



Association of Arkansas Counties

Act 1256 of 1995 as Amended
Administration of Justice
State, County and Municipal Cost Sharing
&
Cost of the Courts

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Executive Summary:

Our vision at AAC is to provide a single source of cooperative support and information for all counties and county and district officials through the provisions of general research, public education programs, and conducting seminars for county governments in Arkansas.

The Association of Arkansas Counties (AAC) supports and promotes the idea that all elected officials must have the opportunity to act together in order to solve mutual problems as a unified group. To further this goal, the AAC is committed to providing a single source of cooperative support and information for all counties and county and district officials. The overall purpose of the AAC is to work for the improvement of county government in the state of Arkansas. The association accomplishes this purpose by providing *legislative representation, including white papers such as this concerning the administration of justice*; on-site assistance; general research; training; various publications and conferences to assist county officials in carrying out the duties and responsibilities of their office.

Background Overview

The AAC was founded in 1968. The first president was A.A. "Shug" Banks, Mississippi County judge. Membership started out very slowly, but AAC's membership of Arkansas counties has been 100 percent since 1988. Dues are voluntary.

The association originally rented office space across the street from the state Capitol with four full-time employees. In 1979, AAC bought property down the street, one block from the Capitol, and built a 3,600-square-foot office building. The AAC now occupies more than 16,000 square feet; with meeting space for 250...and is in the process of the next large expansion with the purchase of adjoining property. The association has about 40 full-time employees.

In 1985, AAC added a Workers' Compensation Trust for counties, and in 1986 it added a Risk Management Fund. Both programs are popular with the counties and completely self-funded and self-administered.

Problem Statement

In the 1990s it was generally established, by the General Assembly, that the system of funding the state judicial system had created inequity in the level of judicial services available to the citizens of the state with the assessment and collection of numerous individual court costs and filing fees that seemed to be different in each jurisdiction. It was further determined that the method of financing the state judicial system had become complex to the point of making the administration of the system impossible.

The General Assembly also determined that there was no reliable data on the cost of the state judicial system. So they deemed it necessary to “do something”. Act 1256 of 1995 totally changed the system. It did not fix everything. It did not solve all the problems. It could have done more than it did **IF** it had been implemented correctly in all jurisdictions and continued to be administered in all jurisdictions in accordance with the law.

But, because it was a huge shift in procedure and administration of the courts and took a total mind shift in the application of court costs and filing fees – some never fully grasped the seismic shift in methods and resorted to the theory of “fly by the seat of your pants” and “hope for the best”.

Because counties and municipalities are audited on a *regulatory basis* or *agreed-upon procedures and compilation reports* rather than a true financial audit several errors in the establishment of the local share and the ongoing administration of Administration of Justice Funds at the local level have gone undetected.

After suspecting errors, a few counties and municipalities recalculated the local share with the help of good records and the help of the Administrative Office of the Courts to get their original numbers changed so that the local entities are getting credit for the proper funds each month.

With the passage of time [almost 30 years] recalculation has almost become impossible due to lost or destroyed records from the 1990s. It is my understanding that

the Administration of Justice Section of the Department of Finance and Administration no longer has the original cost share documentation.

General Assembly's Solutions

The intent of Act 1256 of 1995 and amending legislation since was at least four-fold:

