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Bank Accounts

Dear Reader:

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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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Bank Accounts

Reference Number: CTAS-707

County Bank Accounts

Reference Number: CTAS-1839

The county legislative body is authorized to adopt a resolution to contract with a bank or banks making the highest and best bid or bids to pay interest on daily balances of the county's funds. The county legislative body may also appoint a finance committee composed of the county mayor, the county trustee and three of its members. T.C.A. § 5-8-201(a)(1).

Prior to contracting with any bank, the trustee is required to take bids from banks and then file an analysis of the bids with the county clerk who shall provide a copy of the trustee's report to each member of the county legislative body on or before its next meeting. The trustee's report shall recommend the bank making the highest and best bid or bids to pay interest on daily balances of the county's funds. T.C.A. § 5-8-201(a)(2).

The finance committee is vested with the authority to formulate, make and sign a contract on behalf of the county with a bank upon the terms and conditions specified in the bid. The contract must be approved by the county mayor, and attested by the county clerk, with the county seal attached. Such contract is binding on the county. T.C.A. § 5-8-202.

If the county finance committee does not contract with a bank or other financial institution, the county trustee may contract with a bank or banks or other financial institutions for deposit, safekeeping, and earning of interest on daily balances of the county's funds, according to the same terms as are required by T.C.A. § 5-8-202 for the county finance committee. Additionally, the county trustee is authorized to enter into such agreements with banks and other financial institutions as necessary for the maintenance of collateral to secure the daily balances of the county's funds on deposit with banks or other financial institutions. T.C.A. § 5-8-201(c).

At least once every four years and not less than once every term of office, the county trustee is required to evaluate whether the county's contract with the bank should be rebid. The trustee is required to obtain proposals from at least two banks or other financial institutions and then prepare a written evaluation of the proposals. The evaluation must be preserved for a period of not less than three years. T.C.A. § 5-8-201(d).

Collateralization of County Funds. Pursuant to T.C.A. § 5-8-201(b), the county shall require any financial institution that becomes a depository of the county's funds to secure the funds as provided in a collateral pool created under Title 9, Chapter 4, Part 5, or in the same manner and under the same conditions as state deposits under Title 9, Chapter 4, Parts 1 and 4. See Op. Tenn. Atty. Gen. 09-146 (August 3, 2009).

County Officials Bank Accounts

Reference Number: CTAS-1844

Every county official handling public funds is required to maintain an official bank account in a bank or banks within this state. Within three days after the receipt of any public funds, the official must deposit the funds in the official's official bank account. T.C.A. § 5-8-207(a)(1). A violation of T.C.A. § 5-8-207 is a Class C misdemeanor.

The requirement to maintain an official bank account does not apply to the chief administrative officer (CAO) of the county highway department because T.C.A. § 54-7-113(a) provides that all "funds received by any person for the county for road or highway purposes shall be promptly deposited with the county trustee and shall be expended only upon a disbursement warrant drawn on the trustee in accordance with law. Op. Tenn. Atty. Gen. 85-088 (March 22, 1985).

All disbursements of public funds shall be made by consecutively prenumbered warrants or consecutively prenumbered checks drawn on the county official's official bank account or bank accounts. T.C.A. § 5-8-207(b).

The requirement to maintain an official bank account shall not prohibit a county official handling public funds from maintaining a petty cash fund in an account sufficient for the transaction of the official business of the county official's office. T.C.A. § 5-8-207(a)(3).

Collateralization of Funds. Each county official maintaining an official bank account is authorized to enter

into such agreements with banks and other financial institutions as necessary for the maintenance of collateral to secure the funds on deposit. All funds deposited with a bank or other financial institution shall be secured by collateral in the same manner and under the same conditions as state deposits under Title 9, Chapter 4, Parts 1 and 4, or as provided in a collateral pool created under Title 9, Chapter 4, Part 5. T.C.A. § 5-8-207(a)(1) and (2).

Application to Schools. The provisions of T.C.A. § 5-8-207 do not apply to county school officials because of the more specific provisions of T.C.A. §§ 49-2-103 and 49-2-110. The latter statutes are more specific and therefore control. See *Watts v. Putnam County*, 525 S.W.2d 488, 492 (Tenn.1975). Op. Tenn. Atty. Gen. 85-088 (March 22, 1985).

