

COUNTY GOVERNMENT

OVERVIEW OF OFFICES





COUNTY GOVERNMENT

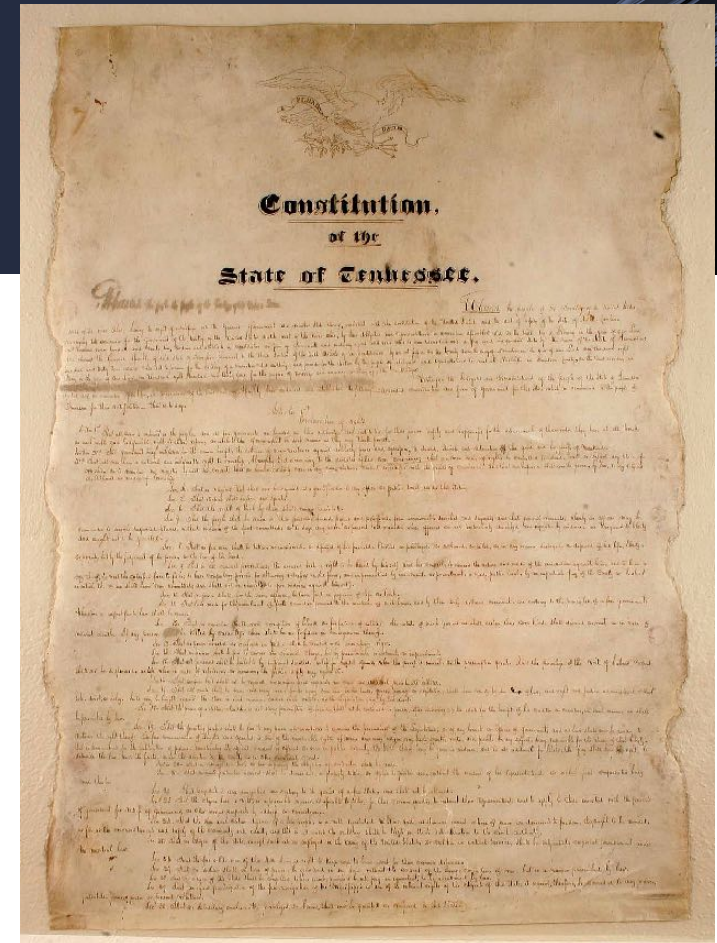
A collection of offices, boards and commissions with limited powers and duties defined by general law

- 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
Commissioner
s

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)

Highway Officials

- Private act (creates office)
- General law (sets out powers and duties)



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



**Tenn. Const. Art.
7, Sec. 1**

**Required constitutional office
except in counties with a
metropolitan government or county
charter**
**One of several constitutional county
officers**