- **Eliminate the system of assessing and collecting a large number of individual court costs and filing fees that varied from one judicial jurisdiction to another.** There were many separate court costs assessed – 25 cents for this; 50 cents for that; \$1.00 for another; \$3.00 for this; \$10.00 for another etc. Records were kept of each of those individual courts costs by the appropriate clerk. They were remitted to the Treasurer [city or county] on a monthly basis and the Treasurer made proper disposition of the funds – by either crediting the funds to the proper local fund or sending the funds to the proper state agency. There were separate court costs for any number of things – such as County Law Library; City Attorney Fees; Prosecuting Attorney Fees; Public Defender Investigator; Indigent Defense; County Jail Revenue Bond; Policeman's Pension; Municipal Judge and Clerk Retirement; DWI court cost; Intoxication Detection Equipment; Drug Abuse Fund; Victim Witness; Alcohol Treatment Program; etc. And some of the fees in the various courts varied from county to county.
- **Replace the old system with a “uniform cost and fee schedule” to be applied statewide.** Act 1256 of 1995 established a uniform court cost for the various courts and types of cases and a uniform filing fee for the various divisions of the courts. The original code has been amended several times since 1995 and the court cost and filing fee amounts have changed...and I assume will continue to change through the years as there is need.
- **Prohibit the implementation of new costs and fees for specific programs in the future.** Before Act 1256, local governments had the ability, by ordinance, to assess new court costs and change filing fees. Local governments no longer have that ability. One of the reasons for Act 1256 of '95 was to make costs uniform and create more equity in the judicial services across the state. With

the passage of Act 1256 of '95 and follow-up legislation in 1997, dozens of codes or parts of codes were repealed.

- **Create a reporting system to allow the General Assembly to obtain accurate data to determine the cost to the state for the funding of the judicial system.** What the state found out is that the counties of Arkansas are subsidizing the cost of the state court system. In 2014 counties retained \$18.4 million in revenue for the courts – basically from our share of the Administration of Justice Fund and circuit court fines. But we expended \$64.1 million. That means that the state court system cost county government \$45.7 million in general funds that was not raised through the court system. [Ref: *Special Report Arkansas Legislative Audit*]

Note: This monumental change in law had an emergency clause and most of it took effect on July 1, 1995. The bill was signed and because Act 1256 of 1995 on April 13, 1995. That provided only 2 ½ months until implementation. County Clerks, Circuit Clerks, District Court Clerks, County Treasurers and City Treasurers had to learn and implement the paradigm shift in court operations almost overnight. Calculations for city and county shares had to be made quickly.

Pursuant to Act 1256 of 1995, Administration of Justice Funds were established on the books of the state, counties, and municipalities. *These funds were established on the books of each entity to credit their share of uniform court costs and filing fees to fund or help fund the programs that each remained responsible for.* The uniform filing fees and court costs were established by Act 1256 were the same statewide – unlike under the old system.



Local Share Process:

How did each municipality and county know what share of the fees and costs to keep locally and what amount to remit to the State Administration of Justice Fund?

A process was established to determine the local government's share and the remainder amount is to be remitted to the State. The State would fund the agencies or programs with their share that had previously been remitted from the local level.

Since the implementation of Act 1256 of 1995, when there were only 15 programs or agencies funded with the state share of "admin of justice funds", various programs or agencies have been added to the list through legislation. There are now 24 agencies or programs funded, at least in part, through the State Administration of Justice Fund. The last allocation of funding for these agencies or programs is contained in Act 152 of 2024, Special Language Section 56 for a total of \$39.3 million which includes funding for:

- University of Arkansas – Legal Education
- Drug Abuse Prevention and Treatment Program
- Arkansas Highway Safety Program
- State Police Retirement
- Arkansas State Police
- Crime Victim/Reparations Revolving
- Law Enforcement and Prosecutor Drug Enforcement Training
- Crime Information System
- Justice Building Construction
- District Court Judge and Court Clerk Education
- Arkansas Judicial Retirement
- Public Defender Commission
- Court Reporters
- Justice Building
- Arkansas Counties Alcohol and Drug Abuse and Crime Prevention
- Trial Court Administrators
- Drug Abuse Prevention and Treatment Program

- Dependency-Neglect Representation
- State Crime Laboratory
- District Court Coordinator
- Public Legal Aid
- County Reimbursement for Jurors
- Drug Court Coordinator
- Court Security

So what was that process for calculating the local share? It is set out in Arkansas Code § 16-10-307 which established the County Administration of Justice Fund. Counties retained an amount equal to the amount collected in the base year 1994, as set by Act 1256, in court costs and filing fees for county administration of justice expense. This did not include those court costs collected and remitted directly to state agencies or programs – but those fees and costs kept locally.

