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County Employee Compensation

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,

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Reference Number: CTAS-124

The maximum amount that may be expended for employee compensation generally is established in the budget adopted by the county legislative body each year. The discretion to set individual compensation within the office depends on the laws pertaining to the particular county office.

The county mayor determines the compensation of the assistants in his or her office under T.C.A. § 5-6-116 to the extent that sufficient funds have been appropriated for this purpose. The chief administrative officer of county highway departments under the County Uniform Highway Law establishes the compensation of his or her employees within the budget adopted by the county legislative body pursuant to T.C.A. § 54-7-109. The assessor of property establishes the compensation of the employees of that office within the budget appropriated for that purpose under T.C.A. § 67-1-506.

The number and compensation of deputies and assistants for fee officials (which include clerks of court, clerk and masters, county clerks, trustees, registers of deeds and sheriffs) may be determined either by a letter of agreement or by a court order under T.C.A. § 8-20-101. If the fee official agrees with the amount budgeted by the county legislative body for deputies and assistants for his or her office, or if the fee official pays salaries directly from the fee account under the "fee system," the official and the county mayor may enter into a letter of agreement. The county legislative body is prohibited from reducing the amount budgeted for sheriff's office employees below current levels without the consent of the sheriff,^[1] but this prohibition does not apply to other offices. Any fee official who does not agree with the budgeted amount must obtain a court order for additional funding by filing a salary suit as outlined below.

Court orders for deputies and assistants are obtained by filing a petition with the appropriate court setting out the necessity for deputies and assistants, the number required and the salary that should be paid to each.^[2] The county mayor is named as the defendant in the petition. The county mayor is required to file an answer within five days after service of the petition, either agreeing with or denying the matters stated in the petition. The court will then hold a hearing and issue an order determining the appropriate number and compensation of deputies and assistants.^[3]

In 2022, the legislature passed PC 1079, completely rewriting T.C.A. § 8-20-102, which sets out the procedure for conducting a salary suit. It became effective on July 1, 2022.

The court hearing the application for additional personnel does not have the authority to direct the county legislative body to appropriate the funds needed to hire the new employees. If the county legislative body refuses to appropriate the funds required by the court's order, the official may seek a writ of mandamus to compel it to do so.

The courts in which the petitions are to be filed are set out in T.C.A. § 8-20-101, as follows:

1. Clerks of the circuit, criminal, and special courts file their petitions with one of the judges of their respective courts (but upon request of any party the case must be transferred to a court other than the one the clerk serves).
2. The sheriff files his or her petition with the criminal court, if there is one in the county, and otherwise with the circuit court.
3. Clerks and masters, trustees, county clerks, probate court clerks, and registers file their petitions with one of the chancellors.

Although court orders setting the number and compensation of deputies and assistants can be modified,^[4] no court order increasing expenditures will be effective for any fiscal year unless the petition was filed within 30 days after final adoption of the budget for that fiscal year. However, a new officer has 30 days from taking office within which to file a petition.^[5] The number and/or compensation of deputies and assistants can be decreased at any time by the official without the necessity of filing a petition.^[6] The county mayor may request that the court decrease the number and/or compensation of deputies and assistants.^[7] Either party may appeal the court's decision.^[8] The costs of all cases are paid out of the fees collected by the respective offices.^[9]

If the county official agrees with the amounts that are set forth in the budget adopted by the county legislative body, a court order is not necessary. Instead of filing a petition, the official can enter into a letter of agreement with the county mayor, using the form prepared by the state comptroller for this purpose. The letter of agreement is filed with the same court in which a petition would have been filed, but no litigation taxes, court costs or attorneys' fees can be charged in connection with the filing of the

letter of agreement.^[10]

- [1] T.C.A. § 8-20-120.
 - [2] T.C.A. § 8-20-101.
 - [3] T.C.A. § 8-20-102.
 - [4] See T.C.A. § 8-20-104.
 - [5] T.C.A. § 8-20-101(b).
 - [6] T.C.A. § 8-20-104.
 - [7] T.C.A. § 8-20-105.
 - [8] T.C.A. § 8-20-106.
 - [9] T.C.A. § 8-20-107.
 - [10] T.C.A. § 8-20-101(c).
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