

IN THE CIRCUIT COURT OF WHITE COUNTY, ARKANSAS

1st DIVISION



MIKE ROBERTSON, as the duly elected Mayor, City of Beebe, Arkansas (in his official capacity only); LES COSSEY, JOHN JOHNSON, TRACY LIGHTFOOT, BECKY SHORT, HAROLD WELCH and LINDA ANTHONY, as the duly elected members of the City Council of the City of Beebe, Arkansas (in their official capacities only); and the CITY OF BEEBE, ARKANSAS

PLAINTIFFS

v.

DOCKET NO. CV-2012-588

MICHAEL LINCOLN, as the duly elected County Judge of White County, Arkansas (in his official capacity only); HORACE TAYLOR, ROBERT R. "BOBBY" BURNS, CAMERON D. COOPER, ALLEN KING, JIMMY L. HOUSE, SHANE SELLERS, KENNETH R. HORTON, WAYLON D. HEATHSCOTT, MIKE CLEVELAND, BOBBY G. QUATTLEBAUM, ED LAND, GEORGE "BUD" OSBORN, AND RON GIBBS, as the duly elected members of the Quorum Court of White County, Arkansas (in their official capacities only); WHITE COUNTY, ARKANSAS; RICHARD M. DRILLING, Manager, Fiscal Accounting, Office of Administrative Services, Arkansas Department of Finance & Administration; and KENDELL SNYDER, Manager, Office of Fire Protection Services, Arkansas Department of Emergency Management

DEFENDANTS

COMPLAINT

Come now Mike Robertson, Mayor of the City of Beebe, Arkansas; Les Cossey, John Johnson, Tracy Lightfoot, Becky Short, Harold Welch and Linda Anthony, Members of the City Council of the City of Beebe, Arkansas; and the City of Beebe, Arkansas, pursuant to the provisions of Ark. Code Ann. § § 16-111-101, et. seq., 16-113-301; and the provisions of Rules 57 and 65 of the Arkansas Rules of Civil Procedure, and do seek for this Court to enter a Declaratory Judgment and a Mandatory Injunction

IN THE CIRCUIT COURT OF WHITE COUNTY, ARKANSAS

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MIKE ROBERTSON, as the duly elected Mayor, City of Beebe, Arkansas (in his official capacity only); LES COSSEY, JOHN JOHNSON, TRACY LIGHTFOOT, BECKY SHORT, HAROLD WELCH and LINDA ANTHONY, as the duly elected members of the City Council of the City of Beebe, Arkansas (in their official capacities only); and the CITY OF BEEBE, ARKANSAS

PLAINTIFFS

v. DOCKET NO. _____

MICHAEL LINCOLN, as the duly elected County Judge of White County, Arkansas (in his official capacity only); HORACE TAYLOR, ROBERT R. "BOBBY" BURNS, CAMERON D. COOPER, ALLEN KING, JIMMY L. HOUSE, SHANE SELLERS, KENNETH R. HORTON, WAYLON D. HEATHSCOTT, MIKE CLEVELAND, BOBBY G. QUATTLEBAUM, ED LAND, GEORGE "BUD" OSBORN, AND RON GIBBS, as the duly elected members of the Quorum Court of White County, Arkansas (in their official capacities only); WHITE COUNTY, ARKANSAS; RICHARD M. DRILLING, Manager, Fiscal Accounting, Office of Administrative Services, Arkansas Department of Finance & Administration; and KENDELL SNYDER, Manager, Office of Fire Protection Services, Arkansas Department of Emergency Management (in their official capacities only

DEFENDANTS

COMPLAINT

Come now Mike Robertson, Mayor of the City of Beebe, Arkansas; Les Cossey, John Johnson, Tracy Lightfoot, Becky Short, Harold Welch and Linda Anthony, Members of the City Council of the City of Beebe, Arkansas (in their official capacities only); and the City of Beebe, Arkansas, pursuant to the provisions of Ark. Code Ann. § § 16-111-101, et. seq., 16-113-301; and the provisions of Rules 57 and 65 of the Arkansas Rules of Civil Procedure, and do seek for this Court to enter a Declaratory Judgment and

a Mandatory Injunction requiring the Defendants (Horace Taylor, Robert R. "Bobby" Burns, Cameron D. Cooper, Allen King, Jimmy L. House, Shane Sellers, Kenneth R. Horton, Waylon D. Heathscott, Mike Cleveland, Bobby G. Quattlebaum, Ed Land, George "Bud" Osborn, and Ron Gibbs, as the duly elected members of the Quorum Court of White County, Arkansas, in their official capacities only); and Defendant White County, Arkansas, to adopt a "new" apportionment or distribution formula by adopting a "new" Resolution by the White County Quorum Court apportioning the Fire Protection Premium Tax Funds received by White County, Arkansas from the Arkansas DF&A's Office of Administrative Services to and among: (1) the municipal fire departments and (2) the rural fire districts located within White County, Arkansas, based upon the population of White County, Arkansas, as determined by the census conducted in White County, Arkansas, during the year 2010, by the U. S. Bureau of the Census, and as apportioned by population to the 30 municipal fire departments and rural fire districts existing in White County, Arkansas, by UALR's GIS Applications Laboratory, and for Defendant Drilling (in his official capacity only) and the Arkansas DF&A's Office of Administrative Services to make distributions of the Fire Protection Premium Tax funds to: (1) the municipal fire departments and (2) the rural fire districts located within White County, Arkansas, in accordance with the "new" Resolution (regarding these funds), as should be ordered adopted by the White County Circuit Quorum Court. The Plaintiffs, therefore, do hereby allege and state as follows:

PLAINTIFFS

1. Plaintiff Mike Robertson resides and is domiciled within the boundaries of Beebe, Arkansas, and he is the duly elected and serving Mayor of the City of Beebe, Arkansas.

2. Plaintiff Les Cossey, resides and is domiciled within the boundaries of Beebe, Arkansas, and he is the duly elected and serving member of the City Council of the City of Beebe, Arkansas.

3. Plaintiff John Johnson, resides and is domiciled within the boundaries of Beebe, Arkansas, and he is the duly elected and serving member of the City Council of the City of Beebe, Arkansas.

4. Plaintiff Tracy Lightfoot, resides and is domiciled within the boundaries of Beebe, Arkansas, and she is the duly elected and serving member of the City Council of the City of Beebe, Arkansas.

5. Plaintiff Becky Short, resides and is domiciled within the boundaries of Beebe, Arkansas, and she is the duly elected and serving member of the City Council of the City of Beebe, Arkansas.

6. Plaintiff Harold Welch, resides and is domiciled within the boundaries of Beebe, Arkansas, and he is the duly elected and serving member of the City Council of the City of Beebe, Arkansas.

7. Plaintiff Linda Anthony, resides and is domiciled within the boundaries of Beebe, Arkansas, and she is the duly elected and serving member of the City Council of the City of Beebe, Arkansas.

8. Plaintiff City of Beebe, Arkansas, is a duly created and existing municipal corporation properly created under the laws of the State of Arkansas. The City of Beebe, Arkansas, has created and operates a municipal fire department under the provisions of Ark. Code Ann. § 14-53-10.

DEFENDANTS

9. Defendant Michael Lincoln is a resident of White County, Arkansas, and he is currently the duly elected and serving County Judge of White County, Arkansas. In

this official capacity, County Judge Lincoln is the presiding officer of the White County, Arkansas Quorum Court.

10. Defendant Horace Taylor is a resident of White County, Arkansas, and he is currently a duly elected and serving member of the White County, Arkansas, Quorum Court.

11. Defendant Robert R. "Bobby" Burns is a resident of White County, Arkansas, and he is currently a duly elected and serving member of the White County, Arkansas, Quorum Court.

12. Defendant Cameron D. Cooper is a resident of White County, Arkansas, and he is currently a duly elected and serving member of the White County, Arkansas, Quorum Court.

13. Defendant Allen King is a resident of White County, Arkansas, and he is currently a duly elected and serving member of the White County, Arkansas, Quorum Court.

14. Defendant Jimmy L. House is a resident of White County, Arkansas, and he is currently a duly elected and serving member of the White County, Arkansas, Quorum Court.

15. Defendant Shane Sellers is a resident of White County, Arkansas, and he is currently a duly elected and serving member of the White County, Arkansas, Quorum Court.

16. Defendant Kenneth R. Horton is a resident of White County, Arkansas, and he is currently a duly elected and serving member of the White County, Arkansas, Quorum Court.

17. Defendant Waylon D. Heathscott is a resident of White County, Arkansas, and he is currently a duly elected and serving member of the White County, Arkansas, Quorum Court.

18. Defendant Mike Cleveland is a resident of White County, Arkansas, and he is currently a duly elected and serving member of the White County, Arkansas, Quorum Court.

19. Defendant Bobby G. Quattlebaum is a resident of White County, Arkansas, and he is currently a duly elected and serving member of the White County, Arkansas, Quorum Court.

20. Defendant Ed Land is a resident of White County, Arkansas, and he is currently a duly elected and serving member of the White County, Arkansas, Quorum Court.

21. Defendant George "Bud" Osborn is a resident of White County, Arkansas, and he is currently a duly elected and serving member of the White County, Arkansas, Quorum Court.

22. Defendant Ron Gibbs is a resident of White County, Arkansas, and he is currently a duly elected and serving member of the White County, Arkansas, Quorum Court.

23. Defendant White County, Arkansas, is a duly created and existing county properly existing under the laws of the State of Arkansas.

24. Defendant Richard M. Drilling is the duly employed, and currently serving Manager of the Arkansas DF&A's Office of Administrative Services. As the Manager for Fiscal Accounting of the DF&A's Office of Administrative Services, Richard M. Drilling is charged with the duty of distributing the Fire Protection Premium Tax Funds (statutorily allocated to White County, Arkansas) to the municipal fire departments and

rural fire protection districts located within White County, Arkansas, as directed and apportioned by the White County, Arkansas Quorum Court, and as approved annually by the Office of Fire Protection of the Arkansas Department of Emergency Management.

25. Defendant Kendell Snyder is the duly employed and currently serving Manager of the Office of Fire Protection Services of the Arkansas Department of Emergency Management. As the Manager of the Office of Fire Protection Services of the Arkansas Department of Emergency Services, Kendell Snyder is charged with the duty of processing annual applications from municipal fire departments and from rural fire protection districts located within White County, Arkansas, for the distribution of the Fire Protection Premium Tax Funds statutorily allocated to White County, Arkansas.

JURISDICTION AND VENUE

26. This Circuit Court has subject matter jurisdiction over the causes of action set forth in this Complaint, pursuant to the provisions of Ark. Code Ann. § 16-111-101, et. seq. and Ark. Code Ann. § 16-113-301, Rules 57 and 65 of the Arkansas Rules of Civil Procedure. This Circuit Court has personal jurisdiction over the named parties and entities to this action, because all of the named parties are either residents of, or have their principal place of business located within, White County, Arkansas, or they are officials of the State of Arkansas who are employed by Departments of the State of Arkansas that are subject to this Circuit Court's personal jurisdiction.

27. Venue for this action is appropriately laid in the White County Circuit Court, pursuant to the provisions of Ark. Code Ann. § § 16-60-101 and 16-60-116.

I. GENERAL ALLEGATIONS OF FACT

A. Fire Protection Premium Tax (Act 833 of 1991, As Amended)

28. In 1991, the fire departments of Arkansas' municipalities and the rural fire districts requested an increase in the amount of state moneys that they were being provided by the State of Arkansas to pay for local fire protection services.

29. The Arkansas General Assembly agreed to provide additional funding for the purpose of local fire protection services by enacting a "new" one-half of one percent ($\frac{1}{2}\%$) tax imposed upon the insurance premiums paid by Arkansas citizen-taxpayers for fire insurance and other similar types of insurance policies, which Premium Tax was to be collected by the State Insurance Commissioner and paid to the State Treasurer on a quarterly basis.

30. This "new" $\frac{1}{2}\%$ Premium Tax was enacted by the Arkansas General Assembly as part of Act 833 of 1991, to be effective on January 1, 1992. A true and correct copy of Act 833 of 1991 is attached hereto as Exhibit 1. Before this "new" $\frac{1}{2}\%$ insurance premium tax went into full effect, the General Assembly met in "Special Session" and amended Act 833 of 1991 by the enactment of Act 10 of 1992 (First Extraordinary Session). Attached hereto as Exhibit 2 is a true and correct copy of Act 10 of 1992 (FES).

Act 833 of 1991 contained 12 separate sections ¹ and Act 10 of 1992 (FES) contained 14 separate sections. ²

¹ Section 1 of Act 833 of 1991 was codified as Ark. Code Ann. § 26-57-614(a) and Ark. Code Ann. § 14-284-401. Section 2 of Act 833 of 1991 was codified as Ark. Code Ann. § 26-57-614(b), (c), (d) and (e)(1). Section 3(a)(1) of Act 833 of 1991 (the longest "substantive section" of Act 833 of 1991) was codified as Ark. Code Ann. § 14-284-203 and Ark. Code Ann. § 14-284-403(2)(A)(B). Section 3(a)(2) of Act 833 of 1991 was codified as Ark. Code Ann. § 14-284-403(b). Section 3(b)(1) and (2) of Act 833 of 1991 was codified as Ark. Code Ann. § 14-284-404(a)(b). Section 3(c), (d) and (e) of Act 833 of 1991 were codified as Ark. Code Ann. § 14-284-405. Section 3 (f) and (g) of Act 833 of 1991 were codified as Ark. Code Ann. § 14-284-406. Section 4 of Act 833 of 1991 was codified as Ark. Code Ann. § 14-284-407. Sections 5, 6 and 7 of Act 833 of 1991 were "directive provisions" that were not codified. Section 8 of Act 833 of 1991 was codified as both Ark. Code Ann. § 26-57-614 and Ark. Code Ann. § 14-284-402. Section 9 of Act 833 of 1991 set the "effective date" of this "new" statute for January 1, 1992. Sections 10, 11 and 12 of Act 833 of 1991 were "directive provisions" that were not codified.

² Act 10 of 1992 (FES) was enacted shortly after Act 833 of 1991 became effective on January 1, 1992. Section 1 of Act 10 of 1992 (FES) appropriated \$10M for the first fiscal year (ending June 30, 1992) that the new one-half of one percent (1/2%) fire insurance premium tax was in effect and \$20M for the second fiscal year ending June 30, 1993, the "new" premium tax was in effect. Section 2 of Act 10 of 1992 (FES), amended Ark. Code Ann. § 14-284-116(d). Section 3 of Act 10 of 1992 (FES) created on the books of the State Treasurer, the State Auditor and the Chief Financial Officer of the State, a special revenue fund to be known as the "Fire Protection Premium Tax Fund" and the Arkansas Insurance Commissioner was ordered to collect and deposit such one-half of one percent (1/2%) premium taxes into the Fire Protection Premium Tax Fund. Section 4 of Act 10 of 1992 (FES) amended Ark. Code Ann. § 14-284-403 to provide for the apportionment of the moneys received by each county by the Quorum Court, based upon population, unless the County Intergovernmental Cooperation Council notified the Quorum Court of the fire protection needs of the districts and municipalities in which case the moneys to be apportioned were to be apportioned by the Quorum Court based upon those fire protection needs. Section 5 of Act 10 of 1992 (FES) amended the provisions of Ark. Code Ann. § 14-284-405(a) to require recipients of Fire Protection Premium Tax Funds to see that the standard guidelines established for Arkansas Fire Protection Services (Ark. Code Ann. § 20-22-801, et seq.) were followed in the certification process for the municipal fire departments and the rural fire districts. Section 6 of Act 10 of 1992 (FES) amended the provisions of Ark. Code Ann. § 14-284-405(c)(5). Section 7 of Act 10 of 1992 (FES) amended the provisions of Ark. Code Ann. § 26-57-614(b), (c), (d) and (e). Section 8 of Act 10 of 1992 (FES) amended the provisions of Act 897 of 1991 to create a refund account of \$5.0 million for the fiscal ending June 30, 1992, and \$11.0 million for the fiscal year ending June 30, 1993. Sections 9, 10, 11, 12 and 13 of Act 10 of 1992 (FES) were "directive provisions" that were not codified. Section 14 of Act 10 of 1992 (FES) was the "emergency clause" that made the provisions of Act 10 of 1992 (FES) effective upon passage, during the fiscal

31. In addition, to be eligible to receive any fire protection moneys under Act 833 of 1991 (as amended), each municipality in Arkansas must agree (under the provisions of Ark. Code Ann. § 14-284-406(b)(1)) to provide fire protection services in areas within five (5) miles of its corporate limits of the municipality through a Mutual Aid Agreement with the rural area so affected. The Plaintiff City of Beebe, Arkansas, has formally agreed to provide fire protection services to rural areas within five (5) miles of the City's corporate limits.

32. The Arkansas General Assembly has statutorily assured such funding (as described in the preceding paragraph) to the municipalities in Arkansas by enacting Ark. Code Ann. § 14-284-406(a)(2)(A), which statute provides, in part, as follows:

(2)(A) In addition to funds the municipality is otherwise entitled to under this subchapter, the municipality serving any such designated area shall receive the funds which the rural volunteer fire department or fire protection district would have been eligible to receive. [Emphasis Added]

33. The City of Beebe, Arkansas, is, therefore, entitled to claim and count as part of its "population," under the provisions of Ark. Code Ann. § 14-284-406(a)(2)(A): (1) individuals living within the city limits of Beebe, Arkansas, plus (2) the additional number of individuals living in the rural areas that exist within five (5) miles from the City's corporate limits (as determined from the 2010 U.S. Census figures for: (1) each municipality, and (2) each rural fire district located within White County, Arkansas).

34. The total population figures for cities (like Beebe, Arkansas) and rural fire districts are determined by UALR's Institute for Economic Advancement, GIS Application Laboratory, based upon the latest decennial census conducted in White County, Arkansas (and all other counties in Arkansas), by the U. S. Bureau of the Census.

year ending June 30, 1992.

This UALR GIS Applications Laboratory determines the population of all of the municipalities and rural fire districts in the state, for Act 833 Funds purposes (based upon each population projection from the most recent U. S. Census).³

35. The latest population projections prepared by the representatives of UALR's GIS Applications Laboratory, for: (1) the municipalities and (2) the rural fire districts located within White County, Arkansas, are attached to this Complaint as Exhibit 3. The population figures that appear on these projections for Griffithville, Arkansas (on this summary table) are the population figures shown for the Southeast White County Rural Fire District on the map (also prepared by these representatives of UALR's GIS Applications Laboratory) and on the "handouts" presented by County Judge Lincoln at the March 15, 2012 meeting of the White County Intergovernmental Cooperative Council.

36. A pictorial representation of all of: (1) the municipal fire departments and (2) the rural fire districts currently existing within White County, Arkansas, in the form of a map prepared by UALR's GIS Application Laboratory, is attached as Exhibit 4 to this Complaint.

B. Statutory Scheme for Distribution of Fire Protection Insurance Premium Tax Funds to All (1) Municipal Fire Departments and (2) Rural Fire Districts Located In Arkansas

³ The UALR GIS Applications Laboratory representatives make the population projections for the geographic area covered by: (1) each municipality; and (2) each rural fire district. For places (i.e., municipalities) that are listed in the latest U. S. Census, Summary File 1, those population figures are actually used by these representatives of UALR's GIS Applications Laboratory. For the population of each rural fire district (and rural area covered under a Mutual Aid Agreement) the population of such geographic areas is calculated at the census block level. The population of all blocks completely within these rural areas are summed up and added to the calculated populations of the blocks which are crossed by the rural areas' boundary lines. White County, Arkansas has five rural fire districts which cross the county's boundary into the adjacent counties. Therefore, the total fire district population will not match the population within White County, Arkansas, alone.

37. The provisions of Act 833 of 1991 (as amended) which impose the 1/2 of 1% tax on the insurance premiums, have been codified as Ark. Code Ann. § 26-57-614, which provides:

§ 26-57-614. Fire protection services – Additional tax.

(a)(1) It is found and determined by the General Assembly that additional funding is needed to improve the fire protection services in this state.

(2) It is further found and determined that the public policy of this state is to provide adequate fire protection services for property of citizens through the use of properly trained and equipped firefighters, and that the provisions of this section and §§ 14-284-401 – 14-284-409 are necessary in furtherance of the public health and safety.

(b) In addition to the premium taxes collected from insurers under other provisions of Arkansas law, each authorized insurer and each formerly authorized insurer shall pay to the Fire Protection Premium Tax Fund a tax at the rate of one-half of one percent (½%) on net direct written premiums for coverages upon real and personal property, including, but not limited to, fire, allied lines, farm owner and homeowner multiple peril, vehicle physical damage, and vehicle collision, or any combination thereof.

(c) This tax shall be collected by the Insurance Commissioner from the insurers at the same time and in the same manner as provided in the premium tax sections of the laws of this state under this subchapter and deposited into the fund.

(d) An assessment upon which this premium tax is based shall be made on forms prescribed by the commissioner.

(e)(1) A premium tax payment shall be made upon a company check payable to the fund.

(2) If the cumulative premium tax payment is less than twenty-five dollars (\$25.00), then the insurer may defer payment to the following quarter or quarters of the current calendar year but shall pay the tax no later than March 1 of the following year.

(f) The provisions of this section and § 14-284-401 et seq. are intended to be supplemental to current provisions of Arkansas law, and shall not be construed as repealing or superseding any other laws applicable thereto.

38. The provisions of Act 833 of 1991 (as amended), which provide for the special "fund" created by the imposition of the 1/2 of 1% Fire Protection Premium Tax have been codified as Ark. Code Ann. § 19-6-468, which provide, as follows:

§ 19-6-468. Fire Protection Premium Tax Fund.

(a) There is created upon the books of the Treasurer of the State, the Auditor of the State, and the Chief Fiscal Officer of the State a special revenue fund to be known as the Fire Protection Premium Tax Fund, which shall consist of those special revenues as specified in § 19-6-301(164) there to be used for fire protection services as set out in § 25-57-614 and § 14-284-401, et. seq.

(b) The Insurance Commissioner shall immediately deposit all moneys collected under § 26-57-614 and § 14-284-401, et. seq. into the Revenue Holding Fund Account as provided in § 19-5-204. On the last business day of each quarter, the Chief Fiscal Officer of the State shall determine the amount of net special revenues to be transferred to the Fire Protection Premium Tax Fund by the Treasurer of the State. The Chief Fiscal Officer of the State shall be the disbursing officer for the fund, and shall distribute the moneys as provided in § and § 14-284-401, et. seq.

(c) The Insurance Commissioner shall disburse any refunds which may be due insurance carriers from the Miscellaneous Revolving Fund after certifying to the Chief Fiscal Officer of the State the amount to be refunded. The Chief Fiscal Officer of the State shall direct that the certified amount be transferred from the Revenue Holding Fund Account to the Miscellaneous Revolving Fund as provided in § 19-5-106(a)(3).

39. The provisions of Act 833 of 1991 (as amended) which provide for the allocation to each of the 75 counties in Arkansas the total amounts of Fire Protection Premium Taxes collected each year and for the apportionment by each County Quorum

Court of the Fire Protection Premium Tax Funds allocated to each county are set out in

Ark. Code Ann. § 14-284-403, which provides, in pertinent part, as follows:

§14-284-403. Apportionment of funds.

(a)(1) These premium tax monies are assessed for disbursement from the Fire Protection Premium Tax Fund, § 19-6-468, by the Department of Finance and Administration to the counties in the following percentages:

Arkansas County – 0.78%, Ashley County – 1.39%, Baxter County – 1.78%, Benton County – 3.86%, Boone County – 1.46%, Bradley County – 0.52%, Calhoun County – 0.51%, Carroll County – 0.97%, Chicot County – 0.51%, Clark County – 1.13%, Clay County – 1.10%, Cleburne County – 1.11%, Cleveland County – 0.66%, Columbia County – 1.24%, Conway County – 1.04%, Craighead County – 2.91%, Crawford County – 1.98%, Crittenden County – 1.32%, Cross County – 0.84%, Dallas County – 0.45%, Desha County – 0.71%, Drew County – 0.80%, Faulkner County – 2.30%, Franklin County – 0.97%, Fulton County – 0.84%, Garland County – 3.12%, Grant County – 1.13%, Greene County – 1.39%, Hempstead County – 1.89%, Hot Spring County – 1.46%, Howard County – 0.75%, Independence County – 1.90%, Izard County – 0.91%, Jackson County – 0.95%, Jefferson County – 2.32%, Johnson County – 1.05%, Lafayette County – 0.71%, Lawrence County – 0.96%, Lee County – 0.73%, Lincoln County – 1.12%, Little River County – 0.77%, Logan County – 1.06%, Lonoke County – 1.70%, Madison County – 0.95%, Marion County – 1.00%, Miller County – 1.44%, Mississippi County – 1.77%, Monroe County – 0.53%, Montgomery County – 0.66%, Nevada County – 0.58%, Newton County – 0.67%, Ouachita County – 1.37%, Perry County – 0.62%, Phillips County – 1.12%, Pike County – 0.87%, Poinsett County – 1.14%, Polk County – 1.01%, Pope County – 1.73%, Prairie County – 0.83%, Pulaski County – 5.99%, Randolph County – 0.96%, St. Francis County – 1.45%, Saline County – 3.00%, Scott County – 0.59%, Searcy County – 0.73%, Sebastian County – 2.06%, Sevier County – 0.82%, Sharp County – 1.30%, Stone County – 0.77%, Union County – 2.01%, Van Buren County – 1.18%, Washington County – 3.46%, **White County – 2.71%**, Woodruff County – 0.47%, Yell County – 1.11%. [Emphasis Added]

(2)(A) The monies shall be apportioned by each quorum court to the districts and municipalities within the county based upon population unless the county intergovernmental cooperation council notifies the quorum court of the fire protection needs of the districts and municipalities, in

which case the moneys shall be apportioned by the quorum court based on those needs. [Emphasis Added]

(B) The funds shall be distributed to municipalities and those certified departments in districts in compliance with this subchapter, § 20-22-801 et seq., and § 6-21-106.

