

GOVERNMENT IN ARKANSAS

Tenth Edition

Release 2

Douglas L. Reed
Margaret M. Reed



League of Women Voters of Arkansas

<https://my.lwv.org/arkansas>

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League of Women Voters of Arkansas

<https://my.lwv.org/arkansas>

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This edition is dedicated to Arkansans whose persistence and sacrifice helped make women's voting rights a reality.



Women's suffrage rally in 1917 on the steps of the state capitol in Little Rock, celebrating passage of a bill to allow Arkansas women to vote in primary elections. Arkansas Governor Charles Brough, who served from 1917 to 1921, is among the group (front right, wearing a white jacket).

Courtesy of the Arkansas State Archives [Item #G3855]

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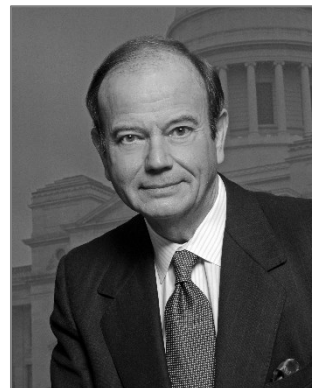
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Introduction

By Steve Barnes

It is a phrase commonly employed in assessments of our nation, our government: "the American Experiment."

Invariably I cringe. In less than a decade the United States will observe its 250th birthday and, I am tempted to reason, if we are still in the experimental stage -- theory, or merely hypothesis -- then the certainty of, say, gravity is in question.



But then I recall the cautionary of a distinguished Arkansan, a man of global renown, who admonished an audience of academics and corporate elite that "America's survival is not divinely ordained." Not that he was disdainful of the Almighty; it was merely his adaptation of Benjamin Franklin's reply to the woman who wondered if the new Constitution established a monarchy or a republic: "A republic, madam, if you can keep it."

So, yes, an experiment, undertaken in a laboratory bookended by oceans, anchored on a landmass marked by, stressed by, a different sort of continental divide. We ache for a revival of unity, a return to consensus for the common good. When the present fever subsides, others will arise. And the testing will continue.

"I could not at any age be content to take my place in a corner by the fireside and simply look on," said Eleanor Roosevelt, who analyzed the chemistry of American political and social structures in the 1920s and

found its formulae alarmingly unstable. Naturally, she enlisted with a newly formed secular congregation of the like-minded, a segment of the population that knew the price of struggle, the promise of equality. The League of Women Voters is still at work today, its mission -- to "keep it" - a constant.

Thank Heaven for the League, which, all should happily note, is approaching its centennial. Perhaps not another organization has done so much, and with such resolve, to drive home to Americans the necessity of political involvement, and this latest edition of its guide to government in Arkansas bears testament to its aims. Whatever the passions of the times, no matter how heated grows the rhetoric of the arena, The League steadfastly pursues its non-partisan campaign for civic literacy and civil discourse. For the empowerment of all.

It should not be surprising, then, that League membership is no longer restricted to women. Those of the other gender are welcome, provided they are willing to take up the Experiment. And assuming they are not content to sit fireside and simply look on.

To the League!

Steve Barnes

Longtime Arkansas Political Journalist

Foreword



Throughout its existence, *Government in Arkansas* has sought to expand understanding of state and local government. Our goal has been to continue the efforts of the late Peg Anderson, the original author and a founding leader of the League of Women Voters of Arkansas.

This release includes updated information since the 2019 legislative session along with instructional resources for educators. In recognition of the League of Women Voters' centennial anniversary, we are pleased to include "Women's Suffrage in Arkansas," a special piece by Arkansas historian and archivist Tom Dillard originally published in the *Arkansas Democrat-Gazette*. Also new is "Arkansas Voter Information Resources" (Appendix D), a select list of useful government and voting information Web sites.

Preparing each edition of *Government in Arkansas* requires a team effort of dedicated volunteers. We greatly appreciate the following persons for the significant role they played in helping us with revisions: Beth Barham (League of Women Voters of Arkansas); Susanna Brinnon; Bethany Osborn (University of Arkansas at Fayetteville journalism student); and Kameron Richards (University of Arkansas School of Law student).

In honor of the League of Women Voters' distinguished history and accomplishments in the public square, we hope *Government in Arkansas* will advance civic engagement across the state.

Douglas L. Reed and Margaret M. Reed

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Abbreviations

Amend.	Amendment to Arkansas or U.S. Constitutions
A.C.A.	Arkansas Code Annotated
etc.	(et cetera) and so forth
ff.	and following
FY	Fiscal Year (July 1 – June 30)
p.	page
pp.	pages
Sec.	Section of Arkansas or U.S. Constitutions
Art. V, Sec. 3	Article V, Section 3 of the Arkansas Constitution
ad valorem	according to value
certiorari	a writ issued from a superior court calling up the record of a proceeding in an inferior court for review
de novo	from the beginning
en banc	as a full court; with all judges present
ex officio	by virtue of an office held
habeas corpus	a writ requiring a person to be brought before a judge
mandamus	a writ from a superior court to an inferior court commanding that a specified thing be done
per capita	for each person
per diem	for each day
pro tempore	(a legal proceeding to determine) by what authority (one has an office or a liberty)
sine die	without determining a day (for future action)

Historical Background



Arkansas' political history is filled with colorful individuals and dramatic social and historical events. Beginning with the politics of Native American migrants seeking land rights to the women's rights and civil rights movements, geographic, socio-economic, and international concerns have affected the state.

When European settlers arrived in the region that was to become the state of Arkansas, Native American tribes, among them the Osage and Quapaw, attempted to maintain their tribal claims to territory white men began to occupy. (Greer and Cole, 1991: 61)

The next major political struggle came from the politics of empire. Initially, Spanish and French explorers claimed the area of present-day Arkansas for their respective countries. Spanish conquistador Hernando de Soto explored portions of Arkansas in 1541-1543. Henri de Tonti, a lieutenant of Robert de La Salle, founded Arkansas Post as a French settlement in 1686. (Arnold, 1991: 5)

Arkansas experienced significant change at the turn of the nineteenth century. Control and governance of the land area now known as Arkansas shifted from the French empire to the United States in 1803. The Louisiana Purchase, as it came to be known, gave the fledgling United States government legal claim to this land and encouraged the country's westward expansion. President Thomas Jefferson sent Meriwether Lewis and William Clark to determine the northern boundary of the Purchase. Jefferson commissioned William Dunbar and George Hunter to explore the southern portion of the Purchase, which included lands that later became the Arkansas Territory. (Whayne, et. al., 2002: 79-87)

2 Historical Background

After being a part of the Indiana, Louisiana, and Missouri Territories, the Arkansas Territory was formally established when President James Monroe signed an act of Congress on March 1, 1819. The first capital was at Arkansas Post on the eastern edge of the Arkansas Territory near present-day Dumas. At their first meeting, members of the Arkansas Territorial Legislature lobbied to change the capital's location. This was because the area around Arkansas Post was swampland prone to flooding and filled with mosquitos that caused malaria outbreaks. In addition, members felt the capital should be in the center of the territory, making it more accessible to settlers.

After a series of turnovers among the political leadership, the territorial government stabilized in June 1821 when leaders moved the capital to Little Rock. It was a settlement named for a large stone outcropping on the Arkansas River used as a landmark for navigators and named "la Petite Roche" (the Little Rock) by explorer Bernard de la Harpe nearly 100 years earlier. (Bolton, 1998: 24-28; Dougan, 1994: 67)

Shortly after Arkansas became a territory, multiple ethnic groups began migrating to the state for a variety of reasons. As part of the general westward movement from 1820 to 1880, white settlers came to Arkansas to seek economic opportunity and take advantage of low-cost government land sales intended to lure them westward. Germans made up the largest group of white Europeans who immigrated to Arkansas, many of whom came for jobs building the Little Rock and Fort Smith Railroad, as well as to flee religious persecution in their home country. Arkansas' coal mining industry drew immigrants from Eastern and Central Europe. Initially, Italian immigrants came to the state to farm cotton in southeast Arkansas, but by the late 1800s, many moved to establish enclaves and small businesses in other parts of the state. Though smaller in number, Greeks and Jews who settled in Arkansas were influential in the business community.

The state's early black population arrived as slaves, concentrated primarily in the eastern and southeastern counties of Arkansas where rich

Delta farmland allowed for plantation-style agricultural development. During Reconstruction, there was also a brief surge of freed black immigration in response to Arkansas being touted in the black press as a land of opportunity. However, by the end of Reconstruction, many of these newer black immigrants left the state to escape discrimination and limited job options, which consisted primarily of sharecropping, tenant farming, and peonage. (Balogh, 2017)

During the first half of the 20th century, Latinos from Mexico, Central America, and South America began immigrating to Arkansas, seeking a better life for their families and relieving significant labor shortages on farms during World Wars I and II. Because most immigrants from Mexico, Central and South America already had a background in farming, they had the necessary skills the state's agricultural industry required. When the state's poultry industry expanded in the 1990s, a new wave of Hispanic population arrived to work in poultry processing plants, especially in northwest Arkansas. (Balogh, 2017)

Notable Asian immigration to Arkansas has included persons from China, India, and the Marshall Islands. The Marshall Islands have their own complex history of attachment to the United States. But in more recent years, due to the rise in sea levels, many of the Marshallese people have left their homeland and relocated in the United States. Arkansas has emerged as the largest base of Marshallese on the U.S. continent today, and the greatest concentration live in and around Springdale. (Froelich, 2017)

The cultures of these varied peoples are interwoven across the landscape of Arkansas. The status of blacks in the early United States, in particular, played an important role in determining the future of Arkansas. Prior to and foreshadowing the Civil War, Congress and the nation were locked in bitter fights over the legality of slavery. To balance anti- and pro-slavery advocates, the country's leaders agreed to equalize the number of slave and non-slave states as new states were being recognized. In 1836, the pro-slavery contingent prevailed in Arkansas and it was admitted as a

slave state to balance Michigan's entry as a free state. Arkansas was the twenty-fifth state in the Union.

The Civil War of 1861-1865 confronted Arkansas with perhaps its most momentous choice: whether to stay in the Union or to secede. Secession meant joining other southern states in the Confederacy. Several political factions waged a ferocious struggle over the secession question. Activists from the mountainous areas of the state, where slavery was not prevalent, wanted Arkansas to follow the path of the border states (slave states that did not leave the Union), such as Missouri and Maryland, and delay the secession decision. Many leaders from the Delta called upon the state to leave the Union at once and join the Confederacy.

While initial efforts for secession failed, pro-slavery supporters ultimately won the day and Arkansas voted in favor of secession in 1861. While not technically among the first "Deep South" states to secede – Mississippi, South Carolina, Florida, Alabama, Georgia, Louisiana, and Texas – Arkansas is to this day occasionally considered a part of this group or that of the "Rim South," the periphery of the true Deep South.

The Reconstruction period (1868-1874) was marred by corruption and failure to significantly improve the welfare of newly freed slaves. In the 1890s, the state's government sanctioned many new laws that replaced official slavery by a variety of other means. While emancipation at the end of the war did not bring equality or economic improvements to freedmen, it was nonetheless during this time that the first black Arkansans were elected to public office at the county level and in the state legislature. This era also had long-standing political consequences such as the electoral dominance of the Democratic Party.

Anti-reformation fervor resulted in efforts to limit the progressive reforms of the Reconstruction period, leading to the passage of a new state constitution in 1874. It remains the core governing authority for the state to this day. It was aimed at curbing control of state government by placing constraints on the scope of actions possible by elected officials.

After the Civil War, Arkansas played a key role in granting women the right to vote. The foresight of a young delegate to the Arkansas Constitutional Convention of 1868 and the tireless efforts of grass roots organizations such as the Arkansas Woman Suffrage Association (AWSA), the Arkansas Equal Suffrage Association (AESA), and the Arkansas Equal Suffrage Central Committee (AESCC) paved the way for Arkansas to be the first non-suffrage state to grant its women the right to vote in primary elections and the twelfth state to ratify the 19th Amendment to the U.S. Constitution. (Taylor, 2017) The next section of this book, "Women's Suffrage in Arkansas," chronicles the events and persons who helped make women's voting rights a reality in Arkansas.

The Great Depression of the 1930s created a new dynamic in Arkansas politics, as in the rest of the country. During this time of economic turmoil and great need, average citizens began to accept an increasing role for the central government to which they turned for help. For the first time, many Arkansans were affected directly by federal assistance programs. President Franklin D. Roosevelt's New Deal efforts to pull the country out of economic hardship helped the Democratic Party maintain its dominance in Arkansas politics and government.

A primary political issue in the post-World War II era was civil rights. Arkansas' record on civil rights is like that of most southern states. The state consistently failed to uphold policies and take actions that would result in equality for its African-American citizens.

The Little Rock Central High School crisis of 1957 vividly illustrates the political struggle over desegregation efforts. Ugly public protests erupted over the admission of nine African-American students to Central High School. When the protests spiraled out of control, President Dwight D. Eisenhower ordered National Guard Troops and the 101st Airborne Division to mobilize at the high school to provide safe passage and entry of the "Little Rock Nine" into the school. This action directly overrode

efforts by Arkansas Governor Orval Faubus, who had taken a stand to maintain segregation of schools. (Johnson, 2000: 139-40)

Some of the key figures who advanced civil rights in Arkansas were:

- Scipio Africanus Jones, a black lawyer from Little Rock who helped improve legal and political representation for blacks;
- William Harold Flowers, a black lawyer from Pine Bluff who helped make the NAACP an active force in Arkansas and who helped increase black voter rolls significantly;
- L.C. and Daisy Bates, activists and owners of the Arkansas State Press, a Little Rock black newspaper, and mentors to Central High School's Little Rock Nine;
- Silas Hunt, the first black student accepted to the University of Arkansas at Fayetteville Law School and to attend a university with whites in the South since Reconstruction;
- Jackie Shropshire, the first black graduate at the University of Arkansas at Fayetteville; and
- Edith Irby, the first black to attend and graduate from the University of Arkansas for Medical Sciences. (Kirk, 2017)

More recently, the work of Governor Bill Clinton's Task Force on Civil Rights resulted in the passage of the Arkansas Civil Rights Act of 1993. This law addresses nondiscrimination in accommodations, business transactions, employment, political participation, and voting. In 1995, the Arkansas legislature added housing to the law's provisions. (Hatchett, 2017)

Although change has been slow, revisions in education policy, economic development strategies, and government structure have occurred in the post-WWII period. Arkansans have frequently elected progressive political officers, such as Senator J. William Fulbright, Governor Sid McMath, Governor Winthrop Rockefeller, Governor and U.S. Senator Dale Bumpers, Governor and U.S. Senator David Pryor, and Governor and U.S. President Bill Clinton.

In recent years, Arkansas has shifted politically as Republican candidates for office have been gaining ground across the state. The economic growth and population expansion in northwest Arkansas, which is home to several major corporations such as Walmart, Tyson, and J.B. Hunt, have significantly influenced the political and economic power bases within the state. Arkansas has been one of the last southern states to transition to a majority of Republican office holders in both state and national elections. In 2006, for example, all of Arkansas' constitutional officers were Democrats, but by 2014, all were Republicans.

At the beginning of the 21st century, Arkansas faces many of the same issues that influenced its past. These concerns include provision for an adequate public education; expansion of employment opportunities; and creation of an efficient government structure. Race relations, immigration issues, and persistent poverty in many Arkansas counties remain key challenges for the state looking forward. Efforts to address these and other policy questions continue to make Arkansas' political scene a fascinating and worthwhile area of study.

Learn More

A Nation Divided – Arkansas and the Civil War

<https://www.butlercenter.org/civilwararkansas/index.html>

Arkansas Historic Preservation Program

<http://www.arkansaspreservation.com/>

Arkansas State Archives

<http://archives.arkansas.gov/>

Black History Commission of Arkansas

<http://archives.arkansas.gov/about-us/bhca.aspx>

Butler Center for Arkansas Studies

<https://www.butlercenter.org/>

Department of Arkansas Heritage

<http://www.arkansasheritage.com/>

Encyclopedia of Arkansas History and Culture

<https://encyclopediaofarkansas.net/>

Mosaic Templars Cultural Center

<http://www.mosaictemplarscenter.com/>

Women's Suffrage in Arkansas

By Tom Dillard*



A century ago the women of Arkansas – or at least most of them – were anticipating voting for the first time. The 1917 legislature adopted a measure allowing women to vote in state political party primary elections. This was three years before the U.S. Constitution was amended to enfranchise women nationally.

While Arkansas might have been a leader in women's suffrage, it did not happen overnight. Interestingly and surprisingly, farsighted men and women worked for political rights for women in Arkansas as early as the 1868 Reconstruction-era constitutional convention.

I often cite the 1868 convention as a possible turning point in Arkansas history, one of those rare moments when circumstance and opportunity met in a different sort of milieu following the Civil War. The old order had been swept aside. Young men from outside the state, some for venal and selfish reasons but others with a combination of idealistic and political motivations, found themselves serving in a convention to write a new charter for Arkansas.

One of these men was a young delegate from Clark County, Miles L. Langley. On the 29th day of the deliberations Langley proposed that "all citizens, twenty-one years of age, who can read and write the English language, shall be eligible to the elective franchise ..." This thunderclap was followed the next day with a spirited defense of his proposal, in

which Langley said his wife was just as qualified as he to vote, and that he thought society treated women "with great injustice."

Langley was hooted down by his fellow delegates, most notably by one of the few conservative white Democrats who managed to win election, J. N. Cypert of White County. Cypert ridiculed Langley's motion as threatening "revolutions in families." The motion was quickly tabled, leaving Langley to complain that "the Democrats are my enemies because I assisted in emancipating the slaves. The Republicans have now become my opponents, because I have made an effort to confer on women their rights. And even the women themselves fail to sympathize with me."

The demise of Reconstruction in 1874 brought about the adoption of a new constitution, which though conservative and reactive in many ways, did adopt a provision by Judge James W. Butler granting women the right to own property independently of a husband. The next session of the legislature adopted an "Act for the Protection of Married Women," which enabled women to buy and sell property, to sue and be sued, and be held unaccountable for a husband's debt. Arkansas was among the early states to grant extensive rights to married women, but the right to vote was not one of them.

One of the interesting points to note when studying the history of women's rights in Arkansas is the striking role played by northern-born wives and children of Reconstruction Republican leaders. The movement to enfranchise women in Arkansas was a truly bi-partisan effort, which brought together the formidable organizational talents of Democratic-oriented women like Mary W. Loughborough and Republicans like Clara McDiarmid and Ida Joe Brooks, all of Little Rock. [Indeed, Ida Joe Brooks ran for state office in 1920 but was ruled off the ballot by an opinion of the incumbent state attorney general.]

The women's suffrage movement was centered in Little Rock, but pockets of activity occasionally arose in smaller towns, such as Forrest City, Eureka Springs, Hope, and Stuttgart. The suffrage movement picked up steam as

it found common cause with the women's temperance campaign. In 1890 the Arkansas Prohibition Party convention in Russellville endorsed the enfranchisement of women. This alliance caused liquor forces to oppose women's suffrage—which was wise as it turned out.

By the 1911 legislative session, women's suffrage could be neglected no longer, and the House of Representatives witnessed a strongly argued debate on a motion to grant the vote to women. Ultimately the motion was tabled, but the debate had evolved to the point that respected Democratic legislators such as George P. Whittington of Hot Springs had joined the movement. Many state Republican leaders, like stalwart Wallace Townsend, were strongly in favor of extending suffrage to women.

War clouds drifted across Europe as the Arkansas legislature convened in 1917, perhaps adding to the suffragist cause. The suffragists also strengthened their cause by adopting a new strategy in 1917. Realizing that nearly all important elections in the state were decided in the Democratic Party primaries, suffrage supporter Rep. John A. Riggs of Garland County sponsored a bill that would open the party primaries to women voters.

Women from across the state mobilized for the 1917 effort. Women lobbied in many ways, "but the legislature was not harassed by a large and conspicuous lobby." The bill passed the House by a comfortable 71 to 19 votes. The Senate, however, was another story.

On February 2, 1917 the Senate convened before crowded galleries to consider the suffrage bill. After a spirited debate in which Senator Walker Smith of Magnolia said women did not want the right to vote, the Senate adopted the bill by two votes, 17 to 15.

At least 40,000 women voted in the Arkansas Democratic primary in 1918. Both political parties began to elect women to party positions. Mrs. Stella Brizzolara of Fort Smith was the first woman to serve on the Democratic

State Committee. In 1920, Arkansans adopted a constitutional amendment granting women the right to vote in all elections, though the matter was subject to legal proceedings for several years.

*Tom Dillard is a historian and retired archivist living in Arkansas. He writes a weekly column on Arkansas history for the *Arkansas Democrat-Gazette* newspaper. This piece is re-printed here with permission and was first published as: Tom Dillard, "Political Rights for Arkansas Women," *Arkansas Democrat-Gazette*, November 12, 2017, p. 2-H.

For further reading on this topic, see: Cahill, Bernadette. *Arkansas Women and the Right to Vote: The Little Rock Campaigns, 1868-1920*. Little Rock, AR: The Butler Center for Arkansas Studies, 2015.

Learn More

Butler Center for Arkansas Studies

<https://www.butlercenter.org/>

Encyclopedia of Arkansas History and Culture

<https://encyclopediaofarkansas.net/>

Library of Congress

<https://www.loc.gov/>

National Archives

<https://www.archives.gov/>

National Endowment for the Humanities

<https://www.neh.gov/>

USA.gov

<https://www.usa.gov/>

The Arkansas Constitution

1

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Constitutional History

Arkansas has operated under five different constitutions. Their adoption dates were 1836, 1861, 1864, 1868, and 1874.

Arkansas legislators wrote the first constitution in 1836 to qualify for statehood. Some controversy surrounded this constitution because territorial representatives drafted it before statehood was granted. When Arkansas seceded in 1861 and joined the Confederacy, the state approved a new constitution. Known as the "Confederate Constitution," it retained many of the 1836 provisions. The primary difference was that references to the "United States of America" were changed to "Confederate States of America."

As the Civil War progressed, Union forces occupied more territory in the state. Consequently, many who had opposed secession were now in positions of influence, leading to the call for a new constitution. Twenty-four counties sent delegates to a constitutional convention held in Little Rock in January 1864, which adopted a new constitution for the state. For a time, this resulted in the state having two seats of government: the Union government in Little Rock based on the newly adopted constitution, and a Confederate government in Washington, Arkansas, still under the 1861 Constitution.

After the Civil War, the U.S. Congress declared the existing Southern governments illegal. Sometimes referred to as the "Radical Reconstruction Constitution" or the "Carpetbag Constitution," the Constitution of 1868 was created in response to this congressional edict. Many delegates to this convention that created the draft of this new constitution were not native Arkansans but supporters of the Union who migrated to the state during the Reconstruction period. The 1868 Constitution was characterized by a dramatic centralization of power, particularly in the executive branch. Some analysts contend this was essential, because the war's devastation meant many local governments lacked the ability to implement necessary functions.

On the issue of taxes, Arkansans at the time considered the tax burden excessive and felt that the system worked to their disadvantage. Another problem with the Reconstruction Constitution was political corruption. For example, assessors appointed by the governor received a percentage of levied taxes, giving them an incentive to maintain high assessment levels. Many citizens voiced concern about the government wasting public funds on these types of unfair practices.

Reconstruction law mandated an oath of allegiance from each citizen to the new government in order for them to regain their right to register and vote. Over time, more and more Arkansans complied. As their numbers increased, registered Arkansans demanded a new constitution that would address governmental power and taxation issues. By 1874, the state legislature responded to citizen concerns and submitted an act calling for a new constitutional convention. The voters overwhelmingly approved this act, leading to Arkansas' fifth and current constitution. (Barnhart, 1973: 2-5 in Nunn ed.)

Constitution of 1874

The original Arkansas Constitution of 1874 contained nineteen articles. Today's amended version has twenty articles.

The Constitution was intended to address the immediate concerns of Arkansans. This included centralization of power, political corruption, taxation, and other issues associated with Reconstruction. The document reflected the citizenry's distrust of government. Because of this approach, historian Walter Nunn has argued the general tone of the Arkansas Constitution is "negativism." (Nunn, 1973: 21-25) In other words, the authors attempted to limit and control governmental power to prevent the excesses they had witnessed under the 1868 Constitution.

The 1874 Constitution dramatically increased the number of elective offices to increase representation at more local levels and thereby dilute

the centralization of power at the state level. In addition, the terms of elective office were shortened from four to two years. This gave voters an estimated 44 opportunities to vote on officeholders every four years, compared to 14 times in the 1868 Constitution. This change also removed a great deal of power the governor had to place particular individuals in appointed positions. (Blair and Barth, 2005: 137)

The 1874 Constitution also takes steps to control political corruption. For example, constitutional provisions provide specific directives on conducting elections; building or repairing public buildings; purchasing stationery; and furnishing the hall and rooms for the General Assembly (Art. XIX).

Taxation and spending are other issues the 1874 Constitution addresses. In fact, about one-fourth of the document focuses on financial issues. Arkansas political analyst Peg Anderson, founding member of the League of Women Voters of Arkansas, argues this reflected the convention delegates' desire to correct the conditions that had led to bribery, high taxes, embezzlement, and a large state debt. At the state level, tax and appropriation laws require extraordinary majority votes in the legislature. Also, local government taxing power is strictly limited. Here again, the delegates were responding to the political shortcomings they had experienced under the previous constitution, particularly an overconcentration of power at the state level.

In addition to this libertarianism, the Constitution of 1874 writers were careful to observe democratic principles of government. For example, the dramatic increase in elective positions and frequency of elections gave average citizens greater potential influence over political officeholders. In addition, the document enumerates the basic rights of individuals in the Declaration of Rights, including the right to bear arms, religious freedom, and equality before the law (Art. II), which combines the basic philosophy of the Declaration of Independence with the U.S. Constitution's Bill of Rights. The rights expressed in the state's constitution provide a greater elaboration of a citizen's civil protections.

This was especially important before the U.S. Supreme Court's actions that incorporated much of the national Bill of Rights protections to the states.

Constitutional Amendment Process

Arkansas' constitutional amendment process is like that of the U.S. Constitution and most other states. The Arkansas Constitution may be amended either by legislative referendum or by citizen initiative.

Under Section 22 of Article 19, the General Assembly is limited to proposing three or fewer amendments per ballot. Each amendment is to be listed as a separate ballot issue for voters. Those proposing an amendment must therefore address only one issue or topic at a time. This is to prevent those proposing an amendment from combining what are, in fact, different issues into a single proposed amendment in an effort to get them proposed all at once. Proposed amendments require majority approval of both houses in a recorded vote, publication in at least one newspaper in each county for six months prior to the next election of the Assembly, and majority approval of the voters.

Under Section 1 of Article 5 (as amended by Amendment 7), 10% of legal voters may propose an amendment by initiative, which is normally done by collecting signatures of supporters of the amendment. The resulting list of voters' signatures is checked for accuracy by the office of the Secretary of State to determine whether all those who signed are legally registered. The proposed amendment must be filed with the Arkansas secretary of state not less than four months before the election. Thirty days prior to the election, petitioners (at their own expense) must publish the amendment "in some paper of general circulation." According to Act 982 of 2017, if an initiative is placed on the ballot, petitioners must reimburse the Arkansas Secretary of State's Office for the cost of publishing the initiative in local newspapers. Unlike legislative amendments, there are no limits on the number of amendments by initiative that may be proposed on any one ballot. Amendments brought

to the ballot by citizen initiative must, like legislative amendments, win a majority of votes in the following election to pass into law.

Comparison to Other States

Most state constitutions are criticized for being too long and too specific, requiring frequent amendment, and lacking political effectiveness. The Arkansas constitution is subject to these criticisms. The state's constitution has nearly 60,000 words compared to the U.S. Constitution's 8,700 words. Only seven states have constitutions longer than Arkansas'.

As noted earlier, the Arkansas Constitution includes explicit details concerning elections, contracts for public works, taxing, and spending. A lengthy, specific document tends to be plagued by contradictions, and this leads to the need for frequent amendment.

All state constitutions include provisions that allow them to be amended or replaced with a new document, which would be revised throughout rather than piecemeal by individual amendments. Arkansas law allows both methods of constitutional reform. Arkansans have attempted to completely replace the Constitution of 1874. Constitutional conventions formally proposed new constitutions in 1918, 1970, and 1980, but the citizens rejected these efforts. Ultimately, the only constitutional changes since 1874 have been the result of the formal amending process.

Regarding amendments put forth by the legislature, Arkansas is among 17 states that require a simple majority vote in both chambers to propose amendments. All other states require an extraordinary majority in both houses of three-fifths, two-thirds, or three-fourths. Amending by citizen initiative petition is the less common procedure; Arkansas is one of only 18 states that allow this method of constitutional amendment.

State constitutions in general are concerned with efficient operation of government and with protecting the rights of the people. These are, in many cases, conflicting goals. The Arkansas Constitution limits the

governor's power by having many executive officials elected rather than appointed by the chief executive. Moreover, local governments were very limited in their independent financial activities. These and other restrictions are common among the states. Arkansas, like other states, will continue to work on the balance between giving decision makers enough power to do their jobs effectively, while providing safeguards to ensure leaders do not abuse their power.

One should not be too critical of those who wrote the Constitution of 1874, because it was a direct response to the political events of the time. The citizenry had experienced abuse of political power due to centralization of authority and believed the state's taxation system was unfair. Because a representative segment of the population authorized and ratified it, the Constitution of 1874, unlike previous state constitutions, reflected the will of the people.

Learn More

Arkansas General Assembly

<http://www.arkleg.state.ar.us/>

Arkansas Secretary of State

<https://www.sos.arkansas.gov/>

Articles of the Arkansas Constitution of 1874*	
- - -	Preamble
I	Boundaries
II	Declaration of Rights (29 sections)
III	Franchise and Elections (12 sections)
IV	Departments (2 sections)
V	Legislative Department (42 sections)
VI	Executive Department (23 sections)
VII	Judiciary (52 sections)
VIII	Apportionment (6 sections)
IX	Exemptions (10 sections)
X	Agriculture, Mining, and Manufacturing (3 sections)
XI	Militia (4 sections)
XII	Municipal and Private Corporations (12 sections)
XIII	Counties, County Seats, and County Lines (5 sections)
XIV	Education (4 sections)
XV	Impeachment and Address (3 sections)
XVI	Finance and Taxation (16 sections)
XVII	Railroads, Canals, and Turnpikes (13 sections)
XVIII	Judicial Circuits (14 sections)
XIX	Miscellaneous Provisions (31 sections)
XX	Holford Bonds Not to Be Paid
- - -	Schedule
- - -	Amendments
*Number of sections includes both current and repealed.	
Source: Arkansas Secretary of State	

Comparison of Arkansas Constitution to U.S. Constitution			
Characteristics	Arkansas Constitution	U.S. Constitution	50-State Average
Length (words)	59,120	8,700	37,374
Amendments	98	27	149
Source: <i>The Book of the States</i> , 2018, p. 4			

The Legislative Branch

2

In This Chapter

Arkansas General Assembly

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Comparison to Other States

Terms to Know

apportionment, appropriation,
bicameral, bill, clincher motion,
extraordinary majority, initiative,
parliamentarian, referendum,
resolution, term limits ratification

Arkansas General Assembly

Following the national legislative model, Arkansas' legislative branch consists of a Senate and House of Representatives, collectively known as the Arkansas General Assembly. While membership in the Arkansas General Assembly is not considered a full-time job, issues and committee assignments often require senators and representatives to spend time year-round on legislative matters. General Assembly members come from a wide-range of occupations, including agriculture; architecture; banking and investing; business and industry; education; funeral directing; health services; law; media and telecommunications; ministry; nonprofit organizations; and self-employment.

