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
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
Constitutional Officers
Tenn. Const. Art. 7

County Executive (Mayor)
County Commissioners
County Clerk
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
CLERKS OF COURT

Inferior Court Clerks

- Elected
- 4-year term
- Circuit, criminal, juvenile, probate

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

Clerks & Masters

- Appointed by Chancellor
- 6-year term
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

Fines
Court-related taxes
Fees
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

- Budget
- Personnel
- Transfers of funds
- Purchasing
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)
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

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
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
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
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

- **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
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

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. 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)