



# COUNTY GOVERNMENT

## OVERVIEW OF OFFICES





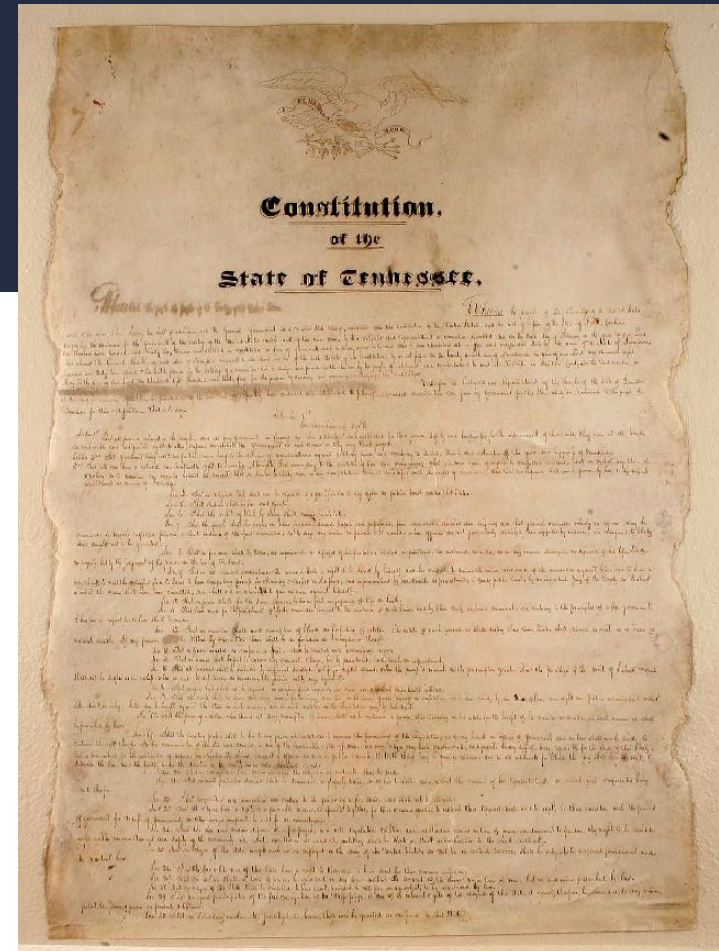
# COUNTY GOVERNMENT

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

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

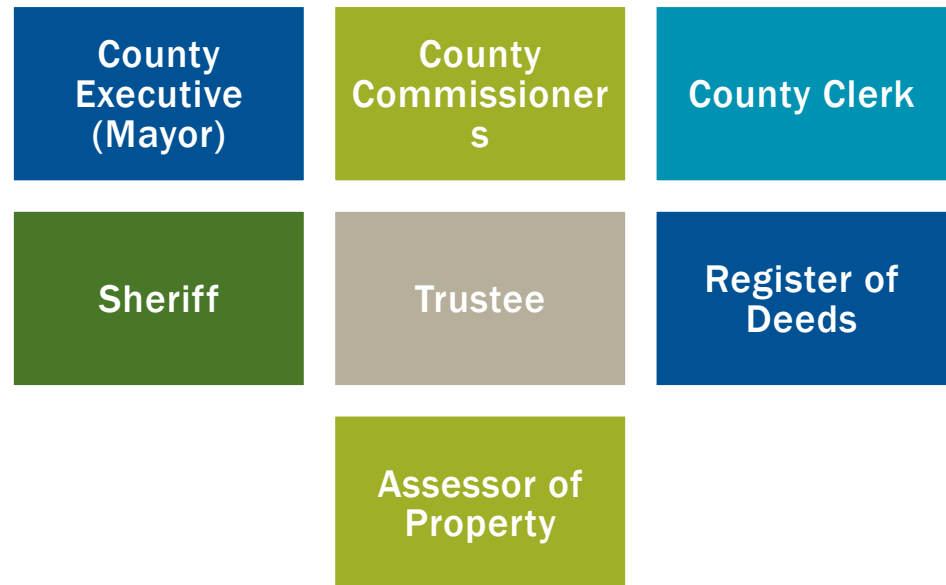
- Knox
- Shelby





# BASIC FORM

## Constitutional Officers Tenn. Const. Art. 7



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# 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



