimed Bodies, 2018 Draft Bill

Unclaimed Bodies Bill Issues

Purpose of Bill

In recent years, there has been an increase in the number of unclaimed bodies in Arkansas. This bill attempts to clarify and simplify the procedure for disposing of these bodies in the most respectful and efficient way.

Section 1

Medical Schools Eligible for Receipt of Unclaimed Bodies

This section makes schools of osteopathic medicine as well as medical schools in Arkansas eligible to receive unclaimed bodies for educational purposes. Increasing the number of eligible schools will allow more counties to alleviate the strain that these unclaimed bodies create, and it will provide learning opportunities for more students in Arkansas.

Definitions of “Unclaimed Body,” “Unclaimed Remains,” and “Next of Kin”

This section defines an “unclaimed body” as a body where the next of kin cannot be located within five (5) days after death, or where the next of kin does not claim the body within two (2) days after being notified of the decedent’s death. “Unclaimed remains” are defined as the cremated remains of an unclaimed body. This timeline is comparable to those of other states¹, and it gives coroners and other officials a definite time when they can begin the disposition process.

“Next of kin” is defined as a spouse, parent, child, or sibling. As discussed below, this means that the person searching for next of kin is only required to search for these relatives. However, also discussed below, other interested parties may still claim the body during this time.

Section 2

The Search for Interested Parties

The person who assumes control of the body (usually the coroner) must search for the deceased’s next of kin (or request that the sheriff or similar official search). This search must be

¹ See Miss. Code. Ann. § 41-39-5 (seven days total); Mo. Ann. Stat. § 194.150 (36 hours); Okla. Stat. Ann. tit. 63, § 94 (31 days total); Tenn. Code Ann. § 68-4-103(c) (seven days total); Tex. Health & Safety Code Ann. § 691.023 (72 hours total).

completed within five (5) days after the deceased's death or the date of the search request, whichever is later.

As per A.C.A. § 20-17-1403, If the decedent is eighteen (18) years old or older, the person conducting the search must search with the Department of Veterans Affairs and the United States Department of Veterans Affairs to determine whether the decedent was a veteran.

If no relative claims the body, a friend, veterans organization, the VA, a religious or charitable group, or a fraternal society of which the decedent was a member may claim the body for burial or cremation. This timeline is meant to give family members the first right to make arrangements for the deceased while allowing other interested parties to claim the body if the family does not.

Disposition of the Body

If no interested party or medical school claims the body, a person conducting the search (often the coroner) shall cause the unclaimed body to be buried, cremated, or donated within ten (10) days of death. If no interested party claims the unclaimed remains within five (5) days after cremation, the coroner may dispose of them. These time frames are meant to give family members the opportunity to claim the body of their loved one, while still giving coroners a definite time when they can begin the disposition process.

If cash was discovered on the body, the county may use that cash toward the disposition of the body.² If the decedent has an estate, the estate is responsible for reimbursing the county for disposition expenses.

Section 3

Use by Medical Schools

This section makes notifying a medical school of an unclaimed body optional instead of mandatory. This is meant to give coroners and other officials discretion to use medical schools only when it is practical. It also shortens the period for which a medical school must hold the body before using it from ninety (90) days to fifteen (15) days.³ This timeframe is meant to encourage medical schools to accept unclaimed bodies while still allowing interested parties time to claim the body before the medical school starts using it for educational purposes.

² See V.T.C.A., Health & Safety Code § 691.023 (Texas).

³ See Mo. Ann. Stat. § 194.150 (30 days).

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas As Engrossed: _____

91st General Assembly A Bill

Regular Session, 2019

HOUSE/SENATE

BILL _____

By: Representatives _____

By: Senators _____

For An Act To Be Entitled

AN ACT TO CLARIFY THE PROCEDURE FOR DISPOSITION OF UNCLAIMED BODIES IN THE STATE OF ARKANSAS; AND FOR OTHER PURPOSES

Subtitle

TO CLARIFY THE PROCEDURE FOR DISPOSITION OF UNCLAIMED BODIES IN THE STATE OF ARKANSAS

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code § 20-17-701, concerning the rights of coroners, justices of the peace, and courts, is amended to read as follows:

(a) As used in this subchapter, "medical school" means a medical school or school of osteopathic medicine in this state:

(1) Accredited by an accrediting agency recognized by the United States Department of Education; or

(2) Approved by the Arkansas Higher Education Coordinating Board to seek accreditation by an accrediting agency recognized by the United States Department of Education.

(b) "Unclaimed body" refers to a body where the next of kin:

(1) Cannot be located; or

(2) Does not exercise his or her right of disposition within (2) two days of notification of the death of the decedent or within (5) five days of the decedent's death, whichever is earlier;

(c) "Next of kin" means: spouse, parent, child, or sibling as provided by § 20-17-702.

(d) "Unclaimed remains" refers to the cremated remains of an unclaimed body.

~~(b)~~ (e) None of the provisions of this subchapter shall affect the right of a coroner or a justice of the peace to hold the dead body as described under § 20-17-703 for the purpose of investigating the cause of death, nor shall this subchapter affect the right of any court of competent jurisdiction from entering an order affecting the disposition of the body.

SECTION 2. Arkansas Code § 20-17-702, concerning the required search for next of kin for an unclaimed body, is amended to read as follows:

(a)(1) The person who assumes original and lawful possession, charge, or control of any body as described in this subchapter shall conduct a diligent search for relatives or next of kin of the deceased, or that person shall request the county sheriff or such other person as may be required by law to conduct the search. This search shall be completed within five (5) days of the decedent's death or the date of the request, whichever is later.

(2) The person conducting the search under subdivision (a)(1) of this section shall make every effort to find the spouse, if any, of the deceased.

(3) If the person conducting the search is not satisfied that the putative spouse is, in fact, a legal spouse, or it is determined that no spouse exists, then every effort shall be made to find the parents, children, and siblings, if any, of the deceased.

(b) If the identity of the deceased is not known, the investigation shall include, but not be limited to, the taking of fingerprints and sending the fingerprint records to the Federal Bureau of Investigation in Washington, D.C., for identification and filing.

(c) If the decedent is eighteen (18) years of age or older, the person conducting the search must conduct a diligent search with the Department of Veterans' Affairs and the United States Department of Veterans Affairs to determine whether the decedent was a veteran according to Arkansas Code § 20-17-1403.

