

**ADMINISTRATIVE RULES SUBCOMMITTEE
OF THE
ARKANSAS LEGISLATIVE COUNCIL**

Wednesday, October 16, 2019

9:00 a.m.

Room A, MAC

Little Rock, Arkansas

- A. Call to Order.
- B. Reports of the Executive Subcommittee.
- C. Rules Filed Pursuant to Ark. Code Ann. § 10-3-309.
 - 1. ARKANSAS DEVELOPMENT FINANCE AUTHORITY (Mr. J. Benjamin Van Kleeft)
 - a. **SUBJECT: Amendment to the National Housing Trust Fund Operations Manual**

DESCRIPTION: This rule change is an amendment to the NHTF Operations Manual to include rental rehabilitation as an eligible activity for the NHTF Program. The NHTF Operations Manual outlines agency guidelines that govern the administration of the NHTF Program. These guidelines include the following content: Purposes of the NHTF; Fund Distribution; eligible Activities; Eligible Recipients; Development Subsidy Limits; Application Process; Fund Priorities; Application Scoring Criteria; Barriers to Addressing Needs of Eligible Low Income Populations; Regulatory Compliance; and Project Goals.

Per the agency, the purpose of this proposed rule is to broaden eligible activities and eligible beneficiaries of the NHTF Program. The amendment will allow ADFA to use these NHTF Funds for the rehabilitation of existing rental housing and to assist more extremely low-income Arkansans. This amendment is necessary to meet the needs of investing in Arkansas's aging housing stock and to address the lack of supply of affordable housing for all extremely low-income Arkansans.

PUBLIC COMMENT: A public hearing was held on August 14, 2019. The public comment period expired on August 7, 2019. Arkansas Development Finance Authority (ADFA) provided the following summary of the comments that it received and its responses thereto:

Adam Vaughan with Hughes Spelling Development

Mr. Vaughan believes that National Housing Trust Fund money should be directed towards preservation of existing affordable housing stock. He feels it is more economically feasible to rehabilitate an existing affordable community than to construct a new one. **RESPONSE:** ADFA agrees that preservation of existing affordable housing is important and therefore is broadening the scope of activities to include rehabilitation of affordable rental housing as an eligible activity.

Amanda Raible, President/CEO of PDC Real Estate Construction Management

Ms. Raible asks the following two questions:

(1) Reduce compliance period from 30-years to 20-years to match ADFA HOME program rules. **RESPONSE:** According to CFR Part 93.302, the affordability period is set at 30-years and is not negotiable. *(1) HTF assisted unites must meet the affordability requirements for not less than 30 years, beginning after project completion. The grantee may not impose longer periods.*

(2) Flatten per-unit amount in the extremely low unit calculation to \$151,000 for all unit types and tie this per-unit amount of ADFA's Low Income Housing Tax Credit, Total Development Cost cap to simplify calculation for both the LIHTC and NHTF programs.

RESPONSE: Per unit cost is reviewed and adjusted annually by ADFA.

Suba Desikan, an attorney with the Bureau of Legislative Research, asked the following questions and received the following answers thereto:

QUESTION 1: On page 3 of the markup, the words "solely for ELI Veterans and their families" has been struck, but not replaced. What population would the new rental housing be for? Would it be for the ELI population in Arkansas, as stated on page 1?

RESPONSE: Yes, it would be for the ELI population in Arkansas.

QUESTION 2: The last bullet of page 3 of the markup references “eligible persons?” Could you please point me to the provision (federal/state statute or rule), where this is defined? **RESPONSE:** “Eligible persons” are defined at 24 C.F.R. 93.302(a).

QUESTION 3: On your comment summary, in response to the comment by Mr. Vaughan, ADFA states that it is “broadening the scope of activities to include rehabilitation of affordable rental housing as an eligible activity.” Was the rule that was initially submitted modified in any way to accommodate this? If so, could you please provide me a revised markup of the rule and a clean copy for review? **RESPONSE:** The rule has not changed since submitted, but rehabilitation is an eligible activity.

The proposed effective date is pending legislative review and approval.

FINANCIAL IMPACT: The agency states that the proposed rules have no financial impact.

LEGAL AUTHORIZATION: The Arkansas Development Finance Authority (ADFA) was created by the Arkansas Development Finance Authority Act, codified as Ark. Code Ann. § 15-5-201 *et. seq.* Ark. Code Ann. § 15-5-207 enumerates the rights, powers, privileges and duties of ADFA. ADFA has authority to accept funds for and participate in federal and other governmental programs established for the purpose of the promotion and development of the provision of decent, safe, and sanitary housing, and to have and exercise all of the powers granted to the public housing authorities by the State. *See* Ark. Code Ann. §§ 15-5-207(a), and 15-5-207(b)(24-25). ADFA has the authority to make and issue such rules as may be necessary or convenient in order to carry out these purposes. *See* Ark. Code Ann. § 15-5-207(b)(5).

The federal Housing and Economic Recovery Act of 2008 (HERA) established the Housing Trust Fund (HTF), which complements existing federal, state and local efforts to increase and preserve the supply of decent, safe, and sanitary affordable housing for extremely low- and very low-income households, including homeless families. In 2015, HUD provided the guidelines for states to implement the Fund. As required by 24 CFR § 93.100, Arkansas notified HUD of its intent to become a grantee for the

funds and designated ADFAs as the agency to administer its Fund program. Rental rehabilitation is an eligible activity, for which HTF funds may be utilized, pursuant to 24 CFR § 93.200(a)(1).

