COUNTY GOVERNMENT

OVERVIEW OF OFFICES

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

COUNTY GOVERNMENT

Cannot succeed without cooperation

TENNESSEE CONSTITUTION

Limits what
- 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
- County Commissioner
- County Clerk
- Sheriff
- 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

COUNTY MAYOR ROLES

General agent or "representative" of the county
Chief financial officer
Executive appointments (limited)
Legislative leader (chair or veto power)

AUTHORITY OF COUNTY MAYOR

Power rests more on persuasion than law

No implied powers
Supplemented by private act in some counties
Tennessee Code Annotated
provided by private act in some counties

No implied powers
Power rests more on persuasion than law
COUNTY MAYOR & OTHER OFFICES

- County Mayor
- County Executive
- County Commissioner

BASIS OF AUTHORITY

- Tennessee Code Annotated
- Private Acts
- Combined powers

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

- Combined powers
- Tennessee Code Annotated
- Private Acts
- Combined powers
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

COUNTY LEGISLATIVE BODY IN ACTION

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**

- County commission and sheriff classified roads and approves road list.
- Confirms executive appointments.
- Approves budgets.
- Fills vacancies.

---

**REGULATORY POWERS**

- Zoning
  - Building Codes, Permits, Inspections
- Animal Control
- County Powers Act

Where specifically granted by statute.
ADOPTING LAWS OF LOCAL APPLICATION

Optional general laws
2/3 vote

Private acts
2/3 vote or referendum

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).

HIGHSWAY OFFICIALS

Chief Administrative Officer
• Popularly elected
• Appointed

Highway Board Member
• Most are popularly elected
• Some appointed

COOP 2022 TCSA Kristy.key - August 15, 2022
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 roads:
- 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

- Creates and empowers counties
- Does not empower counties, but limits power of the state and its subdivisions, such as counties
  - Example: anti-discrimination laws

UNITED STATES OF AMERICA

NATURE OF AUTHORITY

- 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
the 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**

**OFFICIAL BOND**

A promise by the official to faithfully perform the duties of the office, pay over all moneys 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 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

<table>
<thead>
<tr>
<th>Official</th>
<th>Bond Amount</th>
<th>File Location</th>
</tr>
</thead>
<tbody>
<tr>
<td>County Mayor</td>
<td>$100,000</td>
<td>Filed with County Clerk</td>
</tr>
<tr>
<td>Highway Chief Administrative Officer</td>
<td>$100,000 (minimum)</td>
<td>Filed with County Clerk</td>
</tr>
<tr>
<td>County Commissioner</td>
<td>No bond</td>
<td></td>
</tr>
</tbody>
</table>

OFFICIAL BONDS

- 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.
- Issuance of 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 secured deposit or use of deposit.

It is a Class C misdemeanor to perform the duties of your office prior to taking and filing your oaths.
Sample Oaths of Office May Be Found in E-LI (Reference No. CTAS-30)