(d) If no relative or next of kin claims the body, a friend, a representative of a fraternal society of which the deceased was a member, a veterans service organization as defined in the Missing in America Project Act, § 20-17-1401 et seq., the Department of Veterans Affairs, the United States Department of Veterans Affairs, or a representative of a charitable or religious group may claim the body for burial or cremation at his or her or its expense as stated in § 20-17-706(a)-(c).

(e) (1) If no interested party or medical school claims the body, a person conducting the search shall cause the unclaimed body to be buried, cremated, or donated within ten (10) days after the date of death.

(2) If no next of kin or other interested party claims the unclaimed remains within five (5) days after cremation, the coroner may dispose of the unclaimed remains in a manner permitted by law.

(3) If cash was discovered on the unclaimed body, the county may use that cash toward the disposition of the body.

(4) If the decedent has an estate, the estate shall be responsible for reimbursing the county for all reasonable expenses incurred in relation to the disposition of the remains of the deceased.

Section 3. Arkansas Code §§ 20-17-703 through 20-17-709, concerning the donation of unclaimed bodies to medical schools, is amended to read as follows:

§ 20-17-703. Notice to medical schools.

(a) Any person in charge of a prison, morgue, hospital, funeral parlor, or mortuary, any person who is a public officer, agent, or employee of the state, any county or municipality, and all persons coming into possession, charge, or control of any human body which is unclaimed for burial ~~shall~~ may notify a medical school that the body, if unclaimed, is available for use in the advancement or study of medical science.

(b) For the purpose of notifying a medical school of its availability, "unclaimed body" means a human body in the possession, charge, or control of the persons named in subsection (a) of this section for a period not to exceed forty-eight (48) hours, during which time a relative, next of kin, friend, representative of a fraternal society of which the deceased was a member, veterans service organization as defined in the Missing in America Project Act, § 20-17-1401 et seq., the Department of Veterans Affairs, the United States Department of Veterans Affairs, or a representative of a charitable or religious group may claim the body for burial purposes.

§ 20-17-704. Delivery to a medical school.

(a). Upon expiration of the forty-eight (48) hours as provided in § 20-17-703, if the dead human body has not been claimed for burial, the person then having possession, charge, or control shall surrender or deliver the body to a medical school, if so offered and requested by it.

§ 20-17-705. Wishes of deceased for disposition honored.

(a) An unclaimed dead human body shall not be surrendered under this subchapter to a medical school if there is proof that the deceased has during his or her last illness expressed his or her desire to be buried or otherwise interred.

(b) Any adult may by will or otherwise donate his or her body to a medical school under the Revised Arkansas Anatomical Gift Act, § 20-17-1201 et seq.

§ 20-17-706. Cost of embalming and transportation.

(a) If a medical school is offered an unclaimed body and determines that there is a need for the body, that the body is suitable for anatomical science or study, and that the body has not been embalmed, then the medical school, at its expense, shall immediately arrange for proper embalment of the body by a licensed embalmer, either with the person having possession, charge, or control thereof if the person is a licensed embalmer or licensed funeral director or with any other licensed embalmer or licensed funeral director.

(b) If the body has been embalmed prior to the claim of the medical school, as is customary, or the body is embalmed by its direction according to the provisions of this subchapter, the medical school shall pay twenty-five dollars (\$25.00) as a reimbursement of embalming expenses and shall assume costs for transportation of the body when shipment is at its direction.

(c) Should the body be embalmed prior to legal claim, any person or organization asserting legal claim to the body within forty-eight (48) hours after death as provided in this subchapter shall assume responsibility for at least twenty-five dollars (\$25.00) of the cost thereof, together with reasonable costs for transportation of the body which may have been incurred.

(d) If the deceased had provided for the use of his or her body for medical science under the Revised Arkansas Anatomical Gift Act, § 20-17-1201 et seq., and provided funds in his or her estate for burial, the medical school shall be free of all claims for the expenses as ordinarily provided under subsections (a)-(c) of this section.

§ 20-17-707. Holding period for the medical school.

(a) The medical school shall cause any body offered and accepted under this subchapter to be retained in a proper state of preservation for ~~ninety (90)~~ fifteen (15) days after the date the body is received by it.

(b) During this time a relative, next of kin, friend, a representative of a fraternal society of which the deceased was a member, a veterans service organization as defined in the Missing in America Project Act, § 20-17-1401 et seq., the Department of Veterans Affairs, the United States Department of Veterans Affairs, or a representative of a charitable or religious group may claim the body for burial or cremation at his or her or its expense as stated in § 20-17-706(a)-(c).

(c) If a claim is made, the medical school shall be reimbursed by the claimant for the embalming fee and transportation charges that have been incurred by it in favor of the body claimed.

(d) If the body is not claimed by any person or organization within ~~ninety (90)~~ fifteen (15) days from the date of arrival at the medical school, then all right, title, and interest in the body shall be deemed to vest in the state for the benefit of the medical school, and any living relative, next of kin, friend, or organization shall be deemed to have consented irrevocably to use of the body for the advancement or study of medical science.

{We can likely delete subsections 708 and 709 below outright from this proposed bill and leave as below, just keeping for informative purposes}

§ 20-17-708. Disposition after use.

(a) At any time when a body as described in this subchapter has been used and deemed of no further value to medical science or study, the medical school shall cause the body to be buried or otherwise disposed of according to law, or the remains may be claimed by a member of the family of the deceased for burial at his or her expense if the body had been willed to the medical school.

(b) If the body as described in § 20-17-703 is deemed unsuitable for anatomical study or research, the person having possession, charge, or control of the body shall be notified, and the body shall then be disposed of in accordance with existing laws, rules, and practices for disposing of unclaimed bodies.

§ 20-17-709. Records.

The medical school shall cause a complete record to be kept of all bodies received under this subchapter, and the record shall be open to inspection by any municipal, county, or state officer.

Coroner Training

Thirty states use coroners at some level, but only Kentucky, Mississippi, and Montana are like Arkansas in that they each have one state medical examiner and a coroner in every county. The coroner system is community-oriented, so it makes more sense for a rural state like Arkansas than a centralized statewide medical examiner system. There is a national push for statewide medical examiner systems, so it is crucial that Arkansas's system is validated and can hold up to outside scrutiny.

Training for coroners is the best way to qualify coroners' expertise. There is no education requirement for coroners in Arkansas, so they are elected from many career fields. Standardized training will not only ensure that coroners are using uniform practices where they are necessary, but it will protect the coroner system by proving the coroners' qualifications.