Bank Account for Property Tax Collections

Reference Number: CTAS-1845

Pursuant to T.C.A. § 67-5-1801(c), the county trustee may designate a bank and/or the branches that are located within the county to act as a collection agent for the trustee and accept the deposit of county and municipal property taxes. The county trustee is authorized to establish an account with the bank for such purpose, which shall be restricted to the deposit of county and municipal property taxes.

Sheriff's Confidential Bank Account

Reference Number: CTAS-1848

The sheriff may maintain a confidential bank account in accordance with state regulations for use in undercover investigative drug enforcement operations. Pursuant to T.C.A. § 39-17-420(a)(1), cash transactions related to undercover investigative operations of county drug enforcement programs shall be administered in compliance with procedures established by the comptroller of the treasury. The comptroller's guidelines, *Procedures for Handling Cash Transactions Related to Undercover Investigative Operations of County and Municipal Drug Enforcement Programs*, have the authority of law. See also T.C.A. § 53-11-415.

Disbursement Warrants

Reference Number: CTAS-1841

The county officers with the power to write warrants vary from county to county according to the applicable laws.

County Mayor - Disbursement Warrants

Reference Number: CTAS-1846

The county mayor in most counties has the power to issue a warrant on the county general fund, debt service fund and other special funds. T.C.A. § 5-6-108. The county mayor shall be the accounting officer and general agent of the county; and, as such, it shall be the county mayor's duty to-

Draw, without seal, all warrants upon the county treasury; T.C.A. § 5-6-108(5)

Enter in a book, to be known as the warrant book, in the order of issuance, the number, date, amount and name of the drawee of each warrant drawn upon the treasury; T.C.A. § 5-6-108(8).

Pursuant to this statute, the county mayor must track and document all county payments, audit all claims for money against the county, draw all warrants on the county treasury, require county officers to settle their accounts, keep a record of all receipts and disbursements, and report to the county legislative body on the county's financial condition. See Op. Tenn. Atty. Gen. 99-051 (March 4, 1999) (powers and duties of county mayor as county's fiscal agent).

Pursuant to T.C.A. § 5-6-110(1), it is the duty of the county mayor to draw the county mayor's warrant on the county trustee for the payment of any judgment recovered against, or debt due from, the county.

Finally, pursuant to T.C.A. § 5-9-307(a), no money shall be drawn out of the treasury of the county except upon the warrant of the county mayor. The foregoing provisions are general in nature and may be modified or superceded in counties operating under local option general laws, private acts, or charter forms of government. See, e.g., *Shelby County v. Blanton*, 595 S.W.2d 72 (Tenn. App. 1978) (the county mayor and director of finance are the proper persons to sign the warrants of Shelby County).

Highway Department Disbursement Warrants

Reference Number: CTAS-1849

Under the Tennessee County Uniform Highway Law the chief administrative officer (CAO) has oversight of the county highway department. Pursuant to T.C.A. § 54-7-113, which governs the receipt and disbursement of county highway funds as well as county highway purchases, the funds of the county highway department shall be expended only upon a disbursement warrant drawn on the trustee in accordance with law. See Op. Tenn. Atty. Gen. 01-084 (May 23, 2001) (funds for the county road system must be expended upon the warrant of the county trustee). Note that some private acts provide warrant issuing authority to the CAO of county highway departments.

Schools Disbursement Warrants

Reference Number: CTAS-1850

Board of Education. It is the duty of the local board of education to order warrants drawn on the county trustee. T.C.A. § 49-2-203(a)(4).

Chair of the Local Board of Education. It is the duty of the chair of the local board of education to countersign all warrants authorized by the board of education and issued by the director of schools for all expenditures of the school system. T.C.A. § 49-2-205(4). See Op. Tenn. Atty. Gen. 79-180 (April 19, 1979).

Director of Schools. It is the duty of the director of schools to issue, within ten days, all warrants authorized by the board for expenditures for public school funds. T.C.A. § 49-2-301(b)(1)(E).

Mechanical Signing of Warrants. Pursuant to T.C.A. § 49-2-113, a board of education, with the permission of its chair, is empowered to authorize, with the consent of the commissioner of education and the comptroller, the use of mechanical signing equipment approved by the commissioner and comptroller of the treasury, to affix the signature of the chair of the board of education and of the director of schools to the original of a public school warrant; provided, that a clear duplicate of the warrant is kept on file in the office of the director of schools, together with the proper supporting papers to justify the issuance of the warrant.

