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Temporary Vacancies

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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Temporary Vacancies

Reference Number: CTAS-581

Vacancies Due to Military Service

A temporary vacancy exists when a county official, except for a member of the county board of education, is inducted into military service such as the United States Army or any of its branches, the Navy, Air Force, Marine Corps, Coast Guard, Merchant Marine, or any other military activity. T.C.A. § 8-48-202. Upon the official's return from military service, he or she is entitled to resume the office for the remainder of the term, if it has not already expired. T.C.A. § 8-48-202. If the official does not return from military service prior to the expiration of the term, a successor is elected in the regular manner prescribed by law. T.C.A. § 8-48-203.

When a county official, except for a member of the county board of education, is inducted into the United States military service, the office duties are discharged temporarily during the official's absence by another person legally qualified, and the office is to be filled temporarily by the legislative body. T.C.A. §§ 8-48-204, 8-48-205. However, if a clerk and master is inducted into military service, the chancellor appoints a qualified person to fill the office temporarily. T.C.A. § 8-48-205. Any person temporarily appointed or elected to an office must execute a bond and subscribe to an oath to discharge the duties of the office. T.C.A. § 8-48-207. The temporary official receives the salary and has the same power, authority, and privileges as the regular official. T.C.A. § 8-48-208. The temporary official may not remove assistants appointed by the regular official; that power remains with the regular official. T.C.A. § 8-48-209. All persons chosen to fill offices temporarily must satisfy all qualifications required to hold the office. T.C.A. § 8-48-206.

Temporary Absence of County Mayor

If the county mayor is absent or intends to be absent for more than 21 days, or is incapacitated or otherwise unable to perform the duties of the mayor's office, the legislative body appoints the chairperson to serve until the absence or disability is removed. Any contest of disability or its removal shall be adjudicated in chancery court. While the chairperson is serving as mayor, the chairperson pro tempore presides over legislative body sessions. T.C.A. § 5-5-103(g). Note that subsection (g) applies to a temporary absence, not a vacancy.

Vacancies Due to Military Service

Reference Number: CTAS-582

A temporary vacancy exists when a county official, except for a member of the county board of education, is inducted into military service such as the United States Army or any of its branches, the Navy, Air Force, Marine Corps, Coast Guard, Merchant Marine, or any other military activity. T.C.A. § 8-48-202. Upon the official's return from military service, he or she is entitled to resume the office for the remainder of the term, if it has not already expired. T.C.A. § 8-48-202. If the official does not return from military service prior to the expiration of the term, a successor is elected in the regular manner prescribed by law. T.C.A. § 8-48-203.

When a county official, except for a member of the county board of education, is inducted into the United States military service, the office duties are discharged temporarily during the official's absence by another person legally qualified, and the office is to be filled temporarily by the legislative body. T.C.A. §§ 8-48-204, 8-48-205. However, if a clerk and master is inducted into military service, the chancellor appoints a qualified person to fill the office temporarily. T.C.A. § 8-48-205. Any person temporarily appointed or elected to an office must execute a bond and subscribe to an oath to discharge the duties of the office. T.C.A. § 8-48-207. The temporary official receives the salary and has the same power, authority, and privileges as the regular official. T.C.A. § 8-48-208. The temporary official may not remove assistants appointed by the regular official; that power remains with the regular official. T.C.A. § 8-48-209. All persons chosen to fill offices temporarily must satisfy all qualifications required to hold the office. T.C.A. § 8-48-206.

Interim County Mayor

Reference Number: CTAS-583

If the office of the county mayor becomes vacant pursuant to § 8-48-101, the chair, or if the county mayor or served as the chair, the chair pro tempore, serves as interim county mayor until the vacancy is filled pursuant to § 5-1-104. This provision is automatic and requires no action by the county legislative body. T.C.A. § 5-5-103(i).

The interim county mayor has the same powers, duties, and bond provided in Title 5, Chapter 6.

Subsection (i) does not apply if the method of filling the vacancy in the office of the county mayor is established by a metropolitan charter or a private act.

Interim Provisions for Other County Officials

Reference Number: CTAS-584

The law provides for a temporary successor to fill vacancies in the offices of trustee, register, county clerk, sheriff, highway chief administrative officer, and assessor of property, in addition to the provisions for an interim county mayor. T.C.A. §§ 8-11-111, 8-13-105, 18-6-115, 8-8-107, 54-7-107, 67-1-504. The duties of the office are to be temporarily discharged either by the chief deputy or by a deputy designated as temporary successor by the official in writing. It is important to note that this law applies only to the duties of the office and not to the office itself.

In case of death of a clerk of court, the deputy holds office until the vacancy is filled. T.C.A. § 18-1-401. If there is a vacancy in the office of clerk and master, a new clerk is appointed by the chancellor for another six-year term, beginning with the date of the appointment. T.C.A. § 18-5-101.

Clerks of court may be removed from office for misconduct by summary proceedings by the judge of the court they serve, under the provisions of T.C.A. § 18-1-301 et seq.

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