(C) Fire departments that are not certified by the Office of Fire Protection Services under § 20-22-801 et seq. shall also be eligible to receive moneys disbursed under this section so long as all moneys received are spent directly on equipment, training, capital improvements, or other expenditures necessary for upgrading the service provided by the department.

(D)(i) An inactive Fire Department, as determined by the county judge, is not eligible to receive moneys disbursed under this section.

(ii) Any moneys allocated by the county intergovernmental cooperation council and any moneys that would have been apportioned to an inactive fire department based upon population shall be disbursed by the quorum court to the active departments based upon fire protection needs.

(iii) If a quorum court has passed a resolution that reallocates the moneys remaining after the disbursement of moneys under this section, then the moneys shall be reallocated based upon the quorum court resolution.

(b) Disbursements shall be made on forms prescribed by the Department of Finance and Administration.

(c) A county treasurer shall not collect the treasurer's commission provided in § 21-6-302 on any of the premium tax moneys disbursed from the Fire Protection Premium Tax Fund.

* * *

40. The Arkansas DF&A's Office of Administrative Services is responsible for the actual distribution of the 2.71% of all Fire Protection Premium Tax Funds allocated by the General Assembly to White County, Arkansas, and as apportioned among the (1) municipal fire departments and (2) rural fire districts located within White County, Arkansas, as determined by the White County Quorum Court.

41. The Arkansas DF&A's Office of Administrative Services has formally adopted Implementing Procedures, for use in the distribution of the Fire Protection Premium Tax Funds (Act 833 of 1991, as amended). The DF&A's Implementing Procedures, that have been effective since May 1, 1996,⁴ are attached to this Complaint as Exhibit 5. These May 1996 Implementing Procedures provide, in part, that the latest census figures are to be utilized by the Quorum Courts of the various counties in Arkansas in apportioning the distribution of Act 833 of 1991 (as amended) Funds to the cities, towns and fire districts located within each county.

42. The DF&A's 1996 Implementing Procedures (Exhibit 5), adopted to implement the distribution of the monies generated by Fire Protection Services Program Act of Arkansas (Act 833 of 1991, as amended) expressly provide, under General Procedures Applying to All Fire Departments/Rural Fire Districts, Subsection A.4, that the DF&A has established the policy for the distribution of Fire Protection Premium Tax Funds [Act 833 Funds], based on population, as follows:

A.4. The population of each county and incorporated city and town will be determined using the latest U. S. Census ... [Emphasis Added]

43. Over the years (since Act 833 of 1991 was enacted), the Arkansas Department of Emergency Management's Office of Fire Protection Services (which agency administers the "certification program" for rural fire districts) has become more active in the

⁴ The provisions of these May 1, 1996 Implementing Procedures, adopted by the Arkansas DF&A's OAS, are the last guidelines "formally" adopted by the Arkansas DF&A's OAS. These Implementing Procedures were republished, word for word, in February of 2003, by the Arkansas Municipal League, as the AML's Fire Protection Services Program Booklet. Virtually the same Implementing Procedures were first adopted by the Arkansas DF&A's OAS to be effective on July 1, 1993. See, Exhibit 5.

administration of the Fire Protection Premium Tax Funds generated by the ½% Insurance Premium Tax.

44. Both municipalities (like the City of Beebe) and rural fire districts located in White County, Arkansas, must complete and file, annually, with the Arkansas Department of Emergency Management's Office of Fire Protection Services, a Certification Application that is signed (in the case of municipalities) by the Mayor and Fire Chief of each municipality and then filed with the Office of Fire Protection Service's Arkansas Department of Emergency Management Offices at Camp Robinson in North Little Rock, Arkansas, by October 31. A copy of this Certification Application is attached to this Complaint as Exhibit 6.

45. The approval of the City of Beebe's Application by the Arkansas Department of Emergency Management's Office of Fire Protection Services then frees up the payment by the Arkansas DF&A's Office of Administrative Services of the positions of the Fire Protection Premium Tax Funds to each municipal fire department and to each rural fire district that these entities are entitled to receive, because of the apportionment formula for such funds, adopted by the White County Quorum Court's latest Resolution that relates to the percentage distribution to the municipal fire departments and the rural fire districts located within White County, Arkansas, of their portion of the 2.71% of all such Fire Protection Premium Tax Funds designated by the Arkansas General Assembly for the municipal fire departments and rural fire districts located within White County, Arkansas.

46. The Office of Fire Protection Services of the Arkansas Department of Emergency Management has published a booklet entitled, "The Act 833 Funding Guidance and Requirements" (a copy of this booklet is attached to this Complaint as Exhibit 7), prepared by the Office of Fire Protection Services of the Arkansas Department of Emergency Management. This booklet contains instructions for completing the Certification

Application for Act 833 Funds. The "third" instruction deals with the "type of department" making the Application. The "second" subsection (on page 3) of these Instructions reads, as follows:

2. **Municipal:** Formed by municipality ordinances, Ark. Code Ann. § 14-53-10. **Please indicate municipality population from last census count.** [Emphasis Added]

47. Thus, the Arkansas Department of Emergency Management's Office of Fire Protection Services, as well as the Arkansas DF&A's Office of Administrative Services, administratively require the utilization of the population figures from the "**latest**" U. S. Census in their handling and distribution of the Fire Protection Premium Tax Fund (Act 833 of 1991, as amended) moneys.

- C. **Prior White County Quorum Court Resolutions Adopting Apportionment Formulas for the Distribution of Fire Protection Premium Tax Funds (Act 833 of 1991, as Amended) to: (1) Municipal Fire Departments and (2) Rural Fire Districts.**

48. The White County Quorum Court has adopted four (4) separate Resolutions (since the enactment of Act 833 of 1991) that relate to the distributions of Act 833 of 1991 (as amended) Fire Protection Premium Tax Funds. These are White County Quorum Court Resolutions 92-4; 2000-14; 2001-10; and 2007-9.

49. From the beginning, the White County Quorum Court (or the counsel advising the Quorum Court) has either:

- (1) misread the provisions of Ark. Code Ann. § 14-284-403(a)(2)(A), or
- (2) voluntarily and erroneously permitted the White County Intergovernmental Cooperation Council to have an input into the apportioned formula for the distribution of the Act 833 of 1991 (as amended) Fire Protection Premium Tax Funds within White County, Arkansas, **when the distribution is based solely on population.** [Emphasis Added]

The distribution of the Fire Protection Premium Tax funds **is statutorily required to be based solely upon population**. The statute cited (Ark. Code Ann. § 14-284-403) clearly states that “the [Act 833] moneys **shall be** apportioned **by each quorum court** to the [fire] districts and municipalities within the county **based upon population**” See, Paragraph 39 of this Complaint.

50. The establishment of an apportionment or distribution formula for the division of these Fire Protection Premium Tax Funds in White County, Arkansas, that is based upon “population” within the rural fire districts and within the municipalities (plus the population of the rural areas within five (5) miles of the city limits that are served by the municipalities fire department) is, by statute, “**solely**” the responsibility of the White County Quorum Court, and **not** the White County Intergovernmental Cooperation Council. The White County Intergovernmental Cooperation Council has **no input** on the apportionment formula adopted by the White County Quorum Court when the distribution is based **only** on the “**population**” of each municipality and rural fire district located within White County, Arkansas.

51. The **only** function of the White County Intergovernmental Cooperation Council, with regard to the distribution of the Act 833 of 1991 (as amended) moneys, is if the Intergovernmental Cooperation Council notifies the Quorum Court of the **actual “fire protection needs”** of **each** of the fire districts and municipalities (there are a total of 30 such entities in White County, Arkansas). In such a case, the Fire Protection Premium Tax Funds shall be apportioned by the Quorum Court based upon those “fire protection need figures” determined by the Intergovernmental Cooperation Council. (See, Ark. Code Ann. § 14-284-403(a)(2)(A).

52. The above cited White County Quorum Court Resolutions 92-4 (attached to this Complaint as Exhibit 8 is a copy of White County Quorum Court Resolution No. 92-4) and 2001-10 (Paragraph 48 of this Complaint) mistakenly state (as bolded below), in part:

RESOLUTION NO. 92-4

* * *

WHEREAS, Act 833 of 1991 was approved by the Legislature of Arkansas wherein it provides for additional funding for Arkansas Fire Departments through additional insurance premiums assessed against insurers writing Fire Insurance and similar coverages in Arkansas; and

WHEREAS, this act requires the Intergovernmental Cooperation Council of each county to recommend the appropriations of said monies to each municipal and rural fire department; [Emphasis Added] ⁵ and

WHEREAS, the White County Intergovernmental Cooperation Council met at the White County Courthouse on June 15, 1992 with the County Judge, County Clerk, and Mayors of the cities of White County in attendance; and

WHEREAS, the following Fire Departments were approved for allocations using the percentage as set out by Act 833 for White County. **Available funds are to be apportioned on the population serviced by each Fire Department.** [Emphasis Added]

(Listing of 13 Rural Fire Districts and 16 Municipalities)

⁵ This statement in Resolution No. 92-4 is a **totally incorrect** reading or interpretation of the requirements of Ark. Code Ann. § 14-284-403(a)(2)(A). The **only** statutory authority granted to the White County Intergovernmental Cooperation Council by this statute is to determine the **"fire protection needs"** of each of the some 30 "current" different rural fire districts or municipalities in White County, Arkansas, and report those "fire protection needs" to the White County Quorum Court. Otherwise, the White County Quorum Court **is to act alone** in adopting a Resolution apportioning the distribution of the 2.71% of the overall Fire Protection Premium Tax Funds (that are allocated to White County, Arkansas). These Fire Protection Premium Tax Funds are then, **based upon the population** of the rural fire protection districts and the municipalities located within White County, Arkansas (plus the population located within five (5) miles of the corporate limits of these municipalities (that have entered a Mutual Aid Agreement with the citizens of such rural area) where the fire protection needs of the citizens are being provided by the Fire Departments of these municipalities).

* * *

NOW, THEREFORE BE IT RESOLVED BY THE WHITE COUNTY QUORUM COURT, that the above recommended allocations are hereby approved and the report of the White County Intergovernmental Cooperation Council is adopted.

* * *

AND BE IT FURTHER RESOLVED BY THE WHITE COUNTY QUORUM COURT that all Certified Municipal Fire Departments have executed Mutual-Aid Agreements with adjoining departments within the five mile radius assuring assistance if needed. Said agreements being submitted to the Arkansas State Fire Protection Services Board, and copies being maintained in the office of the County Judge of White County.

THIS RESOLUTION shall be in full force and effect from and after its passage and approval.

DATED: June 17, 1992 **APPROVAL:** _____/s_____
Dan H. Fulmer
County Judge

ATTEST: _____/s/
Mary Mann, County Clerk

53. The next Resolution adopted by the White County Quorum Court regarding the distribution of the Fire Protection Premium Tax Funds, was Resolution No. 2001-10, adopted in 2001. Attached to this Complaint, as Exhibit 9, is a copy of White County Quorum Court Resolution No. 2001-10, which provides in part, as follows:

RESOLUTION NO. 2001-10

* * *

WHEREAS, Act 833 of 1991 was approved by the Legislature of Arkansas wherein it provides for additional funding for Arkansas Fire Departments through additional insurance premiums assessed against insurers writing Fire Insurance and similar coverages in Arkansas; and

WHEREAS, this act requires the Intergovernmental Cooperation Council of each county to recommend the

appropriations of said monies to each municipal and rural fire department; [Emphasis Added]⁶ and

WHEREAS, the following Fire Departments were approved for allocations using the percentage as set out by Act 833 for White County. **Available funds are to be apportioned on the population serviced by each Fire Department as determined by the 2000 Census.**

(Listing of 13 Rural Fire Districts and 16 Municipalities)

* * *

DATED: 12/18/2001 **APPROVAL:** _____/s/_____
Bob Parish, County Judge

ATTEST: _____/s/_____
Doug Faith, County Clerk
by Tanya Morehead, D.C.

54. In 2007, the White County Quorum Court adopted Resolution No. 2007-9 that dealt, in part, with the apportionment and distribution of the Fire Protection Premium Tax Funds statutorily allocated to White County, Arkansas. A copy of White County Quorum Court Resolution No. 2007-9 is attached to this Complaint, as Exhibit 10, which provides, in part:

RESOLUTION NO. 2007-9

* * *

WHEREAS, the Mt. Vernon Volunteer Fire/Rescue is an organization duly founded and obligated to offer fire and medical protection in Faulkner and White County by the formation of a fire district, and

* * *

WHEREAS, Act 833 of 1991 provides insurance premium funds to certified fire departments, and that Mt. Vernon Volunteer Fire/Rescue is a certified fire department in an approved fire district in White County, and

⁵ This statement reflects an **incorrect reading or interpretation** of the requirements of Ark. Code Ann. § 14-284-403(a)(2)(A). See Footnote 3, *supra*.

* * *

WHEREAS, White County Resolution No. 2001-10 states that funds allocated by Act 833 of 1991 are apportioned **based on the population serviced by each Volunteer Fire Department as determined by the latest U. S. Census which was in the year 2000.** [Emphasis Added].

* * *

THEREFORE BE IT RESOLVED that the Quorum Court of White County, State of Arkansas, hereby agrees to include Mt. Vernon Volunteer Fire/Rescue in the County's funding of Volunteer Fire Departments with monies from the State of Arkansas from Act 833 of 1991.

ENTERED THIS 20th DAY OF NOVEMBER, 2007.

_____/s/_____
Michael Lincoln,
White County Judge

_____/s/_____
Tanya Burleson, White County Clerk

55. Thus, prior to the year 2012, the Quorum Court of White County, Arkansas has set the precedent by the adoption of the three (3) foregoing Resolutions (regarding the distribution of Fire Protection Premium Tax Fund (Act 833 of 1991 (as amended) moneys in 1992, 2001 and 2007), by consistently passing Resolutions that set the apportionment formula for such moneys to be distributed to the (1) municipal fire departments, and (2) the rural fire districts located within White County, Arkansas, based **solely** upon the "**population**" figures taken from the **latest** U. S. Census that had been conducted within White County, Arkansas, prior to the passage of such Resolutions by the White County Quorum Court.

II. SPECIFIC ALLEGATIONS OF FACT

56. There is absolutely **no statutory authority** for the White County Intergovernmental Cooperation Council to have **any** input on the issue of the establishment

of an apportionment or distribution formula based on population for the Fire Protection Premium Tax Funds allocated by statute to White County, Arkansas (i.e., to municipal fire departments and rural fire districts). Under the provisions of Ark. Code Ann. §§ 14-284-403(a)(1), 2.71% of the total amount of Fire Protection Premium Tax Funds collected by the State of Arkansas is allocated by statute to White County, Arkansas, and distributed by the Arkansas DF&A's Office of Administrative Services from the Fire Protection Premium Tax Fund established in the State Treasurer's Office. The distribution or apportionment formula adopted by the White County Quorum Court has always been based solely upon the population of: (1) the municipalities; and (2) the rural fire districts located within White County, Arkansas.

57. The County Judge of White County, Arkansas has no statutory authority to set, or suggest the setting of, the wording of a Resolution on the Fire Protection Premium Tax funds to the members of the White County Quorum Court, and the County Judge has no statutory authority to "veto" a Resolution adopted by the White County Quorum Court (Ark. Code Ann. § 14-14-913(h)). The apportionment or distribution formula adopted by the members of the White County Quorum Court, for the 2.71% of the overall Fire Protection Premium Tax Funds statutorily allocated by the General Assembly to White County, Arkansas, must be adopted by the White County Quorum Court, based upon the population of each municipality and each rural fire district then existing in White County, Arkansas. These population figures are required to be taken from the most recent [2010] U. S. Census.

58. Therefore, White County Judge Lincoln had no statutory authority to make the presentation to the members of the White County Intergovernmental Cooperation Council (at the "called" meeting of the White County Intergovernmental Cooperation Council

on March 15, 2012) to make a "**choice**" to vote on using the population figures and percentages (from **either** the 2000 **or** the 2010 U. S. Census) to recommend to the White County Quorum Court. In fact, the "**choice**" presented by White County Judge Lincoln, at that "called" meeting, was just the opposite of prior actions taken by the members of the White County Quorum Court, where the use of **the most "current" population figures** from the "**latest**" U.S. Census were adopted by the White County Quorum Court's Resolutions to apportion or distribute these Fire Protection Premium Tax Funds to: (1) municipal fire departments, and (2) rural fire districts located within White County, Arkansas.

59. This action by White County Judge Lincoln (as described in Paragraph 58 of this Complaint) also disregarded the requirements of the Implementing Procedures adopted by the Arkansas DF&A's Office of Administrative Services (*supra*, Paragraph 42). These Implementing Procedures of the DF&A **require** the use of the population figures **from the most recent U. S. Census**, in establishing (solely by the White County Quorum Court) an apportion formula for the distribution of the 2.71% of the overall Fire Protection Premium Tax Funds statutorily allocated to White County, Arkansas.

60. According to the "minutes" of the March 15, 2012, "called" meeting of the White County Intergovernmental Cooperation Council (Exhibit 12 to this Complaint), the entire meeting (including the invocation and the Pledge of Allegiance) took **only** 18 minutes (7:00 p.m. to 7:18 p.m.). The **only** issue on the agenda for this "called" meeting of the White County Intergovernmental Cooperation Council was stated by White County Judge Lincoln to be:

* * *

Judge Lincoln ... stated that the only item on tonight's agenda was the distribution of Act 833 Monies. **Judge Lincoln asked the council how they wanted to do this. They can either use the 2000 census numbers utilizing those figures for the**

distribution or they can update and use the census figures from 2010. [Emphasis Added]

Mayor David Morris [Searcy] stated that the census is done every 10 years. Mayor Morris made a motion to update to the 2010 census figures and Mayor Mike Robertson [Beebe] gave the second.

* * *

61. The minutes of this "called" meeting then stated that there followed a discussion among the attending mayor-members of the White County Intergovernmental Cooperation Council (who were present) about what they thought were inaccuracies in the 2010 U. S. Census population figures supplied by UALR; that some of the mayors wanted to continue to use the 2000 U.S. Census population figures; that too many small fire departments will lose their funds [if the 2010 U. S. Census population figures are used]; that if the 2000 U. S. Census population figures [supplied by UALR] are used [as opposed to the 2010 U. S. Census population figures supplied by UALR] that [White County, Arkansas] would be leaving money on the table; how the needs for each fire district [would] be demonstrated; and whether the mayors wanted to penalize a fire department for growing.

62. The minutes of this "called" meeting of the White County Intergovernmental Cooperation Council (as prepared by the White County Clerk) then state that Defendant Lincoln, as the County Judge of White County, Arkansas, stated, at the close of this "called" meeting of the White County Intergovernmental Cooperation Council, that:

We will have a roll call saying that he [County Judge Lincoln] needed a motion to adjust Act 833 to the 2010 Census figures. Mayor Morris [Searcy] made the motion and Mayor Robertson [Beebe] gave the second to adjust to the 2010 census. At this time, County Clerk Marquita Teague called the roll for a vote. Mayors answering "yes" were Mike Robertson [Beebe], Rickey Veach [Judsonia], Tammy Bomar [Rosebud], David Morris [Searcy], and John Hamilton [West Point]. Those against were Mayors Doyle Wallace [Bald Knob], Arnold Sewell

[Garner], Ron Snyder [Georgetown], Windle Porter [Griffithville], Randall Holmsley, [Higginson], Sherrel Bennett [Letona], Gary Doyle [Pangborn], Mayors Arthur Dunn, Max McDonald, Robert Sullivan, and Dennis Pierce were absent. County Clerk Teague announced that the motion failed for lack of "yes" votes by the majority. **Judge Lincoln declared that the figures for the distribution of the Act 833 monies will remain as is, utilizing the 2000 census.** A motion to adjourn was made by Mayor Tammy Bomar and the second was given by Mayor Ron Synder. All agreed and the meeting was adjourned at 7:18 p.m. [Emphasis Added]

_____/s/_____
Marquita Teague, County Clerk

63. It is evident that, at the March 15, 2012, "called" meeting of the White County Intergovernmental Cooperation Council, the mayors of Bald Knob, Garner, Georgetown, Griffithville, Higginson, Letona and Pangburn (representing municipalities with a total of 11.99% of the population of White County, Arkansas) **all** represented municipalities that would have had reduced percentages of population (using the population percentages from the 2010 U. S. Census, as opposed to the population figures from the 2000 U. S. Census). These mayors **all** voted "no" on the use of the 2010 U. S. Census population figures. Though there were **only** five (5) mayors voting "yes" on the use of the population figures from the 2010 U. S. Census, the cities represented by these five (5) mayors represented 49.21% of the entire population of White County, Arkansas, as of 2010.

64. The next four (4) pages contain charts illustrating the outcome of this vote taken at the March 15, 2012, meeting of the White County Intergovernmental Cooperation Council and how the mayors voted, together with an illustration of whether the municipalities gained or lost Fire Protection Premium Tax Funds, if the population figures from the 2010 U. S. Census were used for the apportionment and distribution of these Fire Protection Premium Tax Funds among the municipalities and the rural fire districts located within White County, Arkansas.

WCICG Meeting - March 15, 2012

Vote of Mayors on Using 2010 U. S. Census Population Figures for Apportionment Formula for Distributing Fire Protection Premium Tax Funds to Municipal Fire Departments in White County, Arkansas

City	Mayor	Present/Absent	Vote on Use of 2010 Census Figures	% of Fire Protection Funds Under 2010 Census	% of Fire Protection Funds Under 2000 Census	Gain or Loss on % of Fire Protection Funds
Balk Knob	Doyle Wallace	Present	No	5.68%	6.45%	-0.77%
Beeth	Mike Robertson	Present	Yes	12.37%	10.24%	2.13%
Branford	Arthur Dunn	Absent	-	1.89%	2.84%	-0.95%
Garner	Arnold Sewell	Present	No	0.69%	0.80%	-0.11%
Georgetown	Ron Snyder	Present	No	0.30%	0.51%	-0.21%
Griffithville (SE White Co.)	Windle Porter	Present	No	0.94%	1.61%	-0.67%
Higginson	Randell Holmsley	Present	No	1.75%	2.28%	-0.53%
Judsonie	Rickey Veach	Present	Yes	4.68%	4.90%	-0.22%
Kensett	Max McDonald	Absent	-	2.75%	3.62%	-0.87%
Letona	Sherrill Bennett	Present	No	0.77%	0.83%	-0.06%
McRae	Robert "Bob" Sullivan	Absent	-	2.08%	2.44%	-0.36%
Pangburn	Gary Doyle	Present	No	1.86%	1.99%	-0.13%
Rosebud	Tammy Gomar	Present	Yes	2.00%	1.51%	0.49%
Russell	Dennis Pierce	Absent	-	0.70%	1.09%	-0.39%
Searcy	David Morris	Present	Yes	29.61%	28.18%	1.43%
West Point	John Hamilton	Present	Yes	0.55%	0.8%	-0.26%
Total				68.6%	70.1%	-1.48%

WCICC Meeting - March 15, 2012

Rural Fire Protection Districts in White County, Arkansas and Percentage of Fire Protection Premium Tax Funds for Each Rural Fire Protection District Utilizing (1) Population From 2010 U. S. Census, and (2) Population From 2000 U. S. Census

Fire District	% of Fire Protection Funds Under 2010 Census	% of Fire Protection Funds Under 2000 Census	Gain or Loss on % of Fire Protection Funds
Albion	3.10%	2.30%	+ 0.80%
Arabic	2.70%	1.70%	+ 1.00%
Center Hill	3.70%	2.30%	+ 1.40%
El Paso	2.00%	2.70%	- 0.70%
Fairview	2.20%	2.10%	+ 0.10%
Floyd/Romance	3.20%	2.70%	+ 0.50%
Gum Springs	3.40%	3.70%	- 0.30%
Hickory Flat	0.50%	0.50%	0.0%
Joy Community	1.10%	1.70%	- 0.60%
Mt. Vernon	0.40%	0.30%	- 0.10%
North White County	4.60%	4.80%	- 0.20%
Pleasant Plains	0.70%	0.70%	0.0%
Rocky Point	0.60%	1.10%	- 0.50%
Velvet Ridge	2.70%	2.80%	- 0.10%
Total	30.90%	29.10%	+ 1.10%
Overall Totals	99.52%	99.20%	- 0.38%

**Distribution of Act 833 of 1991 Special Revenues
to Municipalities With Fire Departments in White County, Arkansas**

Municipal Fire District	Population of White County - 57,165, Distribution of Fire Protection Premium Tax Funds Based Upon UALR's GIS Applications Laboratory's Interpretation of 2000 U. S. Census Figures		Population of White County - 77,076, Distribution of Fire Protection Premium Tax Funds Based Upon UALR's GIS Applications Laboratory's Interpretation of 2010 U. S. Census Figures	
	2000 Fire District Population Per County Judge	Percentage of Population of White County	2010 Fire District Population Per County Judge	Percentage of Population of White County
Bald Knob	4,335	6.454%	4,378	5.680%
Beebe	6,877	10.239%	9,535	12.371%
Bradford	1,905	2.836%	1,458	1.892%
Garner	535	0.797%	508	0.659%
Georgetown	341	0.508%	233	0.302%
Griffithville (se White Co.)	1,080	1.608%	726	0.942%
Higginson	1,531	2.279%	1,347	1.748%
Judsonia	3,294	4.904%	3,603	4.675%
Kensett	2,434	3.624%	2,120	2.751%
Letona	556	0.828%	593	0.769%
McRae	1,641	2.443%	1,601	2.077%
Pangburn	1,340	1.995%	1,431	1.857%
Rose Bud	1,013	1.508%	1,539	1.997%
Russell	730	1.087%	536	0.695%
Searcy	18,928	28.181%	22,822	29.610%
West Point	544	0.810%	420	0.545%
Totals	47,084	70.102%	52,850	68.569%

**Distribution of Act 333 of 1991 Fire Protection Revenues
to Rural Fire Protection Districts in White County, Arkansas**

Rural Fire District	Population of White County - 67,165,		Population of White County - 77,076,	
	2000 Fire District Population Per County Judge	Percentage of Population of White County	2010 Fire District Population Per County Judge	Percentage of Population of White County
Albion	1,602	2.385%	2,405	3.120%
Antioch	1,196	1.781%	2,133	2.767%
Center Hill	1,586	2.361%	2,890	3.750%
El Paso	1,866	2.778%	1,567	2.033%
Fairview	1,426	2.123%	1,726	2.239%
Floyd/Romance	1,824	2.716%	2,533	3.286%
Gum Springs	2,541	3.783%	2,697	3.499%
Hickory Flat	397	0.591%	427	0.554%
Joy Community	1,197	1.782%	857	1.112%
Mt. Vernon	0	0.000%	348	0.452%
North White County	3,262	4.857%	3,570	4.632%
Pleasant Plains	525	0.782%	559	0.725%
Rocky Point	750	1.117%	478	0.620%
Velvet Ridge	1,909	2.842%	2,100	2.725%
Totals	20,081	29.898%	24,290	31.514%
Overall Totals	67,165	100.000%	77,140	100.083%

65. The March 15, 2012, meeting of the White County Intergovernmental Cooperation Council did not have a timely "notice" issued for such meeting by the White County Clerk. The provisions of Ark. Code Ann. § 14-27-103(d) require that a full ten (10) days "notice" period must be given by the County Clerk for any meeting of the White County Intergovernmental Cooperation Council.