Senate

The Arkansas Senate has 35 members, each elected from single-member districts. Senators serve four-year terms.

The lieutenant governor serves *ex officio* as president of the Senate. The lieutenant governor does not participate in debate and votes only to break a tie. At each regular session of the General Assembly, the Senate elects from its membership a president *pro tempore*, who is second in line of succession to the office of the governor in the event of death, resignation, or absence from the state of the governor and lieutenant governor. Senate members also elect a secretary of the Senate, who is not a member of the Senate, but who is responsible for administrative and clerical duties of this body.

House of Representatives

The Arkansas House of Representatives has 100 members, each elected from single-member districts. Representatives serve two-year terms.

The House speaker, elected by House members, presides over the House. At the end of each fiscal session (even-numbered years), a caucus of the entire membership is called to select by secret ballot a member of the House to be speaker-designate. A majority vote is required for election. In the case no member receives a majority vote, a run-off is held between the two top candidates. The speaker-designate serves as the speaker at the following regular session unless the speaker-designate resigns, dies, fails to be re-elected, or the partisan balance of the chamber changes. In such cases, a speaker is chosen by the membership upon the convening of that session. The speaker serves until January 1 of the calendar year that a new General Assembly meets, at which time he vacates his office in favor of the speaker-designate.

At the beginning of each session, the speaker appoints a member of the House to serve as speaker pro tempore to preside in the absence of the speaker. The speaker may also appoint assistant speakers *pro tempore* – one from each of the existing congressional districts. Other officers of the House are the chief clerk, who is appointed by the speaker-designate and is custodian of all bills, papers, and records of the House; the parliamentarian; and the chaplain.

Qualifications

Senators must be at least 25 years of age. Representatives must be at least 21. Both senators and representatives must be United States citizens, residents of Arkansas for not less than two years and residents of their districts for not less than one year. The Arkansas Constitution places further restrictions on those who desire to be candidates for the House or Senate, including:

- “No judge of the supreme, circuit, or inferior courts of law or equity, Secretary of State, Attorney General for the State, Auditor or Treasurer, recorder, or clerk of any court of record, sheriff, coroner, member of Congress, nor any other person holding any lucrative office under the United States or this State (militia officers, justices of

the peace, postmasters, officers of public schools and notaries excepted), shall be eligible to a seat in either house of the General Assembly.” (Art. V, Sec. 7)

- “No person hereafter convicted of embezzlement of public money, bribery, forgery or other infamous crime shall be eligible to [serve in] the General Assembly....” (Art. V, Sec. 9)
- “A member expelled for corruption shall not thereafter be eligible to [serve in] either house...” (Art. V, Sec. 12)
- “No senator or representative may, during his or her term of office, be appointed or elected to any civil office under the state.” (Art. V, Sec. 10)

Apportionment

The Arkansas Constitution requires that the membership of the House and the Senate be reapportioned every ten years following the federal census. Apportioning (analyzing population changes) and redistricting (re-drawing legislative district boundaries based on population changes) are done in Arkansas by the State Board of Apportionment, which consists of the governor (chairman), attorney general, and secretary of state. The United States Supreme Court has ruled that all districts must conform to the principle of “one person-one vote,” and that all districts have equal population.

The board also considers factors such as geography and county and city lines. Race and ethnicity are also factors, because U.S. congressional legislation and legal challenges have resulted in the courts requiring creation of majority-minority districts. In these districts, a racial or language minority group or groups make up a majority of the population. Some experts say majority-minority districts give minorities a greater voice in the political process and elections. Others, however, say majority-minority districts are too isolated and thereby diminish minorities’ influence on the broader political landscape.

Sessions

In the general election of 2008, Arkansans voted in favor of a constitutional amendment that changed state legislative sessions from a biennial basis (meets every other year) to an annual basis (meets every year). The amendment also gives legislators the authority to decide the purpose and the length of annual sessions. During odd-numbered years, sessions are general in nature and meet January to April. During even-numbered years, sessions focus on fiscal issues and meet February to March.

In recent regular sessions, the General Assembly has tended to introduce and pass large numbers of bills since the Constitution requires that “all other appropriations shall be made by separate bills, each embracing but one subject.” (Art. V, Sec. 30) Therefore, except for the general appropriation bill covering the operation of all three branches of state government, appropriations for all boards, commissions, departments, and agencies are treated separately. Another reason for the number of bills may be that legislators are responsive to the requests of their constituents on matters large and small.

The governor may call special sessions by proclamation. Items specified by the governor must be considered first, but following completion of the business in the governor's call, the General Assembly may, by a two-thirds vote of both houses, consider other matters.

Compensation

In 2014, Amendment 94 created the Independent Citizens Commission to review and adjust salaries of the state legislature, constitutional offices, and judiciary. The Commission also sets the amount of the per diem (for each day) reimbursement rate for living expenses such as lodging and food incurred by those traveling on government business, as well as the mileage reimbursement for legislators traveling in their own vehicle.

Term Limits

In 1992, the people of Arkansas successfully petitioned to place a term limits amendment on the ballot at the November general election. Amendment 73 provided a limit of two four-year terms for the state's constitutional officers (governor, lieutenant governor, attorney general, secretary of state, treasurer, auditor, and land commissioner) and state senators. It provided a limit of three two-year terms for state representatives. The original language in Amendment 73 also attempted to limit terms for Arkansas' delegation in the U.S. Senate and U.S. House of Representatives. The U.S. Supreme Court, however, ruled the provisions unconstitutional.

In 2014, Arkansas voters approved Amendment 94, which eliminated the separate House and Senate limits. These were replaced by a 16-year-term limit that could be served in either chamber or in a combination of legislative service. These are lifetime limitations.

Vacancies

If there is a vacancy in the Arkansas General Assembly, the governor promptly calls for a special election to fill the vacancy. Political parties choose whether to hold a primary election to select their respective nominees for the vacancy. For Senate special elections, the county that first established the district is responsible for conducting the election. For House special elections, the county board of election commissioners representing the vacant district conducts the election.

Legislative Procedures and Rules

General Assembly members most often introduce legislation by means of resolutions and bills. Resolutions are expressions of legislative opinion or a means of expressing legislative intent, but they do not become law. One or both chambers may pass resolutions. A joint resolution is used to

submit a proposed constitutional amendment to a vote of the people. All other resolutions requiring approval of both houses are sent to the governor for approval or disapproval. If disapproved by the governor, a resolution can be re-passed with a majority vote of both houses.

Any member of the Senate may introduce a bill or resolution by filing it with the secretary of the Senate. Senate bills are numbered starting with the number 1. Any member of the House of Representatives may introduce a bill or resolution by filing it with the clerk of the House. House bills are numbered starting with the number 1,001. A legislator may propose a bill for a variety of reasons: personal interest, a request by a constituent or interest group, a request by the governor or other constitutional officer, or a request by a state agency. Bills recommended or endorsed by the governor are often called administration bills.

The process for a bill becoming a law is explained in a chart at the end of this chapter. When a bill is passed by both houses of the General Assembly and is signed by the governor, or if the governor neither approves nor vetoes a bill within 20 days of the General Assembly's adjournment, it becomes an act and is compiled in the Arkansas Code. An act goes into effect 90 days after the adjournment unless a bill contains a properly drawn emergency clause and, by a two-thirds vote, the General Assembly declares that an emergency exists. In such case, the measure becomes effective immediately. The progress and outcome of every bill can be tracked at the Arkansas General Assembly's web site.

The legislative rules of procedure used in both houses are of two types: constitutional rules and chamber rules. The constitution declares "each house shall have the power to determine the rules of its proceedings" (Art. V, Sec. 12), but it also specifies several rules that must be followed:

- majority of all members elected to each house shall constitute a quorum. (Art. V, Sec. 11)

- “The sessions of each house and of committees of the whole shall be open unless when the business is such as ought to be kept secret.” (Art. V, Sec. 13)
- “Every bill shall be read at length on three different days in each house, unless the rules be suspended by two-thirds vote of the house...” (Art. V, Sec. 22)
- “no bill shall become a law unless on its final passage the vote be taken by yeas and nays...” and a record of the vote be entered in the journal. (Art. V, Sec. 22)
- no bill may be introduced in either house during the last three days of a session.
- no appropriation bill may be filed for introduction in either house later than the 50th day of the session except upon consent of two-thirds of the members elected to each house. (Art. V, Sec. 34 and Joint Rule 16)
- no other bill may be introduced into either house later than the 50th day of the session except upon consent of two-thirds of the members elected to each house. (Art. V, Sec. 34 and Joint Rule 16)
- a bill or any appropriation line item vetoed by the governor may be overridden by the legislature by a majority vote, even if the original measure required more than a majority vote. (Art. VI, Secs. 15 and 17)

Other constitutional provisions regarding taxes and appropriations are listed in Chapter 10, Finance.

In addition to rules prescribed by the constitution, there are also rules of the Senate, rules of the House, and joint rules of the Senate and House. Enforcement of all rules is the responsibility of the presiding officer.

The fifteen-member Rules, Resolutions & Memorials Committee develops the Rules of the Senate. All questions regarding Senate rules, joint rules, and order of business are referred to this Committee. The Senate is

governed by the rules of parliamentary practice comprised in Mason's Manual of Legislative Procedure where applicable and not inconsistent with rules and orders of the Senate or joint rules of the Senate and the House. (Rule 24)

The Committee on Rules draws up the Rules of the House. It is comprised of 15 members of the House and the parliamentarian, who serves *ex officio* and non-voting. House rules from the preceding General Assembly are automatically adopted as temporary rules for the next session. Permanent rules are adopted by majority vote, but may be changed only by a two-thirds vote (67 members). The House Committee on Rules has additional responsibilities since the speaker is charged with referring to it all matters dealing with alcohol, cigarettes, tobacco, tobacco products, coin-operated amusement devices, vending machines, lobbying, pari-mutuel betting and similar legislation. Joint rules of the Senate and the House govern such items as joint sessions, operation of joint conference committees, transfer of bills between the two houses, engrossment and signing of bills.

Most rules of parliamentary procedure used in the Arkansas General Assembly are like those used in other legislative bodies, but there are several unusual or uncommon practices. For example, although the constitution requires that a bill be read three times on three different days, in practice only the title or even a portion of the title is read on the first and second readings. Further, since amendments can be made only when the bill is on second reading, if a bill should reach third reading, it must be returned to second reading to be amended. The third reading, which precedes the vote, may or may not be a reading in full.

Another distinctive procedure used by the Arkansas legislature is the clincher motion. The creator of this motion wishes to make reconsideration of a vote as difficult as possible. To accomplish this, the adoption of the clincher is moved, which is effectively two motions in one – a motion to reconsider and a motion to table the motion to reconsider. Because reconsideration has already been laid on the table, parliamentary

rules state that any new motion to reconsider is out of order. The clincher requires a majority vote of all members. A procedure used occasionally in the Senate and seldom in the House for reconsideration of a measure is a motion to expunge earlier action taken on any proceeding. It requires a two-thirds majority of the members elected.

Committee Organization

When the General Assembly is in session, the success of its operation often depends upon the efficiency and effectiveness of its committees. Standing committees are the legislature's permanent committees that address mainstay issues. Select committees and special committees deal with organizational and procedural matters. Joint committees facilitate collaboration between the two houses on essential matters of the state.

Standing Committees. In a major attempt to make the legislative process more effective, the standing committee structure of both houses was substantially changed in the early 1970's – by the House in 1971 and the Senate in 1973. Although membership of a few committees, such as the Joint Budget committee, is established by legislation, members of most Senate committees are selected by seniority, while the speaker according to House rules appoints most House committees.

Select Committees. Organization of the General Assembly is managed through the Senate and House select committees. Select committees in the Senate are the Senate Rules, Resolutions & Memorials Committee and the Senate Efficiency Committee. The Joint committees are the Joint Budget Committee; Joint Committee on Public Retirement and Social Security Programs; Joint Committee on Energy; Joint Performance Review Committee; and Joint Committee on Advanced Communication and Information Technology. Select committees in the House are the House Management Committee and the House Rules Committee.

Joint Committees. During legislative sessions, the Joint Budget Committee is responsible for appropriation bills. Composed of members

from both legislative chambers, the Joint Budget Committee prepares and introduces all appropriation bills for state agencies and institutions provided for under existing law. When an appropriation bill must be amended, the bill is automatically returned to the Joint Budget Committee for reconsideration.

Other joint committees operate during regular sessions and between sessions. The Joint Committee on Public Retirement and Social Security Programs reviews all bills involving retirement or social security programs of the state and of publicly supported agencies and institutions and monitors their retirement systems. The Joint Performance Review Committee reviews state programs and agencies and investigates specific problem areas of the administration of state government. The Joint Committee on Advanced Communications and Information Technology is an effort by the state to address issues associated with changing communications and technological advances.

Interim Organization

Between regular sessions of the General Assembly, the legislative branch of government continues to operate through the Legislative Council, the Legislative Joint Auditing Committee, and the Interim Subject Matter Committees. Also authorized to meet between sessions are the Rules Committees of the Senate and House and some joint committees.

Legislative Council. Although the Legislative Council is responsible for overseeing legislative organization and responsibilities between sessions, it does not have the power to enact legislation. Established by Act 264 of 1949, the Legislative Council's purpose is to collect data and information upon which legislative decisions will be made during regular sessions of the General Assembly. Although it cannot act on legislative matters, it may recommend specific policies and actions to the General Assembly and have bills drafted that include such recommendations.

Between sessions, the Legislative Council conducts pre-session budget hearings for all units of state government and then recommends to the General Assembly an itemized budget for all state departments, institutions, boards, commissions, and agencies. The Legislative Council is responsible for the coordination of joint-subject-matter interim committees that operate between sessions. In case of lawsuits involving the state of Arkansas, the Legislative Council determines whether the General Assembly has an interest in the litigation, and if so, determines the action necessary. In all its efforts, the staff of the Bureau of Legislative Research assists the Legislative Council.

Interim Committees. Standing committees with similar subject matter that operate during sessions also serve as joint Senate and House committees between sessions. Membership is the same for the standing committees and the interim committees. Interim committees provide oversight to ensure state agencies operate appropriately in their assigned areas. Such responsibilities involve agency investigations, performance evaluation, and expenditure review. The interim committees are also charged with making studies and investigations and determining the needs for appropriate legislation. The Bureau of Legislative Research does staff work for these studies. The committees are authorized to meet as often as necessary. However, if they find that they must meet more than twelve days a year, they must report to the Legislative Council, which will then determine whether funds are available to hold additional meetings.

Coordination of the committees' activities is the responsibility of the Legislative Council. Before an interim committee initiates a study, the Legislative Council must approve it so that there will be no duplication of efforts. When a member of the General Assembly wishes to sponsor a proposal or resolution for study, the Legislative Council may refer it to one of the committees, in which case the member may serve *ex officio* as a member of the committee during the study. Findings of the interim committees are advisory only and are not binding on the standing committees of the House or Senate. However, since the composition of

the interim committees and the standing committees is the same, it is expected that the standing committees will act upon recommendations made by the interim committees when the General Assembly meets.

State agencies are instructed to “furnish the respective interim committees such information and assistance as the committees may reasonably request.” (A.C.A. 10-3-213) Furthermore, each committee is responsible for receiving and reviewing any legislation suggested by the various agencies or by the governor.

Legislative Joint Auditing Committee. The purpose of the Legislative Joint Auditing Committee is to assure that the money appropriated by the General Assembly is honestly and efficiently spent. The committee provides for the auditing of each department, institution, board, commission, office, and agency of the state government to furnish the General Assembly with information vital to the discharge of its constitutional duties. (A.C.A. 10-3-407) The committee is authorized to recommend to the General Assembly abolition or consolidation of any entity that is deemed unnecessary based on its review of the agency's audit. The committee supervises the operation of the Division of Legislative Audit. The Division of Legislative Audit helps ensure proper accountability and stewardship of public funds and resources and provides relevant and vital information to the Legislative Joint Auditing Committee, the General Assembly, state agencies, political subdivisions, and the citizens of Arkansas.

Bureau of Legislative Research

Since legislators are part-time officials who do not have personal employees (unless hired at their own expense), the Bureau of Legislative Research performs staffing functions for all members of the General Assembly on a nonpartisan basis. The Bureau is under the direction of an executive director, selected by the Legislative Council, who serves as the Council's secretary.

The Bureau researches issues for legislators, prepares legislation, and may provide advice concerning constitutional, statutory, and practical issues concerning the legislation. Specific service areas include:

- Research - subject research, legal research, budget and fiscal research, state personnel classification and compensation research, interim committee studies, revenue projections, and fiscal impact statements on proposed bills
- Drafting - preparation of bills (general bills and appropriation bills), resolutions, amendments to bills and resolutions, interim study proposals, and interim resolutions
- Committee Staffing – provides staff for all legislative committees and subcommittees, except the Legislative Audit Committee and its subcommittees and committees related to the internal operations of the House of Representatives or Senate
- Review of State Agency Rules - monitors rules as they are proposed by agencies to determine whether they comply with legislative intent and to ensure they are technically correct
- Codification of Laws - assists the Arkansas Code Revision Commission and works with the publisher of the Arkansas Code Annotated to compile and codify Acts of the General Assembly into the Arkansas Code Annotated
- Computer Services - maintains the computer system that serves the Senate, House of Representatives, and the Bureau of Legislative Research

Initiative and Referendum

In 1920, Arkansans passed Amendment 7, which revised Article 5, Section 1 of the state's constitution to provide voters a direct voice in the legislative process – the initiative and referendum.

The first power reserved by the people is the initiative. It is the process by which voters may propose statewide or local legislative measures or acts and statewide amendments to the state's constitution.

The second power reserved by the people is the referendum. It is the process by which voters may call for a vote to approve or reject any act and any item of an appropriation bill or measure passed by the state legislature or a local government.

Support of the initiative and referendum has a long history in Arkansas. In the late nineteenth and early twentieth centuries, those active in the Populist movement gave support to the initiative and referendum, because they believed those devices would keep politics "pure." Labor, the Farmer's Union, and both the Republican and Democratic parties supported initiative and referendum. George Donaghey included them in his platform in 1908, and it was the central issue of his 1910 campaign.

In recent years, the initiative process has become increasingly popular throughout the United States. In Arkansas, attempts to get initiated acts or amendments on the ballot have been consistently challenged. The challenges have included claims of misleading ballot titles; insufficient number, legibility, and accuracy of signatures; and illegal certification of signatures by those passing the petitions.

Arkansans have seldom used the referendum, but the General Assembly frequently refers acts to the people for their approval. Despite the initiative and referendum "power of the people," the General Assembly still has the final say in initiative and referendum matters since, by a two-thirds vote, it can reverse the decision made by the people.

Comparison to Other States

The Arkansas General Assembly is like most other state legislatures. Arkansas is among 49 states that have a bicameral legislative structure. The primary legislative functions of making laws, appropriating money, overseeing the executive branch, and serving constituents are the major tasks for Arkansas state legislators. As in other law-making bodies, committees are the central mechanism for legislative action in the Arkansas legislature.

Regarding term limits, Arkansas is among 15 states that put limits on legislative terms. Some limit the number of consecutive terms in the legislature, but Arkansas' term limits are for a lifetime. (National Conference of State Legislatures, 2018)

A unique feature of the Arkansas legislature is that it is composed of part-time legislators. Some experts argue that part-time legislators better understand the needs and problems of average citizens. Moreover, these representatives have a realistic picture of how state government policies will impact people's lives. There are, however, some disadvantages of a part-time legislature. Being part-time limits who can serve; very few people can leave a job for several months each year to work in the state legislature. Also, states must deal with increasingly complex economic and political problems that require more time from legislators. As state government expands its activities, greater legislative oversight is needed for executive actions.

Both part-time and full-time legislatures have their strengths and weaknesses. Historically, Arkansans have preferred a part-time legislature. A future challenge for the state and its citizens is balancing this historical preference for part-time officials with the political and economic challenges of the present day.

Learn More

Arkansas – Official Website

<https://portal.arkansas.gov/>

Arkansas General Assembly

<http://www.arkleg.state.ar.us/>

Arkansas House of Representatives

<https://www.arkansashouse.org/>

Arkansas Senate

<http://www.arkansas.gov/senate/>

Council of State Governments

<http://www.csg.org/>

National Conference of State Legislatures

<http://www.ncsl.org/>

National Governors Association

<https://www.nga.org/>

General Assembly Committees		
House	Senate	Joint
Advanced Communications and Information Technology	Agriculture, Forestry, and Economic Development	Academic Facilities Oversight
Aging, Children and Youth, Legislative and Military Affairs	Children and Youth	Advanced Communications and Information Technology
Agriculture, Forestry, and Economic Development	City, County and Local Affairs	AR Health Insurance Marketplace Legislative Oversight
City, County and Local Affairs	Education	Budget
Education	Insurance and Commerce	Code Revision
House Management	Joint Performance Review	Community Services Oversight and Planning Council
House Rules	Judiciary	Economic and Tax Policy
Insurance and Commerce	Public Health, Welfare, and Labor	Energy
Joint Performance Review	Revenue and Tax	Governor's Emergency Fund Review
Judiciary	Senate Committee on Public Retirement and Social Security Programs	Legislative Facilities
Public Health, Welfare, and Labor	Senate Efficiency	Legislative Joint Auditing
Public Transportation	Senate Rules, Resolutions, and Memorials	Performance Review
Revenue and Taxation	State Agencies and Governmental Affairs	Printing Requirements and Specifications
State Agencies and Governmental Affairs	Transportation, Technology, and Legislative Affairs	Public Retirement and Social Security Programs
		Public School and School Motor Vehicle Insurance Advisory
		Rural Fire Departments Study
Source: Arkansas General Assembly		

Bills Filed and Laws Enacted in Regular Sessions Since 1961					
Session Year	House Bills	Senate Bills	Total Bills Introduced	Laws Enacted	Percent Enacted
1961	579	402	981	505	51%
1963	615	366	981	559	57%
1965	677	386	1,063	577	54%
1967	739	491	1,230	658	53%
1969	804	532	1,336	699	52%
1971	840	579	1,417	829	59%
1973	976	661	1,637	894	55%
1975	1,248	852	2,100	1,239	59%
1977	961	633	1,594	958	60%
1979	1,202	765	1,967	1,118	57%
1981	1,018	629	1,647	1,120	68%
1983	1,011	572	1,583	937	59%
1985	1,069	705	1,774	1,097	62%
1987	1,079	681	1,760	1,072	61%
1989	958	618	1,576	995	63%
1991	1,125	743	1,868	1,246	67%
1993	1,144	837	1,981	1,309	66%
1995	1,168	855	2,023	1,358	67%
1997	1,284	755	2,039	1,361	67%
1999	1,290	966	2,256	1,597	71%
2001	1,654	987	2,641	1,842	70%
2003	1,905	979	2,884	1,815	63%
2005	1,981	1,195	3,176	2,325	73%
2007	1,813	1,004	2,817	1,755	63%
2009	1,275	1,010	2,285	1,501	66%
2011	1,231	1,004	2,235	1,242	56%
2013	1,300	1,192	2,492	1,518	61%
2015	1,007	1,055	2,062	1,289	63%
2017	1,280	789	2,069	1,127	54%
2019	986	684	1,670	1,092	65%
Source: Arkansas Bureau of Legislative Research					

Initiative, Referendum, Referral, and Recall in Arkansas			
Initiative			
Provisions	State	County	Municipality
Percentage of signatures necessary	Constitutional Amendment – 10% State Law – 8%	15%	15%
Percentage based on total number of votes cast in the preceding election for	Governor	Circuit Clerk	Mayor or City Manager (highest vote cast for a director)
Qualifications of Petition Signers	Qualified electors of Arkansas	Qualified electors of county	Qualified electors of municipality
Petition filed with	Secretary of State	County Clerk	City Clerk
Deadline for filing	4 months before general election	60-90 days, exact number of days set by county	60-90 days, exact number of days set by municipality
Referendum and Initiative			
Provisions	State	County	Municipality
Certification of Ballot Title and Popular Title	Attorney General	Attorney-at-Law licensed in Arkansas	Not Specified
Judge of legality and sufficiency of signatures	Secretary of State	County Clerk	City Clerk
Time allowed to judge legality and sufficiency of	15 days	10 days	"without delay"
If inadequate number of signatures, time	30 days	At least 10 days	10 days

Subject to review by	Arkansas Supreme Court	Circuit Court	Circuit Court
Vote of people may be repealed or amended by	2/3 vote of General Assembly	2/3 vote of Quorum Court	2/3 vote of City Council or Board of Directors
Referendum			
Provisions	State	County	Municipality
Percentage of signatures necessary	6%	15%	15%
Percentage based on total number of votes cast in the preceding election	Governor	Circuit Clerk	Mayor or City Manager (highest vote cast for a director)
Deadline for filing a petition	90 days after adjournment of General Assembly	Within 60 calendar days after passage and publication ordinance	30-60 days after passage of ordinance, exact number set by municipality
Referral			
Provisions	State	County	Municipality
Referral of bill to vote of the people is permissible by	No Provision	3/5 vote of Quorum Court	2/3 vote of City Council or Board of Directors
Recall			
Provisions	State	County	Municipality
Removal from office of elected official	No Provision	No Provision	In City Manager and City Administrator governments, 35% of voters at last election to put on ballot; majority to remove

How a Bill Becomes a Law in Arkansas	
Proposal	A constituent, interest group, state agency, or the governor proposes an idea for a law to a legislator, or a legislator develops an idea.
Bill Drafting	The legislator's staff researches the idea and drafts it into a bill.
Bill Introduction	One or more legislators introduce a bill by giving it to either the Chief Clerk of the House or the Secretary of the Senate, depending on where it's being introduced, the House or the Senate.
Bill Readings	The bill is read aloud a first and second time in the chamber where it was introduced, the House or the Senate.
Bill in Committee	<p>The bill is assigned to a committee that handles the issue presented in the bill. The committee debates it and recommends one of three actions:</p> <ul style="list-style-type: none"> • Pass – The bill is sent to the chamber floor. • Pass with Amendment – The bill is modified and sent to the chamber floor. • Do Not Pass – The bill does not move forward.
Bill Passage	The bill is read a third time in the chamber where it was introduced, the House or the Senate. If the chamber passes the bill, it is sent to the other chamber, where the readings, committee deliberations, and chamber consideration are repeated. If the other chamber passes the bill, it is returned to the originating chamber and is prepared to be sent to the governor.
Governor Action	The governor takes one of three actions: signs the bill into law; takes no action (bill becomes law within 20 days of General Assembly's adjournment); or vetoes the bill (can be overridden by a majority vote of the General Assembly).

The Governor and Other Constitutional Officers

3

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Arkansas' Executive Structure

In contrast to the national government's single-executive structure, Arkansas has a plural executive structure. U.S. Presidents appoint a cabinet of advisors who show allegiance to them and their agenda. Arkansas governors, on the other hand, must work within a plural executive setting with other elected executive officials. This means that the governor does not control these officials. In fact, some of the governor's most visible political rivals may be other executive branch personnel.

Arkansas has seven constitutional officers, and all are chosen in statewide elections. The Arkansas Constitution provides for five specific constitutional officers: "The executive department of this State shall consist of a Governor, Secretary of State, Treasurer of State, Auditor of State and Attorney General, all of whom shall keep their offices in person at the seat of government and hold their offices for the term of two years (changed by Amendment 63) and until their successors are elected and qualified..." The Constitution also states that the General Assembly may establish an office of Commissioner of State Lands. (Art. VI, Sec. 1) The legislature took this step and created the position of Land Commissioner. In addition, the Arkansas Constitution was amended in 1926 (Amendment 6) to create the position of Lieutenant Governor.

Governor

Most states and the United States government have very limited constitutional requirements for the chief executive, including age, citizenship, and residency.

Qualifications and Length of Service. The governor of Arkansas must be at least 30 years old, a U.S. citizen, and a resident of Arkansas for at least seven years. In contrast, the U.S. President must be at least 35 years old, a native-born U.S. citizen, and a U.S. resident for at least fourteen

years. (*The Book of the States*, 2018: 109) It seems obvious that many citizens meet the constitutional standard to hold executive office. However, the most important chief executive criteria are informal standards.

Historically, turnover has been high in the office of governor. The two major factors contributing to this high turnover rate are constitutional limits and inadequate state resources. Arkansas has made policies over the last twenty years that have both encouraged and discouraged longer executive service. To increase executive tenure, the state legislature enacted Amendment 63, which extended the terms of constitutional officers to four years. However, according to the provisions of Amendment 73, the governor and all other Arkansas constitutional officers are limited to two four-year terms. This is clearly analogous to the term limits placed on the U.S. President in the 22nd Amendment, whereby presidents are limited to two four-year terms. These mandatory limits on length of service may hurt an executive official's ability to perform office functions. This is especially true for the chief executive position. When the governor is a "lame duck" and cannot seek office again, many resources are no longer available for political initiatives.

Preparation. It is common for Arkansas' governors to have had prior public service experience. Asa Hutchinson served three terms in the U.S. House of Representatives, was appointed Director of the U.S. Drug Enforcement Agency, and later became the Undersecretary for the Department of Homeland Security. Mike Beebe was a state senator and then served as attorney general. Both Mike Huckabee and his predecessor Jim Guy Tucker held the post of lieutenant governor before becoming governor. Bill Clinton served as attorney general before being elected governor, and David Pryor served three terms in the state legislature and three terms in the U.S. House of Representatives. Dale Bumpers ran unsuccessfully for the state legislature but served on the Charleston School Board.

Political Resources and Formal Powers. Chief executives in Arkansas may draw from a variety of resources to achieve their policy goals. Because the executive position is the major focus of the citizenry, there are increased opportunities for publicity. If the governor calls a press conference, media sources will cover the event. In addition, chief executives have some appointment powers. The governor selects the Governor's Office staff and appoints thousands of state citizens to more than three hundred boards and commissions.

