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# Structure of County Government

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Dear Reader:

The following document was created from the CTAS website ([ctas.tennessee.edu](http://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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## Structure of County Government

Reference Number: CTAS-198

## Forms of County Government

Reference Number: CTAS-214

## County Government under the Tennessee Constitution

Reference Number: CTAS-443

Under the Tennessee Constitution, counties are an extension of the state and are deemed political subdivisions of the state created in the exercise of its sovereign power to carry out the policy of the state. Counties, as the creation of the state, are subject to control by Tennessee's legislature, known as the General Assembly. Although the General Assembly has very broad powers to deal with county government, the state's constitution places some limitation on its discretion regarding counties.

A long line of Tennessee Supreme Court case law has held that counties have no authority except that expressly given them by statute or necessarily implied from it. *Bayless v. Knox County*, 286 S.W.2d 579 (Tenn. 1955). Although statutes are the primary source of county authority, the Tennessee Constitution does contain a few provisions specifically addressed to county government. Counties have only the implied power to do acts necessary to enable them to exercise their expressed powers or to accomplish the objectives for which they were created.

## Article VII, Section 1: Elected Officials and Governmental Form

Reference Number: CTAS-5

Several amendments to the Tennessee Constitution were approved in 1978; among them was an amendment restructuring the basic framework of county government. Article VII, Section 1 of the Tennessee Constitution now provides counties with the following constitutional officers: county executive, sheriff, trustee, register, county clerk, and assessor of property. This Section also requires the election of a legislative body of not more than 25 members, with no more than three members to be elected from a single district. The General Assembly sets the qualifications and duties of these offices.

Before the 1978 constitutional changes, county government had been difficult to divide into executive, legislative, and judicial branches. With the creation of the office of county executive and of the county legislative body, along with several judicial interpretations of the powers and duties of each, county government is now more clearly divided into three branches, even though the county executive must share executive powers with other constitutional officers. The legislature is afforded wide latitude in determining the duties that may be assigned to the various constitutional officers. *Metropolitan Government v. Poe*, 383 S.W.2d 265 (Tenn. 1964).

Article VII, Section 1, also provides that the General Assembly "may provide alternate forms of county governments including the right to charter and the manner by which a referendum may be called." The Tennessee Supreme Court has stated that when the General Assembly authorizes any deviation from the government provided for in this article, such action must be ratified by the people in a referendum called for that purpose. *State ex rel. Maner v. Leach*, 588 S.W.2d 534 (Tenn. 1979). Other than the county charter (T.C.A. §§ 5-1-201 through 5-1-214), no additional alternatives are now offered by the General Assembly except for the metropolitan and unification forms of government which were provided for in an earlier constitutional amendment and implementing legislation. Tenn. Const., art. XI, § 9; T.C.A. §§ 7-1-101 through 7-3-313, 7-21-101 through 7-21-408.

## Article VII, Section 2: Vacancies In County Offices

Reference Number: CTAS-7

Vacancies in county offices are to be filled by the county legislative body, and any person so appointed serves until a successor is elected at the next election after the vacancy. The Tennessee Supreme Court has determined that the term "next election" means the next general election or other countywide election in the county. *McPherson v. Everett*, 594 S.W.2d 677 (Tenn. 1980). There is a statute (T.C.A. 18-1-402) that says judges fill the vacancy in the office of court clerk but that statute (from 1858) has been super-

seded by the 1978 amendment to the state constitution (Art. VII, Sec. 2) requiring vacancies in county offices to be filled by the county legislative body. See AG Op. No. 88-131.

## Article XI, Section 9: Limitation on Power Over Local Affairs

Reference Number: CTAS-6

The General Assembly has no power to pass a special, local, or private act that would remove an incumbent from any municipal or county office, change the term of office, or alter the salary of the office until the end of the current term. Any act of the General Assembly that is private or local in form or effect, applicable to a particular county, must require within the terms of the act either approval by a two-thirds vote of the county legislative body or approval by the people of the county in a referendum.

Article XI, Section 9, also provides for optional consolidation of municipal and county government. Such a consolidation must be approved by vote of those residents within the municipality as well as those who reside in the county outside the municipal corporation to be consolidated with the county government.

## Miscellaneous Tennessee Constitutional Provisions Affecting County Government

Reference Number: CTAS-8

Article II, Section 24, of the Tennessee Constitution, in a portion relevant to counties, states that "no law of general application shall impose increased expenditure requirements on cities and counties unless the General Assembly shall provide that the state share in the cost." Article II, Section 28, of the Tennessee Constitution deals with property taxation and other tax matters. It also states that each respective taxing authority shall apply the same tax rate to all property within its jurisdiction. However, the Supreme Court has found that the General Assembly may authorize counties to levy a different property tax rate on property within and without municipalities for school bonds, county road purposes, and perhaps other services as well. *Albert v. Williamson County*, 798 S.W.2d 758 (Tenn. 1990); Op. Tenn. Att'y Gen. 92-29 (April 7, 1992). Also, so-called "double taxation," levied by a county and city to fund similar services if statutorily authorized, is not unconstitutional. *Oliver v. King*, 612 S.W.2d 152 (Tenn. 1981); Op. Tenn. Att'y Gen. U95-96 (Dec. 22, 1995).

Article II, Section 29, grants the General Assembly the authority to authorize counties and municipalities to impose taxes for county or municipal purposes, in such a manner as is prescribed by law. This Section also states that the credit of a county or municipality may not be given or lent to or in aid of any person, company, association or corporation, except upon an election wherein a three-fourths majority of the voters cast ballots in favor of such an extension of credit.

Article VI, Section 13, provides for the appointment of clerks and masters by chancellors for terms of six years, and for the popular election of clerks of inferior courts, by county or district, for terms of four years. The circuit court clerk is the prime example of a popularly elected inferior court clerk.

Article X, Section 1, requires that every person chosen or appointed to any office of trust or profit under the constitution or any statute must take an oath to support the constitution of this state and of the United States, as well as an oath of office before entering on the duties of the office.

Article X, Section 3, prohibits any official or candidate from accepting any type gift or reward which might be considered a bribe. The Section also provides that any person who directly or indirectly promises or bestows any such gift or reward in order to be elected is punishable as provided by law.

Article X, Section 4, provides the method by which new counties may be established. This Section also restricts the General Assembly in consolidating counties by stating that the seat of justice may not be removed without approval by two-thirds of the voters of the county being abolished (*James County v. Hamilton County*, 89 Tenn. 237, 14 S.W. 601 (1890)), but this limitation does not apply to Obion and Cocke counties. This Section is complicated and limits the discretion of the General Assembly in dealing with the boundaries or existence of certain specified counties (which are often referred to as "constitutional" counties).

Article XI, Section 8, provides that the General Assembly cannot suspend the general law for the benefit of any individual or individuals. This provision has been interpreted by the courts to mean that the General Assembly cannot pass private or local legislation applicable to a single county or counties that contravenes a general law of mandatory statewide application, unless a reasonable basis for the discrimination can be found. See, e.g., *Knox County Educ. Ass'n v. Knox County Bd. of Educ.*, 60 S.W.3d 65 (Tenn. Ct. App. 2001).

Article XI, Section 17, provides that no county office created by the legislature shall be filled in any manner other than by vote of the people or by appointment of the county legislative body.

## Traditional Structure

Reference Number: CTAS-444

The most basic and widely used form of county government in Tennessee is one with a popularly elected county executive, entitled county mayor (T.C.A. § 5-6-101), who is the administrative head of the county, and a popularly elected county legislative body, which the General Assembly has formally entitled board of county commissioners and which is commonly referred to as the county commission. Members are generally referred to as county commissioners. T.C.A. § 5-5-102(f). This is the constitutionally required form of county government unless a county has followed the provisions provided by the Tennessee Constitution and implemented by statute a consolidated form of government with one or more of the county's municipalities, or an alternate form of government. Of course a consolidated government will have a legislative body of some type, but the size limitation of 25 does not apply. Tenn. Const., art. VII, § 1.

## County Charters

Reference Number: CTAS-445

The 1978 amendments to the Tennessee Constitution revised Article VII, Section 1, of the Tennessee Constitution, including adding the third paragraph as follows:

The General Assembly may provide alternative forms of county government including the right to charter and the manner by which a referendum may be called. The new form of government shall replace the existing form if approved by a majority of the voters in the referendum.

The Tennessee Supreme Court has determined that the Tennessee Constitution allows for three types or forms of county government: (1) the basic form which includes the constitutional offices, (2) consolidated city-county government, and (3) an alternative form, such as a county charter. The alternative form of county government authorized under the third paragraph of Article VII, Section 1 of the Tennessee Constitution may be created by the legislature without regard to the general type established in Article VII provided the legislature's action is ratified by referendum. *State ex rel. Maner v. Leech*, 588 S.W.2d 534 (Tenn. 1979), *Bailey v. County of Shelby*, 188 S.W.3d 539 (Tenn. 2006).

The General Assembly has provided an alternative to the standard form of government provided in the first paragraph of Article VII, Section 1 of the Tennessee Constitution through the means of a county charter. The county charter enabling law is found in *Tennessee Code Annotated*, Title 5, Chapter 1, Part 2. County charters are often referred to as "home rule" charters due to the discretion given by the legislature to the citizens of the county to alter the form or structure of the county government through the charter writing and referendum approval process. The legislature has also granted to counties with charters the power to adopt ordinances in a manner similar to that of a city government. Charter counties may adopt ordinances relating to purely county affairs and cannot interfere with the local affairs of any municipality. The county legislative body is authorized to provide penalties for the violation of ordinances, but these penalties cannot exceed certain statutory maximums. T.C.A. § 5-1-211. The Tennessee Supreme Court has ruled that a county charter may impose term limits on certain county officials although none is required by general law. *Bailey v. County of Shelby*, 188 S.W.3d 539 (Tenn. 2006); *Jordan v. Knox County*, 213 S.W.3d 751 (Tenn. 2007).

Any county wishing to adopt a charter must first create a charter commission by one of four possible methods--

1. Resolution of the county legislative body,
2. Proclamation of the county mayor ratified by a two-thirds majority vote of the county legislative body,
3. Petition by 10 percent of the qualified voters, or
4. Private act of the General Assembly.

Members of the charter commission are elected by popular vote if the resolution or petition method is used. If a proclamation by the county mayor is used, charter commission members are appointed in the proclamation from county legislative body districts with no more than three members from any one county legislative body district. Within nine months the charter commission must present a proposed charter, which is then submitted for approval in a referendum. The state statutes enabling a county charter require that the charter contain provisions assigning the functions and duties of the officers of the county, and state that the duties of the constitutional officers as prescribed by the general assembly cannot be

diminished under the new charter government. T.C.A. § 5-1-210. Thus, the county charter must provide for the constitutional county offices or otherwise assign the duties of the constitutional county offices to another office, agency, or official. *Jordan v. Knox County*, 213 S.W.3d 751, 773 (Tenn. 2007).

The statutes authorizing a county charter provide for organizational changes and ordinance powers but do not provide any extension of the authority for home rule in vital areas such as local option taxation. To date, only Shelby and Knox counties have chosen county charters, although other counties have studied the matter.

## County Consolidation Committee

Reference Number: CTAS-446

If a petition to consolidate a county or a portion of a county with one or more adjoining counties is signed by the qualified voters of any one county in a number equal to at least 25 percent of the number of votes cast in the county for governor in the last general election, then the state consolidation committee created by T.C.A. § 5-3-101 is required to appoint a county consolidation committee for the petitioning county. The county consolidation committee is composed of the county mayor and county trustee of the petitioning county and the county mayors of the adjoining counties and five signers of the petition designated by the governor. T.C.A. § 5-3-102. The state consolidation committee and the county consolidation committee act as a joint committee to consider the request for consolidation and hold hearings within the petitioning county. The joint committee reports its findings within 90 days of receiving the petition. If favorable to consolidation, the joint committee recommends the county or counties with which the petitioning county should be consolidated and sets new proposed boundaries. T.C.A. § 5-3-103. After proper publication in a newspaper or newspapers of general circulation in the affected counties, the proposed consolidation is subject to referendum called by the county election commission. T.C.A. § 5-3-104. The consolidation plan is approved if two-thirds of the qualified voters in the petitioning county vote in favor of the proposed consolidation. T.C.A. § 5-3-105.