County Trustee. It is the duty of the county trustee to require the director of schools to attach a voucher to every school warrant amounting to \$500 or more drawn by the county board of education for any purpose other than the salaries of the supervisors and teachers, showing that the board has complied with the law requiring contracts to be let on competitive bids. Additionally, it is the duty of the county trustee to keep all public school funds separate and apart from all other funds coming into the trustee's hands. T.C.A. § 49-2-103. See also T.C.A. § 8-11-104.

Student Activity Funds. A school may, if authorized by the board of education, receive funds for student activities and for events held at or in connection with the school. Funds derived from such sources are the property of the school. The board of education must provide reasonable regulations, standards, procedures and an accounting manual covering the various phases of student body activity funds and other internal school funds accounting. T.C.A. § 49-2-110(a). The regulations must include, among other things, procedures for the proper handling of cash receipts, the making of deposits, the management of funds, the expenditures of funds and the accounting for funds. T.C.A. § 49-2-110(a)(2). It is the duty of the principal of each school to institute and follow the regulations, standards, procedures and the accounting manual adopted by the board of education. T.C.A. § 49-2-110(d). Additionally, the State Department of Education has prepared a uniform accounting policy manual for local school systems as required by T.C.A. § 49-2-110(e) which must be followed. See Op. Tenn. Atty. Gen. 92-54 (September 24, 1992).

With regard to school support organizations (e.g. booster clubs, parent teacher associations, parent teacher organizations) handling of money see T.C.A. § 49-2-110(f) and T.C.A. § 49-2-601 *et seq.* See also Op. Tenn. Atty. Gen. 08-174 (November 18, 2008) (School Support Organization Financial Accountability Act).

Disbursement Warrants under Fiscal Control Acts of 1957

Reference Number: CTAS-1851

The Fiscal Control Acts of 1957 are divided into three separate acts: budgeting (T.C.A. § 5-12- 101 *et seq.*), accounting (T.C.A. § 5-13-101 *et seq.*), and purchasing (T.C.A. § 5-14-101 *et seq.*).

In those counties operating under the County Fiscal Control Acts of 1957 it is the duty of the director of accounts and budgets to prepare disbursement warrants on all county funds. T.C.A. § 5-13-105(b)(1). It is the duty of the director to sign all county disbursement warrants as evidence of the director's audit and approval of the expenditure. T.C.A. § 5-13-105(b)(2). See also T.C.A. § 5-12-110(f)(2). However, no

disbursement warrant drawn on the county trustee becomes a county liability payable by the county trustee until the warrant has also been signed by the county mayor, county director of schools, or other official or officials whose signatures are required on such warrants. T.C.A. § 5-13-105(b)(2).

Pursuant to T.C.A. § 5-12-110(f)(1), expenditures from all funds of the county, except school funds, shall be made by disbursement warrants on the county trustee signed by the county mayor and the director of accounts and budgets, and no other official, department, institution or agency of the county may issue negotiable warrants or vouchers for expenditures.

Before any obligation against the county is paid or any disbursement warrant or voucher issued therefor, a detailed invoice or statement approved by the head of the office, department or agency for which the obligation was made must be filed with the director of accounts and budgets. The director must make a careful pre-audit of such invoice or statement, including a comparison with any encumbrance document previously posted or filed authorizing such obligation, and must approve for payment only such items as appear to be correct, properly authorized, and not exceeding the otherwise unencumbered balance of the allotments or appropriations against which they are chargeable. T.C.A. § 5-13-107(a) and (b). See also T.C.A. § 5-12-110(f)(2).

Disbursement warrants must be promptly prepared for all such approved items by the director and mailed or delivered to the payees thereof. A duplicate copy of all disbursement warrants, with all original invoices or other supporting documents, or both, attached to the duplicate copies, must be kept on file in the office of the director. T.C.A. § 5-13-107(c) and (d).

Payroll Account. The director and the county mayor are authorized to maintain a special county payroll account at a local bank at the county seat in which disbursement warrants for the total of each payroll may be deposited and against which individual net earning checks may be issued to each county employee. The county mayor may authorize the issuance of payroll checks on the signature of the director, and in such event the depository bank shall be so instructed. T.C.A. § 5-13-105(g)(2) and (3).

