COUNTY GOVERNMENT

OVERVIEW OF OFFICES

A collection of offices, boards, and commissions with limited powers and duties defined by general law

▪ In some cases, modified by county or metropolitan charter
▪ Supplemented by private acts

COUNTY GOVERNMENT

Cannot succeed without cooperation

TENNESSEE CONSTITUTION

➢ Limits power of legislature
➢ Few limits on what legislature may enact regarding county and city government
➢ Duties of officials set by legislature
➢ Constitutional requirements differ for counties with consolidated county-city government or county charters
THREE FORMS OF COUNTY GOVERNMENT

- Basic Form
  - 90 counties
- Metropolitan Government
  - Davidson
  - Moore
  - Trousdale
- County Charter
  - Knox
  - Shelby

BASIC FORM

Constitutional Officers
Tenn. Const. Art. 7

- County Executive (Mayor)
- County Commissioners
- Sheriff
- Trustee
- Register of Deeds
- Assessor of Property

OTHER OFFICES

Clerks of Court (Tenn. Const. Art. 6)
- Inferior court clerks (elected)
- Clerks and masters (appointed by chancellors)

Offices, positions created or authorized
- General law
- Private act
BASIC FORM

- Collection of offices and positions
- No hierarchy
- Most offices “independent”
- County Mayor has few statutory powers
- County Legislative Body has limited powers granted by statutes

COAT OFFICIALS

CLERKS OF COURT
- Circuit Court Clerks
- Clerks and Masters
- Other inferior court clerks

COUNTY CLERK

TRUSTEE

REGISTER OF DEEDS

CLERKS OF COURT

 Inferior Court Clerks
- Elected
- 4-year term
- Circuit, criminal, juvenile, probate

Clerks & Masters
- Appointed by Chancellor
- 6-year term

Tennessee Constitution, Art. 6, Sec. 13
Duties determined by state statutes
Clerks of Court

CLERKS OF COURT

Clerk or deputy attend each session of court:
- Administer oaths to parties and witnesses
- Keep minutes
- Maintain court records
- Dockets
- Case files
- Indexes

Collect & Disburse

CLERKS OF COURT

Fees
Fines
Court-related taxes
Collect & Disburse

COUNTY CLERK, TRUSTEE & REGISTER OF DEEDS

Elected
4-year term
Duties determined by state statutes
- General law (generally determines)
- Private acts (may add to duties)
COUNTY CLERK

- Clerk of county legislative body
  - Keeps minutes
  - Issues notices
- Motor vehicle titling and registration
- Issues marriage licenses
- Collects various fees

COUNTY CLERK

- Handles notary public applications
- Keeps county road list
- Issues other licenses
- Collects other privilege taxes

TRUSTEE

- Collects property taxes
- Appoints delinquent tax attorney with approval of county mayor
- Receives and disburses county monies
  - Allocates revenue to various county funds and other parties according to law
  - Disburses funds drawn by county warrant or check
**TRUSTEE**

Role in management of county funds
- Cash management - works with county
  mayor, finance committee and finance
  or budget director
- Role in investment of county funds -
  works with county investment
  committee
Files monthly and annual financial reports
Receives commission on funds handled

**REGISTERS OF DEEDS**

Records deeds and other documents
which affect the legal status of real and
personal property
Records certain other important
documents
- Subdivision plats
- Powers of attorney
Maintains indexes of recorded documents

**REGISTERS OF DEEDS**

Collects recording fees
Collects and remits state taxes
- Transfer tax on real estate
- “Mortgage” tax on recording instruments
evidencing an indebtedness
INTERACTION WITH OTHER OFFICIALS

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BUDGET

• Fee Official proposes budget for office annually
• Mayor and budget committee may recommend changes to county legislative body
• County legislative body may decrease or increase budget subject to court orders
• Exact budget process varies among counties

PERSONNEL

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Budget limitations – County legislative body
Salary Suit or Letter of Agreement
• County mayor defends salary suit
• Letter of agreement signed with county mayor
• Determines number and compensation of deputies and assistants
## Transfer of Fees

**Fee System**
- Fee official pays for salaries and expenses of office from official fee account
- Turns over “excess” fees and commissions to general fund (trustee) quarterly

**Budget System**
- Fee official turns over all fees to general fund monthly
- Salaries and other expenses of office paid under the approved budget

County legislative body decides system (where not determined by other law)

## Purchasing

- County Legislative Body
- Optional purchasing laws
- Private Act
- Purchasing Agent
- Takes requisitions
- Works with official on specifications
- Makes most purchases for officials