## City-County Consolidation

Reference Number: CTAS-447

In 1953, Article XI, Section 9, of the Tennessee Constitution was amended to permit the General Assembly to "...provide for the consolidation of any or all of the governmental and corporate functions now or hereafter vested in municipal corporations with the governmental and corporate functions now or hereafter vested in the counties in which such municipal corporations are located." The General Assembly has devised two statutory processes through which counties may consolidate with the cities within them: the metropolitan government charter process codified in T.C.A. §§ 7-1-101 through 7-3-316, and the unification government charter process codified at T.C.A. §§ 7-21-101 through 7-21-408.

## Metropolitan Government Charters

Reference Number: CTAS-477

The metropolitan form of government combines the powers of a county with those of cities generally. T.C.A. § 7-2-108. Therefore, a metropolitan government can exercise more powers than a county charter government and can exercise these powers throughout the county, with some limitation regarding smaller municipalities within the county that retain their charters. Key features of a metropolitan government include the following:

1. A general services district for the entire county;
2. An urban services district;
3. Possible special service districts;
4. A unified school system;
5. Wide discretion on allocation of duties among officials, including those of constitutional officers, as determined by the charter;
6. The size of the legislative body (metro council) is determined in the charter (up to 20 voting members);
7. The existence, nature and extent of the executive and/or administrative offices are determined in the charter;
8. Optional control over and consolidation of utility districts; and
9. Full ordinance powers.

Although the metropolitan government may not act in contravention of general law, the wide powers granted to the metropolitan government by the legislature means that this form of government comes closest to "home rule" as is permitted under our current law.

The process to form a metropolitan government begins with the selection of a charter commission. A charter commission may be created by one of three methods. The most commonly used method is one in which the charter commission is created by a majority vote on a resolution approved by the governing bodies of both the most populous city (or, in certain circumstances, the county seat) and the county. A second method is by private act of the General Assembly. The third method is by petition signed by qualified voters in the county in a number equaling at least 10 percent of the votes cast in the county for governor in the last gubernatorial election. The commission members are either appointed by the county mayor and the mayor of the county's major city or elected by the voters as determined by the resolution or petition, if those methods are used, or by resolution if the petition does not specify a method of selecting charter members. If a private act is used, the private act determines the method of selection. If the resolution method is used, the county mayor appoints 10 members and the mayor of the most populous city appoints five members to a 15-member charter commission.

The charter must contain provisions for general services and urban services districts, for a metropolitan council and election of members to terms of office, for the selection of administrative and executive officers, for an education department, and for other administrative departments. Smaller (less populous) cities within the county may retain their charters if their governing bodies choose not to send representatives to the charter commission to write an appendix to the charter for inclusion of the smaller cities. Several cities and counties have formed charter commissions and voted on consolidation under the metropolitan government statutes, but only Nashville-Davidson County, Lynchburg-Moore County and Hartsville-Trousdale County have adopted a consolidated form of government as of this writing. One obvious difficulty in adopting a metropolitan form of government is the requirement that the metropolitan government charter receive a majority of the referendum votes both within the city and outside the city that is to consolidate with the county.

The Tennessee Advisory Commission on Intergovernmental Relations (TACIR) has produced an excellent publication entitled *Forming a Metropolitan Government*.

## Unification Government Charters

Reference Number: CTAS-478

The unification charter form of government is similar to the metropolitan model; however, while the latter form is available to all counties, the unification form is available only to counties with a county or metropolitan charter. T.C.A. §§ 7-21-101 through 7-21-408. The unification government charter process may differ somewhat from that of the metropolitan government charter process. The unification government charter commission may be initiated by proclamation of the county mayor or resolution of the county legislative body, but the mayor's proclamation is subject to ratification by the county legislative body. Also, the county's action must be approved by the legislative body of the most populous city in the county for a charter commission to be formed. A county proclamation must appoint eight members to the charter commission, then the city mayor appoints eight members, and one member is appointed by the mayor of any smaller city electing to participate. A noteworthy substantive difference from a metropolitan government is that the unification charter must provide for a chief executive and a legislative body of a limited size--nine to 19 members.

As of this writing no county has adopted a unification charter although it has been the subject of a vote in Knoxville and Knox County.

## Private Acts

Reference Number: CTAS-2186

Counties have relied upon private acts of the General Assembly to provide authority where none was granted by the general law, and to provide for offices not established by the general law. The 1978 amendment to Article VII, Section 1, was an attempt to provide greater uniformity in county governmental structure; the implementing legislation passed by the General Assembly provided that all conflicting general laws or private acts were repealed by it. This means that counties with varying structures under private acts adopted prior to 1978 were required to conform to the uniform pattern provided by the General Assembly. Counties having structures of county government varying from the general law pattern under private acts adopted prior to 1978 have since taken action to elect county mayors and legislative bodies and otherwise conform to the required pattern. Private acts continue to provide authority for actions that are not specifically authorized in the general law and for officials or



bodies not provided by general law, such as county highway commissions in many counties. Private acts are the authority for some taxing powers in many counties, such as hotel/motel taxes and development taxes (e.g., adequate facilities taxes). The general law provides the county legislative body the authority to adopt a wheel tax subject to a referendum or by a two-thirds vote at two consecutive regular meetings subject to a referendum only if an adequate petition is filed (10 percent of the votes cast in the last gubernatorial election), but this general law also recognizes that a private act may serve as authority for a county wheel tax. T.C.A. § 5-8-102. Also, private acts are needed in counties without county charters or consolidated government charters to determine the method of selecting the chief administrative officer of the county highway department. Therefore, private acts remain useful additions to the general law authority that counties may exercise.

When a county legislative body deems a private act is in the best interest of the county, it usually adopts a resolution requesting a member of the General Assembly representing the people of the county to introduce such a bill. Such a resolution is not required by law but is a commonly accepted practice. After a private act bill passes the General Assembly and becomes law either upon the signature of the governor or after being on the governor's desk without veto for the constitutionally required 10 calendar days, Sundays excepted, the private act must still obtain local approval before the act is effective. Tenn. Const., art. III, § 18 and art. XI, § 9. The method of local approval is provided for in the act itself and is either by two-thirds majority of the county legislative body or by a majority of the voters in a referendum. Also, for the private act to become effective, local approval must take place within any time limit set in the act, or if no time limit is set in the act, then by December 1 of the year of enactment. Local approval must be certified to the secretary of state by the presiding officer (chair) of the county legislative body or the chair of the county election commission, as appropriate. T.C.A. § 8-3-202.

On the CTAS website you can view the most current versions of the private acts.

## Private Acts of the General Assembly

Reference Number: CTAS-448

Counties have relied upon private acts of the General Assembly to provide authority where none was granted by the general law, and to provide for offices not established by the general law. The 1978 amendment to Article VII, Section 1, was an attempt to provide greater uniformity in county governmental structure; the implementing legislation passed by the General Assembly provided that all conflicting general laws or private acts were repealed by it. This means that counties with varying structures under private acts adopted prior to 1978 were required to conform to the uniform pattern provided by the General Assembly. Counties having structures of county government varying from the general law pattern under private acts adopted prior to 1978 have since taken action to elect county mayors and legislative bodies and otherwise conform to the required pattern. Private acts continue to provide authority for actions that are not specifically authorized in the general law and for officials or bodies not provided by general law, such as county highway commissions in many counties. Private acts are the authority for some taxing powers in many counties, such as hotel/motel taxes and development taxes (e.g., adequate facilities taxes). The general law provides the county legislative body the authority to adopt a wheel tax subject to a referendum or by a two-thirds vote at two consecutive regular meetings subject to a referendum only if an adequate petition is filed (10 percent of the votes cast in the last gubernatorial election), but this general law also recognizes that a private act may serve as authority for a county wheel tax. T.C.A. § 5-8-102. Also, private acts are needed in counties without county charters or consolidated government charters to determine the method of selecting the chief administrative officer of the county highway department. Therefore, private acts remain useful additions to the general law authority that counties may exercise.

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# Intergovernmental Agreements

Reference Number: CTAS-449

The Constitution of Tennessee, legislation enacted by the General Assembly and administrative rules and regulations issued by agencies of the executive branch control the relationship between the State of Tennessee and its political subdivisions. The courts of the state interpret the provisions of the Constitution and ultimately determine the validity of statutes and regulations. The attorney general regularly issues opinions on the constitutionality, operation and effect of statutes. Opinions by the attorney general are particularly influential in Tennessee. For example, county officials frequently resolve disputes over various interpretations of law following the issuance of an attorney general's opinion, avoiding the necessity and expense of a court test. Also, legislators often request opinions about the authority of counties to perform functions contemplated in pending legislation or about what actions the state can legally take with regard to county governmental affairs.

County officials and personnel deal with state government as a matter of course in their daily activities. The county is not separate from the state, but is part of the state. It is a basic unit in the organization of political parties and in the administration of elections. County officials administer what are essentially state programs in areas of health and welfare, schools, courts and the collection of license fees and taxes. Counties supply services the state cannot provide or chooses not to provide. County sheriffs enforce state law and counties incarcerate thousands of state prisoners in local jails. The state oversees these activities performed on its behalf and often provides county programs with administrative and financial assistance.

The state comptroller's office has a division of local government audit responsible for seeing that local government finances are audited properly, while watching for potential financial difficulties. Another official in the office of the comptroller reviews local bond issues and advises local governments on bond problems. The state provides an Elections Coordinator in the office of the Secretary of State who works with local governments on local election problems and issues, giving assistance in election law and procedures. The Tennessee Emergency Management Agency is available to assist any local government in times of disaster. The Police Officers Standards Commission prescribes qualifications and training for local law enforcement officers. County jails are inspected in accordance with state laws.

The state is particularly cooperative in county purchasing and financial management. State law empowers counties to make purchases under the state purchasing contract without letting bids. This means automobiles, road salt, typewriters and anything that the state purchases can be purchased by local governments under the same contract. The state operates a Local Development Authority (LDA). Under the LDA, the state issues revenue bonds and loans proceeds to local governments for the construction of wastewater treatment projects. Local governments pay off these bonds through the revenues from local user charges. The state has also authorized a local government investment pool through which counties and other entities can invest idle funds with full protection.

State and counties share some of the same revenue sources. The state collects not only the state sales tax, but also county and municipal sales taxes. The state retains a small administrative fee for collecting local sales taxes and remits the balances to the county trustee for distribution within that county. The state also collects the state gasoline tax which is shared with cities and counties.

There are numerous worthy governmental programs and purposes which could not be performed or executed without extensive state and county cooperation. For example, the state Fire Marshal's office in the Department of Insurance, is responsible for reviewing the plans of all schools, multi-story office buildings and institutional buildings in each local jurisdiction to make sure they are safely constructed. The Department of Health and Environment has a technical assistance program to assist local wastewater treatment facility operators to comply with environmental regulations. The Department of Economic and Community Development works with cities and counties to help them recruit industrial prospects and to publicize local resources. These are a few of the ways counties interact with the state on a daily basis for a variety of reasons and functions.