Application to Schools. The provisions of the 1957 laws do not apply to county school funds for any purpose, the county board of education, and the county director of schools unless approved by the commissioner of education. T.C.A. §§ 5-12-113; 5-13-110; 5-14-115. See Op. Tenn. Atty. Gen. 88-25 (February 2, 1988).

In counties where the 1957 laws have been approved for schools, the accounts and other obligations of the county department of education, other than payrolls, are paid by disbursement warrants drawn on the county trustee by the county board of education. Copies of all disbursement warrants issued by the board of education, showing the accounting classification chargeable, shall be furnished by the board of education to the director of accounts and budgets daily as issued. As an alternative, disbursement warrants may be prepared in the office of the director of accounts and budgets for the county board of education. T.C.A. § 5-12-110(e).

Disbursement Warrants under Financial Management System of 1981

Reference Number: CTAS-1852

In those counties operating under the County Financial Management System of 1981, the director of the finance department cosigns all disbursement warrants for all funds that are handled by the county trustee. Disbursement warrants are prepared by the director of finance and signed in accordance with T.C.A. § 5-21-116. T.C.A. § 5-21-115(b)(3). See Op. Tenn. Atty. Gen. 99-032 (February 18, 1999) (authority to sign disbursement warrants).

Pursuant to T.C.A. § 5-21-116(a), all disbursement warrants drawn on the county trustee for the obligations of all county departments, agencies, and officials, including the county mayor, the county highway department, and the county department of education, are signed as follows:

- (1) The disbursement warrants are prepared in the finance department, and provided to each department for signing.
- (2) Upon preparation of the warrant by the finance department, the department head signing the disbursement warrant keeps one copy for filing in the department.
- (3) The original and all other copies of the warrant are returned to the director for the director's signature as a cosigner and for filing and mailing from the finance department.
- (4) A duplicate copy of all disbursement warrants, with all original invoices and other supporting documents attached thereto, are kept on file in the office of the director.

T.C.A. § 5-21-116(b).

In lieu of each department agency or official signing disbursement warrants, the departments may authorize the director to use a signature plate in accordance with the general law and approval by the comptroller of the treasury. If a signature plate is used, it must be secured in a safe place when not in use and supervised by the person responsible for its safekeeping when in use. A record must be maintained indicating when the signature plate is used, numbers of the warrants signed, and the person using such plate. T.C.A. § 5-21-116(c).

Payroll Account. The financial management committee shall maintain a special county payroll account at a bank, in which disbursement warrants for the total of each payroll shall be deposited and against which individual net earning checks may be issued to each of the county employees. The committee may authorize the issuance of payroll checks on the signature of the director of finance and, in such event, the depository bank shall be so instructed. T.C.A. § 5-21-117.

Application to Schools. The provisions of the 1981 Act apply to county school funds if the Act has been adopted by the county. See Op. Tenn. Atty. Gen. 88-202 (December 2, 1988).

Optional Checking System

Reference Number: CTAS-1843

The county trustee may adopt a checking system for the disbursing of county funds by the county trustee as prescribed by T.C.A. § 5-8-210 by giving at least thirty days notice to each official authorized to sign checks. Once adopted, the trustee may, with the approval of the county finance committee created pursuant to T.C.A. § 5-8-201, or with the approval of the county legislative body, discontinue the practice. T.C.A. § 5-8-210(a).

County Master Account. The "county master account" means all accounts maintained by the county trustee for the purpose of handling banking transactions of the various county funds required by law to be managed by the county trustee, except for any check clearing account as defined in T.C.A. § 5-8-210(c). It is the duty of the county trustee to reconcile all county master accounts and maintain all records as required by law relating to such accounts, including maintaining paid checks. T.C.A. § 5-8-210(b).

Check Clearing Account. A "check clearing account" includes any account created for combined offices and departments or created for separate offices or departments, or both, that the county trustee establishes as a separate checking account for county payrolls or as a method of certifying checks. If any check clearing account is established, the account must be reconciled by the county trustee, except that a separate clearing account established for a single office or department shall be reconciled by that office or department; provided, that if the county trustee deems it necessary or advisable, the county trustee may reconcile any check clearing account established for a single office or department, which shall include maintaining the paid checks. T.C.A. § 5-8-210(c).