66. The "notice" issued by the White County Clerk for the March 15, 2012, "called" meeting of the White County Intergovernmental Cooperation Council states (Exhibit 11 to this Complaint), on its face, that it was prepared and issued by the White County Clerk on March 6, 2012. A copy of the "notice" prepared by the White County Clerk for the March 15, 2012, meeting of the White County Intergovernmental Cooperation Council is attached to this Complaint as Exhibit 11. The "notice" of the March 15, 2012, meeting of the White County Intergovernmental Cooperation Council was "untimely," because such "notice" was prepared and issued by the White County Clerk only nine (9) days prior to the March 15, 2012 "called meeting of the White County Intergovernmental Cooperation Council. Therefore, any actions taken at the March 15, 2012, meeting of the White County Intergovernmental Cooperation Council were "null and void" and of no effect.

COUNT I

A. Declaratory Judgment

67. The Plaintiffs respectfully request that this Circuit Court enter a declaratory judgment in this civil proceeding that holds and declares that:

- (1) Only the White County Quorum Court has the sole statutorily imposed duty and authority for developing and adopting a formula for the appropriation and distribution among: (a) the municipal fire departments; and (b) the rural fire districts located within White County, Arkansas, of the Fire Protection Premium Tax Funds statutorily allocated to White County, Arkansas;

- (2) If the apportionment or distribution formula (described in paragraph 65(1) of this Complaint) is ***not*** based upon the population of: (a) each municipality; and (b) each rural fire district located within White County, Arkansas (as determined by the White County Intergovernmental Cooperation Council), then the White County Quorum Court is required by statute to adopt an apportionment and distribution formula that is based upon the population of: (a) each municipality, and (b) each rural fire district located within White County, Arkansas.
- (3) The apportionment or distribution formula described in Paragraph 65(2) of this Complaint must be based upon population figures taken from the most recent census conducted in White County, Arkansas by the U. S. Bureau of the Census.
- (4) The White County Intergovernmental Cooperation Council, at the "called meeting" of the Council, held on March 15, 2012, did ***not*** consider or adopt ***any*** apportionment or distribution formula to recommend to the White County Quorum Court that was based upon the actual "***fire protection needs***" of each: (a) municipal fire department; and (b) each rural fire districts located within White County, Arkansas.
- (5) The County Judge of White County, Arkansas has ***no statutory authority*** to recommend to either: (a) the White County Quorum Court; or (b) the White County Intergovernmental Cooperation Council that an apportionment or distribution formula for the Fire Protection Premium Tax Funds statutorily allocated to White County, Arkansas be adopted by the White County Quorum Court based upon population (other than the population figures derived from the latest census conducted in White County, Arkansas, by the U.S. Bureau of the Census.
- (6) The "notice" of the "called meeting" of the White County Intergovernmental Cooperation Council held on March 15, 2012, as prepared and issued by the County Clerk of White County, Arkansas, on March 6, 2012, was ***not*** timely given, as required by statute, and ***any*** and ***all*** business conducted or actions at this March 15, 2012 meeting of the White County Intergovernmental Cooperation Council were, therefore, "***null and void.***"

(1) Only the White County Quorum Court Has Statutory Authority to Adopt, by Resolution, an Apportionment or Distribution Formula for the Fire Protection Premium Tax Funds Statutorily Allocated to White County, Arkansas by the Arkansas General Assembly.

68. Amendment 55 to the State Constitution (enacted by the voter-citizens of the State of Arkansas at the General Election held on November 5, 1974) contains six (6) sections that form the basis for the reorganization of county governments throughout the state. Amendment 55, Sections 1 and 2 provide the powers and composition of county quorum courts.

69. The legislative power of county governments is vested (by Amendment 55, Section 1(a)) solely to the County Quorum Court and its Justice of the Peace members. The number of Justices of the Peace comprising the counties' quorum court may range from 9 to 15, and White County (pursuant to the provisions of Ark. Code Ann. § 14-14-402) has thirteen (13) Justices of the Peace, with each member of the White County Quorum Court being elected from separate districts comprised of an equal number of inhabitants, based upon population determined after each decennial census. The county judge presides over the meetings of the quorum court, but without a vote.

70. Pursuant to the provisions of Amendment 55 to the State Constitution, the Arkansas General Assembly has enacted legislation (i.e., Title 14, Chapter 14 of the Arkansas Code Annotated of 1987, as amended), "the County Government Code (Subchapters 1-13). In Ark. Code Ann. § 14-14-502(b), the Arkansas General Assembly has delegated to the county quorum courts all of the "legislative power" of the counties. Subchapters 8 and 9 of Title 14, Chapter 14 of the Arkansas Code deal with the Legislative Powers and Legislative Procedures of counties' quorum courts. The providing of fire

prevention and fire protection services within the county are granted to the county quorum courts by the provisions of Ark. Code Ann. § 14-14-802(b)3(D)(iii). However, the provisions of Ark. Code Ann. § 14-14-809(a) prohibits a county quorum court from exercising its legislative power in any manner inconsistent with state law or administrative regulations.

71. The quorum court of a county may enact both Ordinances and Resolutions. Ark. Code Ann. § 14-14-904(i), (j), (l) and (m). These four (4) statutory provisions state, as follows:

(i) COUNTY ORDINANCE. A county ordinance is defined as an enactment of compulsory law for a quorum court which defines and establishes the permanent or temporary organization and system of principles of a county government for the control and conduct of county affairs.

(j) COUNTY RESOLUTION. A county resolution is defined as the adoption of a formal statement of policy by a quorum court, the subject matter of which would not properly constitute an ordinance. A resolution may be used whenever the quorum court wishes merely to express an opinion as to some matter of county affairs, and a resolution shall not serve to compel any executive action.

* * *

(l) ORDINANCES. Ordinances may be amended and repealed only by ordinances.

(m) RESOLUTIONS. Resolutions may be amended and repealed only by resolutions.

72. With regard to Resolutions (Policy Statements) enacted by a county's quorum court, Ark. Code Ann. § 14-14-913 provides, in part, as follows:

14-14-913. Adoption and amendment of resolutions.

(a) A county resolution or amendment to a resolution may be introduced only by a justice of the peace of the county.

(b) No resolution or amendment to a resolution passed by a county quorum court shall contain more than one (1) comprehensive topic and shall be styled "Be It Resolved by the

Quorum Court of the County of, State of Arkansas
That..”

(c) No county resolution shall be revised or amended, or the provisions thereof extended or conferred, by references to its title only, but so much thereof as is revised, amended, extended, or conferred shall be reenacted and published at length.

(d) A proposed resolution must be read and adopted by a majority vote of the whole number of justices comprising a quorum court. On the passage of every resolution or amendment to an existing resolution, the yeas and nays shall be called and recorded in the minutes of the meeting.

(e) Resolutions or an amendment to an existing resolution may be introduced and adopted in a single meeting of the quorum court.

(f) Upon passage, all resolutions or amendments to existing resolutions shall be entered into the records of the quorum court. Publication of resolutions shall not be required except where publication is specified in the resolution adopted by a court.

(g) All resolutions shall be immediately effective unless a delayed effective date is specified.

(h) **The power of veto shall not apply to the adoption of resolutions or amendments to resolutions.** [Emphasis Added]

73. The statutorily created duty to adopt an apportionment or distribution formula for the distribution of White County's 2.71% share of the entire amount of the State's Fire Protection Premium Tax Funds to: (1) each municipal fire department, and (2) each rural fire district located within White County, Arkansas, is imposed **solely** upon the members of the White County Quorum Court, Ark. Code Ann. § 14-284-403(a)(2)(A), and should be so declared by an Order and Judgment of this Circuit Court.

74. Ark. Code Ann. § 14-284-403(a)(2)(A) specifically provides:

(2)(A) The monies [Fire Protection Premium Tax Funds] shall be apportioned by each quorum court to the districts

and municipalities within the county based upon population. [Emphasis Added] ⁷

75. The provisions of the DF&A's Implementing Procedures (for the disbursement of Fire Protection Premium Tax Funds by the DF&A's Office of Administrative Services), Section A.4 (Exhibit 5 to this Complaint) state that the distribution of the Fire Protection Premium Tax funds, based upon population, shall be based upon population figures derived from the **latest U. S. Census** as noted above. Therefore, the White County Quorum Court may **not** adopt a Resolution that conflicts with this administrative regulation adopted by the DF&A, an administrative agency of the State of Arkansas. Ark. Code Ann. § 14-14-809.

76. Therefore, this Circuit Court should enter a declaratory judgment in this civil proceeding declaring and holding that the Defendant members of the White County Quorum Court must adopt a "new" Resolution, pursuant to the provisions of the foregoing cited statutes (either this month or at the November 2012 meeting of the White County Quorum Court), which Resolution adopts or uses the population figures derived solely from the 2010 U. S. Census for: (1) each municipality, and (2) each rural fire district located within White County, Arkansas (as supplied to White County, Arkansas by UALR's GIS Applications Laboratory) all of which were derived from the 2010 U. S. Census. This Resolution also needs to repeal Resolution No. 2001-10, so as to meet the statutory requirements created for the White County Quorum Court by Ark. Code Ann. § 14-284-

⁷ The **only** exception to the apportionment formula being based upon "population" is if the White County Intergovernmental Cooperation Council has separately determined the "**fire protection needs**" of: (1) each municipal fire department, and (2) each rural fire district located within White County, Arkansas, which exception is **not** applicable in this civil proceeding. See, Ark. Code Ann. § 14-284-403(a)(2)(A).

403(a)(2)(A) and the Arkansas DF&A's Office of Administrative Services's Implementing Procedures A. 4 (Exhibit 5 to this Complaint).

- (2) **If the White County Intergovernmental Cooperation Council Does Not Recommend to the White County Quorum Court That the Fire Protection Premium Tax Funds Allocated to White County, Arkansas by the State of Arkansas Be Apportioned or Distributed To: (a) the Municipalities, and (b) Rural Fire Districts Located Within White County, Arkansas Based upon the Actual "Fire Protection Needs" of Each: (a) Municipality, and (b) Rural Fire District, Then the Provisions of Ark. Code Ann. § 14-284-403(a)(2)(A) Statutorily Require the White County Quorum Court to Adopt a Resolution Apportioning the Distribution of Such Funds To: (a) Each Municipality and (b) Each Rural Fire District Located Within White County, Arkansas Based upon the Population Of: (a) Each Municipality, and (b) Each Rural Fire District, as Derived from the Latest Census Conducted Within White County, Arkansas by the U. S. Bureau of the Census.**

76. Neither the mayor-members of the White County Intergovernmental Cooperation Council nor the County Judge of White County, Arkansas, have any statutory authority to even suggest to the White County Quorum Court the adoption of an apportionment or distribution formula for the 2.71% of the Fire Protection Premium Tax funds statutorily allocated to White County, Arkansas, that is based upon the population of: (a) each of the municipalities, or (2) each of the rural fire districts located within White County, Arkansas.

77. The Arkansas General Assembly did provide, in the "second" part of Ark. Code Ann. § 14-284-403(a)(2)(A), that the White County Intergovernmental Cooperation Council has the authority to suggest to the White County Quorum Court an apportionment or distribution formula for the Fire Protection Premium Tax Funds allocated to White County, Arkansas, that is based upon the actual "fire protection needs" of: (a) each of the

municipal fire departments, and (b) each of the rural fire districts that are located within White County, Arkansas. This statute states, as follows:

(2)(A) The moneys [Fire Protection Premium Tax funds] shall be apportioned by each quorum court to the districts and municipalities within the county based upon population **unless the county intergovernmental cooperation council notifies the quorum court of the "fire protection needs" of the districts and municipalities, in which case the moneys shall be apportioned by the quorum court based on those needs.**
[Emphasis Added]

78. The White County Intergovernmental Cooperation Council may have a role in determining the formula adopted by the White County Quorum Court for the distribution of the Fire Protection Premium Tax Funds within White County, Arkansas, but such role **cannot be based, in any way, upon the population** of: (a) each municipality, and (b) each rural and fire district within White County, Arkansas. The adoption of an apportionment or distribution formula, **based solely upon population** of the Fire Protection Premium Tax Funds statutorily allocated to White County, Arkansas, is **only** within the statutory authority granted to the White County Quorum Court by the Arkansas General Assembly.

79. As noted above, the terms "**fire protection needs**" were never defined by the Arkansas General Assembly (in either Act 833 of 1991 or Act 10 of 1992 (FES)). The definition of each of these terms, as set out in Webster's New Collegiate Dictionary (1973 Ed.) is, as follows:

1. **Fire.** The phenomenon of combustion manifested in light, flame and heat; a destructive burning (as a building).
2. **Protection.** The act of protecting; shield from injury or destruction.
3. **Need(s).** Of necessity; to be in want; to be needful or necessary.

Using these dictionary definitions, it would appear that the logical "fire protection needs" of: (1) a municipality, or (2) a rural fire district constitute anything that "is necessary to shield from a destructive burning of a building." This broad definition would encompass a wide description of "fire fighting equipment" and a facility within which to store or maintain such fire fighting equipment.

80. The White County Intergovernmental Cooperation Council is directed, by statute (Ark. Code Ann. § 14-27-104(a)(2)), as follows:

14-27-104. Annual review of services.

(a) At least one (1) time annually, the county intergovernmental cooperation council shall review the delivery of services by the various local government subdivisions within the county in the following areas:

* * *

(2) Fire protection services;

* * *

81. There does not appear to be any direct relationship between the provisions of:

(1) Ark. Code Ann. § 14-27-104(a)(2) (requiring at least an annual review by the White County Intergovernmental Cooperation Council of the "fire protection services" provided by local government subdivisions within White County, Arkansas); and

(2) Ark. Code Ann. § 14-284-403(a)(2)(A) (requiring the White County Quorum Court to apportion the Fire Protection Premium Tax Funds to: (a) each municipality, and (b) each rural fire district located within White County, Arkansas, based upon population (from the population figures derived from the latest U. S. Census)), unless the White County Intergovernmental Cooperation Council notifies the White County Quorum Court of the "fire protection needs" of: (a) each the municipalities, and (b) each of the rural fire districts in located within White County, Arkansas, but the first

statute must be complied with, before the requirements of the second statute can be undertaken.

82. It is doubtful that the mayor-members of the White County Intergovernmental Cooperation Council and Defendant White County Judge Michael Lincoln have actually conducted an annual review of the "fire protection services" provided to the citizens of White County, Arkansas, by each of the various local governmental subdivisions in White County, Arkansas (i.e., the 16 municipalities and the 14 rural fire districts). Unless such an annual review has been conducted by the White County Intergovernmental Cooperation Council, to determine the specific "fire protection needs" (and the dollar cost of these specific "fire protection needs" is determined), the White County Intergovernmental Cooperation Council is in no position to recommend to the White County Quorum Court a distribution of the Fire Protection Premium Tax Funds allocated by the Arkansas General Assembly to White County, Arkansas: (a) the municipalities, and (2) the rural fire districts located within White County, Arkansas, based upon the costs of such "fire protection needs."

83. The provisions of Ark. Code Ann. § 14-284-403(a)(2)(A) use of the terms "fire protection needs" would certainly have to logically include the requirement of: (1) a thorough review of what the "fire protection needs" (e.g., fire fighting equipment needed to equip a municipal fire department or a rural fire district to adequately carry out each municipality's and each rural fire district's fire protection obligations); and (2) the assignment of a dollar value to each of those municipalities and rural fire districts' "fire protection needs."

84. Accordingly, this Circuit Court should enter a declaratory judgment that declares and holds that, since the White County Intergovernmental Cooperation Council has not determined the "fire protection needs" of, and related costs of: (a) each

municipality, and (b) each rural fire district located within White County, Arkansas, and White County Intergovernmental Cooperation Council has not recommended to the White County Quorum Court what are each such local entities' "fire protection needs." Therefore, only the White County Quorum Court possesses the statutory authority to apportion the 2.71% of the Fire Protection Premium Tax Funds statutorily allocated to White County, Arkansas by the Arkansas General Assembly. Also, this Circuit Court should declare and hold, in such declaratory judgment that the only method of apportionment or distribution that the White County Quorum Court may utilize in adopting such a distribution formula is to pass a Resolution adopting an apportionment or distribution formula for such State Funds that is based solely upon the population of: (a) each municipality, and (b) each rural fire district (as determined by, and derived from, the most recent decennial census conducted in White County, Arkansas, by the U. S. Bureau of the Census).

85. This policy "precedent" has already been established by former members of the White County Quorum Court in their previous adoption of Resolution No. 92-4; Resolution No. 2001-10; and Resolution No. 2007-9 (*supra*), all of which Resolutions adopted apportionment or distribution formulas that were based upon the population of these: (a) municipalities, and (b) rural fire districts, as determined in the "then" most recent census, conducted in White County, Arkansas, by the U. S. Bureau of the Census as supplied to White County, Arkansas by UALR's GIS Applications Laboratory.

- (3) **The Controlling Statute Requires the White County Quorum Court to Adopt a Resolution That Establishes an Apportionment or Distribution Formula for the 2.71% of the Fire Protection Premium Tax Funds Statutorily Allocated to White County, Arkansas, Based Solely upon the Population of: (a) the Municipalities and (b) the Rural Fire Districts Located Within White County, Arkansas, From the Population Figures Derived From the**

**Latest Census Conducted in White County, Arkansas
By the U. S. Bureau of the Census.**

86. The White County Intergovernmental Cooperation Council has not recommended to the White County, Arkansas Quorum Court that the apportionment or distribution formula for the 2.71% of the Fire Protection Premium Tax Funds allocated by the General Assembly to White County, Arkansas, be based upon the "fire protection needs" of: (1) each of the municipalities, and (2) each of the rural fire districts located within White County, Arkansas.

87. Accordingly, based upon Section 4.A of the DF&A's Implementing Procedures (Exhibit 5 to this Complaint), this Circuit Court should enter a declaratory judgment in this civil proceeding that declares and holds that only the White County Quorum Court has the statutory duty and authority to adopt a Resolution establishing an apportionment formula for the distribution of the 2.71% of the Fire Protection Premium Tax Funds statutorily allocated to White County, Arkansas, and that such apportionment formula must be based upon population of: (1) the municipalities, and (2) the rural fire districts located within White County, Arkansas, as derived from the latest census conducted in White County, Arkansas, by the U. S. Bureau of the Census and as supplied to White County, Arkansas, by UALR's GIS Applications Laboratory.

- (4) **The White County Intergovernmental Cooperation Council Did Not, at the Entity's "Called Meeting" on March 15, 2012, Consider or Take Any Action to Adopt a Recommendation to the White County Quorum Court That the 2.71% of the Fire Protection Premium Tax Funds Statutorily Allocated to White County, Arkansas, Should Be Distributed Based upon the Actual "Fire Protection Needs" Of: (1) Each Municipality and (2) Each Rural Fire District.**

88. The Minutes (Exhibit 12 to this Complaint) for the March 15, 2012 "called" meeting of the White County Intergovernmental Cooperation Council do not state that the

mayor-members of the White County Intergovernmental Cooperation Council even considered, let alone took any action to adopt, a recommendation to the White County Quorum Court of what the actual "fire protection needs" of: (1) each municipality, and (2) each rural fire district in White County, Arkansas, were, or that the White County Quorum Court should adopt a distribution formula for the Fire Protection Premium Tax Funds received by White County, Arkansas from the State of Arkansas based upon the actual "fire protection needs" of each of these local entities.

89. If the White County Intergovernmental Cooperation Council has not determined the actual "fire protection needs" and related costs of: (1) each municipality, and (2) each rural fire district located within White County, Arkansas, then the White County Quorum Court must adopt an apportionment or distribution formula for the Fire Protection Premium Tax Funds statutorily allocated to White County, Arkansas, based upon the population figures determined for: (1) each municipality, and (2) each rural fire district located within White County, Arkansas by the latest census conducted in White County, Arkansas by the U. S. Bureau of the Census.

90. This Circuit Court should enter a declaratory judgment in this civil proceeding that declares and holds that the White County Intergovernmental Cooperation Council did not, at this entity's March 15, 2012, "called" meeting, consider or adopt what are the actual "fire protection needs" for: (1) each of the municipalities, and (2) each of the rural fire districts located within White County, Arkansas. Also, this Circuit Court's declaratory judgment should declare and hold that the White County Intergovernmental Cooperation Council has never recommended to the White County Quorum Court what are the actual "fire protection needs" of: (1) each of the municipalities, and (2) each of the rural fire districts located within White County, Arkansas.

- (5) **The County Judge of White County, Arkansas Had No Statutory Authority to Offer the Mayor-Members of the White County Intergovernmental Cooperation Council a “Choice” of Using Population Figures Derived from the Census Conducted in White County, Arkansas, by the U. S. Census Bureau in 2000 or in 2010.**

91. The Minutes of the March 15, 2012, meeting of the White County Intergovernmental Cooperation Council (prepared by County Clerk Marquita Teague, Exhibit 12 to this Complaint), state that, at the very beginning of this meeting, County Judge Lincoln stated:

That the only item on tonight’s agenda was the distribution of Act 833 monies. Judge Lincoln asked the council how they wanted to do this. **They can either use the 2000 Census numbers utilizing those figures for the distribution or they can update and use the Census figures from 2010.** [Emphasis Added].

92. Defendant Michael Lincoln, as the County Judge of White County, Arkansas, had **no statutory authority** to recommend for adoption (either to (1) the White County Quorum Court or (2) the White County Intergovernmental Cooperation Council) **any** type of distribution or apportionment formula for the 2.71% of Fire Protection Premium Tax funds statutorily allocated to White County, Arkansas.

93. The **only** statute authorizing any adoption of an apportionment formula for the distribution of the 2.71% of the Fire Protection Premium Tax funds statutorily allocated to White County, Arkansas by the General Assembly is Ark. Code Ann. § 14-284-403(a)(2)(A). The statute provides as follows:

Ark. Code Ann. § 14-284-403(a)(2)(A)

(2)(A) The monies shall be apportioned by each quorum court to the districts and municipalities within the county based upon population unless the county intergovernmental cooperation council notifies the quorum court of the fire protection needs of the districts and municipalities, in which

case the moneys shall be apportioned by the quorum court based on those needs. [Emphasis Added]

(B) The funds shall be distributed to municipalities and those certified departments in districts in compliance with this subchapter, § 20-22-801 et seq., and § 6-21-106.

