REPORT ON COMPLIANCE WITH ARK. CODE ANN. 14-58-101

COMPILED BY:
DIVISION OF LEGISLATIVE AUDIT
SEPTEMBER 1, 2011

REPORT ON COMPLIANCE WITH ARK. CODE ANN. 14-58-101

INDEX

		Pages
Audit by Independent Accountant (Ark. Code Ann. § 14-58-101)		1 – 2
Municipal Accounting Law (Ark. Code Ann. § 14-59-101 et seq.)		3 – 15
Arkansas District Courts and City Courts Accounting Law (Ark. Code Ann. § 16-10-201 et seq.)	effective until 1/1/12	16 – 30
Arkansas District Courts Accounting Law (Ark. Code Ann. § 16-10-201 et.seq.)	effective 1/1/12	31 – 45
Improvement Contracts (Ark. Code Ann. §§ 22-9-201 through 22-9-204)		46 – 52
Budgets, Purchases, and Payments of Claims, etc. (Ark. Code Ann. §14-58-201 et seq. and §14-58-301 et seq.)		53 – 58
Investment of Public Funds (Ark. Code Ann. § 19-1-501 et seq.)		59 – 62
Deposit of Public Funds (Ark. Code Ann. §§ 19-8-101 through 19-8-107)		63 – 67

14-58-101. Audit by independent accountant.

(a) The audit or agreed-upon procedures engagement of every municipality shall be made by the Division of Legislative Audit or other independent persons licensed and in good standing to practice accounting by the Arkansas State Board of Public Accountancy, to be selected by the governing body of the municipality.

(b) Any statutorily required audit of a municipality shall include, as a minimum, a review and comments on substantial compliance with each of the following Arkansas laws:

(1) Arkansas Municipal Accounting Law of 1973, § 14-59-101 et seq.;

(2) Arkansas District Courts and City Courts Accounting Law, § 16-10-201 et seq.;

(3) Improvement contracts, §§ 22-9-202 -- 22-9-204;

(4) Budgets, purchases, and payments of claims, etc., § 14-58-201 et seq. and 14-58-301 et seq;

(5) Investment of public funds, § 19-1-501 et seq.; and

(6) Deposit of public funds, §§ 19-8-101 -- 19-8-107.

(c) (1) For the purposes of this section, an audit shall be planned, conducted and the results of the work reported in accordance with generally accepted government auditing standards, if applicable.

(2) (A) The financial statements of municipalities shall be presented on a fund basis with, as a minimum:

(i) The general fund and the street fund presented separately; and

(ii) All other funds included in the audit presented in the aggregate.

(B) The financial statements shall consist of the following:

(i) A balance sheet;

(ii) A statement of revenues (receipts), expenditures (disbursements),

and changes in fund equity (balances);

(ii) A comparison of the final adopted budget to the actual expenditures for the general fund and street fund of the entity; and

(iii) Notes to financial statements.

(C) The report shall include as supplemental information a schedule of general fixed assets, including land, buildings, and equipment.

(3) In the alternative to subdivision (c)(2) of this section, the governing body of the municipality may adopt an annual resolution requiring their audit to be performed in accordance with the guidelines and format prescribed by the Governmental Accounting Standards Board, the American Institute of Certified Public Accountants, and the United States Government Accountability Office, if applicable.

(d) (1) As an alternative to an audit, the municipal governing body may authorize an agreed-upon procedures engagement of the records and accounts.

(2) For the purposes of this section, agreed-upon procedures engagements shall be conducted in accordance with standards established by the American Institute of Certified Public Accountants and subject to the minimum procedures prescribed by the Legislative Auditor.

(e) The Legislative Joint Auditing Committee shall monitor the reports prescribed in this section to ensure that the reports meet the needs of the General Assembly, the public entities, and the general public.

HISTORY: Acts 1977, No. 160, § 1; 1985, No. 15, § 1; A.S.A. 1947, § 19-4416.1; Acts 2001, No. 1052, § 1; 2005, No. 499, § 1.

14-59-101. Title.

This chapter shall be known and cited as the "Arkansas Municipal Accounting Law".

HISTORY: Acts 1973, No. 159, § 1; A.S.A. 1947, § 19-5301; Acts 2011, No. 621, § 1.

14-59-102. Applicability.

This chapter shall apply to all funds under the budgetary control of the council or board of directors of the various municipalities of this state, except water and sewer departments.

HISTORY: Acts 1973, No. 159, § 2; A.S.A. 1947, § 19-5302; Acts 2001, No. 1062, § 1.

14-59-103. Exemption for other systems.

(a) In the event any municipality feels its system of bookkeeping is such that it equals or exceeds the basic system prescribed by this chapter, the municipality may request a review by the Legislative Joint Auditing Committee.

(b) Upon the committee's concurrence with these facts, it may issue a certificate to the municipality stating that the municipality's accounting system is of a degree of sophistication such that the basic requirements of this chapter are being met and exempting the municipality from the requirements of the particulars of the system prescribed by this chapter.

HISTORY: Acts 1973, No. 159, § 14; A.S.A. 1947, § 19-5314.

14-59-104. Bank accounts.

(a) All municipalities of this state receiving state aid in the form of either turnback of general revenues or highways revenues shall maintain all funds in depositories approved for such purposes by law.

(b) The municipalities shall maintain separate bank accounts for general funds and street funds.

(c) The accounts shall be maintained in the name of the municipality.

HISTORY: Acts 1973, No. 159, § 3; A.S.A. 1947, § 19-5303.

14-59-105. Prenumbered checks -- Electronic funds transfers.

(a) All disbursements of municipal funds, except those described in this section and as noted in § 14-59-106, petty cash funds, are to be made by prenumbered checks drawn upon the bank account of that municipality.

(b) The checks shall be of the form normally provided by commercial banking institutions and shall contain as a minimum the following information:

(1) Date of issue;

(2) Check number;

(3) Payee;

(4) Amount; and

(5) Signature of two (2) authorized disbursing officers of the city.

(c) Disbursements of municipal funds used for payment of salaries and wages of municipal officials and employees may be made by electronic funds transfer provided that the municipal employee or official responsible for disbursements maintains a ledger containing at least the:

(1) Name, address, and social security number of the employee receiving payment of salary or wages;

(2) Routing number from the bank in which the funds are held;

(3) Account number;

(4) Accounts clearing house trace number pertaining to the transfer;

(5) Date and amount transferred; and

(6) Proof that the employee has been notified of direct deposit of his or her salary or wages by electronic funds transfer.

(d) Disbursements of municipal funds used for payments to federal or state governmental entities may be made by electronic funds transfer.

(e) (1) Disbursements of municipal funds, other than for payments under subsections (c) and (d) of this section, may be made by electronic funds transfer provided that:

(A) The governing body of the municipality shall establish by ordinance an electronic funds payment system directly into payees' accounts in financial institutions in payment of any account allowed against the municipality;

(B) For purposes of this subsection, municipalities opting for an electronic funds payment system shall establish an electronic payment method that provides for internal accounting controls and documentation for audit and accounting purposes; and

(C) Each electronic payment method established under subdivision (e)(2) of this section shall be approved by the Legislative Joint Auditing Committee before implementation by the municipality.

(2) A single electronic funds payment may contain payments to multiple payees, appropriations, characters, or funds.

(f) A disbursement of municipal funds shall have adequate supporting documentation for the disbursement.

HISTORY: Acts 1973, No. 159, § 5; A.S.A. 1947, § 19-5305; Acts 1997, No. 543, § 1; 2009, No. 316, § 1; 2011, No. 621, § 2.

14-59-106. Petty cash funds.

(a) Municipalities are permitted to establish petty cash funds, so long as the funds are maintained as set forth in this section.

(b) (1) The establishment of such a fund must be approved by the city council.

(2) (A) In establishing such a fund, a check is to be drawn upon the general fund of the municipality payable to "petty cash."

(B) That amount may be maintained in the municipal offices for the handling of small expenditures for items such as postage, light bulbs, delivery fees, etc.

(c) (1) A paid-out slip is to be prepared for each item of expenditure from the fund and signed by the person receiving the moneys.

(2) These paid-out slips shall be maintained with the petty cash. When the fund becomes depleted, the municipality may then draw another check payable to "petty cash" in an amount which equals the total paid-out slips issued. At that time, the paid-out slips shall be removed from the "petty cash fund," and utilized as invoice support for the check replenishing petty cash.

HISTORY: Acts 1973, No. 159, § 6; A.S.A. 1947, § 19-5306.

14-59-107. Fixed asset records.

(a) The governing body shall adopt a policy defining fixed assets. At a minimum, the policy shall set forth the dollar amount and useful life necessary to qualify as a fixed asset.

(b) (1) All municipalities shall establish by major category and maintain, as a minimum, a listing of all fixed assets owned by the municipality.

(2) The listing shall be totaled by category with a total for all categories.

(3) The categories of fixed assets shall include the major types, such as:

(A) Land;

(B) Buildings;

(C) Motor vehicles, by department;

(D) Equipment, by department; and

(E) Other assets.

(c) The listing shall contain as a minimum:

(1) Property item number, if used by the municipality;

(2) Brief description;

(3) Serial number, if available;

(4) Date of acquisition; and

(5) Cost of property.

HISTORY: Acts 1973, No. 159, § 7; A.S.A. 1947, § 19-5307; Acts 2001, No. 1062, § 2; 2011, No. 621, § 3.

14-59-108. Reconciliation of bank accounts.

(a) (1) On a monthly basis, all municipalities shall reconcile their cash receipts and disbursements journals to the amount on deposit in banks.

(2) The reconciliation under subdivision (a)(1) of this section shall be approved by a municipal official or employee, other than the person preparing the reconciliation, as designated by the chief executive officer of the municipality.

(b) The reconciliations should take the following form:

City of .....
Date .....

Amount Per Bank Statement
Dated ..... $ .00
Add: Deposits in transit (Receipts recorded
in Cash Receipts Journal not shown on this bank statement).

DATE	RECEIPTS NO.	AMOUNT
		$ .00
		.00
		.00

Deduct: Outstanding Checks (Checks issued and dated prior to date of
bank statement per Cash Disbursements Journal not having
yet cleared the bank).

CHECK NO.	PAYEE	AMOUNT
		$ .00
		.00
		.00

RECONCILED BALANCE $ .00

This reconciled balance shall agree to either the cash balance as shown on the municipality's check stubs running bank balance or the municipality's general ledger cash balance, whichever system the municipality employs.

HISTORY: Acts 1973, No. 159, § 12; A.S.A. 1947, § 19-5312; Acts 2011, No. 621, § 4.

14-59-109. Prenumbered receipts.

(a) All funds received are to be formally receipted at the time of collection or the earliest opportunity by the use of prenumbered receipts or mechanical receipting devices.

(b) (1) In the use of prenumbered receipts, the following minimum standards shall be met:

(A) If manual receipts are used, receipts are to be prenumbered by the printer and a printer's certificate obtained and retained for audit purposes. The certificate shall state the date printing was done, the numerical sequence of receipts printed, and the name of the printer;

(B) The prenumbered receipts shall contain the following information for each item receipted:

(i) Date;

(ii) Amount of receipt;

(iii) Name of person or company from whom money was received;

(iv) Purpose of payment;

(v) Fund to which receipt is to be credited; and

(vi) Identification of employee receiving money.

(2) If manual receipts are used, the original receipt should be given to the party making payment. One (1) duplicate copy of the receipt shall be maintained in numerical order in the receipt book and made available to the auditors during the course of annual audit. Additional copies of the receipt are optional with the municipality and may be used for any purposes they deem fit.

(c) If an electronic receipting system is used, the system shall be in compliance with the Information Systems Best Practices Checklist provided by the Legislative Joint Auditing Committee.

HISTORY: Acts 1973, No. 159, § 4; A.S.A. 1947, § 19-5304; Acts 2011, No. 621, § 5.

14-59-110. Cash receipts journals.

(a) (1) Municipalities shall establish a cash receipts journal or an electronic receipts listing that shall indicate:

(A) The receipt number;

(B) The date of the receipt;

(C) The payor;

(D) The amount of the receipt; and

(E) Classification or general ledger account.

(2) The classification of the receipts shall include the major sources of revenue, such as:

(A) State revenues;

(B) Property taxes;

(C) Sales taxes;

(D) Fines, forfeitures, and costs;

(E) Franchise fees;

(F) Transfers in; and

(G) Other.

(b) (1) All items of receipts shall be posted to and properly classified in the cash receipts journal or electronic receipts listing.

(2) (A) The journal shall be properly balanced and totaled monthly and on a year-to-date basis.

(B) The journal shall be reconciled monthly to total bank deposits as shown on the municipalities' bank statements.

(3) The electronic receipts listing shall be posted to the general ledger at least monthly. The general ledger shall be reconciled monthly to total bank deposits as shown on the municipalities' bank statements.

HISTORY: Acts 1973, No. 159, § 10; A.S.A. 1947, § 19-5310; Acts 2001, No. 1062, § 3; 2011, No. 621, § 6.

14-59-111. Cash disbursements journals.