2. **ARKANSAS DEPARTMENT OF EDUCATION, DIVISION OF ELEMENTARY AND SECONDARY EDUCATION (Ms. Courtney Salas-Ford)**

a. **SUBJECT: ADE-DESE Rules Governing the School District Educational Excellence Trust Fund**

DESCRIPTION: The proposed amendments to the Rules Governing the School District Educational Excellence Trust Fund incorporate changes to the process and procedures for calculating school district Educational Excellence Trust Fund (EETF) funds required by Act 170 of 2019. The calculation requires the total EETF funds available to be divided by the total foundation funding for all school districts and then multiplied by each district's foundation funding amount. The Trust Fund amount on the final State Aid Notice for the current school year must be expended in the form of salaries, social security, and retirement matching for current licensed personnel positions, beginning with the 2020-2021 school year.

PUBLIC COMMENT: These rules were reviewed and approved by the Executive Subcommittee at its meeting of July 18, 2019, for emergency promulgation. With respect to permanent promulgation, a public hearing was held on June 27, 2019. The public comment period expired on July 19, 2019. The Department of Education, Division of Elementary and Secondary Education, received no comments.

The proposed effective date is pending legislative review and approval.

FINANCIAL IMPACT: The agency states that the amended rules have no financial impact.

LEGAL AUTHORIZATION: The proposed revisions include those made in light of Act 170 of 2019, sponsored by Representative Bruce Cozart, which created the Teacher Salary Enhancement Act. Pursuant to Arkansas Code Annotated § 6-5-307(e), as amended by Act 170 of 2019, § 1, the Department of

Education may promulgate rules to administer the statute, concerning any increase in EETF funds allocated for teacher salaries.¹

b. **SUBJECT: ADE-DESE Rules Governing the Educator Compensation Reform Program**

DESCRIPTION: These proposed new rules govern implementation of the Educator Compensation Reform Program created by Act 877 of 2019 to provide funds to assist school districts currently below the statutory minimum teacher salary schedule in meeting the new required minimums established by Act 170 of 2019.

PUBLIC COMMENT: These rules were reviewed and approved by the Executive Subcommittee at its meeting of July 18, 2019, for emergency promulgation. With respect to permanent promulgation, a public hearing was held on June 27, 2019. The public comment period expired on July 19, 2019. The Department of Education, Division of Elementary and Secondary Education, provided the following summary of the comments that it received and its responses thereto:

Name: Lee Smith, Superintendent, Horatio Public Schools
Comment: Required Master’s Scale increases are not included in calculation for Program funds. More than 50% of the staff at Horatio have Master’s Degrees and with benefits included, our total cost will be \$368,625. Information provided in the spreadsheet indicates the district will be entitled to receive \$237,614.

Agency Response: Act 877 of 2019 appropriated \$60,000,000 for the Educator Compensation Reform Program to be utilized over a four-year period “to assist school districts in ensuring that all educators in Arkansas public school districts receive a minimum annual salary of \$36,000 by July 1, 2023.” To meet the intent of the law, a formula was developed to determine the amount needed by each district to meet the \$36,000 minimum. The law does not prohibit the use of Program funds to pay salaries of teachers that have a Master’s degree or are above the required minimum, nor does the law specify that that information can be used in calculating the amount of Program funds a district is entitled to receive. No changes made.

¹ Act 170 contained an emergency clause and became effective July 1, 2019. See Act 170, § 3.

Name: Mike Mertens, Assistant Executive Director, AAEA

Comment: According to the proposed rules (3.01), this fund is established to assist with the cost of increasing teacher salaries as required by ACA 6-17-2403. However, the proposed calculation (5.00) only takes into consideration the minimum salary for a teacher with a Bachelor's degree. ACA 6-17-2403 also requires additional increases to the minimum salary for a teacher with a Master's degree. This discrepancy is a concern for districts above the minimum on the Bachelor's column but not above the minimum on the Master's column. Districts who meet the minimum salary for the Bachelor's level but who do not meet the new minimum salary for the Master's level receive zero (0) dollars to meet the new mandate. The funding they receive is based only on how far below the new minimum salary they are on the Bachelor's level.

Recommendation: Add an additional step in the calculation that accounts for mandated salary schedule changes that affects the Master's level in addition to the Bachelor's level.

Agency Response: Act 877 of 2019 appropriated \$60,000,000 for the Educator Compensation Reform Program to be utilized over a four-year period "to assist school districts in ensuring that all educators in Arkansas public school districts receive a minimum annual salary of \$36,000 by July 1, 2023." To meet the intent of the law, a formula was developed to determine the amount needed by each district to meet the \$36,000 minimum. The law does not prohibit the use of Program funds to pay salaries of teachers that have a Master's degree or are above the required minimum, nor does the law specify that that information can be used in calculating the amount of Program funds a district is entitled to receive. No changes made.

Name: Tracy Tucker, Superintendent, Hermitage School District

Comment: Thank you for the opportunity to share thoughts on the rules that ADE has developed in response to the Educator Compensation Reform Program. I doubt that you will find a person in the state that would argue that the minimum salary adjustments were not warranted. I fully support the increases. As the Superintendent of one of the smaller districts in our state, I do have a few concerns that I want to share in response to these Rules.

(1) The sheet used to calculate the amount of money that districts will receive is not a true representation of the cost. The funding is only based on the amounts from the BSE scale and does not include the mandated increases on the MSE scale if the BSE scale has been met. All mandated increases should be part of the calculations.

(2) Funding will be prorated if there is a shortfall of funds??? There can't help but be a shortfall of funds because the calculation sheet doesn't compound the costs to the districts. If we can't prorate what we pay our teachers, then the state should not be able to prorate the funding of this mandate.

(3) Minimum wage increases should be included in calculations for adequate funding.

(4) While looking at the numbers for my district, the certified personnel expenditures to meet this law will be approximately \$490,000 *more* than the compensation we will receive from the state. [Emphasis in original.] This is unacceptable.

I will stop here with my comments. Let me be clear – I fully support the mandated increases to the minimum salary schedule, but the ‘passing of the buck’ to fund this to the point that it becomes a financial burden to the districts and furthers the divides in our state, mostly seen below and above Interstate 40, is simply not acceptable.

