



May 20, 2024

County Legislative Body

Dear Reader:

The following document was created from the CTAS website (ctas.tennessee.edu). This website is maintained by CTAS staff and seeks to represent the most current information regarding issues relative to Tennessee county government.

We hope this information will be useful to you; reference to it will assist you with many of the questions that will arise in your tenure with county government. However, the *Tennessee Code Annotated* and other relevant laws or regulations should always be consulted before any action is taken based upon the contents of this document.

Please feel free to contact us if you have questions or comments regarding this information or any other CTAS website material.

Sincerely,

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County Legislative Body

Reference Number: CTAS-10

The county legislative body may exercise the powers of a legislative nature granted to it by the General Assembly in public acts (laws of general application or local option application, which may be found in codified form in the Tennessee Code Annotated) or in private acts that apply to a particular county (that do not conflict with the general law). The General Assembly has given the county legislative body a considerable array of powers, including the power to levy property taxes without limitation regarding rates, the power to expend funds for any lawful purpose, zoning powers for the unincorporated areas of the county and some regulatory powers, yet the General Assembly has not seen fit to grant to the county legislative body all of the powers that have been granted to Tennessee's incorporated municipalities (cities and towns). Therefore, counties must always look for the source of authority for any action taken, as counties have no authority to act outside the scope of the powers granted by the General Assembly.

The General Assembly has given the Title "county commissioner" to all county legislative body members not in a county with a consolidated city/county government. T.C.A. § 5-5-102(f).

Membership-CLB

Reference Number: CTAS-11

Except in counties with a consolidated city-county (metropolitan or unification) form of government, the county legislative body is made up of not less than nine nor more than 25 members, elected from districts. No more than three members may be elected from any one district. T.C.A. § 5-5-102. Districts must be reapportioned at least every 10 years, and commissioners must represent substantially equal populations based on the latest federal census. T.C.A. § 5-1-111. Members are elected by the voters in their district for four-year terms and until their successors are elected and qualified. T.C.A. § 5-5-102. The county legislative body determines by resolution whether members in multimember districts are elected at large within the district with the two or three persons receiving the greatest number of votes being elected, or whether candidates must run for designated seats, usually designated A and B, also C in three-member districts. T.C.A. § 5-5-102(h). Members are elected in the August general elections coinciding with the election of the governor and take office the following September 1 after being qualified to hold office.

Qualifications-CLB

Reference Number: CTAS-12

There are no extraordinary qualifications to hold the office of county commissioner. However, a person must comply with the qualifications, explained under the General Information under County Offices tab, for holding office in this state.

County commissioners must reside within and be qualified voters of the district they represent. T.C.A. § 5-5-102. County employees otherwise qualified to serve may hold office as a legislative body member, except that a director of schools who was not a member of the county legislative body on June 18, 2005, is not qualified. T.C.A. § 5-5-102. However, no person elected or appointed as county mayor, sheriff, trustee, register, county clerk, assessor of property, or any other countywide office filled by popular vote or by the legislative body may be elected to the legislative body. T.C.A. § 5-5-102. Additionally, a member of a county legislative body shall resign their seat on such body if they accept an appointment for a vacancy required by the Tennessee Constitution to be filled by the county legislative body. T.C.A. § 5-5-111.

After receiving a certificate of election from the county election commission, a person elected as a county commissioner must take two oaths prior to taking office: the constitutional oath and the oath of office (otherwise known as the fidelity oath). Oaths of office are covered under the General Information tab of the County Offices topic.

Compensation-CLB

Reference Number: CTAS-13

The compensation of legislative body members is fixed by resolution of the body, although the General Assembly establishes the minimum compensation in certain classes of counties. T.C.A. § 5-5-107. Currently, the legislative body may not set the compensation of its members at less than the following daily amounts in these classes (delineated by population in T.C.A. § 8-24-101) of counties:

| | | | |
|------------------------------|------|----------------------------|------|
| Third class (50,000-150,000) | \$35 | Sixth class (5,500-12,000) | \$20 |
|------------------------------|------|----------------------------|------|

| | | | |
|------------------------------|------|-----------------------------|------|
| Fourth class (23,300-50,000) | \$30 | Seventh class (3,770-5,500) | \$20 |
| Fifth class (12,000-23,300) | \$25 | Eighth class (under 3,770) | \$20 |

A county may adopt a resolution to pay members of the legislative body:

- (1) An amount greater than the minimum daily compensation for attendance at meetings of the body, or at committee meetings for which the member is an appointed member;
- (2) A base salary; or
- (3) A base salary and an amount greater than or equal to the minimum daily compensation for attendance at meetings of the body, or at committee meetings for which the member is an appointed member.

The compensation fixed by the county legislative body for attending duly authorized committee meetings of such body is one half ($\frac{1}{2}$) of the compensation paid for attending regular sessions of the body except that counties opting to pay members a base salary and a set amount for attending meetings may set their own rate for attendance at committee meetings.

