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County Mayor

Dear Reader:

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

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

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

Sincerely,

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County Mayor

Reference Number: CTAS-21

Qualifications and Title-County Mayor

Reference Number: CTAS-22

The office of county executive was created by the 1978 amendment to Article 7, Section 1, of the Tennessee Constitution, when county executive was added to the list of county officials named in the Tennessee Constitution. In the implementing legislation, the General Assembly chose to designate members of the county legislative body as county commissioners, but left the county executive with the title given in the constitution with the option of establishing a different title by private act. This law was changed in 2003 to provide that the chief executive officer of each county, excepting counties with a consolidated (metropolitan) form of government, would hereafter be entitled "county mayor." This law was amended in 2004 to authorize the title to be changed to "county executive" by private act for the particular county. This law was once again amended in 2007 to remove the authority to re-designate county mayors as county executives by private act, but private acts enacted prior to the 2007 amendment remain in effect. T.C.A. § 5-6-101. The chief executive officers of metropolitan governments continue to use the title provided for them by their metropolitan government charter.

County mayors serve terms of four years or until their successors are elected and qualified. Terms begin on the first day of September following the election. T.C.A. §§ 5-6-101 and 5-5-102. There is no limitation on the number of terms county mayors may serve in most counties. In counties with a county charter or metropolitan government charter, the term and possible term limitation for county mayors is determined by the county's charter.

The office of county mayor is subject to the general qualifications for county offices as well as these specific qualifications.

To hold the office of county mayor in any particular county, a person must be at least 25 years of age and must be a qualified voter of the county. He or she must also have been a resident of the county for one year prior to filing a nominating petition for election to the office. To maintain this office, once elected, the county mayor must continue to reside in the county and may not hold any other public office of profit. T.C.A. § 5-6-104.

County mayors are elected county-wide by the qualified voters of the county. Regular general elections are held on the first Thursday in August in even numbered years for county offices, at the same time as primary elections are held for state offices. T.C.A. §§ 5-6-101, 5-5-102, 2-3-202 and 2-13-202.

After election, the county mayor must take an oath of office and execute a surety bond. Oaths of office and Bonds are covered under the General Information tab of the County Offices topic.

Compensation-County Mayor

Reference Number: CTAS-23

The minimum compensation for full time county mayors is set in T.C.A. § 8-24-102 and is determined according to county population by classes. The office is full time, except in counties where the voters have determined by referendum that the workload does not necessitate a full-time mayor. If the county mayor's office is determined by referendum not to be a full-time position, this must be done prior to the election of the county mayor or the county mayor will be entitled to the minimum salary. T.C.A. §§ 5-6-105, 8-24-102(e).

A minimum salary, determined by population class, is set by the General Assembly, although the county legislative body may increase that amount. T.C.A. §§ 8-24-102 and 8-24-114. However, the compensation for the full-time county mayor must be at least five percent greater than the maximum salary payable to any other constitutional officer. T.C.A. § 8-24-102(e).

As the sheriff is the next most highly compensated constitutional officer, the full-time county mayor's compensation must be at least five percent greater than the sheriff's salary.

Relationship to County Legislative Body-County Mayor

Reference Number: CTAS-24

The county mayor serves as a nonvoting, ex officio member of the legislative body; as such the county mayor may not make or second a motion. Op. Tenn. Att'y Gen. 86-194 (December 1, 1986).

The county mayor may be elected chairperson of the legislative body. A county mayor who serves as chair of the legislative body may cast a vote in the event of a tie. T.C.A. § 5-5-109. However, if the county mayor becomes chair, the mayor's veto power is forfeited. T.C.A. § 5-5-103. If not chair of the county legislative body, the county mayor has veto power over legislative resolutions (not administrative or appellate resolutions) adopted by the legislative body.

When a resolution is adopted by the legislative body, it should be submitted to the county mayor. Each resolution must be signed, vetoed, or allowed to become effective without the county mayor's signature. If a resolution is signed by the county mayor, it becomes effective immediately or at a later date specified in the resolution. If the county mayor vetoes the resolution, he or she must return the resolution to the legislative body for action on the veto, and the resolution becomes effective only upon subsequent passage by a majority of all legislative body members. Such passage must take place within 20 days of receiving the county mayor's veto or at the legislative body's next regular meeting, whichever is later. If the county mayor does not sign or veto a resolution or report the mayor's action to the legislative body within 10 days after the resolution is submitted to him or her, the resolution becomes effective without the mayor's signature after 10 days or at a later date if the resolution so provides. The county mayor who does not chair the county legislative body may veto the entire county budget but may not veto portions of it. T.C.A. § 5-6-107.

The county mayor or the county mayor's representative also serves as a nonvoting, ex officio member of each committee of the legislative body, except as provided by law or by the legislative body. T.C.A. § 5-6-106. Most mayoral appointments, including appointments of department heads under T.C.A. § 5-6-106(c), are subject to confirmation by the county legislative body.

Additional information about a county mayor's relationship to the county legislative body is under the County Legislative Body-County Offices tab.