A coroner's short list of requirements, like age and residence, are listed in the Arkansas Constitution. No qualification for office can be imposed on elected officials outside of these constitutional requirements. The General Assembly recently passed laws that provide for training for coroners and deputy coroners through the Arkansas Commission on Law Enforcement Standards and Training, as well as a fund for continuing education.

The General Assembly also stipulated that a coroner or deputy coroner must be trained in order to participate in an inter-county mass fatality mutual aid agreement.

Most states require a coroner to attend 30-40 hours of initial training within a year of taking office, as well as continuing education each year. Eighteen of the twenty-three states that use non-physician coroners mandate training.

Arkansas' issue is that it constitutionally cannot mandate training for coroners. Because deputy coroners do not hold a constitutional office, they can be subject to qualifications through statutes. Therefore, the training under the Arkansas Commission on Law Enforcement Standards and Training can be mandated for deputy coroners.

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas As Engrossed: _____

91st General Assembly A Bill

Regular Session, 2019

HOUSE/SENATE BILL _____

By: Representatives _____

By: Senators _____

For An Act To Be Entitled

AN ACT TO AMEND THE LAW CONCERNING THE TRAINING OF A DEPUTY CORONER; AND FOR OTHER PURPOSES.

Subtitle

TO AMEND THE LAW CONCERNING THE TRAINING OF A DEPUTY CORONER

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code § 14-15-308, concerning the concerning the compensation of a certified county coroner, is amended to read as follows:

(d) Beginning January 1, 2020, a deputy coroner must obtain this certification [or national equivalent] within a year of starting employment.

_____ (1) A deputy coroner who is already employed as of January 1, 2020, must obtain this certification before January 1, 2021.

_____ (2) A deputy coroner who fails to become certified by the date specified [above] shall not:

_____ (A) sign death certificates, or

_____ (B) otherwise assist in a death investigation.

_____ (3) Within one year of hiring a deputy coroner, each coroner shall send to his or her county judge:

_____ (A) The name, address, and starting date of each deputy coroner, and

(B) The training certification of each deputy coroner.

(4) A deputy coroner who has not become certified regarding his or her training requirements by the date specified above shall be terminated from employment with the county unless and until he or she obtains certification of the required training.

**COUNTY CLERKS
PROPOSED LEGISLATION**

1 State of Arkansas
2 92nd General Assembly
3 Regular Session, 2019
4

A Bill

DRAFT MLD/MLD
HOUSE BILL

5 By: Representative <NA>
6

For An Act To Be Entitled

8 AN ACT TO CLARIFY PROVISIONS RELATED TO UNOPPOSED
9 SCHOOL BOARD CANDIDATES; TO CLARIFY THAT UNOPPOSED
10 SCHOOL BOARD CANDIDATES SHALL NOT APPEAR ON THE
11 BALLOT; AND FOR OTHER PURPOSES.
12
13

Subtitle

14 TO CLARIFY PROVISIONS RELATED TO
15 UNOPPOSED SCHOOL BOARD CANDIDATES; TO
16 CLARIFY THAT UNOPPOSED SCHOOL BOARD
17 CANDIDATES SHALL NOT APPEAR ON THE
18 BALLOT.
19
20
21

22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
23

24 SECTION 1. Arkansas Code § 6-13-630(a), concerning the names of school
25 board candidates that shall appear upon the ballot, is amended to add an
26 additional subdivision to read as follows:

27 (4) If a candidate for a school board position is unopposed, the
28 candidate's name shall not appear on the ballot.
29

30 SECTION 2. Arkansas Code § 7-5-207(a)(2)(A), concerning the unopposed
31 candidates' names not required to appear on the general election ballot, is
32 amended to read as follows:

33 (a)(2)(A) Except as provided in subdivision (a)(2)(B) of this section,
34 unopposed candidates for all offices, including school board positions, shall
35 be declared and certified elected without the necessity of including those
36 names on the general election ballot.

DRAFT

1 State of Arkansas
2 92nd General Assembly
3 Regular Session, 2019
4

A Bill

DRAFT MLD/MLD
HOUSE BILL

5 By: Representative <NA>
6

For An Act To Be Entitled

8 AN ACT TO AMEND CANDIDATE FILING AND PETITION
9 CIRCULATION PERIODS; AND FOR OTHER PURPOSES.
10

Subtitle

11
12 TO AMEND CANDIDATE FILING AND PETITION
13 CIRCULATION PERIODS.
14
15
16

17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
18

19 SECTION 1. Arkansas Code § 6-14-111(e)(1), concerning the circulation
20 period and filing of a petition for election to a school district board of
21 directors, is amended to read as follows:

22 (e)(1) The petition, affidavit of eligibility, and the candidate's
23 political practices pledge shall be filed with the county clerk as follows:

24 (A) During the party filing period as set forth in § 7-7-
25 203 for school elections held concurrently with a preferential primary
26 election or on the date that would be designated as the preferential primary
27 election date in odd-numbered years if a general election were held in the
28 odd-numbered year; or

29 (B) During a one-week period ending at 12:00 noon ~~ninety~~
30 ~~(90) days before the election for~~ on August 1 for school elections held ~~in~~
31 ~~odd years or concurrently with a general election~~ on the first Tuesday
32 following the first Monday in November.
33

34 SECTION 2. Arkansas Code § 6-14-111(f), concerning the circulation
35 period and filing of a petition for election to a school district board of
36 directors, is amended to read as follows:

DRAFT

1 (f)(1) Candidates may begin circulating petitions not earlier than
2 ~~thirty (30)~~ ninety (90) days before the filing deadline under subdivision
3 (e)(1) of this section.

4 (2) A signature dated more than ~~thirty (30)~~ ninety (90) days
5 before the filing deadline under subdivision (e)(1) of this section shall not
6 be counted by the county clerk as a valid signature.

7
8 SECTION 3. Arkansas Code § 6-14-111(h), concerning the circulation
9 period and filing of a petition for election to a school district board of
10 directors, is amended to read as follows:

11 (h)(1) The county board of election commissioners shall place on the
12 ballot as candidates for school district director the names of any qualified
13 registered voters whose political practices pledges and affidavits of
14 eligibility have been filed and whose petitions have been filed with and
15 verified by the county clerk of the county in which the school district is
16 domiciled for administrative purposes.

17 (2) The county board of election commissioners shall not place
18 the name of an unopposed candidate for school district director on the ballot
19 during a school board election held concurrently with the preferential
20 primary election or general election.