(a) (1) Municipalities shall establish a cash disbursements journal or electronic check register that shall indicate the date, payee, check number or transaction number, amount of each check written or transaction, and classification or general ledger account.

(2) The classifications of expenditures shall include the major type of expenditures by department, such as:

(A) Personal services;

(B) Supplies;

(C) Other services and charges;

(D) Capital outlay;

(E) Debt service; and

(F) Transfers out.

(b) (1) The cash disbursements journal shall be properly balanced and totaled monthly and on a year-to-date basis.

(2) The cash disbursements journal shall be reconciled monthly to total bank disbursements as indicated on the monthly bank statements.

(3) The electronic check register shall be posted to the general ledger at least monthly. The general ledger shall be reconciled monthly to total bank disbursements as indicated on the monthly bank statements.

HISTORY: Acts 1973, No. 159, § 11; A.S.A. 1947, § 19-5311; Acts 2001, No. 1062, § 4; 2011, No. 621, § 7.

14-59-112, 14-59-113. [Repealed.]

14-59-114. Maintenance and destruction of accounting records.

(a) Accounting records can basically be divided into the following three (3) groups:

(1) (A) Support Documents. Support documents consist primarily of the following items:

(i) Cancelled checks;

(ii) Invoices;

(iii) Bank statements;

(iv) Receipts;

(v) Deposit slips;

(vi) Bank reconciliations;

(vii) Check book register or listing;

(viii) Receipts listing;

(ix) Monthly financial reports;

(x) Payroll records;

(xi) Budget documents; and

(xii) Bids, quotes, and related documentation.

(B) These records shall be maintained for a period of at least four (4) years and in no event shall be disposed of before being audited for the period in question.

(2) (A) Semipermanent Records. Semipermanent records consist of:

(i) Fixed assets and equipment detail records;

(ii) Investment and certificate of deposit records;

(iii) Journals, ledgers, and subsidiary ledgers; and

(iv) Annual financial reports.

(B) (i) These records shall be maintained for a period of not less than seven (7) years and in no event shall be disposed of before being audited for the period in question.

(ii) For investment and certificate of deposit records, the seven (7) years of required maintenance begins on the date of maturity.

(3) (A) Permanent Records. Permanent records consist of:

(i) City or town council minutes;

(ii) Ordinances;

(iii) Resolutions;

(iv) Employee retirement documents; and

(v) Annual financial audits.

(B) These records shall be maintained permanently.

(b) When documents are destroyed, the municipality shall document the destruction by the following procedure:

(1) (A) An affidavit is to be prepared stating which documents are being destroyed and to which period of time they apply, indicating the method of destruction;

(B) This affidavit is to be signed by the municipal employee performing the destruction and one (1) council member.

(2) (A) In addition, the approval of the council for destruction of documents shall be obtained, and an appropriate note of the approval indicated in the council minutes along with the destruction affidavit;

(B) This council approval shall be obtained before the destruction.

HISTORY: Acts 1973, No. 159, § 15; 1979, No. 616, § 2; A.S.A. 1947, § 19-5315; Acts 2011, No. 621, § 8.

14-59-115. Duties of municipal treasurer.

(a) Each municipal treasurer of this state or the designated representative that has been approved by the governing body shall submit a monthly financial report to the council or board of directors.

(b) (1) Municipal treasurers shall maintain the accounting records prescribed in this chapter.

(2) (A) If the treasurer does not comply with the provisions of this chapter or requests that specific duties be assigned to another employee or contracting entity, the governing body of a municipality may assign specific duties outlined in this chapter to another employee, or it may contract for such services to be performed by a private, qualified person or entity.

(B) The governing body of a municipality may not assign duties relating to the collecting or disbursing of funds to anyone other than an employee of the municipality.

HISTORY: Acts 1973, No. 159, § 13; A.S.A. 1947, § 19-5313; Acts 2001, No. 1062, § 5; 2011, No. 621, § 9.

14-59-116. Annual publication of financial statement.

(a) (1) The governing body of each municipality shall publish annually a financial statement of the municipality, including receipts and expenditures for the period and a statement of the indebtedness and financial condition of the municipality. The financial statement shall be published one (1) time in a newspaper published in the municipality.

(2) This financial statement shall be at least as detailed as the minimum record of accounts as provided in this chapter.

(3) This financial statement shall be published by April 1 of the following year.

(b) In municipalities in which no newspaper is published, the financial statement shall be posted in two (2) of the most public places in the municipality.

HISTORY: Acts 1973, No. 159, §§ 18, 19, as added by 1977, No. 308, § 1; A.S.A. 1947, §§ 19-5316, 19-5317; Acts 2011, No. 621, § 10.

14-59-117. Withholding of turnback for noncompliance.

(a) (1) If the Division of Legislative Audit determines that a municipal treasurer is not substantially complying with this chapter, the division shall report the findings to the Legislative Joint Auditing Committee.

(2) (A) If a public official or a private accountant determines that a municipal treasurer is not substantially complying with this chapter, the official or accountant shall notify the Legislative Joint Auditing Committee of his or her findings.

(B) Upon notification, the Legislative Joint Auditing Committee shall direct the division to confirm that the municipal treasurer is not substantially complying with this chapter.

(C) Upon confirmation, the division shall report the findings to the Legislative Joint Auditing Committee.

(b) (1) Upon notification of noncompliance by the division, the Legislative Joint Auditing Committee shall notify in writing the mayor and the city council or town council that the municipality's accounting records do not substantially comply with this chapter.

(2) The municipality has sixty (60) days after the date of notification to bring the accounting records into substantial compliance with this chapter.

(3) (A) After the sixty (60) days allowed for compliance or upon request by the appropriate municipal officials, the division shall review the records to determine if the municipality substantially complies with this chapter.

(B) The division shall report its findings to the Legislative Joint Auditing Committee.

(c) (1) (A) If the municipality has not achieved substantial compliance within the sixty-day period, the Legislative Joint Auditing Committee may report the noncompliance to the Treasurer of State.

(B) Upon receipt of the notice of noncompliance from the Legislative Joint Auditing Committee, the Treasurer of State shall place fifty percent (50%) of the municipality's turnback in escrow until the Legislative Joint Auditing Committee reports to the Treasurer of State that the municipality has substantially complied with this chapter.

(2) If the municipality has not achieved substantial compliance within the sixty-day period, the governing body of the municipality shall assign specific duties outlined in this chapter to another employee or shall contract for the services to be performed by a qualified person or entity.

(3) (A) The division shall notify the Legislative Joint Auditing Committee when the municipality has substantially complied with this chapter.

(B) (i) The Legislative Joint Auditing Committee shall notify the Treasurer of State that the municipality has substantially complied with this chapter.

(ii) Upon notice of compliance from the Legislative Joint Auditing Committee, the Treasurer of State shall remit all turnback due to the municipality.

(d) (1) If the division has not received a request for a review of the records from the municipality before the end of the one-hundred-twenty-day period after the first date of notification of noncompliance, the Legislative Joint Auditing Committee may notify the municipality and the Treasurer of State of the continued noncompliance.

(2) Upon notice by the Legislative Joint Auditing Committee, the Treasurer of State shall withhold all turnback until such time that the accounting records have been reviewed and determined by the division to be in substantial compliance with this chapter.

(e) (1) If the division has not received a request for a review of the records from the municipality before the end of six (6) months after the initial notification of noncompliance, the Legislative Joint Auditing Committee may notify the municipality and the Treasurer of State of the continued noncompliance.

(2) Upon notice of noncompliance for six (6) months, the municipality forfeits all escrowed funds, and the Treasurer of State shall redistribute all escrowed turnback funds applicable to the municipality among all other municipalities receiving turnback.

(3) The municipality shall not be eligible to receive any additional turnback from the state until the Legislative Joint Auditing Committee notifies the Treasurer of State that the municipality has substantially complied with this chapter.

HISTORY: Acts 2001, No. 1062, § 6; 2009, No. 288, § 1.

14-59-118. Penalty.

(a) Any municipal treasurer who refuses or neglects to maintain the books and records provided in this chapter shall be deemed guilty of malfeasance.

(b) Upon conviction in circuit court, the treasurer shall be fined in any sum not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) and shall be removed from office.

HISTORY: Acts 2001, No. 1062, § 7.

First of 2 versions of this section Effective until January 1, 2012

16-10-201. Title. [Effective until January 1, 2012.]

This subchapter shall be known and cited as the "Arkansas District Courts and City Courts Accounting Law".

HISTORY: Acts 1977, No. 332, § 1; A.S.A. 1947, § 22-1101; Acts 2003, No. 1185, §§ 46, 47.

16-10-202. Definitions. [Effective until January 1, 2012.]

As used in this subchapter:

(1) "Citation" means a written order or electronic ticket:

(A) Issued by a law enforcement officer or employee of the department of public safety of a city or incorporated town who is authorized to make an arrest; and

(B) That requires a person accused of violating the law to appear in a designated court or governmental office at a specified date and time;

(2) "Court" means a district court or a city court in the State of Arkansas; and

(3) "Electronic ticket" means an electronic citation or warning printed by a law enforcement officer and issued to a person accused of violating the law.

HISTORY: Acts 1977, No. 332, § 2; A.S.A. 1947, § 22-1102; Acts 2003, No. 1185, §§ 46, 47; 2011, No. 908, § 1.

16-10-203. Applicability of subchapter. [Effective until January 1, 2012.]

This subchapter shall apply to any district court or city court within the State of Arkansas.

HISTORY: Acts 1977, No. 332, § 2; A.S.A. 1947, § 22-1102; Acts 2003, No. 1185, §§ 46, 47.

16-10-204. Bank accounts for court funds. [Effective until January 1, 2012.]

(a) (1) Each municipal police department, city or town marshal, sheriff's office, and court shall maintain court funds separately in depositories approved for such purposes by law.

(2) All disbursements from such accounts shall be evidenced by prenumbered checks.

(3) The separate bank accounts shall be maintained and styled and funds therein shall be disbursed only upon signatures as prescribed in this section.

(b) Each municipal police department and each city or town marshal shall deposit court funds in an account styled "(Name of Municipality) Police Department Bond and Fine Account", and such funds shall be disbursed only on the signature of the chief of police or marshal of the municipality and the signature of one (1) other authorized person.

(c) Each office of county sheriff shall deposit court funds in an account styled "(Name of County) County Sheriff's Bond and Fine Account", and such funds shall be disbursed only on the signature of the sheriff of the county and the signature of one (1) other authorized person.

(d) Each court shall deposit court funds in an account styled "(Name of Court) Court Account", and such funds shall be disbursed only upon the signature of the court clerk and the signature of one (1) other person to be authorized by the court's presiding judge.

HISTORY: Acts 1977, No. 332, § 3; A.S.A. 1947, § 22-1103.

16-10-205. Uniform traffic tickets. [Effective until January 1, 2012.]

(a) Each municipal police department, city or town marshal, and county sheriff's office shall maintain and issue uniform written or electronic traffic ticket books, sometimes called citation books, summons books, or ticket books, for violation of all municipal and state laws.

(b) All written uniform traffic ticket books must be prenumbered by the printer, and a printer's certificate or other evidence shall be furnished to the police department, marshal's office, or sheriff's office, and the certificate or other evidence shall be made available for inspection.

(c) All written void or spoiled tickets must be accounted for by attaching all copies to the hard copy in the uniform traffic ticket book.

(d) (1) All written uniform traffic ticket books must have at least an original and three (3) copies used and distributed as follows:

(A) Hard copy: Violator's copy;

(B) White copy: Police department, marshal's office, or sheriff's office copy;

(C) (i) Yellow copy: Court clerk's copy, to be forwarded to the Office of Driver Services of the Revenue Division of the Department of Finance and Administration as provided in this subdivision (d)(1)(C).

(ii) Within five (5) business days after a conviction or forfeiture of bail of a person charged with a violation of any law regulating the operation of vehicles on a highway, § 3-3-203(a) or § 5-27-503(a)(3), the clerk shall forward the yellow copy covering the case in which the person was convicted or forfeited bail.

(iii) The yellow copy shall be certified by the person required to prepare it and shall include the name and address of the party charged, the registration number of the vehicle involved, the nature of the offense, the date of hearing, the plea, the judgment or whether bail was forfeited, and the amount of the fine or forfeiture.

(iv) Within five (5) business days after the disposition of any case, the clerk shall forward the yellow copy of the citation and the resulting disposition of the case.

(v) A court using the case management system provided by the Administrative Office of the Courts or the electronic reporting system of the Office of Driver Services is not required to submit the yellow copy to the Office of Driver Services but must enter the disposition or judgment of conviction into the case management system or the electronic reporting system within the time required in this section; and

(D) Pink copy: Remains in uniform traffic ticket book.

(2) Tickets issued but unprocessed shall be filed by the court date in the police department, marshal's office, or sheriff's office.

(e) If an electronic citation is used:

(1) The violator shall be given a printed copy of the electronic citation;

(2) A copy of the electronic citation shall be maintained by the issuing department; and

(3) A copy of the electronic citation shall be forwarded to the appropriate court clerk's office in either electronic or written format as designated by the appropriate court clerk.