**COUNTY  
OFFICIALS  
ASSOCIATION OF  
TENNESSEE**



# 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





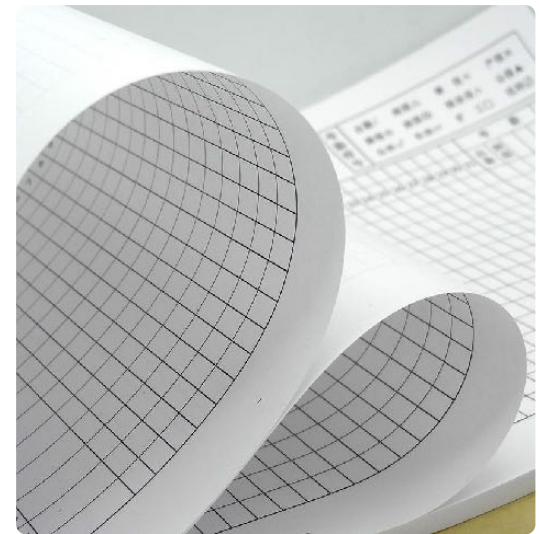
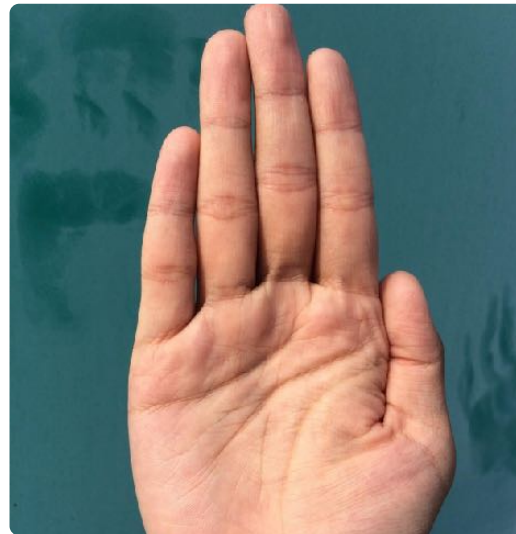
# CLERKS OF COURT

## Clerk or deputy attend each session of court

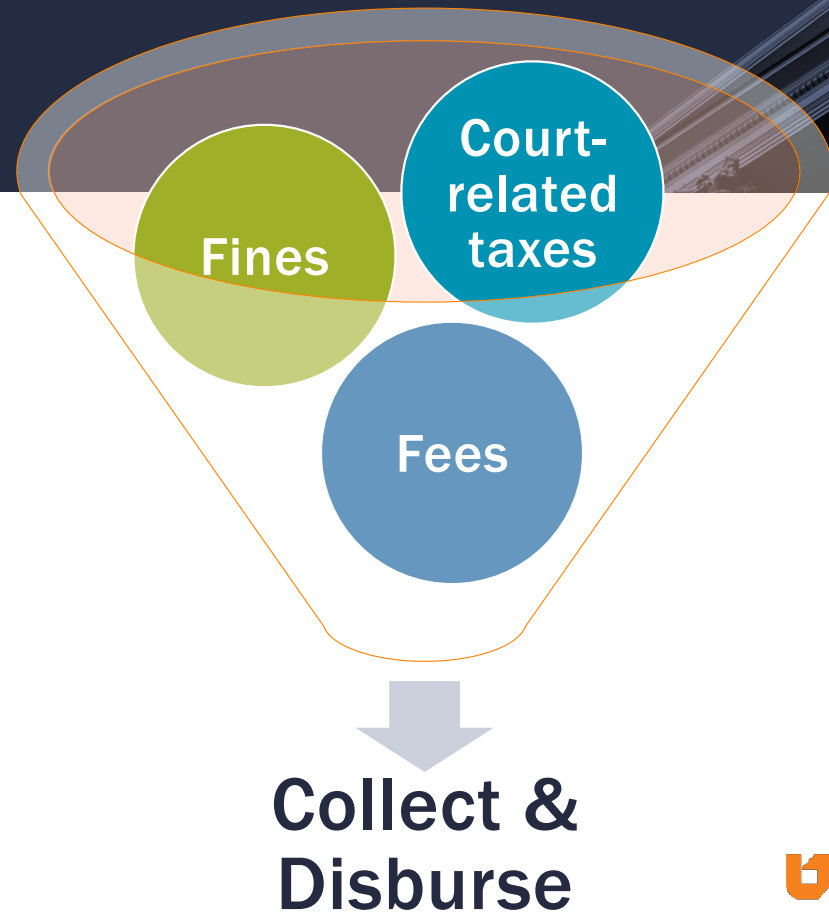
- Administer oaths to parties and witnesses
- Keep minutes