21
22 SECTION 4. Arkansas Code § 6-61-520(c)(2) and (3), concerning filing
23 for candidacy for a local board of a community college, are amended to read
24 as follows:

25 (2) Any person desiring to be a candidate for a position on the
26 local board shall, ~~not later than 12:00 noon of the seventieth day prior to~~
27 ~~the annual school election at which the position on the board is to be filled~~
28 ~~or the eighty first day before the general election at which the position on~~
29 ~~the board is to be filled~~ during the respective filing period set forth in §
30 6-14-111(e)(1), file a notarized statement of such candidacy with the county
31 clerk of each county of which any portion is in the community college
32 district, in substantially the following form:

33 "State of Arkansas

34 County of

35 I,, being first duly sworn, state that I reside at

36; that I am a resident and qualified elector of

1 community college district; that I am a candidate for the office of position
2 No..... on the local board of such community college, and I hereby request
3 that my name be placed on the ballot as a candidate for such position at the
4 coming general or annual school election.

5 (Signed)

6 Subscribed and sworn to before me this day of, 20

7 (Signed) _____

8 Notary Public”.

9 (3)(A) At the time of filing the statement of candidacy, the
10 candidate shall pay a ballot fee of three dollars (\$3.00) and shall file a
11 petition containing the signatures of at least twenty-five (25) qualified
12 electors of the district, requesting that the name of ~~such person~~ the
13 candidate be placed on the ballot as a candidate for the position on the
14 local board.

15 (B) Candidates may begin circulating petitions not earlier
16 than ninety (90) days before the filing deadline under subdivision (c)(2) of
17 this section.

18
19 SECTION 5. Arkansas Code § 7-5-205(3), concerning filing for write-in
20 candidacy, is amended to read as follows:

21 (3) The notice of write-in candidacy, the political
22 practices pledge, and the affidavit of eligibility are filed ~~no later than~~
23 ~~the last day of~~ during the party filing period; and

24
25 SECTION 6. Arkansas Code § 7-5-207(a)(2)(A), concerning the unopposed
26 candidates’ names not required to appear on the general election ballot, is
27 amended to read as follows:

28 (a)(2)(A) Except as provided in subdivision (a)(2)(B) of this section,
29 unopposed candidates for all offices, including school board positions, shall
30 be declared and certified elected without the necessity of including those
31 names on the general election ballot.

32
33 SECTION 7. Arkansas Code § 14-42-206(b)(1) and (2), concerning filing
34 for independent candidacy for municipal office in cities and towns with the
35 mayor-council form of government, are amended to read as follows:

36 (b)(1) Any person desiring to become an independent candidate for

1 municipal office in cities and towns with the mayor-council form of
2 government shall file ~~not more than one hundred two (102) days nor less than~~
3 ~~eighty one (81) days before the general election by 12:00 noon~~ during a one-
4 week period ending at 12:00 noon ninety (90) days before the general election
5 with the county clerk the petition of nomination in substantially the
6 following forms:

7 (A) For all candidates except council members in cities of
8 the first class and cities of the second class:

9 "PETITION OF NOMINATION

10 We, the undersigned qualified electors of the city (town) of _____, Arkansas,
11 being in number not less than ten (10) for incorporated towns and cities of
12 the second class, and not less than thirty (30) for cities of the first
13 class, do hereby petition that the name of _____ be placed on the ballot for
14 the office of _____ (A candidate for council member in an incorporated
15 town shall identify the position for which he or she is running) at the next
16 election of municipal officials in 20_____.

17 Printed Name:_____

18 Signature:_____

19 Street Address:_____

20 Date of Birth:_____

21 Date of Signing:_____".

22 (B) For candidates for council member elected by ward in
23 cities of the first class and cities of the second class, the nominating
24 petitions shall be signed only by qualified electors of the ward in the
25 following manner:

26 "PETITION OF NOMINATION

27 We, the undersigned qualified electors of Ward _____ of the city of _____,
28 Arkansas, being in number not less than ten (10) for cities of the second
29 class, and not less than thirty (30) for cities of the first class, do hereby
30 petition that the name of _____ be placed on the ballot for the office of
31 council member, Ward _____, position _____, of the next election of municipal
32 officials in 20_____.

33 Printed Name:_____

34 Signature:_____

35 Street Address:_____

36 Date of Birth:_____

1 Date of Signing:_____”.

2 (C) For at-large candidates for council member of a ward
 3 in cities of the first class and cities of the second class, the nominating
 4 petitions shall be signed by a qualified elector of the city in the following
 5 manner:

6 “PETITION OF NOMINATION

7 We, the undersigned qualified electors of the city of _____, Arkansas, being
 8 in number not less than ten (10) for cities of the second class, and not less
 9 than thirty (30) for cities of the first class, do hereby petition that the
 10 name of _____ be placed on the ballot for the office of council member, Ward
 11 _____, position _____, of the next election of municipal officials in 20
 12 _____.

13 Printed Name:_____

14 Signature:_____

15 Street Address:_____

16 Date of Birth:_____

17 Date of Signing:_____”.

18 (2)(A) An independent candidate for municipal office may qualify
 19 by a petition, to be circulated no longer than ninety (90) days of not fewer
 20 than ten (10) electors for incorporated towns and cities of the second class
 21 and not fewer than thirty (30) electors for cities of the first class of the
 22 ward or city in which the election is to be held.

23 (B)(i) The county clerk shall determine no later than ten
 24 (10) days from filing whether the petition contains the names of a sufficient
 25 number of qualified electors and certify that no signatures are dated more
 26 than ninety (90) days before the filing of the petition.

27 (ii) The county clerk’s determination shall be made
 28 no less than seventy-five (75) days before the general election.

29 (C) The county clerk promptly shall notify the candidate
 30 of the result.

31

32 SECTION 8. Arkansas Code § 14-116-303(a)(1) and (2), concerning the
 33 nomination by petition of directors of water district boards, are amended to
 34 read as follows:

35 (a)(1)(A) If a water district is composed of all or a portion of four
 36 (4) or more counties, then nominations for directors shall be upon ~~petitions~~

1 a petition signed by at least fifty (50) qualified electors residing in the
2 area of the district from which the director is to be elected, to be
3 circulated for no longer than ninety (90) days.

4 ~~(B) This petition~~ The petition under subdivision (a)(1)(A)
5 of this section shall be filed with the county clerk not later than 12:00
6 noon on July 1 before the general election during a one-week period ending at
7 12:00 noon ninety (90) days before the general election.