HISTORY: Acts 1977, No. 332, § 4; A.S.A. 1947, § 22-1104; Acts 2009, No. 456, § 1; 2011, No. 44, § 1; 2011, No. 908, § 3.

16-10-206. Court docket. [Effective until January 1, 2012.]

(a) All violations shall be docketed and all judgments shall be rendered by the court's presiding judge.

(b) The court docket sheet shall reflect the complete history of the violation and the disposition of each case, and shall contain the following information:

(1) The uniform traffic ticket number;

(2) The date and nature of the violation;

(3) The date the court convened to hear the case;

(4) The names of arresting officers and witnesses, if any;

(5) The judgment rendered by the court;

(6) The signature or initials of the judge;

(7) The amount of the fine and costs itemized;

(8) The receipt number and dollar amount evidencing payment of fine and costs; and

(9) If applicable, the check number and dollar amount evidencing authorized bond refund. The check itself will indicate the docket number evidencing authorization.

(c) The docket sheets shall be numbered by the court clerk in accordance with the Rules of the Supreme Court of Arkansas.

(d) (1) The docket pages shall be prenumbered by the printer, and a printer's certificate or other evidence shall be furnished to the court's clerk which shall be made available for inspection.

(2) The docket pages shall be numbered independently of court docket numbers assigned by the court clerk and shall permit sequential use of all printed docket pages.

(e) The docket sheets shall be either bound or loose-leaf, provided that accountability and control is maintained over the loose-leaf docket sheets.

(f) The court clerk shall keep separate court dockets, one (1) for city cases and one (1) for county cases.

HISTORY: Acts 1977, No. 332, § 5; A.S.A. 1947, § 22-1105; Acts 2005, No. 1934, § 2.

16-10-207. Police department and marshal's and sheriff's offices -- Activities and clerical duties required. [Effective until January 1, 2012.]

The following activities and clerical duties relating to court functions shall be required of all police departments, city or town marshals, and sheriff's offices:

(1) Controls for Uniform Traffic Tickets. (A) A list of all uniform traffic ticket books and the corresponding range of tickets in each book shall be kept in the police department, office of city or town marshal, or sheriff's office.

(B) The issuance of the uniform traffic ticket books shall be the responsibility of the chief of police, marshal, or sheriff, or someone who is delegated the authority to do so.

(C) Each patrolman, including also the chief of police, marshal, or sheriff, shall sign a receipt for each uniform traffic ticket book issued to him or her. This receipt book shall be made available for inspection.

(D) The chief of police, marshal, or sheriff shall be responsible for ensuring that all uniform traffic tickets issued shall be entered on the arrest report.

(E) As each uniform traffic ticket book is completed, it shall immediately be filed with the court clerk and made available for inspection;

(2) [Repealed.]

(3) Preparation and Submission of Arrest Report. (A) Separate arrest reports shall be prepared for city cases and county cases.

(B) The arrest report shall contain columns for the following information:

(i) Uniform traffic ticket number;

(ii) Violator's name;

(iii) Nature of the offense;

(iv) Name of the arresting officer;

(v) Receipt number;

(vi) Fine and costs collected; and

(vii) Any other additional information deemed appropriate or necessary.

(C) (i) Prior to the court date, the arrest report shall be prepared from the tickets accumulated in the court date file in the police department office, marshal's office, or

sheriff's office.

(ii) After the case has been adjudicated and the court's determination entered on the uniform traffic ticket, the processed police department or sheriff's office copy of the uniform traffic ticket shall then be filed either alphabetically or numerically.

(D) The fine and costs column shall be totaled, and a check shall be drawn payable to the court fund which represents moneys collected and receipts issued by the police department, marshal's office, or sheriff's office for those tickets contained on the arrest report.

(E) A completed copy of the arrest report accompanied by the police department's, marshal's office, or sheriff's office check shall be delivered to the court clerk; and

(4) Collection, Receipt, and Deposit Procedures. (A) All receipt books must be prenumbered by the printer, and a printer's certificate or other evidence shall be furnished to the police department, marshal's office, or sheriff's office, which shall be made available for inspection.

(B) All void or spoiled receipts must be accounted for by attaching the original copy of the receipt to the duplicate copy of the receipt in the receipt book.

(C) The receipt shall be issued in the name of the violator regardless of who paid the bond or fine or who collected the bond or fine.

(D) (i) A prenumbered receipt shall be issued for all moneys collected, and such receipts shall be deposited intact daily in the bank account maintained by the police department, marshal's office, or sheriff's office.

(ii) All receipt numbers shall be entered on the arrest report by the police department, marshal's office, or sheriff's office.

(E) The police department, marshal's office, or sheriff's office may maintain separate bank accounts for city cases and county cases.

(F) The bank deposit slips prepared by the police department, marshal's office, or sheriff's office shall contain the range of receipt numbers evidencing such collections. In addition, the receipts issued shall be reconciled with the monthly bank deposits.

(G) A bank reconciliation shall be made at the end of each month, and any balance remaining in the bank account shall be identified with receipts issued but not yet entered on the arrest report.

HISTORY: Acts 1977, No. 332, § 6; A.S.A. 1947, § 22-1106; Acts 2007, No. 627, § 1; 2009, No. 456, § 2.

16-10-208. Court clerk -- Eligibility. [Effective until January 1, 2012.]

The court clerk shall not be a member of the police department, marshal's office, or sheriff's office.

HISTORY: Acts 1977, No. 332, § 7; A.S.A. 1947, § 22-1107.

16-10-209. Court clerk -- Activities and clerical duties. [Effective until January 1, 2012.]

The following activities and clerical duties relating to court functions shall be required of all court clerks:

(1) Collection, receipt, and deposit procedures. (A) All receipt books must be prenumbered by the printer, and a printer's certificate or other evidence shall be furnished to the court clerk, which shall be made available for inspection.

(B) All void or spoiled receipts must be accounted for by attaching the original copy of the receipt to the duplicate copy of the receipt in the receipt book.

(C) (i) For those checks forwarded with the arrest reports, the receipt shall be issued in the name of the police department, marshal's office, or sheriff's office.

(ii) For those receipts issued at court date, the court clerk shall issue such receipts in the name of the defendant, regardless of who paid the bond or fine or who collected the bond or fine.

(D) A prenumbered receipt shall be issued for all moneys collected, and such receipts shall be deposited intact daily into the separate bank account maintained by the court clerk.

(E) (i) The bank deposit slips prepared by the court clerk shall contain the range or receipt numbers evidencing such collections.

(ii) Additionally, the receipts issued shall be reconciled with the monthly bank deposits.

(F) A bank reconciliation shall be made at the end of each month, and any balance remaining in the bank account shall be identified with receipt numbers for cases not yet adjudicated and the payments made on all unpaid individual time accounts; and

(G) The court clerk may maintain separate bank accounts for city cases and for county cases;

(2) Preparation and submission of court report. (A) The court report shall contain columns for the following information:

(i) The uniform traffic ticket number;

(ii) The defendant's name;

(iii) The nature of the offense;

(iv) The name of arresting officer;

(v) The court docket number;

(vi) The disposition or date continued;

(vii) The receipt number;

(viii) The total fine and costs collected;

(ix) The fine;

(x) The costs itemized, including all prosecuting attorney's fees;

(xi) The bond refund amount;

(xii) The bond refund check number; and

(xiii) The installment payment amount.

(B) The court clerk at each court date shall prepare the court report from the arrest report supplied by the police department, marshal's office, or sheriff's office.

(C) At the end of each court date, the court clerk shall complete the court report for the court date and total the dollar amounts contained in the court report.

(D) The court reports prepared each court date shall be summarized at least monthly.

(E) The court clerk shall make a direct monetary settlement on or before the tenth day of the next-following month with each of the following:

(i) The city treasurer;

(ii) The county treasurer;

(iii) The prosecuting attorney;

(iv) If applicable, the treasurer of the policemen's pension and relief fund and the district judge and clerk's retirement fund;

(v) The Administration of Justice Funds Section of the Office of Administrative Services of the Department of Finance and Administration; and

(vi) Any other state agency or entity which receives fines or fees assessed by the court and collected pursuant to law.

(F) The court clerk, will make reports in quadruplicate of the applicable individual court reports and distribute the reports in the following manner:

(i) One (1) copy to the mayor;

(ii) One (1) copy to the county clerk;

(iii) One (1) copy to the Administrative Office of the Courts; and

(iv) One (1) copy to be retained by the clerk and made available for inspection;

(3) Minimum bookkeeping requirements. (A) (i) The court clerk shall maintain a separate cash receipts and disbursements journal for city cases and county cases.

(ii) The journal shall consist of sufficient columns in order to properly classify all moneys receipted as to their proper nature, e.g., fines, administration of justice fund, etc.

(iii) The journal shall also contain sufficient columns to properly classify all moneys disbursed as to their proper nature, e.g., general fund, county treasurer, bond refunds, etc.

(B) The court clerk shall total and balance the receipts and disbursements journal monthly and establish and maintain year-to-date totals monthly.

(C) (i) The court clerk shall prepare monthly bank reconciliations for each court bank account.

(ii) The cash receipts and disbursements journal shall be utilized in effecting the bank reconciliations.

(D) Copies of bank reconciliations shall be furnished to the court's presiding judge, county judge, and mayor;

(4) Bond refunds. (A) All bond refunds shall be made only upon the authorization of the presiding judge and shall be indicated as such on the court docket.

(B) (i) All bond refunds shall be made only by a check drawn on the court's bank account.

(ii) Additionally, the check shall indicate the court docket number for authorization.

(C) The court clerk shall enter all bond refunds on the applicable court report;

(5) Installment payments. (A) Installment payments shall be allowed only upon the authorization of the presiding judge and shall be indicated as such on the court docket.

(B) (i) The court clerk shall establish and maintain individual installment payment account ledger cards, with a duplicate copy of the ledger card being furnished to and maintained by the county or city official, agency, or department designated under § 16-13-709 as primarily responsible for the collection of fines assessed in district courts and city courts.

(ii) The ledger cards shall contain the following minimum information:

(a) Name of the individual;

(b) Court docket number and court date;

(c) Nature of the violation;

(d) Total fine and costs assessed;

(e) Receipt number, date, and amount of payment; and

(f) Unpaid balance of fine, fees, and costs.

(C) The county or city official, agency, or department designated under § 16-13-709 as primarily responsible for the collection of fines assessed in district courts and city courts shall be responsible for collecting all installment payments and shall enter all collected installment payments on each applicable arrest report.

(D) (i) The court clerk shall establish and maintain a control total for installment payments, which is a summary of all unpaid individual installment payment accounts.

(ii) The control total shall be reconciled monthly with the individual installment payment accounts.

(E) (i) The court clerk shall furnish the county or city official, agency, or department designated under § 16-13-709 as primarily responsible for the collection of fines assessed in district courts and city courts and the presiding judge monthly with a list of all unpaid installment payment accounts for which a payment has not been received within the past thirty (30) days.

(ii) The presiding judge shall then take the necessary action deemed appropriate in the circumstances.

(F) (i) (a) All installment payments shall initially be deemed to be collections of court costs until the costs have been collected in full, with any remaining installment payments representing collections of fines.

(b) The court clerk shall prepare at least monthly a separate court report for all installment payments made on accounts.

(c) The monetary settlement for this separate court report shall be made on or before the tenth day of the next-following month.

(ii) A municipal or county governing body may provide by appropriate municipal or county legislation an alternative method of installment payment allocation as follows:

(a) All installment payments shall be allocated fifty percent (50%) to court costs and fifty percent (50%) to fines. Whenever either court costs or fines are fully paid, all remaining installment payments shall be allocated to remaining amounts due;

(b) The court clerk shall prepare at least monthly a separate court report for all installment payments made on accounts. The monetary settlement for this separate court report shall be made on or before the tenth day of the next-following month; and

(6) Reconciliation of completed ticket books to arrest report. (A) The court clerk shall reconcile on a quarterly basis on or before the fifteenth day of the month following the end of the calendar quarter the individual tickets in the completed ticket book to the individual tickets as reflected on the arrest reports.

(B) For any discrepancies noted in the reconciliation in subdivision (6)(A) of this section, the court clerk shall prepare a written list and present this list to the court's judge for his or her appropriate action.

HISTORY: Acts 1977, No. 332, § 7; 1985, No. 677, §§ 1, 2; 1985, No. 776, §§ 1, 2; A.S.A. 1947, § 22-1107; Acts 1991, No. 904, § 21; 1997, No. 788, § 3; 1997, No. 1341, § 3; 1999, No. 1081, §§ 1, 2; 1999, No. 1508, § 7; 2003, No. 1765, § 7; 2005, No. 1934, § 3; 2011, No. 1132, § 2.

16-10-210. Accounting systems above minimum.

(a) Any official charged with the maintenance of accounting or bookkeeping records under the provisions of this subchapter whose system of bookkeeping is such that it does not strictly adhere to the provisions of this subchapter, but in that official's opinion equals or exceeds the basic requirements prescribed by this subchapter, may request the court's presiding judge to request a review by the staff of the Legislative Joint Auditing Committee.