## Maintain court records

- Dockets
- Case files
- Indexes



# CLERKS OF COURT



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# 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



**County Technical Assistance Service**  
INSTITUTE FOR  
PUBLIC SERVICE

# REGISTERS OF DEEDS



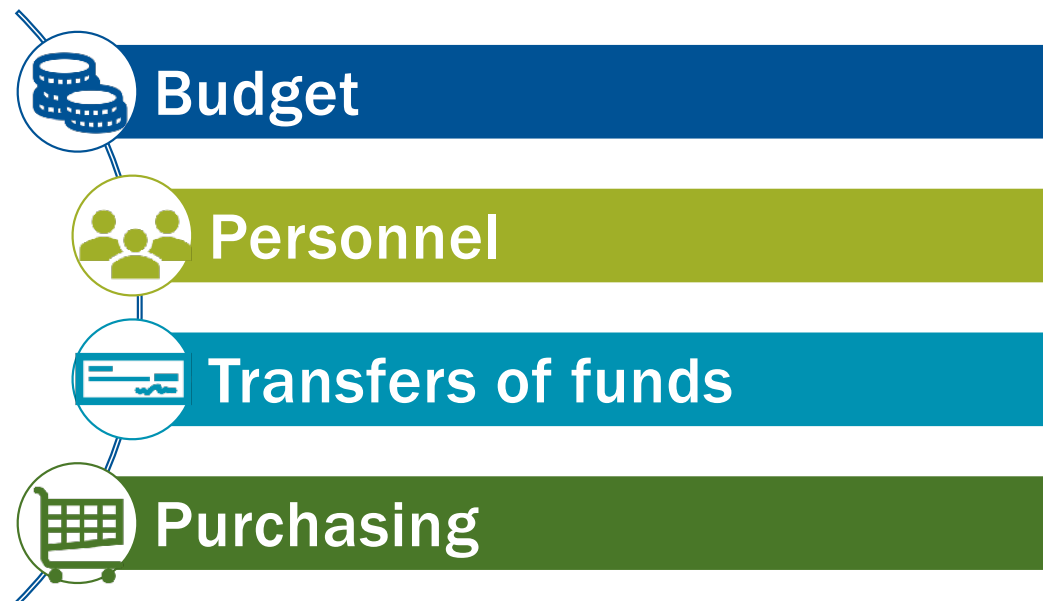
**Collects recording fees**

**Collects and remits state taxes**

- Transfer tax on real estate
- “Mortgage” tax on recording instruments evidencing an indebtedness