Popularly elected to a 4-year term



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

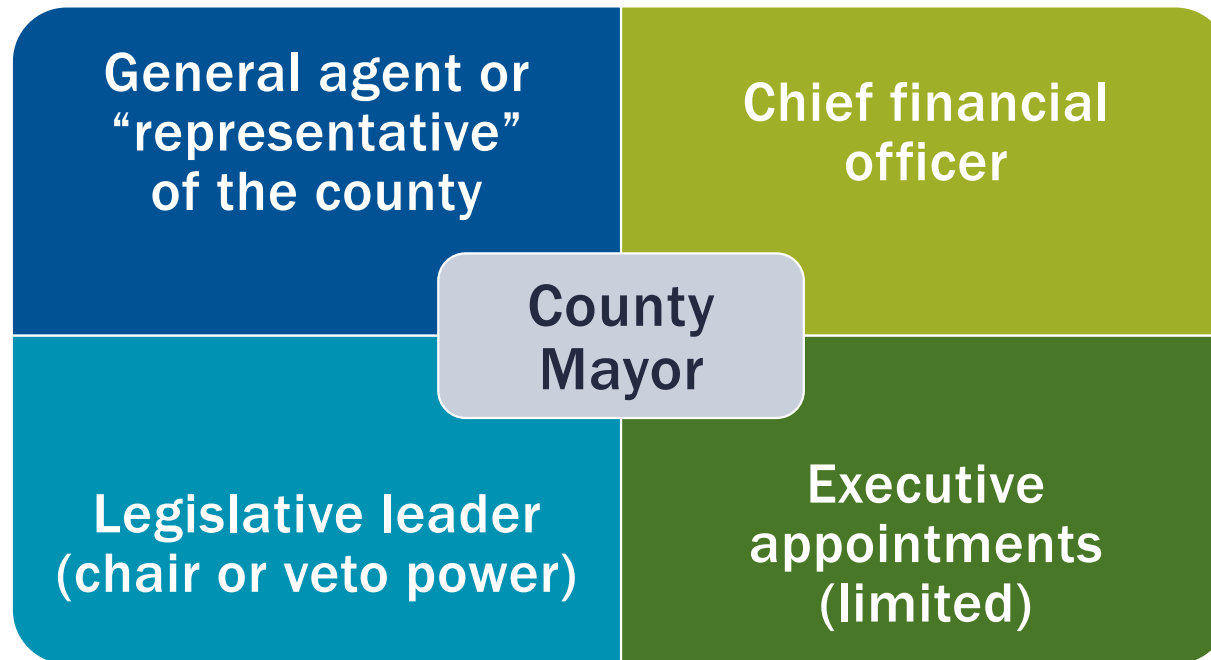


Supplemente
d by private
act in some
counties

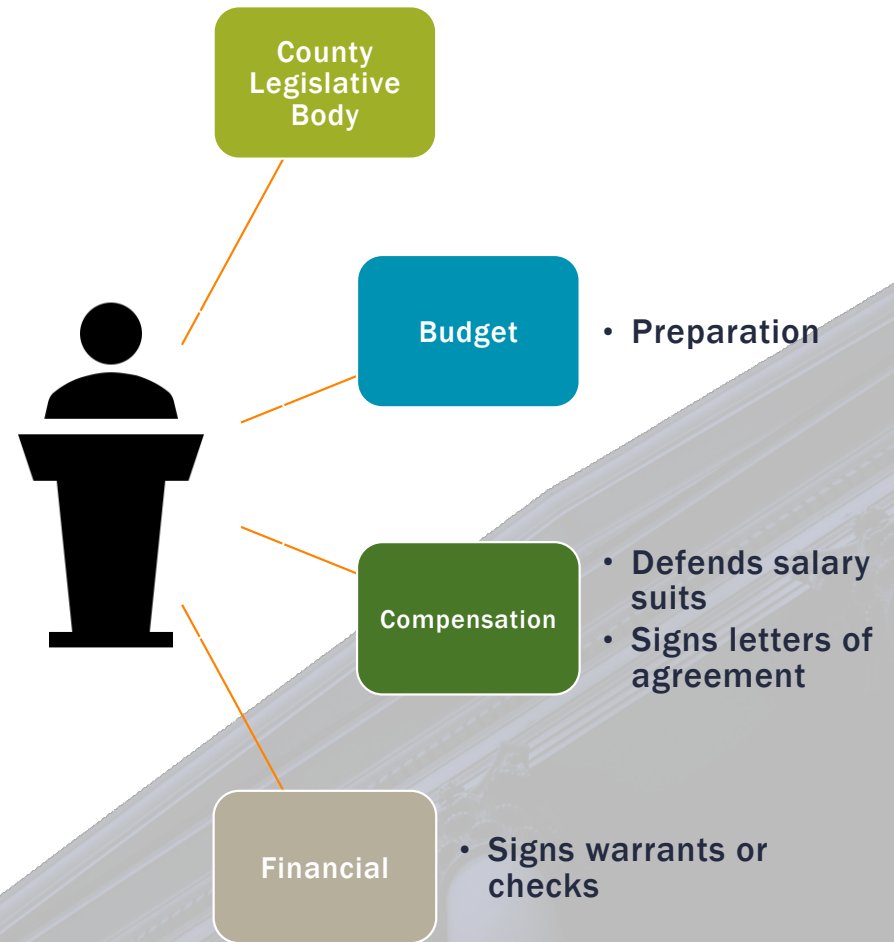
No implied
powers



COUNTY MAYOR ROLES



COUNTY MAYOR & OTHER OFFICES



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 IN ACTION

CLB Chair & Pro Tempore

Elected at 1st meeting

1-year term

Own member or county executive/mayor

Mayor may refuse election & retain veto power



COUNTY LEGISLATIVE BODY IN ACTION