(b) Upon the committee's concurrence with the official's opinion regarding the capability of the existing system of bookkeeping, a letter shall be issued by the committee to the court's presiding judge stating that the official's accounting system is of such a degree of sophistication that the basic requirements of this subchapter are being met.

(c) After issuance of the letter by the committee under subsection (b) of this section, the official is exempt from the requirements of the particulars of the procedures prescribed by this subchapter, provided the official's system of bookkeeping is not altered.

HISTORY: Acts 1977, No. 332, § 8; A.S.A. 1947, § 22-1108; Acts 2007, No. 627, § 2.

16-10-211. Record retention schedule. [Effective until January 1, 2012.]

(a) All towns, cities, and counties of the State of Arkansas shall maintain records for the district courts and city courts and are to:

(1) Permanently maintain:

(A) Case indices for all courts;

(B) Case dockets for all courts;

(C) Unserved warrants;

(D) Waivers;

(E) Expungement and sealed records;

(F) Circuit court judgments;

(G) Files concerning convictions under the Omnibus DWI Act, § 5-65-101 et seq.;

(H) Files concerning cases resulting in a suspended imposition of sentence; and

(I) Domestic battering files;

(2) Maintain for a period of at least seven (7) years and in no event dispose of prior to being audited:

(A) Records and reports of court costs;

(B) Fines and fees assessed and collected;

(C) Complete case files and written exhibits for all courts;

(D) Month-end settlements;

(E) Monthly distribution reports;

(F) Show cause orders;

(G) Case information, including arrest reports and affidavits; and

(H) Alternative service or community service time sheets; and

(3) Maintain for a period of at least three (3) years and in no event dispose of prior to being audited:

(A) Bank reconciliations;

(B) Check book registers;

(C) Cancelled checks;

(D) Bank statements;

(E) Receipts;

(F) Deposit collection records;

(G) Budget packets or books;

(H) Accounts payable;

(I) Payroll time sheets;

(J) Information concerning vacation and sick leave;

(K) Month-end payroll;

(L) Uniform traffic ticket books from each police department and sheriff's office; and
(M) Served warrants.

(b) After a town, city, or county has maintained records for the time periods required by subdivisions (a)(2) or (3) of this section and after the records described in subdivisions (a)(2) or (3) of this section have been audited, the records may be destroyed.

(c) When records are destroyed under subsection (b) of this section, the town, city, or county shall document the destruction by the following procedure:

(1) An affidavit is to be prepared stating:

(A) Which records are being destroyed and to which period of time the records apply; and

(B) The method of destruction; and

(2) (A) For city court records, the affidavit described in subdivision (c)(1) of this section is to be signed by the town or city employee performing the destruction and one (1) town or city council member.

(B) For district court records, the affidavit described in subdivision (c)(1) of this section is to be signed by the town, city, or county employee performing the destruction and one (1) employee of the governing body or, if applicable, governing bodies which contribute to the expenses of the court.

(d) (1) In addition to the procedure described in subsection (c) of this section, the approval of the town or city council for destruction of documents shall be obtained prior to the destruction of city court records and an appropriate note of the approval indicated in the town or city council minutes along with the destruction affidavit.

(2) In addition to the procedure described in subsection (c) of this section, the approval of the governing body or, if applicable, governing bodies that contribute to the expenses of the court shall be obtained prior to the destruction of district court records and an appropriate note of the approval indicated in the minutes of the governing body or bodies along with the destruction affidavit.

HISTORY: Acts 2007, No. 627, § 3; 2009, No. 633, § 6.

16-10-212. City courts -- Loss of authority -- Enforcement by legislative audit. [Effective until January 1, 2012.].

(a) If the Division of Legislative Audit determines that a city court is not in substantial compliance with this subchapter, the division shall report the findings to the Legislative Joint Auditing Committee.

(b) (1) If a public official or a private accountant determines that a city court is not in substantial compliance with this subchapter, the official or accountant shall notify the committee of his or her findings.

(2) Upon notification, the committee shall direct the division to review the city court's compliance with this subchapter.

(3) Upon confirmation of a substantial lack of compliance, the division shall report the findings to the committee.

(c) (1) Upon notification of noncompliance by the division, the committee shall notify in writing the mayor, the city or town council, the city court judge, and the city court clerk that the city court's accounting records are not in substantial compliance with this subchapter.

(2) The city court shall have ninety (90) days after the date of notification to bring the city court's accounting records into substantial compliance with this subchapter.

(3) (A) After the ninety (90) days allowed for compliance or upon request by the appropriate city court officials, the division shall review the city court's accounting records to determine if the city court is in substantial compliance with this subchapter.

(B) The division shall report its findings to the committee.

(d) If the city court has not achieved substantial compliance within the ninety-day period, the committee shall notify both the Administrative Office of the Courts and the city court of the noncompliance and inform the city court that it no longer has authority to operate.

HISTORY: Acts 2009, No. 488, § 1.

Second of 2 versions of this section Effective January 1, 2012

16-10-201. Title. [Effective January 1, 2012.]

This subchapter shall be known and cited as the "Arkansas District Courts Accounting Law".

HISTORY: Acts 1977, No. 332, § 1; A.S.A. 1947, § 22-1101; Acts 2003, No. 1185, §§ 46, 47; 2007, No. 663, § 21.

16-10-202. Definitions. [Effective January 1, 2012.]

As used in this subchapter:

(1) "Citation" means a written order or electronic ticket issued by a law enforcement officer or employee of the department of public safety of a city or incorporated town who is authorized to make an arrest, requiring a person accused of violating the law to appear in a designated court or governmental office at a specified date and time;

(2) "Court" means a district court in the State of Arkansas; and

(3) "Electronic ticket" means an electronic citation or warning printed by a law enforcement officer and issued to a person accused of violating the law.

HISTORY: Acts 1977, No. 332, § 2; A.S.A. 1947, § 22-1102; Acts 2003, No. 1185, §§ 46, 47; 2007, No. 663, § 22; 2011, No. 908, §§ 1, 2; 2011, No. 1174, § 1.

16-10-203. Applicability of subchapter. [Effective January 1, 2012.]

This subchapter shall apply to any district court within the State of Arkansas.

HISTORY: Acts 1977, No. 332, § 2; A.S.A. 1947, § 22-1102; Acts 2003, No. 1185, §§ 46, 47; 2007, No. 663, § 23.

16-10-204. Bank accounts for court funds. [Effective January 1, 2012.]

(a) (1) Each municipal police department and each city or town marshal shall maintain court funds separately in depositories approved for those specific purposes by law.

(2) Court funds must be deposited into an account styled "(Name of Municipality) Police Department Bond and Fine Account", and the funds shall be disbursed only on the signature of the chief of police or marshal of the municipality and the signature of one (1) other authorized person.

(b) (1) Each office of county sheriff shall maintain court funds separately in depositories

approved for those specific purposes by law.

(2) Court funds must be deposited into an account styled "(Name of County) County Sheriff's Bond and Fine Account", and the funds shall be disbursed only on the signature of the sheriff of the county and the signature of one (1) other authorized person.

(c) (1) Each court shall maintain court funds separately in depositories approved for those specific purposes by law.

(2) Court funds must be deposited into an account styled "(Name of Court) Court Account", and the funds shall be disbursed only upon the signature of the court clerk and the signature of one (1) other person to be authorized by the court's presiding judge.

(d) All disbursements from the accounts in this section must be evidenced by prenumbered checks.

(e) Subsections (a) and (b) of this section do not apply if the court clerk has been designated to be primarily responsible for the collection of fines under § 16-13-709.

HISTORY: Acts 1977, No. 332, § 3; A.S.A. 1947, § 22-1103; Acts 2011, No. 1174, § 2.

16-10-205. Citations. [Effective January 1, 2012.]

(a) Each municipal police department, city or town marshal, and county sheriff's office shall maintain and issue uniform written citations or electronic citations for violation of all municipal and state laws.

(b) (1) All uniform written citation books must be prenumbered by the printer and a printer's certificate shall be furnished to the police department, marshal's office, or sheriff's office, and the certificate shall be made available for inspection.

(2) The certificate must state the printing date, the numerical sequence of citations printed, and the printer's name.

(c) All void or spoiled written citations must be accounted for by attaching all copies to the hard copy in the uniform citation book.

(d) (1) All written citations must have at least an original and three (3) copies used and distributed as follows:

(A) Hard copy: Violator's copy;

(B) White copy: Police department, marshal's office, or sheriff's office copy;

(C) (i) Yellow copy: Court clerk's copy, to be forwarded to the Office of Driver

Services of the Department of Finance and Administration as provided in this subdivision (d)(1)(C).

(ii) Within five (5) business days after a conviction or forfeiture of bail of a person charged with a violation of any law regulating the operation of vehicles on a highway, § 3-3-203(a) or § 5-27-503(a)(3), the clerk shall forward the yellow copy covering the case in which the person was convicted or forfeited bail.

(iii) The yellow copy shall be certified by the person required to prepare it and shall include the name and address of the party charged, the registration number of the vehicle involved, the nature of the offense, the date of hearing, the plea, the judgment or whether bail was forfeited, and the amount of the fine or forfeiture.

(iv) Within five (5) business days after the disposition of any case, the clerk shall forward the yellow copy of the citation and the resulting disposition of the case.

(v) A court using the case management system provided by the Administrative Office of the Courts or the electronic reporting system of the Office of Driver Services is not required to submit the yellow copy to the Office of Driver Services but must enter the disposition or judgment of conviction into the case management system or the electronic reporting system within the time required in this section; and

(D) Pink copy: Remains in uniform citation book.

(2) The citations shall be given to the police department, marshal's office, sheriff's office, or court clerk at least seven (7) business days before the court date.

(e) If an electronic citation is used:

(1) A printed copy of the electronic citation must be given to the violator;

(2) A copy of the electronic citation must be maintained by the issuing police department, marshal's office, or sheriff's office; and

(3) (A) A copy of the electronic citation must be forwarded to the court clerk in either electronic or written format, as designated by the court clerk, at least seven (7) business days before the court date.

(B) The court clerk's copy shall be forwarded to the Office of Driver Services as provided in subdivision (d)(1)(C) of this section.

(f) If an electronic citation system is used, the system must be in compliance with the Information Systems Best Practices Checklist provided by the Legislative Joint Auditing Committee.

(g) Controls for citations.

(1) A list of all uniform written citation books and the corresponding range of citations in each book shall be kept in the police department, office of city or town marshal, or sheriff's office.

(2) The chief of police, marshal, or sheriff shall issue the uniform written citation books, unless the chief of police, marshal, or sheriff designates in writing another person to perform this duty.

(3) The chief of police, marshal, or sheriff shall ensure that all citations issued are entered on the arrest report or in the electronic case management system.

(4) Upon completion, each uniform written citation book shall immediately be filed with the court clerk and made available for inspection.

(5) Upon case adjudication, the police department, office of city or town marshal, or sheriff's office shall file its copy of the citation either alphabetically or numerically.

HISTORY: Acts 1977, No. 332, § 4; A.S.A. 1947, § 22-1104; Acts 2009, No. 456, § 1; 2011, No. 44, § 1; 2011, No. 908, § 3; 2011, No. 1174, § 3.

16-10-206. Court docket. [Effective January 1, 2012.]

(a) All violations shall be docketed and all judgments shall be rendered by the court's presiding judge.

(b) The court docket shall reflect the complete history of the violation and the disposition of each case, and shall contain the following information:

(1) The citation number;

(2) The date and nature of the violation;

(3) The date the court convened to hear the case;

(4) The names of arresting officers and witnesses, if any;

(5) The judgment rendered by the court;

(6) The signature or initials of the judge;

(7) The total amount of the fine and costs;

(8) The receipt number and dollar amount evidencing payment of fine and costs; and

(9) If applicable, the check number and dollar amount evidencing authorized bond refund. The check itself will indicate the docket number evidencing authorization.

(c) The docket shall be numbered by the court clerk in accordance with the Rules of the Supreme Court of Arkansas.

(d) (1) For manual dockets, the docket pages shall be prenumbered by the printer, and a printer's certificate or other evidence shall be furnished to the court's clerk which shall be made available for inspection.

(2) Docket pages must be either bound or loose-leaf, provided that accountability and control are maintained over loose-leaf docket pages.

(e) For manual or electronic dockets, the docket pages shall be numbered independently of court docket numbers assigned by the court clerk.

(f) The court clerk shall keep separate court dockets, one (1) for city cases and one (1) for county cases.

HISTORY: Acts 1977, No. 332, § 5; A.S.A. 1947, § 22-1105; Acts 2005, No. 1934, § 2; 2011, No. 1174, § 4.

16-10-207. Police department and marshal's and sheriff's offices -- Activities and clerical duties required. [Effective January 1, 2012.]

The following activities and clerical duties relating to court functions shall be required of all police departments, city or town marshals, and sheriff's offices:

(1) Preparation and Submission of Arrest Report.

(A) Separate arrest reports shall be prepared for city cases and county cases.

(B) The arrest report shall contain the following information:

(i) Citation number;

(ii) Violator's name;

(iii) Nature of the offense;

(iv) Name of the arresting officer;

(v) Receipt number, if applicable;

(vi) Fine and costs collected, if applicable; and

(vii) Any other additional information deemed appropriate or necessary.