Any increase in compensation for members of the county legislative body does not take effect until the beginning of the term following the next election of county commissioners after the resolution increasing the compensation is adopted.

In Hamilton County, the legislative body was statutorily required to set the compensation of its members by a two-thirds vote effective July 1, 1999; each year on July 1 the compensation is adjusted to reflect the same percentage increase received by the county mayor for that year. T.C.A. § 5-5-107.

The compensation of the chair and chair pro tempore is fixed by the county legislative body but if on a per diem basis cannot be less than the amount fixed for members. The compensation of the chair pro tempore cannot exceed the compensation of the chair for like services. T.C.A. § 5-5-103(e).

More information on Compensation can be found under the General Information tab for County Offices.

Chair-CLB

Reference Number: CTAS-14

In counties other than those with a consolidated form of government or county charter, the county legislative body elects a chair and a chair pro tempore at its first session on or after September 1 of each year. The county legislative body may elect one of its own members as chair, or it may elect the county mayor; however, the county mayor is not required to take the office and may decline. If the county mayor is elected as chair and accepts the office, then the county mayor relinquishes the power to veto legislative resolutions of the county legislative body. However, these provisions do not apply in Knox, Hamilton, and Shelby. T.C.A. § 5-5-103. A county mayor who assumes the chair may vote to break tie votes of the county legislative body, but otherwise does not vote. T.C.A. § 5-5-109(b). The county mayor may not make or second a motion. Alternatively, the legislative body may elect one of its own members as chair, in which case the member who is also chair may vote on all issues as a regular member of the body, but may not vote again to break a tie vote. T.C.A. § 5-5-109.

If the county mayor does not serve as chairman, the county mayor has veto power over legislative resolutions (but not administrative or appellate resolutions) within 10 days of receiving the legislative resolution from the county commission. If a resolution is vetoed, the county mayor must return it to the commission with reasons for the veto. The commission may override the veto at the next regular meeting of the county commission or within 20 days of receiving the veto, whichever is later.

When the regular chair is unable or fails to attend meetings of the county legislative body, the chair is under a duty to notify the chair pro tempore who shall attend and discharge the duties of the chair. If neither is present, the county clerk will call the meeting to order for the election of one of the members to temporarily preside over the meeting. T.C.A. § 5-5-103.

The chair may designate another member of the county legislative body to sit in the chair's place on any board, authority or commission that the chair serves upon by virtue of holding the office of chair. Any such designee may vote or exercise any power the chair could exercise had the chair been in attendance.

Duties of the Chairperson (or Chairperson Pro Tempore)

Reference Number: CTAS-756

The chairperson of the county commission is required to preside over the sessions of the county commission. T.C.A. § 5-5-103. A chairperson "holds over" and is the presiding officer until his or her successor is duly elected. Op.Tenn. Atty Gen. 86-162 (September 15, 1986). Generally, the chairperson's duties include the following:

1. Opening the session at the proper time by taking the chair and calling the members to order; announcing the business before the body in the order it is to be acted upon; stating and putting to vote all motions, resolutions, amendments or other questions which lawfully come before the body; and announcing the results of the vote.
2. Keeping order, recognizing each member's right to speak on an issue and assigning the floor to those properly entitled to it.
3. Assuring only one main motion or resolution is entertained at a time and disallowing debate on the issue until the motion has been properly seconded and announced.
4. Being fair and impartial while presiding and refraining from discussion on issues; being courteous to those whose views differ from the chairperson's.
5. Surrendering the chair prior to taking part in debate.
6. Voting if a member of the body; voting only to break a tie vote if a county mayor chairperson.
7. Performing other duties pursuant to procedure adopted by resolution of the body.

When the chair steps down to participate in debate, she/he cannot return to the chair until the issue is disposed of in some manner. It is always improper for the chair to voice an opinion or debate the pending issue while acting as chair. The chair can answer questions, refer questions to the maker of the motion, rule on parliamentary questions, etc., during the debate of any issue.

If the chairperson is unable or fails to attend a meeting of the county commission, it is the duty of the chairperson pro tempore to discharge the duties of the office of chair. If neither the chairperson nor the chairperson pro tempore is present, the county commission appoints a temporary chairperson pro tempore to preside over the meeting. T.C.A. § 5-5-103.

If the county mayor is absent or intends to be absent for more than 21 days, or is incapacitated or unable to perform the duties of the office, the county commission will appoint the chair to serve until the county mayor is no longer absent or disabled. When the chairperson is serving as county mayor, the chair pro tempore presides over the county commission. T.C.A. § 5-5-103.

