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COUNTY GOVERNMENT

OVERVIEW OF OFFICES






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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

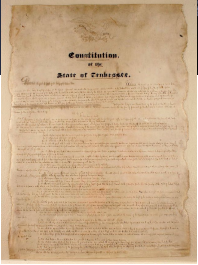
Cannot succeed without cooperation






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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

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BASIC FORM

County Executive (Mayor)

County Commissioners

County Clerk

Sheriff

Trustee

Register of Deeds

Assessor of Property

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)

Highway Officials

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

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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





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TCSA OFFICIALS








County Executives / Mayors
County Commissioners
Highway Officials



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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



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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




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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



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COUNTY MAYOR ROLES


General agent or "representative" of the county

Chief financial officer

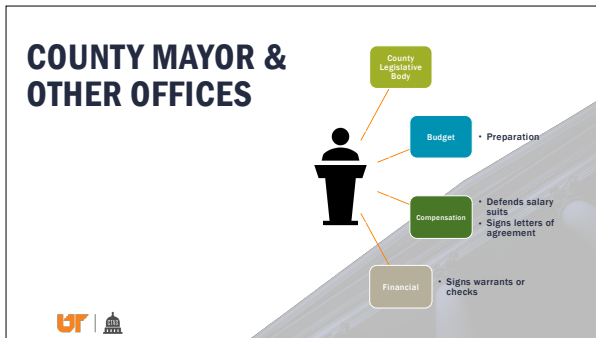
County Mayor

Legislative leader (chair or veto power)

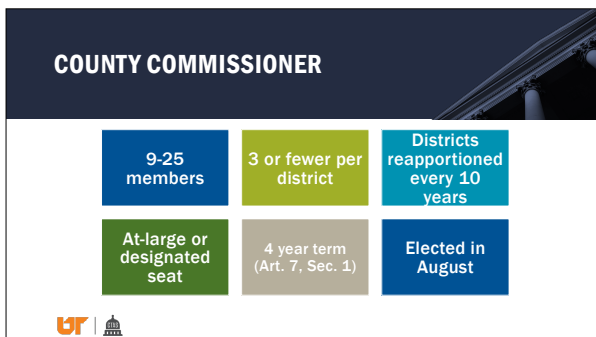
Executive appointments (limited)



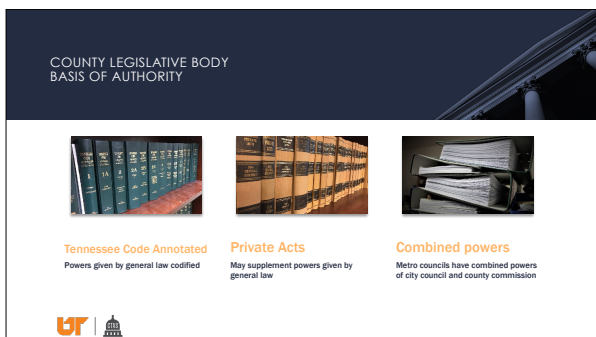
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COUNTY LEGISLATIVE BODY IN ACTION


CLB Chair & Pro Tempore

Elected at 1st meeting

1-year term

Own member or county executive/mayor

Mayor may refuse election & retain veto power



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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





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CLB Powers

 Issue debt (subject to referendum)

 County property (except schools)

 Office space allocation



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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

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COUNTY LEGISLATIVE BODY INTERACTION

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REGULATORY POWERS

Zoning

Building Codes, Permits, Inspections


Animal Control

County Powers Act

Where specifically granted by statute


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ADOPTING LAWS OF LOCAL APPLICATION




Optional general laws

2/3 vote



Private acts

2/3 vote or referendum



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HIGHWAY OFFICIALS

Chief Administrative Officer

- Popularly elected
- Appointed

Highway Board Member (some counties)

- Most are popularly elected
- Some appointed




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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)



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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



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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



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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



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COUNTY GOVERNMENT

BASIS OF AUTHORITY



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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




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SOURCES OF AUTHORITY

General Law

Charter/
Metro

Private Acts



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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





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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





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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



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COUNTY CHARTERS

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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



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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 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

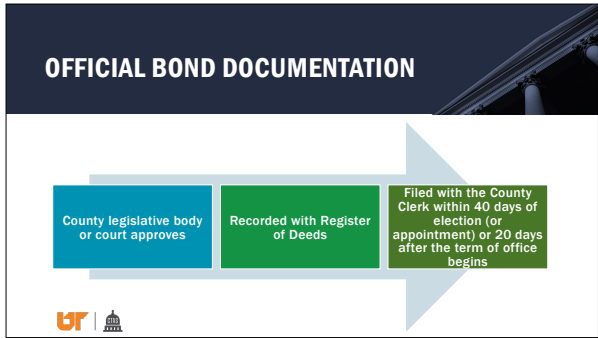
Made payable to state upon failure of official to keep promises made in bond

Bond is to protect county and state, not the official (surety may sue official to recover payout under bond!)

Surety premium paid by county



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OFFICIAL BONDS BY POSITION

County Mayor	Highway Chief Administrative Officer	County Commissioner
<ul style="list-style-type: none">• \$100,000 (minimum)• Filed with County Clerk	<ul style="list-style-type: none">• \$100,000 (minimum)• Filed with County Clerk	<ul style="list-style-type: none">• No bond

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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

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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.





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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




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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.



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