(C) Fire departments that are not certified by the Office of Fire Protection Services under § 20-22-801 et seq. shall also be eligible to receive moneys disbursed under this section so long as all moneys received are spent directly on equipment, training, capital improvements, or other expenditures necessary for upgrading the service provided by the department.

(D)(i) An inactive Fire Department, as determined by the county judge, is not eligible to receive moneys disbursed under this section.

(ii) Any moneys allocated by the county intergovernmental cooperation council and any moneys that would have been apportioned to an inactive fire department based upon population shall be disbursed by the quorum court to the active departments based upon fire protection needs.

(iii) If a quorum court has passed a resolution that reallocates the moneys remaining after the disbursement of moneys under this section, then the moneys shall be reallocated based upon the quorum court resolution.

(b) Disbursements shall be made on forms prescribed by the Department of Finance and Administration.

(c) A county treasurer shall not collect the treasurer's commission provided in § 21-6-302 on any of the premium tax moneys disbursed from the Fire Protection Premium Tax Fund.

* * *

Therefore, only the White County Quorum Court has the statutory authority to adopt, by Quorum Court Resolution, an apportionment or distribution formula for the distribution of the 2.71% of the Fire Protection Premium Tax Funds statutorily allocated to White County, Arkansas, to: (1) each of the municipal fire departments, and (2) each of the rural fire districts located within White County, Arkansas.

94. The actions taken by and the rulings made by, the Defendant County Judge of White County, Arkansas, at the March 15, 2012 "called" meeting of the White County Intergovernmental Cooperation Council, regarding the "choice" to use population figures from the 2000 or the 2010 census, as the basis for the distribution of the Fire Protection Premium Tax Funds statutorily allocated to White County, Arkansas, were totally **without any statutory authority**, and, therefore, are **null and void** and have **no force and effect, whatsoever**.

95. Accordingly, this Circuit Court should enter a declaratory judgment in this civil proceeding that declares and holds that the actions taken, and rulings made by, the Defendant County Judge, at the March 15, 2012, meeting of the White County Intergovernmental Cooperation Council, regarding a "choice" for using population figures for White County, Arkansas from either the 2000 or the 2010 census conducted in White County, Arkansas, by the U. S. Bureau of the Census were actions taken **without any statutory authority**. Therefore, these actions taken, and rulings made by, the Defendant Court Judge of White County, Arkansas are **null and void, ab initio**, and have no effect, whatsoever, upon the White County Quorum Court's statutory duty and authority to adopt an apportionment formula for the distribution of the Fire Protection Premium Tax Funds allocated to White County, Arkansas, to and among: (1) the municipal fire departments, and (2) the rural fire districts located within White County, Arkansas, based upon population figures derived from the latest census conducted [i.e., the 2010 census] in White County, Arkansas by the U. S. Bureau of the Census.

- (6) **The Statutorily Required "Notice" for the March 15, 1023, "Called Meeting" of the White County Intergovernmental Cooperation Council Was Untimely Issued Only Nine (9) Days Before this "Called Meeting," And, Therefore, All Actions and Decisions Made at Such Meeting Are "Null and Void," Ab Initio.**

96. As noted above in this Complaint, a "called meeting" of the White County Intergovernmental Cooperation Council may be held only after a timely "notice" of such meeting (prepared by the County Clerk) has been issued to the public and the press for a period of ten (10) days. Ark. Code Ann. § 14-27-103(d). The "notice" prepared by White County Clerk Marquita Teague for the March 15, 2012, "called meeting" of the WCICC (Exhibit 11 to this Complaint) states, on the face of this "notice," that it was prepared and first issued to the public and the press on March 6, 2012, i.e., only nine (9) days before the date of this "called" meeting of the White County Intergovernmental Cooperation Council. Therefore, from the face of the "notice" itself, it is clearly established that this March 6, 2012, "notice" was improper and legally insufficient to meet the statutory requirement that notice for a "called meeting" of the White County Intergovernmental Cooperation Council be issued a full ten (10) days prior to the date of the White County Intergovernmental Cooperation Council meeting.

97. In situations where an untimely or statutorily inadequate "notice" of a public meeting has been issued or published, the Arkansas Supreme Court has held that any actions taken by a governmental entity at the meeting are "null and void," because the governmental entity is required to issue a "timely" "notice" and, if the "notice" is issued "untimely," then the governmental entity does not have jurisdiction to take formal action at the "called meeting," due to the failure of the governmental entity to meet the statutory requirements for "notice."

98. Therefore, the proclamation made by Defendant County Judge Michael Lincoln of White County, Arkansas (at the close of the March 15, 2012, meeting of the White County Intergovernmental Cooperation Council) to the effect that the Fire Protection Premium Tax Funds received by White County, Arkansas from the State of Arkansas would continue to be apportioned to: (1) each municipality, and (2) each rural fire district located

within White County, Arkansas, based upon the population of each of these local entities, as derived from the 2000 census conducted within White County, Arkansas by the U. S. Bureau of the Census, was negated by the untimely "notice" of such "called meeting" prepared by County Clerk Marguerite Teague of White County, Arkansas, so that the above described proclamation of Defendant County Judge Michael Lincoln of White County, Arkansas is **"null and void," ab initio.**

COUNT II

A. Preliminary and Mandatory Permanent Injunction.

99. Rule 65 of the Arkansas Rules of Civil Procedure authorizes this Court to grant the Plaintiffs a preliminary or permanent injunction against wrongful actions of the Defendants. In this civil proceeding, the Defendant members of the White County Quorum Court have a statutorily imposed duty and obligation to adopt a "new" apportionment and distribution formula for the Fire Protection Premium Tax Funds statutorily allocated to White County, Arkansas, for the reasons set forth in the paragraphs of this Complaint stating reasons that the Plaintiffs request the Court to enter a declaratory judgment on the various aspects of their causes of action against the Defendants.

100. The Defendant members of the White County Quorum Court have taken no action to adopt a "new" Resolution adopting an apportionment or distribution formula for the distribution of the Fire Protection Premium Tax Funds statutorily allocated to White County, Arkansas, even though White County, Arkansas has been provided with the "new" and "current" population figures derived from the 2010 census conducted in White County, Arkansas by the U. S. Bureau of the Census, so that the members of the White County Quorum Court can adopt a "new" Quorum Court Resolution that apportions to and among the: (1) municipalities, and (2) rural fire districts located within White County, Arkansas, the amounts of such Fire Protection Premium Tax Funds received by White

County, Arkansas, from the State of Arkansas, with such distribution being made based upon the population of each such local entity as derived from the latest census conducted in White County, Arkansas by the U. S. Bureau of the Census, and as provided to White County, Arkansas by UALR's GIS Applications Laboratory.

101. The only way to cure the failure of the members of the White County Quorum Court to act to meet the duty and obligation statutorily imposed upon them by the provisions of Ark. Code Ann. § 14-284-403(a)(2)(A) is by this Court's issuance of a "mandatory injunction" to these White County Quorum Court Defendants to force them to take the statutorily required action decreed by this statute to establish a "new" apportionment or distribution formula, based upon the population of the local governmental entities that are to receive a proportionate amount of the Fire Protection Premium Tax Funds statutorily allocated to White County, Arkansas by the provisions of Ark. Code Ann. § 14-284-403(a)(1).

WHEREFORE, the Plaintiffs pray that this Court, after reviewing the pleadings and hearing the evidence to be offered by the Plaintiffs in support of their causes of action set forth in this Complaint, will:

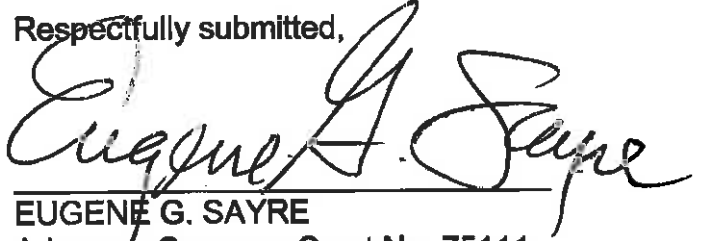
- A. Enter a declaratory judgment in favor of the Plaintiffs (which provides):
- (1) Only the White County Quorum Court has the sole statutorily imposed duty and authority for developing and adopting a formula for the appropriation and distribution among: (a) the municipal fire departments; and (b) the rural fire districts located within White County, Arkansas, of the Fire Protection Premium Tax Funds statutorily allocated to White County, Arkansas;
 - (2) If the apportionment or distribution formula (described in paragraph 65(1) of this Complaint) is ***not*** based upon the population of: (a) each municipality; and (b) each rural fire district located within White County, Arkansas (as determined by the White County Intergovernmental Cooperation Council), then the White County Quorum Court is required by statute to adopt an apportionment and distribution formula that is based upon the

population of: (a) each municipality, and (b) each rural fire district located within White County, Arkansas;

- (3) The apportionment or distribution formula described in Paragraph 65(2) of this Complaint must be based upon population figures taken from the most recent census conducted in White County, Arkansas by the U. S. Bureau of the Census;
- (4) The White County Intergovernmental Cooperation Council, at the "called meeting" of the Council, held on March 15, 2012, did ***not*** consider or adopt ***any*** apportionment or distribution formula to recommend to the White County Quorum Court that was based upon the actual "***fire protection needs***" of each: (a) municipal fire department; and (b) each rural fire districts located within White County, Arkansas;
- (5) The County Judge of White County, Arkansas has ***no statutory authority*** to recommend to either: (a) the White County Quorum Court; or (b) the White County Intergovernmental Cooperation Council that an apportionment or distribution formula for the Fire Protection Premium Tax Funds statutorily allocated to White County, Arkansas be adopted by the White County Quorum Court based upon population (other than the population figures derived from the latest census conducted in White County, Arkansas, by the U.S. Bureau of the Census;
- (6) The "notice" of the "called meeting" of the White County Intergovernmental Cooperation Council held on March 15, 2012, as prepared and issued by the County Clerk of White County, Arkansas, on March 6, 2012, was ***not*** timely given, as required by statute, and ***any*** and ***all*** business conducted or actions at this March 15, 2012 meeting of the White County Intergovernmental Cooperation Council were, therefore, "***null and void;***" and

- B. Enter a mandatory injunction to enforce this Court's declaratory judgment for the Plaintiffs.

Respectfully submitted,

A handwritten signature in black ink, reading "Eugene G. Sayre". The signature is written in a cursive style with a horizontal line underneath the name.

EUGENE G. SAYRE
Arkansas Supreme Court No. 75111
401 West Capitol Avenue, Suite 502
Little Rock, Arkansas 72201
(501) 374-9010 Telephone
(501) 374-8510 Facsimile
gsayre@handsark.com

ATTORNEY FOR PLAINTIFFS

IN THE CIRCUIT COURT OF WHITE COUNTY, ARKANSAS
_____ DIVISION

MIKE ROBERTSON, as the duly elected Mayor, City of Beebe, Arkansas (in his official capacity only); LES COSSEY, JOHN JOHNSON, TRACY LIGHTFOOT, BECKY SHORT, HAROLD WELCH and LINDA ANTHONY, as the duly elected members of the City Council of the City of Beebe, Arkansas (in their official capacities only); and the CITY OF BEEBE, ARKANSAS

PLAINTIFFS

v. DOCKET NO. _____

MICHAEL LINCOLN, as the duly elected County Judge of White County, Arkansas (in his official capacity only); HORACE TAYLOR, ROBERT R. "BOBBY" BURNS, CAMERON D. COOPER, ALLEN KING, JIMMY L. HOUSE, SHANE SELLERS, KENNETH R. HORTON, WAYLON D. HEATHSCOTT, MIKE CLEVELAND, BOBBY G. QUATTLEBAUM, ED LAND, GEORGE "BUD" OSBORN, AND RON GIBBS, as the duly elected members of the Quorum Court of White County, Arkansas (in their official capacities only); WHITE COUNTY, ARKANSAS; RICHARD M. DRILLING, Manager, Fiscal Accounting, Office of Administrative Services, Arkansas Department of Finance & Administration; and KENDELL SNYDER, Manager, Office of Fire Protection Services, Arkansas Department of Emergency Management

DEFENDANTS

EXHIBITS TO COMPLAINT

<u>Exhibit No.</u>	<u>Description of Exhibit</u>
1	Act 833 of 1991.
2	Act 10 of 1992, First Extraordinary Session.
3	Population projections for (1) municipalities and (2) rural fire districts located in White County, Arkansas. Prepared by UALR's GIS Applications Laboratory from data provided by the U. S. Census Bureau.

- 4 **Map prepared by UALR's GIS Applications Laboratory depicting all of the (1) municipal fire departments and (2) rural fire districts located in White County, Arkansas.**
- 5 **Implementing Procedures adopted by the Arkansas DF&A for use by the DF&A's Office of Administrative Services in the distribution to (1) municipal fire departments and (2) rural fire districts of the Fire Protection Premium Tax funds.**
- 6 **Certification Application for Act 833 Funding published by the Office of Fire Protection Services of the Arkansas Department of Emergency Management.**
- 7 **The Act 833 Funding Guidance and Requirements booklet issued by the Fire Protection Services Office of the Arkansas Department of Emergency Management.**
- 8 **Copy of White County Quorum Court Resolution No. 92-4.**
- 9 **Copy of White County Quorum Court Resolution No. 2001-10.**
- 10 **Copy of White County Quorum Court Resolution No. 2007-9.**
- 11 **"Notice" for the March 15, 2012 meeting of the White County Intergovernmental Cooperation Council prepared and issued by the White County Clerk on March 6, 2012.**
- 12 **Minutes of the March 15, 2012 meeting of the White County Intergovernmental Cooperation Council as prepared by White County Clerk on March 15, 2012.**

IN THE CIRCUIT COURT OF WHITE COUNTY, ARKANSAS
_____ DIVISION

MIKE ROBERTSON, as the duly elected Mayor, City of Beebe, Arkansas (in his official capacity only); LES COSSEY, JOHN JOHNSON, TRACY LIGHTFOOT, BECKY SHORT, HAROLD WELCH and LINDA ANTHONY, as the duly elected members of the City Council of the City of Beebe, Arkansas (in their official capacities only); and the CITY OF BEEBE, ARKANSAS

PLAINTIFFS

v. DOCKET NO. _____

MICHAEL LINCOLN, as the duly elected County Judge of White County, Arkansas (in his official capacity only); HORACE TAYLOR, ROBERT R. "BOBBY" BURNS, CAMERON D. COOPER, ALLEN KING, JIMMY L. HOUSE, SHANE SELLERS, KENNETH R. HORTON, WAYLON D. HEATHSCOTT, MIKE CLEVELAND, BOBBY G. QUATTLEBAUM, ED LAND, GEORGE "BUD" OSBORN, AND RON GIBBS, as the duly elected members of the Quorum Court of White County, Arkansas (in their official capacities only); WHITE COUNTY, ARKANSAS; RICHARD M. DRILLING, Manager, Fiscal Accounting, Office of Administrative Services, Arkansas Department of Finance & Administration; and KENDELL SNYDER, Manager, Office of Fire Protection Services, Arkansas Department of Emergency Management

DEFENDANTS

Exhibits to Complaint

Exhibit No. 1

1 State of Arkansas
2 78th General Assembly
3 Regular Session, 1991
4 By: Representatives Holland, Maddox,
5 Hawkins, and Wagner
6

A BILL ACT 833 OF 1991
HOUSE BILL 1541

7 **For An Act To Be Entitled**

8 "AN ACT TO PROVIDE FOR ADDITIONAL FUNDING OF ARKANSAS FIRE
9 DEPARTMENTS THROUGH ADDITIONAL INSURANCE PREMIUM TAXES
10 ASSESSED AGAINST INSURERS WRITING FIRE INSURANCE AND
11 SIMILAR COVERAGES IN ORDER TO REDUCE HOMEOWNER INSURANCE
12 RATES IN ARKANSAS; AND FOR OTHER PURPOSES."
13

14 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

15

16 SECTION 1. It is hereby found and determined by the General Assembly of
17 the State of Arkansas that additional funding is needed to improve the fire
18 protection services in this state. It is further found and determined that
19 the public policy of this state is to provide adequate fire protection
20 services for property of citizens through the use of properly trained and
21 equipped fire fighters, and that the provisions of this act are necessary in
22 furtherance of the public health and safety.
23

24 SECTION 2. (a) In addition to the premium taxes collected from
25 insurers under other provisions of Arkansas law, each authorized insurer and
26 each formerly authorized insurer shall pay to the Fire Protection Revolving
27 Fund ("Fund") under Ark. Code Ann. §14-284-305 a tax at the rate of 1/2 of 1¢
28 on net direct written premiums for coverages upon real and personal property,
29 including but not limited to fire, allied lines, farm owner and home owner
30 multiple peril, vehicle physical damage and vehicle collision or any
31 combination thereof.

32 (b) This tax shall be collected by the Insurance Commissioner from the
33 insurers at the same time and in the same manner as provided in the premium
34 tax sections of the laws of this state under Ark. Code Ann. §26-57-601 et seq.
35 and deposited into the Fire Protection Revolving Fund.

36 (c) Assessments upon which this premium tax is based shall be made on

1 forms prescribed by the Arkansas Insurance Commissioner.

2 (d) Premium tax payments shall be made upon company checks payable to
3 the Fire Protection Revolving Fund.

4

5 SECTION 3. (a) (1) These premium tax monies are assessed for
6 disbursement from the Fund by the Department of Finance and Administration to
7 the counties in the following percentages:

8 Arkansas 0.78, Ashley 1.39, Baxter 1.78, Benton 3.86, Boone 1.46, Bradley
9 0.52, Calhoun 0.51, Carroll 0.97, Chicot 0.51, Clark 1.13, Clay 1.10, Cleburne
10 1.11, Cleveland 0.66, Columbia 1.24, Conway 1.04, Craighead 2.91, Crawford
11 1.98, Crittenden 1.32, Cross 0.84, Dallas 0.45, Desha 0.71, Drew 0.80,
12 Faulkner 2.30, Franklin 0.97, Filton 0.84, Garland 3.12, Grant 1.13, Greene
13 1.39, Hempstead 1.89, Hot Spring 1.46, Howard 0.75, Independence 1.90, Izard
14 0.91, Jackson 0.95, Jefferson 2.32, Johnson 1.05, Lafayette 0.71, Lawrence
15 0.96, Lee 0.73, Lincoln 1.12, Little River 0.77, Logan 1.06, Lonoke 1.70,
16 Madison 0.95, Marion 1.00, Miller 1.44, Mississippi 1.77, Monroe 0.53,
17 Montgomery 0.66, Nevada 0.58, Newton 0.67, Ouachita 1.37, Perry 0.62, Phillips
18 1.12, Pike 0.87, Poinsett 1.14, Polk 1.01, Pope 1.73, Prairie 0.83, Pulaski
19 5.99, Randolph 0.96, St. Francis 1.45, Saline 3.00, Scott 0.59, Searcy 0.73,
20 Sebastian 2.06, Sevier 0.82, Sharp 1.30, Stone 0.77, Union 2.01, Van Buren
21 1.18, Washington 3.46, White 2.71, Woodruff 0.47, Yell 1.11.

22 The monies shall be apportioned by each quorum court to the districts and
23 municipalities within the county based upon population unless the County
24 Intergovernmental Cooperation Council notifies the quorum court of the fire
25 protection needs of the districts and municipalities, in which case the monies
26 shall be apportioned by the quorum court based on those needs. Such funds
27 shall be distributed to municipalities and those certified departments in
28 districts which are in compliance with the sections of this act and Arkansas
29 Code Annotated §§20-22-801 through 20-22-809.

30 (2) Disbursements shall be made on forms prescribed by the Department
31 of Finance and Administration.

32 (b) (1) Such funds shall be used to defray training expenses of fire
33 fighters at the Arkansas Fire Training Academy and/or fire training centers
34 certified by the Arkansas Fire Protection Services Board, for the purchase and
35 improvement of, or for pledging as security for a period of not more than ten

1 (10) years in the financing of the purchase and improvement of, fire fighting
2 equipment and initial capital construction or improvements of fire
3 departments. Municipalities, fire departments and/or districts must expend or
4 allocate for expenditure all funds received under the provisions of this act
5 on or before the expiration of twelve (12) months from the date of receipt.
6 Any excess or surplus funds which are not expended or allocated for
7 expenditure within such twelve (12) month period shall be remitted to the Fund
8 no later than sixty (60) days following the expiration of such twelve (12)
9 month period.

10 (2) Such equipment shall be used by the municipalities and departments
11 located in fire protection districts which have been duly formed or
12 established under the provisions of Ark. Code Ann. §14-284-201 et seq.

13 (c) No rural volunteer fire department and/or district shall receive
14 payments or disbursements from the Fund unless the County Quorum Court and the
15 Board of Commissioners of the Fire Protection District designate the current
16 County Fire Service Coordinator or designate a County Fire Service Coordinator
17 who shall be responsible for seeing that standard guidelines established by
18 the Arkansas Fire Protection Services Board pursuant to Ark. Code Ann. §20-22-
19 801 et seq. are followed.

20 (d) No funds shall be paid to any certified rural volunteer fire
21 department or fire protection district until a written proposal stating the
22 following information has been approved by the quorum court and the Arkansas
23 Fire Protection Services Board:

- 24 (1) Amount of funds requested;
25 (2) Purpose for which funds will be expended;
26 (3) Plans for training of fire fighters; and
27 (4) Anticipated time of completion of project.

28 (e) Rural volunteer fire departments and fire protection districts
29 shall supply such statistical and operational information to the State Fire
30 Protection Services Board and quorum court as required. The quorum court of
31 each county shall file reports on January 15 annually with the State Auditor
32 and Department of Finance and Administration stating how such funds were
33 expended during the preceding twelve (12) months. Each rural volunteer fire
34 department and fire protection district which receives such funds shall file
35 reports on December 1 annually with the quorum court stating how such funds

1 were expended during the preceding twelve (12) months. If any quorum court,
2 rural volunteer fire department or fire protection district fails to make such
3 reports, the fire department and/or district shall not be eligible for new or
4 additional funds until the reports are filed. Any rural fire department
5 and/or district which fails to expend funds in due compliance with the
6 provisions of this act shall not be eligible for new or additional funds from
7 the Fire Protection Revolving Fund until the department and/or district
8 reimburses the Fund in the exact amount of those monies improperly retained or
9 expended.

10 (f) Pursuant to Ark. Code Ann. §14-284-201(a)(2), in any area in any
11 county, in which there is no rural volunteer fire department or fire
12 protection district which qualifies for funds under the provisions of this
13 act, the quorum court is authorized, in its discretion and with the approval
14 of the State Fire Protection Services Board to designate any unincorporated
15 area of the county to be served by a municipal fire department, if approved by
16 the governing authorities of such municipality. In addition to the funds, the
17 municipality is otherwise entitled to under this act, the municipality serving
18 any such designated area shall receive the funds which the rural volunteer
19 fire department or fire protection district would have been eligible to
20 receive, and such funds shall be used by the municipality to provide training
21 and to purchase equipment necessary to provide fire protection in the
22 designated unincorporated area in compliance with this act.

23 (g) No municipality shall receive funds under this act unless it is
24 willing to provide fire protection through mutual aid agreements in areas
25 within five (5) miles of its corporate limits. Such municipalities shall not
26 be required to respond when, in the opinion of proper municipal authorities,
27 municipal property or fire classification rating would be jeopardized.

28

29 SECTION 4. Nothing in this act shall be construed to prevent the
30 organization of a volunteer fire department and/or district pursuant to the
31 provisions of Arkansas law. If such a volunteer fire department and/or
32 district is organized after the effective date of this act, the Department of
33 Finance and Administration shall distribute funds provided by this act upon
34 due compliance by the volunteer fire department and district with the
35 eligibility requirements of this act and Ark. Code Ann. §20-22-801 through

1 §20-22-809.

2

3 SECTION 5. Nothing in this act shall be construed to prevent quorum
4 courts and governing bodies of municipalities from contributing funds directly
5 to any volunteer fire department and/or district serving such county or
6 municipality.

7

8 SECTION 6. Nothing in this act shall be construed to prevent county,
9 municipal, or local water utilities or associations from contributing water
10 free of charge for fire fighting and/or training activities to volunteer fire
11 departments and districts.

12

13 SECTION 7. The quorum court of any county is hereby authorized and
14 empowered, in its discretion, to grade, gravel, pave and/or maintain real
15 property of a rural volunteer fire department, including roads or driveways
16 thereof, as necessary for the effective and safe operation of such rural
17 volunteer fire department. Any action taken by the quorum court under the
18 authority of this section shall be specified upon the minutes of the quorum
19 court when the work is authorized.

20

21 SECTION 8. The provisions of this act are intended to be supplemental
22 to current provisions of Arkansas law, and shall not be construed as repealing
23 or superseding any other laws applicable thereto.