Probably the most important resources available to the executive are bargaining and negotiation. Although legislators may introduce legislation, the governor's agenda receives the most attention. One important power in the bargaining process is the executive's authority to prepare the budget. Although legislators may alter significant parts of any budget proposal, the executive sets the initial parameters that tend to frame the legislative debate. Additionally, a governor can gain some influence with legislators by supporting their funding priorities.

Another resource available to the governor when negotiating with the legislature is veto power. The governor's veto authority is somewhat limited, because the General Assembly can override it by a simple majority vote. In the case of appropriations bills, the governor has line-item veto power, whereby he can reject specific portions of legislative initiatives while signing the rest into law. In practice, Arkansas governors rarely exercise their veto power and instead rely upon other strategies to influence the legislature.

The governor can also call the General Assembly into special session. Historically, the power to call special sessions was an important resource. The need and likelihood for special sessions is reduced now that Arkansas has annual legislative sessions.

A final resource available to the governor is often referred to as the executive's judicial powers. The governor can grant pardons and commute sentences. Specifically, the pardoning powers of the governor

are limited to the granting of “reprieves, commutations of sentence, and pardons after conviction” and “remitting of fines and forfeitures.” (Art. VI, Sec. 18) If a governor pardons someone who later commits other offenses, this can create political problems for the executive. Before 1993, the governor’s authority to grant pardons and clemency was unconditional, but the legislature placed restrictions on this power by requiring that “at least thirty (30) days before granting an application for pardon, commutation of sentence, or remission of fine or forfeiture, the governor shall file with the Secretary of State a notice of his intention to grant such an application.” (A.C.A. 16-93-204)

Roles. The most common gubernatorial roles are: chief administrator, chief of state, chief legislator, military chief, chief of party, ultimate judge, and crisis manager. Many of these roles are related to the formal powers and resources discussed earlier.

The role of chief administrator is most associated with the governor’s leadership in the executive branch. The governor is responsible for the administration or implementation of many state programs. In addition, the governor appoints citizens to a wide range of state boards and commissions. Most importantly, the governor prepares the state budget.

The chief of state role focuses on the ceremonial functions of the gubernatorial office. The Arkansas governor represents the state in Washington, D.C. and in intergovernmental organizations like the National Governor’s Association. This function may also be more important to the citizens of Arkansas, who tend to view the governor in very personal terms. Therefore, when governors are performing these ceremonial functions, the citizenry believe they are developing the broader public’s perception of the state.

The chief legislator role is linked to the governor’s policy leadership. The legislative power of the governor is enhanced by the prestige of the office. Although legislators introduce a variety of bills, the governor’s legislative agenda takes precedence. Success depends upon the

governor's ability to present it early to members of the General Assembly and to the people, and then to persuade the voters of the value of certain legislation. This is important because legislators frequently feel they must vote according to the wishes of their constituents. If those constituents inform them that they favor the governor's program, the governor's legislative agenda stands a good chance of passing. In addition, the governor delivers an annual "State of the State" message to help set legislative priorities.

The governor also fulfills the roles of military chief and chief of party. As military chief, the governor can call out the Army National Guard to keep order and peace during natural disasters and civil disturbances. As chief of party, the governor takes the lead in building his/her political party by influencing who serves as state party chair and by appointing citizens to boards and commissions. In addition, the governor can provide a training ground for fellow partisans to work in the executive branch and gain valuable political experience.

The ultimate judge role is related to the governor's judicial powers. The governor has the authority to pardon convicted criminals and commute their sentences. Also, the governor can grant stays of execution in capital punishment cases. Although the executive's power to deal with these life-and-death situations is most closely identified with the ultimate judge role, governors also have other responsibilities in the criminal justice system. Accused persons must be tried in the state where the crime occurred. If they flee the state, they must be returned for trial. The governor has the power of extradition in response to a request from another state for the return of a fugitive. In addition, the governor has the power to fill vacancies in the judiciary. However, there is a major limitation to this appointment power, since the constitution prevents those appointed from running for that office when the appointed term ends. However, these appointees can use this experience to assist them in the electoral pursuit of other judgeships.

The governor also functions as a crisis manager. When problems arise, the citizenry believe the governor will respond to these situations. When natural disasters occur or other crises erupt, the governor is expected to organize the state response and address these problems. This role can be an asset to a governor when the public believes the executive has handled a crisis effectively. However, if citizens feel the governor's response is not productive, public displeasure and declining political support might be the result.

Generally, in Arkansas there is a close relationship between the governor and the people. Many citizens consider it their right to ask the governor to solve their personal difficulties. As a result, the governor's staff spends considerable time on casework and "walking through the system" with citizens. Such casework may involve life-and-death situations, health or human services problems, problems with the educational system, environmental conditions, or other situations. Because Arkansas has a small population, the governor's office is able to connect with residents more directly. This can be a political asset when the governor seeks legislative approval for policy initiatives.

Lieutenant Governor

The office of lieutenant governor exists in all 50 states. Qualifications for lieutenant governor are the same as those for governor: United States citizen, at least 30 years of age, and resident of Arkansas for seven years or more. (*The Book of the States*, 2018: 142)

The responsibilities of Arkansas' lieutenant governor are very similar to counterparts in other states. The lieutenant governor serves as president of the Senate. In this capacity, the lieutenant governor can cast tie-breaking votes on state Senate legislation. Twenty-three lieutenant governors have this authority. (*The Book of the States*, 2018: 144)

If the governor is removed from office, dies, is unable to discharge the powers and duties of the office, or resigns, the lieutenant governor

usually assumes the duties and powers of the office of governor. The movement of Arkansas' lieutenant governor to the governor's office, however, has not always been clear. Following the election of Governor Bill Clinton to the presidency, there was considerable debate about the succession of Lieutenant Governor Jim Guy Tucker to the governorship. Amendment 6 states that the powers and duties of governor "shall devolve upon the lieutenant governor for the residue of the term," but it does not specifically state that the lieutenant governor shall become the governor, receive the salary designated for the governor, live in the Governor's Mansion, or be eligible for such other privileges as are assigned to the governor. The issue was appealed to the Arkansas Supreme Court which ruled in *Bryant vs. English*, 311 Ark. 187 [1992] that "the Office of Governor itself devolves upon the Lieutenant Governor."

Before 2016, when the governor was absent from the state, the lieutenant governor became the acting governor. In 2016, Arkansans overwhelmingly voted in favor of Amendment 96, which permits the governor to retain powers and duties when absent from the state.

Twenty-four states select the governor and lieutenant governor as a team. (*The Book of the States*, 2018: 140) As with the selection of U.S. President and Vice-President, this is to avoid partisan conflict between two executive offices. Arkansas, however, selects the governor and lieutenant governor in separate elections.

In Arkansas, the lieutenant governor is the only constitutional officer who is part-time. As a result, the lieutenant governor's annual salary is the lowest of all the constitutional officers. This part-time status also affects the lieutenant governor's office budget and staff support.

Secretary of State

The secretary of state's position exists in all but three states. It is an elected office in 35 states. (*The Book of the States*, 2018: 148)

The Arkansas Constitution declares that the secretary of state “shall keep a full and accurate record of all the official acts and proceedings of the Governor...” (Art. VI, Sec. 21) The secretary of state is custodian not only of all the official acts and proceedings of the governor, but also of the official records of the General Assembly, including the Legislative Journals and the original copies of all acts of the General Assembly. The Office of the Secretary of State maintains a list of all Arkansas boards and commissions to which the governor makes appointments. It keeps the records of incorporations and annexations, corporate charters, notary public commissions, corporate franchise taxes, trademarks and service marks, and federal tax liens. It is the office for registration of lobbyists' expenditures, charitable organizations, professional fundraisers, machine guns, home builders, financial interest filings, and Uniform Commercial Code (UCC) filings.

The secretary of state has responsibilities in the electoral process. These duties include receiving political practice pledges and campaign expenditure accounts of candidates for public office, determining the sufficiency of legal signatures on initiative and referendum petitions, and publishing amendments. In addition, the secretary of state deals with the voting process throughout the state and certifies candidates, ballot issues, and elections.

The secretary of state is also the legal custodian of the State Capitol building, the capitol grounds, and the furniture and fixtures of the State Capitol. Overseeing the State Capitol Police Department is another duty of the Arkansas secretary of state. The governor, secretary of state, and attorney general comprise the State Board of Apportionment, which is responsible for establishing legislative district boundaries following each federal census.

Most of these functions are also the major tasks of secretaries of state throughout the United States. Primarily, the office focuses on important record keeping and clerical activities. (*The Book of the States*, 2017: 216-219)

Attorney General

All 50 states have an attorney general. (*The Book of the States*, 2018: 156) Arkansas' attorney general is the state's chief legal counsel. The attorney general represents state agencies and commissions in courts of law, gives opinions on issues presented by legislators and prosecutors, handles criminal matters and *habeas corpus* matters in the state, and advocates for citizens on issues pertaining to the environment, antitrust, and consumer protection. In addition, the office provides legal opinions to state officials.

With the governor and the secretary of state, the attorney general serves on the State Board of Apportionment, which is responsible for establishing legislative district boundaries following each federal census.

The attorney general's office is divided into six departments: Civil, Community Relations, Criminal, Medicaid, Opinions, and Public Protection. Because of efforts in consumer protection, Medicaid fraud, and other citizen-friendly tasks, the attorney general tends to have significant interaction with citizens on issues that impact their security and finances.

The office of attorney general can be a stepping-stone toward higher political office. Examples of those who served as attorney general in their early political careers include Bill Clinton, Mark Pryor, and Mike Beebe.

Treasurer

Thirty-seven states have an elected state treasurer. (*The Book of the States*, 2018: 170) The treasurer's duties include receiving and keeping all the monies of the state not expressly required by law to be kept by some other person; disbursing the public money by warrants drawn upon the treasury; and keeping a just, true and comprehensive account of all

monies received and disbursed. Basically, the treasurer functions as a bank for the state government.

The treasurer's office is organized by the services it provides. The Local Government Services section is responsible for distributions to Arkansas counties. These distributions are county and municipal aid (turnback) and local sales and use taxes.

The Cash Management division works with banks, investment firms, and the Department of Finance and Administration, initiating daily payment wires and funds transfers. The division also distributes general and special state revenues on a monthly basis to state agencies, colleges, and universities. The Cash Management division is also responsible for balancing the state's general ledger.

The treasurer's office also administers the state's Money Management Trust Fund, which state agencies and local governments use as a vehicle for enhancing investment opportunities and earnings for idle cash.

Another investment service of the treasurer's office is the CD Trusts Investments program, which allows state agencies to invest their trust funds in certificates of deposit with Arkansas banks.

The Receipts Processing department receives, verifies, and documents deposits daily.

The Warrants Processing department administers warrants (checks) written by various state agencies for services rendered to them.

The Collateral area of the treasurer's office ensures that state treasury funds deposited with a financial institution are secured always by conveyance of a perfected security interest in eligible securities as prescribed by Arkansas law.

The Arkansas Treasurer's Office also provides Emergency Financial First Aid Kits to help citizens understand how to safeguard important financial information and how to navigate the financial recovery process after a disaster.

In addition to carrying out the state's primary financial management duties, the treasurer serves on the State Board of Finance and on the boards of the Arkansas Public Employees Retirement System (APERS), the Arkansas Teacher Retirement System, and the Arkansas State Highway Employees Retirement System (ATRS).

Auditor

The auditor is an elected position in 17 states. Some states use the title comptroller for the position. (*The Book of the States*, 2018: 175-176)

The auditor is the general accountant of the state, serves as disbursing agent for federal grant funds, and keeps public vouchers, books, documents, and papers relating to state debt, reserves and other fiscal matters. The auditor also issues and signs most checks for state government expenses.

The auditor also inspects voter registration affidavits and assists county clerks in their capacity as voter registrars. In addition, the auditor serves on the Boards of Continuing Education for county and circuit clerks, county treasurers, and county collectors.

The auditor is also responsible for providing the efficient and orderly transfer of abandoned property to the state and sponsors the annual "Great Arkansas Treasure Hunt." The primary goal of the treasure hunt is to reunite Arkansans with funds that are rightfully theirs.

The auditor also serves on the State Board of Finance and is an *ex officio* board member of the Public Employees Retirement System (PERS) and the State Teachers Retirement System.

Land Commissioner

The primary responsibility of Arkansas' land commissioner is to oversee the disposition of tax delinquent property. These lands may either be redeemed by their owners, or if not redeemed within the statutory time frame, sold by the commissioner's office at public sale. Whether the property is redeemed or sold, the total amount of tax money and interest collected on delinquent property is returned to the county where the property is located.

The land commissioner's office is divided into two departments. The Records Division processes payment of delinquent property taxes, processes requests for patent information, and houses county land certification records. The Sales Division researches tax delinquent land titles to notify owners and interested parties that land has been scheduled for sale. The division also conducts public auctions of tax delinquent property and processes purchase offers on negotiated sales.

The land commissioner is empowered to donate tax delinquent lots for urban homesteading within cities and towns and to donate tax delinquent properties to state agencies, Arkansas-supported colleges and universities, and local governmental units, when the donation of such properties is in the best interest of the state.

In addition, the land commissioner is responsible for the competitive bidding and leasing of all mineral interests on state-owned lands. By law, the land commissioner also maintains the deeds for all property owned by the state or its agencies and institutions with the exception of the Arkansas Highway and Transportation Department. Moreover, the office houses the original patent records of the state. Also, copies of State Land Office land maps are maintained in the commissioner's office along with the corresponding field survey notes.

Learn More

Arkansas – Official Website

<https://portal.arkansas.gov/>

Council of State Governments

<http://www.csg.org/>

National Governors Association

<https://www.nga.org/>

The State Bureaucracy

4

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Arkansas' Bureaucracy

State bureaucratic personnel play a pivotal role in the implementation and delivery of essential governmental services. As a percentage of the U.S. population, the number of federal government employees has declined in recent decades, whereas the number of state and local government employees has increased. The primary reason is that state and local workers implement many services stemming from the federal government. For example, while the federal government funds the Supplemental Nutrition Assistance Program (SNAP), state and local employees administer the program's services. Therefore, the face-to-face role of the state bureaucracy is vital.

State Personnel Management

The Office of Personnel Management (OPM), an office in the Department of Transformation and Shared Services, administers the state's personnel system, which involves: (1) classification and compensation – classifying and evaluating jobs, collecting salary data, and providing personnel management services; (2) payroll – creating and maintaining human resources data for the state's central accounting system; (3) inter-agency training programs; and (4) research and technical services – providing information, analyses, and advice on personnel-related rules and regulations. Therefore, the efforts of the OPM to classify, compensate, and train state employees is essential to the success of governmental programs.

In 2007, the General Assembly authorized a merit system for state employees. This means state employees are hired and promoted based on their ability to perform a job.

Organizational Structure and Reorganization Efforts

Changes to the organizational structure of Arkansas' bureaucracy depends on actions by the General Assembly and governor. Most changes tend to involve a few agencies at a time, but there have been two significant reorganizations in recent decades. In 1971, Governor Dale Bumpers led an initiative to consolidate over 60 agencies into 13 cabinet-level departments (Act 38). In 2019, Governor Asa Hutchinson directed an effort to put the state's 42 agencies under a 15-cabinet-level department structure (Act 910).

In general, extraordinary changes in state government structure are rare. When they have occurred, proponents claim that efficiency and cost savings translate into better management and service delivery. Critics, however, are concerned that a condensed hierarchy may diminish or eliminate access, influence, and important services.

Cabinet-Level Departments

Agriculture. Created in 2005, the Arkansas Agriculture Department provides information and research services related to state agricultural interests. It is comprised of the Arkansas Agriculture Board, Arkansas Forestry Commission, Arkansas Livestock and Poultry Commission, Arkansas Natural Resources Commission, and State Plant Board.

Commerce. Reorganized in 2019, the Arkansas Department of Commerce focuses on economic development, industry, banking, insurance, and workforce services.

Corrections. Overseen by the State Board of Corrections, the Arkansas Department of Corrections was created in 1968. In 2019, the department was reorganized into three divisions: Division of Corrections (state prisons, custody, treatment, and rehabilitation); Division of Community Corrections (community correction centers, parole and probation services, re-entry programs and support, and specialty courts); and the

Arkansas Correctional School System. According to the U.S. Bureau of Justice Statistics, Arkansas is among the top ten states in the country that have the highest incarceration rates. To reduce the state's prison population and recidivism (re-offending and returning to prison), the department provides a wide range of rehabilitation programs and services to inmates. Examples include education, dog companionship and training, healthcare, job training, parenting classes, and religious services.

Education. Established in 1867, the Arkansas Department of Education provides leadership, support, and services to all levels of education throughout the state. The department includes the Division of Elementary and Secondary Education and the Division of Higher Education. It also oversees Career and Technical Education, the Arkansas School for the Deaf, the Arkansas School for the Blind and Visually Impaired, the Martin Luther King Commission and Board, and the Arkansas State Library and Board.

Energy and Environment. Created in 2019, the Arkansas Department of Energy and Environment includes the Division of Environmental Quality, Pollution Control and Ecology Commission, Oil and Gas Commission and Board, Arkansas Geological Survey, and Liquified Petroleum Gas Board.

Finance and Administration. The Arkansas Department of Finance and Administration (DFA) provides assistance to all state agencies in the management of their appropriated funds, personnel, and property, while exercising statutory controls over the agencies in these areas. As the chief fiscal officer of the state, the DFA director provides budget projections that guide state funding decisions. DFA collects the general and special revenues assessed by law and registers all motor vehicles and drivers. It also administers and enforces the law governing the sale and consumption of all alcoholic beverages and medical marijuana, and administers horse-racing and dog-racing regulations.

Health. The Arkansas Department of Health provides statewide services for a wide range of public health needs. In addition to its administrative office in Little Rock, the department staffs public health units in each of Arkansas' 75 counties. The Certificates and Records section maintains and issues official copies of birth, death, marriage, and divorce certificates. The department also issues permits and occupational licenses and certification for health-related professions and occupations that affect public health. The department carries out regulations and policies put forth by the State Board of Health.

Human Services. Created in 1971, the Arkansas Department of Human Services (DHS) is the largest state agency and has employees working in all 75 counties. Every county has at least one local office where citizens can apply for any of the services the department offers. DHS is comprised of the following divisions and offices: Aging, Adult, and Behavioral Services; Alcohol and Drug Abuse; Child Care and Early Childhood; Children and Family Services; County Operations; Developmental Disabilities Services; Medical Services; Provider Services; and Youth Services.

Inspector General. The Arkansas Department of the Inspector General was created in 2019 to consolidate state oversight functions, specifically fair housing, Medicaid, and internal audit.

Labor and Licensing. Since 1913, the responsibility for administering and enforcing Arkansas' labor laws has rested with the Arkansas Department of Labor. In 2019, it became the Arkansas Department of Labor and Licensing, reflecting the department's expanded oversight of occupational and professional licensing.

Military. The Arkansas Military Department administers services and information related to the Arkansas National Guard: recruiting, employment, emergency response, color guard and band requests, and funeral assistance.

Parks, Heritage, and Tourism. In 2019, the state's Department of Heritage and Department of Parks and Tourism merged. The Arkansas Department of Parks, Heritage, and Tourism coordinates, promotes, and preserves Arkansas' natural, cultural, and tourism resources. The department includes the Division of Heritage (arts, state archives, state history, and historic and cultural preservation), Division of Parks (state parks), Division of Tourism (tourism advertising and promotion), Capital Zoning Commission, and Keep Arkansas Beautiful Commission.

Public Safety. The Arkansas Department of Public Safety was created in 2019 to encompass the state's law enforcement and emergency management entities as well as the state's crime lab and crime information center.

Transformation and Shared Services. Created in 2019, the Arkansas Department of Transformation and Shared Services focuses on the implementation of the state government reorganization legislation as well as how the shared services model for internal operations can save money over time, support each agency, and make it a more efficient process. Department services include personnel management, procurement, employee benefits, building authority, information systems and geographic information systems.

Veterans Affairs. Created in 1923 by the Arkansas General Assembly, the Arkansas Department of Veterans Affairs connects veterans and their dependents to state and federal services. The department operates two state veteran cemeteries and two state veteran nursing homes. It also administers the Veteran Service Officer network.

Boards and Commissions

More than 3,000 Arkansas citizens serve on state boards and commissions. Some are volunteers who pay their own expenses, some have their expenses paid, and others receive compensation for their services. Boards and commissions vary in size from three to 38, but most

consist of five to nine members. In general, the larger ones are advisory and the smaller ones have administrative, regulatory, or quasi-judicial responsibilities. Terms of members range from two to ten years, though most have terms of four, five, or six years. All members serve, even though their terms may have expired, until a replacement is appointed.

Most members of boards and commissions serve by appointment of the governor with the Arkansas Senate's approval. In some states, terms of boards and commission members end with the completion of the governor's term. But in Arkansas, terms are staggered and members complete their term of office, no matter who is governor. Many appointees must be chosen from lists supplied by the General Assembly, by various departments, or by public or private professional organizations. Other members serve *ex officio* by virtue of a position they already hold, and a few are appointed by someone other than the governor.

For most boards and commissions, Arkansas law requires members to attend regular meetings, and any member with three successive absences is subject to removal. Members may be removed for "good cause" such as "conduct constituting a criminal offense involving moral turpitude, gross dereliction of duty, or gross abuse of authority." (Act 160 of 1979) They may also be removed for participating in an illegal closed meeting subject to the Freedom of Information laws.

Two commissions – the State Highway Commission and the Game and Fish Commission – are distinctive, because they operate independently of the Arkansas General Assembly.

Created by Amendment 42, the State Highway Commission administers the Arkansas Department of Transportation. The commission's five members are appointed to 10-year terms by the governor with the advice and consent of the Arkansas Senate. The department is responsible for coordinating public and private transportation activities and implementing a safe and efficient intermodal transportation system. In

addition to its central administrative office in Little Rock, the department has 10 districts of maintenance area headquarters and resident engineers throughout the state. Adequate funding for highway upkeep and expansion is an ongoing challenge. Like many states, Arkansas depends on federal transportation dollars to supplement state funding. Unfortunately, federal resources have not kept pace with states' highway construction and maintenance needs.

Created in 1915, the Game and Fish Commission oversees the protection, conservation and preservation of various species of fish and wildlife in Arkansas. This is done through habitat management, fish stocking, hunting and fishing regulations, and a host of other programs conducive to helping Arkansas' wildlife flourish. The commission also generates public awareness of wildlife management through education programs, hunting and fishing regulations, and environmental efforts. Amendment 35 gave the Game and Fish Commission autonomy from the state legislature and enabled wildlife regulations to be enforceable on a statewide basis. It also gave wildlife officers full police authority to issue citations and make arrests. Amendment 75 designates a portion of the state's conservation sales tax for the commission. Commissioners are appointed by the governor for seven-year terms.

State boards and commissions oversee the expenditures of between 25% and 30% of all state revenues. This is exclusive of public education funds, but does include funds administered by the Highway Commission, the Game and Fish Commission, and the boards of trustees of institutions of higher education. The functions of a board or commission may involve review of budgets that vary in size. Duties may extend to investment responsibilities for large sums of money—bonds, pension funds, and tax reserves. Some boards are authorized to distribute federal and state grant monies. Some may not be responsible for direct expenditures of funds, but their decisions may influence how citizens or the state spend money. The licensure boards are responsible not only for determining how their fees shall be spent but also for collecting them.

The funds that boards and commissions are responsible for primarily come from three main sources: general revenues, special revenues, and cash funds. General revenues come primarily from state income taxes, sales and use taxes, severance taxes, and taxes on alcohol, tobacco, and racing. Special revenues are collected for specific purposes such as fees and license money collected by the Arkansas Department of Transportation and the Arkansas Game and Fish Commission, and may not be transferred to general revenues. Cash funds come primarily from fees charged by licensing boards and commissions for examinations, permits, and licenses.

Regardless of their financial responsibilities or the source of funds, no board or commission can expend monies without an appropriation by the General Assembly. The process for getting budget approval is the same as for any state official or department.

Licensure boards and commissions play an especially important role in the regulation of the occupations of Arkansas citizens. The licensing process is concerned primarily with the licensing, certification, or registration of practitioners, but it also may involve the licensing of businesses and places of business. A licensed practitioner is one who has passed appropriate examinations and met all standards imposed by the Arkansas board, commission, or agency involved. A certified practitioner is one who has met pre-determined standards, and a registered practitioner is one who has simply filed name, address, and qualifications with the board or commission before practicing. Most licensure boards also provide regulatory services by monitoring those they have licensed to be sure they are practicing according to appropriate standards and by hearing complaints from citizens. Boards may also take disciplinary action against operators not practicing according to standards. Such action ranges from reprimands to fines, suspension, or revocation of license.

The principle of separation of powers maintains that the legislative body passes laws that set policy and the executive branch enforces those laws.

Boards and commissions are generally considered part of the executive branch. However, it is seldom as simple as that, since it is often difficult to determine the fine line between assuring that legislative intent is being implemented correctly, and interference. Oversight of boards and commissions by the Arkansas legislature involves review of budgets; contracts; procedural rules of operation and administrative rules and order; and financial audits. The first three tasks are performed by the Legislative Council and the fourth by the Legislative Joint Auditing Committee.

In 1988, the Game and Fish Commission sued the Legislative Council, charging that review of contracts by the Review and Advice Subcommittee of the Legislative Council was unconstitutional in that it violated the separation of powers doctrine. The Arkansas Supreme Court decided in favor of the Game and Fish Commission, stating that "the executive authority should be free, not only from blatant usurpation of its powers, but from paralyzing interference as well." The court's ruling reduced the Legislative Council's "review and advice" function to simply "review," but since the legislature is still responsible for appropriating all expenditures of the state departments and agencies, the issue of oversight versus interference continues to exist.

Attempts to require performance or management audits and to consolidate or eliminate the boards and commissions have had varying degrees of success. In 1977 and 2005, a "sunset" law was passed which provided for the end (sunset) of all boards and commissions unless a convincing need for their continuation could be proved. This process was time-consuming and eliminated few boards and commissions. Putting a sunset clause into bills creating boards or commissions has been a more successful approach.

Although there are often problems with the operation and perhaps excessive number of boards and commissions, they serve to involve a large number of citizens in grassroots participation in government. In

addition, citizens may have more contact with a board or commission than with other governmental units.

All boards and commissions must comply with the provisions of the Freedom of Information Act. Unless specifically exempt, they must also conform to the provisions of the Administrative Procedure Act. The Administrative Procedure Act directs agencies to adopt organizational and operational rules, which are reviewed by the Legislative Council and the attorney general. All actions of boards and commissions are published in *The Arkansas Register*, a monthly publication of the secretary of state. Some boards and commissions must make available certain proposed rules and regulations and other documents at libraries that have been designated "public depositories." These steps are taken to give the public a better understanding of the operations of boards and commissions and to keep the bureaucracy of the executive branch responsible to the citizenry.

Comparison to Other States

Compared to other states, Arkansas' bureaucracy includes numerous boards and commissions staffed by many citizens. This gives Arkansans an opportunity to gain insight about governmental operations.

Overall, Arkansas' state bureaucratic structure is like that of other states. Some state executive branches may be more streamlined with fewer independent commissions and agencies; however, the major functions and tasks are very similar.

As long as state and local personnel provide most of the face-to-face governmental service delivery, they remain important political actors, worthy of study and evaluation.

Learn More

Act 38 of 1971

<https://encyclopediaofarkansas.net/entries/act-38-of-1971-6048/>

Act 910 of 2019

<https://governor.arkansas.gov/transform.ar.gov/>

Arkansas - Official Website

<https://portal.arkansas.gov/>

Arkansas State Employees Association

<https://www.aseaar.org/>

Council of State Governments

<http://www.csg.org/>

The Judicial Branch

5

In This Chapter

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Structure of Arkansas Court System

Court Personnel

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Terms to Know

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Judiciary Reform

Reformers of the Arkansas judiciary have sought to improve the state's court system by focusing on three goals: consolidation and simplification of the state's court structure; centralizing the management and budgeting for the judicial branch; and ensuring minimal judicial education and qualifications for court personnel. (Blair and Barth, 2005: 230-35)

With the passage of Amendment 80 in 2000 and the professional development opportunities provided by the Administrative Office of the Courts, Arkansas' judiciary has undergone more significant reform than any other branch of state government.

Judiciary Concepts

Jurisdiction. State court systems usually have two types of jurisdiction – original and appellate. Original jurisdiction means that a court has the power to be the first judicial body to hear a case. No verdict has been recorded in the case before it reaches the court. Appellate jurisdiction means that a case has been heard before, and an official ruling has been rendered. It is this ruling that is reviewed by the court. In addition, appellate jurisdiction is usually discretionary. Dissatisfied litigants may have the right to appeal, but the appeals court is free to accept or reject this request for review.

Courts. Most state court systems have two major types of courts – trial and appellate. Trial courts have original jurisdiction, while appellate courts usually exercise appellate jurisdiction.

In Arkansas and most other states, there are two types of trial courts. Trial courts of limited jurisdiction have original jurisdiction over specialized areas, like small claims and traffic offenses. Trial courts of general jurisdiction deal with the most important civil and criminal cases

where juries would be impaneled to hear evidence. Trial courts of general jurisdiction may also hear cases from trial courts of limited jurisdiction, if the state does not require that an official record be kept of the proceedings in the trial court of limited jurisdiction.

In addition, Arkansas and most other states have two types of appellate courts. These are intermediate appellate courts and Supreme Courts (courts of last resort). The intermediate appellate courts hear cases on appeal from lower trial courts. The focus of their legal review is whether the law was accurately applied. That is, did the lower court correctly interpret the legal precedent? The appellate court does not usually review the facts of the case. Most of the work load of state Supreme Courts is appellate proceedings, but most state courts of last resort have original jurisdiction in some cases involving intergovernmental disputes or in circumstances where a timely response is needed to carry out a policy. For example, the Arkansas Supreme Court has original jurisdiction regarding proposed constitutional amendments. It also decides whether a constitutional amendment is appropriate and whether it should remain on the election ballot.

Cases. Legal proceedings are either civil cases or criminal cases. Civil cases usually involve controversies between individuals, between corporations, or between individuals and corporations in respect to private rights and obligations. The goal of many civil cases is economic compensation. In a civil lawsuit, a plaintiff sues a defendant. In a criminal case, the state or municipality charges that a defendant has committed an offense against society by violating criminal laws. A defendant receives many more legal protections in a criminal case than in a civil case. Criminal cases fall into two categories – felonies and misdemeanors. Felonies are the more serious crimes punishable by large fines and/or imprisonment in the state penitentiary, or by death. Misdemeanors are less serious offenses punishable by smaller fines and/or imprisonment in the county or city jails.

Judicial Selection. States use a variety of methods to choose judicial personnel. Judges may be selected by partisan election (Democratic and Republican party labels); nonpartisan election; merit plan; gubernatorial appointment; or legislative selection. (*The Book of the States*, 2018: 204-211) Arkansas judicial selections are non-partisan. Prosecuting attorneys are also chosen in this manner. Elected officials in the Arkansas judiciary are not term-limited but can hold office as long they maintain public support.