Agency Response: Act 877 of 2019 appropriated \$60,000,000 for the Educator Compensation Reform Program to be utilized over a four-year period “to assist school districts in ensuring that all educators in Arkansas public school districts receive a minimum annual salary of \$36,000 by July 1, 2023.” To meet the intent of the law, a formula was developed to determine the amount needed by each district to meet the \$36,000 minimum. The law does not prohibit the use of Program funds to pay salaries of teachers that have a Master’s degree or are above the required minimum, nor does the law specify that that information can be used in calculating the amount of Program funds a district is entitled to receive. Program funds were not intended to be used by districts to meet new minimum wage requirements or be a perpetual funding source for teacher salaries. Additionally, an increase of 2% was added to the Teacher Salaries and Benefits line of the foundation funding matrix, resulting in an overall increase of 1.74% to the foundation funding provided to districts. No changes made.

Name: Leslie Huitt, Business Manager, Hermitage School District

Comment: I would like to say that salary increases for teachers is a good thing and is necessary to attract more teachers. Although it's necessary, it also presents some serious implications to school districts, especially the smaller districts.

The money that has been set aside isn't nearly enough to handle the four-year cost of the mandated increases. The formula that is being used to generate the amounts that districts will need to meet the cost of the increase is flawed in that it doesn't take compounding into consideration, it only takes the bachelor's degree scale into consideration, and there is no direction beyond the first four years. To add to the problem, there have been no increases in funding to offset the costs associated with minimum wage increases.

This is a very scary time for small school districts. We work so hard to provide a quality education for our children. We are excelling in so many areas and have fought so hard for so long to keep our school open and make it a source of pride for our community. I thoroughly believe that the implications of the salary increases could put our district in financial jeopardy. I think it will affect a lot more schools than just schools our size.

While salary increases are a good thing, they need to be properly funded.

Agency Response: Act 877 of 2019 appropriated \$60,000,000 for the Educator Compensation Reform Program to be utilized over a four-year period "to assist school districts in ensuring that all educators in Arkansas public school districts receive a minimum annual salary of \$36,000 by July 1, 2023." Program funds were not intended to be used by districts to meet new minimum wage requirements or be a perpetual funding source for teacher salaries. Districts should also consider the continuing increases in foundation funding to address teacher salaries. No changes made.

Rebecca Miller-Rice, an attorney with the Bureau of Legislative Research, asked the following question:

I was just looking over the above-referenced rules filed for permanent promulgation, and I was wondering about Section 2.00, *Authority*. Was there a reason that Act 877 of 2019, § 31 was not

cited? I know that it was in the version proposed for emergency promulgation. **RESPONSE:** Correction made.

The proposed effective date is pending legislative review and approval.

FINANCIAL IMPACT: The agency states that the proposed rules have no financial impact.

LEGAL AUTHORIZATION: The proposed rules implement Act 877 of 2019, which made an appropriation for grants and aid to local school districts and special programs for the Department of Education – Public School Fund for the fiscal year ending June 30, 2020, specifically, § 31. Act 877 of 2019, § 31, in special language, directs the Arkansas State Treasurer to transfer \$60,000,000 from the Educational Adequacy Fund to the Public School Fund to be used solely for the implementation of the Educator Compensation Reform Program. These funds are to be utilized over a four-year period, beginning July 1, 2019, to assist school districts in ensuring that all educators in Arkansas public school districts receive a minimum annual salary of \$36,000 by July 1, 2023. *See also* Act 170 of 2019, § 2 (amending the minimum teacher compensation schedule in Arkansas Code Annotated § 6-17-2403(b)). Pursuant to Act 877, § 31, the Department shall promulgate rules to administer the section.²

3. **STATE BOARD OF ELECTION COMMISSIONERS (Mr. Chris Madison)**

a. **SUBJECT: Rules for Nonpartisan Office Filing Fees**

DESCRIPTION: The State Board of Election Commissioners met on June 26, 2019 and approved changes to the “Rules for Nonpartisan Office Filing Fees.” This change to the rule governing nonpartisan filing fees is designed to ensure the filing fee for nonpartisan offices is known several months before the filing period opens. Currently, the rule requires that filing fees be calculated based upon the salary of the position sought at the time of filing. The proposed rule change will base the filing fee on the salary of that position as of the last day of the fiscal year preceding the fiscal year in which the filing period is held. This will allow

² Act 877 and Act 170 contain emergency clauses and became effective on July 1, 2019. *See* Act 877, § 35; Act 170, § 3.

the fee to be known by the candidates and will allow the fee to be published in the SBEC's statutorily mandated *Running for Public Office Handbook*.

This amendment also makes two additional changes to this rule. The first is a requirement that the calculated filing fee be rounded up to the nearest ten dollars. This creates additional clarity regarding how to make the calculations required by this rule and prevents filing fees that include fractions of a dollar. The second is a requirement that the SBEC convert the fees into dollar amounts and publish those amounts in the *Running for Public Office Handbook*. This is the current practice of the SBEC, but placing the requirement in rule will ensure any citizens or candidates reading the rule will know where they can look to find the fees expressed in dollar amounts.

PUBLIC COMMENT: No public hearing was held in this matter. The public comment period expired on September 3, 2019. The State Board of Election Commissioners ("Board") received no comments.

Suba Desikan, an attorney with the Bureau of Legislative Research, asked the following question and received the following answer thereto:

QUESTION: Are you aware of any other general or specific rulemaking authority granted to the State Board of Election Commissioners that is pertinent to this rule, other than Ark. Code Ann. § 7-10-103(b)(1)? If so, would you please provide the citation? **RESPONSE:** Ark. Code Ann. § 7-10-103(b)(1) is specific to this particular rule and grants authority for the fee amount. Generally, the SBEC is granted authority for general rule making for other specific purposes under Ark. Code Ann. § 7-4-101(f). One of the responsibilities of the SBEC is publication of the "Running for Public Office – A 'Plain English' Handbook for Candidates" that includes the dollar amounts required to file for judicial office by paying a filing fee rather than by petition.