8 (2)(A) If a water district is composed of all or a portion of
9 less than four (4) counties, then nominations for directors shall be upon
10 ~~petitions~~ a petition signed by at least fifty (50) qualified electors, who
11 shall consist of those electors residing in all or part of any precinct in
12 the service area of the customers of the district from which the director is
13 to be elected.

14 ~~(B) This petition~~ The petition under subdivision (a)(2)(A)
15 of this section shall be circulated no longer than ninety (90) days and filed
16 with the county clerk not later than 12:00 noon on July 1 before the general
17 election during a one-week period ending at 12:00 noon ninety (90) days
18 before the general election.

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1 State of Arkansas
2 92nd General Assembly
3 Regular Session, 2019
4

A Bill

DRAFT MLD/MLD
HOUSE BILL

5 By: Representative <NA>
6

For An Act To Be Entitled

8 AN ACT TO AMEND THE ANNUAL SCHOOL ELECTION DATE
9 NOTIFICATION PROCESS; AND FOR OTHER PURPOSES.
10

Subtitle

11
12 TO AMEND THE ANNUAL SCHOOL ELECTION DATE
13 NOTIFICATION PROCESS.
14
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16
17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
18

19 SECTION 1. Arkansas Code § 6-14-102(a)(1)(B), concerning the
20 notification of the date on which the annual school election shall be held,
21 is amended to read as follows:

22 ~~(B) By the first day of the filing period for a candidate~~
23 ~~in a primary election, a school district shall notify the county clerk which~~
24 ~~election date under subdivisions (a)(1)(A)(i) and (ii) of this section it~~
25 ~~chooses to hold the annual school election.~~

26 (B)(i) A school district shall adopt a policy setting
27 forth which election under subdivision (a)(1)(A) of this section the school
28 district chooses to hold the annual school election.

29 (ii) At least one hundred (100) days prior to the
30 first day of the candidate filing period in a primary election, a school
31 district shall provide a copy of the policy under subdivision (a)(1)(B)(i) of
32 this section to:

33 (a) The county board of election commissioners
34 of the county in which the school district is domiciled for administrative
35 purposes; and

36 (b) The county clerk of each county within the

1 school district's boundaries.

2 (iii) If a school district fails to timely provide a
3 copy of its most current policy to the county board of election commissioners
4 and county clerks in accordance with subdivision (a)(1)(B)(ii) of this
5 section, the school district shall be required to hold the school district's
6 annual school election in accordance with the most recent policy the school
7 district provided to the county board of election commissioners and county
8 clerks.

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**COUNTY CIRCUIT CLERKS
PROPOSED LEGISLATION**

1 State of Arkansas
2 92nd General Assembly
3 Regular Session, 2019
4

A Bill

DRAFT BPG/BPG
HOUSE BILL

5 By: Representative C. Fite
6

For An Act To Be Entitled

8 AN ACT CONCERNING THE ASSESSMENT AND COLLECTION OF
9 COURT FINES AND COURT COSTS; AND FOR OTHER PURPOSES.

Subtitle

12 CONCERNING THE ASSESSMENT AND COLLECTION
13 OF COURT FINES AND COURT COSTS.
14

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16
17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
18

19 SECTION 1. Arkansas Code § 16-10-305(h), concerning court costs
20 designated for the Domestic Violence Shelter Fund, is amended to read as
21 follows:

22 (h)(1) An additional court cost of twenty-five dollars (\$25.00) shall
23 be assessed and remitted to the Administration of Justice Funds Section
24 within the Department of Finance and Administration by the court clerk or
25 designee under § 16-13-709(a) for deposit as special revenues into the
26 Domestic Violence Shelter Fund if a person is a convicted ~~perpetrator~~ of a
27 domestic abuse offense or is the respondent on a permanent order of
28 protection entered by a court under the Domestic Abuse Act of 1991, § 9-15-
29 101 et seq.

30 (2) When a convicted person is authorized to make installment
31 payments under § 16-13-704, the court cost assessed under subdivision (h)(1)
32 of this section shall be collected from the initial installment payment
33 first.

34 (3) The court clerk or designee under § 16-13-709(a) shall
35 disburse all court costs collected each month under subdivision (h)(1) of
36 this section to the Administration of Justice Funds Section by the fifteenth

1 working day of the following month.

2
3 SECTION 2. Arkansas Code § 16-13-701 is amended to read as follows:
4 16-13-701. Scope – Definition.

5 (a) The procedures established by this subchapter shall apply to the
6 assessment and collection of all ~~monetary~~ fines, however designated, imposed
7 by circuit courts and district courts for criminal convictions, traffic
8 convictions, civil violations, and juvenile delinquency adjudications and
9 shall be utilized to obtain prompt and full payment of all ~~such~~ fines.

10 (b) ~~For purposes of As used in~~ this subchapter, ~~the term~~ “fine” or
11 “fines” means all ~~monetary penalties imposed by the courts of this state,~~
12 ~~which include fines, court costs, restitution, probation fees, and public~~
13 ~~service work supervisory fees.~~ a monetary penalty imposed by a court,
14 including without limitation:

- 15 (1) A monetary fine;
- 16 (2) Court costs;
- 17 (3) Court-ordered restitution;
- 18 (4) Probation fees;
- 19 (5) Supervision fees;
- 20 (6) Public service supervisory fees; and
- 21 (7) Other court-ordered fees.

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1 State of Arkansas
2 92nd General Assembly
3 Regular Session, 2019
4

A Bill

DRAFT BPG/BPG
HOUSE BILL

5 By: Representative <NA>
6

For An Act To Be Entitled

8 AN ACT CONCERNING THE RECORDING AND INDEXING OF COURT
9 PROCEEDINGS; TO PERMIT THE ELECTRONIC AND INTERNET-
10 BASED INDEXING OF CERTAIN COURT DOCUMENTS; AND FOR
11 OTHER PURPOSES.
12
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Subtitle

14 CONCERNING THE RECORDING AND INDEXING OF
15 COURT PROCEEDINGS; AND TO PERMIT THE
16 ELECTRONIC AND INTERNET-BASED INDEXING OF
17 CERTAIN COURT DOCUMENTS.
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21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
22

23 SECTION 1. Arkansas Code § 16-20-304 is amended to read as follows:
24 16-20-304. Record and index of court proceedings.

25 ~~Every~~ (a) A clerk shall seasonably record the judgments, rules,
26 orders, and other proceedings of the courts of which he or she is the clerk
27 and shall make a complete alphabetical index ~~thereto~~ of the judgments, rules,
28 orders, and other proceedings of the court.