Juries. There are two kinds of juries in Arkansas – grand and petit. Grand juries, which are rarely used in Arkansas courts, determine whether enough evidence exists to warrant cases going to trial. Petit juries hear the evidence presented by both the state and the defendant and determine the guilt or innocence of the accused. Any registered voter or owner of a drivers' license who resides in the county in which he or she may be summoned for jury service is legally qualified to act as a grand or petit juror if not otherwise disqualified.

Beginning January 1, 2005, Arkansas jury pools were expanded to include licensed drivers who have the usual juror qualifications: (1) U.S. citizen, (2) at least 18 years of age, (3) resident of the applicable county, and (4) no felony offenses. (Act 1404 of 2003)

Jury selection begins during the month of November or December of each year. The circuit judge, in the presence of the circuit clerk, selects random numbers between one and 100. This list is sent to the county clerk's office. Then, the person on the voter registration list with that number and every 100th person thereafter is placed on the Jury Master List until the minimum number required by law, or more, is reached. For example, if 33 is selected, the names of the 33rd, the 133rd, the 233rd, the 333rd, etc. persons on the voter registration list will be placed on the master list. (A.C.A. 16-32-103)

After all the names have been selected for the master list, the circuit judge, along with circuit clerk, pulls numbers from a large jury wheel.

These numbers will be sent to the county clerk to cross-reference with the master list. The names and addresses from these numbers are sent back to the circuit clerk who sends jury questionnaires to these individuals. The selected citizens answer the questionnaire and return it to the circuit judge's office. The circuit judge decides who should serve on the jury list based on qualifications described in the questionnaires. This list is called the Petit Jury List.

The court or the sheriff summons jurors by (1) notice dispatched by first-class mail; (2) notice given personally on the telephone; or (3) service of summons personally or by such other method as is permitted or prescribed by law. (A.C.A. 16-32-106) A prospective juror who fails to respond to a summons may have to pay a fine. State law disqualifies some individuals from serving on a jury, including mentally challenged persons; those unable to read or write (although these requirements may be waived by the judge); persons unable to speak or understand the English language; persons whose senses of hearing or sight are substantially impaired; or "persons who are not of good character or approved integrity, are lacking in sound judgment or reasonable information, are intemperate, or not of good behavior." (A.C.A. 16-31-102) The trial judge may excuse people from jury duty or grant a deferment of service. Except by consent of both parties, no person shall serve as a petit juror who is related to one of the attorneys in the case, is expected to appear as a witness, has already formed an opinion on the case, has material interest in the outcome of the case, is biased or prejudiced toward any of the participants, or has served as a petit juror in a former trial involving the same questions of fact.

The petit jury is used in civil and criminal cases. Jury trials are only conducted in the circuit courts. A different petit jury is chosen for each case from persons appearing in court that day. The circuit judge draws numbers from a jury wheel or box. The number of names drawn is influenced by the possibility that many prospective jurors might be disqualified or excused. Most trials require juries of 12 persons. However, the legislature in 1993 permitted cases other than felonies to be tried, at

the discretion of the trial court judge, by six jurors. (A.C.A. 16-19-604) In cases with 12 jurors, 12 names are drawn for each case. At this point, the prosecution and the defense attorneys question these potential jurors and may remove a specified number for cause, such as conflicts of interest or relationships with those involved in the case. This process is referred to as striking a juror. Then new prospective members are called and the strike process starts over, until 12 jurors are seated or a party runs out of strikes. For six-person juries, names of 12 persons are drawn, each party strikes three names, and the remaining six serve on the jury. Petit jurors hear the evidence and, in civil cases, render verdicts for the plaintiff or the defendant; and in criminal cases, render verdicts of guilty or not guilty. In criminal cases, the decision must be unanimous. The judge imposes the sentence, although the jury may recommend a sentence. In civil cases, the jury awards damages. Only nine jurors need agree for a verdict to be reached in civil cases. (Amendment 16)

The grand jury serves several functions, but it usually deals with criminal matters. Grand jurors study the evidence in cases to determine if there is enough evidence to warrant prosecutions. If so, they make formal accusations of wrongdoing called indictments or true bills. A grand jury may also be called to investigate some undesirable situation in the area, such as a drug traffic problem, a question of election irregularities, possible illegal activity by an elected official, or the conduct of county business. It may also be asked to inspect public accounts or records. The circuit judge calls grand juries, sometimes in response to a request from the prosecuting attorney that a grand jury investigate potential wrongdoing by a public official.

Those serving on either a petit or grand jury may not be compelled to serve for more than 24 days or for more than a six-month period in one year, except when a trial is in progress at the end of that period. After their service, they are ineligible to serve again in the same county for two years. Persons summoned to jury duty may not be discharged from employment, may not lose sick leave or vacation time, or be penalized otherwise for their absence from work.

Structure of the Arkansas Court System

The Arkansas courts experienced significant structural changes with the passage of Amendment 80. The new system reduced the number of trial courts of limited jurisdiction from six to two. It also eliminated separate courts of law and courts of equity, a practice that now remains in only three states. Structural consolidation cut the number of trial courts of general jurisdiction from two to one. At the appellate level, Arkansas maintains a single Court of Appeals and one Supreme Court. These changes enabled more unified court procedures and clarified appropriate courts.

Trial Courts of Limited Jurisdiction. Arkansas has two types of trial courts of limited jurisdiction – state district courts and local district courts.

State district courts have territorial jurisdiction within districts established by the Arkansas General Assembly. These courts handle cases involving misdemeanors and violations of state law and local ordinances; preliminary felony cases and civil cases involving contracts; and damage to and recovery of personal property for matters less than \$25,000. They also have a small claims division in which citizens represent themselves to resolve contracts and personal property matters of less than \$5,000. State district court judges may also hear certain matters filed in circuit court upon referral by the circuit court or the consent of the parties. (Arkansas Supreme Court Administrative Order 18)

Part-time judges serve local district courts and may maintain a private practice. These courts have territorial jurisdiction within districts established by the Arkansas General Assembly, most of which are county-wide. These courts hear cases concerning misdemeanors and violations of state law and local ordinances; preliminary felony cases and civil cases involving contracts; and damage to and recovery of personal property for matters less than \$5,000. They also have a small claims division.

Trial Courts of General Jurisdiction. Circuit courts are the most important trial courts in the Arkansas legal system. They handle most original jurisdiction cases, and most state legal disputes are resolved at this court level. Moreover, jury proceedings are conducted in the circuit courts. Each judge is elected circuit-wide in a nonpartisan election. All circuit judges must be licensed attorneys in Arkansas for at least six years before taking office. In addition, they must reside in the circuit area they represent.

Circuit judges are elected to a six-year term. These courts have five subject matter divisions: criminal, civil, probate, domestic relations, and juvenile. They have jurisdiction over most criminal and civil disputes as well as cases involving estates, adoptions, guardianships, neglect, delinquency, and Families in Need of Services (FINS). As noted earlier, in the Arkansas court system the bulk of legal work is done in circuit courts.

Intermediate Appellate Court. The Arkansas Court of Appeals was created in 1978 to address the increasing workload of the Arkansas Supreme Court. An intermediate appellate court was a way to address the growing number of cases on its docket. Evaluation indicated that the action was successful because this court stabilized the Supreme Court's workload. (Arkansas Judiciary Annual Report, 2001) Initially the Court of Appeals had six judges, but in 1993 the General Assembly passed legislation to add six additional judges. Three judges were added in 1995 and an additional three in 1996. Since the size of the court was doubled in a short time, some administrative and electoral issues arose. As a result, judges are to serve staggered terms so that a degree of continuity is preserved on the court. Since judicial districts had not been redrawn since the 1970 census, population shifts created inequities in the districts. In 2003, the legislature addressed these issues by creating seven judicial districts and altering the terms for certain positions to establish a dispersed electoral selection pattern. (Act 1812 of 2003)

Court of Appeals judges must be residents of the district from which they are elected, and technically, they must meet the same criteria as those individuals serving on the state Supreme Court. All Court of Appeals judges must be licensed attorneys in Arkansas for at least eight years before taking office, and each serves an eight-year term. The chief justice of the state Supreme Court designates one of the Court of Appeals judges to serve as chief judge. The chief judge serves a four-year term, and is eligible for reappointment.

The Arkansas Supreme Court determines the jurisdiction of the Arkansas Court of Appeals. Currently, it has appellate jurisdiction over those lower court cases not within the appellate jurisdiction of the Supreme Court. In addition, judgments of the Court of Appeals may be appealed to the Supreme Court when a case was erroneously filed in the Court of Appeals; when a case filed in the Court of Appeals is believed to be of special public interest and is "certified" to the Supreme Court; or when a case was decided by a tie vote. The Supreme Court may choose to hear some cases decided by the Court of Appeals, but it is not bound to do so. In fact, the Supreme Court rarely reviews cases decided by the Court of Appeals. The Supreme Court may transfer cases from the Court of Appeals to the Supreme Court, or vice versa. The court is authorized to divide itself into divisions of three judges each for hearing cases, but no judge is assigned to any one panel permanently. Judges are rotated at least semiannually. A decision made by the panel is final, unless one judge dissents. In that situation, the case is heard and decided by all judges. Salaries for judges of the Court of Appeals are set by the General Assembly and paid by the state.

State Court of Last Resort. The Arkansas Supreme Court was established by the Constitution of 1836, and continued by the state's later constitutions, as the court to which decisions of all courts of general jurisdiction would be appealed. This was altered somewhat by the creation of the Arkansas Court of Appeals in 1978. Most cases come to the state Supreme Court under its statewide appellate jurisdiction. Such cases include appeals from lower courts involving constitutional issues

and acts, municipal and county ordinances, rules of courts, administrative agency cases, criminal convictions of death, life, or more than 30 years imprisonment, post-conviction relief petitions, election cases, and the law of torts. In addition, the state Supreme Court has appellate jurisdiction over those appeals certified for review from the Court of Appeals. The state Supreme Court also exercises original jurisdiction in certain subject areas. For example, the court has original jurisdiction to determine the legal status of state initiative and referendum petitions. However, the court's appellate jurisdiction continues to be its primary source of litigation.

The Arkansas Supreme Court is composed of a chief justice and six associate justices, all of whom are elected in statewide nonpartisan elections. They serve eight-year terms that are staggered to preserve some degree of stability in court personnel.

All Arkansas Supreme Court judges must be U.S. citizens and be at least thirty years old. Moreover, they must be practicing attorneys in Arkansas for at least eight years before taking office and have resided at least two years in Arkansas.

The chief justice plays an important part in Arkansas court administration. This individual is the head of the judicial branch and plays a significant role in the Administrative Office of the Courts. (Act 3 of 2003)

Court Personnel

In addition to the judges of the various courts, attorneys and support personnel are essential to the operation of the courts.

Prosecuting Attorneys. Each judicial circuit has one prosecuting attorney elected in a non-partisan contest for a four-year term. Prosecuting attorneys must be United States citizens, have practiced law for at least four years before their election, and be residents of their

respective circuit districts. It is the duty of the prosecuting attorney to initiate and prosecute actions in their circuit district, both civil and criminal. Unless a quorum court, by ordinance, establishes an office of county attorney, they also serve as legal counsel to the quorum court. They may appoint deputies to assist them.

Public Defenders. In 1963, the United States Supreme Court declared that the Sixth Amendment right to counsel is a fundamental right, and necessitates that the courts appoint lawyers for all indigent defendants. Some counties in Arkansas employed public defenders, but most operated under a system established by the state of appointing and compensating attorneys for serving as counsel for indigent defendants. However, the U.S. Supreme Court struck down this system in 1992, and the General Assembly responded by establishing a trial public defender program throughout the state. The cornerstone of this system is the Public Defender Commission, composed of seven members appointed by the Governor for terms of five years. It hires an executive director and staff who are responsible for establishing policies and standards for the public defender system throughout the state. (A.C.A. 16-87-202 and 16-87-302)

The Public Defender Commission assigns public defenders throughout the state based upon county or district population, number of case filings, and other related factors. Each judicial district has at least one public defender, but many more may be assigned if it is warranted by caseloads. The trial public defenders are charged with defending indigent persons in all felony, misdemeanor, juvenile, guardianship, mental health cases, and traffic and contempt cases punishable by incarceration. In a case where there might be a conflict of interest or other reason why a trial public defender could not serve, the commission may reassign a different public defender or a private attorney to the case. However, state provisions are specific in stating that a private attorney should be used only as a last resort.

The trial public defender positions may be full or part-time jobs. If attorneys serve part-time, they may continue a general law practice. However, all full-time public defenders must give up their private practice. The commission is responsible for maintaining a list of attorneys who are qualified and willing to serve. It is also responsible for oversight of the Capital, Conflicts and Appellate Office. In order to pay for this system, the legislature added a fee in all civil and most criminal cases.

Court Reporters. All courts of general jurisdiction employ court reporters to record and transcribe all court proceedings and to prepare copies.

Trial Court Administrators. All judicial districts use trial court administrators to assist trial judges with their case flow management by maintaining the court calendar and dockets, setting cases for trial, scheduling hearings, and preparing reports.

Administrative Office of the Courts

The Arkansas Supreme Court is not only the highest appeals court in the state, but the constitution gives it “general superintending control over all inferior courts of law and equity” and declares that it “shall make rules regulating the practice of law and professional conduct of attorneys at law.” (Amendment 28) However, because of the election of judges and the comparative autonomy of the various lower courts, “general superintending control” by the state Supreme Court involves primarily supervision of caseloads and scheduling of cases rather than supervision of judges or the operation of the courts. Coordinating the Supreme Court’s administrative functions is the Administrative Office of the Courts (formerly called the Judicial Department). This office is supervised by a director who is nominated by the chief justice, subject to approval by the Arkansas Supreme Court and the Judicial Council. The Judicial Council meets twice a year and is an advisory group composed of the justices of the Arkansas Supreme Court, judges of the Arkansas Court of Appeals,

judges of the state's circuit courts, retired judges, and the director of the Administrative Office of the Courts.

The director of the Administrative Office of the Courts is charged with assisting the chief justice in carrying out the administrative responsibilities of the Arkansas Supreme Court. The principal functions of the office include collection, analysis, and publication of judicial statistics; arranging for continuous judicial education for all levels of personnel in the state's court system; and assisting the state Supreme Court boards and committees in the execution of their responsibilities. These boards and committees include the State Board of Law Examiners, which prepares the questions for the bar examination conducted twice yearly, grades the papers of those taking the examination, and certifies to the court the names of those who passed. The Continuing Legal Education Board assists in the ongoing judicial education effort for legal personnel. The Committee on Professional Conduct receives and investigates complaints against attorneys charged with professional misconduct. The Client Security Fund Committee is authorized to consider claims of clients who have suffered losses because of the dishonesty of attorneys who have represented them, and it may (within limits) pay such claims from a fund established by the Supreme Court. The Arkansas Court Appointed Special Advocates (CASA) promotes and supports local programs that provide qualified volunteer advocates to help abused and neglected children in juvenile dependency-neglect proceedings reach safe, permanent homes.

The Administrative Office of the Courts also responds to societal changes. One expanding role for this organization is the Court Interpreters Program, which is responsible for matters related to foreign-language interpreters for non-English speaking parties or witnesses in state and local courts of Arkansas. Another changing area is the use of technology under the auspices of the Committee on Automation, which is working on the Arkansas Court Automation Project (ACAP) to connect all the Circuit Courts and District Courts in a statewide automated court system. Other committees involved with the practice of law in Arkansas are: the

Committee on Civil Practice, Committee on Criminal Practice, Committee on Child Support, Committees on Model Jury Instructions – Civil and Criminal; the Board of Legal Specialization; and the Board of Certified Court Reporter Examiners. There is also a District Judges Council formed to promote the effectiveness of district courts, and a Code Revision Commission to provide continuing review, revision, codification and updating of the statutes.

Until 1988, Arkansas had no effective method of disciplining judges or for handling disability of judges. In that year, the voters approved an amendment dealing with this problem. The General Assembly passed implementing legislation in 1989 establishing the Arkansas Judicial Discipline and Disability Commission. This commission is composed of nine members: three are judges of Arkansas courts appointed by the state Supreme Court; three are Arkansas lawyers, one of whom is appointed by the attorney general, one by the president of the state senate, and one by the speaker of the state house; and three are neither judges nor lawyers and are appointed by the governor. (A.C.A. 16-10-402)

The Arkansas Judicial Discipline and Disability Commission's responsibilities include initiating and receiving information, conducting investigations and hearings, and making recommendations to the state Supreme Court regarding allegations of judicial misconduct, allegations of physical or mental disability of judges requiring leave or involuntary retirement, and matters of voluntary retirement or leave for disability. The legislation further provides for disciplinary measures ranging from granting leave to suspension and removal from office. The state Supreme Court is responsible for adopting rules regarding the operation of the commission. The commission fills an important role in maintaining public confidence in the judicial branch.

Comparison to Other States

Structural reform in Arkansas' court system was achieved with the passage of Amendment 80. Even though the new system unified and simplified the litigation process, not all members of the Arkansas Bar Association favored the re-organization.

An important feature of any court system is the nature of judicial selection. The primary selection methods are partisan election, nonpartisan election, merit plan, gubernatorial appointment, and legislative selection.

The shift away from partisan to nonpartisan elections is seen by many as a positive reform. However, even if candidates do not use party labels, there are still problems associated with a competitively elected judiciary. Candidates must still raise money to conduct their campaigns. This raises questions about campaign contributions and who might contribute. Also of concern are appropriate campaign issues for judicial races. For example, should judicial candidates discuss issues such as length of jail terms, sentencing guidelines, and treatment of prisoners? Finally, there is a concern that elections may not be the best selection method for evaluating the qualifications and temperament of judicial candidates. Amendment 80 provides explicit language that allows the legislature to submit merit plan selection for appellate judges to a vote of the people. There is no exact timetable for such a proposal, but recent legislative sessions have raised the issue of changing the state Supreme Court selection process.

While constitutional officers are limited to two four-year terms and state legislators may serve up to 16 years in office, elected judicial personnel are not term-limited. In addition, appellate court judges have longer terms (eight years) than any other elected official. A state Supreme Court justice elected to three terms would serve for 24 years.

Although there is room for additional reform in the Arkansas judiciary, recent structural changes have reduced overlapping jurisdictions and complexity in the state's legal system.

Learn More

Arkansas Bar Association

<https://www.arkbar.com/home>

Arkansas Judiciary

<https://www.arcourts.gov/>

Arkansas Court Structure

Arkansas Supreme Court

One (1) Chief Justice and six (6) Associate Justices,
each elected statewide for an eight (8) year term

The **Administrative Office of the Courts** is an agency within the judicial branch that provides support to the state courts on behalf of the Arkansas Supreme Court.

Arkansas Court of Appeals

One (1) Chief Judge and eleven (11) Judges,
each elected circuit-wide for an eight (8) year term

Circuit Courts

121 Circuit Judges, each elected circuit-wide in one of 28 circuits for a six (6) year term

Criminal

Civil

Domestic

Probate

Juvenile

State District Courts

52 Courts
167 Departments
54 Judges, each elected to
a four (4) year term

Local District Courts

57 Courts
77 Departments
37 Judges, each elected to
a four (4) year term

Minor Civil and Criminal

Minor Civil and Criminal

Small Claims

Small Claims

Supreme Court Admin. Order 18

Supreme Court Admin. Order 18

\$25,000 Civil Jurisdiction

\$5,000 Civil Jurisdiction

\$5,000 Small Claims Jurisdiction

\$5,000 Small Claims Jurisdiction

Circuit Court Referral

Source: *Annual Report of the Arkansas Judiciary*, 2018

Local Government

6

In This Chapter

Impact of Local Government

County Government

Municipal Government

Other Local Government Entities

Comparison to Other States

Terms to Know

annexation, circuit clerk, city

administrator form of government,

city manager form of government,

coroner, county assessor, county

boards, county clerk, county collector,

county judge, county surveyor, county

treasurer, home rule, incorporation,

mayor-council form of government,

municipality, sheriff, township

Impact of Local Government

Compared to other public entities, local governments have the most direct impact on citizens' daily lives. Decision makers in municipalities and counties strongly influence a community's most basic services, including water utilities, waste disposal, polling places, and tax collection. In addition, citizens are more likely to have direct contact with a representative of local government. Therefore, local governments are an important part of the state's political landscape.

County Government

Historically, counties were the most important governing element in agrarian states. In the late nineteenth century, counties received a great deal of attention from political decision-makers. County governments have long been one of the most important political entities for Arkansans. In fact, the 1874 Constitution has far more sections dealing with county than with municipal government. This reflects Arkansas' rural character.

Since 1874, there have been significant changes in structure and authority of counties. One of the major changes occurred with the passage of Amendment 55 in November 1974. This amendment, which became operationally effective in all 75 counties on January 1, 1977, granted home rule to the counties, making county government in Arkansas a creation of the constitution rather than of the legislature. The basic goal of home rule is to provide local elected officials the legal authority to make decisions without specific state legislative approval. The amendment states: "A county acting through its quorum court may exercise legislative authority not denied by the constitution or by law." Although the legislature may still deny counties certain powers, it has no authority over those powers specifically granted to counties by Amendment 55. Since passage of Amendment 55, however, there have been challenges to home rule in the courts. Court decisions on those

legal challenges and numerous state laws that restrict the powers of counties have left the overall concept of home rule unclear.

To implement Amendment 55, the General Assembly in 1977 passed the Arkansas County Government Code (Act 742), which “provides a comprehensive revision of the laws of the State relating to county government.” It specifically addressed the legislative powers and procedures of county quorum courts and the executive jurisdiction and powers of elected county officials.

Quorum Court. The quorum court is the county legislative assembly. Before 1977, quorum courts had been large and unwieldy with one justice of the peace for every 200 people. With the passage of Amendment 55, quorum courts in Arkansas are now composed of no fewer than nine and not more than 15 members, depending on the population of the county. Following each federal decennial census, the county board of election commissioners divides the county into the appropriate number of single-member districts so that each justice of the peace will represent “as nearly as practicable an equal number” of inhabitants. Practically, the U.S. Supreme Court has ruled that individuals’ votes must have equal influence in choosing their officials. This reapportionment must be completed on or before January 1 of the second year after the census (2002, 2012, etc.).

The county judge, the county’s chief executive, presides over the quorum court. Justices of the peace (JPs) are members of the quorum court. JPs must be qualified electors and residents of the districts from which they are elected. Unlike most Arkansas public officials, JPs are not required to meet additional age or residency requirements. This means a JP could be as young as 18 years old. The qualified voters of their districts elect JPs, and they serve two-year terms. Quorum court vacancies are filled by appointment by the governor.

The quorum court has general legislative authority allowing it to “adopt ordinances necessary for the government of the county.” It is given

specific powers such as setting the number and compensation of deputies and county employees, filling vacancies in elective county offices, appropriating public funds for county expenses, and levying taxes in a manner prescribed by law.

The quorum court must provide certain necessary services for its citizens including the administration of justice through the courts, law enforcement protection, real and personal property tax administration, keeping court and public records, and management of the county's solid waste. The quorum court may also provide agricultural services, community and rural development services, county planning, parks, libraries, museums, civic centers, public campgrounds, emergency services, fire protection, juvenile services, pollution control, public health, recycling services, transportation, water, sewer, and other utility services.

The quorum court may not enact legislation that is contrary to the general laws of the state or conflicts with the powers of municipalities, or is the prerogative of the Arkansas General Assembly. It is also forbidden to declare any act a felony or to attach a fine of over \$500 to any misdemeanor. These provisions may limit the decision-making discretion associated with home rule.

The quorum court must meet at least once a month. Either the county judge or most of the justices of the peace may call special meetings when necessary. Per diem compensation is paid to justices of the peace for attending any official, regular, special, or committee meeting of the quorum court. The per diem rate is determined by the quorum court, but within limits established by state law.

Initiative and Referendum. Legal voters may exercise their initiative and referendum powers to enact or reject county legislation as long as it does not contradict the state's constitution or general laws. See Chapter 2 for petitioning criteria. A quorum court may choose to refer county legislation to a vote of the people. If so, at least three-fifths of quorum court members must approve the referral.

County Officers. The quorum court, through its authority to fix the number and compensation of deputies and county employees and its responsibility for appropriating all county funds, has considerable power to organize the general operation of county government. Amendment 55 also gave the quorum court the power to reorganize the various county departments if the people of the county vote to approve such action. However, Act 742 specifically excluded the office of county judge from being reorganized and placed other restrictions on the reorganization process. Since 1977, few counties have successfully combined departments, because the Arkansas Supreme Court has struck down other counties' attempts to implement major reorganization. The court has maintained that any reorganization plan that does not provide adequate checks and balances is unconstitutional.

The Constitution of 1874 authorizes nine county officers, although not all counties have all nine: county judge, county clerk, circuit clerk, sheriff, county collector, county treasurer, county assessor, county coroner, and county surveyor. All serve four-year terms. Their salaries are set by the quorum court, but must be within limits set by the General Assembly. Except for the county judge, the only qualifications for these offices are that candidates must be residents of the county and qualified electors. The county judge must also be at least 25 years of age, a citizen of the United States, "a person of upright character, of good business education, and a resident of the county at the time of his election and during his continuance in office." (A.C.A. 14-14-1301)

Primary administrative responsibility for the county rests with the county judge, who presides over the quorum court without a vote, but with the power of the veto. A vote of three-fifths of the total membership of the quorum court is required to override a veto. The county judge is responsible for county roads and is custodian of county property. The Constitution of 1874 also designated the county judge as judge of the county court, which was given "exclusive original jurisdiction in all matters relating to county taxes, roads, bridges, ferries, paupers, bastardy,

vagrants, the apprenticeship of minors, the disbursement of money for county purposes, and in every other case that may be necessary to the internal improvement and local concerns of the respective counties.” (Art. VII, Sec. 28) Amendment 55 redefined some of these responsibilities, and Amendment 80, which passed in 2000, provided that all matters relating to juveniles and illegitimacy be assigned to circuit courts. However, the county judge still has limited judicial responsibilities, such as ruling on annexations.

The county clerk is the official bookkeeper of county records; the clerk is also the *ex officio* clerk of the county court; clerk of the board of equalization; and clerk of the quorum court in 73 counties (two counties have full-time quorum court coordinators). In addition, the clerk may house the probate records, but this assignment rests with the local circuit judge. The county clerk serves as the permanent voter registrar and oversees absentee and early voting. Moreover, the county clerk also is responsible for issuing marriage licenses and recording county court proceedings, articles of incorporation, and new businesses. Finally, the clerk may prepare monthly delinquent tax lists. This is most common if the County Sheriff also performs the County Collector function.

The circuit clerk keeps the records of the circuit courts including those of the criminal, civil, domestic relations, and juvenile divisions. Another judicial role for the circuit clerk is jury selection. The clerk is also responsible for filing deeds, mortgages, powers of attorney, land records (plats and surveys), and uniform commercial code (UCC) records linked to farming since all other UCC records are filed with the secretary of state’s office.

The sheriff is the principal peace officer of the county, making arrests for violation of laws; serving notices, subpoenas, and warrants; and serving as bailiff of the circuit and district courts. The sheriff oversees the county jail. In some counties, the sheriff also serves as tax collector.

The county collector gathers municipal, county, school, and improvement district taxes and turns them over to the county treasurer. The collector also prepares delinquent tax lists and collects delinquent taxes.

The county treasurer is responsible for the custody and disbursement of all funds collected by the county, including special funds, school district, and improvement district funds. The treasurer is responsible for remitting a portion of the county taxes to the cities and towns, and is a member of the County Depository Board, which invests funds not immediately needed. The treasurer must submit to the quorum court a monthly statement of the financial condition of the county.

The county assessor appraises and keeps records of real estate and personal property.

The coroner signs death certificates if there is no doctor present, and may hold inquests to establish the cause of deaths that may appear to have occurred by other than natural causes. In most counties, the office of coroner is not a full-time position.

The county surveyor locates property boundaries at the request of the assessor and settles boundary disputes if they are taken to court. This office also is not a full-time position.

Township Officers. Originally, counties were divided into townships of two types – geographical and political. Today, geographical townships are used only in surveying to locate and describe land boundaries. On the other hand, the original political townships are often used as election precincts and as boundaries for quorum court districts and state legislative districts. Two township officers are authorized by the constitution – justices of the peace (JPs) and constables. Originally, JPs were authorized to preside over justice of the peace courts and to perform other judicial duties prescribed by law. Today, although JPs are still officially township officers, none presides over justice of the peace courts, though some do exercise such judicial duties as performing

marriages. The second township officer authorized is the constable. For election of constables, township lines are the same as quorum court district lines. The only qualifications for those running for the office are that they live in the township (quorum court district) they serve and are registered to vote.

County Revenues. Although it varies from county to county, over half of revenue received by most Arkansas counties today is from local sources. Federal funds come from grants-in-aid programs and payments in lieu of taxes (PILT) on federally owned lands in 51 counties. State funds are in the form of general turnback funds – taxes collected by the state and then turned back to local governments. These include: highway revenue turnback, state aid for secondary roads, sale of tax-forfeited land, revenue from forests and from sale of leases of lands in the public domain, and severance tax turnback. The primary sources of county revenue are ad valorem tax on real and personal property; fees, fines, penalties, licenses, and charges for services rendered; the sales tax; and sale of bonds. Counties may also levy an income tax, but at present no county does.

County Expenditures. Before the beginning of each calendar year, the quorum court must adopt a budget indicating expected revenues and proposed expenditures for the following year. Expenditures may not be budgeted for more than 90% of estimated revenue. No county funds may be expended without specific appropriation of the quorum court. In general, counties spend between 25% and 30% of their revenue on roads and rural services; between 25% and 30% on law enforcement, including operation of a county jail; between 10% and 15% on courts and judicial administration; and the rest on administration, county buildings and general services, health and social services, elections, and emergency services.

County Boards. In addition to the quorum court and the county officials, administrative and advisory boards and commissions participate in the operation of county government. Administrative boards are created by quorum court ordinances and have such administrative and regulatory powers as granted them by county ordinance and permitted by state law. With certain exceptions, all administrative boards have five members, who are appointed by the county judge and approved by the quorum court. The terms for county board members are staggered with each member serving a five-year term. The number and type of administrative boards is optional with each county. However, if a county operates a hospital, it must have a Hospital Board of Governors. Other administrative boards include: Library Board, County Planning Board, Law Library Board, Rural Development Authority, County Depository Board, and County Board of Education.

Advisory boards may be of any size. Members are appointed by the county judge and are not necessarily approved by the quorum court. Advisory boards may or may not be created by county ordinance. Members have no specified term of office, unless determined by ordinance. Their duties and responsibilities are strictly advisory.