The state of Tennessee has been divided into nine development districts for the purpose of regional planning, joint community and economic development projects, and the provision of certain services on a regional basis. Each development district serves as an area agency on aging that administers many programs based on federal funds that are passed through the state to the development districts to assist elderly and disabled citizens. Each county, plus each municipality is represented on the board of the development district for the region along with other state representatives. The county mayor represents his or her county on the development district board and may serve on its executive committee.

Another form of intergovernmental cooperation is the representation of local governments on state boards and commissions. Some of the bodies on which county officials are represented include the Tennessee Advisory Commission on Intergovernmental Relations, the Air Pollution Control Board, the Consolidated

Retirement System Board of Trustees, the Emergency Medical Services Board, the Tennessee Housing Development Agency, the Peace Officers Standards and Training Commission, the Solid Waste Disposal Control Board, the Water Quality Control Board, and many others. Local government representation on these boards and commissions is provided for by statute.

## Interlocal Agreements

Reference Number: CTAS-479

Within county boundaries exist the county government, sometimes several city governments and special service districts. These entities may have contractual relationships for the provision of services with one or more of the others. A county may be part of an economic development district, a planning district, a federal regional project or it may have an agreement with an adjoining county to supply emergency medical or fire fighting services. Examined from the local level upward, the administration of government in Tennessee depends on numerous small units interacting with even smaller units as well as the large agencies and departments of the state. The sheer number of these units raises questions of their necessity, efficiency and ability to interact effectively.

Interlocal agreements, for the joint exercise of powers, may be entered into between cities, counties, and other public agencies of the state and the federal government. Under Title 12, Chapter 9, Part 1 of the Tennessee Code Annotated, local governments are permitted to cooperate with other localities in an attempt to provide services and facilities in the most efficient and mutually advantageous fashion. Pursuant to this Interlocal Cooperation Act, agreements for the joint exercise of powers may be entered into by cities, counties, and other public agencies of the state and the federal government. T.C.A. § 12-9-104. Governing bodies may enter into contracts "with any one or more public agencies to perform any governmental service, activity or undertaking which each public agency entering into the contract is authorized by law to perform". T.C.A. § 12-9-108. These contracts should set out in detail the "purposes, powers, rights, objectives and responsibilities of the contracting parties" and must be authorized by the governing body of each party to the contract. T.C.A. § 12-9-108. These contracts generally deal with ongoing services. For example, they may govern how a city and county run a joint solid waste transfer station. Also, a municipality may enter into an agreement with the sheriff, court of general sessions and the county legislative body of any county in which it is located to provide for the enforcement of the municipality's ordinances T.C.A. § 12-9-104. There are also other statutes providing specific authority for an interlocal agreement to deal jointly with a particular activity. Examples are interlocal agreements for joint jails or workhouses among adjoining counties (T.C.A. § 5-7-105) and urban-type public facilities for utilities such as water and sewer services. T.C.A. §5-16-107.

Any interlocal agreement that creates a local government joint venture must be filed with the comptroller of the treasury within 90 days of its execution. Each county participating in a local government joint venture must file an annual statement with the comptroller stating the names of the parties to the agreement, the annual revenue and expenses of any entity created under the agreement and such other information as the comptroller may require. T.C.A. § 12-9-112(a).

While the Intergovernmental Cooperation Act gives broad authority to all governmental units, T.C.A. §§ 5-1-113 and 5-1-114 give specific powers to counties. A county may contract with any city within its borders to conduct, operate and maintain services and functions of the two governments. Also, any two contiguous counties may cooperate to jointly conduct or finance necessary services. No government may agree to cooperate in any activity except one in which each government may participate separately. The Tennessee Code sets out the functions in which a government may engage. Many laws authorizing specific activity often contain permissive clauses for cooperative performance by local governing bodies (see, e.g. T.C.A. §§ 12-9-101 through 12-9-109).

Tennessee Code Annotated § 7-51-402, provides that counties, municipalities, utility districts and cooperatives of this state billing and collecting user fees, rates or charges for a utility service, including but not limited to, water, sanitary sewer and electricity, or for garbage and refuse collection and disposal services, are authorized by resolution to enter into agreements with each other to provide for this billing and collection to be done one for the other on such terms as may be agreed upon.

## Mutual Assistance and Mutual Aid Agreements

Reference Number: CTAS-480

When disasters strike, they often tax the resources and personnel of a local government beyond its capacity to respond properly. In such situations, neighboring cities and counties have the opportunity to be lifesavers, often literally. Under the Mutual Aid and Emergency and Disaster Assistance Act of 2004 (discussed below), a statewide system of mutual assistance exists that may be used at the option of the

local government. Prior to the enactment of this legislation, many local governments had mutual aid agreements in place. The local governments that wished to keep these older agreements in force had to adopt a resolution before July 1, 2004, to extend them. If the local government did not pass such a resolution, then the provisions of the 2004 law are in effect in the county. This re-adoption requirement to keep an old agreement does not affect service and operational agreements between local governments that are not emergency or disaster related. Also, local governments may adopt new mutual aid agreements.

*The 2004 Mutual Aid and Emergency and Disaster Assistance Act* makes a distinction between aid, which is provided under this law on request in situations in which there has been no declaration of a state of emergency or disaster and for which no cost reimbursement is required, and assistance, which is provided after an emergency or disaster is declared and for which cost reimbursement is required. The law allows municipal and county mayors and executives to declare local states of emergency. Requests for aid or assistance may be made verbally, but such requests must be confirmed in writing within 30 days of the initial request.

Parties must keep records of all requests for assistance made under the act. The law allows a responding entity to send personnel and equipment anywhere in the state to respond to a request for aid or assistance, but there is no duty to respond to a request or to stay at a scene for any length of time. Responding employees and entities acting outside their boundaries have the same protections they have in their home jurisdiction.

For liability purposes, employees of the responding party will be considered employees of the requesting party while under the requesting party's supervision. At all other times, they will be considered employees of the responding party. The requesting party is required to pay the responding party all documented allowable costs incurred by the responding party in providing assistance after a state of emergency has been declared. The responding party is entitled to one-half its reimbursable costs for the first six hours of its response and 100 percent after six hours are exceeded.

This does not apply to responding utilities, which are to be reimbursed for 100 percent of their costs from the beginning of the state of emergency. The requesting party is required to reimburse personnel costs and equipment and material costs according to Federal Emergency Management Agency (FEMA) fee schedules. The responding party must maintain records and submit itemized invoices for reimbursement to the requesting party no more than 60 days after the provision of assistance has ended. This law allows, but does not require, local government entities to provide aid or assistance to any state or federal entity upon request in any part of Tennessee. T.C.A. § 58-8-101 *et seq.*

Tennessee Fire Service Emergency Response System--The Tennessee Fire Chiefs Association created the Tennessee Fire Service Emergency Response System to provide for the systematic mobilization, deployment, organization, and management of fire service resources to assist local agencies in a large fire event, disaster, or other major emergency.

## County Statutory Offices and Positions

Reference Number: CTAS-215

In addition to the county constitutional offices and important statutory offices such as the chief administrative officer of the county highway department and the important employment position of director of schools, counties have various other offices and employment positions that have been created by either general law or private act. Some of the offices and positions described are not found in all counties but are fairly common.

An explanation of the office of Judicial Commissioner can be found under Courts. Election Administrators are covered under Elections and County Building Commissioner is covered under Land Use, Planning and Zoning.

## County Attorney

Reference Number: CTAS-450

The county attorney or law director is a popularly elected official in a few counties by private act or county charter, an officer elected for a term of office by the county legislative body under a private act in a few others, and an executive appointed department head in others by county or metropolitan government charter. In most counties, however, there is not an office of county attorney; rather, the position is one of employment or retainer under the general law authority of the county mayor to employ or retain counsel when there is no county attorney. An attorney employed or retained by the county mayor is to advise the county mayor and the members of the county legislative body as to their legal rights as members, prepare resolutions for passage by the body, and represent the county either as plaintiff or defendant in such suits

as may be brought by or against the county, except suits by the county to collect delinquent taxes. An attorney employed or retained by the county mayor under this general law authority is entitled to a reasonable fee for such counsel's services and/or retention, which amount is to be fixed by a majority vote of the members of the county legislative body at one of its regular meetings and paid out of the general fund of the county. T.C.A. § 5-6-112. The counties that have an office of county attorney or law director by charter or private act may have different duties and compensation schemes, but all play an important role in advising the county mayor or metropolitan mayor and representing the county. The county charter, metropolitan government charter or private acts must be examined to determine the exact role and duties of the county attorney in those counties.

## County Medical Examiner

Reference Number: CTAS-451

The county medical examiner is appointed by the county mayor, subject to confirmation by the county legislative body, based on a recommendation from a convention of physicians resident in the county. A county medical examiner must be a physician who is either a graduate of an accredited medical school authorized to confer upon graduates the degree of doctor of medicine (M.D.) and who is duly licensed in Tennessee, or is a graduate of a recognized osteopathic college authorized to confer the degree of doctor of osteopathy (D.O.) and who is licensed to practice osteopathic medicine in Tennessee, and must be elected from a list of a maximum of two (2) doctors of medicine or osteopathy nominated by convention of the physicians, medical or osteopathic, resident in the county, the convention to be called for this purpose by the county mayor. T.C.A. § 38-7-104.

If it is not possible to obtain an acceptance as a county medical examiner from a physician in a county, authority is given for the election of a county medical examiner from an adjacent or another county. A county medical examiner, when temporarily unable to perform the duties of the office, has the authority to deputize any other physician in the area to act as county medical examiner during the absence. If the county legislative body fails to certify a county medical examiner for a county or if the county medical examiner resigns or is unable to fulfill the duties of the office during the interim between county legislative body sessions and a deputy has not been appointed by the county medical examiner, the chief medical examiner shall have the authority to appoint a county medical examiner to serve until the next session of the county legislative body. T.C.A. § 38-7-104.

A county medical examiner shall serve a five-year term, and shall be eligible for reappointment by the county mayor with confirmation by the county legislative body. T.C.A. § 38-7-104.

## County Medical Investigator

Reference Number: CTAS-452

A medical investigator must be a licensed emergency medical technician (EMT), paramedic, registered nurse, physician's assistant or a person registered by or a diplomat of the American Board of Medicolegal Death Investigators and approved by the county medical examiner as qualified to serve as medical investigator

If the county has an elected coroner, the coroner shall serve as the medical investigator for the county; provided, that the coroner meets the qualifications for a medical investigator. If the coroner is not qualified to serve as medical investigator, then the county legislative body shall, by resolution, either authorize the county medical examiner to appoint a medical investigator subject to confirmation by the county legislative body, or provide for this function through a contract for service approved by the county medical examiner and the county legislative body; provided, however, that, if the county has an elected coroner who has served in that capacity for ten years or more, the coroner shall serve as the medical investigator for the county, regardless of whether the coroner meets the qualifications set out in T.C.A. § 38-7-104(f)(1)

The county medical investigator may conduct investigations when a death is reported, as provided in T.C.A. § 38-7-108, under the supervision of the county medical examiner. The county medical investigator may make pronouncements of death and may recommend to the county medical examiner that an autopsy be ordered. However, the county medical investigator shall not be empowered to sign a death certificate. The county medical examiner may delegate to the county medical investigator the authority to order an autopsy.

T.C.A. § 38-7-104(f).

## County Coroner

Reference Number: CTAS-453

The county legislative body is granted discretionary authority to create the office of county coroner. If such office is created, the county legislative body must elect a coroner who holds office for two years, and until a successor is qualified. However, in those counties that have a county medical examiner, the county legislative body may vest the duties of the county coroner in the county medical examiner and is not required to elect a county coroner. T.C.A. § 8-9-101.

The coroner must, before entering upon the duties of that office, enter into an official bond prepared, executed, filed, and recorded in accordance with Title 8, Chapter 19. The bond must be in the amount of two thousand five hundred dollars (\$2,500), or a greater amount set by the county legislative body by resolution, payable to the state, conditioned truly and faithfully to execute the duties of the office of coroner. The coroner, if failing to give bond within ten days after appointment, shall vacate the office. T.C.A. § 8-9-103.