29 (b) A clerk may make only an electronic alphabetical index under
30 subsection (a) of this section if he or she is able to electronically scan
31 the judgments, rules, orders, or other proceedings of the court so that the
32 judgments, rules, orders, or other proceedings of the court are accessible on
33 an internet-based computer database searchable by name or case number.
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1 State of Arkansas
2 92nd General Assembly
3 Regular Session, 2019
4

A Bill

DRAFT DTP/DTP
HOUSE BILL

5 By: Representative L. Fite
6

For An Act To Be Entitled

8 AN ACT TO AMEND THE LAW CONCERNING THE FILING OF A
9 MECHANIC'S OR MATERIALMAN'S LIEN; AND FOR OTHER
10 PURPOSES.
11

Subtitle

12 TO AMEND THE LAW CONCERNING THE FILING OF
13 A MECHANIC'S OR MATERIALMAN'S LIEN.
14

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18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
19

20 SECTION 1. Arkansas Code § 18-44-117 is amended to read as follows:
21 18-44-117. Filing of lien.

22 (a)(1) ~~It shall be the duty of every~~ A person who wishes to avail
23 himself or herself of the provisions of this subchapter has a duty to file
24 with the clerk of the circuit court of the county in which the building,
25 erection, or other improvement to be charged with the lien is situated and
26 within one hundred twenty (120) days after the ~~thing~~ items specified in this
27 subchapter ~~shall~~ have been furnished or the work or labor done or performed:

28 (A) A just and true account of the demand due or owing to
29 him or her after allowing all credits; and

30 (B) An affidavit of notice attached to the lien account.

31 (2) The lien account shall contain a ~~correct~~ legal description
32 of the property to be charged with the lien, verified by affidavit.

33 (3) The affidavit of notice shall contain:

34 (A) A ~~sworn~~ notarized statement evidencing compliance with
35 the applicable notice provisions of §§ 18-44-114 – 18-44-116; ~~and~~

36 (B) A copy of each applicable notice given under §§ 18-44-

1 114 - 18-44-116; and

2 (C) A copy of the proof of service required under § 18-44-
 3 114.

4 (b)(1)(A) ~~It shall be the duty of the~~ The clerk of the circuit court
 5 has a duty to endorse upon every account the date of its filing and to make
 6 an abstract of the account in a book kept by him or her for that purpose,
 7 properly indexed.

8 (B) This abstract shall contain:

- 9 (i) The date of the filing;
- 10 (ii) The name of the person laying or imposing the
 11 lien;
- 12 (iii) The amount of the lien;
- 13 (iv) The name of the person against whose property
 14 the lien is filed; and

15 (v) A legal description of the property to be
 16 charged with the lien.

17 (2) For this service, ~~the clerk shall receive the sum of three~~
 18 ~~dollars (\$3.00) from the person laying or imposing the lien, which shall be~~
 19 ~~taxed and collected as other costs in case there is suit on the lien~~ the
 20 person laying or imposing the lien shall submit the fee required by § 21-6-
 21 306 to the clerk of the circuit court, and the fee shall be taxed and
 22 collected as other costs in case there is a suit on the lien.

23 (3) The clerk of the circuit court shall ~~refuse to~~ not file a
 24 lien account that does not contain the affidavits and attachments required by
 25 this section.

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**JUSTICES OF THE PEACE
PROPOSED LEGISLATION**

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas As Engrossed: _____

92nd General Assembly A Bill

Regular Session, 2019

HOUSE/SENATE BILL _____

By: Representatives _____

By: Senators _____

For An Act To Be Entitled

AN ACT TO CLARIFY THE LAW REGARDING
COMPENSATION OF ELECTED COUNTY AND TOWNSHIP OFFICERS

Subtitle

TO CLARIFY THE LAW REGARDING
COMPENSATION OF ELECTED COUNTY AND TOWNSHIP OFFICERS

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code § 14-14-1204(a), concerning the compensation of elected county officers, is amended to read as follows:

(a)(i) The quorum court of each county shall fix by ordinance the annual salaries of the following county officers within the minimums and maximums provided in this section:

- (1) The county judge;
- (2) The sheriff and ex officio collector of taxes;
- (3) The collector of taxes, where established by law;
- (4) The circuit clerk;
- (5) The county clerk, where established by law;
- (6) The assessor;
- (7) The treasurer;
- (8) The coroner; and

(9) The surveyor.

(ii) However, the minimum and maximum salaries provided in this subchapter shall exclude any county-provided insurance benefits or other county benefits required by federal or state law, rule or regulation.

SECTION 2. Arkansas Code § 14-14-1205(a), concerning the compensation of township officers, is amended to read as follows:

(a)(3) In addition to any other compensation expense reimbursement or expense allowances provided members of the quorum court, counties may provide medical insurance coverage and/or other insurance benefits for members of the quorum court.

**COUNTY SHERIFFS
PROPOSED LEGISLATION**

1 State of Arkansas
2 92nd General Assembly
3 Regular Session, 2019
4

A Bill

DRAFT BPG/BPG
SENATE BILL

5 By: Senator Caldwell
6

For An Act To Be Entitled

8 AN ACT CONCERNING THE JAIL BOOKING AND ADMINISTRATION
9 FEE; TO CREATE THE LAW ENFORCEMENT TRAINING FUND; TO
10 PROVIDE FOR THE FUNDING OF LAW ENFORCEMENT TRAINING
11 AND OTHER LAW ENFORCEMENT PURPOSES; AND FOR OTHER
12 PURPOSES.
13
14

Subtitle

15 CONCERNING THE JAIL BOOKING AND
16 ADMINISTRATION FEE; TO CREATE THE LAW
17 ENFORCEMENT TRAINING FUND; AND TO PROVIDE
18 FOR THE FUNDING OF LAW ENFORCEMENT
19 TRAINING AND OTHER LAW ENFORCEMENT
20 PURPOSES.
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24 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
25

26 SECTION 1. Arkansas Code § 12-41-105 is amended to read as follows:

27 12-41-105. Commissions from prisoner telephone ~~service profits and~~
28 services and profits from prisoner commissary services.

29 (a)(1) Commissions derived from prisoner telephone services and
30 profits earned from prisoner commissary services provided in the various
31 county and regional detention facilities in the state shall be deposited with
32 the county treasurer of the county in which the county or regional detention
33 facility is located, and the county treasurer shall credit the funds to the
34 county sheriff's office fund.