Meetings and Notice Requirements -CLB

Reference Number: CTAS-15

The county legislative body is required by law to meet at least four times annually at a time and place established by resolution of the county legislative body. T.C.A. § 5-5-104. Every member of the county legislative body shall be required to attend each and every session of the body. T.C.A. § 5-5-106.

The Open Meetings Law requires adequate public notice of regular meetings as well as special meetings. T.C.A. § 8-44-103. The meetings of the county commission are presided over by a chairperson or the chairperson pro tempore if the chair is not in attendance. T.C.A. § 5-5-103. If the chairperson fails or is unable to attend the meeting, the chairperson pro tempore will discharge the chairperson's duties.

In counties not operating under a consolidated government charter or county charter, special meetings of the county legislative body may be called by the county mayor. Also, the chair of the county legislative body may call a special meeting upon application in writing by a majority of the county commissioners. The call for a special meeting must be made by publication in some newspaper published in the county, or by personal notices to the members sent by the county clerk at least five days before the time of convening the special meeting. The call must specify the objects and purposes for which the special meeting is called, and no business not referenced in the call can be transacted at the special meeting. T.C.A. § 5-5-105. This notice is for the purpose of informing the county commissioners and is in addition to the notice to the public required by the Open Meetings Law. However, one notice in a newspaper of general circulation in the county appearing five or more days before the special meeting may serve to meet both requirements.

Counties are authorized under T.C.A. § 5-5-105(d) to provide alternative notice of special called meetings in cases where newspaper notice cannot occur in a manner timely enough to conduct the necessary business of the body. Such notice may be provided by posting the notice in a location where the public may become aware of the notice and on the county's website if such website exists. The notice must contain a reasonable description of the purpose of the meeting or action to be taken. Also, the notice must be posted at least five days before the meeting.

All meetings must be public and no secret votes may be taken. T.C.A. § 5-5-104. A limited exception to the open meeting rule is provided by case law due to the judicial doctrine of attorney-client privilege; the county legislative body may meet in closed session with the county attorney or other attorney

representing the county to discuss with the attorney pending litigation involving the county, but no discussions among members of the body as to the action to be taken or votes or decisions may be made in secret, nor other matters discussed.

The Agenda

Reference Number: CTAS-663

The order of business, or the framework for a specific meeting of the county legislative body, is contained in an agenda. Some counties adopt a permanent order of business. If no order of business is established, the chair could decide what order to follow. An agenda, following the adopted order of business, relates to the specific meeting of the body. The agenda is a listing, in order, of the business to be considered at the meeting. The agenda is usually set by the chairman based on information from members and committee chairmen. In some counties, another method of setting the agenda may be established by local rule, e.g. the agenda may be set prior to the meeting by a workshop or small meeting. The county clerk, the county mayor, and citizens may also request that items be placed on the agenda.

Members of the county legislative body should have a copy of the proposed agenda, supporting information, and copies of the minutes of the previous meeting prior to the meeting of the body. Having these materials in advance allows members an opportunity prior to the meeting date to seek answers to questions on topics to be considered at the meeting. Receiving an advance copy of the agenda facilitates the smooth operation of meetings of the county legislative body and, since the members are better informed, fewer items may need to be deferred until the next meeting for further study, and meetings may also be shorter. The county commission can ensure that its members receive copies of the agenda prior to the meeting by making such a requirement a part of the local rules. Also, some county commissions, by local rule, require a two-thirds vote to amend the agenda to include a new item of business that has not been provided in advance to the county commissioners once the agenda has been adopted following the procedure established for adoption of the agenda.

County clerks may be asked to prepare the agenda. A typical Sample Agenda would be:

1. Call to order by chair.
2. Roll call by county clerk.
3. Approval of agenda (if needed).
4. Reading and approval of the minutes from previous meeting.
5. Resolutions for special recognition.
6. Elections, appointments, and confirmations.
7. Reports, county officials, standing, and special committees.
8. Unfinished business.
9. New business.
10. Announcements and statements.
11. Adjournment.

In some counties, by locally adopted rule, the county legislative body may have some time set aside on the agenda to take public comments. Often this is done before or after the other items on the agenda are dealt with.

Procedure and Voting Requirements-CLB

Reference Number: CTAS-18

Rules of parliamentary procedure were developed to provide for orderly and courteous meetings. If you have questions about parliamentary procedure at a meeting of your county commission, you should consult your county attorney. You may have your county attorney attend county commission meetings to assist the presiding officer with questions of parliamentary procedure (or be available to provide answers to your questions).

The county legislative body is usually required to follow procedures mandated by state law, but often the state law is silent on the procedures to be followed. Therefore, it is important for county legislative bodies to adopt rules of procedure to follow when the state law does not provide guidance. During the meeting a commissioner should seek recognition in the manner used by the body which is generally by rising or by raising his/her hand. As a parliamentary courtesy, the member who makes a motion is entitled to speak first on the issue and is entitled to close debate but not until every member who desires to speak has been heard. The member should make the motion, without discussion that is not needed to explain the

motion, allow for a second, and then be heard on the motion. A member should confine his/her remarks to the question before the body and should avoid personalities.