# INTERACTION WITH OTHER OFFICIALS





# 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

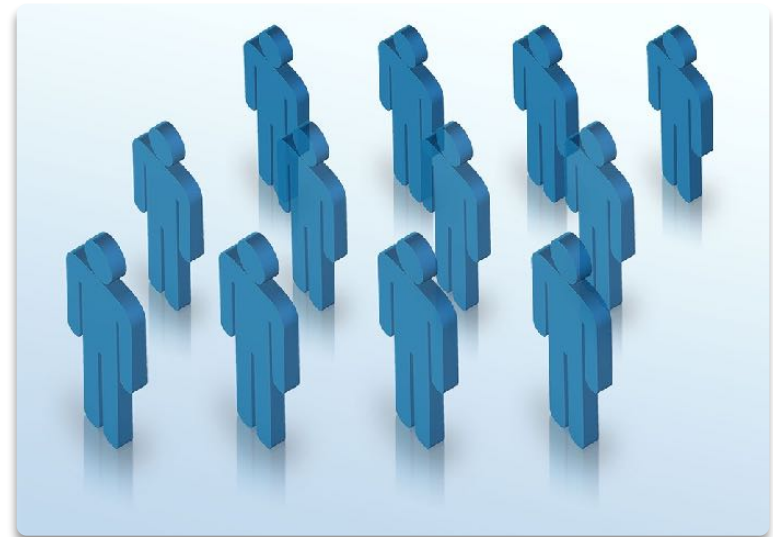
Exact budget process varies among counties



# PERSONNEL

## 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)





### 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

### State of Tennessee

- Creates and empowers counties

### United States of America

- Does not empower counties, but limits power of the state and its subdivisions such as counties
- Example: anti-discrimination laws



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# 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**

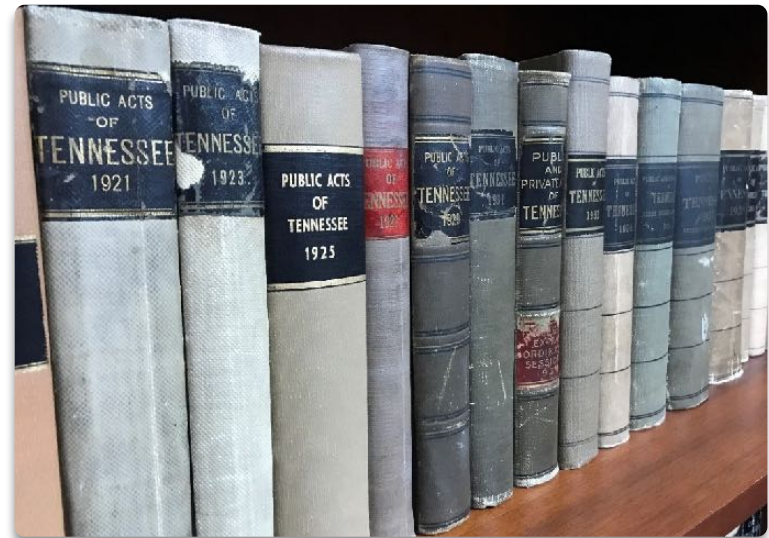
**Federal law may limit action but does not empower county officials**



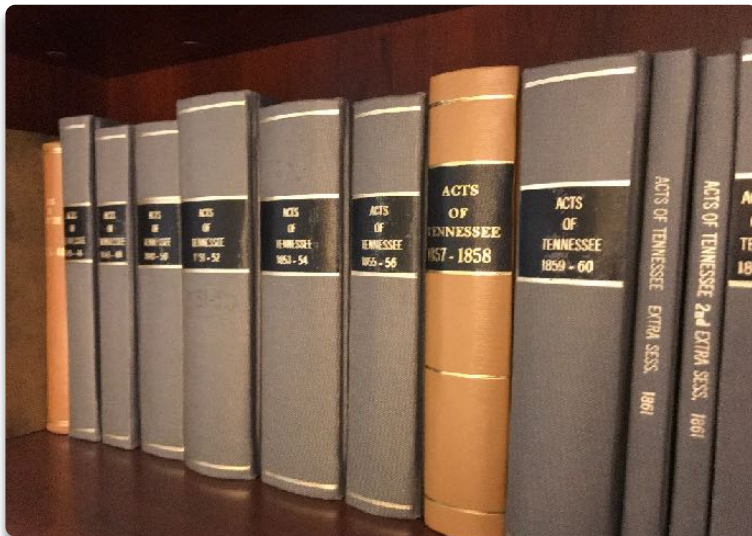
# GENERAL LAW

## 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. 11, Sec. 8)  
Must be enacted by General Assembly and receive local approval by 2/3 vote of county commission or majority in referendum





