

Opinion No. 86-49

March 13, 1986

The Honorable Charles Robinson
Legislative Auditor
State Capitol
Little Rock, AR 72201

Dear Mr. Robinson:

You request an official opinion regarding the following questions:

1. Does the fixing of compensation of county officers and employees require the Quorum Court to adopt an ordinance setting forth such compensation separate and apart from adopting an appropriation ordinance or may both the fixing and appropriating of compensation be made, through a single ordinance?
2. If the fixing and appropriating of compensation can be made through a single ordinance, would the fixing of compensation in a budget which is adopted by reference in an appropriation ordinance meet the constitutional and statutory requirements where the salary for each position appears in the budget, but does not actually appear in the ordinance?

Amendment 55, §5 states the Quorum Court shall fix compensation of county officers within a maximum and minimum to be set by the General Assembly. Under this authority, the Quorum Court of each county "shall by ordinance" fix the annual salaries of various county officials. Ark. Stat. Ann. §17-4201 (Supp. 1985) and §17-4203 (Repl. 1980).

In addition, Ark. Stat. Ann. §17-4205 (Repl. 1980) mandates:

All compensation ... allowed to any county or township officer or employer thereof shall be made only on specific appropriation by the Quorum Court of the county. (Emphasis added).

Section 17-609 (Supp. 1985) directs you, as Legislative Auditor to develop a comprehensive financial management system for appropriated funds of various Arkansas counties which was to have been implemented by January 1, 1983.

And, an appropriation ordinance is a measure by which the Quorum Court designates a particular fund or sets apart a specific portion of county revenue in the treasury. Such measures include the enactment of specific appropriations which may be enacted through the adoption of an annual budget.

A Quorum Court may adopt, amend or repeal an appropriation ordinance which incorporates by reference the provisions of any county budget, without setting out the entire amended budget. Ark. Stat. Ann. §17-4004 (1)(b) and (2) (Repl. 1980).

Thus, the statutes require the fixing of salaries by ordinance; however, no prohibition exists which would not allow that ordinance to be an appropriation ordinance. It is my opinion that the fixing and appropriating of compensation may be made through a single county ordinance.

Sections 17-4201 and 4205 clearly contemplate the appropriation of compensation to be specific in an ordinance but this may be accomplished through the provisions of §17-4004(2) by incorporation of the county budget into an appropriation ordinance. It is my opinion the answer to your second question is "yes".

The foregoing opinion, which I hereby approve, was prepared by Special Counsel to the Attorney General R. B. Friedlander.