24

25 SECTION 9. The provisions of this act shall become effective on and
26 after January 1, 1992.

27

28 SECTION 10. All provisions of this Act of a general and permanent
29 nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas
30 Code Revision Commission shall incorporate the same in the Code.

31

32 SECTION 11. If any provision of this Act or the application thereof to
33 any person or circumstance is held invalid, such invalidity shall not affect
34 other provisions or applications of the Act which can be given effect without
35 the invalid provision or application, and to this end the provisions of this

1 Act are declared to be severable.

2

3 SECTION 12. All laws and parts of laws in conflict with this Act are
4 hereby repealed.

5

/s/ Jim Holland et al

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APPROVED: 3/27/91

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IN THE CIRCUIT COURT OF WHITE COUNTY, ARKANSAS
_____ DIVISION

MIKE ROBERTSON, as the duly elected Mayor, City of Beebe, Arkansas (in his official capacity only); LES COSSEY, JOHN JOHNSON, TRACY LIGHTFOOT, BECKY SHORT, HAROLD WELCH and LINDA ANTHONY, as the duly elected members of the City Council of the City of Beebe, Arkansas (in their official capacities only); and the CITY OF BEEBE, ARKANSAS

PLAINTIFFS

v. DOCKET NO. _____

MICHAEL LINCOLN, as the duly elected County Judge of White County, Arkansas (in his official capacity only); HORACE TAYLOR, ROBERT R. "BOBBY" BURNS, CAMERON D. COOPER, ALLEN KING, JIMMY L. HOUSE, SHANE SELLERS, KENNETH R. HORTON, WAYLON D. HEATHSCOTT, MIKE CLEVELAND, BOBBY G. QUATTLEBAUM, ED LAND, GEORGE "BUD" OSBORN, AND RON GIBBS, as the duly elected members of the Quorum Court of White County, Arkansas (in their official capacities only); WHITE COUNTY, ARKANSAS; RICHARD M. DRILLING, Manager, Fiscal Accounting, Office of Administrative Services, Arkansas Department of Finance & Administration; and KENDELL SNYDER, Manager, Office of Fire Protection Services, Arkansas Department of Emergency Management

DEFENDANTS

Exhibits to Complaint

Exhibit No. 2

As Engrossed: 2/26/92 2/27/92

1 State of Arkansas
2 76th General Assembly
3 First Extraordinary Session, 1992
4 By: Reps. Holland, Maddox, Hawkins, Wagner

A BILL ACT IO OF 1992

Call Item 18

HOUSE BILL 1032

For An Act To Be Entitled

8 "AN ACT TO MAKE AN APPROPRIATION FOR THE DEPARTMENT OF
9 FINANCE AND ADMINISTRATION-DISBURSING OFFICER FOR
10 ADDITIONAL FUNDING OF ARKANSAS FIRE DEPARTMENTS FOR THE
11 BIENNIAL PERIOD ENDING JUNE 30, 1993; TO CREATE THE FIRE
12 PROTECTION PREMIUM TAX FUND, TO AMEND ARKANSAS CODE §§14-
13 284-403 ET SEQ. AND §26-57-614, TO AMEND ACT 897 OF 1991;
14 AND FOR OTHER PURPOSES."

16 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

18 SECTION 1. APPROPRIATIONS. There is hereby appropriated, to the
19 Department of Finance and Administration-Disbursing Officer, to be payable
20 from the Fire Protection Premium Tax Fund, for additional funding of Arkansas
21 fire departments as provided in Arkansas Code §26-57-614 and §§14-284-401 et
22 seq., for the biennial period ending June 30, 1993, the following:

24 ITEM	25 FISCAL YEARS	
	1991-92	1992-93
26 (01) FIRE PROTECTION SERVICES, EQUIPMENT AND		
27 CAPITAL OUTLAY	<u>\$10,000,000</u>	<u>\$20,000,000</u>

29 SECTION 2. Arkansas Code 14-284-116(d) is amended to read as follows:

30 "(d) The board shall make no contract for the purchase of material or
31 equipment costing five hundred dollars (\$500) or more except upon sealed bids
32 opened in public, and it shall be the duty of the secretary of the district to
33 call on the telephone or notify in person not less than ten (10) property
34 holders, not less than forty-eight (48) hours or more than one (1) week before
35 the time of receiving the bids. The secretary shall also deliver to the daily

1 papers in the county and at least one (1) weekly paper a news item notice of
 2 intention to receive bids on certain equipment."

3

4 SECTION 3. FIRE PROTECTION PREMIUM TAX FUND. (a) There is hereby
 5 created upon the books of the State Treasurer, State Auditor and Chief Fiscal
 6 Officer of the State a special revenue fund to be known as the Fire Protection
 7 Premium Tax Fund, which shall consist of insurance premium taxes for
 8 additional fire protection services, equipment and capital outlay as provided
 9 in Arkansas Code §26-57-614 and §§14-284-401 et seq.

10 (b) The Insurance Commissioner shall immediately deposit all monies
 11 collected under the provisions of Arkansas Code §26-57-614 and §§14-284-401 et
 12 seq. into the Revenue Holding Fund Account as provided in Arkansas Code
 13 §19-5-204. On the last business day of each quarter, the Chief Fiscal Officer
 14 of the State shall determine the amount of net special revenues to be
 15 transferred to the Fire Protection Premium Tax Fund by the State Treasurer.
 16 The Chief Fiscal Officer shall be the disbursing officer for the fund, and
 17 shall distribute the monies as provided in Arkansas Code §26-57-614 and §§14-
 18 284-401 et seq.

19 (c) The Insurance Commissioner shall disburse any refunds which may be
 20 due insurance carriers from the Miscellaneous Revolving Fund after certifying
 21 to the Chief Fiscal Officer the amount to be refunded. The Chief Fiscal
 22 Officer shall direct that the certified amount be transferred from the Revenue
 23 Holding Fund to the Miscellaneous Revolving Fund as provided in Arkansas Code
 24 §19-5-106 (a) (3).

25

26 SECTION 4. Arkansas Code §14-284-403 (a) (1) is hereby amended to read
 27 as follows: "(a) (1) These premium tax moneys are assessed for disbursement
 28 from the Fire Protection Premium Tax Fund by the Department of Finance and
 29 Administration to the counties in the following percentages:

30 Arkansas County - 0.78%, Ashley County - 1.39%, Baxter County - 1.78%,
 31 Benton County - 3.86%, Boone County - 1.46%, Bradley County - 0.52%, Calhoun
 32 County - 0.51%, Carroll County - 0.97%, Chicot County - 0.51%, Clark County -
 33 1.13%, Clay County - 1.10%, Cleburne County - 1.11%, Cleveland County - 0.66%,
 34 Columbia County - 1.24%, Conway County - 1.04%, Craighead County - 2.91%,
 35 Crawford County - 1.98%, Crittenden County - 1.32%, Cross County - 0.84%,
 36 Dallas County - 0.45%, Desha County - 0.71%, Drew County - 0.80%, Faulkner

1 County - 2.30%, Franklin County - 0.97%, Fulton County - 0.84%, Garland County
 2 - 3.12%, Grant County - 1.13%, Greene County - 1.39%, Hempstead County -
 3 1.89%, Hot Spring County - 1.46%, Howard County - 0.75%, Independence County -
 4 1.90%, Izard County - 0.91%, Jackson County - 0.95%, Jefferson County - 2.32%,
 5 Johnson County - 1.05%, Lafayette County - 0.71%, Lawrence County - 0.96%, Lee
 6 County - 0.73%, Lincoln County - 1.12%, Little River County - 0.77%, Logan
 7 County - 1.06%, Lonoke County - 1.70%, Madison County - 0.95%, Marion County
 8 1.00%, Miller County - 1.44%, Mississippi County - 1.77%, Monroe County -
 9 0.53%, Montgomery County - 0.66%, Nevada County - 0.58%, Newton County -
 10 0.67%, Ouachita County - 1.37%, Perry County - 0.62%, Phillips County - 1.12%,
 11 Pike County - 0.87%, Poinsett County - 1.14%, Polk County - 1.01%, Pope County
 12 - 1.73%, Prairie County - 0.83%, Pulaski County - 5.99%, Randolph County -
 13 0.96%, St. Francis County - 1.45%, Saline County - 3.00%, Scott County -
 14 0.59%, Searcy County - 0.73%, Sebastian County - 2.06%, Sevier County - 0.82%,
 15 Sharp County - 1.30%, Stone County - 0.77%, Union County - 2.01%, Van Buren
 16 County - 1.18%, Washington County - 3.46%, White County - 2.71%, Woodruff
 17 County - 0.47%, Yell County - 1.11%.

18 (2) (a) The moneys shall be apportioned by each quorum court to
 19 the districts and municipalities within the county based upon population
 20 unless the County Intergovernmental Cooperation Council notifies the quorum
 21 court of the fire protection needs of the districts and municipalities, in
 22 which case the moneys shall be apportioned by the quorum court based on those
 23 needs. Such funds shall be distributed to municipalities and those certified
 24 departments in districts which are in compliance with this subchapter and §§
 25 20-22-801 - 20-22-809. Fire departments which are not certified by the Office
 26 of Fire Protection Services pursuant to §§ 20-22-801 - 20-22-809 shall also be
 27 eligible to receive moneys disbursed under this section so long as all moneys
 28 received or spent directly on equipment, training, capital improvements, or
 29 other expenditures necessary for upgrading the service provided by the
 30 department.

31 (b) Disbursements shall be made on forms prescribed by the
 32 Department of Finance and Administration."
 33

34 SECTION 5. Arkansas Code §14-284-405 (a) is hereby amended to read as
 35 follows: "(a) No rural volunteer fire department or district shall receive

1 : payments or disbursements from the Fire Protection Premium Tax Fund unless the
 2 county quorum court and the board of commissioners of the fire protection
 3 district designate the current county fire service coordinator or designate a
 4 county fire service coordinator who shall be responsible for seeing that
 5 standard guidelines established by the Arkansas Fire Protection Services Board
 6 pursuant to §§20-22-801 et seq., are followed."

7
 8 SECTION 6. Arkansas Code 14-284-405 (c) (5) is hereby amended to read as
 9 follows: "(5) Any rural fire department or district which fails to expend
 10 funds in due compliance with the provisions of this subchapter shall not be
 11 eligible for new or additional funds from the Fire Protection Premium Tax Fund
 12 until the department or district reimburses the fund in the exact amount of
 13 those moneys improperly retained or expended."
 14

15 SECTION 7. Arkansas Code §26-57-614 (b), (c), (d) and (e) is hereby
 16 amended to read as follows: "(b) In addition to the premium taxes collected
 17 from insurers under other provisions of Arkansas law, each authorized insurer
 18 and each formerly authorized insurer shall pay to the Fire Protection Premium
 19 Tax Fund a tax at the rate of one-half of one percent (0.5%) on net direct
 20 written premiums for coverages upon real and personal property, including, but
 21 not limited to, fire, allied lines, farm owner and home owner multiple peril,
 22 vehicle physical damage, and vehicle collision, or any combination thereof.
 23

24 (c) This tax shall be collected by the Insurance Commissioner from the
 25 insurers at the same time and in the same manner as provided in the premium
 26 tax sections of the laws of this state under §§26-57-601 et seq. and deposited
 27 into the Fire Protection Premium Tax Fund.

28 (d) Assessments upon which this premium tax is based shall be made on
 29 forms prescribed by the Arkansas Insurance Commissioner.

30 (e) Premium tax payments shall be made upon company checks payable to the
 31 Fire Protection Premium Tax Fund."

32 SECTION 8. Section 12 of Act 897 of 1991 is hereby amended to read as
 33 follows: "SECTION 12. APPROPRIATIONS - REFUNDS OF OVERPAYMENTS. There is
 34 hereby appropriated, to the State Insurance Department, to be payable from the
 35 Miscellaneous Revolving Fund, for the payment of miscellaneous tax and fee

1 refunds by the State Insurance Department for the biennial period ending June
 2 30, 1993, the following:

3 ITEM	FISCAL YEARS	
4 NO.	1991-92	1992-93
5 (01) MISC TAX & FEE REFUNDS	<u>\$8,000,000</u>	<u>\$11,000,000</u>

6
 7 SECTION 9. COMPLIANCE WITH OTHER LAWS. Disbursement of funds
 8 authorized by this Act shall be limited to the appropriation for such agency
 9 and funds made available by law for the support of such appropriations; and
 10 the restrictions of the State Purchasing Law, the General Accounting and
 11 Budgetary Procedures Law, the Revenue Stabilization Law, the Regular Salary
 12 Procedures and Restrictions Act, or their successors, and other fiscal control
 13 laws of this State, where applicable, and regulations promulgated by the
 14 Department of Finance and Administration, as authorized by law, shall be
 15 strictly complied with in disbursement of said funds.

16
 17 SECTION 10. LEGISLATIVE INTENT. It is the intent of the General
 18 Assembly that any funds disbursed under the authority of the appropriations
 19 contained in this Act shall be in compliance with the stated reasons for which
 20 this Act was adopted, as evidenced by the Agency Requests, Executive
 21 Recommendations and Legislative Recommendations contained in the budget
 22 manuals prepared by the Department of Finance and Administration, letters, or
 23 summarized oral testimony in the official minutes of the Arkansas Legislative
 24 Council or Joint Budget Committee which relate to its passage and adoption.

25
 26 SECTION 11. CODE. All provisions of this Act of a general and
 27 permanent nature are amendatory to the Arkansas Code of 1987 Annotated and
 28 the Arkansas Code Revision Commission shall incorporate the same in the Code.

29
 30 SECTION 12. SEVERABILITY. If any provision of this Act or the
 31 application thereof to any person or circumstance is held invalid, such
 32 invalidity shall not affect other provisions or applications of the Act which
 33 can be given effect without the invalid provision or application, and to this
 34 end the provisions of this Act are declared to be severable.

35

1 SECTION 13. GENERAL REPEALER. All laws and parts of laws in conflict
2 with this Act are hereby repealed.

3
4 SECTION 14. EMERGENCY CLAUSE. It is hereby found and determined by the
5 Seventy-Eighth General Assembly, meeting in First Extraordinary Session, that
6 an appropriation to the Department of Finance and Administration is necessary
7 in order to disburse funds collected after January 1, 1992, under the
8 provisions of Arkansas Code §§14-284-401 et seq. and §26-57-614, and that the
9 creation of the Fire Protection Premium Tax Fund will allow those monies to be
10 disbursed for the provision of adequate fire protection services in the most
11 efficient manner. Therefore, an emergency is hereby declared to exist and
12 this Act being necessary for the immediate preservation of the public peace,
13 health and safety shall be in full force and effect from and after its passage
14 and approval.

15
16 /s/J. Holland, et al

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18 APPROVED: 3-4-92

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IN THE CIRCUIT COURT OF WHITE COUNTY, ARKANSAS
_____ DIVISION

MIKE ROBERTSON, as the duly elected Mayor, City of Beebe, Arkansas (in his official capacity only); LES COSSEY, JOHN JOHNSON, TRACY LIGHTFOOT, BECKY SHORT, HAROLD WELCH and LINDA ANTHONY, as the duly elected members of the City Council of the City of Beebe, Arkansas (in their official capacities only); and the CITY OF BEEBE, ARKANSAS

PLAINTIFFS

v. DOCKET NO. _____

MICHAEL LINCOLN, as the duly elected County Judge of White County, Arkansas (in his official capacity only); HORACE TAYLOR, ROBERT R. "BOBBY" BURNS, CAMERON D. COOPER, ALLEN KING, JIMMY L. HOUSE, SHANE SELLERS, KENNETH R. HORTON, WAYLON D. HEATHSCOTT, MIKE CLEVELAND, BOBBY G. QUATTLEBAUM, ED LAND, GEORGE "BUD" OSBORN, AND RON GIBBS, as the duly elected members of the Quorum Court of White County, Arkansas (in their official capacities only); WHITE COUNTY, ARKANSAS; RICHARD M. DRILLING, Manager, Fiscal Accounting, Office of Administrative Services, Arkansas Department of Finance & Administration; and KENDELL SNYDER, Manager, Office of Fire Protection Services, Arkansas Department of Emergency Management

DEFENDANTS

Exhibits to Complaint

Exhibit No. 3

Fire District	County	Total Population
AG&F WMA	White	13
Albion	White	2,406
Antioch	White	2,134
Bald Knob	White	4,379
Beebe	White	9,536
Bradford	White/Jackson	2,804
Centerhill	White	2,890
El Paso	Whit/Faulkner	1,567
Fairview White	White	1,726
Floyd-Romance	White	2,533
Garner	White	509
Georgetown	White	224
Griffithville	White	727
Gum Springs White	White	2,697
Hickory Flat	White	427
Higginson	White	1,348
Joy	White	857
Judsonia	White	3,603
Kensett	White	2,121
Letona	White	593
McRae	White	1,601
Mount Vernon	Faulkner/White	
North White County	White	3,570
Pangburn	White	1,432
Rocky Point	White	478
Rosebud	Whit/Faulkner	1,784
Russell	White	536
Searcy	White	22,822
Velvet Ridge	Whit/Jackson	2,100
West Point	White	420

Source: 2010 Census Summary File 1 / prepared by the U.S. Census Bureau, 2011

IN THE CIRCUIT COURT OF WHITE COUNTY, ARKANSAS
_____ DIVISION

MIKE ROBERTSON, as the duly elected Mayor, City of Beebe, Arkansas (in his official capacity only); LES COSSEY, JOHN JOHNSON, TRACY LIGHTFOOT, BECKY SHORT, HAROLD WELCH and LINDA ANTHONY, as the duly elected members of the City Council of the City of Beebe, Arkansas (in their official capacities only); and the CITY OF BEEBE, ARKANSAS

PLAINTIFFS

v. **DOCKET NO. _____**

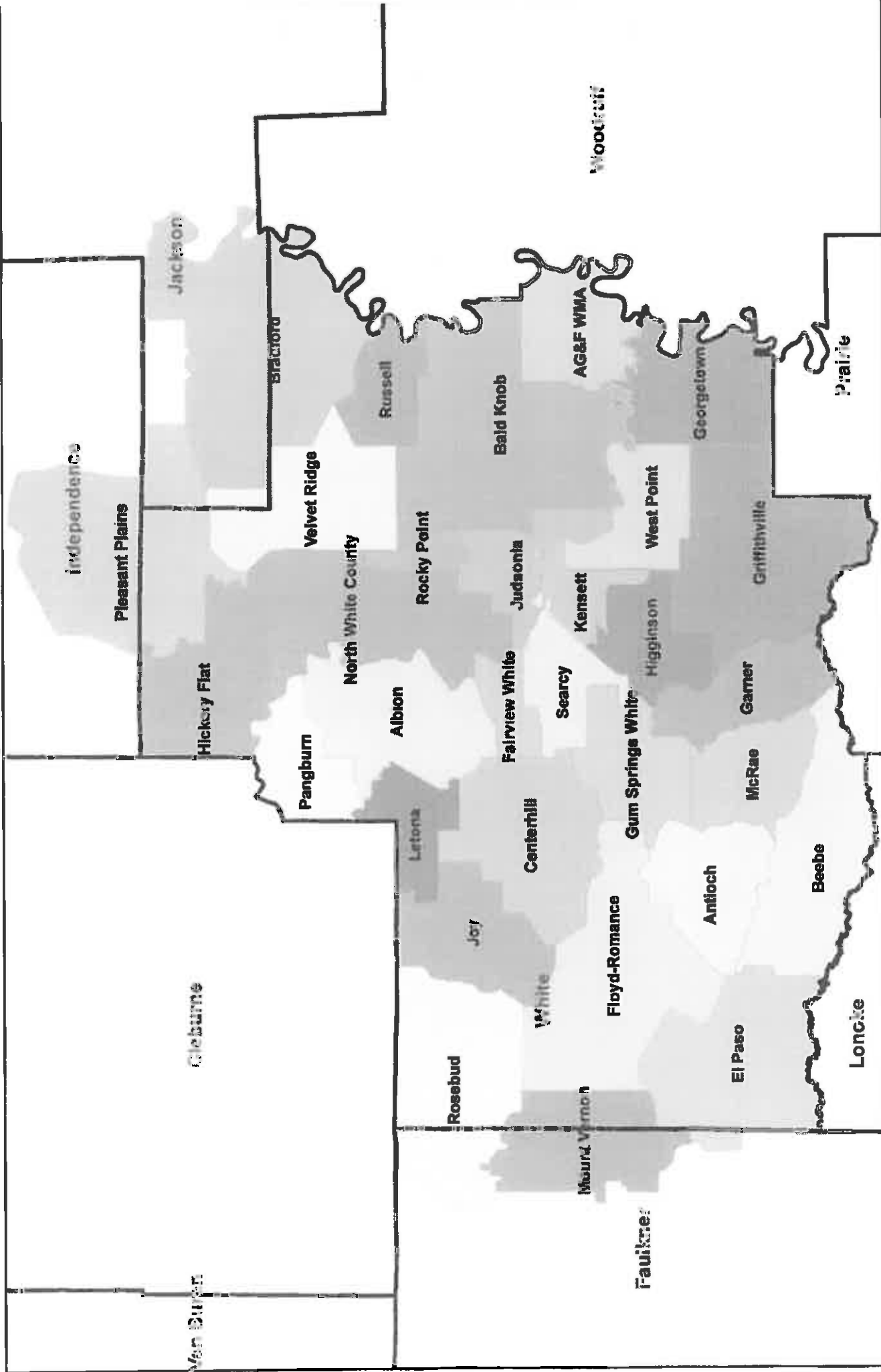
MICHAEL LINCOLN, as the duly elected County Judge of White County, Arkansas (in his official capacity only); HORACE TAYLOR, ROBERT R. "BOBBY" BURNS, CAMERON D. COOPER, ALLEN KING, JIMMY L. HOUSE, SHANE SELLERS, KENNETH R. HORTON, WAYLON D. HEATHSCOTT, MIKE CLEVELAND, BOBBY G. QUATTLEBAUM, ED LAND, GEORGE "BUD" OSBORN, AND RON GIBBS, as the duly elected members of the Quorum Court of White County, Arkansas (in their official capacities only); WHITE COUNTY, ARKANSAS; RICHARD M. DRILLING, Manager, Fiscal Accounting, Office of Administrative Services, Arkansas Department of Finance & Administration; and KENDELL SNYDER, Manager, Office of Fire Protection Services, Arkansas Department of Emergency Management

DEFENDANTS

Exhibits to Complaint

Exhibit No. 4

White County Fire Districts, Arkansas



Disclaimer:

The University of Arkansas at Little Rock GIS Applications Laboratory compiled the data contained herein from various sources. Where the data were translated from one format to another, the UALR GIS Lab made all reasonable efforts to preserve the data quality. Acceptance or use of this data is done without any expressed or implied warranty.

IN THE CIRCUIT COURT OF WHITE COUNTY, ARKANSAS
_____ DIVISION

MIKE ROBERTSON, as the duly elected Mayor, City of Beebe, Arkansas (in his official capacity only); LES COSSEY, JOHN JOHNSON, TRACY LIGHTFOOT, BECKY SHORT, HAROLD WELCH and LINDA ANTHONY, as the duly elected members of the City Council of the City of Beebe, Arkansas (in their official capacities only); and the CITY OF BEEBE, ARKANSAS

PLAINTIFFS

v. DOCKET NO. _____

MICHAEL LINCOLN, as the duly elected County Judge of White County, Arkansas (in his official capacity only); HORACE TAYLOR, ROBERT R. "BOBBY" BURNS, CAMERON D. COOPER, ALLEN KING, JIMMY L. HOUSE, SHANE SELLERS, KENNETH R. HORTON, WAYLON D. HEATHSCOTT, MIKE CLEVELAND, BOBBY G. QUATTLEBAUM, ED LAND, GEORGE "BUD" OSBORN, AND RON GIBBS, as the duly elected members of the Quorum Court of White County, Arkansas (in their official capacities only); WHITE COUNTY, ARKANSAS; RICHARD M. DRILLING, Manager, Fiscal Accounting, Office of Administrative Services, Arkansas Department of Finance & Administration; and KENDELL SNYDER, Manager, Office of Fire Protection Services, Arkansas Department of Emergency Management

DEFENDANTS

Exhibits to Complaint

Exhibit No. 5

**THE PROTECTION SERVICES PROGRAM
ACT 833 OF 1991, AS AMENDED
IMPLEMENTATION PROCEDURES**

The following procedures have been established by the Department of Finance and Administration, Office of Administrative Services (DFA-OAS) to implement the Fire Protection Services Program Act of Arkansas - Act 833 of 1991, as amended by Act 10-First Extraordinary session of 1992.