## Constable

Reference Number: CTAS-454

Constables are optional officers. Constables are independently elected county officials. See AG OP 78-153 (March 31, 1978). Their jurisdiction is county wide. In counties where they exist, they all may serve civil process. In some counties, designated by narrow population class in the general law at T.C.A.

§ 8-10-108(b), the constable has law enforcement powers and, therefore, may enforce the criminal laws of this state. T.C.A. § 8-10-109.

Constables are fee officials. They do not receive a salary. They are not supervised by anybody. See AG OP 02-012 (January 18, 2002). The county would probably be liable for torts committed by a constable that fall within the Governmental Tort Liability Act, T.C.A. §§ 29-20-101, et seq., and for civil rights violations under 42 U.S.C. § 1983. See AG OP 00-050 (March 20, 2000); AG OP 91-70 (August 1, 1991).

In most counties the county legislative body may, by adopting a resolution by two-thirds majority vote at two consecutive meetings, abolish the office of constable for that county or set the term of office for the constable at either two or four years. Any change would not be effective until the end of the current term being served by the constable. T.C.A. § 8-10-101.

In most counties, the county legislative body may also, by adopting a resolution by a two-thirds vote at two consecutive meetings of the county legislative body, remove the law enforcement powers exercised by the constables of the county. Such action by the county legislative body to remove the law enforcement powers of constables will apply to constables elected to office following the expiration of the term of office of constables in office at the time the action is taken by the county legislative body. T.C.A. § 8-10-109. Note: Some exceptions apply.

In addition to these optional procedures, several counties, by population class exceptions, are exempt from portions of the constable law or have abolished the office of constable entirely. The specific statute should be consulted for provisions applicable to each individual county. T.C.A. § 8-10-101 *et seq.*

Constables are elected from districts established by the legislative body subject to the following limitations: the number of constables elected cannot exceed one-half the number of county commissioners and constable districts must be reasonably compact and contiguous and must not overlap. T.C.A. § 8-10-101. Constables must have the following qualifications:

1. Be at least twenty-one (21) years of age,
2. Be a qualified voter of the district and a resident of the county for one (1) year prior to the date of the qualifying deadline for running as a candidate for constable,
3. Must be able to read and write,
4. Must possess at least a high school diploma or general educational development certificate,
5. Not have been convicted in any federal or state court of a felony, and
6. Not have been separated or discharged from the Armed Forces of the United States with other than an honorable discharge.

There are a few exceptions to the aforementioned qualifications. T.C.A. § 8-10-102.

Any person seeking the office of constable must file with the county election commission, along with the nominating petition, an affidavit signed by the candidate affirming that the candidate meets the requirements in T.C.A. § 8-10-101. In the event that person seeks election to the office of constable by

the county legislative body to fill a vacancy in office, the same affidavit shall be filed with the county clerk prior to the election. T.C.A. § 8-10-102.

In 2023, the legislature amended T.C.A. § 8-10-102. Effective July 1, 2023, a person seeking the office of constable must file with the county election commission, along with the nominating petition, a letter from a psychologist licensed in this state who has conducted a cognitive and psychological test on the candidate stating that the candidate is mentally and cognitively fit to perform the duties of a constable. In the event that the candidate seeks election to the office of constable by the county legislative body to fill a vacancy in office, the same letter must be filed with the county clerk prior to the election. Candidates for the office of constable are responsible for covering the costs of cognitive and psychological testing.

Before entering into the duties of the office, the constable must take an oath to support the constitutions of this state and of the United States, and an oath of office, pursuant to T.C.A. § 8-10-108. Each constable must execute an official bond in an amount of \$4,000 or such greater amount as the county legislative body by resolution may determine. The bond must be prepared, executed, filed, and recorded in accordance with Title 8, Chapter 19. The bond as required for a constable shall be a surety bond executed by a surety company authorized to do business in Tennessee as surety. T.C.A. § 8-10-106.

There are permissive specifications regarding uniforms and car markings. T.C.A. §§ 8-10-119, 8-10-120.

Constables' duties may be limited to serving civil process or may include peacekeeping duties; the oath of office differs according to the nature of the duties. T.C.A. § 8-10-108. The duties of the constable are determined according to the population classification of the particular county pursuant to T.C.A. §§ 8-10-108 and 8-10-109, unless the county legislative body has acted to remove law enforcement powers. The legislative body may fill any vacancy by temporary appointment until it is filled by an election. T.C.A. § 5-1-104.

Constables must complete forty hours of in-service course time for each twelve-month period during which the constable holds office, beginning on the date the constable is sworn into office. A constable with twenty years of cumulative service as a constable before May 3, 2018, is exempt. T.C.A. § 8-10-202.

## Delinquent Tax Attorney

Reference Number: CTAS-455

The delinquent tax attorney brings suit on behalf of the county (and any municipality whose property taxes are collected by the county trustee) to collect delinquent property taxes. The delinquent tax attorney is appointed each year by the county trustee subject to approval by the county mayor for the property taxes becoming delinquent in that year. Suits for the collection of delinquent property taxes are to be filed after the trustee delivers the delinquent lists to the attorney by April 1 of each year. The delinquent tax attorney is compensated in an amount determined in advance through negotiations between the trustee and the attorney, subject to the approval of the county legislative body, but in most counties this amount is limited to 10 percent of all delinquent land taxes collected. T.C.A. §§ 67-5-2404, 67-5-2405. In most counties the county attorney may serve as the delinquent tax attorney if selected by the county trustee and approved by the county mayor, but the trustee is under no legal obligation to appoint the county attorney to this position.

## County Surveyor

Reference Number: CTAS-459

The legislative body elects the county surveyor at its January session for a four-year term. T.C.A. § 8-12-101. The surveyor must take an oath of office and enter into a \$2,000 bond. T.C.A. § 8-12-102. The legislative body may fix the compensation of the surveyor, his chain bearers and markers where the fees are not already established by law. T.C.A. § 8-12-107. The surveyor may appoint two deputies who must take the surveyor's oath of office; appointment takes place before the legislative body. T.C.A. § 8-12-104. The surveyor must maintain all office records in the county seat. T.C.A. § 8-12-103.

## County Fire Marshal

Reference Number: CTAS-457

The County Fire Marshal is responsible for ensuring fire safety compliance in the unincorporated portions of the county. Typical responsibilities include plan reviews of new site developments; new and modified commercial structures and multi-family dwellings; and fire protection systems. Additional duties include

inspections of new construction for compliance with the applicable building and fire codes, as well as inspections of existing structures (except one and two-family dwellings) to ensure compliance with the fire prevention code adopted in an effort to reduce the risk of death and injury due to fire.

The County Fire Marshal typically conducts fire scene investigations to determine origin and cause and works closely with the local sheriff's department, district attorney's office, and other state/ federal agencies as needed in cases that involve suspected arson activity. The coordination of fire safety public education efforts is an important function of the County Fire Marshal's duties. In counties that have a countywide fire department, the County Fire Marshal's position can be created within that agency to carry out the provisions of T.C.A. § 5-17-102(8).

In counties that do not have a countywide fire department, the position can be created in accordance with T.C.A. § 5-6-121. The Fire Marshal may also function as a coordinator between the county and the independent fire departments that provide fire protection services to the unincorporated portions of the county.

## Boards, Commissions, and Committees

Reference Number: CTAS-216

There are various boards, commissions and committees in county government in Tennessee. Almost all of the boards, commissions and committees are either required or authorized by state general law. It is important to distinguish between boards, commissions and committees that have their basis in state statutory law and exercise authority independently of other bodies or officials as differing from those committees created by resolution of the county legislative body to study and make recommendations to the county legislative body that have no authority to act independently. Study committees created by the county legislative body to make recommendations to the body are not discussed.

If the statute provides for a board to be elected/appointed by the county legislative body, then the members of the county legislative body cannot serve on this board unless specifically authorized by statute. It violates public policy for an appointing body to confer office upon one of its own members. However, if board members are appointed by the county mayor or some other officer subject to confirmation of the county legislative body, then county legislative body members may be appointed, unless this is expressly prohibited.

The power to confirm appointments is different from the power to appoint for purposes of analyzing potential conflicts of interest under the common law rule enunciated in *State ex rel. v. Thompson*, 193 Tenn. 395, 246 S.W.2d 59 (1952), that it violates public policy for an appointing body to confer office upon one of its own members. The Attorney General has opined that the county legislative body's power to confirm candidates appointed by the county executive does not amount to a power of appointment for purposes of the principles applied in *Thompson and State ex rel. Bugbee v. Duke* (Tenn., filed at Nashville, August 29, 1988), an unpublished opinion of the Tennessee Supreme Court. See Op. Tenn. Att'y Gen. 94-013 (Feb 3, 1994).

## Authorities and Corporations

Reference Number: CTAS-461

Information about the Solid Waste Authority can be found under Environment in the County Operations Topic.

## Airport Authority Board of Commissioners

Reference Number: CTAS-481

A county legislative body may, by resolution, create an airport authority. If the county creates an airport authority, the county legislative body appoints at least five and no more than 11 commissioners to manage the affairs of the airport authority. After the initial appointments for one, two, three, four and five years to create staggered terms, the commissioners are appointed for terms of five years. T.C.A. § 42-3-103. Two or more counties or municipalities may form a regional airport authority. If such a regional airport authority is formed, the governing body of each participating local government by agreement appoints one or two commissioners to serve on the regional airport board. If each local government appoints one commissioner and this results in an even number, then the governor appoints an additional commissioner. If the method of each local government appointing two commissioners is chosen, then when the appointed commissioners convene, they appoint one additional commissioner, and if they cannot agree the governor makes the appointment. T.C.A. § 42-3-104. An additional method of forming a regional airport authority by three or more municipalities, counties and at least one political



subdivision of another state is provided in § 42-3-104. Airport commissioners serve without compensation but are entitled to necessary expenses, including traveling expenses, incurred in the discharge of their duties. T.C.A. § 42-3-107.

Additionally, any county or counties may enter into an agreement for a joint action with other public agencies form a joint airport authority. T.C.A. § 42-3-202. If such joint action is taken a joint board is established pursuant to an agreement approved by the governing body of all participating governmental entities. The number of members, their terms and compensation, if any, are determined by the agreement. T.C.A. § 42-3-203.

## Industrial Development Corporation Board of Directors

Reference Number: CTAS-483

After a certificate of incorporation has been issued by the secretary of state establishing an industrial development corporation for a county, the corporation is managed by a board of directors of any number not less than seven as established in the certificate of incorporation. The directors must be qualified voters and taxpayers of the county. T.C.A. § 7-53-301. The Attorney General has opined that "taxpayers of the county" includes individuals making payment of any type of tax--not just property tax. Thus, membership cannot be limited to only landowners within the county. Tenn. Op. Atty. Gen. No. 99-142.

The directors of a county-sponsored industrial development corporation are elected by the county legislative body for terms of six years except for the initial election of three groups of directors with terms of two, four and six years to create staggered terms. No director of a county-sponsored industrial development corporation may be an officer or employee of the county. T.C.A. § 7-53-301. County officials may serve on the board of directors of a joint industrial development corporation; however, county employees are not eligible to serve on joint corporation boards. T.C.A. § 7-53-104. Directors serve without compensation except for reimbursement of actual expenses incurred in performance of their duties. T.C.A. § 7-53-301. Directors are required to complete a conflict of interest statement acknowledging that they have received a copy of § 12-4-101. The statement must include acknowledgements that the director understands that they are required to refrain from voting on matters in which the director is directly interested and that the director must disclose any matter in which they are indirectly interested before voting on the matter. A sample conflict of interest statement is available on the Tennessee Ethics Commission's website.

