

Opinion No. 2010-147

March 23, 2011

The Honorable John Threet
Prosecuting Attorney
Fourth Judicial District
Washington County Courthouse
280 North College Avenue, Suite 301
Fayetteville, Arkansas 72701

Dear Mr. Threet:

You have requested my opinion on the following question concerning A.C.A. § 14-14-904(b), which addresses the levy of taxes by the quorum court:

Can the Quorum Court, by majority vote, change the date of the regular meeting if such falls on a holiday or for any other reason? In particular, could they reschedule the November meeting to another date in November, which is when taxes are levied, due to a holiday or any other reason?

RESPONSE

In my opinion, a quorum court in all likelihood may reschedule the November meeting or any other regular meeting due to an unforeseen conflict, such as a holiday, as long as proper notice is given in accordance with the Arkansas Freedom of Information Act (FOIA). It bears noting in this regard that according to my understanding, some quorum courts address such contingencies through procedural ordinances establishing the regular time and place of their meetings. Such a practice would seemingly serve to avoid the question you have raised, and may therefore be worthy of consideration.

I believe it will be helpful to first set out the relevant portions of section 14-14-904 before explaining the basis for this response:

TIME AND PLACE OF QUORUM COURT ASSEMBLY.

(1)(A)(i) The justices of the peace elected in each county shall assemble and organize as a county quorum court body on a date chosen by the county judge and held within five (5) days, excepting holidays, after the beginning of the justices’ term in office.

(ii) If the first meeting is not held on the quorum court’s established regular meeting day, the quorum court may declare the first meeting to be in lieu of the established January meeting.

(B)(i) Thereafter, the justices shall assemble each calendar month in their respective counties to perform the duties of a quorum court, except that more frequent meetings may be required by ordinance.

(ii)(a) The time and place of the initial assembly of justices shall be designated by written notice of the county judge.

(b) Thereafter, the justices shall meet as a quorum court at a regular time and place established by ordinance.

LEVY OF TAXES AND MAKING OF APPROPRIATIONS.

(1)(A)(i) The quorum court at its regular meeting in November of each year shall levy the county taxes, municipal taxes, and school taxes for the current year.¹

According to subsection (a)(1)(B)(i) and (ii)(b), the Quorum Court must meet at least monthly at a “regular time and place established by ordinance.” It is my understanding that most counties set the “regular time” as the second Tuesday or Thursday of the month, or in similar fashion. Your question reflects an apparent concern that this “regular” meeting time cannot be changed for any reason.

¹ A.C.A. § 14-14-904(a) and (b)(1)(A)(i) (Supp. 2009).

While it is clearly the case that there must be an “established regular meeting day,”² I do not read into the statute a general proscription against a quorum court occasionally changing a regular meeting due to an unforeseen contingency. In my opinion, the statute is primarily aimed at ensuring that meetings will recur on a monthly basis at fixed or uniform intervals. This reasonably follows from the general definition of the word “regular” as “recurring at fixed times; periodic[.]”³ Uniformity in the timing of monthly meetings fosters general awareness of these “regular” meetings and assists those who anticipate attending the next meeting. The occasional rescheduling of a meeting would not appear to undermine these objectives, as long as proper notice is provided. Had the legislature intended to prohibit any change, it could have included prohibitory language to that effect; or it could have prescribed the regular meeting day, as well as procedures for any changes.⁴

It is therefore my opinion that a quorum court may on occasion reschedule a regular meeting due to an unforeseen conflict, such as a holiday. It is my further opinion that this applies to the November meeting, as well as the other monthly regular meetings. Taxes must of course be levied at the “regular meeting in November” pursuant to A.C.A. § 14-14-904(b)(1)(A)(i), *supra*. And as this office has repeatedly opined, taxes may not be levied at any other time.⁵ But in my opinion, a properly rescheduled November meeting is still the “regular meeting in November.” Accordingly, as long as the requisite notice is provided to persons who have requested notice pursuant to the FOIA,⁶ I believe the November regular meeting may be changed due to an unforeseen conflict.

² *Id.* at (a)(1)(A)(ii).

³ *Random House Webster’s Unabridged Dictionary* 1624 (2d ed., 2001). See also *The New Shorter Oxford English Dictionary* 2530 (1993) (defining “regular” in part as “steady or uniform in action, procedure, or occurrence; *esp.* recurring or repeated at fixed times, recurring at short uniform intervals.... Pursuing a definite course or observing a uniform principle of action or conduct. Now *esp.* observing fixed times for or never failing in the performance of certain actions or duties.”)

⁴ Compare Mississippi Code Annotated §§ 21-3-19 and 21-17-17 (requiring that regular meetings of municipal boards of aldermen be held the first Tuesday of each month and authorizing a change by ordinance.)

⁵ See Op. Att’y Gen. 97-421 (and opinions cited therein).

⁶ A.C.A. § 25-19-106(b)(1) (Supp. 2009). The original notice obviously will no longer suffice because the information contained in that notice is no longer correct.

In closing, I will note that some quorum courts apparently address the matter of rescheduling meetings when they adopt the ordinance setting their regular meetings. Because the legislature has not dictated how the regular time and place of meetings is to be established, I believe such action is proper pursuant to A.C.A. § 14-14-904(e): “Except as otherwise provided by law, the quorum court of each county shall determine its rules of procedure....” The county in question may therefore wish to consider this means of addressing the occasional need to reschedule a regular meeting.

I also note that a bill pending in the current legislative session would amend A.C.A. § 14-14-904(a)(1)(B)(ii) to authorize the county judge to change a regular meeting, upon 24-hour notice, based on an emergency.⁷ This would not appear to affect the above analysis regarding the quorum court’s authority to change a regular meeting due to an unforeseen conflict.

Deputy Attorney General Elisabeth A. Walker prepared the foregoing opinion, which I hereby approve.

Sincerely,

DUSTIN McDANIEL
Attorney General

DM:EAW/cyh

⁷ See HB 2039 (authorizing the county judge to declare an emergency or determine that that “an emergency exists and the safety of the general public is at risk....”)