The process included filing fees and court costs in the probate division of Circuit Court – handled by the County Clerk in most instances; filing fees and court costs in other divisions of circuit court – handled by the Circuit Clerk; filing fees and court costs in district court – handled by the District Court Clerk; and the City Treasurer. Since district court collections are to run through the City Administration of Justice Fund prior to remitting the county its share...it took a “meeting of the minds”, collaboration and team work to develop the numbers to calculate proper shares.

The Office of Administrative Services of DF&A sent out forms to the city and county treasurers to verify the fees and costs charged and the amounts collected in 1994. There was one form for Probate Court; one for Chancery [still existed then]; one for Circuit Court Criminal; and one for Circuit Court Civil. They had to be filled out and signed by the appropriate Clerk, the County Treasurer and County Judge. The forms already contained the various state codes that either required the assessment of certain filing fees or costs or allowed for the assessment of certain costs. The county could then include any other cost that was not on the form but was being collected by virtue of a local ordinance.

After certifying the amount of filing fees and court costs collected in 1994 the county had their base number for circuit court. You simply divided that total by 12 to get the monthly share of uniform filing fees and costs. These county forms would have a place for filing fees; county law library; indigent defense; victim witness; county jail revenue bond; public defender investigator; DWI costs; Drug Abuse Fund; prosecuting attorney fees; and others that a county might add.

The Municipal Court form, as it was called then [district court as we know it since the passage of Amendment 80 in November 2000 with an effective date of July 1, 2001] was a little more complicated. It involved more courts and more people and because both municipal and county cases are heard in district court and the court is funded by both the county and municipality in most cases, revenues are split, too.

Although totally confusing to many, it was not that difficult to calculate if you just worked your way through it methodically. There was a form for the criminal and traffic division of district court; one for the civil division; and one for the small claims division.

The district court forms contained a column for the amount of each cost charged per case; a column for the amount of money collected for each cost in 1994; and a column for the total amount actually disbursed in 1994.

Then the amounts had to be broken down to account for what fees and costs were city moneys and what were county moneys. Some costs were county only, others were city only, and some were shared. Costs collected for law library, indigent defense, public defender investigator, prosecuting attorney, - those were “county only” costs. But, there were some that were “city only” – like police pension, municipal judge and clerk retirement, alcohol treatment program costs and city attorney fees. There were things that were shared like filing fees, possibly drug abuse fund costs [in some counties], possibly intoxication detection equipment fees, and DWI costs.

Once those numbers were calculated it became evident what the district court base revenue for the local Administration of Justice Funds was. Whatever the total of those various fees and costs were for 1994 – you divided it by 12 and had the monthly retainage from district court. You could also easily calculate what percentage was city

and what percentage was county. That percentage varied from county to county. In my home county the percentage was 26% city and 74% county in district court.

Except for the numerous district court fees or fines that are listed on the Miscellaneous Fee/Fine Collection Report that the district court clerk should remit directly to the State Administration of Justice Fund – the district court clerk is to remit the district court “uniform filing fees/costs” to the city treasurer or city treasurers. The city treasurer is to forward the county share percentage to the county treasurer for credit to the County Administration of Justice Fund; retain the city share in the City Administration of Justice Fund; and remit the remainder to the State Administration of Justice Fund.

As a reminder, in an amendment to this legislation in 1997, counties gave up 85% of our public defender base year revenue effective January 1, 1998 when the State made public defenders state employees. We got to retain only 15% of that base year public defender revenue to help pay for the office operations of the public defender.

The County Administration of Justice Fund must be used to defray a part of the expense of the administration of justice in the county. It is from this fund that a county must continue to finance certain agencies or programs that were being funded locally prior to Act 1256 of '95. There is a list of six programs that the County Admin of Justice Fund must continue to finance if they were being funded by the county in 1994. They are:

1. Prosecuting Attorney Fund [Department of County General in most counties];
2. Victim-Witness Program;
3. Public Defender/Indigent Defense/Public Defender Investigator Fund;
4. County Law Library;
5. County Jail Fund; and
6. Intoxication Detection Equipment Fund.