(C) Before the court date, the arrest report shall be prepared from the citations accumulated in the court date file in the police department office, marshal's office, or sheriff's office.

(D) If applicable, the fine and costs collected shall be totaled, and a check shall be drawn payable to the court fund that represents moneys collected and receipts issued by the police department, marshal's office, or sheriff's office for those citations contained on the arrest report.

(E) A completed copy of the arrest report accompanied by the police department's, marshal's office, or sheriff's office check, if applicable, shall be delivered to the court clerk at least seven (7) business days before the court date;

(2) Collection, Receipt, and Deposit Procedures.

(A) This subdivision (2) does not apply if the court clerk has been designated to be primarily responsible for the collection of fines under § 16-13-709.

(B) A prenumbered receipt must be issued for all moneys collected.

(C) Prenumbered manual receipts must meet the following minimum standards:

(i) All receipt books must be prenumbered by the printer, and a printer's certificate shall be furnished to the police department, marshal's office, or sheriff's office, which shall be made available for inspection;

(ii) The certificate must state the printing date, the numerical sequence of receipts printed, and the printer's name; and

(iii) All void or spoiled receipts must be accounted for by attaching the original copy of the receipt to the duplicate copy of the receipt in the receipt book, with the reason for the void or spoiled receipt documented and retained for audit purposes.

(D) If an electronic receipting system is used, the system must be in compliance with the Information Systems Best Practices Checklist provided by the Legislative Joint Auditing Committee.

(E) The receipt shall be issued in the name of the violator regardless of who paid the bond or fine or who collected the bond or fine and must indicate the method of payment, such as cash, check, money order, or credit card.

(F) (i) Receipts shall be deposited intact daily into the bank account maintained by the police department, marshal's office, or sheriff's office.

(ii) All receipt numbers shall be entered on the arrest report by the police department, marshal's office, or sheriff's office.

(G) The police department, marshal's office, or sheriff's office may maintain separate bank accounts for city cases and county cases.

(H) (i) The bank deposit slips prepared by the police department, marshal's office, or sheriff's office shall contain the range of receipt numbers evidencing such collections.

(ii) In addition, the receipts issued shall be reconciled with the monthly bank deposits.

(I) A bank reconciliation shall be made at the end of each month, and any balance remaining in the bank account shall be identified with receipts issued but not yet entered on the arrest report.

(J) (i) A cash receipts journal or electronic receipts listing shall be established.

(ii) The receipts journal or electronic receipts listing must indicate the receipt number, receipt date, violator's name, amount of the receipt, and classification of the receipt.

(iii) The receipts journal or electronic receipts listing shall be properly balanced and totaled monthly and on a year-to-date basis.

(iv) The receipts journal or electronic receipts listing shall be reconciled monthly to total bank deposits as shown on the bank statements.

(K) (i) A cash disbursements journal or electronic check register shall be established.

(ii) The disbursements journal or electronic check register must indicate the date, payee, check number, amount for each check written, and the classification of the disbursement.

(iii) The disbursements journal or electronic check register shall be properly balanced and totaled monthly and on a year-to-date basis.

(iv) The disbursements journal or electronic check register shall be reconciled monthly to total bank disbursements as indicated on the bank statements.

HISTORY: Acts 1977, No. 332, § 6; A.S.A. 1947, § 22-1106; Acts 2007, No. 627, § 1; 2009, No. 456, § 2; 2011, No. 1174, § 5.

16-10-208. Court clerk or court administrator -- Eligibility. [Effective January 1, 2012.]

The court clerk or court administrator shall not be a member of the police department, marshal's office, or sheriff's office.

HISTORY: Acts 1977, No. 332, § 7; A.S.A. 1947, § 22-1107; Acts 2011, No. 1174, § 6.

16-10-209. Court clerk -- Activities and clerical duties. [Effective January 1, 2012.]

The following activities and clerical duties relating to court functions shall be required of all court clerks:

(1) Collection, receipt, and deposit procedures. (A) A prenumbered receipt must be issued for all moneys collected.

(B) Prenumbered manual receipts must meet the following minimum standards:

(i) All receipt books must be prenumbered by the printer, and a printer's certificate shall be furnished to the court clerk, which shall be made available for inspection;

(ii) The certificate must state the printing date, the numerical sequence of receipts printed, and the printer's name; and

(iii) All void or spoiled receipts must be accounted for by attaching the original copy of the receipt to the duplicate copy of the receipt in the receipt book, with the reason for the void or spoiled receipt documented and retained for audit purposes.

(C) If an electronic receipting system is used, the system must be in compliance with the Information Systems Best Practices Checklist provided by the Legislative Joint Auditing Committee.

(D) (i) For those checks forwarded with the arrest reports, the receipt shall be issued in the name of the police department, marshal's office, or sheriff's office.

(ii) For those receipts issued at court date, the court clerk shall issue such receipts in the name of the defendant, regardless of who paid the bond or fine or who collected the bond or fine, indicating on the receipt the method of payment, such as cash, check, money order, or credit card.

(E) Receipts shall be deposited intact daily into the separate bank account maintained by the court clerk.

(F) (i) The bank deposit slips prepared by the court clerk shall contain the range of

receipt numbers evidencing such collections.

(ii) Additionally, the receipts issued shall be reconciled with the monthly bank deposits.

(G) A bank reconciliation shall be made at the end of each month, and any balance remaining in the bank account shall be identified with receipt numbers for cases not yet adjudicated and the payments made on all unpaid individual time accounts.

(H) The court clerk may maintain separate bank accounts for city cases and for county cases.

(2) Preparation and submission of distribution report. (A) The distribution report shall contain the following information:

(i) The citation number;

(ii) The defendant's name;

(iii) The nature of the offense;

(iv) The name of arresting officer;

(v) The court docket number;

(vi) The disposition or date continued;

(vii) The receipt number;

(viii) The total fine and costs collected;

(ix) The fine;

(x) The fees and costs itemized;

(xi) The bond refund amount;

(xii) The bond refund check number; and

(xiii) The installment payment amount.

(B) The court clerk at each court date shall prepare the distribution report from the arrest report supplied by the police department, marshal's office, or sheriff's office.

(C) At the end of each court date, the court clerk shall complete the distribution report for the court date and total the dollar amounts contained in the report.

(D) The distribution reports prepared each court date shall be summarized at least monthly.

(E) The court clerk shall make a direct monetary settlement on or before the tenth day of the next-following month with each of the following:

(i) The city treasurer;

(ii) The county treasurer;

(iii) The Administration of Justice Funds Section of the Department of Finance and Administration; and

(iv) Any other state agency or entity which receives fines or fees assessed by the court and collected pursuant to law.

(3) Minimum bookkeeping requirements. (A) (i) The court clerk shall maintain a cash receipts journal or electronic receipts listing.

(ii) The court clerk may maintain separate cash receipts journals or electronic receipts listings for city cases and county cases.

(iii) The receipts journal or electronic receipts listing must indicate the receipt number, receipt date, violator's or payor's name, amount of the receipt, and classification of the receipt.

(iv) The receipts journal or electronic receipts listing shall be properly balanced and totaled monthly and on a year-to-date basis.

(v) The receipts journal or electronic receipts listing shall be reconciled monthly to total bank deposits as shown on the bank statements.

(B) (i) The court clerk shall maintain a cash disbursements journal or electronic check register.

(ii) The court clerk may maintain separate cash disbursements journals or electronic check registers for city cases and county cases.

(iii) The disbursements journal or electronic check register must indicate the date, payee, check number, amount for each check written, and classification of the disbursement.

(iv) The disbursements journal or electronic check register shall be properly balanced and totaled monthly and on a year-to-date basis.

(v) The disbursements journal or electronic check register shall be reconciled monthly to total bank disbursements as indicated on the bank statements.

(4) Bond refunds. (A) All bond refunds shall be made only upon the authorization of the presiding judge and shall be indicated as such on the court docket.

(B) (i) All bond refunds shall be made only by a check drawn on the court's bank account.

(ii) Additionally, the check shall indicate the court docket number for authorization.

(C) The court clerk shall enter all bond refunds on the applicable distribution report.

(5) Installment payments. (A) Installment payments shall be allowed only upon the authorization of the presiding judge and shall be indicated as such on the court docket.

(B) (i) The court clerk shall establish and maintain individual installment payment account ledger records, with a duplicate copy of the ledger record being furnished to and maintained by the county or city official, agency, or department designated under § 16-13-709 as primarily responsible for the collection of fines assessed in district courts .

(ii) The ledger records shall contain the following minimum information:

(a) Name of the individual;

(b) Court docket number and court date;

(c) Nature of the violation;

(d) Total fine and costs assessed;

(e) Receipt number, date, and amount of payment; and

(f) Unpaid balance of fine, fees, and costs.

(C) The county or city official, agency, or department designated under § 16-13-709 as primarily responsible for the collection of fines assessed in district courts shall be responsible for collecting all installment payments and shall enter all collected installment payments on each applicable arrest or distribution report.

(D) (i) The court clerk shall establish and maintain a control total for installment payments, which is a summary of all unpaid individual installment payment accounts.

(ii) The control total shall be reconciled monthly with the individual installment payment accounts.

(E) (i) The court clerk shall furnish the county or city official, agency, or department designated under § 16-13-709 as primarily responsible for the collection of fines assessed in district courts and the presiding judge monthly with a list of all unpaid installment payment accounts for which a payment has not been received within the past thirty (30) days.

(ii) The presiding judge shall then take the necessary action deemed appropriate in the circumstances.

(F) (i) All installment payments shall initially be deemed to be collections of restitution, and then court costs until the costs have been collected in full, with any remaining installment payments representing collections of fines.

(ii) A municipal or county governing body may provide by appropriate municipal or county legislation an alternative method of installment payment allocation as follows:

(a) All installment payments are initially deemed collections of restitution;

(b) After restitution is fully collected, all installment payments shall be allocated fifty percent (50%) to court costs and fifty percent (50%) to fines; and

(c) Whenever either court costs or fines are fully paid, all remaining installment payments shall be allocated to remaining amounts due.

(6) Reconciliation of completed citation books. (A) The court clerk shall reconcile on a quarterly basis on or before the fifteenth day of the month following the end of the calendar quarter the individual citations in the completed citation book to the individual citations as reflected on the arrest reports or court dockets.

(B) (i) For any discrepancies noted in the reconciliation in subdivision (6)(A) of this section, the court clerk shall prepare a list and present this list to the court's judge for his or her appropriate action.

(ii) This list shall be maintained for audit purposes.

(C) If the court clerk is designated under § 16-13-709 to be primarily responsible for the collection of fines, the reconciliation of completed citation books described in this subdivision (6) shall be performed by someone outside of the court clerk's office as determined by the court judge.

HISTORY: Acts 1977, No. 332, § 7; 1985, No. 677, §§ 1, 2; 1985, No. 776, §§ 1, 2; A.S.A. 1947, § 22-1107; Acts 1991, No. 904, § 21; 1997, No. 788, § 3; 1997, No. 1341, § 3; 1999, No. 1081, §§ 1, 2; 1999, No. 1508, § 7; 2003, No. 1765, § 7; 2005, No. 1934, § 3; 2011, No. 1174, § 7.

16-10-210. Accounting systems above minimum.

(a) Any official charged with the maintenance of accounting or bookkeeping records under the provisions of this subchapter whose system of bookkeeping is such that it does not strictly adhere to the provisions of this subchapter, but in that official's opinion equals or exceeds the basic requirements prescribed by this subchapter, may request the court's presiding judge to request a review by the staff of the Legislative Joint Auditing Committee.

(b) Upon the committee's concurrence with the official's opinion regarding the capability of the existing system of bookkeeping, a letter shall be issued by the committee to the court's presiding judge stating that the official's accounting system is of such a degree of sophistication that the basic requirements of this subchapter are being met.

(c) After issuance of the letter by the committee under subsection (b) of this section, the official is exempt from the requirements of the particulars of the procedures prescribed by this subchapter, provided the official's system of bookkeeping is not altered.

HISTORY: Acts 1977, No. 332, § 8; A.S.A. 1947, § 22-1108; Acts 2007, No. 627, § 2.

16-10-211. Record retention schedule. [Effective January 1, 2012.]

(a) All towns, cities, and counties of the State of Arkansas shall maintain records for the district courts and are to:

(1) Permanently maintain:

(A) Case indices for all courts;

(B) Case dockets for all courts;

(C) Active warrants;

(D) Waivers;

(E) Expungement and sealed records;

(F) Files concerning convictions under the Omnibus DWI Act, § 5-65-101 et seq.; and

(G) Domestic battering files;

(2) Maintain for a period of at least seven (7) years and in no event dispose of before being audited:

(A) Complete case files and written exhibits for all courts;

(B) Show cause orders;

(C) Case information, including arrest reports and affidavits; and

(D) Files concerning cases resulting in a suspended imposition of sentence; and

(3) Maintain for a period of at least three (3) years and in no event dispose of before being audited:

(A) Bank reconciliations;

(B) Check book registers and check listings;

(C) Cancelled checks;

(D) Bank statements;

(E) Receipts;

(F) Deposit collection records;

(G) Receipts listings;

(H) Distribution reports;

(I) Receipt and disbursement journals;

(J) Time payment records;

(K) Citation book logs;

(L) Citation books from each police department and sheriff's office;

(M) Served warrants;

(N) Copies of citations;

(O) Alternative service or community service time sheets;

(P) Uniform filing fees collection remittance forms and fine report; and

(Q) Miscellaneous fee and fine collection reports.