## Emergency Communications District Board of Directors

Reference Number: CTAS-482

A county legislative body may by resolution create an emergency communications district within all or a part of the territory of the county if the creation of the district is approved by the voters at a referendum election in the area proposed for the district. T.C.A. § 7-86-104. In most counties, if an emergency communications district is created, its board of directors consists of seven to nine members appointed by the county mayor subject to confirmation by the county legislative body for terms of four years, except for the initial terms of two, three and four years to create a staggered system. Requirements regarding membership on the board of directors in Shelby, Davidson, Knox and Hawkins counties are somewhat different due to exceptions made by narrow population class in the general law. T.C.A. § 7-86-105. This board manages the emergency communication system (911) within its area according to the powers given to it by general law at T.C.A. § 7-86-101 *et seq.*

## Public Building Authority Board of Directors

Reference Number: CTAS-484

A county public building authority is formed when three or more people who are qualified to vote in the county apply to the county legislative body to incorporate a public building authority and the county legislative body approves the application. A public building authority is a public nonprofit corporation and an instrumentality of the county that may be used in the financing, construction, maintenance, leasing or disposition of public buildings and infrastructure. The board of directors of the public building authority is appointed by the county mayor subject to confirmation by the county legislative body in a number not less than seven who serve terms of six years except for the initial appointments to terms of two, four and six years to create staggered terms. A director of a county public building authority cannot be a county officer or employee. The directors serve without compensation except for reimbursement of expenses. A municipality may also form a public building authority. T.C.A. § 12-10-101 *et seq.*

## Transit Authority Board

Reference Number: CTAS-486

Any county or municipality, or combination thereof, may establish a transit authority for public transportation. The county or county and other counties or municipalities creating the transit authority may create a board or other management entity and prescribe the qualifications and eligibility of members of such transit authority. T.C.A. § 7-56-101.

## County Government Administration

Reference Number: CTAS-462

Boards and committees involved with county government administration include all of the following:

- Beer Board
- County Election Commission
- County Highway Commission
- County Public Records Commission

## Adult-Oriented Establishment Board

Reference Number: CTAS-500

In counties that have adopted the Adult-Oriented Establishment Registration Act of 1998, codified at T.C.A. § 7-51-1101 *et seq.*, by a two-thirds majority vote of the county legislative body, an adult-oriented establishment board must be established to administer the provisions of this law. The board consists of five members, appointed by the county mayor, who serve for terms of four years. Board members serve without compensation but receive reimbursement for actual expenses for attending meeting of the board. T.C.A. § 7-51-1103. More on Regulation of Adult-Oriented Entertainment and Massage can be found in County Powers/Regulatory Powers.

## Commission for the Poor

Reference Number: CTAS-757

The Commission for the Poor is a mandatory committee of three members appointed by the county commission. In the selection, the county legislative body shall, at its October session, choose at the beginning one (1) commissioner to hold for the term of one (1) year, another for the term of two (2) years, and a third for a term of three (3) years, and annually thereafter for three (3) years each, and to hold until the successor of each is selected and qualified. Should the court omit to make the appointment at that session, it may be done at any subsequent session. T.C.A. § 71-5-2201 *et seq.*

## County Agricultural Extension Committee

Reference Number: CTAS-501

All counties cooperating with the state agricultural extension service operated by the University of Tennessee must have an agricultural extension committee. This committee consists of seven people elected by the county legislative body. Three members must be members of the county legislative body and four members must not be members of the county legislative body. Of these four members, two must be farmers and two must be farm women, residing in different civil districts. The members are elected for terms of two years, but one farmer and one farm woman is elected in even-numbered years and the balance elected in odd-numbered years. No member may be elected to more than three consecutive terms. The committee works with the U.T. agricultural extension representative in formulating the county extension budget for presentation to the county legislative body and serves in an advisory capacity on activities regarding the extension program in the county. T.C.A. § 49-50-104.

## County Airport Board

Reference Number: CTAS-502

The county legislative body of a county that has an airport under the authority of T.C.A. § 42-5-101 *et seq.* may by resolution delegate its powers regarding the airport to a board whose number of members, terms, method of appointment, powers and duties are specified in the resolution. T.C.A. § 42-5-112. Joint airport boards, consisting of one or more counties and other public agencies, are also authorized for joint action regarding or joint operation of an airport. T.C.A. § 42-5-202. Joint airport boards consist of

members appointed by the governing bodies of the public agencies participating. The number of members, the length of the term and compensation, if any, are determined by the joint agreement. T.C.A. § 42-5-203.

## County Board of Health

Reference Number: CTAS-503

Each county is required to have a health department. The county legislative body of each county may establish a board of health consisting of the following:

1. The county mayor,
2. The director of schools or his or her designee,
3. Two physicians licensed to practice in Tennessee nominated by the medical society serving that county,
4. One dentist licensed to practice in Tennessee nominated by the dental society serving that county,
5. One pharmacist licensed to practice in Tennessee nominated by the pharmaceutical society serving that county,
6. One registered nurse licensed to practice in Tennessee nominated by the nurses association serving that county,
7. The county health director and county health officer,
8. At the option of the county legislative body, a doctor of veterinary medicine, and
9. At the option of the county legislative body, a citizen representative who not now nor ever has been a healthcare provider or the spouse of one.

In the event that a nomination is not timely made, the county legislative body may proceed to elect an otherwise qualified member. All members must be residents of the county. In the event that the required members are not available from within the county, the board remains duly constituted. The members who are not ex officio are appointed by the county legislative body to serve for terms of four years. The county board of health governs the policies of full-time county health departments, advises the county mayor on the implementation of state health rules and regulations, and advises the county mayor on the adoption of rules and regulations as may be necessary and appropriate to protect the general health and safety of the citizens of the county. T.C.A. § 68-2-601.

Contiguous counties may by agreement adopted by their respective legislative bodies form a district health department and have a joint district board of health instead of their own county health departments and boards of health when such a combination is determined by the Tennessee Commissioner of Health to be economical. T.C.A. § 68- 2-701. A joint district board of health consists of the county mayor, director of schools and one licensed physician from each participating county. T.C.A. § 68-2-702.

## County Monument (Veterans Memorial) Commission

Reference Number: CTAS-504

Under a law enacted in 1919, counties are authorized to appropriate up to \$30,000 to erect monuments, buildings, libraries, and other evidence or appreciation of veterans of wars in which Tennesseans have fought, and in such event the county legislative body is required to select five reputable citizens of the county over 18 years of age to serve as the county monument commission. It is the duty of the county monument commission to oversee the erection of the monument or memorial and when completed to report this in a detailed writing to the county legislative body. T.C.A. §§ 58-4-201 -- 58-4-205.

Another law was enacted in 1945 to authorize both cities and counties to appropriate money to erect memorials to veterans of the various wars in which Tennesseans have fought, which was codified as T.C.A. §§ 58-4-206 -- 58-4-208. This act did not reference the 1919 act, and it contains no limitation on the amount of the appropriations and no requirement for a monument commission.

## County Library Board

Reference Number: CTAS-463

The county legislative body may establish a county library board consisting of seven (7), nine (9) or eleven (11) members. Not more than one (1) county official shall serve on this board. The members shall serve without salary, at least three (3) for one (1) year, two (2) for two (2) years, and two (2) for three

(3) years. If the board expands to more than seven (7) members, the additional members shall be appointed by the county legislative body to terms of one (1), two (2) or three (3) years. All successors shall serve for terms of three (3) years. Board members may serve two (2) consecutive terms and may be reappointed after a minimum three-year break in service. Joint library boards with one or more other counties or municipalities may be formed by agreement of the governing bodies of the participating local governments. The members of such joint boards are appointed by the governing bodies of the participating local governments in accordance with the ratio of population in each participating municipality and in the county outside the participating municipality or alternatively, according to a contract providing otherwise or a private act. Counties and cities with populations over four hundred thousand (400,000) may, by 2/3 majority vote, vest supervisory authority over the public library system with the mayor. T.C.A. § 10-3-103. The library board directs the affairs of the library system, including the appointment of a library administrator. The library administrator directs the internal affairs of the library, including hiring and directing such assistants as may be necessary. T.C.A. § 10-3-104.

## Financial and Tax Administration

Reference Number: CTAS-464

There are three types of state laws applicable to the county financial function: general laws, general laws with local option application, and private acts for a specific county. The finance committees that exist in a county is dependent on the type of state law under which the county operates.

- County Board of Equalization

- County Budget Committee (County Budgeting Law of 1957)

- County Financial Management Committee (County Financial Management Systems of 1981)

- County Investment Committee

- County Purchasing Commission (County Purchasing Law of 1957)

## Audit Committee

Reference Number: CTAS-505

The Local Government Modernization Act of 2005 encourages counties to form an audit committee, and the comptroller of the treasury may require it if a local government is not in compliance with Government Accounting and Standards Board (GASB) standards or has recurring findings of material weakness in internal control for three or more consecutive years. This committee is created by the county legislative body, which selects the members. The members of this committee must be external to the management and may be members of the county legislative body, citizens or a combination of both. Since the statute does not specify the number of members on this committee this is determined by the county legislative body. The duties of this committee are to be established in a resolution approved first by the comptroller and then by the county legislative body. The audit committee responsibilities include, at a minimum, financial and other reporting practices, internal control, compliance with laws and regulations and ethics. T.C.A. § 9-3-405. The audit committee is also required to establish a process for employees, taxpayers, and citizens to report suspected fraudulent, illegal, wasteful, or improper activity confidentially to the audit committee. If the chair believes the activity may have occurred, the chair is required to report it to the comptroller. The detailed information received and generated pursuant to a report of suspected activity is not an open record. T.C.A. § 9-3-406.

## Auditor Employment Committee

Reference Number: CTAS-506

The county legislative body may create a committee of not less than three members of the county legislative body to employ an auditor to audit the books of the officers and employees of the county. T.C.A. § 8-15-101 *et seq.*

## Committee for Resale of Land

Reference Number: CTAS-507

When real property is bought by the county at a delinquent tax sale due to the lack of an adequate bid by another party, after the year for redemption has passed the county is obligated to resell the real property bid in by the county. The county legislative body elects four people from its membership who, with the county mayor, form a committee to place a fair price on each tract of land bought by the county at delinquent tax sales. T.C.A. § 67-5-2507.

## County Finance Committee

Reference Number: CTAS-509

The county legislative body may appoint three of its members, who in conjunction with the county trustee and county mayor form a county finance committee to contract with banks or other financial institutions for the deposit of county funds. T.C.A. § 5-8-201 *et seq.*

## County Insurance Committee

Reference Number: CTAS-510

The county legislative body may appoint a committee consisting of some number of its members to prepare and present to the county legislative body one or more contracts with one or more insurance companies or other corporations authorized to provide any of the following types of insurance for county employees and officials: group life, hospitalization, disability and medical. The number of members is not specified by statute and is determined by county legislative body resolution. T.C.A. § 8-27-501 *et seq.*

## County Revenue Commissioners

Reference Number: CTAS-511

Prior to 2016, the county legislative body was required to elect three competent citizens to be county revenue commissioners every two years during its July meeting. These revenue commissioners were required to meet four times a year to examine the settlements of the county mayor with all of the officers of the county who collect money, review all of the financial reports, review disbursements from the county treasury and examine the books of these officers if necessary. The county revenue commissioners were required to report the results of their investigations at the end of each quarter. T.C.A. § 5-8-601 *et seq.* In 2016, the legislature deleted the provisions relating to revenue commissioners (Public Chapter 624). The legislative changes did not remove incumbents from office, but no new revenue commissioners will be elected.

