

**SENATE INTERIM COMMITTEE ON CITY, COUNTY, & LOCAL AFFAIRS  
HOUSE INTERIM COMMITTEE ON CITY, COUNTY, & LOCAL AFFAIRS**

**MEETING JOINTLY**

**WEDNESDAY, JUNE 15, 2016**

**MINUTES**

Senate and House Interim Committees on City, County, and Local Affairs met Wednesday, June 15, 2016 at 3:30 p.m. in the Fulton Room, at the Statehouse Convention Center, Little Rock, Arkansas. The meeting was held during the 82<sup>nd</sup> Annual Convention of the Arkansas Municipal League (AML).

Committee members present were Senators Missy Irvin, Senate Chair, Linda Collins-Smith, and Scott Flippo. Representatives Betty Overbey, House Chair, Mary Bentley, Charles Blake, Donnie Copeland, Jana Della Rosa, Lance Eads, Les Eaves, David Fielding, and Justin Gonzales.

Other legislators attending were Senator Jon Woods and Representatives Charles Armstrong, Vivian Flowers, George McGill, Fredrick Love, Ron McNair, James Sorvillo, Dan Sullivan, and Dave Wallace.

**Call to Order**

Senator Irvin called the meeting to order.

**Opening Remarks – Senator Missy Irvin and Representative Betty Overbey, Chairs**

Senator Irvin welcomed legislators and asked them to introduce themselves.

**Approval of Minutes – May 24, 2016 [Exhibit C]**

A motion to approve the minutes of the May 24, 2016 committee meeting was made by Representative Bentley and seconded by Representative Della Rosa. The motion carried.

**Welcome and Remarks**

Senator Irvin recognized Don Zimmerman. Mr. Zimmerman gave an overview of the AML Voluntary Certification Program for municipal officials. Municipal officials obtain certification, which requires 21 credit hours through attendance at training classes. To maintain certification, 6 hours of continuing education classes are required annually. Mr. Zimmerman said a significant number of smaller municipalities continue to be cited for audit non-compliances by Arkansas Legislative Audit. These non-compliances are repeated year after year by the same municipalities. The smaller cities say they cannot pay for travel to attend the training. Mr. Zimmerman referenced Statute 10-4-305, which authorizes the legislature and/or the Legislative Audit Committee to direct specific municipalities to obtain appropriate training to avoid audit exceptions. However, the legislature has not funded the appropriation allowed by the statute, which can pay for travel expenses for municipal officials to attend the training. He suggests the legislature

consider funding the appropriation. Mr. Zimmerman responded to questions on the methods the AML uses to distribute training information. He said the AML monthly magazine contains information which is mailed to all elected officials. Information is also found on the AML website.

### **Introduction to District Courts from the Local Government Perspective [Exhibit E]**

Senator Irvin told the legislators that Interim Study Proposal (ISP 2015-006) focuses on issues with the district court system that effect every city and county in the state. She introduced the following panel of presenters: Mark Hayes, Director of Legal Services, Arkansas Municipal League (AML), Chris Villines, Executive Director, Association of Arkansas Counties (AAC), Jake Bleed, Director of Communications, Department of Finance and Administration (DF&A), and Keith Caviness, Staff Attorney, District Courts, Administrative Office of the Courts (AOC).

Mark Hayes told legislators that the district court system's financial issues are very complex and it is difficult to track the funding that supports the district courts. He said the operational costs for district courts is being absorbed by cities and counties, including the costs of personnel, court space, utilities, and office supplies. However, the specific amounts are not known because a study of the costs has not been done. Mr. Hayes referenced Exhibit G-3, a 2015 Special Report, a study of circuit court costs, including operational costs. He also referenced Exhibit G, Subchapter 3, Uniform Filing Fees and Court Costs under the Administration of Justice Fund. This statute provides a list of state programs and agencies that receive monies from court costs and fines administered by the Administration of Justice Fund. Although court costs are assessed and paid at the circuit court level, the largest funding producer comes from the district court system based on volume. Mr. Hayes gave the example of the volume of misdemeanor arrests and traffic violations. When an individual is cited for speeding, their fine could include up to \$75.00 in court costs. These court costs are not uniformly levied in district courts throughout the state. In 1995, the uniform court cost was set at \$50.00 and frozen at that amount at the local court level.