(b) After a town, city, or county has maintained records for the time periods required by subdivisions (a)(2) or (3) of this section and after the records described in subdivisions

(a)(2) or (3) of this section have been audited, the records may be destroyed.

(c) When records are destroyed under subsection (b) of this section, the town, city, or county shall document the destruction by the following procedure:

(1) An affidavit is to be prepared stating:

(A) Which records are being destroyed and to which period of time the records apply; and

(B) The method of destruction; and

(2) The affidavit is to be signed by the town, city, or county employee performing the destruction and one (1) employee of the governing body or, if applicable, governing bodies that contribute to the expenses of the court.

(d) In addition to the procedure described in subsection (c) of this section, the approval of the governing body or, if applicable, governing bodies that contribute to the expenses of the court shall be obtained before the destruction of district court records and an appropriate note of the approval indicated in the minutes of the governing body or bodies along with the destruction affidavit.

Acts 2007, No. 627, § 3; 2009, No. 633, § 6; 2011, No. 1174, § 8.

22-9-201. Applicability of §§ 22-9-202 -- 22-9-204.

(a) The provisions of §§ 22-9-202 -- 22-9-204 shall not apply to contracts awarded by the State Highway Commission for construction or maintenance of public highways, roads, or streets under the provisions of §§ 27-67-206 and 27-67-207.

(b) The provisions of § 22-9-204 shall not apply to projects designed to provide utility needs of the state or any agency thereof, a municipality, or a county. Those projects shall include, but shall not be limited to, pipeline installation, sanitary projects, light earth work and foundation work, local flood control, sanitary landfills, drainage projects, site clearing, water lines, streets, roads, alleys, sidewalks, water channelization, light construction sewage, water works, and improvements to street and highway construction.

(c) (1) (A) The notice and bid security provisions of §§ 19-4-1401, 19-4-1405, and 22-9-203 pertaining to the project amount and the time frames of the advertisement shall not apply to contracts for the performance of any work or the making of any capital improvements due to emergency contracting procedures.

(B) Nothing shall prohibit the contracting authority from requiring a bid security if the contracting authority determines to require a bid security.

(2) (A) The percentage requirements of § 22-9-203(e) shall not apply to contracts for the performance of any work or the making of any capital improvements due to emergency contracting procedures.

(B) If negotiations are unsuccessful and the contracting authority determines further negotiations with the lowest responsible bidder are not in the contracting authority's best interests, nothing shall prohibit the contracting authority from terminating negotiations and negotiating the award of the contract to the next lowest responsible bidder.

(3) "Emergency contracting procedures" means the acquisition of services and materials for capital improvements, including without limitation acquisitions funded in whole or in part with insurance proceeds, that are in accordance with the Arkansas Building Authority minimum standards and criteria.

(4) Emergency contracting procedures may include sole sourcing or competitive quote bids.

(5) The Director of the Arkansas Building Authority or a designee may make or authorize others to make emergency contracting procedures as defined in subdivision (c)(3) of this section and in accordance with the authority minimum standards and criteria.

HISTORY: Acts 1949, No. 159, § 5; 1977, No. 370, § 2; A.S.A. 1947, § 14-614n; Acts 1999, No. 776, § 2; 2001, No. 162, § 1; 2007, No. 471, § 2; 2011, No. 782, § 1.

22-9-202. Construction of this section and §§ 22-9-203 and 22-9-204.

(a) It is the intent of this section and §§ 22-9-203 and 22-9-204 to provide a uniform procedure to be followed by a taxing unit when work is to be done under formal contract.

(b) This section and §§ 22-9-203 and 22-9-204 do not:

(1) Prevent a taxing unit from performing any of the work or making any of the improvements referred to in this section and §§ 22-9-203 and 22-9-204 by the use of its own employees; or

(2) Require that bids must be received from contractors as a condition precedent to the right to use the taxing unit's own employees.

(c) This section and §§ 22-9-203 and 22-9-204 do not amend or repeal any law that requires the publication of notice in those instances in which the estimated amount of the cost of the proposed improvements is less than twenty thousand dollars ($20,000).

HISTORY: Acts 1949, No. 159, § 4; A.S.A. 1947, § 14-614; Acts 2011, No. 618, § 1.

22-9-203. Public improvements generally -- Award procedure.

(a) No contract providing for the making of major repairs or alterations, for the erection of buildings or other structures, or for making other permanent improvements shall be entered into by the state or any agency thereof, any county, municipality, school district, or other local taxing unit with any contractor in instances where all estimated costs of the work shall exceed the sum of twenty thousand dollars ($20,000) unless:

(1) The state or any agency of the state shall have first published notice of its intention to receive bids one (1) time each week for not less than two (2) consecutive weeks for projects more than the amount of fifty thousand dollars ($50,000) and published notice of its intention to receive bids one (1) time each week for not less than one (1) week for projects more than the quote bid limit, as provided under the Arkansas Building Authority minimum standards and criteria, but less than or equal to fifty thousand dollars ($50,000) in a newspaper of general circulation published in the county in which the proposed improvements are to be made or in a trade journal reaching the construction industry; and

(2) Any county, municipality, school district, or other local taxing unit shall have first published notice of its intention to receive bids one (1) time each week for not less than two (2) consecutive weeks in a newspaper of general circulation published in the county in which the proposed improvements are to be made or in a trade journal reaching the construction industry.

(b) (1) The date of publication of the last notice shall be not less than one (1) week before the day fixed therein for the receipt of bids.

(2) If there is no newspaper regularly published in the county in which the proposed work is to be done, the notices may be published in any newspaper having a general circulation in the county.

(3) Nothing in this section shall be construed as limiting to two (2) the number of weeks the notices may be published for projects over the amount of fifty thousand dollars ($50,000), limiting to one (1) the number of weeks the notices may be published for projects more than the quote bid limit, as provided under subsection (a) of this section, and less than or equal to fifty thousand dollars ($50,000), and as limiting to two (2) the number of weeks the notices may be published for all other projects.

(c) (1) All notices shall contain:

(A) A brief description of the kind or type of work contemplated;

(B) The approximate location thereof;

(C) The place at which prospective bidders may obtain plans and specifications;

(D) The date, time, and place at which sealed bids will be received;

(E) The amount, which may be stated in a percentage, of the bid bond required;

(F) A statement of the taxing unit's reservation of the right to reject any or all bids and to waive any formalities; and

(G) Such other pertinent facts or information which to it may appear necessary or desirable.

(2) (A) (i) Every bid submitted on public construction contracts for any political subdivision of the state shall be void unless accompanied by a cashier's check drawn upon a bank or trust company doing business in this state or by a corporate bid bond.

(ii) Every bid submitted on public construction contracts for the state or any agency or department of the state shall be void unless accompanied by a cashier's check drawn upon a bank or trust company doing business in this state or by a corporate bid bond, except for projects under twenty thousand dollars ($20,000).

(iii) No bid bond shall be required for public construction contracts for the state or any agency or department of the state under or equal to twenty thousand dollars ($20,000).

(B) This bid security shall indemnify the public against failure of the contractor to execute and deliver the contract and necessary bonds for faithful performance of the contract.

(C) The bid security shall provide that the contractor or surety must pay the damage, loss, cost, and expense subject to the amount of the bid security directly arising out of the contractor's default in failing to execute and deliver the contract and bonds.

(D) Liability under this bid security shall be limited to five percent (5%) of the amount of the bid.

(d) On the date and time fixed in the notice, the board, commission, officer, or other authority in which or in whom authority is vested to award contracts shall open and compare the bids and thereafter award the contract to the lowest responsible bidder but only if it is the opinion of the authority that the best interests of the taxing unit would be served thereby.

(e) In the event that all bids submitted exceed the amount appropriated for the award of the contract, the state agency or its designated representatives shall have the authority to negotiate an award with the apparent responsible low bidder but only if the low bid is within twenty-five percent (25%) of the amount appropriated.

(f) (1) In the event that all bids submitted exceed the amount appropriated for the award of the contract and if bidding on alternates was not required by the plans and specifications, the county, municipality, school district, other local taxing unit, or institution of higher education shall have the authority to negotiate an award with the apparent responsible low bidder but only if the low bid is within twenty-five percent (25%) of the amount appropriated.

(2) If the plans and specifications for the project require bids on alternates in addition to a base bid, there shall be no more than three (3) alternates, and the alternates shall:

(A) Be deductive; and

(B) Be set forth in the plans and specifications in numerical order.

(3) If all bids submitted exceed the amount appropriated for the award of the contract, then the county, municipality, school district, other local taxing unit, or institution of higher education may determine the apparent responsible low bidder by deducting the alternates in numerical order.

(4) After making the deductions, if the cost of the project is less than twenty-five percent (25%) above the amount appropriated, then and only in that event, the county, municipality, school district, other local taxing unit, or institution of higher education may negotiate an award with the low bidder so determined.

(g) Whenever it is obvious from examination of the bid document that it was the intent of a bidder to submit a responsive bid and that the bid, if accepted, would create a serious financial loss to the bidder because of scrivener error, such as the transposition of figures, the board, commission, officer, or other authority in which or in whom authority is vested

has the authority to relieve the bidder from responsibility under the bond and may reject the bid.

(h) For projects of this state or any agency of the state, "amount appropriated" within this section means funds currently available for the project as determined by the state or any agency or department of the state or any county, municipality, school district, or other local taxing unit prior to the opening of any bids.

(i) No contract providing for the making of major repairs or alterations, for the erection of buildings or other structures, or for making other permanent improvements shall be entered into by the state, any agency of the state, any county, municipality, school district, or other local taxing unit with any contractor in instances where all estimated costs of the work shall exceed the sum of seventy-five thousand dollars ($75,000) unless the bid documents contain statements which encourage the participation of small, minority, and women's business enterprises.

(j) (1) Notwithstanding any other provision of law to the contrary, any municipality or sanitation authority may enter into contracts with private persons, firms, associations, corporations, joint ventures, or other legal entities, including a combination of any of those entities, to provide for the design, building, operation, and maintenance of all or any portion of its wastewater treatment system, storm water treatment system, or water treatment system, or any combination of those systems.

(2) The contracts may include provisions for the design, financing, construction, repair, reconditioning, replacement, operation, and maintenance of the system, or any combination of those services and functions.

(3) Prior to entering into a contract under this section, the governing authority shall solicit qualifications-based competitive sealed proposals.

(4) The governing authority shall first establish criteria for evaluation of any entity submitting proposals on the contracts for the purpose of assisting the governing authority in making a review of the entity's previous performance on projects of comparable nature and magnitude and the environmental compliance record of the entity during the five (5) years immediately preceding the execution of the contract.

(5) The governing authority shall take into consideration the information to assist in determining the eligibility of any entity.

(6) The award of a contract under this section shall be made to the responsible and responsive entity whose proposal is determined in writing to be the most advantageous to the governmental authority, taking into consideration the evaluation factors set forth in the request for proposals.

(7) The governing authority of the municipality or the sanitation authority shall employ an appropriately licensed professional who is independent of the contractor to monitor and

perform an independent review and inspection of the design-build-operate-maintenance contract, or any part thereof, during its performance.

(8) Before soliciting proposals for a design-build-operation-maintenance project, the governing authority of the municipality or the sanitation authority shall employ an appropriate licensed professional to perform the necessary studies and preliminary design to clearly establish the parameters for the project, including:

(A) Acceptable processes and structural alternatives; and

(B) Cost estimates for the acceptable alternatives.

(k) (1) The state, an agency of the state, a county, a municipality, a school district, or other local taxing unit shall not require in plans or specifications that a bidder or supplier:

(A) Hold membership in any professional or industry associations, societies, trade groups, or similar organizations;

(B) Possess certification from any professional or industry associations, societies, trade groups, or similar organizations as steel building fabricators; or

(C) Be endorsed by any professional or industry associations, societies, trade groups, or similar organizations.

(2) However, plans and specifications may include or reference standards adopted by professional or industry associations, societies, trade groups, or similar organizations.

HISTORY: Acts 1949, No. 159, §§ 1, 2; 1977, No. 370, § 1; 1981, No. 266, § 1; A.S.A. 1947, §§ 14-611, 14-612; Acts 1987, No. 758, § 4; 1995, No. 1319, § 2; 1997, No. 1193, § 1; 1999, No. 219, § 3; 1999, No. 675, §§ 1, 2; 1999, No. 1309, § 1; 1999, No. 1310, § 1; 2001, No. 921, § 1; 2001, No. 1051, § 1; 2003, No. 1297, § 1; 2005, No. 859, § 4; 2009, No. 813, § 1.

22-9-204. Subcontractors exceeding $20,000 -- Penalty.