One county board mandated by state law is the County Equalization Board. This board meets regularly in August (and into September if necessary) to hear complaints from taxpayers who feel that their property has been unfairly assessed. A taxpayer dissatisfied with a decision made by the board may appeal to the county court. Board members serve three-year terms and are usually paid for their services. They must be qualified electors who have been real property owners for at least one year. (A.C.A. 26-27-302) County Equalization Boards have three, five or nine members. This is based upon the number of judicial districts in the county and county population. If a County Equalization Board has three members, one member is chosen by the county judge, one by representatives of the cities and towns, and one by representatives of the school districts. If the Board has five members, three are appointed as above and two by majority vote of the quorum court. Finally, if the board

has nine members, two members are chosen by the county judge, two by representatives of the cities and towns, two by representatives of the school districts, and three are chosen by a majority vote of the quorum court. The quorum court is expected to fill one of the three positions with a licensed real estate appraiser. If no appraiser is willing to serve, the court may choose a real estate broker, or failing in this effort, it may choose a real estate salesperson. (A.C.A. 26-27-304)

Municipal Government

Municipalities are cities and towns that have corporate status and local governance. In general, municipal governments in Arkansas do not have home rule. They are, instead, creations of the state with only those powers granted them by the constitution and bylaws passed by the General Assembly. Article XII of the constitution states: "The General Assembly shall provide, by general laws, for the organization of cities (which may be classified) and incorporated towns, and restrict their power of taxation, assessment, borrowing money and contracting debts, so as to prevent the abuse of such power." (Art. XII, Sec. 3) In recent years, the General Assembly has enacted legislation that prohibits municipalities from passing ordinances involving such issues as rent control, pesticides, and gun control.

Today there are over 400 active incorporated cities and towns in Arkansas. They are distinguished from business corporations by being called public or municipal corporations, but any corporation is treated legally as a "person" with certain obligations, rights and privileges. A municipal corporation can sue or be sued, can make contracts, and can acquire, hold, and possess property. Municipalities may also levy those taxes authorized by law, exercise all powers conferred by the constitution and the legislature, and provide municipal services. Originally municipal services consisted of little more than fire and police protection, but today these services may include sanitation, water, sewers, utilities, streets, libraries, hospitals, museums, parks and recreation programs, social services, emergency medical services, and many others. In Arkansas,

school districts are separate from municipal governments, although there is frequently cooperation between the two. The geographic boundaries of school districts seldom coincide with the boundaries of municipalities.

To be incorporated, a city or town must prepare a written petition describing the geographic area involved and identify the person or persons authorized to act on behalf of the petitioners. The petition must be signed by no fewer than 75 qualified electors and presented to the county court (county judge). If the petition is approved, a hearing is held to air any objections to the incorporation. If there are no objections, the incorporation is filed with the secretary of state, and notice is given of election of officers for the newly incorporated municipality. New cities or towns cannot incorporate if they are within five miles of the boundaries of another incorporated city or town unless that city's governing body has by written resolution affirmatively consented to said incorporation or a natural barrier exists making the area to be incorporated inaccessible to the existing municipality. (A.C.A. 14-38-101)

Annexation. If most of the property owners of an area adjoining a town or city (provided such majority own at least one-half of the acreage affected) wish to be annexed to that town or city, they may file a petition with the county court. A hearing must be held by the county court within 30 days of the filing. Following the hearing, another 30 days must be allowed for to receive objections to annexation. If there are none, annexation is recorded, and, unless the town or city refuses to accept the territory, by ordinance of the city council it becomes a part of the town or city.

When a municipality wishes to annex land contiguous to it, its governing body may, by a two-thirds vote of the city council or board of directors, adopt an ordinance to annex those lands. The annexation ordinance must be submitted to a vote of the qualified voters in the annexing municipality and in the area to be annexed. This ordinance must contain an accurate description of the land to be annexed and a schedule of services that will be extended to the area within three years after the date

of annexation. To pass, it must be approved by a majority of the total votes cast. The votes in the city and those in the proposed annexation area are not counted separately. Should two cities wish to annex the same territory, both cities must hold elections and, if annexation is approved for both cities, a third election shall be called. Only those living in the territory to be annexed may vote, and their decision is final. (A.C.A. 14-30-302 and 14-30-303)

Classification. Incorporated municipalities in Arkansas are classified according to population size. First-class cities are those having 2,500 or more inhabitants; second-class cities have at least 500 inhabitants, but fewer than 2,500; those with fewer than 500 are incorporated towns. Powers granted to municipalities vary with their classification. Once a municipality reaches a population of 500, it must be classified a second-class city, and once a municipality reaches 2,500, it must be classified a first-class city. However, if the citizens of a town of fewer than 500 inhabitants wish to become a second-class city, they may do so by adoption and publication of an appropriate ordinance. Similarly, any city of 1,500 or more may, by enactment of an ordinance, become a first-class city. (A.C.A. 14-37-103)

Forms of Government. Three forms of municipal government are used in Arkansas: mayor-council (also called aldermanic), city manager, and city administrator. All towns and second-class cities have mayor-council governments. All first-class cities have the mayor-council form of government unless a petition is filed with the mayor, signed by 15% of the number of voters who cast votes for mayor in the preceding election, asking that the people vote on the proposition that a different form of government be adopted. If this type of proposition passes, the city is reorganized and the question of changing the form of government cannot be resubmitted to the people for another six years. If the proposition fails, the question may not be resubmitted to the people for another four years. A majority of Arkansas cities and towns use the mayor-council system.

Mayor-Council Form. The corporate authority of a town or city using the mayor-council form of government rests with an elected mayor, an elected council, and such other elected or appointed officials as authorized by law. There are no special qualifications for those running for city office except that they must be residents of the city or town. Aldermen must be residents of the ward which they represent. City attorneys and district judges must be licensed to practice law. Candidates may run as nominees of political parties or may file as independents. The constitutional provision that prohibits persons appointed to office from running for that office does not apply to municipal offices. In mayor-council municipalities, all officials run at large except aldermen, who may be elected at large or, by ordinance of the city council, from wards, by those residing in the wards. (Amendment 29)

The mayor of a city is its "chief executive officer and conservator of its peace." The mayor is *ex officio* president of the city council and presides at its meetings. The mayor has a vote "when needed to pass an ordinance, bylaw, resolution, order or motion" and has the power of the veto. The veto must take place within five days after passage of an ordinance by the city council. Before the next regular meeting of the council, the mayor must file in the office of the city clerk a written statement giving reasons for the veto. At the next meeting, the mayor's veto may be overridden by a two-thirds vote of the council.

The mayor appoints all the municipality's department heads unless the city or town council members override the mayor's appointment by a two-thirds vote of its total membership. Most other appointments by the mayor require simple majority approval by the council. The mayor is also a member of certain administrative and quasi-judicial boards and commissions, including pension boards, sanitation and health boards, and others. In case of a vacancy in the office of mayor, second-class city councils may fill the vacancy by appointing a replacement or by calling a special election. In first-class cities, the city council is required to call a special election if the unexpired term has more than six months to run. The vacancy may be filled by vote of the council if less than six months remains in the term. In case of a vacancy in the office of alderman, the

city council elects a replacement unless it is in a city with a population of over 50,000. In that case, if the unexpired term exceeds one year, a special election shall be called. Vacancies in all other offices are filled by vote of the city councils. In incorporated towns, the town council fills all vacancies.

The city or town council is responsible for management and control of the municipality's finances and of all real and personal property belonging to the town. It has legislative authority to enact ordinances "necessary for the good government of the city and for the due exercise of its corporate power." (A.C.A. 14-43-502)

Salaries of the mayor, aldermen, and other officials are fixed by the governing body or the municipality, in accordance with Amendment 56 of the Arkansas Constitution, which states that salaries shall not exceed limits established by law. They may be increased, but not decreased during the term for which the officials have been elected or appointed.

City Manager Form. Only first-class cities with a population of at least 2,500 may adopt the city manager form of government. All executive and legislative authority in this form of government rests with an elected board of directors, including a mayor elected by the other directors, or with an elected board of directors and an elected mayor. There are four optional methods for electing directors:

- all members of the board may be elected at large;
- an odd number of directors, including the mayor, with any combination of directors, may be elected at large or from wards;
- all members may be elected from wards except the mayor, who is elected at large;
- all members may be elected from wards.

The directors choose the mayor unless a method of election is approved by a majority vote of the city's electors. The electors may require directors to be elected by a majority vote or by an approved percentage

less than 50%. In the first case, if no candidate receives a majority of the votes, a runoff election between the top two candidates is required. In the second case, the candidate receiving the approved percentage of votes and the most votes is elected mayor. If no candidate receives the approved percentage, a runoff election between the top two candidates is held.

An elected mayor may, by a vote of the qualified voters of the city, be given veto power but no vote unless there is a tie. A veto may be overridden by a two-thirds vote of the council. (A.C.A. 14-43-504 and 14-44-107)

To be qualified for election as a director or mayor, a person must have resided in the city for 30 days, be more than 21 years of age, and be a qualified elector. If a city has chosen to elect directors from wards, the candidates must live in the wards they plan to represent. Each candidate must file a petition with the city clerk that has been signed by at least 50 qualified electors. It must be filed not more than 60 or less than 40 days before the election. All elections are non-partisan. All terms of office are for four years. If a vacancy occurs in the office of director or mayor, the board of directors, by majority vote, elects a person to serve the unexpired term.

In the city manager form of government, neither the mayor nor the directors receive any compensation unless authorized by the voters of the city. The board is required to meet within the first and third weeks of each calendar month and may call special meetings when necessary. A majority of the board constitutes a quorum and a quorum is necessary for the transaction of business.

The mayor or any director may be recalled from office. The recall is accomplished by first filing a petition with the city clerk. The petition must be signed by qualified electors equal to 35% of the total number of votes cast for that office in the preceding election. The city clerk must verify within ten days that the signatures are those of qualified electors

and that there are a sufficient number of signatures. If the petition is determined to meet requirements, the city clerk notifies the board of directors, which then calls a special election to be held in not less than 30 days and not more than 40 days. A simple majority vote is necessary for removal. No recall petition may be filed against a director or mayor unless that person has served at least six months.

In the city manager form of government, the board of directors hires a city manager, whose length of service and salary are determined by the board. Powers and duties of the city manager include supervision and control of administrative departments, agencies, offices, and employees; preparation of an annual budget and an annual financial report; advising the board of the financial condition and future needs of the city; and performing additional duties and exercising additional powers as the board may lawfully delegate.

City Administrator Form. Any first-class city may adopt the city administrator form of government – seven elected directors and one elected mayor. The legislative and executive authority rests with the board of directors, subject to certain powers granted the mayor. The board is required to meet in regular sessions twice a month. The mayor presides over all board meetings and has the power of veto except in matters of personnel. The board may override the mayor's veto by an affirmative vote of five or more.

To be eligible to run for mayor or director, an individual must be at least 21 years of age, have resided within the municipality for at least six months, and be a qualified elector. A city with city administrator form of government is divided into four wards "composed of contiguous territory and of substantially equal population." The director positions are numbered 1, 2, 3, 4, 5, 6, and 7. The persons elected to fill positions 1, 2, 3, and 4 must be qualified electors of their respective wards and be elected by the qualified voters of those wards. Positions 5, 6, and 7 and the position of mayor are elected at large. All terms are for four years

and all elections are non-partisan. Any person desiring to be a candidate must file a petition signed by at least 50 qualified electors of the city.

The mayor is not required to give full time to the office and may receive such salary or compensation as determined by the board of directors within limits set by law. Once the salary amount is set, however, it may not be increased or decreased during the term of office for which the mayor was elected.

Directors receive compensation for their attendance at meetings, but not for special meetings. The board compensation "may not exceed 1/24 of 20% of the compensation permitted municipal offices." A director failing to attend five consecutive regular meetings or 50% of the regular meetings held during a calendar year is deemed to have resigned. The procedure of recall, which may be used to remove the mayor or any director, is the same as that used in the city manager form of government.

In a city with the administrator form of government, the board of directors employs a city administrator who serves at the pleasure of the board. The offices of treasurer, city clerk, city attorney, heads of departments, and city employees are filled by the administrator with the approval of the board of directors. It is also the city administrator's responsibility to supervise all city employees, departments, agencies, and offices, and to perform such other duties as may be assigned by the board of directors. Salaries of the city administrator and all city employees are determined by the board. (A.C.A. 14-48-109 and 14-48-110)

Initiative and Referendum. Legal voters may exercise their initiative and referendum powers to enact or reject local ordinances as long as it does not contradict the state's constitution or general laws. See Chapter 2 for petitioning criteria. Municipal governments may choose to refer any ordinance to a vote of the people. If so, at least two-thirds of a city council or board of directors must approve the referral.

Municipal Revenues. The primary monetary sources for municipal governments are local revenues. Most of the monies come from the local option sales tax, franchise taxes, fees, and the ad valorem property tax. The state of Arkansas is usually the second largest contributor to municipal government budgets. These state funds, or turnback, help cities cover general and street expenditures. The federal government also plays a role, usually through grants-in-aid or loans. In general, federal contributions as a percentage of Arkansas communities' budgets have declined over the last two decades. This has forced the municipalities to rely more upon local revenues (see Chapter 10).

Municipal Expenditures. The expenditures made by cities and towns in Arkansas vary considerably, depending on the size of the municipality and the services offered. In general, however, between 25 and 30% of a city or town's general operating budget is spent on police protection, between 15 and 20% on fire protection, between 20 and 30% on streets, and the remainder on administration, health, parks and recreation, sanitation, libraries, emergency medical and other services. Water and sewer operations often involve major expenditures, but, if operated under a water and/or sewer commission, they are financed by user fees and charges, and financial accounting for them is separate from general municipal operations.

Boards and Commissions. The number of boards and commissions in a municipality depends on the nature of services provided. If a city or town participates in planning and zoning, a planning commission is usually created. If a municipality has a library, there is a library board. If there are municipally supported parks and recreational programs, there is a parks and recreation board. In first-class cities using a civil service system, a five-person civil service commission is appointed to supervise the city's civil service for the police and fire departments. If a city levies a gross receipts tax on hotels and restaurants, it must create a city advertising and promotion commission to oversee expenditures of the tax revenue.

Other boards municipalities may create include airport commissions, housing authorities or urban renewal agencies, arts or museum boards, port authorities, public facilities boards, city beautification committees, etc.

Other Local Government Entities

Over the years, regional and intergovernmental organizations have been created for a variety of reasons. Some of the earliest were improvement districts created for projects such as levee management and drainage control. Later, cooperative arrangements among units of government were developed in response to grant opportunities provided by the federal government. In 1955, Act 26 was passed, enabling creation of joint planning commissions by various combinations of adjacent counties, cities and towns. Examples include Metroplan (Pulaski and Saline Counties); Northwest Arkansas Regional Planning Commission (Benton and Washington Counties); Southeast Arkansas Regional Planning Commission (Pine Bluff-Jefferson County); and the Southwest Regional Planning Commission. These still exist, but their function today is primarily accomplished through contracts with the local governments in their district to provide services like mapping, census taking, annexations, and city planning and zoning. (A.C.A. 14-17-302)

In the 1960s, a second type of area-wide planning agency developed in Arkansas because of the passage by the United States Congress of the Public Works and Economic Act. To receive funds under this act, eight Economic Development Districts (EDDs) were formed in Arkansas. Each district was required to include at least two redevelopment counties and at least one growth-center city capable of the economic growth necessary to improve economic conditions in the district. Act 118 of 1969 expanded functions of EDDs and renamed them Planning and Development Districts (PDDs). (A.C.A. 14-166-201) Although direct federal grants available to the PDDs are not as numerous as in the 1960s and 1970s, the eight districts solicit funds and grants in order to provide

services and planning for agencies involved with aging, housing, job training, regional jails and juvenile detention facilities, transportation planning and operations, and economic development.

In 1967, the "Interlocal Cooperative Act" was passed to give local government broad authority to create intergovernmental organizations to address area needs and projects. (A.C.A. 25-20-101) Over the years, this general law has been supplemented by laws which govern specific kinds of projects, such as regional airports, housing authorities, tourist promotion agencies, port authorities, regional jails and/or juvenile detention facilities, water distribution districts, industrial development agreements, and others.

While local units of government are not required to deal with problems through cooperative arrangements, some issues are considered so important that the entire state is divided into districts for implementation in their area of a state program. An example of such an issue is solid-waste management. In 1989, the General Assembly passed legislation creating eight Solid Waste Planning Districts, whose boundaries coincided with the PDD boundaries. Subsequent legislation in 1991 changed their name to Solid Waste Management Districts and permitted counties to combine to form other management districts if there was more than one county in a district (unless a county had a population of 50,000 or more), and required that two or more of the counties be adjacent to one another.

Each district has primary responsibility for providing a solid-waste management system. This includes solid waste pick-up, resource recovery, and solid waste disposal. The state legislature gave the districts management control over landfills, including watershed protection. It allowed the districts to adopt stricter standards for landfills and waste-disposal operations than the state, if districts had an approved comprehensive land use plan in operation. (A.C.A. 8-6-703 and 8-6-209)

Other statewide regional councils and boards include the seven Resource Conservation and Development Councils, which operate under the state's conservationist, an official who provides soil, water, and natural resource conservation leadership.

Another type of regional government may cross state lines and deal with river basins or with economic development for areas such as the Delta region. Other examples are the three interstate planning agencies: the Mississippi-Arkansas-Tennessee Council of Government (MAT-COG); Arkansas-Texas Council of Governments (Texarkana); and Arkhoma Regional Planning Commission (Fort Smith).

Other interstate arrangements involve interstate compacts. Some of these are the result of federal mandates to cooperate on matters such as disposal of low-level radioactive waste, while others involve interstate issues such as river basin management, regional economic development, bridges, extradition, education, conservation, energy, fires and fire prevention, driver's license reciprocal agreements, libraries, juvenile delinquents, pardons and paroles, pollution, flood control, and taxes.

School boards are also local forms of government (see Chapter 9).

Comparison to Other States

Forty-eight of the 50 states have governing authorities that operate like county government. They may be called parishes, boroughs, or counties, but they perform the same functions. Therefore, Arkansas is similar to the rest of the country in this structural feature.

Arkansas counties also resemble those throughout the country in population size. According to the National Association of Counties, almost three-fourths of U.S. counties have populations of less than 50,000.

Three basic forms of county government are used in the United States: commission; commission-administrator; and council-executive. In most states, most counties use the commission form. Some states give their counties the option to select their governing form. However, Arkansas is different, because the state legislature mandates that counties must be led by an elected executive. While Arkansas counties may restructure and consolidate some county offices, they must preserve the county judge position.

Arkansas counties also have a financial advantage over many counties throughout the country. Only a slight majority of states allows counties to impose a sales tax. The state of Arkansas permits county governments to use this revenue source.

Arkansas is very much like the rest of the country regarding municipal governments. For example, to incorporate or create a city, residents must petition the county or state for incorporation. One interesting feature in Arkansas is that if a proposed new city is within five miles of a previously incorporated area, the older incorporated community must give its explicit permission to the new city.

Annexation is another feature that is common in most states. Historically, annexation was one of the most popular ways for cities to add territory and population. A key difference among the states is the level of difficulty concerning annexation. Some states make cities wait until land owners petition to be annexed into the city. These restrictions tend to make annexation very difficult. Other states make it very easy for cities to annex unincorporated areas. Arkansas rules seem to be somewhere between these two extremes. For example, individual votes cast to annex an area are weighted equally among those from the incorporated city and those from the proposed annexed area. This would tend to favor annexation efforts. However, other Arkansas procedures may serve to undermine annexation. As noted earlier, the community seeking annexation must provide a schedule of services that will be provided in the next three years. Therefore, annexation opponents can point to

financial and taxation issues that will be affected by the additional territory.

Arkansas also resembles other states in that the most common form of municipal government in both the state and the nation is the mayor-council form. In addition, the numbers of city-manager governments have actually declined in Arkansas.

Finally, unique features of Arkansas local government are the progressive reforms of initiative, referendum, and recall. As noted in Chapter 2, Arkansas is among a small number of states that allow the initiative and referendum procedures. Therefore, the citizens' ability to place local government issues before the voters (e.g., city government structure, alcohol sales on Sunday, etc.) gives the Arkansas local electorate a great deal of power.

Historically, local governments focused only on vital services. Today, local governments are involved in economic development efforts, child welfare, water quality and numerous other issues. Arkansas local governments continue to be important agents addressing concerns of the state's citizenry.

Learn More

Arkansas Municipal League

<https://www.arml.org/>

Association of Arkansas Counties

<https://www.arcounties.org/>

The National Association of Counties

<https://www.naco.org/>

The U.S. Conference of Mayors

<https://www.usmayors.org/>

Political Parties and Interest Groups

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Purpose of Political Parties and Interest Groups

Political parties and interest groups are institutions through which average citizens can convey their wishes to political officials. As such, they are considered two of the most important extra-governmental players in the political process.

Political Parties

Definition and Functions. Although there are varying definitions of political parties, one common feature is the concept of seeking elective office under a specific label. Political scholar Marjorie Randon Hershey characterizes parties as “a group organized to nominate candidates, to try to win political power through elections, and to promote ideas about public policies.” (2011: 6)

The party definition used in Arkansas focuses on actual or potential election activity. A political party in Arkansas is defined by law as “any group of voters which, at the last preceding general election, polled for its candidate for governor in the state or nominees for presidential electors at least three percent of the entire vote cast for such office; or which files with the secretary of state a petition signed by qualified electors equal in number to at least three percent of the total vote cast for the office of governor or nominees for presidential electors at the last preceding election declaring their intention of organizing a political party...” (A.C.A. 7-1-101)

Any newly organized party in Arkansas will not be recognized or qualified to participate in elections until its officers state under oath that the party is not affiliated with the Communist party, does not advocate overthrow of the United States or state government, and does not support sabotage or violence against the United States or state government. State law says that political parties shall have the right to prescribe the qualifications of their own membership, the qualifications for voting in their party

primaries, and the right to establish rules and procedures for their own organization.

Although there is not complete agreement among analysts concerning political party functions, some of the most common roles associated with parties are electing candidates, educating citizens, and governing. (Hershey, 2011: 10-11)

Parties attempt to recruit and screen potential candidates within the electoral process. From the White House to the courthouse, parties must find persons who are willing to seek elective office under their label. There is a certain degree of self-recruitment involved for those vying for a major party nomination. This is especially true for the most desirable posts, such as U.S. Senator, U.S. Representative, or state constitutional officer. When a city or county office provides little economic compensation or when effectively pursuing the position requires resources almost equal to the salary, parties may be challenged to recruit candidates.

Another role of political parties is to educate the public. Parties communicate their stance, or platform, on a wide range of issues. They also plan public meetings that give voters opportunities to express and hear various opinions on election or policy questions.

Parties also encourage participation among the electorate through voter registration drives and transportation to the polls.

When elections are very close or when polling place practices are questionable, parties sometimes contest elections.

Loyal opposition is another role of political parties. The idea is that competing parties keep each other honest. When a party does not control the executive or legislative branch, it can report corrupt or deceptive practices of the party in power. The party out of power is a channel for expressing dissatisfaction with the current policy decisions.

Party Organization. Political parties have decentralized organizations. Any political organization will likely have a national organization as well as a separate party structure at state and local levels. Great diversity exists in the power and resources of the various state party apparatus. However, since a key feature of political parties is electoral activities, state and local organizations are important, because most elective positions are at these levels.

County Committees and County Conventions. Arkansas state parties follow the pattern of most states. The basic building blocks of the state party structure are county committees. These committees are usually selected from precinct or wards, but the county committees provide the parties' basic working units. Each county party has an elected chairperson who heads the local organization. Just like state organizations, county committees vary in their strength and cohesiveness. Many county organizations have official office space and personnel only during election years.

County party organizations in Arkansas are most visible during the election cycle. County conventions or committees are involved in the process that selects delegates to the National Party Convention, where the official party nominee for president is selected. Members of the local party organization also provide workers for campaigns, assist with voter registration drives, and transport voters to the polls.

State Committees and State Conventions. Historically in the U.S., the strongest party units have been state party organizations. Once again, states vary in the strength and enduring nature of their party organizations. Today, both the Democratic and Republican parties have formal party organizations. Each party has a state chairman and some paid staff members. The paid staff tends to expand during election years. An executive committee or central committee usually conducts the ongoing party business. The parties take steps to provide geographic representation on the state committees using U.S. congressional district

boundaries. State committee meetings are conducted according to party rules. Arkansas law requires that all political parties (this includes newly formed or third parties) conduct state conventions following the biennial general primaries for the purpose of (1) receiving and declaring the election results as well as certifying the party nominees, and (2) performing such other duties as may be required by party rules or by law. One "other such duty" is the election of members of the state committee. (A.C.A. 7-3-107)

An interesting party feature is the determination of majority or minority party status. Arkansas law defines the majority party as that political party whose candidates were elected to a majority of the seven constitutional offices of the state in the last general election. The minority party is that party whose candidates were elected to less than most of the constitutional offices in the last general election, or the political party which polled the second greatest number of votes for governor if all elected constitutional officers were of the same party. (A.C.A. 7-1-101)

National, State, and County Committee Members. Political parties in the U.S. select national, state, and county committees. Party rules dictate who will serve as a member of the party's national committee. State committee members are elected by state county conventions and approved by state conventions. The law requires those voting in the party primaries to elect county committee members from each election precinct, township, or city ward. In practice, however, both parties do not always hold primaries in all counties and often there are insufficient qualified candidates running to fill all committee vacancies. In such cases, committee members may be selected to fill these positions at any public meeting of the county committee.

Interest Groups

Interest groups link like-minded citizens and institutions with governmental decision-makers. An interest group can be defined as any association of like-minded citizens that have a shared attitude, opinion, or value; who make demands on others in society, with respect to that shared attitude, opinion, or value. This definition involves two important characteristics. First, interest group members must have something in common. This can be real or imagined, but they must see themselves as part of a group. Interest groups also make demands on others in society. It is not enough to think like others or to have a common value. Interest-group members must take the next step and act on their joint concerns. Ultimately, interest groups want to influence government on issues that benefit the group.

Types of Interest Groups. There are a wide variety of interest groups in the U.S. and in Arkansas. One of the most common is the economic interest group, whose members participate in politics to provide financial or economic benefits to their members. Some of the groups' goals may include additional or reduced government regulation, direct subsidies, or lower taxes. Examples of economic groups are the Farm Bureau, the banking industry, public utilities, corporations, and unions.

Some interest groups focus on racial, gender, and age equality. They tend to be ideological, but they may attempt to build alliances across differing political viewpoints. Equal opportunity groups include the National Association for the Advancement of Colored People (NAACP), the National Organization for Women (NOW), and the American Association of Retired Persons (AARP).

Public interest groups play a vital role in politics. These groups are distinctive, because they seek to benefit the public, not just individuals who belong to the group. Examples of public interest groups would be the League of Women Voters, Common Cause, Arkansas Education Association, consumer groups, and religious groups.

Other interest groups concentrate on single issues. For example, abortion (NARAL Pro-Choice America and National Right to Life) and gun ownership (Coalition to Stop Gun Violence and National Rifle Association) are two polarizing issues that generate substantial debate.

Interest Group Resources. Interest groups use a variety of resources in their political efforts. The more tools they have, the more likely they are to be successful in their efforts. One resource is the intensity of its members. Groups whose members are in strong agreement with the organization's goals have a major advantage over those whose members only nominally identify with the association. The more readily group members identify with the group's mission, the more likely they are to devote time, energy, and money to achieve these objectives. They will make telephone calls and write letters or emails to political decision-makers. In addition, they are willing to contribute money to candidates who support the group's political goals.

Membership size is a resource to interest groups. However, not all analysts agree what size is optimal for group influence. Large memberships provide obvious benefits. With many supporters, the organization may have members throughout the state. This can be translated into potential contacts with every member of the legislature. However, there are those who argue that small groups tend to be the most effective. They contend that small groups are more cohesive, and in a smaller organization, the rewards are bigger for everyone.

The quality of leadership can significantly affect interest groups in their political efforts. Effective leaders can reduce in-fighting among the members. In addition, they can keep the organization on track and working toward the same objectives.

Finally, financial resources are key, because money can be translated into other resources. For example, if the group needs a quality leader, a wealthy organization can hire someone with the desired skills. In

addition, financial status tends to give the group easier access to many decision-making arenas. Although there is no single answer to what makes an interest group politically successful, this resource list provides a good starting point for interested citizens.

Strategies and Tactics of Interest Groups. In general, interest groups may pursue three major strategies to influence or lobby political decision makers.

Inside Strategy or Direct Lobbying. The group engages in direct contact with government officials. They may have a face-to-face meeting with an individual decision-maker, testify at a congressional hearing, or make a presentation at an open forum. These are opportunities for the group to articulate their objectives and provide supporting information that may otherwise not be available to officials. In some cases, these groups are actively involved in drafting state legislative proposals.

Entertainment is another direct lobbying tactic, whereby group representatives arrange and pay for social and recreational gatherings with public officials. Groups may also make campaign contributions, provide campaign volunteers, or sponsor fundraising opportunities for favored candidates. The goal is to influence whoever holds office, creating a sympathetic environment for the organization's objectives. These occasions for close communication with public officials make direct lobbying or an inside strategy an effective way to influence the political process.

Outside Strategy or Grassroots Lobbying. Grassroots mobilization works to shape public opinion in support of an interest group's goals. This type of lobbying focuses on involving average citizens in the policy-making process. To accomplish this goal, interest groups may use advertising and internet-based technologies. Ultimately, the group needs citizens to contact decision-makers and promote the organization's perspectives.

The outside strategy seeks to make elected officials more responsive by using constituents as amateur lobbyists. This “shotgun” approach involves interest groups encouraging large numbers of citizens to act together by writing, phoning, and/or e-mailing a legislator or executive official. The group can attempt a “rifle” approach, persuading an influential constituent to contact a legislator or executive leader on a specific issue. The assumption is that the influential individual may have access that has been denied the group.

Legal Strategy or Litigation. A legal strategy means that interest groups are using the court system to pursue their policy goals. This has become a more popular approach because courts are playing a more active role in government decisions. Arkansas is no exception. The Lake View School District case (see Chapter 9), for example, has changed the way the state finances public education. Since education is the largest single item in the state’s budget, this ruling and others continue to shape state politics.

When a group employs a legal strategy, it may be a direct party in the litigation. The group may provide legal arguments to support one side in a case. It can also initiate a class action lawsuit. In this situation, the group brings a suit on behalf of individuals with a shared characteristic that makes them a legal class. It can provide legal staff or pay attorneys who are arguing the case. Also, the group can participate in litigation without being a direct party in the suit. Interest groups may submit *amicus curiae* (“Friend of the Court”) briefs. This means the group provides a legal rationale for deciding a case in accordance with the group’s views. Overall, these three strategies can all be effective techniques to influence state governmental decision-making.

