



STATE OF ARKANSAS
ATTORNEY GENERAL
LESLIE RUTLEDGE

Opinion No. 2021-095

January 13, 2022

The Honorable Delia J. Haak
State Representative
P. O. Box 479
Centerton, AR 72719-0479

Dear Representative Haak:

This is in response to your request for my opinion on the following questions concerning the district courts in the First District, which is composed of Benton County, Arkansas:

1. Since Benton County has more than 250,000 inhabitants, does Ark. Code Ann. § 16-17-119 apply to prohibit Benton County from contributing to the salaries and operational expenses of the District Courts within the County?
2. If your answer to Question 1 is "yes," does any other statute, such as Ark. Code Ann. § 14-14-802, or Ark. Code Ann. § 16-17-1106, nonetheless authorize or require Benton County to pay expenses related to the District Courts?

As background information for these questions, you note that the four district courts in the First District are "state district courts" pursuant to Ark. Code Ann. § 16-17-1101, *et seq.*, and that for 2020, and prior years, the cost of operating these courts has been divided between Benton County and its cities. You further note that because the 2020 census shows Benton County's population to be in excess of 250,000, the question has arisen whether the salaries of the First District's judges should be apportioned among Benton County's cities, without Benton County's participation in the apportionment.

RESPONSE

The answer to your first question is “no.” A response to your second question is therefore unnecessary.

DISCUSSION

Question 1: Since Benton County has more than 250,000 inhabitants, does Ark. Code Ann. § 16-17-119 apply to prohibit Benton County from contributing to the salaries and operational expenses of the District Courts within the County?

Section 16-17-119 states that “[t]he salaries and operational expenses of district courts in any county having a population of two hundred fifty thousand (250,000) inhabitants according to the most recent federal census shall be paid by the city or town in which the court is located” and that “[n]o portion of these expenses shall be paid by the county in which the court is located.”¹ Given that Benton County’s population exceeds 250,000, this statute—standing alone—would seem to prevent Benton County from paying any portion of expenses of the district courts in the First District.

However, section 16-17-119 cannot be considered in isolation. Doing so fails to recognize that the First District’s courts have been organized and designated as “state district courts”² under a “state-funded system”³ that requires salaries of the district judges created thereunder to be “uniform and ... paid with moneys appropriated from the Constitutional Officers Fund, § 19-5-205, by the General Assembly.”⁴ The system imposes the following cost-sharing requirements on counties, towns, and cities in each district with a state district court:

(A) Each county and town or city in a district in which a state district court judgeship is created under this subchapter shall pay to the state

¹ Ark. Code Ann. § 16-17-119(a)(1), (2) (Repl. 2010) (effective January 1, 2012).

² *Id.* at § 16-17-1110(1)(A) (Supp. 2021) (“The following state district courts shall be organized and designated in numbered judicial districts as follows ... [t]he First District is composed of Benton County.”)

³ *Id.* at § 16-17-1101(7) (Supp. 2021).

⁴ *Id.* at § 16-17-1104(b) (Supp. 2021). *See also id.* at § 16-17-1106(a) (Supp. 2021) (“The state shall pay the salary and benefits of state district court judges created under this subchapter.”).

an amount equal to its proportionate share of one-half (½) of the base salary established by law for state fiscal year 2009 for that district's state district court judge.

(B)(i) The proportionate share is calculated as follows:

- (a) Determine the sum total of the base salary paid by each county and town or city in a district to that county and town or city's district court judge or city court judge for the calendar year immediately preceding the creation of the state district court judgeship; and
- (b) Determine the proportion of the base salary of each county and town or city to the sum total base salary of the district.⁵

The state-funded district courts addressed by this statute are plainly distinct from other, "local" district courts that are funded solely by city and county governments.⁶ The Arkansas Supreme Court recognized this distinction in *City of Little Rock v. Nelson*,⁷ in the course of deciding whether the City of Little Rock could be held liable for a due process violation by a Little Rock District Court judge. The City argued that it could not be liable because the judge was not a city employee.⁸ The Court rejected the argument, noting that the Little Rock District Court was *not* a state-funded district court judgeship during the relevant time period.⁹ In so concluding, the Court reasoned that the statute you have asked above, Ark. Code Ann. § 16-17-119, underscored its conclusion that the court at issue was a local

⁵ Ark. Code Ann. § 16-17-1106(b)(1). A county and a town or city can enter a written agreement regarding their proportionate share amount. *Id.* at (b)(2).

⁶ See Ark. Code Ann. §§ 16-17-1101(2), (7) (referring to "full-time and part-time district and city courts funded by city and county governments" and the need to "shift the funding of the current system from local government to state government...."), 16-17-1107 (Supp. 2021) (distinguishing between "the state district court judgeships created under this subchapter" and judges serving in other "full-time or part-time local district court position[s]").

⁷ 2020 Ark. 34, 592 S.W.3d 633 (emphasis added).

⁸ 2020 Ark. 34 at *9, 592 S.W.3d at 640.

⁹ *Id.* at *10, 592 S.W.3d at 640.

court because “the City was responsible for funding the” associated “salaries and operational expenses.”¹⁰

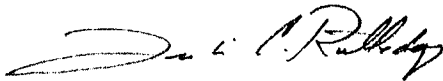
Thus, as that case reflects, section 16-17-119 applies to district courts that are outside of the state created and funded system. But where a district court is part of that system, the cost-sharing requirements of section 16-17-1106 apply. Because the courts in the First District are part of the state created and funded system, they are governed by section 16-17-1106.

The answer to your first question is therefore “no” because section 16-17-119 does not apply to the district courts in the First District.

Question 2: If your answer to question 1 is “yes,” does any other statute, such as Ark. Code Ann. § 14-14-802, or Ark. Code Ann. § 16-17-1106, nonetheless authorize or require Benton County to pay expenses related to the District Courts?

A response to this question is unnecessary in light of my response to Question 1.

Sincerely,

A handwritten signature in black ink, appearing to read "Leslie Rutledge", written in a cursive style.

LESLIE RUTLEDGE
Attorney General

¹⁰ *Id.* at *9, 592 S.W.3d at 640.