Bank Accounts. In any county coming under T.C.A. § 5-8-210, a county master account and a check clearing account are established by the county trustee at a financial institution selected by the county finance committee created pursuant to T.C.A. § 5-8-201 or, if the county legislative body has not created a county finance committee or the county finance committee fails to specify one or more financial institutions, then the county trustee may select a financial institution authorized to handle the account. The financial institution shall be selected based on the institution offering the highest and best bid or bids to pay interest on daily balances of the county's funds, considering the lowest service charges, and considering other factors affecting safety and liquidity of county moneys. T.C.A. § 5-8-210(e).

Once a financial institution has been selected, the county trustee is required to establish one or more county master bank accounts or one or more check clearing accounts, or both, and have each official authorized by law to sign checks drawn on each account to complete forms as required by the financial institution. The forms must be completed and returned to the financial institution prior to any checks being issued on the account. Persons who have the authority to sign checks drawn on the account must promptly complete these forms and return them to the county trustee. The county trustee is required to maintain a copy of these forms and to provide a copy of each completed form to the county mayor and to each person who is authorized to sign checks drawn on the account. T.C.A. § 5-8-210(f).

The county trustee, in conjunction with the financial institution, may designate specifications for checks used to make withdrawals on any account established pursuant to T.C.A. § 5-8-210. In the event of a written objection to the specifications by the county mayor, a department head, the director of accounts and budgets, or the director of finance is filed with the trustee, the county trustee's specifications for checks shall be approved by the finance committee created pursuant to T.C.A. § 5-8-201, or by the county legislative body. T.C.A. § 5-8-210(g).

Financial institution charges incurred by a county for a county master account or for a check clearing account are an allowable office expense for the county trustee. Financial institution charges incurred for a check clearing account established for a single office or department are a charge against the funds of that office or department. T.C.A. § 5-8-210(d).

Certification of Checks. In any county that adopts the provisions of T.C.A. § 5-8-210, the issuance of checks shall be certified by one of the following methods adopted by the county trustee:

- (1) List Certification Method. This method requires each department, including the county mayor, a department head, director of accounts and budgets, and a director of finance, to submit a list by fund to the county trustee of the checks being issued showing the date of the check, check number, payee and amount. The county trustee verifies the department's fund balance and certifies that funds are available or will be available in the "check clearing account" for payment of those checks. The county trustee then transfers funds from the "county master account" to the "check clearing account." The county trustee may develop a procedure for emergency certification by the county trustee in circumstances where such would be reasonable, in which event the county trustee must be provided with a written document for certification by the end of the next business day;
- (2) Check Signing/Validation Method. This method requires each department, including the county mayor, department heads, director of accounts and budgets, and directors of finance, to submit a list to the county trustee of checks being issued showing the date of the check, check number, payee and amount. The county trustee verifies the department's fund balance. The county trustee signs or validates each check if sufficient funds are or will be available and makes any necessary transfer of funds from the master account to the check clearing account;
- (3) Combination Method. The method outlined in (1) may be followed for some offices and departments, and the method outlined in (2) followed for other offices and departments in the discretion of the county trustee; or
- (4) Any other certification method requested by the county trustee and approved by the comptroller of the treasury. T.C.A. § 5-8-210(h).

When the county trustee has certified that funds are available, the total amount certified shall be charged to the fund on which the check or checks are drawn on at least a daily basis so that a current balance is maintained. T.C.A. § 5-8-210(I).

Any reference in the *Tennessee Code Annotated* or regulations issued pursuant to the code that require or authorize the issuance or acceptance of a county warrant shall also authorize the issuance or acceptance of a check drawn pursuant to T.C.A. § 5-8-210 and, to the extent that the provisions of T.C.A. § 5-8-210 conflict with other laws or regulations, the provisions of T.C.A. § 5-8-210 shall apply in any county in which this section has been adopted by the county trustee as provided in T.C.A. § 5-8-210(a). T.C.A. § 5-8-210(j).

Any person who signs or issues any check required to be certified by the county trustee, that has not been certified by the county trustee in accordance with T.C.A. § 5-8-210, is in violation of the law and is subject to removal from position or office, and is subject to personal liability for any improperly disbursed funds. T.C.A. § 5-8-210(k).

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