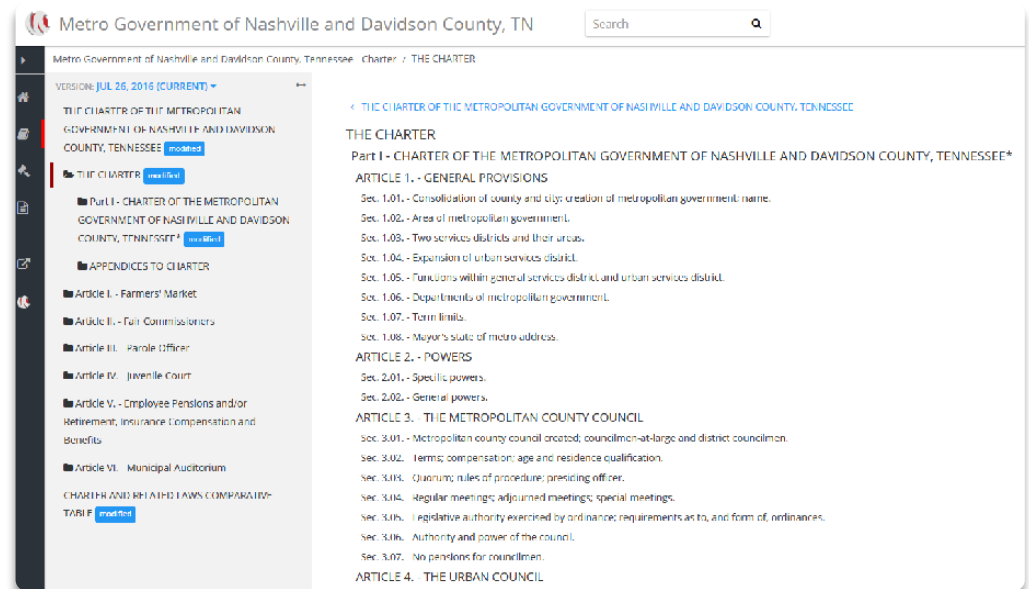
# METRO CHARTERS

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

## Shelby County Charter

### About the Charter

The Shelby County Charter was approved by the voters of Shelby County, Tennessee, on August 2, 1984, and became effective in 1986. A constitution for the operation of Shelby County's government, the Shelby County Charter places the power to effectively govern in the hands of the citizens of Shelby County. Download the entire [Shelby County Charter](#) here, or search the charter sections:

#### ◦ Introduction

- Creation of First Shelby County Charter Commission
- History of Previous County Government Structure
- Authority for Charter Form of County Government
- Home Rule Charter
- Charter Highlights
- Conclusion

#### ◦ Preamble

#### ◦ Article I - Powers and Functions

- Section 1.01 - Powers and functions
- Section 1.02 - Private and local affairs
- Section 1.03 - Public corporation powers
- Section 1.04 - Public corporation rights
- Section 1.05 - Rights reserved to the people

#### ◦ Article VI - Prohibitions

- Section 6.01 - Consolidation prohibited
- Section 6.02 - County board of education
- Section 6.03 - Removal of incumbents
- Section 6.04 - Constitutional officers
- Section 6.05 - Municipalities
- Section 6.06 - Zoning
- Section 6.07 - Annexation
- Section 6.08 - Incorporation
- Section 6.09 - Civil service
- Section 6.10 - Appointments and promotions
- Section 6.11 - Existing rights and liabilities