The proposed effective date for the rule is pending legislative review and approval.

FINANCIAL IMPACT: The agency indicated that there was no financial impact.

LEGAL AUTHORIZATION: The Board has general authority to “formulate, adopt, and promulgate all necessary rules to assure even and consistent application of voter registration laws and fair and orderly election procedures.” *See* Ark. Code Ann. § 7-4-101(f)(5). Additionally, the board has specific authority to “establish reasonable filing fees for nonpartisan offices.” *See* Ark. Code Ann. § 7-10-103(b)(1). Finally, the Board is also granted specific authority to “publish a candidate’s election handbook, in conjunction with the office of the Secretary of State and the Arkansas Ethics Commission, which outlines in a readable and understandable format the legal obligations of a candidate and any other suggestions that might be helpful to a candidate in complying with state election law.” *See* Ark. Code Ann. § 7-4-101(f)(1).

4. **DEPARTMENT OF LABOR AND LICENSING, ARKANSAS REAL ESTATE COMMISSION (Mr. Gary Isom, Ms. Andrea Alford)**

- a. **SUBJECT: Expansion of Allowable Education Delivery Methods; 4.1 & 16.1 Applications; Education; Experience; 11.5 Post-License Education Requirements; 16.3 Course Approval Requirements**

DESCRIPTION: The agency’s stated purpose of this rule is to remove restrictions that allow certain types of real estate education to be offered by classroom education only and subsequently allow those courses to be delivered by distance education (i.e. online courses). Amendments apply to the 18-hour real estate salesperson post-license course, the 60-hour broker pre-license course and the 30-hour broker post-license course.

PUBLIC COMMENT: A public hearing was held on September 9, 2019. The public comment period expired on September 9, 2019 as well.

The Arkansas Real Estate Commission of the Arkansas Department of Labor and Licensing (“Commission”) provided the following summary of the comments that it received and its responses thereto:

Arkansas REALTORS® Association

Prior to the Public Hearing, the AREC received two written comments expressing support for the Amendment from officers of the Arkansas REALTORS® Association.

Response: The AREC accordingly expressed gratitude to the Arkansas REALTORS® Association for this support.

There were no comments against the Amendment prior to or during the Public Hearing.

In addition, Suba Desikan, an attorney with the Bureau of Legislative Research asked the following question and received the following response:

QUESTION: Could you please confirm that none of the proposed changes exceeds the maximum number of pre-and post-licensure education hours that may be required under Ark. Code Ann. § 17-42-303? **RESPONSE:** This rule amendment does not change or affect the number of hours required for licensure. The current amounts are within the statutory parameters.

The proposed effective date per the Commission is “the latter of January 1, 2020 or ten days after filing with the Secretary of State.”

FINANCIAL IMPACT: The Commission indicated that there is no financial impact, but offered the following explanation: While no school will be required to offer the courses on-line or by distance education, if an instructor/administrator chooses to do so there would likely be costs associated with offering those courses. Those costs would vary. However, that will be a voluntary business decision and each instructor/administrator would be offering courses in anticipation that increased revenue would offset any associated costs. Consequently, this amendment actually provides an additional revenue stream for the schools.

LEGAL AUTHORIZATION: Pursuant to Ark. Code Ann. § 17-42-203(a), “the Arkansas Real Estate commission may do all things necessary and convenient for carrying into effect the provisions of this chapter and may from time to time promulgate necessary or desirable rules.” Furthermore, Ark. Code Ann. § 17-42-303(a) mandates that the Arkansas Real Estate Commission “establish education requirements for licensure, including the standards and procedures for approval of education programs.” See Ark. Code Ann. §§ 17-42-203(a) and 17-42-303(a).

5. **COMMISSION ON LAW ENFORCEMENT STANDARDS AND TRAINING** (Ms. Jami Cook, Mr. Brad King, Ms. Amanda Yarbrough)

a. **SUBJECT: CLEST Rules**

DESCRIPTION: CLEST’s proposed legislation passed the General Assembly as Act 151 of 2019. The changes to state law through Act 151 are addressed throughout the proposed rule changes. Other changes made to state law as a result of the 2019 session of the General Assembly are addressed in the proposed rule changes. The specific rule change proposals are as follows:

At 315 of 2019 required that all agencies discontinue the use of the word “Regulation” (and Specifications) and refer to all agency rules as “rules.” Accordingly, Specifications S-1 through S-22 have been merged into their corresponding Regulations and will be repealed. All “Regulations” have been re-named as “Rules” and any reference to “regulations” in the rules has been removed and/or changed.

Act 910 of 2019 (the “Transformation Bill”) created the “Division on Law Enforcement Standards and Training.” Throughout the rule changes, changes are made to clarify the responsibilities of the Commission and the Division.

Regulation 1001

Act 151 of 2019 - Change the definition of “Full-Time Law Enforcement Officer” to someone that works more than twenty-four hours per week.

- Act 151 of 2019 – Change the definition of “Part-Time Law Enforcement Officer II” to a part-time law enforcement officer that works twenty-four hours per week or less.
- Remove definition for “Specification.”

Regulation 1002

- Act 151 of 2019 - Allows for required information to be reported to Standards “in a manner adopted by the Commission.”
- Increase law enforcement training hour requirements from 16 hours per year to 24 hours per year.
- Incorporates the language previously found in Specifications S-1, S-2, S-3, S-4, S-5, S-6, and S-7.

- Allows for the submission of a department of defense notice of separation (DD-214) for verification of place and/or date of birth if such information is included on the form.
- Creates a provision allowing a person who is twenty (20) years old to be appointed at a law enforcement agency for the purposes of attending the basic training academy. Prohibits the person from performing law enforcement functions until they reach the age of twenty-one (21).
- Allows for the submission of a transcript from an accredited higher education institution as substitution for a high school diploma or GED.