Property Taxes

Levy property tax rate

Adopt annual budget

Must meet state funding requirements for mandated services

No limit on property tax rate

Must balance budget



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

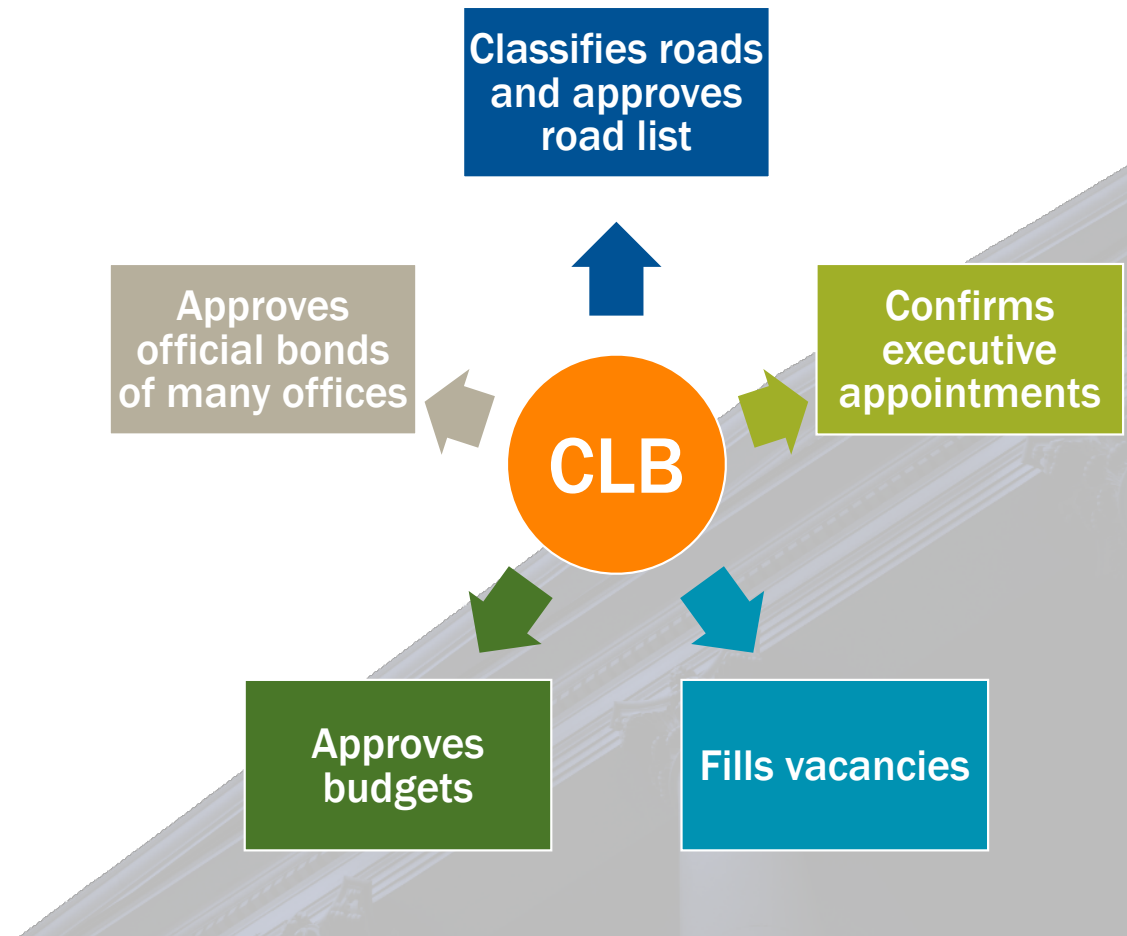
Fee System

Only “excess” fees are turned over quarterly

Salaries and expenses are paid from fee account



COUNTY LEGISLATIVE BODY INTERACTION



REGULATORY POWERS



Zoning

Building Codes,
Permits,
Inspections



Where specifically granted by statute