35 (2)(A) The county sheriff's office fund is an agency fund
36 defined by the County Financial Management System as a fund used to account

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1 for funds held by the county treasurer as an agent for a governmental unit
 2 until transferred by check or county court order to the county sheriff or
 3 other governmental unit for the intended uses of the funds.

4 (B) ~~The county sheriff's office fund and the transfer of~~
 5 ~~funds under subdivision (a)(2)(A) of this section are~~ The transfer of funds
 6 to the county sheriff or other governmental unit under this subsection is not
 7 subject to an appropriation by the quorum court or to the county claims
 8 process.

9 (3) Arkansas Legislative Audit shall review actions described in
 10 this subsection for substantial compliance with this section.

11 (b)(1) Of the commissions and profits deposited into the county
 12 sheriff's office fund in each county under subsection (a) of this section,
 13 one hundred percent (100%) shall be credited to the county sheriff's office
 14 communications facility and equipment fund under § 21-6-307.

15 (2) Each county sheriff's office shall allocate for the
 16 maintenance and operation of the county jail up to seventy-five percent (75%)
 17 of the commissions and profits deposited into the county sheriff's office
 18 communications facility and equipment fund.

19 (c) This section does not apply to funds derived from prisoner
 20 telephone services or prisoner commissary services provided in Department of
 21 Correction facilities or Department of Community Correction facilities or in
 22 municipally owned detention facilities or in county detention facilities in
 23 counties with a population of one hundred seventy-five thousand (175,000) or
 24 more according to the latest federal decennial census.

25
 26 SECTION 2. Arkansas Code § 12-41-505 is amended to read as follows:

27 12-41-505. Expenses and support.

28 (a)(1) Every person who ~~may be~~ is committed to the common jail of the
 29 county by lawful authority for any criminal offense or misdemeanor, if he or
 30 she ~~shall be~~ is convicted, shall pay the expenses in carrying him or her to
 31 jail and also for his or her support from the day of his or her initial
 32 incarceration for the whole time he or she remains there.

33 (2) The expenses which accrue shall be paid as directed in the
 34 act regulating criminal proceedings.

35 (b)(1) A person convicted of a felony or a Class A misdemeanor shall
 36 be assessed a booking and administration fee of ~~twenty dollars (\$20.00)~~ forty

1 dollars (\$40.00).

2 (2)(A) The booking and administration fee described in
3 subdivision (b)(1) of this section shall be assessed upon the conviction of a
4 defendant and included in the judgment of conviction entered by the court.

5 (B) If a court suspends imposition of sentence on a
6 defendant or places him or her on probation and does not enter a judgment of
7 conviction, the court shall impose the booking and administration fee as a
8 cost.

9 (3) The booking and administration fee assessed under
10 subdivision (b)(1) of this section shall be deposited into ~~a special fund~~
11 within the county treasury by the collecting officer to be credited and used
12 exclusively for in the following manner:

13 (A) Ten percent (10%) of each booking and administration
14 fee collected shall be deposited into or credited to the county sheriff's
15 office fund described in § 12-41-105 by the county treasurer, and then
16 transferred by check on a monthly basis using a uniform remittance form
17 provided by the Treasurer of State, to the Treasurer of State for the Law
18 Enforcement Training Fund; and

19 (B) The remaining funds shall be deposited into or
20 credited to a special revenue fund and used for the maintenance, operation,
21 and capital expenditures of a county jail or regional detention facility and
22 for certificate pay for law enforcement and jailer personnel.

23 (c) The property of the person shall be subject to the payment of the
24 expenses and the booking and administration fee.

25
26 SECTION 3. Arkansas Code § 19-6-301, concerning the enumeration of
27 special revenues, is amended to add an additional subdivision to read as
28 follows:

29 (263) Ten percent (10%) of each booking and administration fee
30 collected under § 12-41-505.

31
32 SECTION 4. Arkansas Code Title 19, Chapter 6, Subchapter 8, is amended
33 to add an additional section to read as follows:

34 19-6-840. Law Enforcement Training Fund.

35 (a) There is created on the books of the Treasurer of State, the
36 Auditor of State, and the Chief Fiscal Officer of the State a special revenue

1 fund to be known as the "Law Enforcement Training Fund".

2 (b) The fund shall consist of such revenues as may be collected under
3 § 12-41-505 or as otherwise authorized by law.

4 (c) The fund shall be used by the Arkansas Commission on Law
5 Enforcement Standards and Training to establish and conduct training for law
6 enforcement officers, personnel, jailers, 911 operators, or other persons
7 determined by the commission to qualify for the training.

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**COUNTY TREASURERS
PROPOSED LEGISLATION**

1 State of Arkansas
2 92nd General Assembly
3 Regular Session, 2019
4

A Bill

DRAFT KLC/KLC
HOUSE BILL

5 By: Representative Speaks
6

For An Act To Be Entitled

8 AN ACT TO AMEND THE LAW CONCERNING THE FINANCIAL
9 OPERATIONS OF A COUNTY; AND FOR OTHER PURPOSES.
10

Subtitle

11 TO AMEND THE LAW CONCERNING THE FINANCIAL
12 OPERATIONS OF A COUNTY.
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16
17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
18

19 SECTION 1. Arkansas Code § 14-15-805 is amended to read as follows:
20 14-15-805. Duties generally.

21 ~~(a)~~ It shall be the duty of each county treasurer to:

22 (1)(A) receive ~~Receive~~ and give receipt for all moneys payable
23 into the county treasury and to pay and disburse the moneys on warrants or
24 checks drawn by order of the county court.

25 (B) Any nonrevenue receipts as defined in § 21-6-302(f)(2)
26 shall be deposited into the same county fund from which the original
27 expenditure was made;

28 ~~(b)(2)(A) It shall be the duty of each county treasurer to refuse~~
29 Refuse payment of any warrant or check that would cause a deficit balance in
30 any "~~special revenue~~" special revenue account without an appropriated
31 transfer of general funds to cover the deficit, except as provided in this
32 section.

33 (B)(i) A grant account that operates as a reimbursable
34 grant fund may operate with a deficit balance if there is a county general
35 fund cash balance or an appropriate special revenue fund cash balance
36 sufficient to support the deficit.

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1 (ii) When the grant moneys are received by the
 2 county, the moneys shall be receipted to the proper grant fund by the county
 3 treasurer.