Comparison to Other States

For much of the twentieth century, the South was referred to as the “Solid South,” indicating a high degree of loyalty to Democratic candidates for any elective office. As with most southern states, the Democratic Party has been the predominant party in Arkansas. However, in the late 1960s this began to change. Today, state legislatures and members who hold office in the Deep South states are predominantly Republican. Arkansas had been the exception to this dramatic shift. Those claiming Democratic Party affiliation held most seats in the General Assembly from the 1870s until the early 2000s.

Today, Arkansas has become more like the other southern states. Republicans hold significant majorities in the state legislature and most of the state’s constitutional offices. This trend is apparent in Arkansas’ voting patterns in presidential elections. Since the 1970s, only two Democratic presidential candidates, both from the South, have carried Arkansas (Jimmy Carter in 1976 and Bill Clinton in 1992 and 1996). In all other presidential elections, Arkansans have cast more votes for the Republican presidential candidate (1972, 1980, 1984, 1988, 2000, 2004, 2008, 2012, and 2016). Analysts are especially interested in knowing whether this Republican dominance will be a long-term partisan make-up of the Arkansas electorate.

Historically, the South has had weak political party organizations. This characteristic has provided interest groups an opportunity to expand their political influence in the state. A classic analysis of interest groups identifies five categories of influence among the states: dominant, dominant complementary, complementary, complementary subordinate, and subordinate. In the dominant category, interest groups have a consistent and guiding impact on state decision-making. In states in the dominant complementary category, interest groups have a great deal of power, but they are sometimes balanced by other political actors. In the complementary category, there is equilibrium between the influence of interest groups and other state institutions. In the complementary-

subordinate category, interest groups may have some impact, but other political leaders play a greater policy role. Subordinate describes a situation where interest groups are weak and ineffective in the governmental arena. Arkansas, along with 25 other states, has been classified as dominant-complementary. (Thomas and Hrebenar, 1999: 13) This indicates that interest group influence in Arkansas is like many other states. Moreover, it indicates that interest groups can have a significant effect on state government.

Several features contribute to the impact of interest groups on Arkansas politics. One factor that seems to empower interest groups is a decentralized state executive. A variety of constitutional officers provide many points of access and influence. In addition, the citizen legislature remains in close touch with the public. This easier access can lead to expanded opportunities for political lobbying. Also, as noted earlier, Arkansas' political parties have traditionally been weak, which allows greater group influence.

Interest groups in Arkansas are in a state of flux. The state may be in the dominant complementary category for interest group influence, but this is not a permanent situation. If the state's economy continues to diversify, additional interests could arise. With new interests entering the political arena, old alliances may be challenged. Therefore, citizens should remain attentive to the evolving nature of political party rivalries and interest group competition.

Learn More

Arkansas Democratic Party

<https://www.arkdems.org/>

Arkansas Republican Party

<https://www.arkansasgop.org/>

Democratic National Committee

<https://democrats.org/>

Republican National Committee

<https://www.gop.com/>

League of Women Voters of Arkansas

<https://my.lwv.org/arkansas>

Vote Smart

<https://votesmart.org/>

Elections

8

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Purpose of Elections

Voting is important in democratic societies. Free and open elections allow citizens to choose their decision makers. Moreover, elections provide legitimacy for public officials, because this process formally establishes the “consent of the governed” concerning their actions. As in any electoral system, the current rules and procedures have developed over a long period of time. Many changes are the result of addressing past shortcomings in the electoral process. New circumstances continue to require adjustments and changes in election procedures.

Voting Rules

The original intent of the United States Constitution was to leave matters regarding elections and voter qualifications to the states. However, amendments to the constitution, decisions made by the United States Supreme Court, and federal laws have placed some restrictions on the states’ powers in the election process.

In recent years, the United States Supreme Court has consistently interpreted the Fourteenth Amendment guaranteeing “equal protection of the laws” to mean that the states must apportion their representative districts to be of equal population size so that every citizen’s vote will be of equal value. The Supreme Court has also struck down lengthy residence requirements for voting, declaring that such deny equal suffrage to all citizens. The Voting Rights Acts of 1965, 1970, 1975, 1982, 1988, and 2006 specifically spelled out the meaning of equal suffrage and thereby helped make voting and election laws considerably more uniform throughout the nation. In addition, the passage of the National Voter Registration Act, or the “Motor Voter” Act, required that states allow simultaneous application for driver’s licenses and voter registration. The legislation facilitates easier voter registration, but it does not provide automatic voter registration with driver’s license renewal. To be registered, citizens must still complete voter application materials.

The Arkansas Constitution guarantees that “elections shall be free and equal. No power, civil or military, shall ever interfere to prevent the free exercise of the right of suffrage...” (Art. III, Sec. 2). Seven subsequent amendments to the constitution and numerous laws have detailed voter registration and election procedures, but it was not until 1967 that the election procedures were compiled into a usable code. Indeed, there is still considerable confusion about election laws, and election law revision is addressed by almost every session of the General Assembly. Fundamentally, the detailed rules of election procedures require continual oversight.

Voter Registration

Eligibility. To be eligible to vote in Arkansas, a person must be a citizen of the United States, 18 years of age, and have registered to vote with the permanent registrar (county clerk) of the county where that person lives. There are no other residence requirements, although a citizen must register at least 30 days before an election and must have resided at the location listed on the voter registration roll 31 calendar days prior to the election.

Registration. Numerous changes have been made in the voter registration system in Arkansas to make it comply with the Motor Voter Act. In addition to the permanent registrar (county clerk), the following may now serve as voter registration agencies: the Office of Driver Service of the Revenue Division; public assistance agencies (League of Women Voters, etc.); disabilities agencies; public libraries; and the Arkansas National Guard. Voters may also obtain registration forms online from the Arkansas Secretary of State’s Office. To register, a prospective voter must go in person to the county clerk’s office or to one of these agencies. The county clerk and all authorized agencies can typically provide registration forms in both English and Spanish. Special accommodations can also be made for assistance in other languages by contacting the county clerk’s office.

The law allows county clerks to assign deputy registrars at polling places on Election Day, although it does not grant those registering the right to vote in that day's election. A newly registered person must still wait 30 days before voting in an election. A person who is ill or disabled shall be registered by the permanent registrar or deputy "at his place of abode within such county, if practicable." Members of the armed forces while in active service, members of the Merchant Marine, citizens of Arkansas residing temporarily outside the territorial limits of the United States and their "spouses and dependents when residing with or accompanying them" need not register to vote.

To register to vote, a person must provide either a driver's license number or the last four digits of his/her social security number. For new residents, a valid driver's license from another state is recognized for up to 30 days. If a person does not have either, he/she must indicate on the application they lack these documents. These persons may be required to use a provisional ballot when voting for the first time unless he/she submits a copy of one of the following with a mail-in application or at the time of voting: a current and valid photo identification or a current utility bill, bank statement, government check, paycheck or other government document that shows the person's name and address.

Registration is complete when the county clerk's office sends a person a voter identification card with the precinct listed. If a person does not receive a voter ID card within two weeks, he/she should call the county clerk's office to make sure his/her voter registration was processed.

At the Arkansas Secretary of State's Voter View web site (www.voterview.org), individuals may check their voter registration information, find a list of all districts and precincts in which they are eligible to vote, and view sample ballots.

Once a voter is registered, it is not necessary to register again unless the registration is canceled. Periodically, counties will mail notices to voters

who have not voted in several elections to update voter rolls. If a voter receives such a notice, it is important to mark the correct address and return the card to the county clerk so the voter registration can be updated. Cancellation occurs when a voter:

- changes residence to an address outside the county;
- dies or changes his or her name;
- has been convicted of a felony and has not discharged the sentence;
or
- is not a lawfully qualified or registered elector of the state or county.

County clerks are required to notify voters 30 days before canceling their registration. This may be done by mail or by publication of the list of names of those whose registration is to be canceled in a newspaper of general circulation in the county. Voters so informed may re-establish their registration by notifying the county clerk of their desire to remain registered. A voter who does not notify the county clerk must register again. A change of address within the county may be corrected in person or by signing a mailed request providing the old and new addresses. In case of a change of county or a move out of state, or a change of name, a person must register again in person.

For students 18 and older attending an Arkansas school away from their family's home residence, Arkansas law allows them to choose whether they will register or remain registered at their family home location or register to vote in their Arkansas location of residence while in school. If they register or remain registered in their home location, they must return home to vote or vote via absentee ballot. To register and vote at their school location, students must plan to return to that location after temporary absences, like summer break, but they do not have to plan on living permanently in their school location to be eligible to vote there. Ultimately, they may only be registered in only one location, home or school.

In Arkansas, people do not declare their political party affiliation when they register. However, in a primary election, individuals must state the

party primary in which they wish to vote. If they do not wish to cast a party ballot, they may vote in the nonpartisan races only, which may include judicial and prosecuting attorney races and local issues such as tax increases.

Elections

Administration. The responsibility for administration of existing Arkansas election laws is shared by the State Board of Election Commissioners, the auditor of state (for voter registration), and the secretary of state (elections). In actual practice, primary responsibility for voter registration rests with the 75 permanent registrars (county clerks), and for elections with the 75 County Boards of Election Commissioners.

The State Board of Election Commissioners consists of seven persons, with at least one from each congressional district. The members are: the secretary of state, one person designated by the Democratic Party, one by the Republican Party, one chosen by the president *pro tem* of the Senate, one chosen by the speaker of the House, and two by the governor. The governor must select one person who is a county clerk, and one person who has served as a county election commissioner for at least three years. Except for the secretary of state and the county clerk, no member shall be an elected officer. The secretary of state serves as chair and keeps records of the board's meeting. The board is required to meet at least every three months.

A duty of the State Board of Election Commissioners is to choose one member of county election commissions. The board also inspects and approves (or disapproves) the different types of voting machines or electronic voting systems to ensure compliance with the standards established by law. The board may perform additional duties, such as publishing an election handbook, conducting statewide training for election judges and clerks, investigating citizen complaints, and establishing guidelines for and monitoring the qualifications of election officials. Overall, state law requires the State Board of Election

Commissioners to “formulate, adopt and promulgate all necessary rules and regulations to assure even and consistent application of fair and orderly election procedures.” (A.C.A. 7-4-101)

The County Boards of Election Commissioners are responsible for the administration of elections in their respective counties. Historically, party primaries were the responsibility of the political parties, but now state law provides that the cost of party primaries will be paid by the state. The County Boards are composed of three individuals: the chairs of the county majority and minority parties and a third member selected by the State Board of Election Commissioners from a list of five names submitted by the county committee of the majority party. Elected officials may not serve on this board. If a county party chair chooses not to serve, a substitute may be designated.

The County Board of Election Commissioners is charged with apportionment of the county into quorum court districts and with management of elections. Regarding elections, the county board is responsible for:

- establishing voting precinct boundaries;
- choosing polling places, which must be accessible to the disabled;
- selecting election judges, clerks, and election sheriffs to oversee the election process;
- organizing training for election officials to ensure that at least one official at every polling site has been trained;
- printing the ballots;
- providing voter lists, tally sheets, certificates, and ballot boxes;
- providing voter booths if voting machines are not used;
- advising the quorum court on use and purchase of voting machines or voting devices; and
- counting, certifying, and reporting election results.

All polls must open by 7:30 a.m. and close at 7:30 p.m. Every polling site in the state offers at least one touch-screen voting machine that is accessible for voters with physical and visual disabilities. Some sites offer

paper ballots that are counted electronically. The County Board of Election Commissioners determines which system is used, but it must be a system approved by the State Board of Election Commissioners. The constitution and state laws are written primarily to cover use of paper ballots and voting machines. However, because of the variety of new systems now available, state laws do not always cover all election circumstances. Each polling site must have a minimum of two election clerks, one election judge, and one election sheriff.

In elections where paper ballots are used, the County Board of Election Commissioners, or in a primary election, the county political party committee, is responsible for appointing a "sufficient number of judges and clerks at each ballot box." Where paper ballots are used, the election commission is responsible for providing voting booths that are "situated to permit voters to prepare their ballots screened from observation."

In a county where voting machines or electronic voting systems are used, the County Board of Election Commissioners must appoint one judge and one clerk to represent each of the majority or minority parties and one election sheriff. Additional sets of judges and clerks may be appointed if it is determined that they are necessary.

All election officials must take an oath swearing that they will perform their duties to the best of their abilities and that they will "studiously endeavor to prevent fraud, deceit and abuse," and that they will not disclose how any voter voted. In case no person authorized to administer oaths is present at the opening of an election, judges may administer the oath to each other and to the clerks.

By state law, every employer must schedule work hours of employees on election days to assure that every employee will have the opportunity to vote. An employer failing to do so may be fined. (A.C.A. 7-1-102)

Absentee Voting. Any qualified elector may vote absentee. It is necessary for a voter to declare that he or she would be “unavoidably absent” on the day of election or would be unable to attend due to illness or physical disability. The county clerk is custodian of all absentee ballots and administrator of absentee voting procedures. To vote absentee, a voter must first request a ballot. Applications for absentee ballots must be signed by the applicant or, if sent by facsimile machine, must bear a verifiable facsimile of the applicant’s signature. Applications for absentee voting may be secured by:

- requesting by mail or in person from the county clerk's office an application form. The application form must be signed by the voter and returned to the county clerk’s office in one of four ways:
 - in person at the county clerk’s office;
 - by mail from 90 days to one day before the election;
 - by delivery of the application form to the office of the county clerk by any immediate relative;
 - by delivery of the application form to the office of the county clerk by 1:30 p.m. on election day or by the administrative head of a hospital or nursing home.

- sending a signed postcard or letter to the county clerk requesting a ballot at least seven calendar days prior to the election.

- requesting by facsimile machine an application from the county clerk's office and then transmitting the completed application by facsimile to that office within the time limits specified.

Upon receipt of the application form or the mailed request, the county clerk must determine that the signature is identical with the one on the voter’s registration record. Then the county clerk will give the voter a ballot, mail a ballot to the voter, or give a ballot to an immediate relative or hospital agent.

Completed ballots may be returned by the voter to the county clerk's office no later than the day before the election; or they may be mailed to the county clerk, but must be received not later than 7:30 p.m. the day of the election; or be delivered to the county clerk's office by a close relative or hospital agent by 7:30 p.m. the day of the election.

Any person eligible to vote by absentee ballot may request the county clerk mail to an address within the continental United States an application for an absentee ballot for an election and for each election thereafter. The request remains in effect for one year unless revoked by the voter. Also, citizens of the United States temporarily residing outside the United States, and their spouses and dependents may request absentee ballots for any one or more elections during any one calendar year by submitting only one application. In both cases, the county clerk mails absentee ballots no later than 30 days prior to each election.

To assure that all overseas ballots will be counted, the law requires County Boards of Election Commissioners to begin the certification process no earlier than 48 hours nor later than fifteen calendar days after an election. (A.C.A. 7-5-701)

Early Voting. An initiative that assists Arkansas voters is the practice of early voting. Citizens may take advantage of early voting 15 days before a preferential primary or a general election. In all other elections, including runoffs, citizens may vote early 7 days before. In most counties, early voting takes place at county clerks' offices. County election boards may opt to hold early voting at additional polling places. In this case, the county clerk must inform the public about these other locations. In most situations, early voting occurs during the regular office hours of the county clerk; however, a county's election board may extend the office hours to accommodate early voting. (A.C.A. 7-5-418)

Cost of Elections. Costs of all elections are the responsibility of the county operating through the County Board of Election Commissioners. However, cities and incorporated towns must reimburse the board for expenses of general elections in "an amount equal to a figure derived by multiplying 50% of the total cost of the election by a fraction, the numerator of which shall be number of voters from the city or town casting ballots in the election and the denominator of which shall be the total number of voters casting ballots in the election." In elections where city, town, or school districts have races, questions, or issues on the ballot, those entities reimburse the county for total cost of their elections or for that portion of the cost created by the inclusion of their items on the ballot.

Primary elections are the responsibility of the state. The General Assembly appropriates primary election funds to the State Board of Election Commissioners. Within each county, the county board of election commissioners conducts political party primary elections under the direction of the state board.

Judges, clerks, and sheriffs serving at elections are paid varying amounts, depending on the level set by the quorum court. The quorum court must also appropriate funds for printing of ballots; purchase, storage and care of equipment; and for preparing and transporting voting machines and electronic voting systems.

Election Law Violations. Some election offenses are classified as Class-A misdemeanors and are punishable by a fine not exceeding \$1,000 or by imprisonment in the penitentiary not exceeding one year, or by both. Any person convicted of any of these offenses is ineligible to hold office or employment in any department of the state. An employee of the state convicted of one of these offenses is immediately removed from employment. If any person is convicted of a violation while holding public office, the action "shall be deemed a misfeasance and malfeasance in office and shall subject the person to impeachment."

Violating any of the following rules constitutes a Class A misdemeanor (A.C.A. 7-1-103):

- No article, statement or communication appearing in any newspaper intended or calculated to influence the vote of any elector in any election and for which money is paid may be printed without being preceded by or followed by the phrase "Paid Political Advertisement" in conspicuous letters.
- No person may assess, solicit, or coerce a state employee into making a contribution for a political purpose.
- Public officers may not use any public room or office as political headquarters or as distribution center for campaign materials.
- No campaign banners, cards, or campaign literature may be placed on any cars, trucks, or tractors belonging to the state of Arkansas or any municipality or county in the state.
- No electioneering may be done within 100 feet of a polling place during the early voting period or on Election Day.
- No person shall make a bet or wager on the result of any election.
- No election official shall perform election duties without taking the prescribed oath.
- No election results shall be divulged until at least 30 minutes after the closing of the polls.

Other violations are listed as Class D felonies and are punishable by not less than one year or more than five years in the state penitentiary or a fine not to exceed \$5,000 or both. Violating any of the following rules constitutes a Class D felony (A.C.A. 7-1-104):

- No election official shall fraudulently permit another person to vote illegally.
- No election official shall willfully make a false count of any election ballots.
- No public official responsible for registration shall forge a registration or allow a person not entitled to register to do so.
- No person shall vote more than once in any election.
- No person shall tamper with a voting machine or attempt to affect the results.

Primaries. The political parties choose their nominees for national, state, and local offices through the primary elections. Primaries must be conducted in conformity with Arkansas law. The preferential primary is held three weeks before the general primary. The general (runoff) primary need not be held if all winners receive a majority of the votes cast in the preferential primary. However, where there were three or more candidates and no one received a majority of the votes, a general primary must be held. Usually, the general primary is held the second Tuesday in June, but primary dates have been changed by legislative action to meet deadlines for election of delegates to the national conventions. The state is responsible for the cost of primary elections, whereas the administration of them is the responsibility of the State Board of Election Commissioners. The parties determine the qualifications of candidates seeking the party nomination. Because the state pays for primaries, common polling places or joint primaries are used for the primary elections of both parties.

Since Arkansas voters do not need to declare their party affiliation when they register to vote, they may vote in either primary. However, a person who votes in the preferential primary of one party may not vote in the general primary of the other party.

Presidential Primaries. Each presidential election year, national parties specify how many delegates each state will be allowed to send to their national party conventions. Although there are a variety of methods for choosing delegates, Arkansas requires parties to use a presidential primary. Citizens may choose to vote in one party's primary. The result of the primary determines how many Arkansas delegates presidential candidates will have at the national convention. The state committees of the respective political parties then choose their delegates to the national nominating convention in proportion to the votes cast for the various presidential candidates. (A.C.A. 7-8-201) Consider this example. Assume that in the upcoming presidential election, Arkansas is allocated 40 delegates to the Democratic National Party Convention. Democratic

presidential Candidate A receives 40% of the vote in the primary, while Candidate B gets 30%, Candidate C earns 20%, and Candidate D has 10%. Therefore, Arkansas' Democratic delegates would be allocated as follows: Candidate A would have 16 delegates; Candidate B would get 12 delegates; Candidate C would receive 8 delegates; and Candidate D would have 4 delegates.

Candidates

Party Nominees. To run for election as a party's nominee, a person must file any pledge and pay any such ballot fees as required by the party. The candidate must also sign the political practices pledge, which is filed with the secretary of state, for national and state offices, and with the county clerk for local offices. The party filing period shall be a one-week period ending at 12:00 noon on the first day in March and beginning at 12:00 noon one week prior to the first day in March. (A.C.A. 7-7-203)

The ballot fees required by the parties are used for managing party affairs. The state political party committees set the filing fees for those running for U.S. Congress and for state office. Ballot fees for local officials vary widely from county to county. However, the constitutionality of ballot fees, especially when they are so large that they discourage some people from running for office, has been challenged in the courts on several occasions. Because of these challenges, alternate systems of filing are provided by the political parties, including filing by petition under the rules established for filing by the political parties and approved by the federal courts.

Should a party nominee die or withdraw from a race before the election, the vacancy created may be filled by certification of the chairman and secretary of any convention of delegates or by a special primary election. The governor must be notified within five days and informed whether the party chooses to fill the vacancy by an election or by convention. If the party fails to inform the governor within the five-day period, the

nomination vacancy is not filled. This means the party is denied a formal representative in that election. (A.C.A. 7-7-104)

Independents. Independents may also file for office, but since they do not run in the party primaries, they file for ballot position in the general election. The deadline for filing as an independent is the date set for party candidates to sign their political practices pledge or May 1, whichever is later.

To run as an independent for state office or for the United States Congress, a candidate must file a petition signed by at least three percent of the qualified voters, although never more than 10,000 signatures, whichever is less. To run as an independent for county, township or district office, the candidate must file a petition signed by at least three percent, though never more than 2,000, of the qualified electors in the county, township, or district in which the person is seeking office. Independent candidates filing for municipal office may qualify by filing a petition containing the signatures of not less than ten electors for incorporated towns and second-class cities, and not fewer than 30 electors for first-class cities. A person who has been defeated in a party primary is not permitted to file as an independent in the general election for the same office. (A.C.A. 7-7-103)

Write-Ins. Provision is made for write-in candidates on general election ballots. To qualify as a write-in candidate, that person must have filed his or her intention to be a write-in candidate at least 90 days prior to the election. (A.C.A. 7-5-205)

Political Practices Act. All candidates for state, county, municipal, or township offices must sign a political practices pledge, which states that the candidate is familiar with the political practices requirements and “will, in good faith, comply with their terms.” They must also certify that they “have never been convicted of a felony in Arkansas or in any other jurisdiction outside of Arkansas.” The pledge also includes a promise to

avoid election violations, whether they are misdemeanors or felonies. (A.C.A. 7-6-102)

Campaign Financing. Arkansas' campaign finance laws require candidates to file financial disclosure statements. In addition, they regulate the financial activity of political action committees (PACs), candidate exploratory committees, ballot question initiatives, and the candidates themselves. PACs, private groups organized to elect political candidates, are required to register and file reports with the secretary of state.

Any person in Arkansas considering whether to run for state public office may register with the secretary of state the formation of an "exploratory" committee. If a committee is formed, it must register within 5 days after receipt of contributions. When a candidate enters the race, the exploratory committee must disband and transfer the funds to the candidate. All candidates for public office in Arkansas must file campaign contribution and expenditure reports with the Secretary of State's Office.

Ballot question committees and legislative question committees are also regulated and must report their contributions and expenditures. Ballot question committees are defined as any person, located within or outside Arkansas, who receives contributions, who makes expenditures for expressly advocating the qualification, passage, or defeat of any ballot question.

See Arkansas Code Title 7, Section 6, for details on campaign practices and campaign financing.

Comparison to Other States

Arkansas' electoral process is typical compared to other states. In most states, the secretary of state is the chief elections officer, and states tend to rely upon some type of state board of elections. Since voting is a local process, local officials have a significant role in conducting elections.

Local personnel take the lead in registering citizens to vote, selecting polling places, and serving as Election Day workers.

Arkansas elections are also distinctive in several ways. One is general (runoff) primaries. Only nine states rely upon the runoff process to select party nominees. The goal of a runoff is to ensure that the candidate who receives the party nomination obtains majority vote approval. Runoffs can occur only when three or more candidates are seeking the party label. If no candidate receives a majority vote in the preferential primary, the two individuals who receive the most votes face each other in the runoff.

Supporters of the runoff primary contend that it ensures the party nominee has the support of most party voters. Consider the following example. In a state that does not have a runoff system, ten candidates are seeking the party nomination. The leading candidate receives 20% of the vote, which automatically makes this person the party nominee. Runoff advocates in this case would point out that 80% of the primary voters did not select this candidate. Therefore, a runoff can more accurately reflect the will of the party majority.

Critics of the runoff system focus on two potential problems. One is that the runoff process weakens the party's nominee in the general election. When party members compete against each other in two electoral contests, divisiveness within the party may increase. Another concern is expressed by minority candidates. These candidates note they can receive more votes than their fellow partisans in the initial primary electoral process. However, they are disadvantaged when the race is narrowed to only two potential party nominees. So far, Arkansas officials continue to endorse the use of the runoff electoral system.

To ensure equal access during primaries, Arkansas requires political parties to hold primaries in the same location.

Another important dimension in Arkansas elections is early voting. Historically, absentee balloting required voters to provide information that they would be unable to vote on Election Day. Early voting does not place these restrictions on voters. Since early voting is available 15 days before an election, this expands the opportunities for citizens to participate in the electoral process. One goal of the electoral system is to make changes that increase voter participation, and early voting can assist in this effort.

Arkansas legislators have addressed concerns over the role of money in campaigns. Campaign finance regulations place limits on campaign contributions. In addition, the rules require periodic reporting of campaign contributions and expenditures by most federal, state, and local office holders. The state also created the Ethics Commission to serve as an independent body to enforce campaign finance guidelines.

As the 2000 Presidential Election demonstrated, the election process can be complex and full of potential pitfalls. Arkansas continues to work to improve its election procedures as required by the Federal Help America Vote Act. Steps have been taken to increase the secrecy of ballots and expand citizens' opportunities to participate in the political system. There is a consensus that elections are important in any democratic society. Therefore, the electoral process continues to undergo scrutiny and reform as efforts are made to encourage citizen involvement.

Learn More

Arkansas Secretary of State

<https://www.sos.arkansas.gov/>

Federal Election Commission

<https://www.fec.gov/>

League of Women Voters of the United States

<https://www.lwv.org/>

League of Women Voters of Arkansas

<https://my.lwv.org/arkansas>

Vote 411

<https://www.vote411.org/>

Vote Smart

<https://votesmart.org/>

U.S. Constitutional Amendments Regarding the Right to Vote

Amendment	Passed	Reason Right to Vote Cannot Be Denied
XV	1870	"race, color, or previous condition of servitude"
XIX	1920	"on account of sex"
XXIV	1964	"failure to pay any poll tax or other tax"
XXVI	1971	"any citizen 18 years of age or older"

Arkansas Elections

General Elections

Type	Purpose	Date
General Elections	U.S., State, County, and Municipal Offices; Ballot Issues and Constitutional Amendments	1 st Tuesday following 1 st Monday in November
School Elections	School Board members; millage elections	3 rd Tuesday in September
Special Elections	Issues, fill vacancies, run-offs; tie votes; referenda	Set by governor, county, or municipal ordinance

Party Primaries

Type	Purpose	Date
Preferential Primary	County committees, and nominees for state and local offices	3 weeks before party general primary (set by state law and parties)
General Primary	Run-offs for those who did not receive majority vote in preferential primary	2 nd Tuesday in June (set by state law and parties)
Municipal Primary	Municipal officers	6 th Tuesday before General Election if requested by city or town government
Preferential Presidential Primary	Nominees for U.S. President and Vice President	Set by state law
Special Primary	Fill a vacancy in office of lieutenant governor, member of U.S. House or General Assembly	Set by governor if parties want a primary

Source: League of Women Voters of Arkansas

Education

9

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Government Connections

Although the educational process is not usually considered “government” in the ordinary sense of the word, it is a major public enterprise of the state with over half of the state’s general revenues used to support public and higher education.

Except for the section that states that “Congress shall... provide for the common defense and general welfare of the United States,” the United States Constitution makes no mention of education. Therefore, since all powers not delegated to the United States are reserved to the states, the establishment and operation of educational facilities is a responsibility of the states. However, over the years, the federal government has provided some funds for education, first in the form of land grants that could be used or sold for support of education, and then later (especially in the 1970s and early 1980s), in scholarships and grants for specific purposes such as school lunches, vocational and adult education, special education and rehabilitative services, bilingual education, scientific research, humanities and arts programs, environmental education, etc. In general, the operation and financing of the public schools and public higher education is left to the states.

Early Legislative Milestones

When Arkansas became a territory in 1819, no governmental effort was made to organize an educational system, although Arkansas was the beneficiary of the provisions of a United States ordinance of 1785, which allocated to new territories and future states “lot #16 of every township for the maintenance of public schools within said township.” When Arkansas became a state in 1836, the state’s first governor, James Conway, urged in his inaugural address that the General Assembly develop a system of public schools. An act of the U.S. Congress in 1843 gave the Arkansas state government expanded use of the “sixteenth-section lots” by allowing counties to sell them and establish endowments

for schools. Unfortunately, very little action was taken to implement this act and few schools were built.

Almost nothing was done about schools during the Civil War or during the Reconstruction years following the war. The legislature of 1868 did, however, create the necessary machinery for a public school system, including an office of state superintendent of public instruction, a state board of education, county superintendents, districts, and trustees. Black and white students were to receive education in separate schools. Following the adoption of the Constitution of 1874, a new law was passed encompassing much of the 1868 law and provided for the levy of taxes to support the public schools.

The history of support for higher education in Arkansas is like that of support for the public schools. As with the public schools, the United States Congress passed legislation that provided funding opportunities for higher education, but, like most states, Arkansas failed to take full advantage of these opportunities. The 1785 ordinance, which provided that the 16th section of every township be set aside for the public schools, was followed in 1787 by an ordinance which set aside two to four townships in the new territories and states of the United States for support of universities. In 1827, Congress passed an act reserving two entire townships of public lands in Arkansas "for the use and support of a university within said territory, and for no other purpose whatsoever." Unfortunately, for a variety of reasons, including difficulty with marketing the lands, Arkansas did not succeed in selling the property in a manner that would have provided an adequate endowment for a university.

The United States Congress gave further support to higher education when it passed the Morrill Act in 1862, which provided for the establishment of one "land-grant" college or university in each state. Land-grant colleges were required to emphasize the "agricultural and mechanical arts" (A&M) in their curricula. To benefit from this act, Arkansas needed to have its land-grant college in operation by February 12, 1872. In 1871, the legislature passed "An Act for the Location,

Organization, and Maintenance of the Arkansas Industrial University, with a Normal Department Therein.” The Board of Trustees established by this act met in September 1871, and after much debate about the location of the university, the state succeeded in meeting the February 1872, deadline with the establishment of the University of Arkansas at Fayetteville (originally Arkansas Industrial University) and in 1873, the University of Arkansas at Pine Bluff (originally Branch Normal College).

Constitutional Provisions

The Constitution of 1874 states that “Intelligence and virtue being the safeguards of liberty and the bulwark of a free and good government, the state shall ever maintain a general, suitable and efficient system of free public schools and shall adopt all suitable means to secure for the people the advantages and opportunities of education.”