(a) As a condition to performing construction work for and in the State of Arkansas, all prime contractors shall use no other subcontractors when the subcontractors' portion of the project is twenty thousand dollars ($20,000) or more, except those licensed by the Contractors Licensing Board and qualified in:

(1) Mechanical, indicative of heating, air conditioning, ventilation, and refrigeration;

(2) Plumbing;

(3) Electrical; and

(4) Roofing.

(b) (1) In the event the prime contractor is qualified and licensed by the board, he or she may use his or her own forces to perform those tasks listed in this section as subcontractors in one (1) or more of the trades listed.

(2) (A) A subcontractor, including the situation stated in subdivision (b)(1) of this section, may subcontract a portion of the listed work.

(B) However, a subcontractor is prohibited from subcontracting the work in its entirety.

(c) (1) When the prime contractor makes a definite decision regarding the subcontractors he or she intends to use, he or she shall place the name of each subcontractor in a blank space provided on the form of proposal of his or her bid.

(2) In the event that one (1) or more of the subcontractors named by the prime contractor in his or her successful bid thereafter refuses to perform his or her contract or offered contract, the prime contractor may substitute another subcontractor licensed by the board after having obtained prior approval from the architect or engineer and the owner. Additional approval must be obtained from the Arkansas Building Authority for capital improvement projects under its jurisdiction.

(d) The prime contractor shall submit written evidence that the substituted contractor is costing the same amount of money or less and, if costing less, that the savings will be deducted from the total contract of the prime contractor and rebated to the owner.

(e) It shall be mandatory that the mechanical, plumbing, electrical, and roofing subcontractors named on the form of proposal by the prime contractor awarded a contract under the provisions of this subchapter be given contracts by the prime contractor in keeping with their proposals to perform the items for which they were named.

(f) (1) It shall be a violation of this section for any prime contractor to submit a bid listing unlicensed contractors or to use unlicensed contractors on a public works project if the listed work of the unlicensed contractors or portion of the unlicensed contractors' work is twenty thousand dollars ($20,000) or more.

(2) It shall be a violation of this section for any subcontractor who is not licensed by the board to contract to perform work on a public works project if the listed work of the subcontractor or portion of the subcontractor's work is twenty thousand dollars ($20,000) or more.

(3) The board has jurisdiction over violations of this subsection under § 17-25-103.

HISTORY: Acts 1949, No. 159, § 3; 1957, No. 183, § 1; 1961, No. 477, § 1; 1983, No. 871, § 1; A.S.A. 1947, § 14-613; Acts 1987, No. 759, § 1; 1989, No. 936, § 1; 1991, No. 728, § 1; 1993, No. 645, § 1; 1999, No. 1250, § 1; 1999, No. 1496, § 1; 2001, No. 989, § 1; 2003, No. 364, § 18; 2009, No. 193, § 9; 2011, No. 782, § 2.

14-58-201. Annual submission.

On or before December 1 of each year, the mayor of all cities and incorporated towns having the mayor-council form of government shall submit to the governing body of the city or town, for its approval or disapproval, a proposed budget for operation of the city or town from January 1 to December 31 of the forthcoming year.

HISTORY: Acts 1959, No. 28, § 1; 1981, No. 344, § 1; A.S.A. 1947, § 19-4421.

14-58-202. Adoption.

Under this subchapter, the governing body of the municipality shall, on or before February 1 of each year, adopt a budget by ordinance or resolution for operation of the city or town.

HISTORY: Acts 1959, No. 28, § 2; 1981, No. 344, § 2; A.S.A. 1947, § 19-4422; Acts 2011, No. 622, § 1.

14-58-203. Appropriations and changes.

(a) The approval by the municipal governing body of the budget under this subchapter shall, for the purposes of the budget from time to time amount to an appropriation of funds which are lawfully applicable to the items therein contained.

(b) The governing body may alter or revise the budget and unpledged funds appropriated by the governing body for any purpose may be subsequently, by action of the governing body, appropriated to another purpose, subject to the following exceptions:

(1) Funds resulting from taxes levied under statutes or ordinances for specific purposes may not be diverted to another purpose;

(2) Appropriated funds may not be diverted to another purpose where any creditor of the municipality would be prejudiced thereby.

HISTORY: Acts 1959, No. 28, § 3; A.S.A. 1947, § 19-4423.

14-58-301. Administration of provisions.

(a) For the purpose of assisting the mayor of a first-class city in carrying out the provisions of this subchapter, the municipal governing body may appoint one (1) or more committees, to be composed from its membership, or, by ordinance, it may create one (1) or more departments, fixing the compensation and manner of employment for the employees thereof.

(b) The persons appointed to fill any offices or to head any departments shall be responsible to the mayor and act under his direction.

HISTORY: Acts 1959, No. 28, § 8; A.S.A. 1947, § 19-4428.

14-58-302. Annual report by mayor.

(a) The mayor of a first class city shall prepare and submit to the municipal governing body within the first ninety (90) days of each year a complete report on the finances and administrative activities of the city during the previous year.

(b) The mayor shall also keep the governing body advised as to the financial condition and future needs of the city and make such recommendations as to him or her may be desirable.

HISTORY: Acts 1959, No. 28, § 4; A.S.A. 1947, § 19-4424; Acts 2009, No. 161, § 2.

14-58-303. Purchases and contracts generally.

(a) In a city of the first class, city of the second class, or incorporated town, the mayor or the mayor's duly authorized representative shall have exclusive power and responsibility to make purchases of all supplies, apparatus, equipment, materials, and other things requisite for public purposes in and for the city and to make all necessary contracts for work or labor to be done or material or other necessary things to be furnished for the benefit of the city, or in carrying out any work or undertaking of a public nature in the city.

(b) (1) (A) Except as provided under § 14-58-104, the municipal governing body of any city of the first class shall provide by ordinance the procedure for making all purchases which do not exceed the sum of twenty thousand dollars ($20,000).

(B) Except as provided under § 14-58-104, the municipal governing body of any city of the second class or incorporated town may provide by ordinance the procedure for making all purchases.

(2) (A) (i) Except as provided under § 14-58-104, in a city of the first class where the amount of expenditure for any purpose or contract exceeds the sum of twenty thousand dollars ($20,000), the mayor or the mayor's authorized representative shall invite competitive bidding on the purpose or contract by legal advertisement in any local

newspaper.

(ii) Bids received pursuant to the advertisement shall be opened and read on the date set for receiving the bids in the presence of the mayor or the mayor's authorized representative.

(iii) The mayor or the mayor's authorized representative shall have exclusive power to award the bid to the lowest responsible bidder, but may reject any and all bids received.

(B) The governing body by ordinance may waive the requirements of competitive bidding in exceptional situations where this procedure is deemed not feasible or practical or as provided under § 14-58-104.

(c) (1) In a city of the first class, a city of the second class, or an incorporated town, the governing body by ordinance shall have the option to make purchases by participation in a reverse Internet auction, except that purchases and contracts for construction projects and materials shall be undertaken pursuant to subsections (a) and (b) of this section and § 22-9-203.

(2) The ordinance shall include, but is not limited to, the following procedures:

(A) Bidders shall be provided instructions and individually secured passwords for access to the reverse Internet auction by either the city or the town, or the reverse Internet auction vendor;

(B) The bidding process shall be timed, and the time shall be part of the reverse Internet auction specifications;

(C) The reverse Internet auction shall be held at a specific date and time;

(D) The reverse Internet auction and bidding process shall be interactive, with each bidder able to make multiple bids during the allotted time;

(E) Each bidder shall be continually signaled his or her relative position in the bidding process;

(F) Bidders shall remain anonymous and shall not have access to other bidders or bids; and

(G) The governing body shall have access to real-time data, including all bids and bid amounts.

(3) The governing body may create by an additional ordinance reverse Internet auction specifications for the anticipated purchase of a specific item or purchase.

(4) (A) The governing body is authorized to pay a reasonable fee to the reverse Internet

auction vendor.

(B) The fee may be included as part of the bids received during the reverse Internet auction and paid by the winning bidder or paid separately by the governing body.

(5) The governing body retains the right to:

(A) Refuse all bids made during the reverse Internet auction; and

(B) Begin the reverse Internet auction process anew if the governing body determines it is in the best interest of the city or town.

(d) For purposes of this section:

(1) "Reverse Internet auction" means an Internet-based process in which bidders:

(A) Are given specifications for items and services being sought for purchase by a municipality; and

(B) Bid against one another in order to lower the price of the item or service to the lowest possible level; and

(2) "Reverse Internet auction vendor" means an Internet-based entity that hosts a reverse Internet auction.

HISTORY: Acts 1959, No. 28, § 5; 1979, No. 154, § 1; 1985, No. 745, § 3; A.S.A. 1947, § 19-4425; Acts 1995, No. 812, § 1; 2001, No. 508, § 1; 2005, No. 1435, § 2; 2005, No. 1957, § 1; 2009, No. 756, § 24.

14-58-304. Purchase of insurance.

The purchase of all types of insurance by cities of the first class shall be governed by the provisions of § 14-58-303.

HISTORY: Acts 1981, No. 926, § 1; A.S.A. 1947, § 19-4425.1.

14-58-305. Payment of claims.

(a) In a city of the first class, the mayor or his duly authorized representative may approve for payment out of funds previously appropriated for that purpose, or disapprove, any bills, debts, or liabilities asserted as claims against the city.

(b) The municipal governing body shall, by ordinance, establish in that connection a maximum amount, and the payment or disapproval of such bills, debts, or liabilities

exceeding that amount shall require the confirmation of the governing body.

HISTORY: Acts 1959, No. 28, § 6; A.S.A. 1947, § 19-4426.

14-58-306. Disposal of municipal supplies, etc.

(a) In a city of the first class, city of the second class, or incorporated town, the mayor or his or her authorized representative may sell or exchange any municipal supplies, materials, or equipment with a value of twenty thousand dollars ($20,000) or less, unless the municipal governing body shall, by ordinance, establish a lesser amount.

(b) No item or lot of supplies, material, or equipment that is to be disposed of as one (1) unit shall be sold without competitive bidding if the amount exceeds twenty thousand dollars ($20,000) or the maximum provided by ordinance, unless the mayor shall certify in writing to the governing body that, in his or her opinion, the fair market value of the item or lot is less than the amount established by ordinance as indicated.

(c) (1) If an item of personal property belonging to a municipality becomes obsolete or is no longer used by a municipality, it may be:

(A) Sold at public or Internet auction;

(B) Sent to the Marketing and Redistribution Section of the Office of State Procurement of the Department of Finance and Administration; or

(C) Transferred to another governmental entity within the state.

(2) If an item is not disposed of under subdivision (c)(1) of this section, the item may be disposed of in the landfill used by the municipality if the mayor or his or her authorized representative certifies in writing and the governing body of the municipality approves that it has:

(A) Been rendered worthless by damage or prolonged use; or

(B) (i) Only residual value; and

(ii) Been through public auction and not sold.

(d) (1) A record shall be maintained of all items disposed of and reported to the governing body.

(2) The municipal fixed asset listing shall be amended to reflect all disposal of property made under this section.

HISTORY: Acts 1959, No. 28, § 7; A.S.A. 1947, § 19-4427; Acts 2007, No. 661, § 1; 2011, No. 622, § 2.

14-58-307. Annual audit.

In cities of the first class, the municipal governing body shall have the financial affairs of the city audited annually by an independent certified public accountant, who is not otherwise in the service of the city, or by the Division of Legislative Audit of the State of Arkansas.

HISTORY: Acts 1959, No. 28, § 9; A.S.A. 1947, § 19-4429.

14-58-308. Bonds of officers and employees.

(a) All officers and employees of a city of the first class handling financial matters for the city shall furnish a fidelity bond in such amount, on such form, and with such security as may be approved by the municipal governing body.

(b) The premiums on these bonds shall be paid by the city.

HISTORY: Acts 1959, No. 28, § 10; A.S.A. 1947, § 19-4430.

14-58-309. [Repealed.]

19-1-501. Eligible investment securities.

As used in this subchapter, "eligible investment securities" means:

(1) A direct or guaranteed obligation of the United States that is backed by the full faith and credit of the United States Government;

(2) A direct obligation of an agency, instrumentality, or government-sponsored enterprise created by act of the United States Congress and authorized to issue securities or evidences of indebtedness, regardless of whether the securities or evidences of indebtedness are guaranteed for repayment by the United States Government; and

(3) A bond or other debt of the state, a school district, a county government, a municipal government, or an authority of a governmental entity that:

(A) Is issued for an essential governmental purpose or is guaranteed by a state agency; and

(B) Has a debt rating from a nationally recognized credit rating agency of "A" or better at the time of purchase.

HISTORY: Acts 1943, No. 273, § 2; 1973, No. 106, § 2; A.S.A. 1947, § 13-902; Acts 2011, No. 629, § 1.

19-1-502. Provisions supplemental.

This subchapter does not repeal any prior legislation or affect any statute pertaining to the conversion of funds of public officials and agencies into investments authorized under this subchapter but is supplemental to present law and confers additional powers.

HISTORY: Acts 1943, No. 273, § 3; A.S.A. 1947, § 13-903; Acts 2011, No. 629, § 1.