Duties-County Mayor

Reference Number: CTAS-25

Many of the duties and responsibilities of the county mayor are not specifically addressed in the Tennessee Code, but are a function of the fact that the county mayor is expected to provide leadership and direction to the county in most policy areas. This leadership duty of the county mayor is not easily defined. The county mayor should have a better picture of the total government operation than any other county official, and should also have the knowledge, information and leadership ability to steer the county in the direction most beneficial to the county's future.

The county mayor is required to devote full time to the office of county mayor, except in counties where, by referendum, it has been determined that the work is insufficient to require a full time county mayor. T.C.A. § 5-6-105. However, this requirement does not necessarily mean that the county mayor cannot have another job or manage another business. It does mean that the county mayor should devote a normal working day's time to the office.

The county mayor is the accounting officer and chief financial officer of the county; he or she is charged with the care and custody of county property (unless the law specifically places the care and custody on another official, such as the chief administrative officer of the highway department for highway equipment). T.C.A. § 5-6-108. While the county mayor is charged with care of county property, the county legislative body has the power to erect, control and dispose of county property (T.C.A. § 5-5-121), and the authority to levy taxes for this purpose. T.C.A. § 5-5-122.

The county mayor appoints members of county boards and commissions and appoints department heads unless, as is frequently the case, the law specifically provides otherwise; these appointees are subject to confirmation by the county commission. T.C.A. § 5-6-106(c). Unless there is a conflict of interest or other prohibition, the county mayor is free to appoint a member of the county legislative body in exercising the appointment power, although the appointee should not vote on the confirmation. Op. Tenn. Att'y Gen. U94-004 (January 4, 1994). Approval of an appointee requires a commission majority; if the county commission does not approve an appointment, the county mayor must make another appointment that will also be required to be approved by the county commission.

The county mayor is authorized to employ secretarial and clerical assistants needed in the performance of

the duties of the office of county mayor. The county mayor shall establish the compensation of any such assistant within the amount appropriated for such purpose by the county legislative body. T.C.A. § 5-6-116.

While leadership is the most important responsibility of the county mayor, leadership alone is not enough to keep county government functioning properly. Smooth operation also requires that each county official perform statutory administrative duties in several different areas.

Accounting Officer-County Mayor

Reference Number: CTAS-26

As accounting officer and general agent of the county, the county mayor has the responsibility to:

1. Have care and custody of all county property, except that in the custody of other officials.
2. Appoint and to fix compensation of an agent or attorney to take care of county property.
3. Control all books, papers and instruments of the office.
4. Audit all claims for money against the county.
5. Draw, without seal, all warrants on the county treasury.
6. Audit and settle accounts of the county trustee, and those of any other collector or receiver of county revenue, taxes or incomes, payable into the county treasury, and those of any persons entrusted to receive or expend any money of the county.
7. Require the above officers or persons to render and to settle their accounts as directed by law, or by the authority under which they act.
8. Enter in the warrant book, in order of issuance, the number, date, amount and name of the drawee of each warrant drawn upon the treasury.
9. Keep in a suitable book an account of the receipts and expenditures of the county, so as to show clearly the assets of the county, and the debts payable to and by it, balancing the account semiannually, and generally to superintend the financial concerns of the county.
10. Write a semiannual report to the county legislative body reflecting all money received and paid out, and a complete statement of the financial condition of the county; to settle the other accounts once every year. T.C.A. § 5-6-108.

Financial Officer-County Mayor

Reference Number: CTAS-753

The county mayor is the chief financial officer of the county. Except in counties that have adopted the 1981 Financial Management System or that have a county charter that provides otherwise, the county mayor signs or cosigns county warrants, at least for general fund expenditures. The county mayor may examine the accounts of the county officers to verify each item of expenditure or revenue. T.C.A. §§ 5-6-110, 5-6-112. The county mayor audits all claims for money against the county. In counties not providing otherwise, the county mayor serves as the chief accounting officer for the county and maintains the general fund accounts. T.C.A. § 5-6-108. Although the exact role varies depending upon the particular county's adoption of optional general laws, county charters or private acts, the county mayor generally has a strong role in the budgetary process and often presents the consolidated budget for each fiscal year to the county budget committee or county legislative body.

As financial officer of the county, the county mayor has the following duties:

1. To draw a warrant on the county trustee for payment of any judgment recovered against, or debt due from, the county.
2. To reduce to writing the testimony of any witness examined by the mayor concerning any settlement and file the same.
3. To examine minutely and settle the accounts of county officers, referring to the records, documents, dockets and papers in the office to verify each item.
4. To report the settlement to the county legislative body, under an oath stating "that the county mayor believes that the same contains a true schedule of the revenue collected by each officer, and which the county mayor is bound by law to pay to the county trustee."
5. To make duplicates of the settlements with the clerks of the circuit, chancery and appellate

courts, to deliver one duplicate to the county clerk, and to file the others in each clerk's office. T.C.A. § 5-6-110.