Over the years, several amendments to the constitution have dealt with education. Amendment 40 removed the property tax millage limit that local school districts could propose for approval by the voters. The Constitution of 1874 had provided “that all persons in the state between the ages of six and 21 may receive gratuitous instruction,” but Amendment 53 allowed public funds to be spent on education for those under six and those over 21, thus permitting public funding of kindergartens and adult education. Amendment 33 gave constitutional independent status to the boards of trustees of institutions of higher education. Amendment 52 provided for establishment of community colleges. Amendment 44, known as the “interposition” amendment, directed the General Assembly “to take appropriate action and pass laws opposing in every Constitutional manner the Unconstitutional desegregation decisions of May 17, 1954, and May 31, 1955, of the United States Supreme Court...” Adoption of this amendment was to haunt Arkansas education for many years, since it formed the legal basis for opposition to desegregation efforts and was at least partially responsible for the federal courts holding the state liable for costs of desegregation of local school districts. After federal courts ruled

Amendment 44 “null and unenforceable,” Arkansas citizens voted in 1990 to repeal it.

General Education

General education (K-12) in Arkansas underwent historic changes in 2003-04 because of a decade-old class action lawsuit and a subsequent court ruling. The Lake View School District in Phillips County, the lead plaintiff in the suit, challenged the equity of the state’s school funding formula. In November 2002, the Arkansas Supreme Court ruled that the state’s system for funding general education was “inequitable” and “inadequate,” thus making it unconstitutional. To address the ruling, Governor Mike Huckabee called a special session of the Arkansas General Assembly that began in December of 2003 and lasted 61 days, making it one of the longest extraordinary legislative sessions in modern history. The legislators’ efforts resulted in:

- a new funding formula, which sends an extra \$439 million a year to school districts, including \$132 million for districts that have large numbers of low-income students (Act 59 of 2004)
- an increase in the teacher-salary pay scale and an increase in first-year teacher minimum starting salaries (Act 59 of 2004)
- the consolidation of district administrations with fewer than 350 students (Act 60 of 2004)
- an increase in the state sales tax rate from 5.125% to 6% to generate more funding for education (Act 107 of 2004)
- more standardized testing and tracking individual student progress from grade to grade (Act 35 of 2004)
- a new accounting system that is more standardized and thorough in tracking school district spending (Act 61 of 2004)
- a so-called “doomsday” provision, which gives education spending priority over spending for all other state agencies (Act 108 of 2004)

The Arkansas Supreme Court appointed two masters to review the outcomes of the special session. After the 2007 legislative session, the special masters reported that the legislature had complied with the court

rulings, had established a constitutionally acceptable school finance system (including state support for facilities), and had processes in place to continue to provide adequate resources for schools in the future. The Arkansas Supreme Court accepted the report and closed the case.

The State Board of Education is a nine-member board composed of two members from each of the state's four federal congressional districts and one at-large member. The governor appoints members for seven-year terms. The board is the primary policy making body for public elementary and secondary education in Arkansas.

The Department of Education carries out and enforces State Board of Education standards and policies for students in kindergarten through grade 12 and administers all other levels of education, including higher education, career and technical education, the Arkansas School for the Blind and Visually Impaired, and the Arkansas School for the Deaf. The department also oversees the Arkansas State Library and Board and the Martin Luther King Commission and Board.

School Districts and School Boards. There are nearly 250 school districts and school boards in Arkansas. Arkansas law states that "there shall be only one kind of school district in this state, and each shall have the same prerogatives, powers, duties, and privileges..." (A.C.A. 6-13-101) Each school district has rights and responsibilities as a corporate body, each has the power of eminent domain, and each operates under directives from an elected board of directors. Boundaries of school district zones are determined by the county election commission. The districts must have "substantially equal population based on the most recent available census information and from which racial minorities may be represented on the board in proportions reflected in the district population as a whole." (A.C.A. 6-13-615)

The responsibilities of school boards include providing for care and custody of school buildings and property; providing adequate school facilities; employing teachers and staff; assuring that all subjects

prescribed by the state board of education are taught; keeping of accurate records and making appropriate reports; exercising fiscal management and budget responsibilities; and doing "all other things necessary and lawful for the conduct of efficient free public schools in the district." (A.C.A. 6-13-620)

Educational Standards. In 1983, in order to provide all children in Arkansas with quality education, the General Assembly passed Act 445, "The Quality Education Act of 1983," which provided for a 15-member Education Standards Committee to recommend to the State Board of Education new standards for accreditation of Arkansas public schools. These standards were adopted in 1984 and became officially effective June 1, 1987. After that date, the Department of Education was required to review annually the status of each school district and to notify those districts that were failing to meet the minimum standards. The law states that schools that continue to fail to meet standards must be eliminated. A school district operating one or more schools that fail for two years to meet standards must be dissolved and annexed to another district which operates schools that are all in compliance. If the school board of a school district affected by such action believes the State Department of Education determined improperly that the district had failed to meet standards, that district has the right of appeal to the State Board of Education.

In cases where a district is not meeting standards, the State Board of Education may direct consolidation with another school district, or, if the school district is too isolated to be combined with or annexed by another district, the board may provide for additional funds to help such a district comply. Act 445 also provided for school districts to annex or combine voluntarily to meet standards.

The minimum standards adopted by the Board of Education include:

- curriculum standards
- instruction standards regarding class size, teaching load, textbooks and instructional materials, discipline, school calendar, homework

and independent study, extracurricular activities, and requirements for participating in extracurricular activities

- attendance and immunization requirements
- requirements for student performance and graduation requirements
- teacher certification and teacher evaluation
- standards for administrators, counselors, and other personnel

In 1991, the educational standards were expanded by Act 236 entitled "Meeting the National Education Goals: Schools for Arkansas' Future." This act was based on goals set by President George H. W. Bush and the states' governors.

In 1999, Act 999 established the Arkansas Comprehensive Testing, Assessment and Accountability Program (ACTAAP). It includes the Smart Start Initiative, which focuses on Grades K-4; the state's Smart Step Initiative, which focuses on Grades 5-8; and the state's Smart Future enhanced curriculum program for Grades 9-12.

From 2002 to 2012, the state was also obligated to uphold standards outlined in the federal No Child Left Behind Act. In 2012, Arkansas was among more than 30 states granted waivers on NCLB requirements. In 2015, Every Student Succeeds Act replaced NCLB, allowing states more flexibility in setting their own standards for measuring school and student performance. Arkansas' learning standards are defined in the Arkansas Curriculum Frameworks, which are discipline-based and clearly describe what students must know and be able to do in each academic content area.

Education Service Cooperatives. In order to promote cooperation among school districts, the General Assembly, in 1985, passed legislation authorizing the State Board of Education to establish a system of multi-county education service cooperatives. The 15 education cooperatives and four migrant education cooperatives now in existence receive some funding from the state, but also receive funds from the schools they serve based on the cost and amount of services provided. The cooperatives

give schools the opportunity to share staff and equipment in order to meet the education standards more easily. They may pool funds to provide in-service training for teachers and school personnel that individual schools cannot afford. The Department of Education uses the cooperatives for distribution of materials and information and sends specialists trained in such fields as special education, compensatory education, and reading.

Consolidation. In 1912, there were 5,143 school districts in Arkansas. Today there are fewer than 250. Over the years, the General Assembly has passed numerous laws regarding consolidation of school districts. Among the most recent was Act 811 of 1989, which expanded the reasons for which a school district could be dissolved or merged. Any school district with less than 85% of its students meeting standards on the basic competency test was required to participate in a school improvement program administered by the Department of Education. If the district fails to make "reasonable progress" in improving those test scores within two years of the establishment of the program, the district may be dissolved and merged with another district. In 1991, Act 966 was passed to compile most of the consolidation laws into one subchapter of the Arkansas Code to simplify the consolidation process. It also required county boards of education to seek the attorney general's opinion on the impact of any proposed consolidation or annexation on the effort of the state to assist districts in school desegregation.

As mentioned earlier, consolidation was one of the key issues during the 2003-2004 special legislative session. The General Assembly passed Act 60, which required districts with fewer than 350 students to merge administrations by July 1, 2004.

Minimum Foundation Program Aid. State financial aid to the public schools is distributed according to a complicated formula called the Minimum Foundation Program Aid formula. This formula is based on each school district's "weighted" ADM (average daily membership). The ADM is defined as "the total number of days of school attended plus the

total number of days absent by students in kindergarten through grade twelve (K-12) during the first three quarters of each school year divided by the number of school days actually taught in the school district during that period of time rounded up to the nearest hundredth.” (A.C.A. 6-20-2303) The term “weighted” refers to the “add-on” weights given to a school district for programs such as special education, vocational education, and the gifted and talented. In 1989, the General Assembly passed legislation that gave “add on” weights to those school districts that participated in voluntary consolidation. “Credit allowances” are given school districts for all certified personnel holding a master’s or higher degree. Also factored in are a school district’s local resources. These resources are based on the assessed value of property available for taxing. A district with low local resources receives more aid than one which has high local resources (primarily based on local property tax assessments). During a special session in early 2004, the General Assembly passed Act 59, which modified the funding formula to achieve more “equity” among the state’s school districts.

Educational Excellence Fund. In 1991, the General Assembly established the Educational Excellence Trust Fund where all funds earmarked for education are deposited. These funds are then distributed to higher education and to the public schools. Although most state aid to the public schools is distributed according to the formula of the Minimum Foundation Program Aid, other funds are set aside by legislative action for new vocational education programs, aid to the handicapped, compensatory education (remedial education), adult education, and apprenticeship programs.

Textbooks. Free textbooks and other instructional materials are provided for all pupils attending the public schools, grades 1-12. The Board of Education is responsible for establishing appropriate guidelines regarding the adoption, purchase, and distribution of text books.

School Personnel. It is the responsibility of the local school districts to employ superintendents, principals, teachers, department heads, coaches,

and other certified personnel, by written contract. The law states that no classroom teacher may be employed who is not licensed to teach in Arkansas. Teachers are required to take nationally recognized tests in the subject area they teach to become certified.

School Attendance. All children between the ages of five and 17 must be enrolled in a public, private, or parochial school or be provided a home school in accordance with home school laws. There are several exceptions to this requirement. One is for a person who has already received a high school diploma or its equivalent. Another is for persons 16 years and older enrolled in a post-secondary educational institution. A third exception involves kindergarten attendance. Parents and guardians may elect for their child not to attend kindergarten by filing a signed kindergarten waiver form with the local school district superintendent.

Desegregation. Problems connected with the desegregation of Arkansas public schools have frequently dominated the educational scene in Arkansas. Until the *Brown v. Board of Education of Topeka* United States Supreme Court decision of 1954, the public schools of Arkansas operated under the philosophy of "separate but equal." Following the Supreme Court decision, the National Association for the Advancement of Colored People (NAACP), in February of 1956, filed suit to have 33 black children admitted to previously all-white Little Rock schools. That same year, an initiated petition was circulated to place on the November ballot an amendment to the Arkansas constitution. The amendment would nullify federal actions that were considered encroachments on the sovereignty of Arkansas and would authorize the General Assembly to enact laws to insure enforcement of the amendment. In November, the people of Arkansas approved Amendment 44 by a vote of 185,374 for and 146,064 against. In 1957, when nine black students tried to enter Little Rock Central High School, Governor Orval Faubus called out the Arkansas National Guard to prevent the desegregation efforts, but federal troops were sent in by President Eisenhower to protect the students. Little Rock schools were closed in 1958-59 to avoid desegregation, but opened

again in August 1959, with three black students assigned to Central High and three to Hall High.

Cross-city busing began in 1971. By 1981, black students comprised 64% of the enrollment in the Little Rock School District, because many white students had moved into the Pulaski County or North Little Rock School Districts, or had chosen to attend private schools. In November of 1982, the Little Rock School District sued to force consolidation of the three Pulaski County school districts. The federal judge ruled that the three should be consolidated, but his ruling was overturned on appeal. The case continued in the courts until 1989, when the three districts reached a settlement and the General Assembly agreed to pay the financial assessment assigned to the state. In December of 1990, the Eighth Circuit Court of Appeals approved the settlement agreement and dismissed the State of Arkansas from the case.

Career and Technical Education

The Department of Education's Division of Career and Technical Education oversees programs and services in the areas of secondary career and technical education, adult education, and rehabilitative education.

The division develops career and technical curricula for secondary education: Agriculture Science and Technology; Business and Marketing Technology; Family and Consumer Sciences Education; and Skilled and Technical Sciences. It also administers a variety of educational support programs, special incentives, and school improvement projects.

In the area of adult education, the division manages education programs that provide basic skills classes to adults with less than a high school education: Adult Basic Education and General Adult Education; General Educational Development (GED); English as a Second Language (ESL); Correctional Education; Family Literacy; and Workforce Alliance for

Growth in the Economy (WAGE). These programs are offered at educational facilities throughout the state.

For persons with disabilities at educational facilities throughout the state, the division provides vocational training, special education, and independent living services.

Higher Education

Institutions of higher education in Arkansas include four-year public universities, two-year public colleges, and independent colleges and universities. Each of these has a governing board of trustees responsible for its general supervision and operation. Amendment 33 to the Arkansas Constitution gives these boards a degree of independence by prohibiting their abolition or the transfer of any of their powers. Neither the governor nor the General Assembly may change the composition of a board, and a board member may be removed "for cause only, after notice and hearing."

The Arkansas Higher Education Coordinating Board consists of nine members appointed by the governor to staggered seven-year terms. It is responsible for promoting "a coordinated system of higher education in Arkansas" and assuring "an orderly and effective development of each of the publicly supported institutions of higher education." Specifically, it is charged with:

- developing an integrated program of goals.
- requesting and receiving information from the higher education institutions.
- establishing uniform definitions.
- recommending funding levels to the governor and the General Assembly.
- reviewing bond issues.

The Higher Education Coordinating Board has the power to recommend termination of existing degree programs and approval of new degree

programs. The board may recommend a program be eliminated because it overlaps programs taught at other universities or because it fails to meet pre-determined standards. If the board decides a program does not meet the standards, it may place the program on a two-year probation status. If the program cannot meet standards during that time, the board recommends its termination and recommends that no funding be made available for its continuation. The board has the responsibility to review new programs to determine whether they merit funding. A university is prohibited from spending state revenues on programs not recommended by the board. The board may also give administrative assistance in areas such as federal grants, administration of trusts and endowments, personnel policies and administration, student fees, and transfer of students and of credits. The board is responsible for establishing purchasing criteria and standards for data processing equipment and has authority over higher cost purchases or leases of equipment.

The Higher Education Coordinating Board plays an important role in the budgeting process. Arkansas law gives to the board the power "to review, evaluate, and coordinate budget requests for the state-supported universities and colleges, and to present to the General Assembly and the governor prior to each regular session of the General Assembly a single budget containing the recommendations for separate appropriations to each of the respective institutions." (A.C.A. 6-61-209)

In 2017, the Arkansas General Assembly passed Act 148, which bases funding for state-supported higher education institutions on graduation rates rather than enrollment numbers.

Comparison to Other States

Education is one of the most important functions for all state governments. In fact, spending for K-12 and higher education is the largest item in many state budgets. Providing enough resources for this enterprise is a significant aspect of public education.

Much has been written concerning Arkansas' efforts to deal with school finance issues. Arkansas, whose legislature met in special session to address the ramifications of the Lake View ruling, is not the only state that has faced school funding litigation. According to the National Conference of State Legislatures, almost all states have faced legal challenges to the nature and level of funding provided to public schools.

Moreover, the issues raised in these suits are consistent across the states. Initially, the suits focused on the "equity" of state funding. That is, the primary concern was the disparity between rich and poor districts. Wealthy districts spent much more per pupil and provided many more extra-curricular opportunities for their students. Even if poorer districts paid higher property taxes, they did not generate the same level of revenue and therefore did not have the same level of per-pupil expenditures. State courts began to address this spending gap in the 1970s. These lawsuits encouraged state legislatures to develop plans that would redistribute state resources to narrow the funding difference among the school districts.

As illustrated in the Lake View case, state courts have presented a new issue of "adequacy" for state education funding. These state court cases present a different challenge to the legislative bodies. Rather than focusing on the available funds for education, these cases require state legislatures to provide evidence that the education funding level will provide students with an adequate education.

Experts disagree about the ramifications of these concepts. Some analysts argue that equity is the more appropriate standard. They contend that fairness dictates that all students receive the same level of per-pupil expenditure, regardless of their school district. Moreover, some note that "equal per-pupil expenditures" is a standard that citizens can understand and use to critique the state's funding plan. That is, data can allow citizens to compare the per pupil expenditures across districts.

They can see whether the spending gap is closing between districts, as well as the size of any funding disparity.

Others see great promise in the recent court rulings concerning adequacy. They contend that this idea shifts the focus from distribution of available resources to a more important concern – making sure students receive the training and skills necessary. Since the primary question is no longer equal distribution of available resources, these rulings may require significant tax increases to provide an adequate education. In addition, some contend that adequacy can be a moving target that may never be reached. Still others see the adequacy standard as a tool to avoid the demand for equal funding among all pupils.

School expenditures and education quality continue to be important policy questions for all states and governmental officials. Arkansas must continue to adjust to new demands and changing legal standards that relate to public education.

Learn More

Arkansas Department of Education

<http://www.arkansased.gov/>

Arkansas Educational Television Network

<https://www.aetn.org/>

Career Education

<https://arcareereducation.org/>

Higher Education Coordinating Board

<http://www.arkansased.gov/>

State Board of Education

<http://www.arkansased.gov/state-board>

Four-Year Public Universities in Arkansas

University	Location
Arkansas State University	Jonesboro
Arkansas Tech University	Russellville
Henderson State University	Arkadelphia
Southern Arkansas University	Magnolia
University of Arkansas at Fayetteville	Fayetteville
University of Arkansas at Fort Smith	Fort Smith
University of Arkansas at Little Rock	Little Rock
University of Arkansas for Medical Sciences	Little Rock
University of Arkansas at Monticello	Monticello
University of Arkansas at Pine Bluff	Pine Bluff
University of Central Arkansas	Conway
Source: Arkansas Department of Education	

Independent Colleges and Universities in Arkansas

College or University	Location
Arkansas Baptist College	Little Rock
Arkansas Colleges of Health Education	Fort Smith
Central Baptist College	Conway
Crowley's Ridge College	Paragould
Ecclesia College	Springdale
Harding University	Searcy
Hendrix College	Conway
John Brown University	Siloam Springs
Lyon College	Batesville
Ouachita Baptist University	Arkadelphia
Philander Smith College	Little Rock
Shorter College	North Little Rock
University of the Ozarks	Clarksville
Williams Baptist University	Walnut Ridge
Source: Arkansas Department of Education	

Two-Year Public Colleges and Universities in Arkansas

College or University	Location
Arkansas Northeastern College	Blytheville
Arkansas State University, Beebe	Beebe
Arkansas State University, Mid-South	West Memphis
Arkansas State University, Mountain Home	Mountain Home
Arkansas State University, Newport	Newport
Black River Technical College	Pocahontas
College of the Ouachitas	Malvern
Cossatot Community College of the U of A	DeQueen
East Arkansas Community College	Forrest City
National Park College	Hot Springs
North Arkansas College	Harrison
Northwest Arkansas Community College	Bentonville
Ozarka College	Melbourne
Phillips Community College of the U of A	West Helena
South Arkansas Community College	El Dorado
Southeast Arkansas College	Pine Bluff
Southern Arkansas University Tech	Camden
University of Arkansas Community College at Batesville	Batesville
University of Arkansas Community College at Hope	Hope
University of Arkansas Community College at Morrilton	Morrilton
University of Arkansas Community College at Rich Mountain	Mena
University of Arkansas Pulaski Technical College	Little Rock
Source: Arkansas Department of Education	

Finance

10

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Comparison to Other States

Terms to Know

ad valorem tax, Budget

Stabilization Trust Fund, cash

funds, consumer sales tax,

corporate income tax, gas

and motor excise tax, general

revenue, intergovernmental

revenue, personal income

tax, Revenue Stabilization

Law, special revenue

Public Finance

One of the most important activities of government leaders is setting priorities by the allocation of money. In Arkansas, most state monies are spent on education, corrections, and human services.

Much of the conflict between the various governmental branches arises from disagreements over spending, whether between a governor and the legislature or between a mayor and the city council. This is understandable, because no government has enough resources to provide all of the programs and services requested by the citizenry. Moreover, leaders can disagree about the most pressing financial needs. Tradeoffs and compromise are essential elements in resolving these conflicts.

Under the federal system of government, responsibility for the provision of public services is shared among national, state, and local levels of government. To carry out these functions, each level is empowered through a variety of constitutional and legislative mechanisms to collect revenues and to make appropriations for their expenditure.

Constitutional Provisions

The legal foundation of state and local taxation in Arkansas is the state constitution. Article II, Section 23 provides that the "state's ancient right of taxation is herein fully and expressly conceded; and the General Assembly may delegate the taxing power to the extent of providing for their existence, maintenance and well-being, but no further." The state uses this taxing authority to raise funds to support its activities and the administration of government. There are only two ways in which state tax law can be changed – through actions of the General Assembly or by a statewide referendum. Local tax changes may be made only on authority of the constitution or by delegation of such power by the General Assembly.

All tax changes and all appropriations must be made within limits set by the Arkansas Constitution. The most relevant sections include:

- "The general appropriation bill shall embrace nothing but appropriations for the ordinary expenses of the executive, legislative, and judicial departments of the State. All other appropriations shall be made by separate bills, each embracing but one subject." (Art. V, Sec. 30)
- "No state tax shall be allowed, or appropriation of money made, except to raise means for the payment of the just debts of the State, for defraying the necessary expenses of government, to sustain common schools, to repel invasion and suppress insurrection, except by a majority of two thirds of both houses of the General Assembly." (Art. V, Sec. 31)
- "None of the rates for property, excise, privilege or personal taxes now levied shall be increased by the General Assembly...except by the vote of three fourths of the members elected to the General Assembly." (Amend. 19, Sec. 38)

Section 38 of Amendment 19 (also called the Futrell amendment) is particularly significant, because it provides that an increase in the rate of any tax in existence in 1934 requires a three-fourths vote to pass. Income, severance, and certain excise and privilege taxes were in existence in 1934, but sales and use taxes were not. As a result, this disparity in voting requirements has served to facilitate the passage of sales and use taxes while hindering the passage of other types of taxes. During legislative sessions, Amendment 19 is the source of much parliamentary and legal argument about just what is and what is not constitutionally exempt from the three-fourths vote requirement and what is and what is not a rate increase.

Another important constitutional amendment is Amendment 47, adopted in 1958, which states "no ad valorem tax shall be levied upon property by the State of Arkansas." (Sec. 1) Thus, this mode of taxation is reserved exclusively for counties, municipalities, and other sub-state jurisdictions.

State Government Finance

Revenue. State revenue categories include general, special, intergovernmental, and cash funds.

General revenues come primarily from personal and corporate income tax (revenues collected from citizens and corporate entities based upon their taxable income as defined by the Internal Revenue Service and Arkansas law) and the consumer sales tax (revenues collected from consumers on the purchases of goods and services, as proscribed by Arkansas law.) This revenue is distributed to state agencies in accordance with the Revenue Stabilization Act.

Special revenue sources include the gas and motor carrier excise tax (special levies on the purchase of motor fuels and certain vehicle-related transactions) and other taxes (special taxes collected for specific purposes, such as fees and license money collected by the Highway and Transportation Department and the Game and Fish Commission).

Intergovernmental revenue is predominantly federal revenue used to fund federally mandated programs or to support federal grants. Most federal funds used in Arkansas are matched by state funds to maximize resources.

Cash funds, sometimes referred to as "other revenue," are collected through such things as the sale of licenses, tuition, fees, permits, goods, services, investment income, and fines. This revenue is collected for the operation of specific state agencies or programs, the most significant of which are the state's institutions of higher education.

The Budget Process. Before the general revenues can be spent, the funds must be budgeted. The state budgeting process is shared by agency representatives, the governor, the Offices of Budget and Personnel Management in the Department of Finance and Administration

(DFA), the Legislative Council, the Joint Budget Committee of the General Assembly, and the General Assembly.

The governor and the Office of the Budget begin the process by preparing an executive budget. This is sent to the Legislative Council and the Joint Budget Committee, which conduct hearings to review the agencies' proposals and to concur with the executive recommendations or make their own recommendations to the General Assembly. When the General Assembly meets in regular session, the Joint Budget committee assumes responsibility for introducing appropriation bills, reviewing legislative amendments, and making the final "do pass" recommendations. Following passage of an appropriation bill by both houses of the legislature, the appropriation is subject to the governor's approval or veto, including the authority for line item vetoes.

Revenue Stabilization Law (Act 750 of 1973). The actual distribution of general revenues in Arkansas is governed by the Revenue Stabilization Law, first enacted in 1973 and reenacted each legislative session. This law serves three important purposes: first, it ensures the prohibition of deficit spending; second, it allows the governor and the General Assembly flexibility in setting priorities for the financial resources predicted for the state; and third, it allows the state to move quickly to cut expenditures in the event of a revenue shortfall.

Before the Revenue Stabilization Law, taxes were earmarked for various programs regardless of their needs or the need for new programs. Now, state general revenues are pooled and distributed among state agencies according to a rigorous formula. In contrast to most other states, the governor need not call special sessions of the General Assembly to adjust to the changes in revenue receipts. Each agency can make budgetary decisions consistent with revenue collections by referring to the revenue stabilization law allocations.

State and Federal Budget Concepts Contrasted. In Arkansas, "appropriations" made to the various departments by the General Assembly are maximum authorizations to spend. The federal counterpart of the state's "appropriation" is "authorization." A state appropriation is not the same as a federal authorization. The latter concept commits or obligates the federal government to certain expenditures. The state concept does not. Unlike the federal "authorization," the state's "appropriation" does not guarantee the amount approved will be spent by the state.

The Revenue Stabilization Law establishes the maximum that can be spent, but the portion of the state's "appropriation" that is available for spending depends upon the structure of the Revenue Stabilization Law and the general revenue collections. The law also provides that the state can spend only available revenues. It must maintain a balanced budget and thereby must set priorities in its spending. In contrast, the federal government is under no such constraint.

Revenue Stabilization Process. Under the Revenue Stabilization Law, state appropriations are placed in at least three levels of priority spending: "A," "B," and "C" categories. Sometimes "A1" and "B1" categories are also used. In general, "A" priority appropriations are funded, "B" categories are funded when revenues exceed anticipated revenues, and "C" category items are seldom funded.

The Office of Economic Analysis and Tax Research in the Department of Finance and Administration prepares the official revenue forecast for the annual legislative/budgeting cycle. This forecast attempts to predict the total size of the general revenue resources. Under the Revenue Stabilization Law, the governor and the legislature attempt to divide that total fairly.

Before distribution of revenues under the Revenue Stabilization Law, some revenues are deposited in the Constitutional and Fiscal Agencies Fund, which finances the offices of the state's elected officials (executive,

legislative, and judicial), their staffs, and the Department of Finance and Administration. By law, all general and special revenues are deposited with the state treasurer and placed in the General Revenue Allotment Account or the Special Revenue Allotment Account according to the type of revenue being deposited. From the General Revenue Fund, 3% of all general revenues are first deposited in the Constitutional and Fiscal Agencies Fund, and the balance is used to pay the state's obligatory debts (tax refunds, general obligation bonds, mandated or court-ordered expenses) and distributed to the departments, agencies, boards, and commissions as established by the Revenue Stabilization Law. From the Special Revenue Fund, 3% of all special revenues collected by DFA and 1.5% of all special revenues collected by other agencies are deposited in the Constitutional and Fiscal Agencies Fund. The balance is distributed to the agencies for which the special funds were collected.

Budget Stabilization Trust Fund. Another fund in the state's financing process is the Budget Stabilization Trust Fund. Since state revenues are not collected through the year in a pattern consistent with program and agency expenditures, a stabilization fund was established. This fund receives one half of the interest earnings from state funds invested by the state treasurer. (The other half of the interest earnings goes to the state's capital improvement fund.) The Budget Stabilization Trust Fund is then used to manage the cash flow to the various agencies and departments.

Expenditures. Once an appropriation has been passed and revenues have been placed in the appropriate fund, agencies may begin spending. When an office, department, agency, board, or commission incurs an expense, it sends a voucher to the Office of Accounting at the Department of Finance and Administration. That office's pre-audit section checks that there are adequate funds in the budget for such expenditures. If so, it stamps approval on the voucher and sends it to the state auditor who writes a warrant (payment by check). That warrant is returned to the agency that had the expense. That agency sends the warrant to the creditor, and the state treasurer redeems the warrant.

In the case of an agency that receives cash funds, the disbursing officer of the agency (not the auditor) writes the warrant and a bank (not the treasurer) redeems the warrant. A potential exception to this process during budgetary shortfalls is that K-12 education must be funded before all other state services. (Act 108 of 2004)

Expenditure categories include:

- General Government – the state’s constitutional offices, the General Assembly, the Department of Finance and Administration, various state employee retirement systems, and aid to municipal and county governments.
- Education – primary, secondary, and post-secondary public schools.
- Health and Human Services – services provided by the Department of Health and the Department of Human Services.
- Transportation – projects and services provided by the Arkansas Highway and Transportation Department.
- Law, Justice, and Public Safety – services provided by the Arkansas State Police, Arkansas Department of Correction, and various judicial functions.
- Recreation and Resource Development – programs and services provided by the Game and Fish Commission, Arkansas Industrial Development Commission, Arkansas Department of Parks and Tourism, and Arkansas Department of Heritage.
- Regulation of Businesses and Professionals – programs and services provided by the Arkansas Department of Career Services as well as licensing and regulatory agencies, boards, and commissions.
- Debt Service – repayment of bonds and other state debts.
- Capital Outlay – infrastructure and other capital improvements.

Audit of Expenditures. At the end of every fiscal year, the Division of Legislative Audits reviews the expenditures of state agencies and prepares audit reports. These reports are submitted to the Joint Auditing Committee of the General Assembly. That committee reviews the reports and makes appropriate recommendations.

Comprehensive Annual Financial Report (CAFR). Each year, the Arkansas Department of Finance and Administration publishes on its website the state's Comprehensive Annual Financial Report. It includes financial statements and related disclosures of state entities.

Local Government Finance

Local governmental entities in Arkansas – counties, municipalities, school districts, and special improvement districts – primarily get revenue from property taxes and sales taxes.

State and Local Relations. Legally, local governments are creatures of state government. Therefore, the state greatly influences local government tax rates, bonded indebtedness, and balanced budgets. Moreover, one of the largest sources of local revenue is state turnback monies. For all these reasons, local governments are inherently influenced by state policies and financial decisions.