Those 6 programs or departments must continue to be funded by a county, if a county was funding them in 1994, *“at a funding level no less than they were funded in 1994.”* Any increase in Administration of Justice Funding through COLAS does not necessarily have to follow the programs on a prorata basis.

Very similar to the counties, the City Administration of Justice Fund must be used to defray a part of the expense of the administration of justice in the municipality such as the district court judge and clerk retirement fund; the police and fire pension fund; the intoxication detection equipment fund; and other municipal level programs and agencies funded in whole or in part by court costs and filing fees assessed and collected by the district court [§ 16-10-307].

The local Administration of Justice funding was originally written to include a COLA each year based on the Consumer Price Index. Counties and municipalities received that increase through 2001 – although some years it was very small. Then the COLA was taken away and we were frozen at the 2001 level for 2002, 2003, 2004 and 2005. In 2005 the COLA was reinstated by the General Assembly to start in 2006.

Following the reinstatement of the COLA, the State Admin of Justice Fund struggled financially and the COLA section was changed in 2013 legislation so that any annual adjustment in the amount retained locally is “based upon the lesser of the average percentage increase in the Consumer Price Index for the 2 years immediately preceding or the percentage rate of increase in collections of the State Administration of Justice Fund for the 2 years immediately preceding. That change was demanded by the Beebe administration to protect the state. If there’s no growth or less growth in the State Admin of Justice Fund than the national CPI the cities and counties get no increase. Since the 2013 legislation was enacted – counties got zero increase in 2014; 1.8% increase in 2015; and zero increase for 2016 through 2024. The local share of Administration of Justice funds has been stagnant for the last 11 years.

Future Outlook

The cost for operating the court system continues to increase without any specific new revenue for operations. Under current conditions county government will be forced to continue using general revenues, assessed and collected for county government uses, to help fund the state court system.

Ten (10) years ago Arkansas County government was subsidizing the operation of the state court system with general funds to the tune of almost \$46 million. No doubt, that is significantly higher today. We hope that our future outlook will be brighter with the State taking on a larger burden of the state court system.

Conclusion:

While not trying to dictate to the General Assembly, our general prayer for relief is simply for the State of Arkansas to take on a larger burden of the operational costs of the state court system.

Most of the court related legislation of the mid to late 1990s where the state took on additional costs of the court system contained a finding that the legislation was the beginning of a transfer of funding from the county level to the state level. However, that transfer of funding never fully took place during the nearly 30 years that have elapsed.

While Arkansas counties fully recognize that a county is “a political subdivision of the state for the more convenient administration of justice and the exercise of local legislative authority related to county affairs” [§ 14-14-102], we also realize that the judicial courts of this state are state courts and that Article 16, § 2 mandates that “the General Assembly shall provide for payment of all just and legal debts of the State.”

We seek to reduce the \$46 million plus [10 year old number] in general revenues that we appropriate and spend for the operation of the courts. This, of course, is in addition to the actual revenue produced through the court system that we retain for court operations.

The Association of Arkansas Counties thanks you for your service to the State of Arkansas and we offer our assistance in developing plans and legislation that will transfer a larger portion of the costs of the courts to the State.

I have offered true and accurate information, to the best of my ability, which you can rely on. I hope you won't refer to me like Calvin Coolidge did about Hoover. Coolidge served the rest of Warren Harding's term as President after Harding died and was

elected to a term of his own. He declined to run for his 2nd full term. Herbert Hoover succeeded him and had served as Secretary of Commerce under both Harding and Coolidge. Coolidge said of Hoover, “*That man has offered me unsolicited advice for six years, all of it bad.*”

References:

Act 1256 of 1995 – Senator Wayne Dowd

Act 788 of 1997 – Representative Jim Luker [prior to his service as Senator]

Act 152 of 2024 – Appropriation for state funded Admin of Justice programs

A.C.A. § 14-14-102

A.C.A. §§ 16-10-301 et seq.

A.C.A. §§ 16-10-601 et seq.

Arkansas Constitution, Article 16, § 2