The procedures are divided into four (4) sections:

- A. General procedures applying to all Fire Departments/Districts
- B. Rural Volunteer Fire Departments/Districts
- C. Certified Municipal Fire Departments
- D. Non-Certified Municipal Fire Departments

A. GENERAL PROCEDURES

- A1. Beginning January 1, 1992, a premium tax of 1/2 of 1% on fire insurance will be collected by the Arkansas Insurance Commissioner from insurers.
- A2. The insurers will estimate their net direct written premiums and remit premium taxes quarterly based on these estimates to the Arkansas Insurance Commissioner. The first quarter's collections should be available for distribution by DFA-OAS to Fire Departments in July. The other quarterly collections should be available in October, January, and April. The final collection will be an adjusted collection to reflect the actual net direct premiums written for the previous year.
- A3. The collections will be deposited into the Fire Protection Premium Tax Fund quarterly and will be divided by county using the following percentages as stated in the Act:

Arkansas	0.78%	Ashley	1.38%	Baxter	1.78%
Benton	3.88%	Boone	1.46%	Bradley	0.52%
Calhoun	0.51%	Carroll	0.97%	Chicot	0.51%
Clark	1.13%	Clay	1.10%	Cleburne	1.11%
Cleveland	0.66%	Columbia	1.24%	Conway	1.04%
Craighead	2.81%	Crawford	1.98%	Crittenden	1.32%
Cross	0.84%	Dallas	0.45%	Dosha	0.71%
Drew	0.80%	Faulkner	2.50%	Franklin	0.97%
Fulton	0.84%	Garland	3.12%	Grant	1.13%
Greene	1.38%	Hempstead	1.80%	Hot Spring	1.43%
Howard	0.75%	Independence	1.90%	Izard	0.91%
Jackson	0.95%	Jefferson	2.32%	Johnson	1.05%
Lafayette	0.71%	Lawrence	0.98%	Lee	0.73%
Lincoln	1.12%	Little River	0.77%	Logan	1.08%
Lonoke	1.71%	Madison	0.95%	Marion	1.00%
Miller	1.44%	Mississippi	1.77%	Monroe	0.53%
Montgomery	0.60%	Nevada	0.58%	Newton	0.67%
Ouachita	1.37%	Perry	0.62%	Phillips	1.12%
Pike	0.87%	Poinsett	1.14%	Folk	1.01%
Pope	1.73%	Prairie	0.83%	Pulaski	5.98%
Randolph	0.96%	St. Francis	1.45%	Saline	3.00%
Scott	0.59%	Searcy	0.75%	Sebastian	2.08%
Seyler	0.82%	Sharp	1.30%	Stone	0.77%
Union	2.01%	Van Buren	1.16%	Washington	3.46%
White	2.71%	Woodruff	0.47%	Yell	1.11%

**FIRE PROTECTION SERVICES PROGRAM
ACT 833 OF 1991, AS AMENDED
IMPLEMENTATION PROCEDURES
A. GENERAL PROCEDURES CONTINUED**

- A4. The population of each county and incorporated city and town within the county will be determined using the latest U. S. Census. All special census information will be input at the beginning of each program year. DFA-OAS will use this information to determine the percentage population of each incorporated city and town and the remaining unincorporated percentage population of the county.
- A5. Funds distributed under this program shall only be spent on the following three (3) items:
- 1.) Training of fire fighters at the Arkansas Fire Training Academy and/or fire training centers certified by the AFPSB.
 - 2.) Purchase and improvement of fire fighting equipment or improvements of fire departments.
 - 3.) Pledging as security for a period of not more than ten (10) years in the financing of the purchase of fire fighting equipment and initial capital construction or improvement of fire departments.
- All equipment purchased must comply with National Fire Protection Association (NFPA) standards.
- A6. The funds for each county shall be apportioned to the districts and municipalities within the county based on population unless the County Intergovernmental Cooperation Council (CICC) notifies the quorum court of the fire protection needs of the districts and municipalities, in which case the monies will be apportioned by the quorum court based on those needs.
- A7. Each County Quorum Court should notify DFA-OAS through Office of Emergency Services, Office of Fire Services (OES-OFS) by November 30th of each calendar year of the fire protection needs of the districts and municipalities of their county as determined by the CICC. If no notification is received, the distribution within the county will be based on the population as determined by the latest U.S. Census of the incorporated municipalities and on a first come, first served basis for the unincorporated areas. Counties that have previously notified DFA-OAS through OES-OFS, of their fire protection needs of the districts and municipalities, will have their apportionments carried forward to the new program year, from the previous year, unless DFA-OAS through OES-OFS is notified of any changes no later than November 30th each calendar year.
- A8. As soon as OES-OFS has reviewed and approved the apportionment and/or changes, the transactions will be routed to DFA-OAS to adjust the distribution of each county as noted and approved.
- A9. As funds are received from Premium Tax collections, DFA-OAS will allocate them to each county using the percentages stated in A3 of the General Procedures. Each county's funds will then be allocated based on the county's population percentage distribution or Quorum Court's designated fire protection needs as apportioned.

SEE PAGES 9-10 FOR AN EXAMPLE OF A COUNTY NEEDS ASSESSMENT.

**FIRE PROTECTION SERVICE PROGRAM
ACT 833 OF 1991, AS AMENDED
IMPLEMENTATION PROCEDURES**

B. RURAL VOLUNTEER FIRE DEPARTMENTS/DISTRICTS PROCEDURES

- B1. No rural volunteer fire department/district will receive payments from this program unless the County Quorum Court and the Board of Commissioners of the Fire Protection District designate a County Fire Service Coordinator who will be responsible for seeing that standard guidelines established by the Arkansas Fire Protection Services Board pursuant to Ark. Code Ann. §20-22-801 et seq, are followed.**
- B2. Rural volunteer fire departments/districts which are in compliance with these procedures and Ark. Code Ann. §§20-22-801 - 20-22-809 will be eligible for funds under this program.**
- B3. No rural volunteer fire department/district shall receive funds under this program after January 1, 1998, unless the fire department/district is certified by the Arkansas Fire Protection Services Board (Act 1112 of 1995). Until that time, OES-OFS shall approve only requests for upgrading, which will move the department/district towards meeting the minimum certification standards. All monies received from this program are to be spent directly on equipment, training, capital improvements, or other expenditures necessary for upgrading the service provided by the department/district. (Act 10-First Extraordinary Session of 1992)**
- B4. Rural volunteer fire departments/districts should complete Application for Funds, Form DFA-FP-1A. All information must be completed on both pages 1 and 2 of the form. If additional space is needed for the project description, please attach additional pages. The rural volunteer fire department/district must check "YES" or "NO" (Form DFA-FP-1A, bottom of page 1) if it will agree to pay any difference in project cost and funds available. If the rural volunteer department/district checks "NO" it cannot pay any difference, no payment will be made on the project until adequate funds are available. If the rural volunteer fire department/district checks "YES" it will agree to pay any difference, payments will be sent as they become available each quarter until the total project is paid or the end of the program year whichever occurs first. Also, the rural volunteer fire department/district must have its budgetary official sign verifying that it can pay the difference. If the rural volunteer fire department/district wishes the project to continue past the end of the program year, it must complete a new Form DFA-FP-1A at the beginning of the new program year. After Form DFA-FP-1A is approved by the rural fire department/district, and Budgetary Official if necessary, it is then submitted to the County Fire Service Coordinator for review and approval. The County Fire Service Coordinator then submits the form to the County Quorum Court for review and approval.**
- B5. After approval and signatures, Form DFA-FP-1A, should be sent to OES-OFS for review and approval at the following address:**
- OFFICE OF EMERGENCY SERVICES
OFFICE OF FIRE SERVICES
P.O. BOX 758
CONRAY, AR 72033-0758**
- B6. After approval by OES-OFS Form DFA-FP-1A will be sent to DFA-OAS for processing of payment.**

DEPARTMENT OF FINANCE AND ADMINISTRATION
FIRE PROTECTION SERVICE PROGRAM
ACT 833 OF 1991, AS AMENDED
IMPLEMENTATION PROCEDURES

B. RURAL VOLUNTEER FIRE DEPARTMENTS/DISTRICTS PROCEDURES CONTINUED

- B7. The payment will be sent by OES-OFS to the County Judge with a return receipt enclosed.
- B8. The County Treasurer will receive and deposit these funds in a Special County Revenue Fund designated specifically for fire protection. The funds will then be disbursed to the rural volunteer fire department/district who requested them.
- B9. The Board of Commissioners of any FIRE PROTECTION DISTRICT receiving funds under this program shall make no contract for the purchase of material or equipment costing five hundred (\$500) or more except upon sealed bids opened in public, and it shall be the duty of the secretary of the district to call on the telephone or notify in person no less than ten (10) property holders, not less than forty-eight (48) hours or more than one (1) week before the time of receiving the bids. The secretary shall also deliver to the daily papers in the county and at least one (1) weekly paper a news item notice of the intention to receive bids on certain equipment. (Act 10-First Extraordinary Session of 1992)
- B10. All funds received under this program must be EXPENDED or ALLOCATED for expenditure on or before the expiration of twelve (12) months from the date of receipt. Any excess or surplus funds which are not expended or allocated for expenditure within such twelve (12) month period shall be returned to the OES-OFS no later than sixty (60) days following the expiration of such twelve (12) month period. The returned funds will be deposited to the Fire Protection Premium Tax Fund and will be reallocated as described in Section A9 of the General Procedures.
- B11. Each rural volunteer fire department/district which receives funds under this program shall file reports on December 1 annually with Quorum Court through the County Clerk's Office or other office designated by the Quorum Court stating how such funds were expended during the preceding twelve (12) months.
- B12. The Quorum Court of each county through their County Clerk's Office shall file reports on January 15 annually with the State Auditor and Department of Finance and Administration stating how such funds were expended during the preceding twelve (12) months. Send the reports to the following addresses:
- | | |
|---|--|
| AUDITOR OF STATE
STATE CAPITOL ROOM 230
LITTLE ROCK, AR 72201 | DEPARTMENT OF FINANCE AND ADMINISTRATION
OFFICE OF ADMINISTRATIVE SERVICES
P.O. BOX 2485
LITTLE ROCK, AR 72203-2485 |
|---|--|
- B13. If any Quorum Court or rural volunteer fire department/district fails to make the reports as stated in B11 and B12, the fire department/district shall not be eligible for new or additional funds until the reports are filed.
- B14. Any fire department/district which fails to expend funds in due compliance with the provisions of these procedures shall not be eligible for new or additional funds under this program until the department/district reimburses the exact amount of those monies improperly retained or expended.

C. CERTIFIED MUNICIPAL FIRE DEPARTMENT PROCEDURES

- C1. Municipal fire departments which are in compliance with these procedures and Ark. Code Ann. §520-22-801 - 20-22-809 shall be eligible for funds under this program.**
- C2. Municipal fire departments must be willing to provide fire protection through mutual aid agreements in areas within five (5) miles of its corporate limits. Municipal fire departments shall not be required to respond when, in the opinion of proper municipal authorities, municipal property or fire classification rating would be jeopardized. Municipal fire departments must furnish an official municipal resolution signed by the Chief Executive Officer of that municipality stating their willingness to provide fire protection through mutual aid agreements. Copies of the mutual aid agreements should be sent to OES-OFS.**
- C3. Certified municipal fire departments must complete an Application for Funds, Form DFA-FP-1A. Page 1 must be completed through the question "Is the Department Certified?" Page 2 must have the signature/approval of the Fire Department and Chief Executive Officer-Municipality. Leave the section for Budgetary Official and County Fire Service Coordinator blank.**
- C4. After approval and signatures, Form DFA-FP-1A, should be sent to OES-OFS for review and approval at the following address:

OFFICE OF EMERGENCY SERVICES
OFFICE OF FIRE SERVICES
P. O. BOX 759
CONWAY, AR 72033-0758**
- C5. After approval by OES-OFS Form DFA-FP-1A will be sent to DFA-OAS for processing. Payments will be sent as funds become available each quarter.**
- C6. Municipal fire departments which serve any area in which there is no rural volunteer fire department/district which qualifies for funds under this program, may request funds from that rural area. The municipal fire department must complete Form DFA-FP-1A for a specific project to benefit the rural area and send the form to the county quorum court for approval. If approved, the quorum court will send the form to OES-OFS for approval. The municipal fire department must check "YES" or "NO" (Form DFA-FP-1A, bottom of page 1) if it will agree to pay any difference of project cost and funds available. If the municipal fire department checks "NO" it cannot pay any difference, no payment will be made on the project until adequate funds are available. If the municipal fire department checks "YES" it will agree to pay any difference, payments will be sent as they become available each quarter until the total project is paid or the end of the program year whichever comes first.**
- C7. The payments will be sent by OES-OFS to the municipality with a return receipt enclosed.**
- C8. The City Treasurer will receive and deposit these funds as special revenues.**

DEPARTMENT OF FINANCE AND ADMINISTRATION
FIRE PROTECTION SERVICE PROGRAM
ACT 833 OF 1991, AS AMENDED
IMPLEMENTATION PROCEDURES
C. CERTIFIED MUNICIPAL FIRE DEPARTMENT PROCEDURES

- C9. All funds received under this program must be expended or allocated for expenditure on or before the expiration of twelve (12) months from the date of receipt. Any excess or surplus funds which are not expended or allocated for expenditure within such twelve (12) month period shall be returned to the OES-FPS no later than sixty (60) days following the expiration of such twelve (12) month period. The returned funds will be deposited to the Fire Protection Premium Tax Fund and will be reallocated as described in Section A8 of the General Procedures.
- C10. Each municipal fire department which receives such funds shall file reports on January 15 annually with DFA-DAS stating how such funds were expended during the preceding twelve (12) months.
- C11. If any municipal fire department fails to make the report as stated in C10, the fire department shall not be eligible for new or additional funds until the report is filed.
- C12. Any municipal fire department which fails to expend funds in due compliance with the provisions of these procedures shall not be eligible for new or additional funds under this program until the department reimburses the exact amount of these monies improperly retained or expended.

DEPARTMENT OF PUBLIC AND ADMINISTRATION
FIRE PROTECTION SERVICE PROGRAM
ACT 813 OF 1991, AS AMENDED
IMPLEMENTATION PROCEDURES

D. NON-CERTIFIED MUNICIPAL FIRE DEPARTMENT PROCEDURES

- D1. No fire department shall receive funds under this program after January 1, 1998, unless the fire department is certified by the Arkansas Fire Protection Services Board (Act 1112 of 1985). Until that time, OES-FPS will approve ONLY requests for upgrading, which will move the department towards meeting the minimum certification standards. All funds received are to be spent directly on equipment, training, capital improvements, or other expenditures necessary for upgrading the service provided by the department. (Act 10-First Extraordinary Session of 1992)
- D2. Municipal fire departments must be willing to provide fire protection through mutual aid agreements in areas within five (5) miles of its corporate limits. Municipal fire departments shall not be required to respond when, in the opinion of proper municipal authorities, municipal property or fire classification rating would be jeopardized. Municipal fire departments must furnish an official municipal resolution signed by the Chief Executive Officer of that municipality stating their willingness to provide fire protection through mutual aid agreements and/or copies of the mutual aid agreements to OES-OFS.
- D3. Non-Certified municipal fire departments should complete Application for Funds, Form DFA-FF-1A. All information must be completed on both pages 1 and 2 of the form. If additional space is needed for the project description, please attach additional pages. The municipal fire department must check "YES" or "NO" (Form DFA-FF-1A, bottom of page 1) if it will agree to pay any difference in project cost and funds available. If the municipal fire department checks "NO" it cannot pay any difference, no payment will be made on the project until adequate funds are available. If the municipal fire department checks "YES" it will agree to pay any difference, payments will be sent as they become available each quarter until the total project is paid or the end of the program year whichever comes first. If the municipal fire department wishes the project to continue past the end of the program year, it must complete a new Form DFA-FF-1A at the beginning of the new program year.
- D4. After approval and signatures, Form DFA-FF-1A, should be sent to OES-OFS for review and approval at the following address:
- OFFICE OF EMERGENCY SERVICES
OFFICE OF FIRE SERVICES
P.O. BOX 758
CONWAY, AR 72033-0758
- D5. After approval by OES-OFS Form DFA-FF-1A will be sent to DFA-OAS for processing of payment.

**DEPARTMENT OF FIRE AND ADMINISTRATION
FIRE PROTECTION SERVICES PROGRAM
ACT 833 OF 1991, AS AMENDED
IMPLEMENTATION PROCEDURES
D. NON-CERTIFIED MUNICIPAL FIRE DEPARTMENT PROCEDURES**

- D3. Municipal fire departments which serve any area in which there is no rural volunteer fire department/district which qualifies for funds under this program, may request funds from that rural area. The municipal fire department must complete Form DFA-FP-1A for a specific project to benefit the rural area and send the form to the county quorum court for approval. If approved, the quorum court will send the form to OES-OFS for approval. The municipal fire department must check "YES" or "NO" (Form DFA-FP-1A, bottom of page 1) if it will agree to pay any difference in project cost and funds available. If the municipal fire department checks "NO" it cannot pay any difference, no payment will be made on the project until adequate funds are available. If the municipal fire department checks "YES" it will agree to pay any difference, payments will be sent as they become available each quarter until the total project is paid or the end of the program year whichever comes first.
- D7. The payments will be sent by OES-OFS to the municipality with a return receipt enclosed.
- D8. The City Treasurer will receive and deposit these funds as special revenue.
- D9. All funds received under this program must be expended or allocated for expenditure on or before the expiration of twelve (12) months from the date of receipt. Any excess or surplus funds which are not expended or allocated for expenditure within such twelve (12) month period shall be returned to OES no later than sixty (60) days following the expiration of such twelve (12) month period. The returned funds will be deposited to the Fire Protection Premium Tax Fund and will be reallocated as described in Section A9 of the General Procedures.
- D10. Each municipal fire department which receives such funds shall file reports on January 15th annually with DFA-OAS stating how such funds were expended during the preceding twelve (12) months.
- D11. If any municipal fire department fails to make the report as stated in D7, the fire department shall not be eligible for new or additional funds until the reports are filed.
- D12. Any municipal fire department which fails to expend funds in due compliance with the provisions of these procedures will not be eligible for new or additional funds under this program until the department reimburses the exact amount of those monies improperly retained or expended.

EXAMPLE

COUNTY XYZ NEEDS ASSESSMENTS

County XYZ has 4 incorporated cities. Without any notification of the fire protection needs of the county, DFA-OAS would distribute funds through OES-OFS as follows:

NAME	POPULATION	DISTRIBUTION
County Total	20,000	100%
City A	10,000	50%
City B	1,000	5%
City C	1,000	5%
City D	200	1%
Unincorporated Area	7,800	39% first come, first served basis

County XYZ's County Intergovernmental Cooperation Council meets and reviews the fire protection needs of the county. It finds that there are 3 rural fire departments serving the unincorporated areas of the county, 1 of which is twice as big as the other 2. Also, City D does not have a fire department and its fire needs are met by City C. The County Intergovernmental Cooperation Council makes the following needs assessment to the County Quorum Court:

NAME	POPULATION	DISTRIBUTION
County Total	20,000	100%
City A	10,000	50%
City B	1,000	5%
City C	1,000	5%
City D	200	0%
Rural Department E		19%
Rural Department F		10%
Rural Department G		10%
Unincorporated Area	7,800	

Since the county has determined its needs of both the incorporated and unincorporated areas, the funds will be distributed using the new percentage distribution. The incorporated municipalities will receive their funds quarterly as it is received. The unincorporated rural fire department/districts must apply for the funds. However, since the unincorporated areas have designated needs, these funds will be reserved for them until requested.

EXAMPLE CONTINUED

COUNTY XYZ NEEDS ASSESSMENT

If the needs for Year B are the same as previous Year A then nothing needs to be submitted, Year A's percentage distribution will carry over to Year B. However, if City A is going to assume the fire protection services of Rural Fire Department E a new percentage distribution based on needs must be submitted by November 30th. The distribution would then be as follows:

NAME	POPULATION	DISTRIBUTION
County Total	20,000	100%
City A	10,000	50%
City B	1,000	5%
City C	1,000	5%
City D	200	0%
Rural Department E		10%
Rural Department F		10%
Rural Department G		10%
Unincorporated Area	7,800	

The above needs distribution will carry over to Year C unless DFA-OAS through OES is otherwise notified.

DEPARTMENT OF FIRE AND ADMINISTRATION
FIRE PROTECTION SERVICES PROGRAM
ACT 838 OF 1991, AS AMENDED
APPLICATION FOR FUNDS
FORM DFA-FP-1A

NAME OF FIRE DEPARTMENT/DISTRICT: _____

COUNTY LOCATION: _____

MAILING ADDRESS: _____

CONTACT PERSON: _____

PHONE NUMBER: _____

TYPE OF DEPARTMENT MUNICIPAL _____ RURAL _____

IS DEPARTMENT CERTIFIED? YES _____ NO _____

(CERTIFIED MUNICIPAL DEPARTMENTS GO TO PAGE 2, ALL OTHERS COMPLETE FOLLOWING)

ANTICIPATED PROJECT COMPLETION DATE _____

DESCRIPTION OF PROJECT	COST
TRAINING:	
EQUIPMENT:	
CONSTRUCTION/LONG TERM FINANCING:	
TOTAL (Attach additional pages if necessary)	§

DEPARTMENT WILL PAY ANY DIFFERENCE IN PROJECT COST AND FUNDS AVAILABLE

YES _____ NO _____

DEPARTMENT OF FINANCE AND ADMINISTRATION
FIRE PROTECTION SERVICES PROGRAM
ACT 833 OF 1991, AS AMENDED
APPLICATION FOR FUNDS
FORM DFA-FP-1A

THE FIRE DEPARTMENT CERTIFIES BY SIGNING BELOW THAT ALL PROVISIONS OF ACT 833 AS AMENDED INCLUDING ALL IMPLEMENTATION PROCEDURES FROM THE DEPARTMENT OF FINANCE AND ADMINISTRATION AND OFFICE OF EMERGENCY SERVICES WILL BE STRICTLY FOLLOWED.

Fire Department/District

Signature / Title Date

Budgetary Official
(Required Rural Fire Dept/Dist
if paying funding difference)

Signature / Title Date

County Fire Service Coordinator
(Required Rural Fire Dept/Dist)

Signature / Title Date

Quorum Court/Chief Executive
Officer-Municipality

Signature / Title Date

Please mail form to:

Office of Emergency Services
Office of Fire Services
P. O. Box 758
Conway, AR 72033-0758

*****DO NOT WRITE BELOW THIS LINE*****

Office of Emergency Services

Signature Date

AR Dept Finance & Administration

Signature Date

DEPARTMENT Finance & Administration
DIVISION Office of Administrative Services
PERSON COMPLETING THIS STATEMENT Richard Drilling
TELEPHONE NO. 324-9060 FAX NO. 324-9212

FINANCIAL IMPACT STATEMENT

To comply with Act 884 of 1995, please complete the following Financial Impact Statement and file with the questionnaire and proposed rules.

SHORT TITLE OF THIS RULE Fire Protection Services Program

1. Does this proposed, amended, or repealed rule or regulation have a financial impact? Yes _____ No X
2. If you believe that the development of a financial impact statement is so speculative as to be cost prohibited, please explain.
3. If the purpose of this rule or regulation is to implement a federal rule or regulation, please give the incremental cost for implementing the regulation.

1995-96 Fiscal Year

1996-97 Fiscal Year

General Revenue _____
Federal Funds _____
Cash Funds _____
Special Revenue _____
Other _____
Total _____

General Revenue _____
Federal Funds _____
Cash Funds _____
Special Revenue _____
Other _____
Total _____

4. What is the total estimated cost by fiscal year to any party subject to the proposed, amended, or repealed rule or regulation?

1995-96 Fiscal Year

1996-97 Fiscal Year

5. What is the total estimated cost by fiscal year to the agency to implement this regulation?

1995-96 Fiscal Year

1996-97 Fiscal Year

July 28, 1995

IN THE CIRCUIT COURT OF WHITE COUNTY, ARKANSAS
_____ DIVISION

MIKE ROBERTSON, as the duly elected Mayor, City of Beebe, Arkansas (in his official capacity only); LES COSSEY, JOHN JOHNSON, TRACY LIGHTFOOT, BECKY SHORT, HAROLD WELCH and LINDA ANTHONY, as the duly elected members of the City Council of the City of Beebe, Arkansas (in their official capacities only); and the CITY OF BEEBE, ARKANSAS

PLAINTIFFS

v. DOCKET NO. _____

MICHAEL LINCOLN, as the duly elected County Judge of White County, Arkansas (in his official capacity only); HORACE TAYLOR, ROBERT R. "BOBBY" BURNS, CAMERON D. COOPER, ALLEN KING, JIMMY L. HOUSE, SHANE SELLERS, KENNETH R. HORTON, WAYLON D. HEATHSCOTT, MIKE CLEVELAND, BOBBY G. QUATTLEBAUM, ED LAND, GEORGE "BUD" OSBORN, AND RON GIBBS, as the duly elected members of the Quorum Court of White County, Arkansas (in their official capacities only); WHITE COUNTY, ARKANSAS; RICHARD M. DRILLING, Manager, Fiscal Accounting, Office of Administrative Services, Arkansas Department of Finance & Administration; and KENDELL SNYDER, Manager, Office of Fire Protection Services, Arkansas Department of Emergency Management

DEFENDANTS

Exhibits to Complaint

Exhibit No. 6

5. **Training - The following information for all members who will be engaged in fire fighting activities.**

Date completed Intro. to Firefighter Course
 Date completed Protective Equipment Course
 Date completed Wildland Fire Suppression Course
 Dates of In-House Training

6. **Fire Fighting Apparatus (attach additional page(s) if necessary)**

TYPE	HOW MANY	SIZE (gpm)	DATE OF LAST SERVICE TEST (within one year)	INVENTORY LIST (yes or no)
A. Pumpers (750 gpm +)				
B. Attack Apparatus (250 gpm ~ 500 gpm)				
C. Act 36 Truck				
D. Water Supply Apparatus				
E. Aerial Apparatus				
F. Brush Trucks				
G. Rescue Vehicles				
H. Support Vehicles (ID type: light, air, etc.)				