Powers-County Mayor

Reference Number: CTAS-754

To carry out the financial responsibilities, the county mayor has the following powers:

1. If there is no county attorney, to employ and/or retain counsel to advise the mayor and the members of the county legislative body as to their legal rights as members, to prepare resolutions for passage by the body, and to represent the county in suits brought by or against the county, except suits by the county to collect delinquent taxes. The attorney is entitled to a reasonable fee for his or her services and/or retention to be fixed by a majority vote of the members of the county legislative body at a regular session, to be paid out of the county general fund.
2. To require clerks of courts to produce all records, documents and papers in their offices relative to county revenue collected by that officer.
3. To call or summon all witnesses having any knowledge relating to the county revenue.
4. To demand of each clerk an account, on oath, of all moneys collected for the use of the county, setting forth each separate item, from whom, and at what time received, and the source from which it was derived.
5. To call the collectors of the county tax, at the time prescribed by law, for the purpose of making a final settlement for the year past.
6. To call the county trustee to a settlement when required by law, or by the court.
7. To procure, at the county's expense, a well-bound book, and therein cause to be entered, on the left-hand pages, two regular accounts, one against the collectors of taxes and revenue, the other against the county trustee, stating the amount of the taxes for which the collectors are accountable, and each item with which each of the officers is chargeable, in behalf of the county, expressing the manner in which it became due and owing, or by whom paid. And, on the right-hand page, opposite the debits, the county mayor shall cause to be entered such item or credit to which either of the officers is entitled, plainly showing the amount thereof and to whom paid.
8. To transfer the balance, if any, either for or against the county, to their respective accounts to be opened for the ensuing year, so that the county executive may be enabled, when required by the county legislative body, plainly to show the state and condition of the county treasury, and in what manner the moneys thereof have been disbursed.
9. To demand of the county clerk a list of the amount of taxes put into the hands of the collector, and due and owing for that year, together with sufficient vouchers, showing the amount of moneys paid to the trustee, as required by law, for fines and forfeitures, and the amount of all appropriations made for the year by the county legislative body, with all necessary documents and vouchers showing any receipts and disbursements of county money. T.C.A. § 5-6-112.
10. To act for the county clerk when the clerk cannot perform any official act because of interest or relationship. T.C.A. § 5-6-114.

County mayors, as well as former county mayors and county executives, may perform marriages. T.C.A. § 36-3-301.

These statutory powers and responsibilities are only a very few of the day-to-day duties performed by the county mayor. While these duties provide the framework for the county mayor's administrative functions, the details of the county mayor's responsibilities are spread throughout the laws concerning county government.

Other Legal Authority

Reference Number: CTAS-755

In addition to statutory law, court cases and constitutional provisions provide guidance for county officials in determining what actions may properly be taken. The county mayor should be familiar with the

local court system. When the chancellor or circuit court judge makes a determination in a case which affects a county's operation, the order of the court must be followed. If either party to the action disagrees with the court's determination, that party can appeal to a higher court. Decisions of the court of appeals or the Supreme Court are binding on all counties and must be followed. When a lower court in a judicial district gives a decision, it is not binding on other judicial districts; however, it is a good indication of what courts in other districts would hold in similar cases.

Constitutional provisions are written in general language. Normally, their application to local governments is determined by case law. A single court case or a series of cases on a particular constitutional provision form the case law on that issue.

The county mayor who is not a lawyer, and even those who have legal training, should work with the county attorney when interpreting the law, in determining the legal viability of a proposal, assessing county liability issues or the county mayor's duty in various situations.

Interaction with other County Offices-County Mayor

Reference Number: CTAS-758

In order to promote the smooth and efficient operation of county government, the county mayor should understand something about the other officials and departments, their daily operation and their statutory duties and powers.

Highway commissioners. It is the duty of the county mayor to examine the inventories of the county road department for compliance with the provisions of the Uniform Highway Law that require proper safeguarding of machinery and equipment. If the road superintendent is not in compliance with those provisions, the county mayor must withhold any funds due the superintendent until he or she complies. T.C.A. § 54-7-112.

Trustee. The county trustee has three major functions: collecting the county's property taxes, accounting for and disbursing county funds, and (in some counties) investing temporarily idle county funds. T.C.A. § 8-11-104. The trustee is authorized to receive a commission for the taxes he or she collects; however, the trustee receives no commission for money turned over by the predecessor in office, or on money borrowed for the use of the county, or received from the sale of bonds. T.C.A. § 8-11-110. The trustee must keep a complete record of all fees, commissions or charges collected by the office. A sworn itemized monthly statement is to be filed with the county mayor. T.C.A. § 8-22-104.

Delinquent tax attorney. 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. 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. T.C.A. § 67-5-2404

County medical examiner. The county medical examiner is elected by the county commission from a list of two doctors nominated by convention of physicians residing in the county. The county mayor calls the convention. In counties with a metropolitan form of government, the medical examiner is appointed by the chief executive officer subject to the confirmation of the metropolitan council. T.C.A. § 38-7-104.

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