Regulation 1004

- Incorporates the language previously found in Specification S-8.

Regulation 1005

- Act 151 of 2019 - Changes related to new definition of Full-Time and Part-Time law enforcement officers.
- Incorporates the language previously found in Specifications S-9 and S-13.

Regulation 1007

- Repealed. Replaced with language from former Regulation 1009.
- Act 151 of 2019 allowed for required information to be reported to the Division on Law Enforcement Standards and Training “in a manner adopted by the Commission.”

Regulation 1008

- Act 820 of 2019 required agencies to provide “expedited” licensure to certain members of the military and their spouses. The person must hold a “substantially similar license in another state.” Failure to promulgate rules related to the covered individuals will result in automatic licensure for the covered individual.
- All rules related to the Veteran’s to Law Enforcement Program have been incorporated into this new reciprocity rule.

Regulation 1009

- Former Regulation 1009 has been moved to Regulation 1007.
- Regulation 1009 has been replaced with language from former Specification S-15.
- Act 151 of 2019 - Allows for required information to be reported to Standards “in a manner adopted by the Commission.”
- Replaces “unit” with “credit hour.”

- Increases the education points, training points, and/or training hours to obtain a Basic, General, Intermediate, Advanced, and Senior certificate.
- Act 151 of 2019 - Changes related to new definition of Full-Time and Part-Time law enforcement officers.
- Act 151 of 2019 - Change clarifying that the Commission has the power to revoke certification, eligibility for certification, and ability to act as a law enforcement officer.
- Changes the optional “Chief of Police” certificates to “department heads” to include eligibility for Sheriffs and other department heads.

Regulation 1010

- Act 151 of 2019 - Changes related to new definition of Full-Time and Part-Time law enforcement officers.

Regulation 1011

- Removing reference to “110 hour Auxiliary/Part-time II training course.”

Regulation 1012

- Act 151 of 2019 - Changes related to new definition of Full-Time and Part-Time law enforcement officers.

Regulation 1013

- Clarifies the duties of a specialized law enforcement officer.
- Adds a provision that specialized police personnel may assist local law enforcement during emergency situations but shall not enforce the traffic laws of the State.
- Incorporates language previously found in Specification S-20.
- Requires the Commission to issue a certificate for specialized police personnel.

Regulation 1014

- Change adds a certificate for “specialized field training officers” and outlines the requirements to obtain a specialized field training officer certificate.
- Incorporates language previously found in Specification S-19.
- Change is being made to comply with state law specifying that an officer’s certification will expire if separated from law enforcement for more than three years.

Regulation 1015

- Act 151 of 2019 - Change requires CLEST to issue a police traffic radar operator certificate.
- Incorporates language previously found in Specification S-17.

Regulation 1016

- Incorporates language previously found in Specification S-16.

Regulation 1017

- Incorporates language previously found in Specification S-18.

Regulation 1018

- Change allows the Division to approve curriculum instead of the Commission.

Regulation 1019

- Act 151 of 2019 - Allow for required information to be reported to Standards “in a manner adopted by the Commission.”

Regulation 1020

- Incorporates language previously found in Specification S-21.

Regulation 1024

- Change inserts a term defined by Rule 1001.

Regulation 1025

- Change cleans up the language related to a retired officer’s right to carry a weapon pursuant to federal law.

Regulation 1026

- Specifies that the state standard for qualification for a handgun is the CLEST-approved course of fire and requires successful completion of a CLEST-approved firearms qualification course for handguns and any type of firearm available in the course of duty.

Regulation 1027

- Change specifies the minimum standards, not including firearms qualification, for civil traffic wardens.

Regulation 1028

- All rules related to canines are being merged into this Regulation.
- Canine “Certifying” Officials are being changed to Canine “Qualifying” Officials for clarity.

Regulation 1029 (Canine)

- Repealed

Regulation 1030 (Canine)

- Repealed

Regulation 1031 (Canine)

- Repealed

Regulation 1032

- Typo change

Regulation 1033

- Incorporates language previously found in Specification S-22.

Regulation 1034

- Act 151 of 2019 - Change clarifies that the Commission has the power to revoke certification, eligibility for certification, and ability to act as a law enforcement officer.

Specification S-1

- Repealed

Specification S-2

- Repealed

Specification S-3

- Repealed

Specification S-4

- Repealed

Specification S-5

- Repealed

Specification S-6

- Repealed

Specification S-7

- Repealed

Specification S-8

- Repealed

Specification S-9

- Repealed

Specification S-10

- Repealed

Specification S-11

- Repealed

Specification S-12

- Repealed

Specification S-13

- Repealed

Specification S-14

- Repealed

Specification S-15

- Repealed

Specification S-16

- Repealed

Specification S-17

- Repealed

Specification S-18

- Repealed

Specification S-19

- Repealed

Specification S-20

- Repealed

Specification S-21

- Repealed

Specification S-22

- Repealed

PUBLIC COMMENT: A public hearing was not held in this matter. The public comment period expired on August 20, 2019. The Commission reported that no public comments were received.

Suba Desikan, an attorney with the Bureau of Legislative Research, asked the following question and received the following answer thereto:

QUESTION: For any CLEST certification/training, have the number of required hours changed? If so, what was added or removed from the curriculum to cause that change? **RESPONSE:** The requirements to obtain an advanced, non-mandatory, certificate (General, Intermediate, Advanced, and Senior) went up 200 training hours. The hours were increased to reflect the increase in training hours for the basic training academy. When the training hours were originally set for the advanced certificates, the basic academy consisted of 320 hours of training. Today, the basic academy consists of 520 hours of training. Also, we are increasing the annual continuing education requirements. CLEST now offers hours of free law enforcement training online, so the difficulty in obtaining quality continuing education is no longer a burden on agencies and/or their officers.