## Law Enforcement and Corrections

Reference Number: CTAS-465

Boards and committees involved with law enforcement and corrections include all of the following:

- Board of Workhouse Commissioners
- Disciplinary Review Board
- County Jail Inspectors
- Work Release Program Commission

## Board of Jury Commissioners

Reference Number: CTAS-1645

In most counties of this state, a three-member board of jury commissioners is appointed by the judge or judges of the circuit and criminal courts in the county and any chancellor or other judge with the duty to hold circuit or criminal court in the county. In most counties, jury commissioners must be at least 25 years of age and residents of the county for five years, reside in different sections of the county, not be practicing attorneys or state or county officers, and not have any suits pending in any of the courts noted above. The legislative body of any county with a population in excess of 50,000 according to the 1980 or subsequent federal census may by resolution adopted by a two-thirds majority vote increase the number of jury commissioners to either five or seven. T.C.A. § 22-2-201. Jury commissioners are compensated for each day or portion of a day discharging the duties of the board in accordance with T.C.A. § 22-2-201. Jury commissioners serve a term of four years. T.C.A. § 22-2-202(b) The board of jury commissioners meets every two years to create from available and reliable sources a list of people qualified to serve as jurors in the circuit and criminal courts of the county in such number as specified by the judges selecting the board. T.C.A. § 22-2-302. Also, the board of jury commissioners oversees the process of selection of names for jury service from the list of eligible residents. T.C.A. § 22-2-304.

## Community Corrections Advisory Board

Reference Number: CTAS-1646

In order for a county to be eligible to receive state funding under the Tennessee Community Corrections

Act of 1985, codified at T.C.A. § 40-36-101 *et seq.*, the county legislative body must establish a community corrections advisory board. This board must have at least ten (10) members including at least the following:

- A representative of the county government nominated by the county mayor subject to confirmation by the county legislative body;
- The sheriff;
- The district attorney general;
- A criminal defense attorney residing in the county nominated by presiding judge of the judicial district in which the count is located subject to confirmation by the county legislative body;
- A representative of a nonprofit human service agency nominated by the county mayor and the other community corrections advisory board members who serve by virtue of their office subject to confirmation by the county legislative body;
- Two state probation and parole officers assigned to work in the county nominated by the board of probation and parole and confirmed by the county legislative body; and
- At least three private county residents nominated by the county mayor and the other community corrections advisory board members who serve by virtue of their office subject to confirmation by the county legislative body.

If a municipality participates, a citizen is nominated by the mayor and confirmed by the city council. Any additional members are determined by resolution of the county legislative body. T.C.A. § 40-36-201.

## County Bounty Committee

Reference Number: CTAS-1647

The county legislative body may form a committee to administer and implement the provisions of the County Bounty Act. T.C.A. § 38-11-201 *et seq.* If formed, the committee consists of the director of schools or the director's designee, the sheriff or the sheriff's designee and an alliance member for a drug-free Tennessee appointed by the county mayor. This committee reviews the record of prosecutions and convictions for illegal drug trafficking in the county and compiles data to determine whether or not the county is following a pattern of aggressive action to eliminate illegal drug trafficking from within its boundaries. The committee makes a determination regarding what financial incentives are appropriate for the period under consideration and with the approval of the sheriff determines the percentage of funds from goods seized and forfeited from drug-related convictions that will be made available to the county school system for drug education and prevention programs subject to matching funds from county, state or federal governments.

## County Sheriff's Civil Service Board

Reference Number: CTAS-1648

Upon adoption of the optional County Sheriff's Civil Service Law of 1974 by a two-thirds majority vote of the county legislative body, the county legislative body selects three people to serve on a civil service board. These three members must be at least 18 years of age, be residents of the county and cannot hold any elected or appointed office within the county. The term of office is three years except for the initial appointments for one, two and three years to create a staggered system. This board may or may not be compensated at the discretion of the county legislative body. The board adopts a classification plan, determines the requirements of each position and performs other duties specified in this optional law. Some counties have similar boards created by private act. T.C.A. § 8-8-401 *et seq.*

## Parks, Recreation and Conservation

Reference Number: CTAS-466

### Parks and Recreation Board

Reference Number: CTAS-512

The county legislative body may delegate, by resolution, to a parks and recreation board (or commission) the authority to conduct a parks and recreation program. Such a board consists of five members, at least two of whom may be members of the school staff, appointed by the chairperson of the county legislative body. Board members serve terms of five years except for the initial appointments so that the term of one

member expires annually. Members of this board serve without pay. T.C.A. § 11-24-104. Any two or more counties or municipalities may form a joint board to conduct a joint parks and recreation program by agreement approved by the governing bodies participating. T.C.A. § 11-24-105.

## County Conservation Board

Reference Number: CTAS-513

The county legislative body may, by resolution, create a county conservation board. Also, if 200 qualified voters of the county petition the county legislative body for such a board, a referendum on this question will be held at the next countywide election, and if approved by the voters, the county legislative body is required to create a county conservation board within 60 days after the election. The board consists of five to nine members who hold office for staggered terms not to exceed five years as determined by resolution of the county legislative body. The members serve without compensation but may be reimbursed for actual expenses in carrying out their duties. T.C.A. § 11-21-102. The county conservation board has the custody and control of all real and personal property of the county acquired for public parks, preserves, parkways, playgrounds, recreation centers, county forests, county wildlife areas and other county conservation and recreation lands. T.C.A. § 11-21-104.

## Planning, Zoning and Development

Reference Number: CTAS-467

Boards and committees involved with planning, zoning and development include all of the following. Click on these links for an explanation of the committees included in Land Use, Planning and Zoning under the County Operations topic.

Board of Zoning Appeals

Joint Economic and Community Development Board

Regional Planning Commission

## Airport Zoning Board of Appeals

Reference Number: CTAS-514

Counties with airport zoning must have a board of airport zoning appeals, or the county legislative body must designate the board of zoning appeals created under Title 13, Chapter 7, of the Tennessee Code or by private or other local act to hear appeals from airport zoning resolutions or ordinances. If an airport zoning board of appeals is created by resolution of the county legislative body, then the county legislative body specifies whether the board will have three or five members and the mode of appointment of members and their terms, but the terms must be arranged so that the term of one member expires each year. The county legislative body also determines the compensation, procedure and extent of jurisdiction consistent with state law. Appeals to this board may be made by any person aggrieved under airport zoning resolutions or ordinances, such as by alleged errors made by the building commissioner in denying a building permit. Also, the board may authorize a variance in an airport zoning resolution or ordinance in cases of exceptional hardship when this can be done without substantially impairing the intent and purpose of the zoning plan and may condition the a permit for a variance. T.C.A. § 42-6-108 *et seq.*

## Historic Zoning Commission

Reference Number: CTAS-515

A historic zoning commission must be created by the county legislative body if it establishes historic zones or districts and regulates the construction, repair, alteration, rehabilitation, relocation and demolition of any building or other structure that is located or proposed to be located within such a historic zone. A county historic zoning commission consists of at least five and not more than nine members appointed by the county mayor subject to confirmation by the county legislative body and must include a representative of a local patriotic or historical organization, an architect, if available, and a person who is a member of the local planning commission. The terms of the members is five years, except for the initial members who are appointed for lesser terms to create staggered terms. Members serve without compensation. Also, a regional historic zoning commission may be created by the county and city legislative bodies in the area served by a regional planning commission. T.C.A. § 13-7-403. The historic zoning commission makes recommendations to the county and/or city legislative bodies regarding the creation of historic districts or zones and provides a set of review guidelines for the proposed district or zone. T.C.A. §§ 13-7-405, 13-7-406. The county legislative body may grant to the county historic zoning

commission the authority to review applications for construction, repair, alteration, rehabilitation, relocation and demolition of any building or other structure in a historic zone and issue (or refuse) a certificate of appropriateness. T.C.A. § 13-7-407.

## Utilities

Reference Number: CTAS-469

### County Board of Public Utilities

Reference Number: CTAS-516

Counties are authorized to establish, construct, install, acquire and maintain urban-type public facilities for utility services such as water and sewer, and may manage such utility services through a board of public utilities. T.C.A. § 5-16-102. If such a board is established by resolution of the county legislative body, it shall consist of either three or five members, except in Anderson County where the board may have seven members. The county mayor appoints members of this board subject to confirmation by the county legislative body. The terms are for three years after initial appointments for one, two and three years to create staggered terms. The members of this board serve without compensation except for reimbursement for actual expenses incurred in the performance of their duties except in a few counties where this is authorized by narrow population class exceptions. T.C.A. § 5-16-103.

### Utility District Board of Commissioners

Reference Number: CTAS-517

A utility district formed pursuant to the Utility District Law of 1937, codified at T.C.A. §§ 7-82-101 *et seq.*, is governed by a board of commissioners. The original petition for creation nominates three people who are residents of the proposed district to become the original utility district commissioners. Upon approval of the petition, these three initial commissioners serve terms of two, three and four years, respectively, to create staggered terms. T.C.A. §§ 7-82-202, 307. However, multicounty districts may have additional commissioners and some other districts that had a greater number of commissioners on May 6, 2004 under special provisions in earlier statutes may have additional commissioners. T.C.A. § 7-82-307. The most common method of appointment after the initial appointment of utility district commissioners is by a procedure wherein the utility district board of commissioners submits a list of three people to the county mayor as nominees. The county mayor may select one of the three or reject this list and require a new list to be provided. If the county mayor takes no action, the first person listed is appointed by operation of law. T.C.A. § 7-82-307. See T.C.A. § 7-82-307 for the complete procedure and for a modified procedure for multi-county districts.

## Ethics Policies for Utilities

Reference Number: CTAS-518

Utility districts are considered separate governmental entities to be governed by ethical standards established by the board of commissioners of the utility district in conformity with T.C.A. § 8-17-105(b). T.C.A. § 8-17-102(c). Water, wastewater and gas authorities created by a private act or under the general law are considered separate governmental entities and shall be governed by ethical standards established by the governing board of the water, wastewater or gas authority in conformity with T.C.A. § 8-17-105(b). The Tennessee Association of Utility Districts (TAUD) must prepare a model of ethical standards for officials and employees of water, wastewater and gas authorities which must be submitted to the Utility Management Review Board for its approval, and the model must be approved by the board before it can be adopted by any water, wastewater or gas authority. T.C.A. § 8-17-105. After the board approves the model, it must be filed with the state ethics commission. The governing body of a water, wastewater or gas authority or utility district must adopt either the approved TAUD model of ethical standards or standards which are more stringent than the TAUD model. If a water, wastewater or gas authority or a utility district adopts ethical standards which are different from and more stringent than the TAUD model, those standards must be submitted to the board for a determination that the standards are more stringent than the TAUD model. Any water, wastewater or gas authority or any utility district that adopts the TAUD model is not required to file its ethical standards with the commission but must notify the commission in writing that the TAUD model was adopted and the date of adoption. Any water, wastewater or gas authority or any utility district which does not adopt the TAUD model of ethical standards or ethical standards more stringent than the TAUD model will be governed by the ethical standards established by the county legislative body of the county in which the water, wastewater or gas authority or the utility district has the largest number of customers.



## Courts

Reference Number: CTAS-470

"The judicial power of this State shall be vested in one Supreme Court and in such Circuit, Chancery and other inferior Courts as the Legislature shall from time to time, ordain and establish."

Tenn. Const., art. VI, § 1.

## Tennessee Supreme Court

Reference Number: CTAS-471

### Organization

The Supreme Court consists of five justices and no more than two shall reside in any one of the grand divisions. A Supreme Court Justice must be 35 years old, a Tennessee resident for five years, and licensed to practice law in Tennessee. The justices designate their chief justice. The Supreme Court holds court in Knoxville, Nashville and Jackson, but it may be held in other places as the chief justice may designate. However, the Supreme Court must hold court at Knoxville on the second Monday in September, at Nashville on the first Monday in December, and at Jackson on the first Monday in April. Tenn. Const., art. VI, §§ 2, 3; T.C.A. §§ 17-1-106(a), 16-2-102, 16-2-103.

