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

- 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
TCSA OFFICIALS

County Executives / Mayors
County Commissioners
Highway Officials
### OFFICE OF COUNTY MAYOR

<table>
<thead>
<tr>
<th>Tenn. Const. Art. 7, Sec. 1</th>
<th>Required constitutional office except in counties with a metropolitan government or county charter</th>
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<tbody>
<tr>
<td></td>
<td>One of several constitutional county officers</td>
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<tr>
<td></td>
<td>Popularly elected to a 4-year term</td>
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</table>
DUTIES OF THE COUNTY MAYOR

• Duties determined chiefly by general law
• Private act may add duties not conflicting with general law
• Must share many executive duties with other constitutional offices
• Powers may be enhanced or lessened by county charter or metro charter, if office retained
AUTHORITY OF COUNTY MAYOR

Power rests more on persuasion than law

County Mayor Powers

Tennessee Code Annotated
Supplemented by private act in some counties
No implied powers
COUNTY MAYOR ROLES

General agent or “representative” of the county

Chief financial officer

Legislative leader (chair or veto power)

Executive appointments (limited)
COUNTY MAYOR & OTHER OFFICES

County Legislative Body

- Chair
- Veto power

Budget

- Preparation

Compensation

- Defends salary suits
- Signs letters of agreement

Financial

- Signs warrants or checks
COUNTY COMMISSIONER

- 9-25 members
- 3 or fewer per district
- Districts reapportioned every 10 years
- At-large or designated seat
- 4 year term (Art. 7, Sec. 1)
- Elected in August
COUNTY LEGISLATIVE BODY
BASIS OF AUTHORITY

Tennessee Code Annotated
Powers given by general law codified

Private Acts
May supplement powers given by
general law

Combined powers
Metro councils have combined powers
of city council and county commission
<table>
<thead>
<tr>
<th><strong>CLB Chair &amp; Pro Tempore</strong></th>
<th><strong>Elected at 1st meeting</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td><strong>1-year term</strong></td>
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<tr>
<td></td>
<td><strong>Own member or county executive/mayor</strong></td>
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<tr>
<td></td>
<td><strong>Mayor may refuse election &amp; retain veto power</strong></td>
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</tbody>
</table>
**COUNTY LEGISLATIVE BODY IN ACTION**

<table>
<thead>
<tr>
<th>Property Taxes</th>
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<tbody>
<tr>
<td>Levy property tax rate</td>
</tr>
<tr>
<td>Adopt annual budget</td>
</tr>
<tr>
<td>Must meet state funding requirements for mandated services</td>
</tr>
<tr>
<td>No limit on property tax rate</td>
</tr>
<tr>
<td>Must balance budget</td>
</tr>
</tbody>
</table>
CLB Powers

- Issue debt (subject to referendum)
- County property (except schools)
- Office space allocation
BUDGETARY VS FEE SYSTEM

County commission decides whether fee offices are on Budgetary or Fee System:

**Budgetary System**
- All fees are turned over to the general fund monthly
- All expenses of the office are budgeted
- Sheriff is always under budgetary system

**Fee System**
- Only “excess” fees are turned over quarterly
- Salaries and expenses are paid from fee account
COUNTY LEGISLATIVE BODY
INTERACTION

- Classifies roads and approves road list
- Approves official bonds of many offices
- Approves budgets
- Fills vacancies
- Confirms executive appointments
Where specifically granted by statute

REGULATORY POWERS

Zoning

Building Codes, Permits, Inspections

Animal Control

County Powers Act
ADOPTING LAWS OF LOCAL APPLICATION

Optional general laws
2/3 vote

Private acts
2/3 vote or referendum
HIGHWAY OFFICIALS

Chief Administrative Officer
- Popularly elected
- Appointed

Highway Board Member (some counties)
- Most are popularly elected
- Some appointed
COUNTY UNIFORM HIGHWAY LAW

Most counties operate under a general state law known as the County Uniform Highway Law (CUHL).

Shelby, Davidson, Knox and Hamilton counties are generally not under the CUHL (but some sections do still apply).
HIGHWAY OFFICIALS

Chief administrative officers in CUHL counties
- Serve a term of 4 years whether popularly elected or appointed (as determined by private act)

Highway Boards
- Optional
- Most established by private act
- Members selected and serve according to private act
COUNTY ROAD SYSTEM

Under the CUHL, the chief administrative officer exercises general policy making powers over the road system. Including general control over county road:

- location
- relocation
- construction
- reconstruction
- repair and maintenance
HIGHWAY DEPARTMENT POWERS

Under the CUHL, the chief administrative officer has full personnel powers

- hire, dismiss, and set salaries and wages within budget, even if there is an elected highway board

Purchasing officer for the highway department not determined by the CUHL
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 legislative body 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
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
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.
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

- **County Mayor**
  - $100,000 (minimum)
  - Filed with County Clerk

- **Highway Chief Administrative Officer**
  - $100,000 (minimum)
  - Filed with County Clerk

- **County Commissioner**
  - No bond
OFFICIAL BONDS

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.
- 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)