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

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THREE FORMS OF COUNTY GOVERNMENT

- Basic Form
  - 90 counties

- Metropolitan Government
  - Davidson
  - Moore
  - Trousdale

- County Charter
  - Knox
  - Shelby

Constitutional Officers
Tenn. Const. Art. 7

BASIC FORM

Constitutional Officers
Tenn. Const. Art. 7

OTHER OFFICES

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

- General law
- Private act

Offices, positions created or authorized
- County
- Register of Deeds
- County Clerk
- County and Circuit Court Clerk
### 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

<table>
<thead>
<tr>
<th><strong>Inferior Court Clerks</strong></th>
<th><strong>Clerks &amp; Masters</strong></th>
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</thead>
<tbody>
<tr>
<td>• Elected</td>
<td>• Appointed by Chancellor</td>
</tr>
<tr>
<td>• 4-year term</td>
<td>• 6-year term</td>
</tr>
<tr>
<td>Circuit, criminal, juvenile, probate</td>
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</tbody>
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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

Collect & Disburse
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
- Deposits funds drawn by county warrant in 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

COLLECTS RECORDING FEES

Collects recording fees
Collects and remits state taxes
- Transfer tax on real estate
- "Mortgage" tax on recording instruments evidencing an indebtedness
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).

BUDGET SYSTEM

**Transfer of Fees**
- 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**

COOP 2022 COAT Kristy - August 15, 2022
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. 9).
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 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.
COUNTY OFFICIALS

BONDS AND OATHS

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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 official'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.

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.

Bond is to protect county and state, not the official (county may sue official to recover paid surety bond).

Surety premium paid by county.
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

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

Amount of bond may be increased by county legislative body

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.

- A certificate of insurance, a policy, or endorsement satisfies the requirement for the filing of the official bond in the county office.
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, county mayor's deputy, 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. § 8-19-113.

MORE INFO ON OATHS IN E-LI

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