### Jurisdiction

The Supreme Court's jurisdiction "shall be appellate only, under such restrictions and regulations as may from time to time be prescribed by law; but it may possess such other jurisdiction as is now conferred by law on the present Supreme Court." Tenn. Const., art. VI, § 2. The court lacks original jurisdiction in any matter, and the legislature lacks authority to confer original jurisdiction upon it. In re Bowers, 192 S.W. 919 (Tenn. 1917). Accordingly, the court may not try cases de novo, *Simm v. Dougherty*, 210 S.W.2d 486 (Tenn. 1948); or render advisory opinions, *Leach v. State*, 491 S.W.2d 81 (Tenn. 1973).

Direct appeals may be taken from the trial court to the Supreme Court only if authorized by statute. However, an appeal by permission may be taken from an appellate court's final decision only upon application and in the court's discretion. Direct appeals may be taken to the Supreme Court in the following cases:

1. Workers' compensation cases. T.C.A. §§ 16-4-108, 50-6-225;
2. Expedited appeals regarding denial of consent for abortion to minors. T.C.A. § 37-10-304(g); and
3. Disciplinary actions involving attorneys. Tenn. Sup. Ct. Rules, Rule 9, § 1.3

## Court of Appeals

Reference Number: CTAS-472

### Organization

The Court of Appeals is the appellate court for civil cases in Tennessee and consists of 12 judges, of whom not more than four shall reside in one grand division. T.C.A. § 16-4-102. An appellate judge must be 30 years old, a Tennessee resident for five years, and admitted to practice law in Tennessee. T.C.A. § 16-4-102. This court sits in sections of three judges each in Knoxville, Nashville and Jackson, and hears and decides cases as if all 12 members were present. T.C.A. § 16-4-113. When sitting in sections of three, the concurrence of two judges is sufficient for a decision and is treated as if the entire court had participated. T.C.A. § 16-4-109. When sitting en banc (all 12 judges), the concurrence of seven judges is necessary for a decision. When two sections (eight judges) are sitting, concurrence of five judges is necessary for a decision. T.C.A. § 16-4-109. This court sits in sections concurrently in Knoxville, Nashville and Jackson as ordered by the presiding judge for such time as the court deems necessary for the dispatch of its business. T.C.A. § 16-4-112.

### Jurisdiction

The court has only appellate jurisdiction and no original jurisdiction. The appellate jurisdiction extends to all civil cases, except those statutorily authorized for direct appeal to the Supreme Court. The court has appellate jurisdiction over civil or criminal contempt arising out of a civil matter. T.C.A. § 16-4-108.

## Court of Criminal Appeals

Reference Number: CTAS-473

## Organization

The General Assembly established the Court of Criminal Appeals in 1967 pursuant to Tenn. Const., art. VI, § 1. Originally, there were seven members, but the membership was increased to nine in 1976. No more than three judges can reside in any grand division. As with the Court of Appeals, these judges must be at least 30 years of age, a five year resident of the state, and licensed to practice law in Tennessee. T.C.A. § 16-5-102. The court may sit en banc or in panels of three, five or seven judges. However, the concurrence of a majority of judges sitting is necessary for a decision. T.C.A. § 16-5-107.

Court must be held at Knoxville on the fourth Monday in June, at Nashville on the third Monday in February, and at Jackson on the second Monday in October. The court may sit at the above-mentioned places without reference to terms for the purpose of hearing and deciding cases and other matters before it, and for such time as may, in the court's judgment, be necessary for the prompt and orderly dispatch of its business. T.C.A. § 16-5-107.

## Jurisdiction

Jurisdiction is appellate only, with the court having no original jurisdiction. T.C.A. § 16-5-108. Jurisdiction extends to review of final judgments of trial courts in the following cases:

1. Criminal cases, both felony and misdemeanor;
2. Habeas corpus and post-conviction proceedings attacking the validity of a final judgment of conviction or the sentence in a criminal case, and other cases or proceedings instituted with reference to or arising out of a criminal case;
3. Civil or criminal contempt proceedings arising out of a criminal matter; and
4. Extradition cases. T.C.A. § 16-5-108.

Direct appeals to the Supreme Court in criminal cases extend only to those cases expressed in the statute. However, an appeal by permission may be taken from a final decision of the Court of Criminal Appeals to the Supreme Court on application and in the court's discretion.

## Trial Courts

Reference Number: CTAS-474

### Organization

The state trial courts were divided into 31 judicial districts in 1984. T.C.A. § 16-2-506. Circuit and chancery courts exist within each district, and some districts have separate criminal courts. Each judicial district selects a presiding judge who assigns cases to reduce delays, distributes the workload equitably, and promotes the orderly and efficient administration of justice in the district. T.C.A. § 16-2-509. The judges of each district must promulgate uniform rules of practice for that district. T.C.A. § 16-2-511. The administrative director of the courts maintains a list of the local rules. T.C.A. § 16-2-511.

The 1984 redistricting bill abolished the "terms of court." The minutes of all courts remain open continuously. T.C.A. § 16-2-510. Court is held within each judicial district at times set by the judges of that district and within each county in the district as needed to dispose of the court's business. T.C.A. § 16-2-510.

Circuit and chancery court judges are elected for an eight-year term by the voters of the district or circuit to which they are assigned. Tenn. Const., art. VI, § 4. A judge must be 30 years old, a Tennessee resident for five years, a resident of the circuit or district for one year (Tenn. Const., art. VI, § 4), licensed to practice law in Tennessee, and eligible under the general standards to hold public office. T.C.A. §§ 17-1-106, 8-18-101.

To facilitate the handling of cases, any judge or chancellor may exercise by interchange, appointment, or designation the jurisdiction of any trial court other than that to which he was elected or appointed. T.C.A. § 16-2-502. Legislation passed in 1997 provided that any judge sitting by interchange has the same immunity as the judge he or she is replacing and that the state or county must provide the same defense, if necessary, for the substituting judge. T.C.A. § 16-1-114.

The Tennessee Constitution provides in Article VI, Section 13 that chancellors appoint the clerk and master for a six-year term and that clerks of other inferior courts are elected for a four-year term. Clerks of court act as the principal administrative aides to the courts. Additional information about Clerks of Court can be found under County Offices.

## Jurisdiction of Circuit Court

Reference Number: CTAS-490

The General Assembly may establish circuit courts, and may increase or diminish the jurisdiction. Tenn. Const., art. VI, §§ 1, 8. The court has general jurisdiction in all cases where jurisdiction is not conferred on another tribunal. T.C.A. § 16-10-101. The court may hear and determine suits of an equitable nature, if there is no objection, or may transfer such cases to the chancery court. If the circuit court chooses to hear an equity case, it must determine the case upon equity principles and may exercise equitable powers. T.C.A. § 16-10-111.

The circuit court has exclusive original jurisdiction in the following cases:

1. Correction of mistakes in deeds of conveyance of land or registration thereof. T.C.A. § 66-5-107;
2. Applications to restore citizenship by persons who have been rendered infamous by judgments of any court in the state. T.C.A. §§ 16-10-104, 40-29-101;
3. All matters relating to the seizure and destruction of intoxicating liquor if the circuit court has jurisdiction in a particular county over offenses against the state liquor laws. T.C.A. § 57-9-105;
4. Eminent domain cases and *in rem* eminent domain cases brought by the county, state, or United States. T.C.A. §§ 29-16-104, 29-17-701;
5. Motions to impose a \$500 forfeiture upon the county trustee for certain breaches of duty, and to impose liability on the trustee and the trustee's surety for breach of duty. T.C.A. § 8-11-106 through 8-11-108;
6. Writs of mandamus to enforce the performance of any duty made incumbent by law upon the county. T.C.A. § 5-1-107;
7. Suits to condemn land for the failure to pay taxes where personal property does not satisfy the distress warrant and where the sheriff has levied upon the real estate. T.C.A. §§ 67-4-110(c), 67-4-215(c);
8. Motions to proceed against any tax collector or other officer of the state who fails to collect taxes, who fails to pay over taxes received by him, or who commits any act of neglect, misprision, misfeasance, or malfeasance in office. T.C.A. §§ 67-1-1602(b), 67-1-1623(a); and
9. Petitions by the circuit court clerk, and the sheriff in counties without a separate criminal court, requesting authority to hire deputies or assistants. T.C.A. § 8-20-101.

Unless otherwise provided, the circuit court has appellate jurisdiction of all actions of any nature instituted before any inferior jurisdiction, whether brought by appeal, certiorari, or in any other manner prescribed by law. T.C.A. § 16-10-112. An appeal may be taken to the circuit court from the judgment of the general sessions court, city judge, recorder or other officer of a municipality. T.C.A. §§ 27-5-101, 27-5-108, 6-21-508. In 1996, the legislature amended Title 4, Chapter 21, to allow the circuit court to share jurisdiction with the chancery court over human rights actions. In 1997 the legislature also amended T.C.A. § 37-1-159 to give the circuit court appellate jurisdiction over unruly child proceedings and dependent and neglect proceedings heard in the juvenile court. In these cases, the circuit court shall try the case de novo.

## Jurisdiction of Chancery Court

Reference Number: CTAS-491

The General Assembly determines the chancery court's jurisdiction, and may increase, decrease, or alter its jurisdiction. Tenn. Const., art. VI, § 8. Chancery courts "shall have all the powers, privileges, and jurisdiction properly and rightfully incident to a court of equity." T.C.A. § 16-11-101. This inherent jurisdiction is original and exclusive in cases of an equitable nature, where the debt or demand exceeds \$50, unless otherwise provided. It lacks jurisdiction in cases where the debt or demand is less than \$50, unless otherwise specifically provided. T.C.A. § 16-11-103. Although this inherent jurisdiction is exclusive, if no objection to jurisdiction is made, a circuit court may hear and determine such suits or may transfer the suit to chancery court. T.C.A. § 16-10-111.

Chancery courts exercise inherent jurisdiction, where the debt or demand exceeds \$50, in the following cases:

1. All actions resulting from accidents and mistakes;
2. All actions resulting from frauds, actual and constructive;
3. All actions resulting from trusts, express, constructive and resulting;

4. All actions for the specific performance of contracts;
5. All actions for the reformation, re-execution, rescission and surrender of written instruments;
6. All actions for an accounting, and for surcharging and falsifying accounts;
7. All actions between partners, and to wind up an insolvent partnership;
8. All actions for the administration and marshaling of assets;
9. All actions for subrogation and substitution;
10. All actions for the enforcement of liens created by mortgages, deeds of trust, sales of land on credit, or other equitable consideration;
11. All actions against minors in reference to their estates, not cognizable at law;
12. All actions by wards against guardians, executors, administrators and others, where an accounting or surcharging or falsifying an account is necessary;
13. All actions for an apportionment and contribution;
14. All actions for the marshaling of securities;
15. All actions for relief against forfeitures and penalties;
16. All actions for the redemption of land or other property;
17. All actions to have absolute deeds or bills of sale declared to be mortgages;
18. All actions for the construction and enforcement of wills and trusts;
19. All actions to obtain a set-off against a judgment in favor of a nonresident or insolvent;
20. All actions for the discovery and perpetuation of testimony;
21. All actions to compel claimants to interplead;
22. All actions for equitable attachments and receivers;
23. All actions where a *ne exeat republica* is sought;
24. All actions where an injunction is a substantial part of the relief sought;
25. All actions to remove clouds and quiet titles;
26. All actions for the establishment and execution of charities;
27. All actions for a new trial after a judgment at law;
28. All actions to have void judgments so declared, and to avoid voidable judgments;
29. All actions to execute decrees and to impeach decrees and judgments;
30. All actions to prevent the doing of an illegal or inequitable act to the injury of plaintiff's property rights, or interests, *quia timet*;
31. All actions for the exoneration or protection of sureties; and
32. All other actions where the defendant has done, or is doing, or is threatening to do, some inequitable act to the injury of the plaintiff, and there is no adequate remedy in any other court.