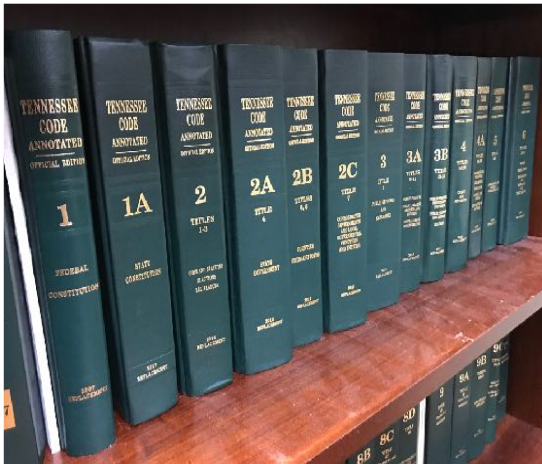


Animal Control

County Powers
Act

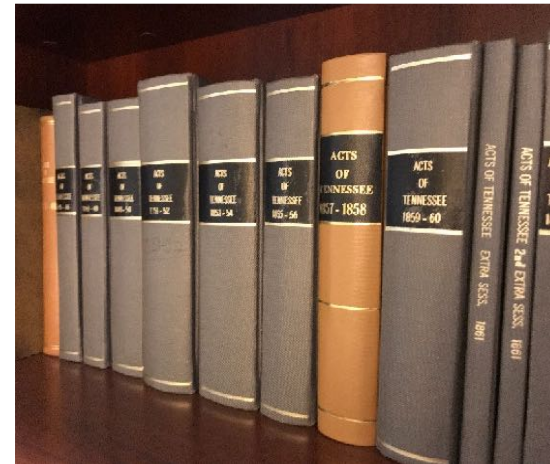


ADOPTING LAWS OF LOCAL APPLICATION



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



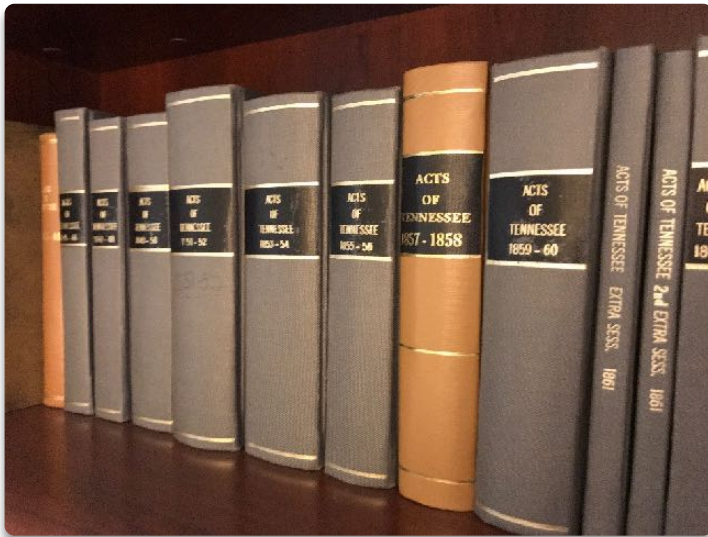
GENERAL LAW

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



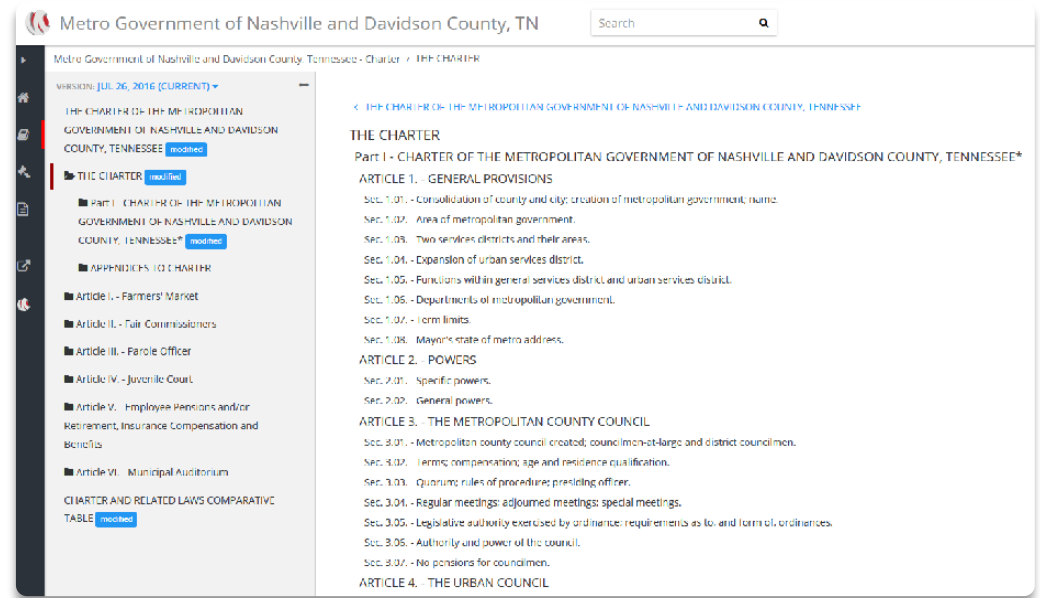
METRO CHARTERS

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

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

County Mayor

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

