

## District Court White Paper – Arkansas Municipal League – September 4, 2024

Act 38 of 2023 required a legislative study into the financial matters of State district courts. The purpose of the study was multifaceted, but predominantly focused on analyzing the statutory funding of the court system to gain a better understanding of whether the funding between state, counties, and municipalities was equitable and to look into the installment fees defendant's, who are unable to pay the entirety of the fees and fines up front,

The following issues were identified throughout the many discussions over the past few months leading up to the release of the Special Report on Information Regarding Arkansas District Court (Special Report): (1) District Court Judge Salaries; (2) Court Management System; (3) Installment Fees; (4) District Court Security; (5) Retained Cost Share; (6) Administration of Justice Fund.

The League, on behalf of the cities and towns, have not yet taken any firm positions on any proposal to remedy the issues identified in the Legislative Audit study or those listed below. With that said, the League is fully committed to working with the Legislature, the AOC, and the AAC to identify the best routes to a better district court system.

### **1) District Court Judge Salaries**

Amendment 80 of the Arkansas Constitution, passed by the voters at the 2000 General Election, restructured the judicial system in Arkansas. Part of the restructure included the abolishment of municipal courts and courts of equity and establishing State district courts as a means to provide uniformity for Arkansas's court system. While Amendment 80 focused on the restructure of the judicial system, Amendment 94 to the Arkansas Constitution, enacted by the voters at the 2014 General Election, vested the power of setting the salaries for district court Judges with the Independent Citizens Commission. Due to this change, the salaries of district court judges are funded through the Constitutional Officers Fund, which also funds the salaries for other such state officers including the Governor, Attorney General, Secretary of State, Arkansas Supreme Court Justices, and Circuit Court Judges.

Although the voters, through Amendment 80 and Amendment 94, voted to establish State district courts and required their salaries to be set by the Independent Citizens Commission and to be paid from the Constitutional Officers Fund, municipalities and counties are currently paying half of the district court Judges salaries. Per Ark. Code Ann. § 16-17-1106(b), municipalities and counties are required to pay to the State "an amount equal to its proportionate share of one-half of the base salary established by law for state fiscal year 2009 for that district's state district court judge". Due to this, municipalities and counties are collectively spending roughly \$3.8 million a year on State District Court Judge's salaries.

## **2) Installment Fees**

State district courts are authorized to allow defendants who have the ability to pay, but can't make an immediate payment, to pay their fine via monthly installments. Ark Code Ann. § 16-13-704 establishes two separate \$5 fees that are attached onto each monthly installment payment totaling an additional \$10 a month the defendant is required to pay in addition to their original payment. Pages 8 and 9 of the Special Report on Information Regarding Arkansas District Court details where the funds go. In short, 75% of the \$10 fee collected in district courts goes to the State for deposit into the State AOJF, which receives \$5, and the Judicial Fine Collection Enhancement Fund, which receives \$2.50. The remaining \$2.50 is remitted to the local court automation fund.

There has been a lot of discussion and a strong will to move away from the current installment fee framework and find solutions that will reduce the burden on the defendant. One such solution may be to repeal the installment fees and simply apply a \$5 fee on every case heard in district court. This way district court itself could still fund district court related items while the means of funding is more equitable and spread amongst everyone instead of those who may not be able to afford the additional \$10/month installment fee that accrues. Another potential solution is to have a flat payment, such as \$50, that is paid upfront to allow the defendant to make fine payments on a monthly instalment plan basis.

## **3) Court Management System**

Over the past few years, the State has invested millions of dollars developing a uniform case management system. As we understand it, the Arkansas Supreme Court has the authority to require all District Courts to be on this one uniform system and that the General Assembly does not itself have to legislate the issue. In light of the State picking up the remainder of the \$3.8 million dollars municipalities and counties have been spending on District Court Judge's salaries, the State may require everyone to use this one uniform system. We are optimistic this change would not be too difficult; however, the State would need to offer robust training for the new system.

## **4) District Court Security**

Outside of the restructure and funding change per Amendments 80 and 94, the General Assembly, through Act 663 of 2007, established the District Court Resource Assessment Board (DCRAB) and charged the Board with analyzing and determining criteria for district courts and the redistricting of district courts. The primary responsibilities of the DCRAB are to recommend to the General Assembly before each regular session: (1) the creation and placement of new

state-funded district court judgeships; (2) any redistricting of the district courts; and (3) the reorganization, consolidation, abolition, or creation of any district court or district court judgeship; as well as the criteria for the creation and placement of district court judgeships.

As part of any reorganization analysis, if the need to abolish some departments of district courts arises, some set of criteria and/or minimum standards for departments of district court should be explored.

## **5) Retained Share**

In every city and town that operates a district court, there is a fund titled the “city administration of justice fund.” The city administration of justice fund is meant to defray a part of the expense of the administration of justice in the city or town. As such, Ark. Code Ann. § 16-10-308 authorizes cities and towns to retain an amount equal to the amount which was collected by the town or city from court costs and filing fees for city administration of justice expense in the calendar year ending in 12/31/1994. This amount the city or town is authorized to retain is termed the “retained cost share”. In other words, the formula laid out in Ark. Code Ann. § 16-10-308 essentially creates a monetary threshold for every district court based on what municipalities were expending decades ago. A district court may keep all the money below the threshold, but if the district court ends up exceeding the threshold, then all the money over the threshold gets remitted to the State.

The formula is outdated and has led to varying amounts being kept, and remitted by the district courts. For example, one municipality may have a retained cost share of \$800,000; however, that district court may only bring in roughly \$750,000. Therefore, the district court retains all \$750,000. On the flip side, there are many district courts that have a very low retained cost share. The effect of this is that a district court may bring in over \$100,000 a year, but since their retained cost share is only \$7,000, then that district court remits the remaining \$93,000 back to the State.

While it is clear that changes to the retained cost share formula are much needed, further study and discussion is warranted in order to determine a formula that is updated and more equitable than where it currently stands.

## **6) Administration of Justice Fund**

Funds remitted to the Administration of Justice Fund (“AOJ Fund”) are used to fund 24 different items as identified in Appendix F of the Special Report – most of which are not related to District court. Appendix F provides that \$21,411,139 is distributed from the AOJ Fund to the 24 below items following items:

- 1) UA-Fayetteville Law School
- 2) UALR Law School
- 3) Public Health Fund
- 4) Highway Safety Specialty Fund

- 5) State Police Retirement Fund
- 6) Arkansas State Police Fund
- 7) Crime Victim Reparations
- 8) Prosecutor Coordinator
- 9) Crime Information System
- 10) Arkansas Building Authority**
- 11) Municipal Judge Clerk Education Fund
- 12) Judicial Retirement
- 13) Arkansas Public Defender Commission
- 14) Court Reporter Fund**
- 15) Justice Building Fund
- 16) County Alcohol and Drug Program
- 17) Trial Court Administrative Fund**
- 18) Dependency Neglect Representation
- 19) State Crime Lab
- 20) District Judges Association for the District Court Coordinator**
- 21) Public Legal Aid
- 22) AOC Reimbursement to Counties for Juror Expenses
- 23) AOC Drug Coordinator
- 24) AOC Court Security

Out of the above 24 items, only the ones bolded are fully funded. There is no question that the items mentioned above are worth funding. However, the focal point is that a large portion of \$21 million distributed from the AOJ Fund is used to fund items that are not related to the operation and maintenance of the district court system.

If there are any questions, please reach out to John Wilkerson, General Counsel and Legislative Director for the Arkansas Municipal League – (501) 554-6315 or [jwilkerson@arml.org](mailto:jwilkerson@arml.org).