The proposed effective date is January 1, 2020.

FINANCIAL IMPACT: The agency indicated that there was no financial impact.

LEGAL AUTHORIZATION: The agency cited Ark. Code Ann. §§ 12-9-104, 12-9-110, 12-9-302, 12-9-402, 12-9-602, 12-9-603, as well as 12-9-101 *et seq.* generally. In addition, revisions are being made to come into compliance with Acts 151, 315 and 910 of 2019. These rules implement Act 151 of 2019, sponsored by Representative Dwight Tosh, which made changes to CLEST standards and training requirements; Act 315 of 2019, sponsored by Representative Jim Dotson, which eliminated unnecessary references to regulations and provided for consistent references to rules throughout the Arkansas Code; and Act 910, sponsored by Representative Andy Davis, which established cabinet-level Departments of the Executive Branch and transformed the Executive Branch.

CLEST was created pursuant to Ark. Code Ann. § 12-9-103. The duties and responsibilities of the Commission are defined in Ark.

Code Ann. § 12-9-104, wherein the Commission is granted authority to establish minimum selection and training standards for admission to employment as a law enforcement officer or a private college or university law enforcement officer, approve institutions and facilities to be used for the specific purpose of training law enforcement officers and recruits, adopt rules and minimum standards for such schools including curriculums for probationary police officers and certified police officers refresher and in-service training, and promulgate rules for the administration of the subchapter. *See* Ark. Code Ann. § 12-9-104.

Further specific rulemaking authority is found as follows:

Ark. Code Ann. § 12-9-110 (Rule-making authority to establish qualifications including minimum training standards for persons issuing citations for parking violations and traffic accident reports)

Ark. Code Ann. § 12-9-302 (Rule-making authority to establish minimum selection, training, and curriculum standards for auxiliary law enforcement officers and standards for training facilities)

Ark. Code Ann. § 12-9-402 (Rule-making authority to establish minimum selection, training, and curriculum standards for police traffic radar operators and police traffic radar instructors and training facilities)

Ark. Code Ann. §§ 12-9-602 and 12-9-603 (Rule-making authority on rules governing notice of employment, appointment or separation and subsequent certification review)

6. STATE AID STREET COMMITTEE (Mr. Steve Napper)

a. SUBJECT: Amendments to the Rules of Procedure

DESCRIPTION: The State Aid Street Committee, in conjunction with the State Aid Division of the Arkansas Department of Transportation, has statutory authority over the awarding of street projects to municipalities from the State Aid Street Fund. The Committee has adopted a draft of Amendments to their current Rules of Procedure. The substantive Amendments to the Rules of Procedure increase the available funding for overlay projects from \$250,000 to \$300,000; cap engineering costs for design projects; eliminate the current priority for first time projects; allow the Chairman to concur in the award of construction contracts; and provide a procedure for the suspension of certain rules in the event of an emergency.

PUBLIC COMMENT: A public hearing was not held on this rule. The public comment period expired on August 15, 2019. The Committee reported that it had received no public comments and submitted a revised copy of the markup, changing the words “legislative counsel” to “legislative council.”

Suba Desikan, an attorney with the Bureau of Legislative Research, asked the following questions and received the following responses:

QUESTION #1: In Section IV (G), which addresses the State Aid Street Committee’s (“Committee”) decision to adopt a rule, there is no mention of legislative review prior to adoption by the Committee. Pursuant to Ark. Code Ann. § 25-15-204(f), “an agency shall not file a final rule with the Secretary of State for adoption unless the final rule has been approved under § 10-3-309.” Hence, “adoption” appears to be a term of art with a specific meaning and timing under the Administrative Procedure Act. Is the Committee comfortable with using the language “decide whether to **adopt** a rule” in Section IV (G) in light of Ark. Code Ann. § 25-15-204(f)? **QUESTION #2:** In Section IV (M), adoption is once again anticipated prior to legislative approval. Is the Committee comfortable with this language? **RESPONSES:** Concerning your questions, I am comfortable with the language as it comes from the rules proscribed by the AG’s office when those rules were adopted. Certainly IV (M) notes the role to be played by legislature and of course the Committee intends to comply with the laws with regard to the legislature’s role as it currently exists or as it might exist in the future.

QUESTION #2: In Section VII(A)(4), the words “concur” and “concurrence” are used. After reading the section, it is unclear to me what “concur” means in this context. I.e. – what is the effect of a concurrence or lack thereof? What does it mean if the Chairman “concur” or refuses to concur? Is concur a term of art? Could you please clarify? **RESPONSE:** The State Aid Division has requested that the Committee approve the various bids submitted with regard to municipal projects let by ArDot. This is after the committee has already approved the project for bid and approved an estimated amount of the expected bid. Because of the FOI laws this approval (or concurrence) requires a special meeting that takes about 30 seconds. The change in the rule is designed to grant approval authority to the chairman to avoid the need of a special

meeting. If for some reason the Chairman could not or would not concur with a certain bid, then the Committee would meet to take up the matter.

QUESTION #3: Please explain the relationship between the State Aid Street Committee and the Municipal League. **RESPONSE:** The Municipal League provides administrative support for the State Aid Street Program and hosts the Committee meetings. The Municipal League also provides the Committee with legal counsel. This arrangement was by agreement with the Arkansas Department of Transportation (“ArDOT”) at the inception of the program when it was passed by the legislature in 2011. ArDOT did not want the cost or responsibility of the administrative tasks, including accepting the applications for projects from cities and towns, so the Municipal League agreed to assume this role. All of this is provided by the Municipal League to the State Aid Street Program without charge to the Program.