Many county legislative bodies adopt *Robert's Rules of Order* when parliamentary questions arise that are not specifically dealt with in their local rules. Whenever specifically adopted local rules differ with *Robert's Rules* (unless the local rules provide *Robert's Rules* control), the local rule would control. Neither *Robert's Rules* nor local rules can take precedence over a statute. When there is a conflict between a statute and a rule, the statute controls.

Sample rules of procedure. These are basic rules and it is suggested, as the sample does in Rule 11, to adopt a provision that all matters not covered by state law or the adopted rules be governed by *Robert's Rules of Order Revised* as contained in the latest copyrighted edition.

Sample Meeting Transcript

Reference Number: CTAS-2191

Using the sample agenda, the following is a sample transcript of a meeting that has 19 members and a regular member is serving as chair.

Meeting of CTAS County Commission-Transcript of Dialogue

Chairman Wormsley (at the proper time and place, after taking the chair and striking the gavel on the table): This meeting of the CTAS County Commission will come to order. Clerk please call the roll. (Ensure that a majority of the members are present.)

Chairman Wormsley: Each of you has received the agenda. I will entertain a motion that the agenda be approved.

Commissioner Brown: So moved.

Commissioner Hobbs: Seconded

Chairman Wormsley: It has been moved and seconded that the agenda be approved as received by the members. All those in favor signify by saying "Aye"?...Opposed by saying "No"?...The agenda is approved. You have received a copy of the minutes of the last meeting. Are there any corrections or additions to the meeting?

Commissioner McCroskey: Mister Chairman, my name has been omitted from the Special Committee on Indigent Care.

Chairman Wormsley: Thank you. If there are no objections, the minutes will be corrected to include the name of Commissioner McCroskey. Will the clerk please make this correction. Any further corrections? Seeing none, without objection the minutes will stand approved as read. (This is sort of a short cut way that is commonly used for approval of minutes and/or the agenda rather than requiring a motion and second.)

Chairman Wormsley: Commissioner Adkins, the first item on the agenda is yours.

Commissioner Adkins: Mister Chairman, I would like to make a motion to approve the resolution taking money from the Data Processing Reserve Account in the County Clerk's office and moving it to the equipment line to purchase a laptop computer.

Commissioner Carmical: I second the motion.

Chairman Wormsley: This resolution has a motion and second. Will the clerk please take the vote.

Chairman Wormsley: The resolution passes. We will now take up old business. At our last meeting, Commissioner McKee, your motion to sell property near the airport was deferred to this meeting. You are recognized.

Commissioner McKee: I move to withdraw that motion.

Chairman Wormsley: Commissioner McKee has moved to withdraw his motion to sell property near the airport. Seeing no objection, this motion is withdrawn. The next item on the agenda is Commissioner Rodgers'.

Commissioner Rodgers: I move adoption of the resolution previously provided to each of you to increase the state match local litigation tax in circuit, chancery, and criminal courts to the maximum amounts permissible. This resolution calls for the increases to go to the general fund.

Chairman Wormsley: Commissioner Duckett

Commissioner Duckett: The sheriff is opposed to this increase.

Chairman Wormsley: Commissioner, you are out of order because this motion has not been seconded as needed before the floor is open for discussion or debate. Discussion will begin after we have a second. Is there a second?

Commissioner Reinhart: For purposes of discussion, I second the motion.

Chairman Wormsley: Commissioner Rodgers is recognized.

Commissioner Rodgers: (Speaks about the data on collections, handing out all sorts of numerical figures regarding the litigation tax, and the county's need for additional revenue.)

Chairman Wormsley: Commissioner Duckett

Commissioner Duckett: I move an amendment to the motion to require 25 percent of the proceeds from the increase in the tax on criminal cases go to fund the sheriff's department.

Chairman Wormsley: Commissioner Malone

Commissioner Malone: I second the amendment.

Chairman Wormsley: A motion has been made and seconded to amend the motion to increase the state match local litigation taxes to the maximum amounts to require 25 percent of the proceeds from the increase in the tax on criminal cases in courts of record going to fund the sheriff's department. Any discussion? Will all those in favor please raise your hand? All those opposed please raise your hand. The amendment carries 17-2. We are now on the motion as amended. Any further discussion?

Commissioner Headrick: Does this require a two-thirds vote?

Chairman Wormsley: Will the county attorney answer that question?

County Attorney Fults: Since these are only courts of record, a majority vote will pass it. The two-thirds requirement is for the general sessions taxes.

Chairman Wormsley: Other questions or discussion? Commissioner Adams.

Commissioner Adams: Move for a roll call vote.