Chris Villines discussed the district courts financing from the county perspective. He said the biggest issue is that funding has not increased with the growth of the district courts over the years. He referenced a Special Report prepared by Legislative Audit regarding circuit courts in part and covering the period of January 1, 2013 through June 30, 2015 (Exhibit G-3). Mr. Villines noted a chart on page 10 of the exhibit listing revenues and expenditures for the state, counties, and prosecuting attorneys. The costs to counties for the operation of district and circuit courts is far greater than revenues received from the courts. The counties are losing \$46 million annually to support the court system. Mr. Villines said the AAC has been aware of the increased cost to the counties for many years. The AAC believes a study of district court financing will reveal a loss of revenue to the counties similar to what was found in the circuit court study. He said the financing of the district courts is much more complicated than the circuit courts and a study of the financial structure should not use an approach that one-size fits all. Complications existing in the district courts include agreements the counties and cities have had to make to absorb the operational costs of the district court system. Cities and counties also fund 911 emergency service operations. Mr. Villines then discussed issues cities and counties face regarding not being able to serve

warrants due to the lack of empty bed space in jails. He said this has become a greater issue for counties around the state along with inadequate reimbursement rates for housing state inmates in county jails.

Mr. Jake Bleed told legislators he has worked with the Administration of Justice Fund for the past three years and emphasized that it is a complicated process. His office receives revenues from the court systems. He referenced Handout 2, copies of the forms all district and circuit courts are required to submit to DF&A on a monthly basis. The forms include a form for uniform filing fees and a miscellaneous fines and fees form. He referenced Exhibit G-1, the appropriation act that determines the distribution of funds from the Administration of Justice Fund (AOJ). The funding amount shown in the act is \$39.9 million. But, that amount has never been received in any particular year. Mr. Bleed said that DF&A does not distribute 100% of the funds, with the exception of funds designated for funding at 100%, including salaries of court reporters, trial court administrators, and some bond financing. The actual fund distribution is 65% for the remaining items in the act. He also said that the funds collected and remitted to the state from district and circuit courts for miscellaneous fines and fees has grown significantly with the advent of the AOJ fund. At one time there were only eight fines and fees. That number doubled to sixteen, and currently there are twenty-eight different fines and fees. The funds associated with these fines and fees are received and distributed by the AOJ fund. Mr. Bleed was asked to provide the committee with the fund balances for the twenty-eight entities and how the funds are spent. Mr. Bleed said that his office will prepare a report on the miscellaneous funds received. However, the only thing his office provides is the receipt of the funds and making the deposit to the state treasury. The agency or entity receiving the funding is responsible for the management and appropriate use of the funds.

Keith Caviness gave an overview of the evolution of the district court system. He referenced Exhibit F, a copy of Amendment 80. Amendment 80 abolished six different limited jurisdiction courts and established a three-tiered judicial system-the Appellate Court, the Supreme Court, and the Court of Appeals. The amendment left city courts and district courts in place. A task force created in 2006 made a recommendation to the General Assembly to develop plans for full-time elected district judges. The plans suggested a process to abolish the city courts. Mr. Caviness reviewed legislation regarding the creation of district courts:

- Act 663 enacted in the 2007 legislative Session initiated a pilot program and created 19 district court judgeships in 12 counties. Act 663 also created the District Court Resource Assessment Board (DECRA). DECRA is mandated to meet before each successive legislative Session and make recommendations for the creation of new state district court judgeships.
- Act 345 enacted in 2009 created 6 additional state district court pilot programs and judgeships for a total of 25 full-time district court judges in 16 counties.
- Act 219 enacted in 2011 redefined the state district court pilot program into state district courts. The term "pilot program" was eliminated.
- 13 additional state district court judgeships were created by the General Assembly to become effective January 1, 2013, which increased the total number of full time state district court judgeships to 38 in 28 counties.