#### ◦ Article VII - Transition Provisions

- Section 7.01 - Repeal of contrary laws

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



# COUNTY OFFICIALS

## BONDS AND OATHS



# 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

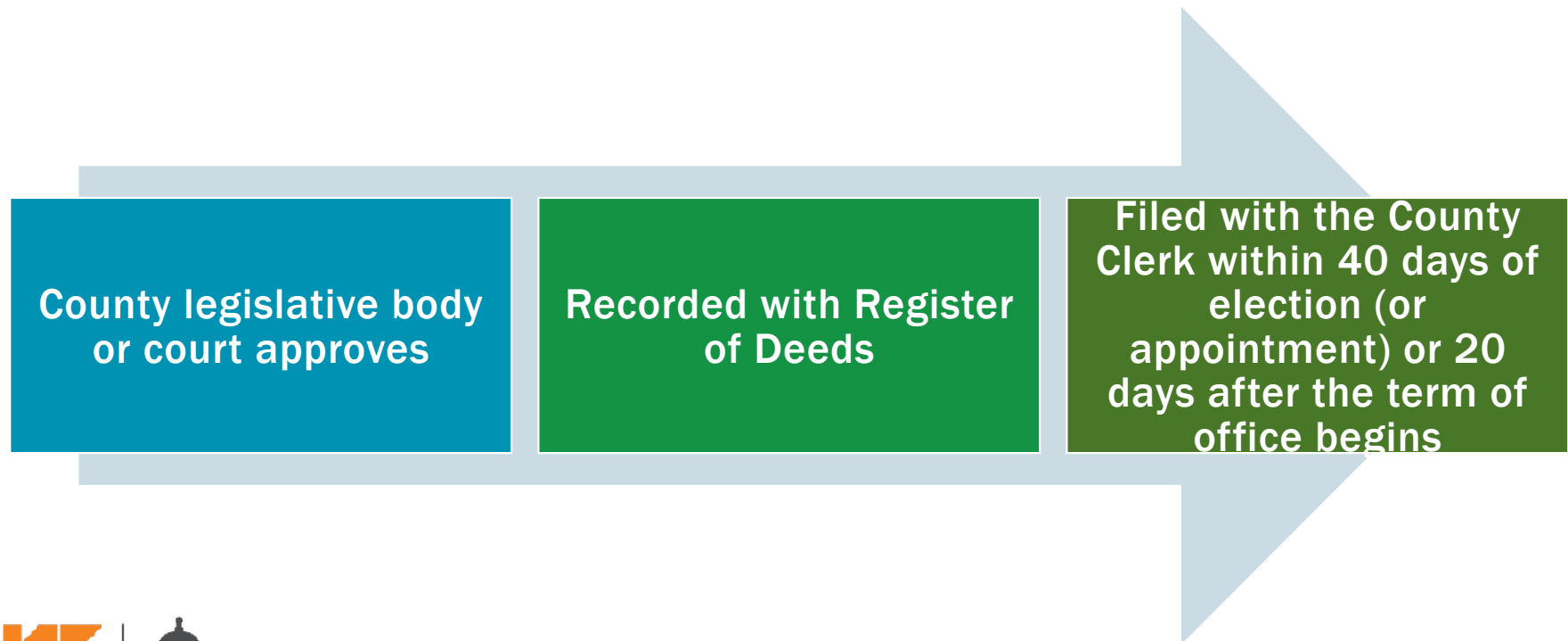
Made payable to state upon failure of official to keep promises made in bond

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





# OFFICIAL BONDS BY POSITION

## Clerks of Court

- \$100,000 (min.) pop. > 15k and \$50,000 (min.) < 15k
- Filed with County Clerk

## County Clerks

- \$100,000 (min.) pop. > 15k and \$50,000 (min.) < 15k
- Filed with County Clerk

## Registers of Deeds

- \$100,000 (min.) pop. > 15k and \$50,000 (min.) < 15k
- Filed with County Clerk