Commissioner Crenshaw: Second

Chairman Wormsley: The motion has been made and seconded that the state match local litigation taxes be increased to the maximum amounts allowed by law with 25 percent of the proceeds from the increase in the tax on criminal cases in courts of record going to fund the sheriff's department. Will all those in favor please vote as the clerk calls your name, those in favor vote "aye," those against vote "no." Nine votes for, nine votes against, one not voting. The increase fails. We are now on new business.

Commissioner Adkins, the first item on the agenda is yours.

Commissioner Adkins: Each of you has previously received a copy of a resolution to increase the wheel tax by \$10 to make up the state cut in education funding. I move adoption of this resolution.

Chairman Wormsley: Commissioner Thompson

Commissioner Thompson: I second.

Chairman Wormsley: It has been properly moved and seconded that a resolution increasing the wheel tax by \$10 to make up the state cut in education funding be passed. Any discussion? (At this point numerous county commissioners speak for and against increasing the wheel tax and making up the education cuts. This is the first time this resolution is under consideration.) Commissioner Hayes is recognized.

Commissioner Hayes: I move previous question.

Commissioner Crenshaw: Second.

Chairman Wormsley: Previous question has been moved and seconded. As you know, a motion for previous question, if passed by a two-thirds vote, will cut off further debate and require us to vote yes or no on the resolution before us. You should vote for this motion if you wish to cut off further debate of the wheel tax increase at this point. Will all those in favor of previous question please raise your hand? Will all those against please raise your hand? The vote is 17-2. Previous question passes. We are now on the motion to increase the wheel tax by \$10 to make up the state cut in education funding. Will all those in favor please raise your hand? Will all those against please raise your hand? The vote is 17-2. This increase passes on first passage. Is there any other new business? Since no member is seeking recognition, are there announcements? Commissioner Hailey.

Commissioner Hailey: There will be a meeting of the Budget Committee to look at solid waste funding recommendations on Tuesday, July 16 at noon here in this room.

Chairman Wormsley: Any other announcements? The next meeting of this body will be Monday, August 19

at 7 p.m., here in this room. Commissioner Carmical.

Commissioner Carmical: There will be a chili supper at County Elementary School on August 16 at 6:30 p.m. Everyone is invited.

Chairman Wormsley: Commissioner Austin.

Commissioner Austin: Move adjournment.

Commissioner Garland: Second.

Chairman Wormsley: Without objection, the meeting will stand adjourned.

Voting

Reference Number: CTAS-661

There are many methods of taking votes. Those most often used are: voice, roll call vote, raising the right hand, rising, or "aye" or "no." Many groups use ballot voting, but it must be remembered that secret votes are prohibited in meetings of the county legislative body. All votes must be a public vote. T.C.A § 8-44-104. There are no provisions in the law allowing voting by proxy.

For voice voting, the following form is very common: "It has been moved and seconded that: (state the question). As many as are in favor of the motion say aye," and after the affirmative voice is expressed, "those who are opposed say nay or no." The same type of language is used when calling for a vote by show of hands or asking the membership to rise to express their votes.

When a voice vote is taken, the chair should announce the results in the following form: "The motion or resolution is carried - the motion or resolution is adopted." If, when the results are announced, any member doubts the vote, that member may call for a "division." The chair will announce that "a division is called for" and the vote will be verified by a roll call or a show of hands. Votes will be counted and the results announced.

Another type of voting is called voting by "yeas" and "nays." In this method, the chair states both sides of the question at once. The County Clerk then calls the roll and each member answers yes or no. Each member's vote on the issue is recorded by the member's name and the total affirmative and negative vote is counted and the results are announced by the chair.

A roll call vote is required when the county legislative body is making an appropriation of money. T.C.A. § 5-9-302.

Quorum Requirements

Reference Number: CTAS-662

Voting. A majority of all the members constituting the county legislative body, and not simply a majority of the quorum, is required to take any action, including making appointments, filling vacancies, fixing salaries, appropriating money, and transacting any other business coming before the county legislative body in regular or special meetings. T.C.A. §§ 5-5-108 and 5-5-109. The majority vote requirement means a majority of the actual membership at the time and not a majority of the total authorized membership, so a vacancy would not be counted in determining the required majority. *Bailey v. Greer*, 468 S.W.2d 327 (Tenn. Ct. App. 1971).

Questions often arise as to the effect of an abstention or "pass" vote. If a member abstains from voting or "passes" for any reason other than a statutory conflict of interest, the vote has the practical effect of a "nay" vote. It is not counted as one of the required "yea" votes necessary to meet the majority approval required for adoption, and yet it must be counted in determining the number necessary for a majority. Attorney General Opinion 86-17 (1/1/86). If, however, a member abstains from voting because of a statutory conflict of interest, that member is not counted for purposes of determining the number necessary for a majority. T.C.A. § 5-5-102(c)(3)(B).