4 (iii) Any remaining deficit balance at the
 5 conclusion of the grant cycle shall be brought to a zero balance with an
 6 appropriated transfer of general funds or an appropriated transfer from the
 7 applicable special revenue fund; and

8 ~~(e)(3)(A) It shall be the duty of each county treasurer to maintain~~
 9 Maintain a positive "general fund balance" general fund balance.

10 (B) The general fund shall include county general and any
 11 other ledger account on the treasurer's books accruable to county general.

12 (C) The treasurer shall refuse payment of any warrant or
 13 check that would cause a deficit balance of the general fund in aggregate.

14
 15 SECTION 2. Arkansas Code § 14-20-105 is amended to read as follows:
 16 14-20-105. Monthly treasurer's report.

17 The county treasurer and the county comptroller shall submit each month
 18 to the county quorum court a full report and a detailed statement of the
 19 financial condition of the county, showing receipts, disbursements, and
 20 balance on hand.

21
 22 SECTION 3. Arkansas Code § 14-71-101(c), concerning county accounting
 23 methods, is amended to read as follows:

24 (c)(1) Obligations incurred by a county on or before the end of the
 25 fiscal year that are not issued an accounts payable claim until the following
 26 fiscal year shall be posted to the prior fiscal year appropriations journal
 27 when paid within the first two (2) months of the following fiscal year.

28 (2)(A) Revenues collected and owed to a county treasury before
 29 the end of the fiscal year and not remitted to the county treasury until the
 30 following fiscal year are accruable to the prior fiscal year when receipted
 31 by the county treasurer within the first two (2) months of the following
 32 fiscal year, except as provided in subdivision (c)(2)(C) of this section.

33 (B) Moneys received by the respective counties from
 34 the County Aid Fund are revenues of the year in which the moneys are received
 35 and are not revenues of the year in which the moneys were collected and paid
 36 into the State Treasury.

1 (C) Moneys received by the respective counties from the
 2 Treasurer of State representing county sales and use taxes are revenues of
 3 the year in which the moneys are received and are not revenues of the year in
 4 which the moneys were collected and paid into the State Treasury.

5
 6 SECTION 4. Arkansas Code § 19-8-107 is amended to read as follows:
 7 19-8-107. Depository agreements.

8 (a)(1) After the receipt from the Bank Commissioner of the list of
 9 banks or banking institutions and ~~recommended amounts of public funds each~~
 10 ~~may accept~~ eligible for public deposits, the depository boards shall:

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

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

18 (2) The depository boards may at any time enter into depository
 19 agreements with any new bank chartered if the bank is certified by the
 20 commissioner as being eligible as a depository of public funds under the laws
 21 of this state. ~~The certificate shall contain the recommended amount of public~~
 22 ~~funds the bank may accept.~~

23 (3)(A) All depository agreements and supplemental agreements
 24 required for creating an enforceable perfected security in collateral for
 25 deposits of public funds shall continue in full force until the bank or
 26 banking institution receives written notice of revocation by the depository
 27 board or until there is a change of membership on the depository board as
 28 prescribed in this subsection.

29 (B) Depository agreements and supplemental agreements
 30 required to create an enforceable perfected security in collateral for
 31 deposits shall be updated at the time a new treasurer takes office.

32 (C) Except as provided under subdivision (a)(3)(A) of this
 33 section, agreements required to be signed by all members of a depository
 34 board shall be changed at the time of membership change on the depository
 35 board.

36 (b)(1) The treasurers or other public officials or other persons

1 having custody of ~~these funds shall deposit them~~ public funds shall deposit
 2 those public funds into the designated depositories.

3 (2) The depositing of ~~these funds~~ public funds as required under
 4 subdivision (b)(1) of this section into the designated depositories shall
 5 relieve the public officer or other person and his or her sureties from any
 6 liability for the loss of the public funds by reason of the default or
 7 insolvency of any depository.

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

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

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

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

18 (2)(A) ~~The State Board of Finance~~ Treasurer of State shall make
 19 available upon request to any county or municipality ~~sample~~ fillable
 20 depository agreement forms designed for county and municipal governments and
 21 any necessary supplemental agreement forms required for collateralizing
 22 public funds.

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

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

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

34 (5) Public officials may require as a condition for placing
 35 deposits or keeping funds on deposit such financial data as they need to make
 36 an informed decision, including without limitation quarterly financial

1 statements, quarterly profit and loss statements, and tangible net worth or
2 capital-to-assets ratios.

3

4 SECTION 5. Arkansas Code § 21-6-302(b), concerning the commission of a
5 county treasurer, is amended to read as follows:

6 (b) Unless otherwise provided under subdivision (f)(1) of this section
7 or subsection (g) of this section or under § 6-13-701, § 6-17-908, § 6-20-
8 221, § 8-15-111, § 14-90-913, § 14-174-109, § 14-284-403, or § ~~19-5-1096~~ 19-
9 5-1207, the county treasurers shall collect, as a treasurer’s commission, two
10 percent (2%) on all funds coming into their hands as treasurers and to be
11 paid out of the respective funds.

12

13 SECTION 6. Arkansas Code § 26-37-102 is amended to read as follows:
14 26-37-102. Publication of notice – Fee.

15 (a) The county collector in each county shall, not less than thirty
16 (30) days nor more than forty (40) days prior to the certification of the
17 land, ~~cause to be published~~ publish in a newspaper of general circulation in
18 the county:

- 19 (1) A list of real property not previously redeemed;
- 20 (2) The names of the owners of record;
- 21 (3) The amount of the taxes, penalties, interest, and cost
22 necessary to be paid to redeem the property;
- 23 (4) The date upon which such period of redemption expires; and
- 24 (5) Notice that unless the property is redeemed prior to the
25 expiration of the period of redemption, the lands will be forfeited to the
26 state.

27 (b) Fees for the publication shall be the same as set forth in § ~~26-~~
28 ~~37-108 [repealed]~~ 26-37-107.

29

30 SECTION 7. Arkansas Code § 26-39-201(a)(1), concerning time for
31 payment, is amended to read as follows:

32 (a)(1) A county clerk, probate clerk, circuit clerk, county sheriff,
33 county collector, or any other county official shall pay over to the county
34 treasurer on the first of each month, or within ten (10) ~~working~~ days
35 thereafter, all funds in his or her possession belonging to the county or its
36 subdivisions that are by law required to be paid into the county treasury,

1 whether taxes, fines, or any moneys that are collected for any purpose by law
2 and belonging to the county.

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