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OPINION NO. 86-231

May 14, 1986

Honorable William McLean
Prosecuting Attorney
El Dorado, AR 71730

Dear Prosecutor McLean:

This letter is written in response to your request for an opinion regarding the necessity of quorum court action including the necessity for appropriating funds under Act 526 and Act 695 of 1983. Your letter stated that the Ouachita County Quorum Court pursuant to Ordinance 085-37 and 085-38 have increased court costs to fund the Victim/Witness Fund and the Indigent Attorneys Fund. Your question is whether the quorum court must appropriate the money raised by the increased fee before the money may be spent.

The first Ordinance, 085-37, establishes a \$5.00 fee on each case filed in the Circuit, Chancery or Municipal courts in Ouachita County. This fee is levied pursuant to Act 526 of 1983. This Act is compiled at Ark. Stat. Ann. §24-141 and §24-142 (1985 Cum. Supp.). The money collected is to be utilized by the County to defray the cost of the position of a crime case coordinator. This person provides assistance to victims and witnesses of crimes.

The second Ordinance, 085-38, was enacted pursuant to Act 695 of 1983 compiled at Ark. Stat. Ann. §17-456 - 17-458 (1985 Cum. Supp.). This law allows the County to add a \$5.00 court cost to cases filed in the Circuit, Chancery, Probate or Municipal court to be used to pay the reasonable and necessary costs incurred in the defense of indigent persons within the county.

The question is whether the money raised by these fees

must be appropriated by the county. Ark. Stat. Ann. §17-4004 (Repl. 1980) states:

An appropriation ordinance or amendment to an appropriation ordinance is hereby defined as a measure by which the quorum court designates a particular fund, or sets apart a specific portion of county revenue in the treasury, to be applied to some general object of expenditure or some individual purchase or expense of the county...

The two Ordinances just mentioned create funds that are to be applied to a general object of expenditure or expense of the county. It appears that the quorum court must appropriate this money prior to the money being spent.

The foregoing opinion, which I hereby approve, was prepared by Assistant Attorney General Randel K. Miller.

Sincerely,



STEVE CLARK
Attorney General

SC/RKM/ljm