While most business coming before the Commission requires a simple majority vote, some measures require a "supermajority" vote of two-thirds (2/3) of the members. This is true for the approval of private acts, as well as for imposing some tax measures. Where a supermajority is required, it will be stated in the enabling legislation (general law or private act).

The following chart illustrates the number of votes required for a majority of the county legislative body.

| Number of Members | 9 | 10 | 11 | 12 | 13 | 14 | 15 | 16 | 17 | 18 | 19 | 20 | 21 | 22 | 23 | 24 | 25 |
|-------------------|---|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|
| Majority | 5 | 6 | 6 | 7 | 7 | 8 | 8 | 9 | 9 | 10 | 10 | 11 | 11 | 12 | 12 | 13 | 13 |
| Two-Thirds | 6 | 7 | 8 | 8 | 9 | 10 | 10 | 11 | 12 | 12 | 13 | 14 | 14 | 15 | 16 | 16 | 17 |

For example, if your county commission has 19 members, 10 votes are needed to pass a resolution (unless there is a vacancy or a member abstains due to a T.C.A. § 12-4-101 conflict of interest, and announces that intention to the chairman of the legislative body). If 15 of the 19 members are present at the meeting, 10 votes are still needed. If a county legislative body has 15 members, 10 of whom are present for a meeting, all ten of those would have to vote in the affirmative in order to pass a measure requiring a two-thirds vote; eight of the ten present would constitute a majority.

Tie votes - If the County Commission is equally divided on any vote, then and only then a county mayor chair may, but is not required, to cast the deciding vote. A member serving as chairman votes as a regular member and cannot vote a second time to break a tie. T.C.A. § 5-5-109.

Procedure - All business for action of the county legislative body must be presented to the chair who announces the business to the body and takes the vote which is recorded by the county clerk. The body cannot act on any business which is not presented to the chair unless the body decides to do so by a majority of those present. T.C.A. § 5-5-110.

Types of Motions

Reference Number: CTAS-2192

Review the following chart to learn about the different types of motions. Motions that are not debatable are immediately put to a vote.

| Motion | Second Needed? | Debate or Discussion? | Amendable? | Majority or Two-Thirds Vote? |
|---|----------------|---|--|---|
| Main Motion-Present business to the body. Only one main motion can be considered at a time. | Yes | Yes | Yes | Majority, except when two-thirds is required by law. |
| Subsidiary Motions-These motions are not questions before the body by themselves but relate to a main motion (or resolution) that is before the body. They may be made after the main motion and must be dealt with before voting on the main motion to which it relates. Yields to privileged and incidental motions. Listed in order of rank (meaning a motion of higher rank can always be entertained while a lower rank motion is pending, but not vice versa; there can be more than one subsidiary motion at a time - for example, a motion to amend a main motion, or an amendment, may be "tabled"). | | | | |
| Table (Is immediately put to a vote; if not taken from the table in the same meeting, the motion is dead; generally used as an attempt to kill a motion.) | Yes | No | No | Majority |
| Previous question call for a vote, close debate (This motion is to cut off debate and force a vote on the issue.) | Yes | No | No | Two-thirds (Remember, this is under <i>Robert's Rules</i> ; local rules may only require a majority.) |
| Limit or extend debate (Limit discussion to a certain time.) | Yes | No | No | Two-thirds (Remember, this is under <i>Robert's Rules</i> ; local rules may only require a majority.) |
| Postpone to a certain time | Yes | Yes | Yes | Majority |
| Amend a main motion (If adopted, the chairman should restate the main motion, as amended before the vote.) | Yes | Yes, but debate should be confined to the amendment | Yes, but only once (Amendments to a main motion can be amended, but an amendment to an amendment cannot be amended.) | Majority |
| Postpone indefinitely | Yes | Yes | Yes | Majority |

Incidental Motions-These motions are of no special rank, but yield to privileged motions meaning that if one of these motions is before the body and one of the privileged motions listed below is made, the privileged motion will have to be voted on or withdrawn before the body can proceed to consider these incidental motions. Otherwise, these motions are dealt with as they arise and take precedence over subsidiary motions.

Point of order (A member may interrupt the speaker who has the floor for this motion.); the chair deals with this motion.

| | | | | |
|--|-----|----|-----|---|
| Withdraw a motion | No | No | No | Majority (However no vote is taken unless there is an objection to the withdrawal.) |
| Suspend the rules (To allow the county commission to violate its own rules; the rules should provide the method for "suspending the rules".) | Yes | No | No | Two-thirds (Remember, this is under <i>Robert's Rules</i> ; local rules may only require a majority.) |
| Method of voting | Yes | No | Yes | Majority |

Request for information; the chair deals with this motion.

Question of quorum; the chair deals with this motion.