- Act 1185 enacted in 2015 created 16 additional state district court judges to become effective January 1, 2017. The additional judgeships will increase the total number to 54 in 46 counties.
- Act 1185 of 2015 also created 11 additional state district court judgeships to become effective January 2021.
- The total number of state district court judgeships in 2021 will be 65 in 71 counties.
- 4 counties will enter the state district court system in 2029 with the creation of one additional state district court judgeship
- The total number of state district court judges in 2029 will be 66 and the state district courts implementation statewide will be completed. There will be no more part-time judges.

Legislators and presenters discussed aspects of the state district courts financing and operational costs. Jake Bleed told the committee that the AOJ fund supports some of the courts' staff and operations, including the salaries of the trial court administrators, the court reporters and the judges, and all of the items listed in the appropriation act, Act 1070. He said that half of a state district court judge's salary, \$58,650.00, is the responsibility of the local entity the judge serves, and the remaining half is the responsibility of the state. Mark Hayes commented on the salaries of the state district court personnel as being the responsibility of counties or cities, or a combination of both. He referenced a Miscellaneous Funds Form, included in a report prepared by DF& A, (Handout 2). There are 28 different items on the miscellaneous fine report with court costs associated with each fine. Mr. Hayes said this list has increased over the last several years and has caused problems with the collections. Declining collections add to the problem for cities and counties who fund the collection efforts.

Mr. Hayes responded to a question concerning the court structure found in other states. He explained he has reviewed reports from various organizations, which indicate there are some similarities across the country, but there are just as many differences. There was discussion that this is a major policy issue for the state due to the flow of revenue, the increasing costs to cities and counties, as well as the decline in collection of fines. It was suggested a review of other states' policies be done. Mr. Hayes said he will review the legal portion of the policies but, suggests that DF&A review the financial aspects. Senator Irvin said the Committee will continue the Interim Study and requested the Bureau of Legislative Research provide research and a review of court systems in other states through organizations such as the Council of State Governments (CSG), the National Conference of State Legislatures (NCSL), and the American Legislative Exchange Council (ALEC) and present to the Committee.

Committee members discussed the 28 entities and/or agencies receiving funds from the revenue produced by miscellaneous fees and fine collections. Mr. Bleed said that one problem with the collections is a lack of training and/or understanding by court personnel responsible for completing the two forms, the Uniform Filing Fees Form and the AOJ form. Both forms are required to be submitted monthly by cities and counties to provide accurate and complete information for each district court system. The forms are to be completed with the amounts of monies totaled, followed by the amount of money deducted from the

total, which the entity is authorized to keep. The remainder of the monies are to be remitted to the state. All the monies listed on these forms goes into the Administration of Justice fund. The monies associated with the fines and fees is then distributed to the various funds as listed on the AOJ fund Miscellaneous Fee/Fine Collection Report. Mr. Bleed was asked if DF&A knows the collection rate for the fines. Senator Irvin recognized County Judge Robert Griffin, Independence County to answer the question. Judge Griffin discussed the increase in the cost for both the circuit and district courts in Independence County. He said he could not understand why the county was only retaining \$100,00.00 of the budgeted amount of \$325,000.00 because the costs to the county to support the courts is actually \$350,000.00. He also said there is a direct cost when fines are not collected because holding the person until they pay their fines creates jail overcrowding. Judge Griffin said there are currently 140 prisoners in his county jail, which has a bed capacity of 118. The county is considering building another jail, which may not be possible because of the lack of funding due to the uncollected fines from court costs. Judge Griffin said counties are seeking an equitable redistribution of monies to help benefit the cities and counties.

Senator Irvin said that a request will be made to Legislative Audit to prepare a study on the financing of the District Court system, similar to the study previously done pertaining to the Circuit Courts. Suggestions were made to request district court judges and other court personnel to participate in future meetings regarding this discussion.

Senator Irvin announced the joint meeting of the Senate and House City, County, and Local Affairs Committees scheduled for 10:00 a.m. Thursday, June 16, 2016, in the Governor's Hall, Statehouse Convention Center, Little Rock, Arkansas.

There being no further business, the meeting adjourned at 5:30 p.m.