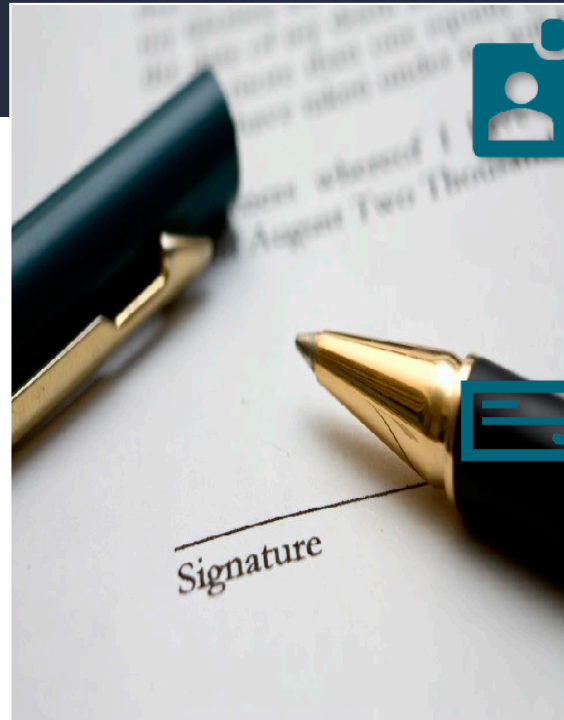
## Trustees

- Based on office revenues
- Filed with County Clerk



# OFFICIAL BONDS

Amount of bond may be increased by county legislative body



## 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



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# INSURANCE INSTEAD OF BOND

## Insurance alternative

- Counties may purchase insurance policy rather than bond. Policy 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 YOUR OFFICIAL BOND



Failure to file bond in the  
proper office on time  
results in a vacancy in  
office!

T.C.A. § 8-19-117

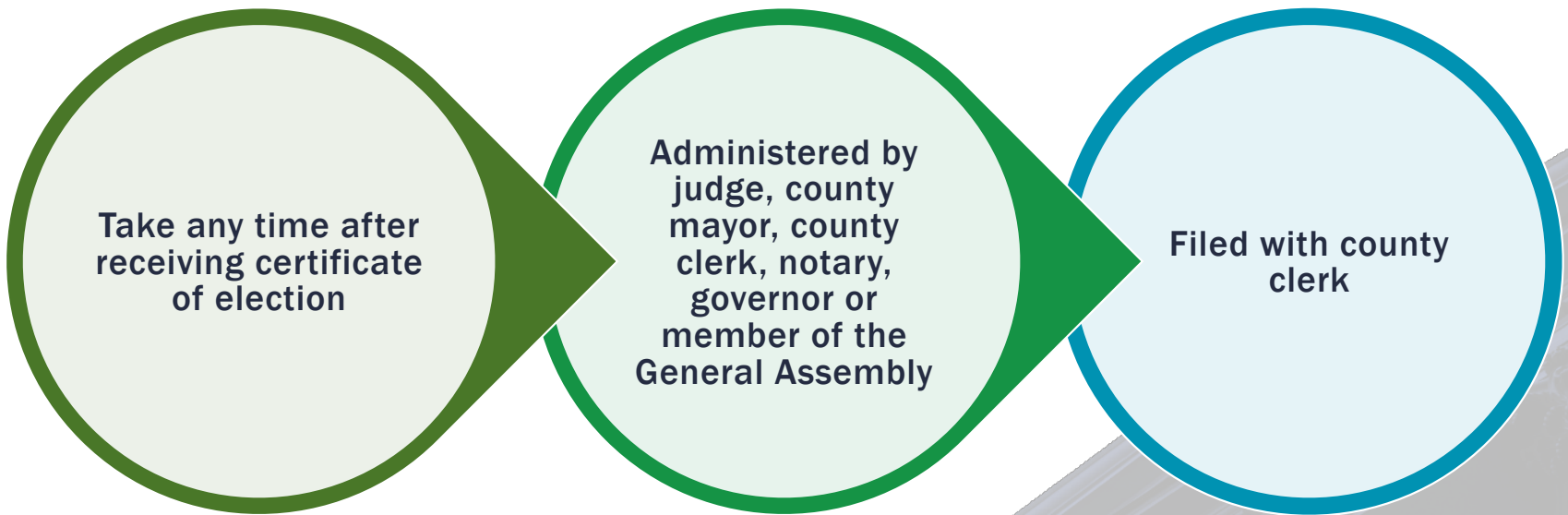


It is a Class C  
misdemeanor to  
perform any official act  
before your bond is  
approved!

T.C.A. § 8-19-119



# Constitutional Oath and Oath of Office



**It is a Class C misdemeanor to perform the duties of your office prior to taking and filing your oaths. T.C.A. § 8-18-113.**



# MORE INFO ON OATHS IN E-LI

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

