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Special Rules for County Commissioners who are County Employees

Dear Reader:

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

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

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

Sincerely,

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

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Reference Number: CTAS-625

Countywide officeholders, such as the county mayor, sheriff, trustee, register, county clerk, or assessor of property, are statutorily prohibited from being nominated for or elected to membership in the county legislative body. T.C.A. § 5-5-102. However, county employees may hold the office of county legislative body member. Any county employee who is otherwise qualified may serve as a member of the county legislative body, notwithstanding the fact that such person is a county employee. T.C.A. § 5-5-102.

In 2016, the Legislature enacted Public Chapter 1072, effective May 20, 2016. This new law changes the conflict of interest provisions for county commissioners who are county employees or whose spouses are county employees. Pursuant to the new law, no member of the county legislative body who is also an employee of the same county or whose spouse is an employee of the same county may vote on matters in which the member has a conflict of interest. The new law provides that a conflict of interest is created when a member is voting on a matter which, if approved by the legislative body, would increase the pay or benefits of that member or that member's spouse. However, the new law does not prohibit a member from voting on the budget, appropriation resolution, or tax rate resolution, or amendments thereto, unless the vote is on a specific amendment to the budget or a specific appropriation or resolution in which the member has a conflict of interest. If a member of a county governing body who is voting on a proposed budget, appropriation resolution, or tax rate resolution, or amendments thereto, has a conflict of interest, then the member must declare the conflict of interest at the meeting prior to casting the member's vote. A member who abstains from voting for cause on any issue coming to a vote before the body is not counted for the purpose of determining a majority vote. These new provisions have been codified as T.C.A. § 5-5-112.

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