19-1-503. Construction.

(a) This subchapter does not affect the power of counties, municipalities, improvement districts, and other public bodies to make a deposit of funds in the form of a demand deposit, a savings deposit, or a time deposit as authorized by law.

(b) The adoption of this subchapter does not affect or impair the power of counties, municipalities, improvement districts, and other public bodies to make investments of funds in their possession or under their control as authorized by other laws.

HISTORY: Acts 1973, No. 106, § 3; A.S.A. 1947, § 13-904; Acts 2011, No. 629, § 1.

19-1-504. Investments permitted.

(a) (1) With the approval of the county or municipal depository board, a treasurer may convert any funds in the treasurer's possession or under the treasurer's control and not presently needed for other purposes into one (1) or more of the following investments:

(A) Eligible investment securities having a maturity of not longer than five (5) years from the date of acquisition unless, as documented at the time of acquisition, the investment is to fund or support a specific purpose and there are no expectations that the investment will be sold before maturity;

(B) An Arkansas bank certificate of deposit or a certificate of deposit authorized under § 19-8-111;

(C) An account established by a local government joint investment trust authorized under the Local Government Joint Investment Trust Act, § 19-8-301 et seq.; or

(D) An Arkansas financial institution repurchase agreement for eligible investment securities in which the seller agrees to repurchase the investment at a price including interest earned during the holding period as determined by the repurchase agreement.

(2) The following entities may convert funds that are in the possession of the entity or under the control of the entity and that are not presently needed for other purposes into an investment listed in subdivision (a)(1) of this section:

(A) A county board or commission;

(B) A municipal board or commission, including without limitation a board of trustees of a policemen's pension and relief fund, a board of trustees of a firemen's relief and pension fund, a waterworks commission, and a sewer committee; and

(C) A drainage district, levee district, and improvement district, including without limitation a waterworks district, electric light district, municipal improvement district, and suburban improvement district.

(3) This subsection does not apply to funds of a school district.

(b) (1) Unless otherwise provided by a signed written agreement between the school district or districts and the county treasurer, funds of a school district shall be invested by the:

(A) School district treasurer when the school district has a treasurer; or

(B) County treasurer when the school district does not have a treasurer.

(2) To the extent directed by the board of directors of the school district, investments

shall be in:

(A) General obligation bonds of the United States;

(B) Bonds, notes, debentures, or other obligations issued by an agency of the United States Government;

(C) General obligation bonds of the state; or

(D) Bank certificates of deposit.

(c) A school district may invest moneys held for the repayment of a federally recognized qualified zone academy bond under 26 U.S.C. § 1397E, as it existed on January 1, 2005, in a guaranteed investment contract or forward delivery agreement in which the school district is guaranteed a certain rate of interest on its investment if the guaranteed investment contract or the forward delivery agreement is entered into between the school district and the purchaser of the qualified zone academy bond.

(d) A treasurer or other custodian of public funds who is authorized to purchase and hold eligible investment securities may use a brokerage account to acquire, sell, and hold the investment if the investment is established with a broker-dealer that:

(1) Has offices in the state;

(2) Is registered with the State Securities Department;

(3) Is a member of the Financial Industry Regulatory Authority; and

(4) Is a member of the Securities Investor Protection Corporation.

(e) Unless restrictions are established by the donor, a private donation to a city of the first class, a city of the second class, or an incorporated town may be invested in accordance with the prudent investor rule established under § 28-71-105.

HISTORY: Acts 1943, No. 273, § 1; 1973, No. 106, § 1; A.S.A. 1947, § 13-901; Acts 1995, No. 402, § 1; 1997, No. 800, § 1; 2005, No. 2205, § 1; 2009, No. 251, § 2; 2011, No. 629, § 1.

19-1-505. Additional authority of certain cities.

(a) (1) A city that has real property assessed valuation in excess of three hundred million dollars ($300,000,000) may invest the city's funds in securities under § 23-47-401 and according to the investment policy adopted by the governing body of the city.

(2) The investment policy adopted by the city's governing body may authorize a maturity

term exceeding the term stated in § 19-1-504(a)(1)(A).

(b) (1) Each investment shall be made with the judgment and care under prevailing circumstances that a person of prudence, discretion, and intelligence would exercise in the management of the person's own affairs, not for speculation but for investment, considering the probable safety of the capital and the probable income to be derived.

(2) Investment of funds shall be governed by the following investment objectives in order of priority:

(A) Preservation and safety of the principal;

(B) Liquidity; and

(C) Yield.

(c) In determining whether an investment officer has exercised prudence with respect to an investment decision, the determination shall be made taking into consideration:

(1) The investment of city funds and funds under the officer's control and over which the officer had responsibility, rather than a consideration as to the prudence of a single investment; and

(2) Whether the investment decision is consistent with the written investment policy of the city.

HISTORY: Acts 2011, No. 629, § 1.

19-8-101. Definitions.

(a) "Public funds" or "funds" means any and all kinds of funds handled by treasurers, collectors, commissioners, sheriffs, and clerks.

(b) "Bank" or "banking institution" means any state bank, national bank, savings bank, savings association, thrift, or other financial institution authorized to do business and having a main office or branch office in this state, which is insured by the Federal Deposit Insurance Corporation.

HISTORY: Acts 1935, No. 21, § 4; Pope's Dig., § 4330; Acts 1973, No. 89, § 2; A.S.A. 1947, § 13-804; Acts 2001, No. 1436, § 1.

19-8-102. Legal funds.

The legal funds referred to in §§ 19-8-101 -- 19-8-107 as being eligible for deposit in depositories shall include any and all funds that may come into the hands of all treasurers, collectors, commissioners, sheriffs, and clerks by reason of their official capacities as commissioners.

HISTORY: Acts 1935, No. 21, § 4; Pope's Dig., § 4330; Acts 1973, No. 89, § 2; A.S.A. 1947, § 13-804.

19-8-103. Penalties.

(a) It is a felony, punishable by fine of not more than one thousand dollars ($1,000) or one (1) year in prison, or both, for any officer of any bank to accept for deposit more public funds in the aggregate than that amount designated by § 19-8-101 -- 19-8-107. In no instance shall more than twenty-five percent (25%) of the total general deposits of public funds be accepted until they have been reduced to the proper proportion of general deposits. When necessary, the depository boards are authorized to order a reduction of deposits in any bank so as to conform to the twenty-five percent (25%) limitation provided for in this section. Any public officer knowingly depositing public funds in excess of this amount shall likewise be guilty of a felony and subject to the same penalty as prescribed in this subsection and shall be removed from office.

(b) The penalties provided in this section shall also apply in the event of a depository bank investing any deposits in excess of the twenty-five percent (25%) limitation in any manner other than that provided in the clause of § 19-8-105 permitting a deposit in excess of the twenty-five percent (25%) limitation.

HISTORY: Acts 1935, No. 21, § 5; Pope's Dig., § 4331; A.S.A. 1947, § 13-805.

19-8-104. Investment of public funds.

(a) Except as provided in subsection (b) of this section, all public funds as defined in § 19-8-101 shall be deposited into banks located in the state.

(b) A school district may seek a hardship waiver from the Legislative Joint Auditing Committee from this section and deposit public funds into an out-of-state bank if:

(1) The school district is designated as an isolated school district under §§ 6-20-601 and 6-20-602;

(2) The school district lies on the borders of the state line;

(3) The nearest Arkansas bank is located at least eighteen (18) miles from the administrative offices of the district;

(4) The administrative offices of the district are located within six (6) miles from an out-of-state bank; and

(5) The out-of-state bank meets all other requirements concerning collateralization of state funds.

HISTORY: Acts 1935, No. 21, § 5; 1973, No. 107, § 1; A.S.A. 1947, § 13-802; Acts 1991, No. 459, § 1; 1995, No. 770, § 1; 2011, No. 629, § 2.

19-8-105. Annual list of eligible banks.

(a) Annually, on December 1, the Bank Commissioner shall furnish to the governing board of each city, or town officer, and the county board of each county, and also any officer of any improvement district or any other political subdivision, having the supervision of public funds or funds belonging to the state or any political subdivision a list of all the banks or banking institutions doing business in this state which are members of the Federal Deposit Insurance Corporation. The commissioner shall recommend the maximum amount of deposit of public funds each bank shall be allowed to receive. None of these public funds shall be deposited into any bank other than those contained in the list.

(b) In no instance shall the commissioner recommend, or any bank accept, for deposit more public funds than twenty-five percent (25%) of the total of its general deposits, exclusive of the public funds. Public money in excess of the amount allowed in this section, if approved by the governing board, may be deposited into an authorized bank if the excess deposit is carried in cash, United States Government Bonds, Housing and Home Finance Agency bonds, or demand loans on cotton of the kind commonly known as Commodity Credit Corporation loans, being only such loans as are guaranteed by the United States.

HISTORY: Acts 1935, No. 21, § 1; Pope's Dig., § 4327; A.S.A. 1947, § 13-801.

19-8-106. Depository boards.

(a) (1) The quorum court of each of the several counties shall by ordinance establish a county depository board. The county depository board is to be composed of the county judge, the county treasurer and county collector, or the sheriff when acting as ex officio tax collector, or those officials performing the duties of the above officials where an elective county office has been changed in accordance with Arkansas Constitution, Amendment 55.

(2) The board shall designate depositories and supervise the depositing of all county funds and all other public funds held by the county treasurer, except funds of a school district, and shall also designate depositories and supervise the depositing of all funds collected and held by the county collector.

(3) The board may also require county officials to settle with the county treasurer more frequently than required by Arkansas law.

(b) (1) Except as provided in subdivision (b)(2) of this section, the following persons shall constitute a three-member board to designate depositories and supervise the depositing of municipal funds:

(A) A mayor;

(B) A city clerk or recorder or clerk-treasurer or recorder-treasurer; and

(C) A city council member selected by the city council.

(2) Although the board shall not total more than three (3) members, the city council may replace one (1) of the three (3) board members listed in subdivision (b)(1) of this section with the city finance officer or other official.

(3) A majority of the board members shall be necessary to conduct business and to constitute a quorum.

(c) The commissioners of road, drainage, levee, and other improvement districts shall designate depositories and supervise the depositing of funds of their respective districts.

(d) The board of directors of any school district shall constitute a board to designate depositories and supervise the depositing of school district funds. All school district funds, whether held by the treasurer of the school district or by the county treasurer, shall be deposited as designated by the board of directors.

HISTORY: Acts 1935, No. 21, § 2; Pope's Dig., § 4328; Acts 1945, No. 57, § 1; 1973, No. 107, § 1; A.S.A. 1947, § 13-802; Acts 1987, No. 250, § 1; 2011, No. 619, § 1.

19-8-107. Depository agreements.

(a) (1) After the receipt from the Bank Commissioner of the list of banks or banking institutions and recommended amounts of public funds each may accept, the depository boards shall designate the banks or banking institutions in which the funds shall be deposited and shall enter into a depository agreement with each designated institution.

(2) The depository boards may at any time enter into depository agreements with any new bank chartered if the bank is certified by the commissioner as being eligible as a depository of public funds under the laws of this state. The certificate shall contain the recommended amount of public funds the bank may accept.

(3) (A) All county and municipal depository agreements shall be entered into using standardized forms provided by the State Board of Finance.

(B) The forms shall include language necessary to create an enforceable perfected security interest in all collateral for deposits.

(C) Depository boards and banks or banking institutions giving or holding collateral for deposits of public funds shall comply with federal law so that the governmental entity or political subdivision depositing public funds will hold a valid claim in deposits and collateral given for those deposits against and prevent avoidance of such a claim by the Federal Deposit Insurance Corporation or its successor or any similar deposit insurance agency acting as receiver, conservator, or in any other capacity.

(b) All depository agreements shall continue in full force until the bank or banking institution receives written notice of revocation by the depository board or until there is a change of membership on the depository board.

(c) (1) The treasurers or other public officials or other persons having custody of these funds shall deposit them into the designated depositories.

(2) The depositing of these funds into the designated depositories shall relieve the public officer or other person and his or her sureties from any liability for the loss of the funds by reason of the default or insolvency of any depository.

(3) County officials shall make timely investment of public funds to earn optimum interest consistent with the prudent investor rule for investments as defined by Arkansas law.

(d) (1) County and municipal officials shall require security for the deposit or investment of public funds for amounts not fully insured directly by the United States.

(2) All security required under this subsection shall meet the requirements of an eligible security under §§ 19-8-203 and 23-47-203(c).

(3) Public officials may require as a condition for placing deposits or keeping funds on deposit such financial data as they need to make an informed decision, including without limitation quarterly financial statements, quarterly profit and loss statements, and tangible net worth or capital-to-assets ratios.

HISTORY: Acts 1935, No. 21, § 3; Pope's Dig., § 4329; Acts 1945, No. 62, § 1; 1947, No. 122, § 1; 1964 (1st Ex. Sess.), No. 18, § 1; A.S.A. 1947, § 13-803; Acts 1987, No. 250, §§ 2, 3; 1995, No. 232, § 9; 2003, No. 68, §§ 1, 2; 2011, No. 619, § 2.