Highway Chief Administrative Officer

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

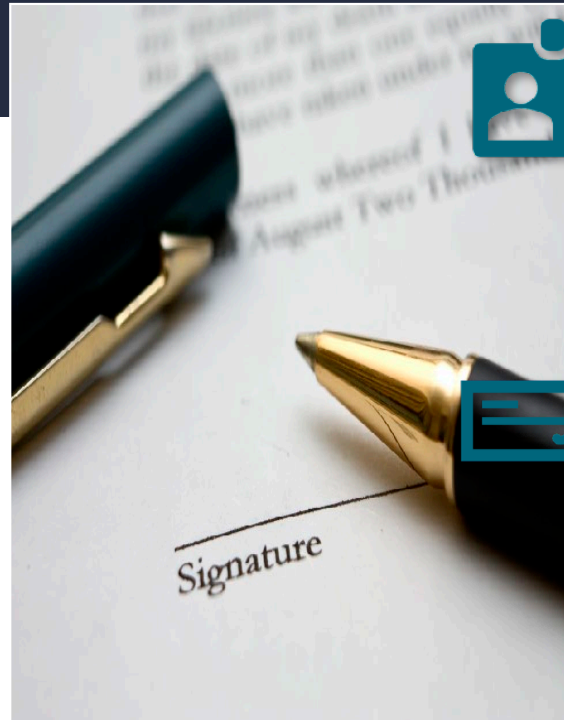
County Commissioner

- No bond



OFFICIAL BONDS

Amount of bond may be increased by county legislative body



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 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

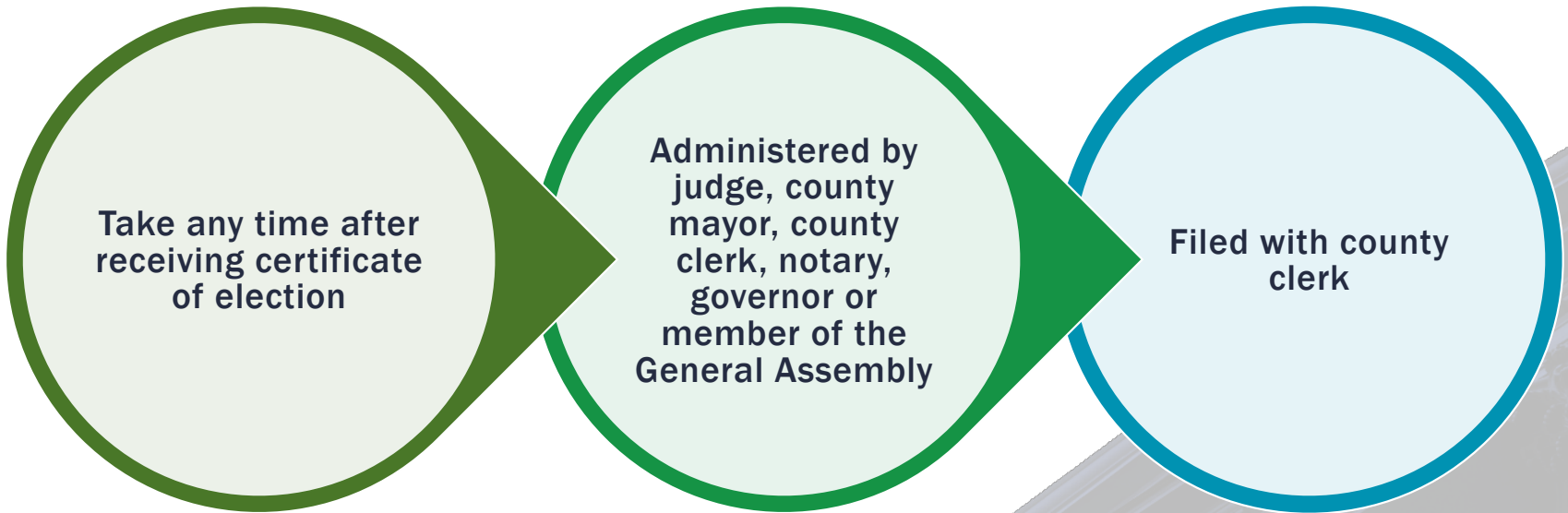


It is a Class C
misdemeanor to
perform any official act
before your bond is
approved!

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)