Privileged Motions-These motions take precedence over other motions and are allowed to interrupt the considerations of other business. When privileged motions are not interrupting other business, they are main motions.

| | | | | |
|---------------------|-----|----|-----|----------|
| Fix time to adjourn | Yes | No | Yes | Majority |
| Adjourn | Yes | No | No | Majority |
| Recess | Yes | No | Yes | Majority |

Raise question of privilege (To bring up an urgent matter such as noise, discomfort, etc.); the chair deals with this motion.

Call for orders of the day (Keep the meeting to the order of business or agenda that is adopted); the chair deals with this motion.

Unclassified Motions-These are main motions that are often used to take up business again. They are not ranked.

Take from table (This is to bring up for consideration a motion or resolution that was tabled previously in the meeting)

Yes

Yes

No

Majority

Reconsider (A person on the prevailing side, a person who will change his or her vote, is supposed to make this motion.)

Yes

Yes

No

Majority

Rescind

Yes

Yes

Yes

Majority (A motion to rescind may require a two-thirds vote if the action required a two-thirds vote for passage.)

Ratify

Yes

Yes

Yes

Majority (Private acts and many local option laws require two-thirds vote.)

Required Training

Reference Number: CTAS-2468

Beginning September 1, 2018, newly elected or appointed county legislative body members will be required to complete orientation training provided by CTAS within 120 days of their election or appointment. T.C.A. § 5-5-113. In addition, those newly elected members will also be required to complete seven hours of continuing education provided or approved by CTAS on an annual basis. Incumbents are exempt from the continuing education requirement unless they are separated from office and then subsequently reelected. In addition, any commissioner that has served for eight years or more is exempt from the continuing education requirement.

The comptroller will annually publish a list of commissioners and the hours of training required and the hours each commissioner has obtained.

Committees-CLB

Reference Number: CTAS-16

There are many committees, boards and commissions in county government. The laws that apply can be very confusing. It is important to distinguish between internal committees of the county legislative body and committees or boards established or made optional by general law or private acts. Internal committees of the county legislative body have no statutory requirements associated with them, they can be created or not according to the will of the county legislative body, they have no independent power to act and may only make recommendations to the full county legislative body. Therefore, the number, title, composition, method of appointment and other matters pertaining to these committees are determined by resolution of the county legislative body, either directly or through the adopted rules of procedure. See e.g., Op. Tenn. Att'y Gen. U91-48 (March 25, 1991). These internal committees may vary greatly from county to county and may change easily within a county. They exist simply to provide advice to the full county legislative body.

On the other hand, a county may have many boards and committees that have their basis in either general state law or private acts. These statutory boards and committees have to be dealt with according to the terms of the laws that created them or authorized their creation. These boards and committees may exercise the powers granted to them by law, but no other powers may be exercised. Some statutory boards or committees may exercise some limited powers directly, and in other matters they may merely make recommendations as would an internal study committee. The nature and authority of any particular committee or board in a county must be examined individually on a county- by-county and committee-by-committee basis.

A brief summary, including examples, of these three types of committees is included below.

Statutory Committees. These committees are provided for in the statutory law involving county commission appointment or approval of committee members. Not all of these committees are mandatorily required by the statutory law, but if created, they must be created in accordance with the statutes.

Standing Committees. These are internal committees not required by statute and are usually established

by local rules of procedure adopted by the county commission or by tradition in the county. The function and membership of standing committees is at the discretion of the body and its chairperson. Standing committees usually have broad areas over which they are responsible for making studies and recommendations back to the full body. These committees continue their operation throughout the year and make periodic reports to the entire body concerning findings of the committee and recommendations on questions submitted to them. Examples of this type of committee are Fiscal Review Committee, Planning Committee and Nominations Committee.

Special Committees. Special Committees are also non-mandatory, internal committees which may be appointed or elected at a meeting of the county commission when an issue arises which needs more information or further study prior to official actions by the body. These are temporary committees which cease to function when they have completed their duties and made a report or recommendation back to the full body. Examples of this type of committee are Committee to Study the Need for a County Ambulance Authority, Committee to Draft Local Rules of Procedure and Committee to Plan Annual Picnic.

The chairperson of any committee may from time to time appoint subcommittees to study special issues coming before the committee. A subcommittee makes a report and recommendation to the full committee after completion of the study.

Boards, commissions and committees are covered in more detail under the Structure of County Government topic.

Budgeting and Levying Taxes-CLB

Reference Number: CTAS-19

The county legislative body assembled in session is authorized to act for the county. T.C.A. § 5-1-103. All funds to be used in the operation of the county must be appropriated for that use by the county legislative body, which can appropriate money only for expenditures sanctioned by state law. T.C.A. § 5-9-401. The county legislative body may appropriate funds for any lawful purpose. T.C.A. § 5-1-118 (incorporating certain municipal powers in T.C.A. § 6-2-201). It is the duty of the county legislative body to adopt a budget and to appropriate funds for the ensuing fiscal year for all county departments and agencies. T.C.A. § 5-9-404. The county mayor who does not chair the county legislative body may veto the entire county budget but may not veto portions of it. T.C.A. § 5-6-107.