*Gibson's Suits in Chancery* (7th ed. Inman 1988), § 3.

Jurisdiction has been increased to encompass specific actions, including:

1. To aid judgment creditors to subject a debtor's property that cannot be reached by execution to the satisfaction of the judgment. T.C.A. § 16-11-104;
2. To decide all disputes between the state and corporations, their stockholders or creditors. T.C.A. § 16-11-105;
3. To aid creditors of a corporation, without obtaining a judgment at law, to attach the property of a corporation, and subject the same, by sale or otherwise, to the satisfaction of their debts, when the corporate franchises are not used, or have been granted to others. T.C.A. § 29-12-107;
4. To decide all boundary line disputes. T.C.A. § 16-11-106(a);
5. To enforce foreign judgments against the property of a nonresident debtor when the judgment creditor has exhausted his legal remedies. T.C.A. § 26-6-103 *et seq.*;
6. To approve the sale of property of a minor or disabled person. T.C.A. § 34-1-116;

7. To compel the distribution of estates where there are difficulties, complexities, or conflicting claims. T.C.A. § 30-2-710; and
8. To remove the disability of a minor. T.C.A. § 29-31-101.

## Concurrent Jurisdiction of Circuit and Chancery Courts.

Reference Number: CTAS-492

Chancery court has concurrent jurisdiction with circuit court to hear "all civil cases of action, triable in circuit court, except for unliquidated damages for injuries to person or character, and except for unliquidated damages for injuries to property not resulting from a breach of oral or written contract." T.C.A. § 16-11-102.

## Jurisdiction of Criminal Courts

Reference Number: CTAS-493

The circuit courts have "exclusive original jurisdiction of all crimes and misdemeanors, either at common law or by statute, unless otherwise expressly provided by statute." T.C.A. § 16-10-102. The criminal and circuit courts have "original jurisdiction of all criminal matters not exclusively conferred by law on some other tribunal." T.C.A. § 40-1-108.

In addition to their original jurisdiction over felonies and misdemeanors, criminal courts have exclusive jurisdiction over special crime-related matters and noncriminal matters, including all matters relating to the seizure and destruction of intoxicating liquors when an offense against a state liquor law has been committed. T.C.A. § 57-9-105. Criminal court judges possess magistrate powers and may issue warrants for the arrest of a person charged with a public offense. T.C.A. §§ 40-5-101, 40-5-102.

Unless otherwise provided, the circuit courts have appellate jurisdiction in all criminal cases and actions originally tried in inferior courts "whether brought by appeal, certiorari, or in any other manner prescribed by law." T.C.A. § 16-10-112. Criminal courts have authority to grant extraordinary relief in appeals from courts of inferior jurisdiction. *Franks v. State*, 565 S.W.2d 36 (Tenn. Crim. App. 1977).

Criminal courts were also granted appellate jurisdiction over delinquency proceedings in the juvenile court by amendments to T.C.A. § 37-1-159 passed in 1997. These appeals are tried de novo by the criminal court.

## General Sessions and Other Inferior Courts

Reference Number: CTAS-475

### General Sessions Court

Reference Number: CTAS-494

General sessions court judges must be 30 years old, a Tennessee resident for five years, a resident of the county for one year, and licensed to practice law in Tennessee. T.C.A. §§ 16-15-201, 16-15-5005, Tenn. Const., art. VI, § 4. A judge is elected to an eight-year-term. T.C.A. § 16-15-202. A non-attorney may serve as a general sessions judge only in very limited situations. T.C.A. § 16-15-5005. A county legislative body may not establish and fund additional part-time general sessions judges. The code simply allows private acts that would establish part-time general sessions judges in class 1, 2 or 3 counties. Op. Tenn. Att'y Gen. 93-52 (August 9, 1993). The circuit court clerk acts as a general sessions clerk, unless a separate clerk is created by a private act. T.C.A. § 16-15-301.

Salaries are set by general law according to population class, which differs from the population class set forth for county officials. Judges in certain classes may receive additional compensation for additional jurisdiction. However, no general sessions judge shall receive a salary greater than that of a circuit judge. T.C.A. § 16-15-5003. While annual salary adjustments are built into the law, the general salary structure for judges may not be altered during their term. Tenn. Const., art. VI, § 7. A new term began September 1, 2006.

The compensation of the judges of courts of general sessions is determined by the administrative office of the courts (AOC) in accordance with the provisions of T.C.A. § 16-15-5003, as amended by 2006 Public Chapter 957. On September 1, 2006, each judge received an increase in the amount of \$10,000 or 20% of their total annual compensation as of August 31, 2006, whichever is less, and the compensation of judges in each population classification were to be equalized in accordance with their jurisdictional supplements. In Class 1 the equalization is accomplished by raising the compensation of all judges to the salary of the highest paid judge in Class 1 who is paid under this general law. In Classes 2-7, judges with

maximum supplements are raised to the compensation of the highest paid judge in that class with maximum supplements, and all other judges are grouped by jurisdiction and paid the same as the highest paid judge with the same jurisdiction in the same population class. On or before July 15, 2006, each general sessions judge was required to certify to the AOC the total amount of compensation received by the judge as of August 31, 2006, the jurisdictions exercised by such judge and the legal basis therefor, and whether the judge is compensated under the general law or a private act. The AOC thereupon reported to each judge the amount of compensation to be paid to such judge beginning September 1, 2006.

A county, by public or private act in effect on September 1, 2006, may compensate its judges in excess of the amount required under T.C.A. § 16-15-5003 (but not above state judges), but a judge is not to receive compensation based both on this general law and a private act or other public act. No judge is to be paid a salary reflecting jurisdictional supplements the judge is not entitled to exercise. No general sessions judge who engages in the private practice of law will receive any increase under this law if such judge is prohibited by law from engaging in private practice. Judges in Knox County are compensated the same as those in Davidson County under a special provision in this law. T.C.A. § 16-15-5003.

## Jurisdiction of General Sessions Court

Reference Number: CTAS-495

The jurisdictional limit of the general sessions court is \$25,000 in all civil cases in all counties, except in cases of forcible entry and detainer, where the court has unlimited original jurisdiction, including jurisdiction to award an alternative money judgment. Also, the general sessions court judges have jurisdiction to issue restraining orders and enforce penalty provisions for violation of these restraining orders. T.C.A. § 16-15-501. Attorney's fees, court costs and discretionary costs are not included in the calculation of whether a judgment entered by the general sessions court exceeds these monetary jurisdictional limits. T.C.A. §§ 16-15-501, 29-30-102. The court has jurisdiction to try misdemeanor cases and may issue sentences within the limits provided by law for the particular offense. T.C.A. § 40-1-109. Pursuant to T.C.A. § 40-11-204, general sessions judges also hear petitions for relief on forfeited recognizances.

In many counties, the general sessions court may have, by private or public act, other subject matter jurisdiction, including probate, domestic relations, and Workers' compensation. See T.C.A. §§ 16-15-401, 40-6-214 (arrest warrants), 27-8-105 (certiorari), 17-2-209 (divorce interchange), 17-2-208 (interchange), and private acts relative to jurisdiction in the various counties.

Civil cases, originating in general sessions court and appealed to a higher court, shall not be dismissed for informality, but shall be tried on the merits of the case. The higher court shall allow all amendments in the form of the action, the parties in the case, or the statement of the cause of action when necessary to reach the merits. The trial, including damages awarded, is de novo. T.C.A. § 16-15-729.

## Juvenile Courts

Reference Number: CTAS-496

The general sessions court, except those with a special juvenile court established by private act, has juvenile court jurisdiction. T.C.A. § 37-1-203. Every court having juvenile jurisdiction must have a sign in a conspicuous place identifying it as "Juvenile Court." T.C.A. § 37-1-206. The general sessions court when acting as juvenile court has the title and style of "Juvenile Court of \_\_\_\_\_ County." T.C.A. § 37-1-204. However, the legislature did not intend to make the juvenile court a general sessions court. The intent was to transfer juvenile court jurisdiction to the general sessions court and to make the general sessions court a juvenile court when the subject matter before the court was within the jurisdiction conferred upon juvenile courts. *State ex rel. Winberry v. Brooks*, 670 S.W.2d 631 (Tenn. Ct. App. 1984). Only general sessions judges who are licensed to practice law in Tennessee may order commitment of a juvenile to the Department of Correction. T.C.A. § 37-1-203. If the judge is not licensed to practice in Tennessee, a lawyer-referee is appointed to handle such matters. T.C.A. § 37-1-107. The juvenile court has concurrent jurisdiction with the circuit and chancery court of proceedings arising from the 1980 Hague Convention on the Civil Aspects of International Child Abduction. T.C.A. § 37-1-104.

Pursuant to T.C.A. § 37-1-702, juvenile judges are authorized to establish a teen court program. The teen court is given the authority to conduct proceedings, receive evidence, hear testimony related to the dispositional stage and recommend disposition of the case. For any particular case, the teen court consists of five teen members chosen from a panel of 12 or more teenagers appointed by the juvenile court judge.

## General Sessions Court and Interchange

Reference Number: CTAS-497

Under T.C.A. § 17-2-208, general sessions and juvenile judges may interchange with each other. The substituting judge need not be a resident of the same county, but must otherwise possess the same qualifications of the absent judge. If another judge cannot serve by interchange, general sessions and juvenile judges who must be absent from court may seek a special judge pursuant to the requirements and process set forth in TCA 16-15-209. General sessions court judges may sit by interchange for municipal court judges, but not vice versa. T.C.A. § 16-18-312.

## Probate Court

Reference Number: CTAS-498

Chancery court has exclusive jurisdiction to probate wills and administer estates, unless provided otherwise by law. T.C.A. § 16-16-201. The clerk and master exercises probate jurisdiction, unless otherwise provided.

## Special Courts

Reference Number: CTAS-499

Occasionally, public or private acts create courts to exercise particular jurisdiction in a county. Some counties have chosen through private acts to have separate special jurisdiction courts. Probate jurisdiction is in chancery court unless it is placed in another court by a special act. Similarly, general sessions court has juvenile jurisdiction, unless it is placed in another court by private act. Some counties have combined specialized jurisdictions to create new court titles. The clerk of these courts is designated in the private acts creating these courts. The judge's salary is determined according to the special legislation. Cases from these special inferior courts may be appealed to the circuit court for a de novo trial.

## Judicial Commissioner

Reference Number: CTAS-476

In most counties (and all under 200,000 population) the legislative body may appoint one or more people to serve as judicial commissioners whose duties include, but are not limited to:

1. Issuing arrest and search warrants upon a finding of probable cause;
2. Issuing mittimus following compliance with lawful procedures;
3. Appointing attorneys for indigent defendants;
4. Setting and approving bonds and the release on recognizance of defendants; and
5. Issuance of injunctions and other appropriate orders in cases of alleged domestic violence.

T.C.A. § 40-1-111.

A judicial commissioner appointed by the county legislative body is considered a county officer and serves a fixed term set by the county legislative body, but the term may not be longer than four years. Judicial commissioners are compensated from the county's general fund in an amount determined by the legislative body. All fees collected by judicial commissioners must be paid to the county general fund. T.C.A. § 40-1-111. No search warrant, arrest warrant or mittimus may be issued by an official whose compensation is contingent in any manner upon the issuance or nonissuance of such warrants or mittimus. T.C.A. § 40-5-106.

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