## County Government

### Basis of Authority
BASIS OF AUTHORITY

- Creates and empowers counties
- State of Tennessee
- United States of America
- Does not empower counties, but limits power of the state and its subdivisions such as counties
- Example: anti-discrimination laws

NATURE OF AUTHORITY

- COUNTY GOVERNMENT
  - Can only do what is authorized by state law
  - Must find authority in statutes

- PRIVATE BUSINESS
  - Can do anything not prohibited by law

SOURCES OF AUTHORITY

- General Law
- Charter/Metro
- Private Acts
**COUNTY AUTHORITY**

- Granted by state statutory law
- Counties and county officials have NO power to act outside of power granted through state statutes
- Federal law may limit action but does not empower county officials

**GENERAL LAW**

Public Chapters enacted by the General Assembly (codified in Tennessee Code Annotated):
- General Application
  - Mandatory
  - Permissive
- Local Option
  - Usually adopted by 2/3 vote of county commission or approved by referendum

**PRIVATE ACTS**

- Source of authority when general law is silent
- Constitutionally suspect if in conflict with a general law (Tenn. Const. Art. 14, Sec. 8)
- Must be enacted by General Assembly and receive local approval by 2/3 vote of county commission or majority in referendum
METRO CHARTERS

• Metropolitan Government merges a county with its most populous city with option for other cities in county to join
• Under enabling general law, metro government has powers of a county and a city
• Wide power granted to restructure local government through metro charter
• Must be approved by majority votes both inside and outside most populous city

COUNTY CHARTERS

• An alternative form of county government provided by Tennessee Constitution since 1978 as enabled by General Assembly and approved in county referendum
• Enabling law gives power to restructure county government and adopt ordinances

95 DIFFERENT COUNTIES

Each county has different laws operating within the county
• Laws can differ greatly due to exceptions in the general law, optional laws, private acts and possibly county charters or metropolitan government charters
• Officials must consult with their county attorney to determine what they can and cannot do
OFFICIAL BOND

- A promise by the official to faithfully perform the duties of the office, pay over all monies and properties that come into the officer's hands to the persons authorized by law to receive them, safely keep all records required by law, and turn over all property and records to successor
- Forms prescribed by Comptroller
- Made payable to state upon failure of official to keep promises made in bond
- Bond is to protect county and state, not the official (surety may sue official to recover payout under bond!)
- Surety premium paid by county

OFFICIAL BOND DOCUMENTATION

- County legislative body or court approves
- Recorded with Register of Deeds
- Filed with the County Clerk within 40 days of election (or appointment) or 20 days after the term of office begins
### OFFICIAL BONDS BY POSITION

<table>
<thead>
<tr>
<th>Position</th>
<th>Minimum Population</th>
<th>Minimum Bond Amount</th>
<th>Filing Location</th>
</tr>
</thead>
<tbody>
<tr>
<td>Clerks of Court</td>
<td>˃15k</td>
<td>$100,000 (min.)</td>
<td>Filed with County Clerk</td>
</tr>
<tr>
<td>County Clerks</td>
<td>˂15k</td>
<td>$50,000 (min.)</td>
<td>Filed with County Clerk</td>
</tr>
<tr>
<td>Registers of Deeds</td>
<td>˃15k</td>
<td>$100,000 (min.)</td>
<td>Filed with County Clerk</td>
</tr>
<tr>
<td>Trustees</td>
<td>˂15k</td>
<td>$50,000 (min.)</td>
<td>Based on office revenues; Filed with County Clerk</td>
</tr>
</tbody>
</table>

Corporate or individual surety bonds
- County legislative body decides

Blanket bonds
- Separate rider for each official
- Minimum $150,000 for all county employees not covered by individual bonds

### OFFICIAL BONDS

- Amount of bond may be increased by county legislative body

### INSURANCE INSTEAD OF BOND

- Counties may purchase insurance policy rather than bond.
- Policies must provide government crime coverage, employee dishonesty insurance coverage,or equivalent coverage.
- Must provide at least $400,000 coverage per occurrence.
- A certificate of insurance, a policy, or endorsement satisfies the requirement for the filing of the official bond by the named officials.
Failure to file bond in the proper office on time results in a vacancy in office!
T.C.A. § 8-19-117

Failure to file bond in the proper office on time results in a vacancy in office!
T.C.A. § 8-19-117

It is a Class C misdemeanor to perform any official act before your bond is approved!
T.C.A. § 8-19-119

Constitutional Oath and Oath of Office

Take any time after receiving certificate of election

Administered by judge, county mayor, county clerk, notary, governor or member of the General Assembly

Filed with county clerk

It is a Class C misdemeanor to perform the duties of your office prior to taking and filing your oaths.

Sample Oaths of Office May Be Found in E-LI
(Reference No. CTAS-30)