A county usually adopts a budget annually, but a county legislative body may prepare and adopt a biennial budget for such departments of the county as are authorized for the particular county by the comptroller of the treasury's state director of local finance. However, such biennial budgets may not be used until changes are made to existing county law in county charters, private acts or resolutions that require annual budgets. T.C.A. § 4-3-305.

The budget adopted by the county legislative body must be balanced, meaning that estimated revenues must at least equal the amounts appropriated plus any reserves required by state law. The county legislative body must levy taxes sufficient to meet appropriations (with other revenues such as state shared taxes included in the determination) and to meet all debt retirement and interest obligations. T.C.A. § 9-11-115. The county budget must meet all state law requirements. The failure to meet these requirements can cause the loss or withholding of state shared funds, such as education funds. Besides the requirements of balance and meeting debt obligations, the budget must also meet several other requirements such as the maintenance of effort requirement for education funding, the five-year average requirement for highway funding, the requirement not to lower the funds available to the sheriff for personnel costs without the consent of the sheriff, the mandatory minimum salaries of county officials, any court decrees providing the number and salaries of deputies and assistants of county officials, the requirement to have adequate correctional facilities (alone or in conjunction with one or more other counties) and any other mandates that state law places on the county. Additional information about county operating budgets can be found under the Accounting/Budget/Finance tab.

The county property tax is the only significant source of revenue that the county legislative body can levy without limitation as to rate and without being subject to referendum (directly or if an adequate petition is filed) or requiring the passage of a private act.

Private Act Approvals-CLB

Reference Number: CTAS-17

Private acts of the General Assembly are a source of authority for counties in areas not covered by the general law. Examples of private acts include those levying hotel/motel taxes and development taxes as there is no general law authority for counties to levy these particular taxes. Under Article XI, Section 9, of the Tennessee Constitution, private acts are not effective until approved locally by the county (or city) to

which they apply by the terms of the private act. Local approval of a private act for a particular county can occur by a majority vote in a referendum by the qualified voters of the county who vote in the referendum, or by a two-thirds majority vote of the county legislative body. The method of local approval must be specified in the private act. Sometimes private acts provide that they must be approved by a certain date or they will not become effective. However, if there is not a deadline for local approval in the private act, general law requires that approval take place by December 1 in the year that the private act passed the General Assembly. The approval or rejection of a private act that requires approval by two-thirds vote of the county legislative body is certified by the chair of the county legislative body to the secretary of state of Tennessee.

The county legislative body may request by resolution that members of the General Assembly representing the people of the county introduce and work for the passage of a particular private act. Such a resolution has no legal effect, but members of the General Assembly prefer to see such a resolution, particularly if passed by the number of votes that will be necessary to approve the private act, before they introduce the private act bill. However, members of the General Assembly are under no legal obligation to introduce the requested private act bill. Further, although this rarely occurs, they may introduce and work for the passage of a private act bill that provides for referendum approval against the wishes of the county legislative body.

Other Duties-CLB

Reference Number: CTAS-20

The county legislative body has important duties. For example, the county legislative body—

- has duties with respect to the acceptance of county roads, the annual updating and approval of the county road list, and the closing of roads not deemed worthy of inclusion on the county road list.
- may adopt optional general laws in the areas of financial management, budgeting and purchasing.
- has important duties with respect to approving the issuance of county debt instruments such as bonds and notes.
- has a duty to provide courthouse space for the state courts and jail facilities (alone or in conjunction with one or more counties) as well as for certain county officials.
- may adopt comprehensive zoning for the area of the county outside the corporate limits of the municipalities.
- has a duty to have a countywide personnel policy (although several offices may have their own policy separate from the general county policy).
- may provide medical and life insurance benefits to county employees and county officials through insurance or self-insurance.
- has the authority to regulate dogs, cats and stray animals.
- may, by two-thirds vote of the county legislative body, adopt regulations to prevent public nuisances.
- may determine whether or not to adopt a distance rule regarding the sale of beer at retail.

The county legislative body must determine how to deal with its liability risks through either insurance, self-insurance, or joint self-insurance through an insurance pool. Many of the records of the county are very valuable and the county legislative body has an important role with the county public records commission and other county officials to preserve records of permanent value and to manage the county's records efficiently. The county legislative body has a role in either electing or approving the appointment of many county officials and department heads. Also, the county legislative body may decide to limit the duties of constables to process serving and take away law enforcement powers, or to abolish the office at the end of the terms of the incumbent constables.

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