7. **Request for Funds (Rural Departments Only) Total Amount Requested: \$ _____**

These funds are requested to purchase the following equipment: _____

And/Or provide the following training for our firefighters: _____

And/Or pay on the following construction or long term loan: _____

We anticipate that the above project(s) will be completed by: _____

Fire Chief

County Fire Service Coordinator

County Judge/Mayor

When Completed, Return **Both** Forms To:
(Both forms must have signatures on them.)

ARKANSAS DEPT. OF EMERGENCY MANAGEMENT
 OFFICE OF FIRE SERVICES
 P. O. BOX 758
 CONWAY, AR 72033-0758

IN THE CIRCUIT COURT OF WHITE COUNTY, ARKANSAS
_____ DIVISION

MIKE ROBERTSON, as the duly elected Mayor, City of Beebe, Arkansas (in his official capacity only); LES COSSEY, JOHN JOHNSON, TRACY LIGHTFOOT, BECKY SHORT, HAROLD WELCH and LINDA ANTHONY, as the duly elected members of the City Council of the City of Beebe, Arkansas (in their official capacities only); and the CITY OF BEEBE, ARKANSAS

PLAINTIFFS

v. DOCKET NO. _____

MICHAEL LINCOLN, as the duly elected County Judge of White County, Arkansas (in his official capacity only); HORACE TAYLOR, ROBERT R. "BOBBY" BURNS, CAMERON D. COOPER, ALLEN KING, JIMMY L. HOUSE, SHANE SELLERS, KENNETH R. HORTON, WAYLON D. HEATHSCOTT, MIKE CLEVELAND, BOBBY G. QUATTLEBAUM, ED LAND, GEORGE "BUD" OSBORN, AND RON GIBBS, as the duly elected members of the Quorum Court of White County, Arkansas (in their official capacities only); WHITE COUNTY, ARKANSAS; RICHARD M. DRILLING, Manager, Fiscal Accounting, Office of Administrative Services, Arkansas Department of Finance & Administration; and KENDELL SNYDER, Manager, Office of Fire Protection Services, Arkansas Department of Emergency Management

DEFENDANTS

Exhibits to Complaint

Exhibit No. 7

2012 ACT 833 Funding Guidance and Requirements

FIRE PROTECTION



SERVICES BOARD

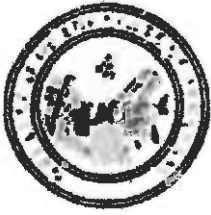


Office of Fire Protection Services

**C/O Arkansas Fire Protection Service Board &
Office of Fire Protection Services
ARKANSAS DEPARTMENT OF EMERGENCY MANAGEMENT
Building #9501 - Camp Joseph T. Robinson
North Little Rock, Arkansas 72199-9600**

**Kendell Snyder – State Fire & Field Services Office
(501) 683-6781 Office - (501) 683-7890 Fax
Email kendell.snyder@adem.arkansas.gov**

WEB SITE: www.adem.arkansas.gov



**STATE OF ARKANSAS
DEPARTMENT OF EMERGENCY MANAGEMENT**



**MIKE BEEBE
GOVERNOR**

**DAVID MAXWELL
DIRECTOR**

TO: Arkansas Fire Departments

FROM: Office of Fire Protection Services / Arkansas Department of Emergency Management
Kendell Snyder, State Fire & Field Services Office

DATE: 2012 Funding Period (Opens Jan. 1, 2012 - Closes Oct. 31, 2012)

SUBJECT: Application Certification Forms, Invoices, Training Requirements, & Audits

Application Forms:

Act 833 application forms can be downloaded through the ADEM web site (www.adem.arkansas.gov), under administration, then Fire Services section (Act 833) and are not available by mail or fax. Applications must be post marked no later than October 31 of each funding year. Any application received after the deadline date will not be funded. All applications returned for corrections after the closing date of the funding year will have fifteen (15) days or until November 15 of each year to get corrected application back to the ADEM to qualify for funds or application will not be funded.

Invoices:

The Department of Finance & Administration requires copies of invoices for all items listed on the Annual Expenditure Report (Form DFA-FP-7A). In addition to the completed expenditure form, please remit all invoices and pertinent documentation related to purchases made under the Act 833 of 1991 program. Submit only copies of invoices that are standard letter size (8.5" X 11). No voided checks, bank statements, original copies, or invoices without vendor information Will Not be accepted.

(Please Do Not Staple invoices.)

Training Requirements:

Act 833 certified fire departments & active firefighters are required to train a minimum of sixteen (16) hours per year of certifiable training meeting the standards of the Arkansas Fire Training Academy. Departments must have a minimum of six (6) active firefighters that engage in firefighting capabilities (Act 808 of 2009) from January 1, 2011 - December 31, 2011 to qualify for 2011 funds.

Audits:

Act 833 funds are subject to audit; therefore, they must be used in accordance with Act 833 rules and random, on-site audits will be conducted on fire departments which receive or have received Act 833 funds. This action, approved by the Department of Finance and Administration and the Arkansas Fire Protection Services Board, will ensure funds are being used legally. Affected fire departments will be given notice to set up an appointment with the auditing agency if selected.

Please direct all questions to: **Arkansas Fire Protection Services Board C/O
Kendell Snyder
Office of Fire Protection Services
Arkansas Department of Emergency Management
Building #9501 - Camp Joseph T. Robinson
North Little Rock, AR 72199-9800**

**INSTRUCTIONS FOR COMPLETING CERTIFICATION APPLICATION FOR ACT 833 FUNDS
(APPLICATION DEADLINE - OCTOBER 31, 2012)**

DATE: Date of application. (Certification is an annual requirement for all fire departments)

NFIRS ID: National Fire Incident Reporting System ID numbers are assigned by the Arkansas Fire Training Academy. Please call 870-574-1521 for more information.

TYPE OF DEPARTMENT

1. **Rural Non-Profit:** formed as a non-profit corporation, AR Code Ann, 14-284-301 through 307 or **Fire District:** formed under AR Code Ann, 14-284-102 through 121 or 14-284-201 through 222.

2. **Municipal:** formed by municipality ordinance, AR Code Ann, 14-53-101. Please indicate municipality population from last census count.

Note: A Municipal Department is governed by a City Council and a Rural or Fire District Department is governed by a Board of Directors.

CLASSIFICATION OF DEPARTMENT

1. **Volunteer:** unpaid firefighters
2. **Paid:** salaried/hourly-wage firefighters
3. **Paid on Call:** Firefighters are paid per response or activity
4. **Combination:** mixture of volunteer and paid firefighters

CERTIFIED TRAINING OFFICER - applications and requirements for Certified Training Officers (CTO) are available from the Arkansas Fire Training Academy in Camden, (870) 574-1521.

Fire Protection Services Board requirements for CTOs

1. **Successful completion of the following courses**
 - a. Instructor I - Module 1 (min required... Modules 2 and 3 are optional)
 - b. Introduction to Fire Fighting
 - c. Protective Equipment
2. **Department must report assignment of CTO position to the Arkansas Fire Academy**

- a. A department may have more than one CTO
- b. If a department loses a CTO, they may use another qualified instructor from another department until one can be put in place

NUMBER OF PERSONNEL IN DEPARTMENT – number of personnel in department covered by Workers Compensation. These personnel should include firefighting personnel, staff personnel (secretary, treasurer, etc.) and support personnel (Board of Directors, etc.).

NUMBER OF ACTIVE, ACT 833 FIREFIGHTERS - number of department personnel responding to a fire scene wearing personal protective equipment (PPE), and actively taking part in firefighting operations. These personnel are required to have 16 hours of certifiable training annually

Assurances

Checking yes indicates that the listed equipment and records are present and available for inspection.

1. EQUIPMENT

- A. Every department must have at least two SCBA outfits, with one for each five firefighters.
- B. Must have one extra cylinder for each two SCBA units, with a minimum of two per department.
 - SCBA shall meet NFPA standards (1981-1987 editions).
 - SCBA cylinders are required to be hydrostatic tested by the Department of Transportation:
 - Five (5) years for steel & aluminum cylinders.
 - Three (3) years for composite cylinders.

NOTE: SCBA currently in use which does not meet NFPA standards may continue to be used, if they are positive pressure type.

C. Hoses must be tested each calendar year and records kept on their use.

2. PERSONAL PROTECTIVE EQUIPMENT

Each certified, active firefighter is required to have a full set of PPE meeting NFPA standards, ref NFPA 1500.

NOTE: These numbers must be equal to or greater than the number of active firefighters reported.

#1971-2007 Editions for turnout coats and pants.	7-1.1
#1971-2007 Editions for helmets (including eye protection).	7-4.1
#1971-2007 Edition for gloves.	7-7.1
#1971-2007 Edition for boots.	7-10.1

NOTES:

- 1. PPE currently in use may continue to be used until it can be replaced with NFPA compliant equipment.

2. As NFPA updates the above standards, the Fire Protection Services Board (FPSB) will require the new equipment to meet the updated standards.
3. NFPA compliant equipment should have a label stating which NFPA standard the item meets.

NOTE: Firefighters that do not have a complete set of PPE will not be used on the fire ground of a structure fire except in exterior fire fighting operations & then only in areas where the incident commander deems appropriate for the PPE the firefighter is using.

3. TRAINING & TRAINING RECORDS

- Training Records - records of classes, drills and in-house training. Include subject, time in class, date of class/drill and instructor.

Act 833 certified fire departments & active firefighters are required to train a minimum of sixteen (16) hours per year. This training must fall within the standards & guidelines set & maintained by the Arkansas Fire Training Academy (Act 808 of 2009).

TRAINING & TRAINING RECORDS (cont.)

Firefighters shall complete the following courses during their first year of service:

- o INTRODUCTION TO FIREFIGHTING – up to 16 hours in the Introduction to Firefighting course conducted by Arkansas Fire Academy (AFA). Other courses acceptable are: Basic FF Course conducted by (AFA), Firefighter I, II or III, Including Minimum Standards Course conducted by (AFA).
- o PROTECTIVE EQUIPMENT – up to 16 hours in the Personal Protective Equipment course conducted by Arkansas Fire Academy (AFA).
Exception: When a person has a doctor's statement on file (at the fire department) exempting them from the practical part of the course involving use of SCBA, this person may be used as support personnel (i.e. operating pump, directing traffic, etc.)

WILDLAND FIRE SUPPRESSION – up to eight hours in the Wild land Fires course conducted by Arkansas Forestry Commission (AFC). This can be coordinated through your county Fire Services Coordinator. **NOTE: 1. Firefighters' that have not completed the Wildland Fire Suppression course, the firefighter shall be under the direct supervision of an experienced firefighter or fire officer at a wild land fire.**

- o **Exception:** Firefighters who are members of municipal departments in cities with a population of more than 10,000 or fully paid firefighters are not required to complete this course.
- o **CERTIFIABLE TRAINING** – all active firefighters are required to complete sixteen (16) hrs of annual certified training approved by the Arkansas Fire Academy (AFA).

NOTE: Must have a minimum of six (6) trained firefighters for departments to qualify for Act 833 funds.

4. WORKMEN'S COMPENSATION (RURAL DEPARTMENTS ONLY)

Firefighter names & SSN's of all department members (Active and Non-Active) must be submitted to the county clerk's office, updated annually, and have completed the training requirements under (Act 808 of 2009) in order to qualify for coverage.

5. REQUEST FOR FUNDS (Rural Departments ONLY)

This section replaces Form DFA-FP-1A. Rural departments can receive no more than requested in this section. (Example: A department asks for \$5,000 but actually has \$5,500 available as their share of Act 833. The Department of Finance and Administration can only award the amount requested on the form.) A good guideline to use is to ask for more than received from the previous year. If no money was received from the previous year, check with the county fire coordinator to see how much was available.

Rural and Fire Protection Districts must have three (3) signatures (Fire Chief, County Fire Coordinator, and County Judge).

Municipal Departments must have signatures by Fire Chief and Mayor.

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FORM DFA-FP-7A – Expenditure Report – Must be submitted annually.

Contact person/daytime Phone number: This is the person who completes the expenditure report.

Clarification of Terms

Carry Forward:—will equal the “Unspent Allocation” from the previous year

Unspent Allocation: --- This is the total amount of Act 833 funds received by your department that have not been spent and accounted for through invoices. This will be the “carry forward” for the next year.

Report funds received and spent during the period (Rural & Municipal reporting period is each calendar funding year). Redistribution funds may arrive after the new calendar year begins, however they must be entered in the expenditure report for the previous year (reporting period).

Total the “FUNDS RECEIVED” column, subtract the “FUNDS EXPENDED” total and the remainder, if any, goes in the “833 Funds to allocate” line. Individual items that you plan to purchase in the future should be listed in the “Items allocated to purchase in the future” column. The total of that column must equal or exceed the amount shown in the “833 Funds to allocate” line.

ATTENTION
SPENDING GUIDELINES

The State Fire Protection Services Program - Act 833 of 1991 is to provide funding to qualified fire departments and is not intended to fund the daily operational funding for fire departments. All expenditures using Act 833 funds must be directly related to firefighting capabilities. Any items purchased must be from the three (3) procurement categories established by the Department of Finance and Administration (see categories below).

Act 833 Procurement Categories:

- **Firefighting Training (approved courses only):**
 - Allowable training conducted through the Arkansas Fire Training Academy, National Fire Academy, Arkansas Department of Emergency Management courses (HAZMAT, ICS, NIMS, ECT) and/or fire training centers, colleges or universities (i.e., Texas A&M, University of Memphis, Oklahoma State University, ECT) & must be approved by the Arkansas Fire Protection Services Board.
 - Allowable items include (but not limited to) classes, training videos or CDs, projectors, internet service, computers or any justified expense under this section.
- **Procurement of new or modernization of current firefighting equipment:**
 - Preventive maintenance, maintenance and refurbishment items are permissible.
 - Allowable items include (but not limited to) batteries, filters, gas, oil, tires, parts, bunker gear, SCBA's, hose, appliances, tools or any justified expense under this section
 - Non-allowable items include uniforms, bank charges, insurance for buildings, utilities, professional or contractual services, etc.

- Capital expenditures and/or security pledges (ten (10) years or less) to be used in the financing of firefighting equipment, initial capital construction, or improvement of fire departments:
 - c Allowable items include (but not limited to) purchase of property, construction of stations, firefighting apparatus or any justified expense under this section.

IMPORTANT NOTICE:

Report only expenditures made during the reporting period. Be sure to list the date purchase was made, the item/items purchased, and the amount of the invoice. If you order something, include the shipping charge in the cost of the item. **DO NOT LIST SHIPPING CHARGES SEPARATELY!**

**ACT 833 PROGRAM
EXPENDITURES EXAMPLE LIST**

FIRE PROTECTION SERVICES PROGRAM – ACT 833 OF 1991

From the inception of the Act 833 Program, the only items allowed as expended items were:

- | | |
|---|---|
| Fire Stations | Firefighting Vehicles |
| Training (Fire & EMT) | Communications Equipment (Radios and Pagers) |
| Fire Fighting Equipment | Refurbishing Newly Acquired Older Firefighting Vehicles |
| Personal Protective Equipment
(NO UNIFORMS, CAPS, PATCHES, BADGES, ETC.) | |

The following items were determined to be allowable expenditure items by the Arkansas Fire Protection Services Board on December 10, 2008:

ALLOWABLE EXPENDITURES (Lists are for guidance purposes only)
Procured equipment must meet current National Fire Protection Association (NFPA) standards.

AED (Defib.) Arson Investigation Audio Equipment Batteries Camera Camcorders Chargers Computers Copier Equipment for the care of PPE & FF gear & Hose Fax Machine Fire Hose Washer Fire Hydrants Fire Prevention Materials Fuel (Gasoline & Diesel) Fuel Cans Hazmat Equipment Hepatitis Vaccination	Hose Inspections ISO Safety Insurance (Liability Fire Vehicles Only) Internet Access (\$60 per month Limit) Extrication Equipment Fire Scene Equipment First Aid Supplies Land for new Fire Station Matching Grants Physical Fitness Equipment Printers Radio License Radio Repair Radio Upgrade	Repair to Fire Station Salvage & Overhaul Equipment Safety Vests Software Support Equipment Tarps Tires Trailers Vehicle Maintenance Vehicle Repair Video Equipment
--	---	--

The following items were determined to be unallowable expenditure items by the Arkansas Fire Protection Services Board on December 10, 2008:

UNALLOWABLE EXPENDITURES

Animals Appliances Bank Charges Cell Phones Checks Contractual or Professional Services
--

Furniture Interest Late Fees Lockers Office Supplies Station Maintenance

Storage Shed Uniforms Utilities Web Pages
--

This list does not include all allowable and unallowable expenditures for Act 833. It provides a general idea. If you have any questions, you may contact:

Larry Brewer	Arkansas Fire Protection Services Board	(501) 450-4935
Richard Drilling	DFA-Office of Administrative Services	(501) 324-9062
Kendell Snyder	ADEM-Office of Fire Services	(501) 683-6781

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Resource and Capability Survey

This is not required for certification; however we are asking that each department fill out this section in order to compile a working list of fire department current capabilities and resources. This information will be used in conjunction with local and state-wide mutual aid plans and in the event of state or federally declared disasters. **Completing this section does not obligate your department to respond to any state wide or area requests; it does provide a database to locate resources in the event of a disaster or other need. The decision to respond or commit resources will be made by the individual departments at the time of the request.**

Department Information

Please complete as much of this section as possible, **Fire Chief Contact number** should be a cell or other number at which the Chief can most likely be reached. It will not be released to the general public.

The **F.D. contact phone and email** should be the number / email account that can be used for general inquiries and non urgent contacts. It may be released to citizens who have interest in contacting a specific department.

Dispatch Center Contact number should be a non-emergency number to the entity that dispatches your department.

Apparatus

The Apparatus capacity section is based on FEMA resource typing and as such will probably not be a direct match for your apparatus. Choose the one that **most closely matches, but does not exceed in either capacity**, your apparatus. For example, a 750 GPM pumper with a 500 gallon tank will go in the second category. A brush rig with a 50 GPM pump and a 50 gallon tank will go in the Other category.

Both front line and reserve apparatus should be included, if reserve apparatus is equipped and functional.

Pumpers / Brush-Wildland Includes all pumping-attack apparatus. Indicate how many in each category.

Tankers / Water Tenders includes all apparatus equipped and used for water shuttle/ water tending operations.

Service / Rescue Vehicles includes any vehicles or vehicles with trailers that have SCBA tank fill capabilities or Auto Extrication equipment.

Class B Foam include total quantity on hand (in Gallons) of AFFF and Alcohol Resistant (AR) AFFF

**OFFICE OF FIRE PROTECTION SERVICES
2012 CERTIFICATION APPLICATION**

DATE _____ NFIRS ID # _____

DEPARTMENT NAME _____ MAILING ADDRESS _____

COUNTY _____ CITY _____ ZIP _____ FD PHONE (____) _____

FD FAX (____) _____ EMAIL _____ CTO NAME _____

TYPE OF DEPARTMENT: RURAL FIRE DISTRICT MUNICIPAL

CLASSIFICATION OF DEPARTMENT: VOLUNTEER COMBINATION PAID ON CALL PAID

TOTAL NUMBER OF PERSONNEL _____ TOTAL NUMBER OF ACTIVE FIREFIGHTING PERSONNEL (ACT 808 - 2009) _____

FIRE CHIEF NAME _____ MAILING ADDRESS _____

COUNTY _____ CITY _____ ZIP _____ HM PHONE (____) _____

WK PHONE (____) _____ CELL PHONE (____) _____ EMAIL _____

EQUIPMENT: SCBA Units (1 per 5 Firefighters – Minimum 2) & SCBA Bottles (1 per SCBA – Minimum 2) Meets NFPA 1500 #1971-2007. Yes No
PERSONAL PROTECTIVE EQUIPMENT (PPE): Requires full set for all active personnel meeting NFPA 1500 #1971-2007. Yes No
TRAINING & TRAINING RECORDS: Active Firefighters Completed (16) Hrs of Certified Training & Training Records Maintained for All Personnel. [Certified Training must meet (Act 808-2009) to qualify for 2011 Funds & completed training for the 2010 Calendar Year (Jan 1 – Dec 31, 2010)]. Yes No
WORKERS COMPENSATION: (Rural Departments Only) Personnel List on file Current with County Clerk. Yes No

REQUEST FOR FUNDS (Rural Departments ONLY)	Total Amount Requested: \$ _____
<p>➤ Firefighting Training: _____</p> <p>➤ Firefighting Equipment: _____</p> <p>➤ Capital Expenditure: _____</p>	

Fire Chief

County Fire Service Coordinator

County Judge or Mayor

IMPORTANT NOTICE: the entities involved above, certifies by signing this document that all Provisions of Act 833 as amended, including all implementation Procedures from Department of Finance and Administration, Office of Fire Protection Services, & the Arkansas Department of Emergency Management will be strictly followed.

Office of Fire Protection Services C/O Arkansas Department of Emergency Management
Building #9501 – Camp Joseph T. Robinson
North Little Rock, AR 72199-9800

**ADEM Office of Fire Services
Fire Department Resource/Capability Survey**

Fire Department Name _____ County _____
 Fire Chief Name _____ Chief Contact Number () _____
 F.D. Contact Phone () _____ F.D. Contact Email _____
 Dispatch Center _____ Dispatch Contact Number () _____
 Deployable AWIN Radios Yes No Quantity _____

Apparatus

Pumpers / Brush-Wildland

Minimum 1,000 GPM Pump / 400 Gallon Tank Quantity _____
 Minimum 500 GPM pump / 400 Gallon Tank Quantity _____ 2 WD 4 WD
 Minimum 120 GPM Pump / 500 Gallon Tank Quantity _____ 2 WD 4 WD
 Minimum 70 GPM Pump / 750 Gallon Tank Quantity _____ 2 WD 4 WD
 Minimum 50 GPM Pump / 500 Gallon Tank Quantity _____ 2 WD 4 WD
 Minimum 15 GPM Pump / 75 Gallon Tank Quantity _____ 2 WD 4 WD
 Other ___ GPM Pump / ___ Gallon Tank Quantity _____ 2 WD 4 WD

Tankers/ Water Tenders

Minimum 2,000 Gallon tank / 300 GPM Pump No Pump Quantity _____
 Minimum 1,000 Gallon Tank / 120 GPM Pump No Pump Quantity _____
 Minimum 1,000 Gallon Tank / 50 GPM Pump No Pump Quantity _____
 Drop Tank Capacity _____

Aerial (Ladder or Platform)

Minimum 75 Ft. 500 GPM or Greater Pump No Pump Quantity _____
 Minimum 50 Ft. / 500 GPM or Greater Pump No Pump Quantity _____
 Snorkel ___ Ft. _____ GPM Pump No Pump Quantity _____

Service/rescue Vehicles (Check all that apply)

SCBA Tank Fill Cascade Compressor PSI _____ Auto Extrication
 Class B Foam AFFF Qnty _____ Alcohol Resistant AFFF Qnty. _____
 Mobile Generator Capacity _____ Kw Portable Truck/Trailer Mounted
 Rescue Boat Fire Boat Trailer

IN THE CIRCUIT COURT OF WHITE COUNTY, ARKANSAS
_____ DIVISION

MIKE ROBERTSON, as the duly elected Mayor, City of Beebe, Arkansas (in his official capacity only); LES COSSEY, JOHN JOHNSON, TRACY LIGHTFOOT, BECKY SHORT, HAROLD WELCH and LINDA ANTHONY, as the duly elected members of the City Council of the City of Beebe, Arkansas (in their official capacities only); and the CITY OF BEEBE, ARKANSAS

PLAINTIFFS

v. **DOCKET NO. _____**

MICHAEL LINCOLN, as the duly elected County Judge of White County, Arkansas (in his official capacity only); HORACE TAYLOR, ROBERT R. "BOBBY" BURNS, CAMERON D. COOPER, ALLEN KING, JIMMY L. HOUSE, SHANE SELLERS, KENNETH R. HORTON, WAYLON D. HEATHSCOTT, MIKE CLEVELAND, BOBBY G. QUATTLEBAUM, ED LAND, GEORGE "BUD" OSBORN, AND RON GIBBS, as the duly elected members of the Quorum Court of White County, Arkansas (in their official capacities only); WHITE COUNTY, ARKANSAS; RICHARD M. DRILLING, Manager, Fiscal Accounting, Office of Administrative Services, Arkansas Department of Finance & Administration; and KENDELL SNYDER, Manager, Office of Fire Protection Services, Arkansas Department of Emergency Management

DEFENDANTS

Exhibits to Complaint

Exhibit No. 8

(AMENDED BY RESOLUTION 2000-14, 11-21-000, BOOK 5 PAGE 688) 287

RESOLUTION NO. 92-4

A RESOLUTION APPROVING THE RECOMMENDATION OF THE WHITE COUNTY INTERGOVERNMENTAL COOPERATION COUNCIL, APPROVING MUTUAL-AID AGREEMENTS AND APPOINTING FIRE COORDINATOR.

