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Personnel Authority in Counties

Dear Reader:

The following document was created from the CTAS website (ctas.tennessee.edu). This website is maintained by CTAS staff and seeks to represent the most current information regarding issues relative to Tennessee county government.

We hope this information will be useful to you; reference to it will assist you with many of the questions that will arise in your tenure with county government. However, the *Tennessee Code Annotated* and other relevant laws or regulations should always be consulted before any action is taken based upon the contents of this document.

Please feel free to contact us if you have questions or comments regarding this information or any other CTAS website material.

Sincerely,

The University of Tennessee
County Technical Assistance Service
226 Anne Dallas Dudley Boulevard, Suite 400
Nashville, Tennessee 37219
615.532.3555 phone
615.532.3699 fax
www.ctas.tennessee.edu

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Reference Number: CTAS-123

As a general rule, each county official in Tennessee has authority over the employees within his or her office. This authority includes the hiring and firing of office employees and day-to-day office management within the parameters established by state and federal laws. It also includes responsibility for ensuring compliance with applicable laws. The funds available for county employee compensation and benefits is established by action of the county legislative body, but the official retains some discretion with regard to the compensation of individual employees within the office.

State laws, and sometimes resolutions of the county legislative body, establish the way that employees in various county offices are hired. The county mayor has the authority to hire secretaries and assistants where necessary to properly and efficiently transact the business of that office under T.C.A. § 5-6-116, as long as sufficient funds have been appropriated for this purpose. The chief administrative officer of the county highway department in the vast majority of counties has the authority to hire assistants under T.C.A. § 54-7-109, within the amounts set forth for that purpose in the highway budget.^[1] County fee officials (which include clerks of court, clerk and masters, county clerks, trustees, registers of deeds and sheriffs) are authorized to hire deputies and assistants as necessary to properly conduct the business of their respective offices under the statutory framework set out in T.C.A. § 8-20-101 *et seq.*, which requires either a letter of agreement or a court order establishing the number and compensation of these employees. The assessor of property hires deputies under the provisions of T.C.A. § 67-1-506.

The county legislative body has basic personnel authority over some employees under general law. Appointed department heads will find the authority under which the employees of their offices are hired either in the state law (public or private act) or in the resolution of the county legislative body which created their department. For example, in counties under the County Financial Management System of 1981, the finance director is authorized to hire employees for that office within the budget established by the county legislative body and in accordance with the policies promulgated by the financial management committee, as provided in T.C.A. § 5-21-107.

Under a state law^[2] enacted in 1997, county officials in almost all counties are required to establish written policies for compliance with certain laws, and the county legislative body is required to establish written policies for all employees who are not under written policies established by a county official. Finally, centralized personnel departments have been authorized by private act of the General Assembly in a very limited number of counties, and in some counties civil service laws have been enacted by general law or private act covering the sheriff's office.

It is important to determine who has the personnel authority in a particular office, as well as the extent of that authority. In general, the authority to hire employees carries with it the authority to terminate those employees; even if employment is subject to approval by the county legislative body, the employee generally may be dismissed without county legislative body approval.^[3]

[1] Only Shelby, Davidson, Knox, and Hamilton counties are excluded from the Tennessee County Uniform Highway Law. T.C.A. § 54-7-102.

[2] T.C.A. § 5-23-101 *et seq.*

[3] See Op. Tenn. Att'y Gen. 81-73 (No. 268) (February 2, 1981).

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