QUESTION #4: Section VII(A)(2) as amended, increases the funding cap for overlay projects from \$250,000 to \$300,000. Could you please explain why this was increased? **RESPONSE:** This increase is primarily necessary to keep up with the cost of inflation of asphalt prices since the inception of the program. The goal is to provide for at least one mile or more of overlay for each project approved by the Committee. This increase will help insure that goal is met. In addition because of competitive pressures, some projects (particularly in the south part of the state) are not receiving bids when ArDOT schedules a bid letting. It is hoped that the \$50,000 increase will encourage bids on those projects.

QUESTION #5: Section VII (A)(3) as amended, increases the funding cap for projects requiring design work from \$250,000 to \$400,000 for construction and \$160,000 for engineering costs. Could you please explain why this was increased? **RESPONSE:** The \$400,000 allowed for design projects was approved in an earlier rule and perhaps this draft does not reflect that the \$400,000 had already been approved and changed. What is new to the rules is the cap of \$160,000 for engineering costs. Some cities combine a State Aid Street Project with their own project to maximize economies of scale. However this results, in most cases, with ArDOT providing the engineering for the entire project. The Committee determined it would be

unfair to use State Aid Street funds to pay for engineering for the entire project, so a cap was set.

QUESTION #6: On projects requiring design work, is the \$160,000 cap for engineering costs included in the \$400,000 cap for construction funding OR is it a separate allocation?

RESPONSE: The \$160,000 for engineering is a separate allocation of Program funds.

QUESTION #7: In Section VII (A)(5), the previous version of the rules gave priority to those municipalities that have not had a project previously funded. Why was this sentence removed in the current submission? **RESPONSE:** At this point in time nearly all cities and towns have had at least one project.

QUESTION #8: Is there an appeals process for funding applications that are denied? **RESPONSE:** Yes, the city or town can ask the Committee to reconsider its decision. However in practice once ArDOT has approved a project for consideration by the Committee, it will be approved. However, the submission of the project to the Committee is usually delayed by funding considerations and other projects that are ahead in the queue.

The proposed effective date is January 1, 2020.

FINANCIAL IMPACT: The Committee states that there is no financial impact.

LEGAL AUTHORIZATION: The State Aid Street Fund was created and designated for use in the construction, reconstruction, and improvement of the state aid street system. *See* Ark. Code Ann. § 27-72-407 The State Aid Street Committee was established to allocate the state aid street system to the several municipalities of the state and to select the state aid street projects for submittal to the state aid engineer for funding and construction. *See* under Ark. Code Ann. § 27-72-413(b) and (c)(1). Ark. Code Ann. § 27-72-405(c) grants the state aid engineer under the direction of the Arkansas Department of Transportation, to promulgate rules regarding: designation of street aid streets to be constructed in each municipality, methods for determining priority of construction, making of surveys, preparation of plans and specifications for the construction of street aid streets, a system of accounting in the expenditure of moneys from the State Aid Street Fund and uniform design standards, and specifications for the

construction of state aid streets. *See* Ark. Code Ann. § 27-72-405(c).

7. **ARKANSAS DEPARTMENT OF TRANSFORMATION AND SHARED SERVICES, ARKANSAS GIS OFFICE** (Mr. Jonathan Duran, Mr. Shelby Johnson)

a. **SUBJECT: Cadastral Mapping Standard**

DESCRIPTION: The Cadastral Mapping Standard was first promulgated as a state rule on July 2, 2004. This standard is intended to make digital cadastral data more uniform and accurate, facilitating the sharing of a statewide, seamless digital cadastral spatial data layer. Adherence to this standard will ensure the “usability” of the spatial data theme and its attributes by multiple entities. This standard will ensure a consistent manner in which the cadastral parcel spatial data and attribute data are collected or stored, and it will enable the data to be merged seamlessly and become transferable regardless of creator or jurisdictional boundaries.

Revising the existing rule is an effort to modernize it and gain efficiencies through improvements designed to make the data more user friendly, more suitable for current technologies and mapping practices, add additional value for the consumer, and to make it more compatible with other statewide framework data layers.

PUBLIC COMMENT: No public hearing was held in this matter. The public comment period expired on August 31, 2019.

The Arkansas Department of Transformation and Shared Services provided the following summary of the comments that it received and its responses thereto:

Commenter’s Name: Tony Vestal

Commenter’s Business/Agency: Total Assessment Solutions Corp.

Date Received: 7/22/2019

Summary of Comments:

The following fields should remain Integers:

- a. AssessValue
- b. ImpValue
- c. LandValue

d. TotalValue

It is my understanding that the current CAMA standards do not allow decimal places in these fields. I don't think it would be wise to have two standards that conflict with one another.”

Agency's response to comment:

Thank you for the input. While the CAMA providers may store the data as an integer, the logic in changing that to a double is, it is representing money, and money has Cents. While presently the data may be input as \$100 there is always the potential that in the future that may include cents, and thus it would be \$100.75.

Exporting the data from a database and converting the integers to a double should not pose a challenge to the CAMA providers.

That said, I have never seen the “CAMA standards” you referred to. Is this a document that ACD has published? If so, do you have a copy you could send us?

Thanks for reviewing the document again I appreciate the input.

Changes made to proposed revision as a result of these comments:

None

Commenter's Name: Steve Wallace

Commenter's Business/Agency: Florida Farm Bureau

Date Received: 7/23/2019

Summary of Comments:

While I am located in Florida, my department does the GIS work for several other Farm Bureau states including Arkansas. Here are some comments about the proposed revisions. Note that the person drawing up the specs for data types is often using data types that are either unnecessarily large or the incorrect data type.

Comment #1:

“Page 9 CountyFIPS should be Char(5) not Double. Not a number with decimal places and the leading zero is necessary.”

Response: This was an oversight on our part. The data type will be modified to text.

Action: Data type changed to more accurately reflect content.

Comment #2:

“Page 11 Values do not need to be Double -- SINGLE should be fine. You do not need 15-16 decimal places... just two for cents.”

Response: The statewide parcel polygon data layer is an aggregation of nearly 75 different datasets reflecting variable data

entry and CAMA software providers. The fields which have “double” as their assigned data type were done so to provide flexibility as these potentially variable dataset are consolidated.