BE IT RESOLVED BY THE WHITE COUNTY QUORUM COURT:

WHEREAS, Act 833 of 1991 was approved by the Legislature of Arkansas wherein it provides for additional funding for Arkansas Fire Departments through additional insurance premiums assessed against insurers writing Fire Insurance and similar coverages in Arkansas; and

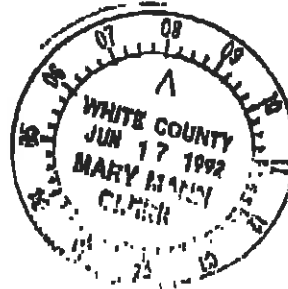
WHEREAS, this act requires the Intergovernmental Cooperation Council of each county to recommend the appropriations of said monies to each municipal and rural fire department; and

WHEREAS, the White County Intergovernmental Cooperation Council met at the White County Courthouse on June 15, 1992 with the County Judge, County Clerk, and Mayors of the cities of White County in attendance; and

WHEREAS, the following Fire Departments were approved for allocations using the percentage as set out by Act 833 for White County. Available funds are to be apportioned on the population serviced by each Fire Department.

- Ablon Fire Dept.
- Antioch Fire Dept.
- Center Hill Fire Dept.
- El Paso Fire Dept.
- Fairview Fire Dept.
- Floyd/Romance Fire Dept.
- Garnar Fire Dept.
- Georgetown Fire Dept.
- Gum Springs Fire Dept.
- Hickory Flat Fire Dept.
- Higginson Fire Dept.
- Jay Community Fire Dept.
- Letona Fire Dept.
- North White County Fire Dept.
- Rocky Point Fire Dept.
- Rose Bud Fire Dept.
- Russell Fire Dept.
- Southeast White Co. Fire Dept.
- Velvet Ridge Fire Dept.
- West Point Fire Dept.

- Bald Knob Fire Dept.
- Bebb Fire Dept.
- Bradford Fire Dept.
- Judsonia Fire Dept.
- Kensett Fire Dept.
- McRae Fire Dept.
- Pangburn Fire Dept.
- Searty Fire Dept.



NOW THEREFORE BE IT RESOLVED BY THE WHITE COUNTY QUORUM COURT, that the above recommended allocations are hereby approved and the report of the White County Intergovernmental Cooperation Council is adopted.

IT IS FURTHER RESOLVED BY THIS QUORUM COURT that approval is granted to the written request of the White County Intergovernmental Cooperation Council that Mr. Glen Jones serve as White County Fire Service Coordinator, pursuant to Ark. Code Ann. 20-22-001.

We, the undersigned representatives of these White County Fire Departments agree to the requirements outlined in Act 433 of 1991. This the 15th day June, 1992.

- Albion Fire Dept. *Charles H. Moore, Chairman of Board*
- Antioch Fire Dept. *Harry L. Baker*
- Center Hill Fire Dept. *Thomas W. Carter*
- El Paso Fire Dept. *Bob Wiley*
- Fairview Fire Dept. *Ray Lee Carter*
- Floyd/Romance Fire Dept. *Carl F. Ward*
- Garnar Fire Dept. *J. H. Maguire, Jr. & David*
- Georgetown Fire Dept. *Luchard, Waldmann (Chief)*
- Sum Springs Fire Dept. *Billy Dealey*
- Hickory Flat Fire Dept. *Joe Edwards Carter*
- Higginson Fire Dept. *Marshall T. Sullivan*
- Joy Community Fire Dept. *D. J. Quattlebaum*
- Jelina Fire Dept. *Jimmy D. Papp*
- North White Count. Fire Dept. *Roger Hiffis*
- Rocky Point Fire Dept. _____
- Rose Bud Fire Dept. *Lucy Dorman*
- Russell Fire Dept. *Robert Howard, Chief*
- Southeast White Co. Fire Dept. *Windle Earl Porter*
- Velvet Ridge Fire Dept. *Robert Cole*
- West Point Fire Dept. *Leslie B. Vought, Chief*
- Bald Knob Fire Dept. *Long Delibard*
- Beebe Fire Dept. *Bill Brink, Chief*
- Bradford Fire Dept. *Wayne Bright, Chief*
- Judsonia Fire Dept. *Jim Yarns - Mayor*
- Kensett Fire Dept. *W. J. ... - Mayor*
- McRae Fire Dept. *Deoder F. Horn - Mayor*
- Panburn Fire Dept. *W. L. Gungley, Fire Chief*
- Searcy Fire Dept. *David Evans, Mayor*

IN THE CIRCUIT COURT OF WHITE COUNTY, ARKANSAS
_____ DIVISION

MIKE ROBERTSON, as the duly elected Mayor, City of Beebe, Arkansas (in his official capacity only); LES COSSEY, JOHN JOHNSON, TRACY LIGHTFOOT, BECKY SHORT, HAROLD WELCH and LINDA ANTHONY, as the duly elected members of the City Council of the City of Beebe, Arkansas (in their official capacities only); and the CITY OF BEEBE, ARKANSAS

PLAINTIFFS

v. DOCKET NO. _____

MICHAEL LINCOLN, as the duly elected County Judge of White County, Arkansas (in his official capacity only); HORACE TAYLOR, ROBERT R. "BOBBY" BURNS, CAMERON D. COOPER, ALLEN KING, JIMMY L. HOUSE, SHANE SELLERS, KENNETH R. HORTON, WAYLON D. HEATHSCOTT, MIKE CLEVELAND, BOBBY G. QUATTLEBAUM, ED LAND, GEORGE "BUD" OSBORN, AND RON GIBBS, as the duly elected members of the Quorum Court of White County, Arkansas (in their official capacities only); WHITE COUNTY, ARKANSAS; RICHARD M. DRILLING, Manager, Fiscal Accounting, Office of Administrative Services, Arkansas Department of Finance & Administration; and KENDELL SNYDER, Manager, Office of Fire Protection Services, Arkansas Department of Emergency Management

DEFENDANTS

Exhibits to Complaint

Exhibit No. 9

RESOLUTION NO. 2001-10

A RESOLUTION TO APPROVE THE RECOMMENDATION OF THE WHITE COUNTY INTERGOVERNMENTAL COOPERATION COUNCIL, TO APPROVE MUTUAL-AID AGREEMENTS, TO REPEAL RESOLUTIONS NO. 92-4 AND 2000-14 IN THEIR ENTIRETY, TO APPOINT A NEW WHITE COUNTY FIRE SERVICES COORDINATOR, AND FOR OTHER PURPOSES.

BE IT RESOLVED BY THE WHITE COUNTY QUORUM COURT:

WHEREAS, Act 833 of 1991 was approved by the Legislature of Arkansas wherein it provides for additional funding for Arkansas Fire Departments through additional insurance premiums assessed against insurers writing Fire Insurance and similar coverages in Arkansas; and

WHEREAS, this act requires the Intergovernmental Cooperation Council of each county to recommend the appropriations of said monies to each municipal and rural fire department; and

WHEREAS, the following Fire Departments were approved for allocations using the percentage as set out by Act 833 for White County. Available funds are to be apportioned on the population serviced by each Fire Department as determined by the 2000 Census:

- 1602 Albion Fire Department
- 1196 Antioch Fire Department
- 1586 Center Hill Fire Department
- 1866 El Paso Fire Department
- 1426 Fairview Fire Department
- 1824 Floyd/Romanos Fire Department
- 535 Garner Fire Department
- 341 Georgetown Fire Department
- 2541 Gum Springs Fire Department
- 397 Hickory Flat Fire Department
- 1331 Higginson Fire Department
- 1197 Joy Community Fire Department
- 556 Letona Fire Department
- 3262 North White County Fire Department
- 525 Pleasant Plains Fire Department
- 750 Rocky Point Fire Department
- 1013 Rose Bud Fire Department
- 730 Russell Fire Department
- 1080 Southeast White County Fire Department
- 1909 Velvet Ridge Fire Department
- 544 West Point Fire Department

- 4335 Bald Knob Fire Department
- 6877 Beebe Fire Department
- 1905 Bradford Fire Department
- 3294 Judsonia Fire Department
- 2434 Kensett Fire Department
- 1641 McRae Fire Department
- 1340 Pangburn Fire Department
- 18,928 Searcy Fire Department

WHEREAS, any fire departments or any new fire departments that may hereafter be formed, by any lawful means, that have not complied with all of the necessary reporting requirements found in Arkansas Code Annotated 14-284-401 et seq. by October 31 each calendar year, shall not be eligible to receive any funding authorized by Act 833 of 1991 for that calendar year, and all of those funds, or portions thereof, that would have been distributed to those departments found not to be in compliance shall be added back into the total funds available to all of the fire departments located in White County to be distributed to the remaining complying fire departments as provided by the funding formula set forth in this Resolution.

SECTION 2. IT IS FURTHER RESOLVED BY THIS QUORUM COURT, that approval is granted to the request of the White County Intergovernmental Cooperation in its October 23, 2001 meeting, that Mr. Kenny Harmon serve as White County Fire Service Coordinator, pursuant to Arkansas Code Annotated 20-22-801 et seq.

SECTION 3. If any provision of this Resolution or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the Resolution which can be given effect without the invalid provision or application, and to this end the provisions of the resolution are declared severable.

SECTION 4. All resolutions and parts of resolutions found to be in conflict with this Resolution are hereby repealed. Resolutions No. 92-4 and 2000-14 are hereby repealed.

APPROVAL *Bob Parish*
Bob Parish, County Judge

DATED: 12-18-2001

ATTEST: *Doug Faith*
Doug Faith, County Clerk

Sponsored by Justice George "Bud" Osborn

IN THE CIRCUIT COURT OF WHITE COUNTY, ARKANSAS
_____ DIVISION

MIKE ROBERTSON, as the duly elected Mayor, City of Beebe, Arkansas (in his official capacity only); LES COSSEY, JOHN JOHNSON, TRACY LIGHTFOOT, BECKY SHORT, HAROLD WELCH and LINDA ANTHONY, as the duly elected members of the City Council of the City of Beebe, Arkansas (in their official capacities only); and the CITY OF BEEBE, ARKANSAS

PLAINTIFFS

v. DOCKET NO. _____

MICHAEL LINCOLN, as the duly elected County Judge of White County, Arkansas (in his official capacity only); HORACE TAYLOR, ROBERT R. "BOBBY" BURNS, CAMERON D. COOPER, ALLEN KING, JIMMY L. HOUSE, SHANE SELLERS, KENNETH R. HORTON, WAYLON D. HEATHSCOTT, MIKE CLEVELAND, BOBBY G. QUATTLEBAUM, ED LAND, GEORGE "BUD" OSBORN, AND RON GIBBS, as the duly elected members of the Quorum Court of White County, Arkansas (in their official capacities only); WHITE COUNTY, ARKANSAS; RICHARD M. DRILLING, Manager, Fiscal Accounting, Office of Administrative Services, Arkansas Department of Finance & Administration; and KENDELL SNYDER, Manager, Office of Fire Protection Services, Arkansas Department of Emergency Management

DEFENDANTS

Exhibits to Complaint

Exhibit No. 10



RESOLUTION NO. R-2007-9

A RESOLUTION BY THE WHITE COUNTY QUORUM COURT TO INCLUDE MT. VERNON VOLUNTEER FIRE/RESCUE IN WHITE COUNTY'S FUNDING OF VOLUNTEER FIRE DEPARTMENTS WITH MONIES FROM THE STATE OF ARKANSAS FROM ACT 833 OF 1991

WHEREAS, the Mt. Vernon Volunteer Fire/Rescue is an organization duly founded and obligated to offer fire and medical protection in Faulkner and White County by the formation of a fire district, and

WHEREAS, the Mt. Vernon Volunteer Fire/Rescue's district currently services approximately 150 homes in White County, and

WHEREAS, Act 833 of 1991 provides insurance premium funds to certified fire departments, and that Mt. Vernon Volunteer Fire/Rescue is a certified fire department in an approved fire district in White County, and

WHEREAS, Act 200 of 2003 which provides for fire departments or districts that extend into two counties to be eligible for fire protection premium funds, and

WHEREAS, White County Resolution No. 2001-10 states that funds allocated by Act 833 of 1991 are apportioned based on the population serviced by each Volunteer Fire Department as determined by the latest U.S. Census which was in the year 2000.

WHEREAS, the Mt. Vernon Volunteer Fire/Rescue shall provided White County with the population of it's district in White County that was serviced in the year 2000.

THEREFORE BE IT RESOLVED that the Quorum Court of White County, State of Arkansas, hereby agrees to include Mt. Vernon Volunteer Fire/Rescue in the County's funding of Volunteer Fire Departments with monies from the State of Arkansas from Act 833 of 1991.

ENTERED THIS 20th DAY OF ^{November} OCTOBER, 2007.


Michael Lincoln, White County Judge

Attest:

Tanya Burleson, White County Clerk

Sponsored by Justice Cameron Cooper

IN THE CIRCUIT COURT OF WHITE COUNTY, ARKANSAS
_____ DIVISION

MIKE ROBERTSON, as the duly elected Mayor, City of Beebe, Arkansas (in his official capacity only); LES COSSEY, JOHN JOHNSON, TRACY LIGHTFOOT, BECKY SHORT, HAROLD WELCH and LINDA ANTHONY, as the duly elected members of the City Council of the City of Beebe, Arkansas (in their official capacities only); and the CITY OF BEEBE, ARKANSAS

PLAINTIFFS

v. DOCKET NO. _____

MICHAEL LINCOLN, as the duly elected County Judge of White County, Arkansas (in his official capacity only); HORACE TAYLOR, ROBERT R. "BOBBY" BURNS, CAMERON D. COOPER, ALLEN KING, JIMMY L. HOUSE, SHANE SELLERS, KENNETH R. HORTON, WAYLON D. HEATHSCOTT, MIKE CLEVELAND, BOBBY G. QUATTLEBAUM, ED LAND, GEORGE "BUD" OSBORN, AND RON GIBBS, as the duly elected members of the Quorum Court of White County, Arkansas (in their official capacities only); WHITE COUNTY, ARKANSAS; RICHARD M. DRILLING, Manager, Fiscal Accounting, Office of Administrative Services, Arkansas Department of Finance & Administration; and KENDELL SNYDER, Manager, Office of Fire Protection Services, Arkansas Department of Emergency Management

DEFENDANTS

Exhibits to Complaint

Exhibit No. 11

Marquita Teague
WHITE COUNTY CLERK

COUNTY/PROBATE/MARRIAGE LICENSE:
Phone: (501) 279-6204

VOTER REGISTRATION:
Phone: (501) 279-6207



315 N. SPRUCE
SEARCY, AR 72143
PHONE: (501) 279-6204
Fax: (501) 279-6260

ACCOUNTING/PAYROLL:
Phone: (501) 279-6262

E-MAIL:
wcclerkmteague@yahoo.com

WEBSITE:
www.whitecountyar.org/white_county_clerk.php

**NOTICE OF MEETING OF THE
INTERGOVERNMENTAL COUNCIL**

THE WHITE COUNTY INTERGOVERNMENTAL COOPERATION COUNCIL
WILL MEET ON THURSDAY, MARCH 15, 2012 AT 7:00 P.M. IN THE
COURTROOM OF THE WHITE COUNTY COURTHOUSE.

THE MEMBERS OF THE WHITE COUNTY INTERGOVERNMENTAL COUNCIL
ARE FOLLOWS: WHITE COUNTY JUDGE MICHAEL LINCOLN, WHITE COUNTY
CLERK MARQUITA TEAGUE, AND THE MAYOR OF EACH CITY AND
INCORPORATED TOWN WITHIN WHITE COUNTY. (A.C.A 14-27-102)

THE PURPOSE OF THE MEETING IS TO DISCUSS THE 2010 CENUS AS
IT RELATES TO THE DISTRIBUTION OF ACT 833 FUNDING.

THE PUBLIC AND THE MEDIA ARE INVITED TO ATTEND.

DATED THIS 6TH DAY OF MARCH, 2012.

Marquita Teague
MARQUITA TEAGUE
WHITE COUNTY CLERK

IN THE CIRCUIT COURT OF WHITE COUNTY, ARKANSAS
_____ DIVISION

MIKE ROBERTSON, as the duly elected Mayor, City of Beebe, Arkansas (in his official capacity only); LES COSSEY, JOHN JOHNSON, TRACY LIGHTFOOT, BECKY SHORT, HAROLD WELCH and LINDA ANTHONY, as the duly elected members of the City Council of the City of Beebe, Arkansas (in their official capacities only); and the CITY OF BEEBE, ARKANSAS

PLAINTIFFS

v. DOCKET NO. _____

MICHAEL LINCOLN, as the duly elected County Judge of White County, Arkansas (in his official capacity only); HORACE TAYLOR, ROBERT R. "BOBBY" BURNS, CAMERON D. COOPER, ALLEN KING, JIMMY L. HOUSE, SHANE SELLERS, KENNETH R. HORTON, WAYLON D. HEATHSCOTT, MIKE CLEVELAND, BOBBY G. QUATTLEBAUM, ED LAND, GEORGE "BUD" OSBORN, AND RON GIBBS, as the duly elected members of the Quorum Court of White County, Arkansas (in their official capacities only); WHITE COUNTY, ARKANSAS; RICHARD M. DRILLING, Manager, Fiscal Accounting, Office of Administrative Services, Arkansas Department of Finance & Administration; and KENDELL SNYDER, Manager, Office of Fire Protection Services, Arkansas Department of Emergency Management

DEFENDANTS

Exhibits to Complaint

Exhibit No. 12



MARCH 15, 2012

THE WHITE COUNTY INTERGOVERNMENTAL COUNCIL MET ON MARCH 15, 2012, IN THE COURTROOM OF THE WHITE COUNTY COURTHOUSE, 300 NORTH SPRUCE, SEARCY, ARKANSAS. JUDGE MICHAEL LINCOLN CALLED THE MEETING TO ORDER AT 7:00 P.M. AND WELCOMED EVERYONE IN ATTENDANCE.

WEST POINT MAYOR JOHN HAMILTON GAVE THE INVOCATION AND HIGGINSON MAYOR RANDALL HOLMSLEY LED THE PLEDGE.

WHITE COUNTY CLERK MARQUITA TEAGUE CALLED THE ROLL. THE FOLLOWING MAYORS WERE IN ATTENDANCE ANSWERING "PRESENT" WHEN THEIR NAMES WERE CALLED: MAYOR DOYLE WALLACE, CITY OF BALD KNOB; MAYOR MIKE ROBERTSON, CITY OF BEEBE; MAYOR ARNOLD SEWELL, CITY OF GARNER; MAYOR RON SNYDER, CITY OF GEORGETOWN; MAYOR WINDLE PORTER, CITY OF GRIFFITHVILLE; MAYOR RANDALL HOLMSLEY, CITY OF HIGGINSON; MAYOR RICKEY VEACH, CITY OF JUDSONIA; MAYOR SHERREL BENNETT, CITY OF LETONA; MAYOR GARY DOYLE, CITY OF PANGBURN; MAYOR TAMMY BOMAR, CITY OF ROSE BUD; MAYOR DAVID MORRIS, CITY OF SEARCY, MAYOR JOHN HAMILTON, CITY OF WEST POINT. COUNTY CLERK MARQUITA TEAGUE ANNOUNCED A LEGAL QUORUM WITH 12 MAYORS PRESENT AND 4 MAYORS ABSENT.

JUDGE LINCOLN ADDRESSED THE COUNCIL EXPRESSING HIS APPRECIATION FOR THEIR SERVICE TO EACH OF THEIR COMMUNITIES. HE STATED THAT THE ONLY ITEM ON TONIGHT'S AGENDA WAS THE DISTRIBUTION OF ACT 833 MONIES. JUDGE LINCOLN ASKED THE COUNCIL HOW THEY WANTED TO DO THIS. THEY CAN EITHER USE THE 2000 CENSUS NUMBERS UTILIZING THOSE FIGURES FOR THE DISTRIBUTION OR THEY CAN UPDATE AND USE THE CENSUS FIGURES FROM 2010.

MAYOR DAVID MORRIS STATED THAT THE CENSUS IS DONE EVERY 10 YEARS. MAYOR MORRIS MADE A MOTION TO UPDATE TO THE 2010 CENSUS FIGURES AND MAYOR MIKE ROBERTSON GAVE THE SECOND. MAYOR SHERREL BENNETT STATED HE WANTS THE FIGURES TO STAY THE SAME AND USE THE 2000 CENSUS FIGURES TO FIGURE THE DISTRIBUTION, STATING THAT THE 2010 CENSUS IS INCORRECT. MAYOR RANDALL HOLMSLEY ASKED WHERE THE CENSUS FIGURES CAME FROM AND JUDGE STATED UALR. MAYOR WENDELL PORTER STATED THAT HE DOUBTED THE CENSUS NUMBERS FOR HIGGINSON AND THE CENSUS NUMBERS IN GENERAL. MAYOR SHERREL BENNETT SAID THAT HE DOUBTS THE NUMBERS FOR LETONA. JUDGE LINCOLN STATED THAT THE NUMBERS FROM 2000 COULD BE WRONG AS WELL. HE ALSO POINTED OUT

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THAT THE NUMBERS FROM 2000 WERE FROM MINUTES OF THE FIRE CHIEFS. MAYOR MIKE ROBERTSON SAID THAT IF THEY LEAVE IT AT 2000 THEY WOULD BE LEAVING MONEY ON THE TABLE. JUDGE LINCOLN SAID THAT HE AGREED WITH ROBERTSON'S STATEMENT. MAYOR MORRIS STATED THAT IF A CITY DID NOT AGREE THEY COULD HAVE CONTESTED IT. MORRIS ALSO INQUIRED IF THE CENSUS FIGURES ARE CERTIFIED. JUDGE LINCOLN STATED THAT THIS IS ONLY THE ACT 833 MONIES. THESE MONIES ONLY GO BACK TO THE ACTUAL RESIDENCE OF THE FIRE DISTRICT. MAYOR HOLMSLEY SAID THAT HE DOES NOT AGREE WITH THESE FIGURES STATING THAT HE HAD CALLED UALR AND THEY COULD NOT GIVE AN EXPLANATION OF HOW THESE FIGURES WERE OBTAINED. MAYOR BENNETT STATED THAT TOO MANY SMALL FIRE DEPARTMENTS WILL LOOSE THEIR FUNDS. JUDGE LINCOLN STATED THAT THE SAME PERSON DEALS WITH ALL OF THE FIRE DISTRICT MAPS. JUDGE LINCOLN ASKED MAYORS HOLMSLEY AND BENNETT IF THEY COULD PRODUCE ACCURATE FIGURES FOR HIGGINSON AND LETONA. JUDGE LINCOLN STATED THAT THIS MONEY COMES FROM EACH FIRE DISTRICT'S INSURANCE PREMIUMS. MAYOR ROBERTSON ASKED HOW THE NEEDS FOR EACH FIRE DISTRICT BE DEMONSTRATED. JUDGE LINCOLN REITERATED THAT WE ARE DEALING WITH FIRE DISTRICT POPULATIONS AND MAYOR BENNETT AGREED. JUDGE LINCOLN ASKED THE MAYORS IF THEY WANTED TO PENALIZE A FIRE DEPARTMENT FOR GROWING?

AT THIS TIME, JUDGE LINCOLN STATED THAT WE WILL HAVE A ROLL CALL SAYING THAT HE NEEDED A MOTION TO ADJUST ACT 833 TO THE 2010 CENSUS FIGURES. MAYOR MORRIS MADE THE MOTION AND MAYOR ROBERTSON GAVE THE SECOND TO ADJUST TO THE 2010 CENSUS. AT THIS TIME, COUNTY CLERK MARQUITA TEAGUE CALLED THE ROLL FOR A VOTE. MAYORS ANSWERING YES WERE MIKE ROBERTSON, RICKEY VEACH, TAMMY BOMAR, DAVID MORRIS, AND JOHN HAMILTON. THOSE AGAINST WERE MAYORS DOYLE WALLACE, ARNOLD SEWELL, RON SNYDER, WINDLE PORTER, RANDALL HOLMSLEY, SHERREL BENNETT, GARY DOYLE. MAYORS ARTHUR DUNN, MAX MCDONALD, ROBERT SULLIVAN, AND DENNIS PIERCE WERE ABSENT. COUNTY CLERK TEAGUE ANNOUNCED THAT THE MOTION FAILED FOR LACK OF "YES" VOTES BY THE MAJORITY. JUDGE LINCOLN DECLARED THAT THE FIGURES FOR THE ACT 833 DISTRIBUTION WILL REMAIN AS IS, UTILIZING THE 2000 CENSUS. A MOTION TO ADJOURN WAS MADE BY MAYOR TAMMY BOMAR AND THE SECOND WAS GIVEN BY MAYOR RON SNYDER. ALL AGREED AND THE MEETING WAS ADJOURNED AT 7:18 P.M.

Marquita Teague
MARQUITA TEAGUE, COUNTY CLERK