For example, counties are required to provide for the administration of justice through the courts and for law enforcement protection. Although the state pays the salaries of general jurisdiction judges, court reporters, and prosecuting attorneys, salaries of other court employees and other expenses must be paid by the counties. Counties must provide for jail facilities, but such facilities must meet state and federal standards that include restrictions on the number of persons per cell, separation of the sexes and of juveniles, separation of those accused of violent sex crimes, exercise space, outside lighting, access to medical and legal assistance, and visitation rights.

Counties and municipalities also face increased costs to ensure the public health of their citizens due to adoption of environmental standards regulating landfills, sewage treatment and water purification facilities, incinerators, and power generating plants.

School districts must provide for adequate facilities and safe school buses. They must ensure that the schools in the district meet accreditation standards regarding class size, certification of teachers, offering of specified curricula, and provisions for exceptional students. School districts must also comply with federal laws requiring integrated schools. Failure of a county, city, or school district to comply with federal and state mandates and standards may invite lawsuits that result in court ordered expenditures.

Bonds. Although the state may, with the approval of the voters, issue certain types of bonds, most bonds are issued by counties, school districts, and especially by municipalities. Bonds are issued for capital improvement projects and may be general obligation or revenue bonds. General obligation bonds must be approved by the electors and may be repaid by property taxes, but those property taxes may not exceed limits established by the constitution and its amendments. Most revenue bonds require approval by the electors, but Amendment 65 authorized "any governmental unit to issue revenue bonds for financing all or a portion of the costs of capital improvements of a public nature, facilities for the securing and developing of industry or agriculture, and for such other public purposes as may be authorized by the General Assembly." Furthermore, the General Assembly "may, but shall not be required to, condition the issuance of such bonds upon an election." (Sec. I)

Ad Valorem Taxes. Since passage of Amendment 47 in 1957, local governmental entities have had exclusive right to use the ad valorem property tax. In Arkansas, this tax is levied on both real and personal property, although passage of Amendment 71 in 1992 removed household property from taxation. The Constitution of 1874 states that "all property subject to taxation shall be taxed according to its value, that

value to be ascertained in such manner as the General Assembly shall direct, making the same equal and uniform throughout the State. No one species of property from which a tax may be collected shall be taxed higher than another species of property of equal value.” (XVI, 5)

However, Amendment 57 allowed the General Assembly to value intangible personal property for assessment at a lower rate than other property and to exempt certain classes of intangible property altogether. Amendment 59 allowed further variations to the requirement that all property be taxed “equally and uniformly.” It stated that “residential property shall be assessed in accordance with its value as a residence, so long as said property is used as the principal place of residence of the owner” (Sec. 15a) and that “agricultural land, pasture land, timber land, residential and commercial land, excluding structures thereon, used primarily as such, shall be valued for taxation purposes upon the basis of productivity or use.” (Sec. 15b)

Arkansas law states that the assessed property value “shall not exceed 20% of the true and full market or actual value” nor shall it be less than 18%. If it falls below 18% in a certain locality, the amount of state turnback to that county or city must be reduced. The constitution limits the amounts of millage counties and municipalities may levy, but does not limit the amount school districts may levy, though voters must approve such levies.

The ad valorem tax is levied at a fixed rate in terms of mills per thousand dollars of the assessed value of property. For example, if the actual value of a piece of property were \$100,000, then its assessed value would be \$20,000 ($\$100,000 \times 20\%$). If the ad valorem millage rate were \$.070 (70 mills \times \$.001), then the ad valorem tax on this property would be \$1,400.

Because millage rates are based on the property value, the assessment process is critical to the amount of tax revenue a given amount of millage will produce. The Assessment Coordination Department sets guidelines for assessing property, but the actual assessing is done by the 75 county assessors. This decentralized structure results in significant inequities

across the state, and these inter-county disparities have not gone unnoticed.

In 1978, the Alma School District and others filed a suit charging that property taxes were not being assessed equally and uniformly as provided for by the Arkansas constitution. The Pulaski County Circuit Court decided in favor of the school district, and the Arkansas Supreme Court upheld their decision. The Arkansas Supreme Court ordered the Assessment Coordination Division to devise an orderly procedure whereby, beginning in 1980, 15 counties per year should be reassessed using court-approved manuals that based appraisals on full market values to assure equitable assessments throughout the state. It was immediately apparent that, in most counties, the new assessments would be so much higher than the old ones that taxes would rise to an unacceptable rate. Therefore, in 1980, the voters approved Amendment 59, which rolled back the increase in tax revenue to 10% above the revenues received the previous year. Numerous special provisions in Amendment 59 have complicated implementation, and interpretations of the amendment have been challenged in the courts. Redress of assessed property values continues to raise questions and controversy.

County Revenues and Expenditures. The constitution and its amendments limit the ad valorem tax counties may levy. The millage rates of these taxes are subject to the same limitations as all other ad valorem taxes. All millages must be approved by a vote of the people except that for general operations and roads, which can be levied by vote of the county quorum court. A county must apportion at least one half of the revenue from the road tax collected from municipalities back to the municipalities for use in building and repairing the streets and bridges within their jurisdictions.

Before passage of Amendment 59, most counties had levied the full five mills for general operations and full three mills for roads, but since reassessment, most counties levy less than the maximum allowed.

Other major sources of revenue for counties are the sales tax and fees, fines, licenses, and charges for services rendered. In 1981, the General Assembly passed legislation allowing counties, with approval of a vote of the people, to levy up to a two percent sales tax or use tax on sales made within the county. This sales/use tax applies to all products and services that are taxed by the state sales tax. However, for any single transaction, \$25 is the maximum tax that may be collected. The revenue collected from this tax is divided between the county and the incorporated cities of the county on a per capita basis.

In the past, fees had been used for compensation for county officials. However, in 1975, the General Assembly declared that all fees, fines, penalties, and other monies collected by any county officer, deputy, or county employee must be deposited with the county treasurer for credit to the county general fund. Today, the counties collect considerable revenue from fees for marriage licenses, for recording deeds and mortgages and for serving summonses, as well as from court costs, fines, and penalties. These fees are set by law and cannot be increased without action by the General Assembly. Fees may also be charged for services provided by the county, such as solid waste collection and disposal, fire protection, and emergency medical services. The county quorum court establishes these fees.

County operations also depend on general turnback from the state and turnback for roads. Seventy-five percent of the turnback is divided equally among the 75 counties, with the remaining 25% divided based on population. State aid for roads comes primarily from motor fuel taxes, motor vehicle registration and license fees, and title transfer fees. The state returns 15% of these revenues to the counties. This 15% is distributed as follows (Act 371 of 1989):

- 31% is divided according to area, with each county receiving the proportion that its area bears to the area of the state;
- 17.5 % is divided according to the amount of state motor vehicle license fees collected the previous year, with each county receiving a proportion of the total that it bears to the total collected;

- 17.5 % according to population with each county receiving the proportion that its population bears to the state's population;
- 13.5 % according to a county's rural population, and its proportion to the total population of the state; and
- 20.5 % divided equally among all 75 counties.

Although counties may spend state aid on public transportation, the amount spent may not be more than 20% of state aid received.

Quorum courts are required to adopt budgets before the end of each year for the next year. No expenditure may be made without an appropriation. The Division of Legislative Audit audits counties each year.

Municipal Revenues and Expenditures. The procedures and limitations for levying the ad valorem tax by municipalities are like those for counties. Except for the five mills for general operations, which may be levied by ordinance of a city or town's governing board, all ad valorem tax levies require approval by a vote of the electors of the city or town.

In general, analysts do not encourage municipalities to use property taxes. One reason is that a sales tax can generate greater revenue for the city. Also, if a city raises its property millage, this might encourage people to move out of the city and into outlying areas to avoid higher property taxes.

A major source of revenue for municipalities is the sales tax. Cities and towns have several options in levying a sales tax. The first option is participation in the county sales tax, in which case a city or town receives its per capita share of the revenue received. Use of revenue from the county sales tax is unrestricted. A second option is that any city or town may levy a municipal sales tax on retail sales within the municipality for general purposes or for "acquiring, constructing, and equipping of capital improvements of a public nature" or of issuance of bonds for the financing of such capital improvements.

In addition, first-class cities may levy up to three percent sales tax upon the gross receipts of hotels and restaurants (the so called "hamburger" tax). Revenue from this tax must be used for recreation, the advertising and promoting of the city, or for construction, repair, or operation of a convention center. The levy of any sales tax must be approved by a vote of the people, and if financing of bonds is involved, the voters must approve their issuance. Any city levying a hotel and restaurant sales tax must create a city Advertising and Promotion Commission to oversee the expenditure of the revenue received.

Other taxes that municipalities may levy include privilege, franchise, and occupation taxes, alcoholic beverage licenses and taxes, and taxes on motor vehicles, amusement devices, and aviation fuel.

With approval of the voters, municipalities may also levy an income tax on residents who work in a city but live outside its taxing area. At present, no city in Arkansas collects this type of tax.

Fees for services and other charges also comprise a significant source of income for municipalities. Sanitation, utility, water, and sewer fees, emergency service charges, inspection fees, dog licenses, and parking meter charges are used to provide the services for which the charges are made.

Revenue also comes from the fines and court costs charged by city courts. The fines are used to pay for operation of the courts and other city operations, but state law mandates most court costs for special purposes, such as education of judges and clerks, University of Arkansas law schools, law libraries, judges and state police retirement funds, alcoholic rehabilitation programs, public defenders, and others. Increasingly, court costs amount to such large sums that fines are either not imposed or very small.

General turnback is allocated among the cities strictly on a per capita basis. Municipalities also receive 15% of the state's highway revenues in

the form of street turnback. Street turnback, like general turnback, is allocated on a per capita basis. Cities of over 50,000 may use up to 10% of such turnback for public transportation, and up to 20% if under 50,000.

Cities must adopt annual budgets and are required to have their financial affairs audited annually either by an independent certified public accountant or by the Division of Legislative Audit of the state.

School District Revenues and Expenditures. As with the counties and municipalities, school districts receive revenue from the federal government, from state government, and from local taxes. In recent years, the federal portion has declined, and the local portion, which is mostly ad valorem taxes, has increased only slightly. Consequently, school districts have been forced to depend more and more on the state portion.

Federal revenues are generally limited to support for the school lunch program, some entitlement funds for compensatory education services (remedial education programs), supplementary materials, and education of handicapped children. Local tax revenues are limited by the amount of school millage voters are willing to approve. Although there is no constitutional limit on the amount that may be levied for schools, the property tax is especially unpopular and millage proposals are often rejected.

Improvement Districts and Authorities. Other entities with taxing powers include improvement districts and authorities created under state law for special purposes. Improvement districts have been formed for building levees and drainage control, dam and lake districts, and water districts. Improvement districts are frequently formed in cities or towns for purposes such as housing projects, parks, museums, and arts centers.

Governmental units may act independently or may combine to establish public facilities boards or authorities for managing facilities for health care, waterworks, sewers, solid waste disposal, incinerators, recycling

facilities, public housing, recreation and park facilities, public transportation, etc. These “authorities” are usually incorporated and have powers that include the right to sue and be sued; to fix, charge, and collect rents, fees, and charges; to lend money for financing projects; to invest money; and to have general control of the facilities for which they were established. State law provides for appropriate boards to oversee these operations.

Comparison to Other States

Arkansas’ finances share many common traits with those of other states. The typical taxes collected by the U.S. states and local governments are: income, sales, property, gasoline, tobacco, alcohol, severance (natural resources), gambling, and various user fees. Arkansas governmental entities utilize all of these revenue sources.

Arkansas’ tax structure relies more heavily on sales and use tax revenue than other states. This is due to the constitutional limits on raising any tax in existence before 1934 (Amendment 19). For example, income tax increases require a three-fourths vote in the state legislature, while additional sales taxes can be adopted by a simple majority vote. When the General Assembly attempted to establish uniform voting requirements for all tax changes the Arkansas electorate rejected this proposal.

Another way to compare Arkansas’ finances with other states is to look at some common criteria used to evaluate taxes. These criteria are: equity; yield; elasticity; ease of administration; effects on economic behavior; and political acceptability.

Equity focuses on the fairness of a tax. This usually means some kind of assessment concerning the citizen’s “ability to pay.” Usually equity will contrast progressive taxes (e.g., income tax), where the tax increases as the individual earns more money, with regressive taxes (e.g., sales tax),

where lower income residents pay proportionally more of their income in taxes.

Yield is concerned with how much total revenue can be generated by a tax. That is, once the tax is collected and government subtracts the administrative costs, how much money is available to pay for public services? A tax that provides a great deal of revenue with little administrative expense is preferable to a tax that provides moderate revenues with significant managerial expenditures.

Elasticity addresses the adaptability of a tax. Taxes that automatically adjust for improving or declining economic circumstances are considered elastic. Ease of administration means that taxes are easy for citizens to understand and can be obtained with minimal effort by the government. Simply put, it should be clear to citizens how much tax they are required to pay. In addition, government officials should acquire tax revenue in a manner that allows efficient collection without citizens evading their tax assessments.

Generally, taxes should not have a significant effect on the population's purchasing patterns. For example, if property taxes become so high they prevent an individual from purchasing a new home, these taxes are having an undue impact on economic behavior. There are, however, situations where government officials use taxes to discourage certain types of activity (e.g., raising the sales tax on cigarettes to discourage smoking).

Political acceptability argues that the various state and local taxes should accord with citizen preferences. Officials know that residents do not want to pay taxes. However, the taxes levied by the government should be those that are most acceptable to the populace.

When Arkansas' finances are evaluated using these dimensions, it reveals both strengths and weaknesses in the state taxation system. Since Arkansas relies more heavily on sales taxes, this means the state fares well

compared to other states on the criteria of yield, elasticity, ease of administration, and political acceptability. In addition, the availability of personal and corporate income taxes also assists the state concerning three of these elements (equity, yield, and elasticity).

When one examines the state's efforts to generate monies, the use of income and sales tax are key components in this endeavor. That is, income and sales taxes produce a great deal of revenue without large administrative costs, thus providing significant tax yields.

Relative to other taxes, income and sales tend to adjust to changing economic conditions. If personal income is increasing, then income tax revenues tend to increase. However, if income is declining, then individuals move to lower tax brackets and pay less tax. Sales taxes are not as elastic as income taxes. But relative to property taxes and most other fees, they can more easily reflect changes in the state's economy.

Sales taxes are also relatively easy to administer. The tax is collected when items are sold, and most citizens have a general understanding of their tax burden. Likewise, some aspects of income taxes are easy to administer. Employers withhold the tax from their employees' salaries and send the money to the state. However, a weakness of income tax assessments is complexity. Many citizens do not know their level of income taxes and would find it difficult to calculate their tax obligation.

Political acceptability is another strength of Arkansas' reliance on sales taxes. In general, the public seems to prefer sales taxes and other user fees to income and property taxes. As noted earlier, sales taxes are clear and the average citizen understands the workings of this tax. For example, people trying to buy a soft drink priced at \$.89 know the cost of the drink will be more than this amount. They realize that a sales tax is applied to the advertised price of this product, but they would recognize the clerk is overcharging them if told the cost is \$1.25.

The greatest weakness of Arkansas' overall tax system, compared to other states, concerns the issue of equity. A sales tax is regressive because it is not based upon the ability to pay. For example, when the wealthy purchase a soft drink for \$.89, they pay less of their income in sales tax than a factory worker who makes \$20,000 a year. Since equity focuses on the issue of fairness, this shortcoming continues to be an important area of concern for policymakers. However, under current constitutional constraints, state lawmakers may find it difficult to move away from a reliance on sales and use taxes.

Compared to other states, Arkansas is consistently ranked near the bottom on per-capita spending. On the other hand, when the U.S. Census Bureau analyzes state and local tax collection as a percentage of personal income, Arkansans' tax efforts seem to be proportionally higher than expected.

Overall, financial matters will continue to be a key area of conflict in Arkansas state government. Reasonable citizens can disagree about the relative priority of different initiatives. But efforts to determine the best way to achieve diverse political goals inevitably lead to clashes among various interests. Finally, state and local governments must estimate their expected revenues and expenditures. When economic circumstances change and there are revenue shortfalls, difficult decisions must be made concerning future budgetary expenditures.

Learn More

Arkansas Municipal League

<https://www.arml.org/>

Association of Arkansas Counties

<https://www.arcounties.org/>

Department of Finance and Administration

<https://www.dfa.arkansas.gov/>

Nelson A. Rockefeller Institute of Government

<https://rockinst.org/>

Tax Foundation

<https://taxfoundation.org/>

Transparency.Arkansas.gov

<https://transparency.arkansas.gov/>

County Ad Valorem Millage Allowed Under Arkansas Constitution

Amount	Use	Implementation	Authority
5 mills	General Operations	Vote of Quorum Court	Art. XVI, Sec. 9
3 mills	Roads	Vote of Quorum Court	Amend. 61
*	Local Capital Improvement Bonds	Vote of the People	Amend. 62, 65
1 mill	Hospital Maintenance	Vote of the People	Amend. 32
5 mills	Libraries	Vote of the People	Amend. 38, 72
5 mills	Industrial Development	Vote of the People	Amend. 49, 62
<p>* The limit of bonded indebtedness secured by property taxes may not exceed 10% of the total assessed value of real and personal property in a county. Amount of millage is not limited, but must be approved by vote of the people.</p>			

Municipal Ad Valorem Millage Allowed Under Arkansas Constitution

Amount	Use	Implementation	Authority
5 mills	General Operations	Vote of Gov't. Body	Art. XII, Sec. 4
*	Local Capital Improvement Bonds	Vote of the People	Amend. 62, 65
5 mills	Industrial Development	Vote of the People	Amend. 62, 65
1 mill	Firemen's Pension and Relief Fund	Vote of the People	Amend. 31
1mill	Policemen's Pension and Relief Fund	Vote of the People	Amend. 31
5 mills	Libraries	Vote of the People	Amend. 30, 72
<p>* The limit of bonded indebtedness secured by property taxes may not exceed 20% of the total assessed value of real and personal property in municipality. Millage not limited, but must be approved by vote of the people.</p>			

Appendix A

Amendments to the Arkansas Constitution of 1874

"Amended" refers to laws that have been changed.

"Superseded" means that the existing amendment has been replaced by another.

"Repealed" means that the law is no longer in effect.

Number	Year	Method	Subject
1	1880	Legislative	Holford Bonds
2	1898	Legislative	Regulation of transportation
3	1898	Legislative	3-mill county road tax (superseded)
4	1900	Legislative	Sureties on official bonds
5	1912	Initiative	Compensation of legislators
6	1914	Legislative	Executive department and lieutenant governor
7	1920	Legislative	Initiative and referendum
8	1920	Legislative	Equal suffrage (superseded)
9	1924	Legislative	Supreme Court (superseded)
10	1924	Legislative	City and county debt limitation
11	1926	Legislative	18-mill school district tax
12	1926	Legislative	Textile mills tax exemption
13	1926	Initiative	Bond issue in cities (superseded)
14	1926	Initiative	Local acts prohibited
15	1928	Legislative	Salaries of state officers

16	1928	Legislative	Jury trial
17	1928	Legislative	County construction tax
18	1928	Initiative	Tax to aid industries
19	1934	Legislative	Tax increase restrictions
20	1934	Legislative	State bonds (superseded)
21	1936	Legislative	Criminal prosecutions and prosecutors' salaries
22	1936	Initiative	Homestead exemptions
23	1936	Initiative	Board of Apportionment
24	1938	Legislative	Chancery and probate matters
25	1938	Legislative	County building construction
26	1938	Legislative	Workers' compensation
27	1938	Initiative	Tax exemption for new industries
28	1938	Initiative	Regulating practice of law
29	1938	Initiative	Filling vacancies in office
30	1940	Initiative	City libraries (superseded)
31	1940	Initiative	Police and firefighters' pensions
32	1942	Legislative	County or city hospitals
33	1942	Initiative	Boards and commissions
34	1944	Initiative	Rights of labor
35	1944	Initiative	Game and Fish Commission
36	1944	Initiative	Poll tax exemption for military
37	1946	Legislative	State officers' salaries (superseded)

38	1946	Initiative	County libraries (superseded)
39	1948	Legislative	Voter registration laws
40	1948	Legislative	Unlimited school district taxes
41	1952	Legislative	Election of county clerks
42	1952	Legislative	State Highway Commission
43	1956	Initiative	Salaries and expenses of judicial
44	1956	Initiative	Interposition (repealed)
45	1956	Initiative	Apportionment
46	1956	Initiative	Horse racing and pari-mutuel wagering
47	1958	Legislative	State ad valorem tax prohibition
48	1958	Legislative	Legislative salaries (superseded)
49	1958	Legislative	Industrial development bonds
50	1962	Initiative	Voting machines (superseded)
51	1964	Initiative	Voter registration and elimination of poll tax
52	1964	Initiative	Community colleges
53	1968	Legislative	Kindergarten and adult education
54	1974	Legislative	State printing contracts
55	1974	Legislative	Revision of county government
56	1976	Legislative	Salaries for state officers
57	1976	Legislative	Intangible personal property
58	1978	Legislative	Court of Appeals
59	1980	Legislative	Property reappraisal and millage

60	1982	Legislative	Interest rate control
61	1982	Legislative	County road tax
62	1984	Legislative	Local capital improvement bonds
63	1984	Initiative	Four-year terms for constitutional officers
64	1986	Legislative	Municipal courts jurisdiction
65	1986	Initiative	Revenue bonds
66	1988	Legislative	Judicial ethics commission
67	1988	Legislative	Juvenile court jurisdiction
68	1988	Initiative	Abortion funding
69	1990	Legislative	Repeal of Amendment 44
70	1992	Legislative	Salaries for state officers
71	1992	Legislative	Exemption from taxation of household property
72	1992	Legislative	Allowable library millage raised
73	1992	Initiative	Term limits
74	1996	Legislative	Uniform minimum property tax for
75	1996	Legislative	Sales tax to support Game and Fish Commission
76	1996	Initiative	Congressional term limits (struck by Arkansas Supreme Court)
77	1998	Legislative	Assignment of special and retired judges (superseded)
78	2000	Legislative	City and county government bonds
79	2000	Legislative	Property tax relief

80	2000	Legislative	Qualifications of justices and judges
81	2002	Legislative	Secret ballots
82	2004	Legislative	Obligation bonds for economic development
83	2004	Initiative	Marriage
84	2006	Legislative	Authorized bingo and raffles
85	2008	Legislative	Voting, qualifications of voters and electors, and time of holding general elections
86	2008	Legislative	Annual legislative sessions and fiscal budgeting
87	2008	Initiative	State lottery
88	2010	Legislative	Wildlife conservation and management
89	2010	Legislative	Interest rate limit and issuance of government bonds for energy efficiency projects
90	2010	Legislative	Bonds for economic development
91	2010	Legislative	General obligation four-lane highway construction and improvement bonds
92	2010	Legislative	Review and approval of administrative rules
93	2014	Legislative	Amendment of initiative and referendum petitions
94	2014	Legislative	Arkansas elected officials' ethics, transparency, and financial reform

95	2016	Legislative	Terms, election, and eligibility of elected officials
96	2016	Legislative	Retention of Governor's powers and duties when absent from the state
97	2016	Legislative	Job creation, job expansion, and economic development
98	2016	Initiative	Medical marijuana
Source: Arkansas Secretary of State			

Appendix B

Arkansas Governors

Name	Dates of Service
James S. Conway (D)	1836-1840
Archibald Yell (D)	1840-1844
Thomas S. Drew (D)	1844-1849
John S. Roane (D)	1849-1852
Elias N. Conway (D)	1852-1860
Henry M. Rector (Independent Democrat)	1860-1862
Harris Flanagin (D)	1862-1864
Isaac Murphy (Unionist Democrat)	1864-1868
Powell Clayton (R)	1868-1871
Elisha Baxter (R)	1871-1874
Augustus H. Garland (D)	1874-1877
William R. Miller (D)	1877-1881
Thomas J. Churchill (D)	1881-1883
James H. Berry (D)	1883-1885
Simon P. Hughes (D)	1885-1889
James P. Eagle (D)	1889-1893
William M. Fishback (D)	1893-1895
James P. Clarke (D)	1895-1897
Dan W. Jones (D)	1897-1901
Jeff Davis (D)	1901-1907
John S. Little (D)	1907-1909

George W. Donaghey (D)	1909-1913
Joseph T. Robinson (D)	1913
George W. Hayes (D)	1913-1917
Charles H. Brough (D)	1917-1921
Thomas C. McRae (D)	1921-1925
Tom J. Terral (D)	1925-1927
John E. Martineu (D)	1927-1928
Hanley Parnell (D)	1928-1933
J.M. Futrell (D)	1933-1937
Carl E. Bailey (D)	1937-1941
Homer M. Adkins (D)	1941-1945
Ben T. Laney (D)	1945-1949
Sidney McMath (D)	1949-1953
Francis Cherry (D)	1953-1955
Orval E. Faubus (D)	1955-1967
Winthrop Rockefeller (R)	1967-1971
Dale Leon Bumpers (D)	1971-1975
David Pryor (D)	1975-1979
Bill Clinton (D)	1979-1981
Frank White (R)	1981-1983
Bill Clinton (D)	1983-1992
Jim Guy Tucker (D)	1992-1996
Mike Huckabee (R)	1996-2007
Mike Beebe (D)	2007-2015
Asa Hutchinson (R)	2015-present

Appendix C

Important Dates in Arkansas' Political History

Year	Event
1541	DeSoto and his men cross the Mississippi River into Arkansas (June 18)
1686	Founding of Arkansas Post
1762	France cedes Louisiana (including Arkansas) to Spain
1800	Spain returns Louisiana to France
1803	United States purchase Louisiana from France (April 30)
1819	Territory of Arkansas created (March 2)
1819	Territorial government organized (July 28)
1820	First school established at Dwight Mission, near Russellville
1821	Territorial capital moved from Arkansas Post to Little Rock
1836	Arkansas admitted to the Union as the 25 th state (June 15)
1836	State government organized; first Arkansas Constitution (September 12)
1861	Arkansas secedes from the Union; second Arkansas Constitution (May 6)
1864	Third Arkansas Constitution
1868	Arkansas readmitted to the Union; fourth Arkansas Constitution (June 22)
1872	Arkansas Industrial University opens in Fayetteville with eight students (January 22)
1873	Branch Normal College opens in Pine Bluff with seven students (September)
1874	Ratification of the Arkansas Constitution of 1874 (October 13)

1908	First free public library established in Fort Smith
1911	General Assembly meets in new state capitol (January 9)
1917	Arkansas women earned right to vote in primary elections
1918	Defeat of the proposed constitution drafted by a convention in 1917
1919	General Assembly ratifies 19 th Amendment to U.S. Constitution
1920	League of Women Voters formed
1932	Arkansas elects first woman to U.S. Senate – Hattie W. Caraway
1935	Arkansas sales tax enacted into law
1955	Arkansas Industrial Development Commission established
1957	Desegregation of Little Rock Central High School (September)
1966	Winthrop Rockefeller elected Arkansas' first Republican governor in 92 years
1970	Defeat of the proposed constitution drafted by a convention in 1970
1980	Defeat of the proposed constitution drafted by a convention in 1980
1984	Voters approve four-year terms of office for Arkansas constitutional officers
1992	Voters approve term limits for state officials
1992	Bill Clinton elected President of the United States
1993	Dr. Joycelyn Elders confirmed as U.S. Surgeon General (September 8)
1996	Governor Jim Guy Tucker resigns
2002	Arkansas Supreme Court rules public education funding formula unconstitutional
2004	General Assembly mandates consolidation of school districts with less than 350 students
2008	Voters approve change from biennial to annual legislative sessions

2008	Voters approve a state lottery for higher education scholarships
2009	Hillary Clinton confirmed as U.S. Secretary of State
2012	Republican Party takes control of both houses of Arkansas legislature
2016	Dale Bumpers, former U.S. Senator and Arkansas Governor, dies
2016	Hillary Clinton runs as Democratic nominee for U.S. President
2016	Voters approve medical marijuana amendment

Appendix D

Arkansas Voter Information Resources

Arkansas – Official State Web Site https://portal.arkansas.gov/	Information on Arkansas government, business, jobs, education, resident services, and recreation as well as a downloadable “Gov2Go” app for one-stop government service
Arkansas Board of Apportionment http://www.arkansasredistricting.org/	Arkansas House and Senate district maps
Arkansas General Assembly http://www.arkleg.state.ar.us/	Arkansas legislative information, including lists of General Assembly members and a searchable database of bills, laws, and session information
Arkansas Judiciary https://www.arcourts.gov/	Arkansas court system information, including maps of state judicial circuits and districts
Arkansas Municipal League https://local.arkansas.gov/index.php/	Arkansas city information via a searchable local government portal
Arkansas Public Policy Center https://www.uaex.edu/business-communities/public-policy-center/	Research-based, unbiased information on Arkansas public issues, local government, business, and economic development
Arkansas Voter Registration https://www.sos.arkansas.gov/elections/voter-information/voter-registration-information	Essential Arkansas voter registration information, including requirements, procedures, and deadlines
Association of Arkansas Counties https://www.arcounties.org/	Arkansas county information, including elected officials, maps, and population data
USA.gov https://www.usa.gov/	Official portal to U.S. government information and consumer resources
Vote 411 https://www.vote411.org/	Voter guides for each state, including registration information, election dates, and more
Vote Smart https://votesmart.org/	Factual, unbiased information on candidates and elected officials
Voter View https://www.voterview.ar-nova.org/VoterView/Home.do	Arkansas election information, including polling places; districts where you are eligible to vote; candidate information; and sample ballots

Appendix E

League of Women Voters of Arkansas Leadership

Tenure	Name and Hometown
1955-1959	Esther Clark, Fayetteville
1959-1961	Thelma Rust Parrish, Pine Bluff
1961-1963	Carrie Martel, Columbia County
1963-1967	Naomi Elkins, Fort Smith
1967-1969	Shirley McFarlin, Little Rock
1969-1971	Marilyn Hudgens, Crossett
1971-1973	Jo Wheeler, Jonesboro
1973-1975	Peg Anderson, Fayetteville
1975-1977	Barbara Weinstock, Jonesboro
1977-1978	Gloria Cabe, Little Rock
1978-1981	Mary Lynn Reese, Rogers
1981-1983	Lois Imhoff, Fayetteville
1983-1985	Bettye Pickett, Conway
1985-1987	Jeanne Jackson, Little Rock
1987-1991	Bobbie Hill, Camden
1991-1995	Linda Polk, Russellville
1995-1996	Barbara Martin, Benton
1996-1997	Linda Polk, Russellville and Shirley Pine, Little Rock
1997-1999	Bobbie Hill, Little Rock

2000-2001	Brenda Thiel, Fayetteville
2001-2005	Stephanie Y. Johnson, Little Rock
2005-2011	Mary Alice Serafini, Fayetteville
2011-2014	Stephanie Y. Johnson, Little Rock
2014-present	Nell Matthews, Little Rock

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