Action: None

Comment #3:

“Page 11 Section should be Char(2)”

Response: Since content in this field is a specific and limited set of numerals, i.e. 1-36, the data type was set as integer to help ensure the correct numerals are entered as opposed to a text or alphanumeric entry.

Action: None

Comment #4:

“Page 12 TaxArea is a poor description. Maybe TaxableAcreage? Also doesnot need to be a double.”

Response: We are taking this field name and description under further review so we can make the most informed decision possible about the data that needs to be maintained and how. There can be variability in how area is recorded in the local CAMA databases, e.g. acres, square feet, or hectares, as well as how the parcel area is applied, i.e. taxable vs. deed acres.

Update: Upon further review, we have chosen to retain the field name as originally stated, i.e. TaxArea. We believe this allows for some flexibility in areal units while narrowing the scope of the applicable data.

Action: None

Comment #5:

“Page 16 Are Property Type Codes going away, as they are all struck out? This is a valuable code.”

Response: No. Since the application of property codes are sometimes subject to practices of individual counties, rather than including these in the Standard, users are directed to contact the Arkansas Assessment Coordination Department for information about approved property codes. See page 18.

Action: None

Commenter’s Name: Stephanie Shaw

Commenter’s Business/Agency: NW Arkansas Regional Planning Commission

Date Received: 7/23/2019

Summary of Comments:

Comment #1:

With regard to the following definition in the Standard:

Section, Township, & Range: This attribute indicates the parcel location by Section, Township, and Range. The format for this field should be SX_TXDirection_RXDirection, Direction for Townships being N or S and Direction for Ranges being E or W.

“Proposed format is inconsistent with current PLSS 2-digit numeric format, consider: SXX_TXXDirection_RXXDirection”.
(Shaw)

Agency’s response to comment:

Thank you for your input. We will adjust the suggested syntax in the definition to allow for 2-digit section, township, and range numerals.

Changes made to proposed revision as a result of these comments:

The suggested syntax as articulated in the above definition from the revised Standard was modified to conform to suggestion made by the commenter.

Comment #2:

With regard to the following definition in the Standard: AdrLabel: Concatenated full physical address of property. “Vague Description can lead to inconsistent format, consider: AdrNum (if available)_PreDir_PstrNam_PStrType. Full physical address is not defined in this document.” (Shaw)

Agency’s response to comment:

Thank you for your input. We will add the field names to the definition to add clarity to the intended concatenation. Changes made to proposed revision as a result of these comments: Field names were added to the definition to add clarity to the intended concatenation as articulated in the revised Standard.

Commenter’s Name: Judi Frigon

Commenter’s Business/Agency: Benton County 9-1-1

Date Received: 8/8/2019

Summary of Comments:

“I am not involved in parcel data so I don’t have a comment but if the Federal Government wants the spatial data in WGS84 does your office receive the files in NAD83 and then send them out as WGS84 to the Federal Government?”

Agency’s response to comment:

With the exception of the Census Bureau which has specific requirements, we don’t regularly send data to the federal

government, so to speak. Any federal entity can, obviously, download data from gis.arkansas.gov, and they can retrieve the data in any of the projections or datums supported by the platform. Changes made to proposed revision as a result of these comments:
None

In addition, Suba Desikan, an attorney with the Bureau of Legislative Research, asked the following questions and received the following responses:

QUESTION #1: What would be the format of output cadastral data (i.e. map layer, raw data etc.) under this rule? How may the public access this data? **RESPONSE:** The output cadastral data would be one of several available GIS data formats available from our geospatial data clearinghouse at <http://gis.arkansas.gov/>. The data is publicly accessible via downloadable geospatial dataset or web feature service via the internet.

QUESTION #2: Could you please briefly tell me what technical practice changes are being implemented in the new rule and the purpose of these changes? **RESPONSE:** Revising the existing rule is an effort to modernize it and gain efficiencies through improvements designed to make the data more user friendly, more suitable for current technologies and mapping practices, add additional value for the consumer, and to make it more compatible with other statewide framework data layers. Best practices for procedures such as creating parcel data via digitizing that may not have been adequately articulated in the original standard were done so to provide additional clarity. Specifically, several modifications were made to the database table schema to increase its usability and make this dataset more compatible with other framework datasets such as statewide road centerlines and statewide physical address points.

QUESTION #3: Are there any particular federal or state laws, regulations or guidelines which advised this promulgation? Are there any industry standards which advised this promulgation? If so, could you please tell me what they were? **RESPONSE:** A.C.A. § 15-21-502(5) defines digital cadastre as, “the storage and manipulation of computerized representations of parcel maps and linked parcel databases.” With reference to the Arkansas GIS Board, A.C.A. § 15-21-504(d)(2)(a) states, “The board, using the technical support provided by the office, shall coordinate the development and maintenance of a statewide digital cadastre

system.” At present, there is no universally accepted or applied industry standard or law for digital cadastre, however, the following documents/sources were heavily relied upon as reference material: IAAO Standard on Digital Cadastral Maps and Parcel Identifiers and FGDC Cadastral Data Content Standard

The proposed effective date of this rule is pending legislative review and approval.

FINANCIAL IMPACT: The agency states that there is no financial impact.

LEGAL AUTHORIZATION: Pursuant to Ark. Code Ann. § 15-21-504, the GIS Board, using technical support provided by the GIS Office, shall “coordinate the development and maintenance of a statewide digital cadaster system and “develop and implement a program to further the process of land records modernization.” *See* Ark. Code Ann. § 15-21-504(b)(3) and (d)(2)(A). Furthermore, the GIS Board is tasked with the duty of “developing procedures for the inventory, storage, and distribution of spatial information.” *See* Ark. Code Ann. § 15-21-504(e)(6).

D. Adjournment.