

COUNTY GOVERNMENT

OVERVIEW OF OFFICES



COUNTY GOVERNMENT



A collection of offices, boards and commissions with limited powers and duties defined by general law.

- in some cases, modified by county or metropolitan charter
- supplemented by private acts

Cannot succeed
without cooperation

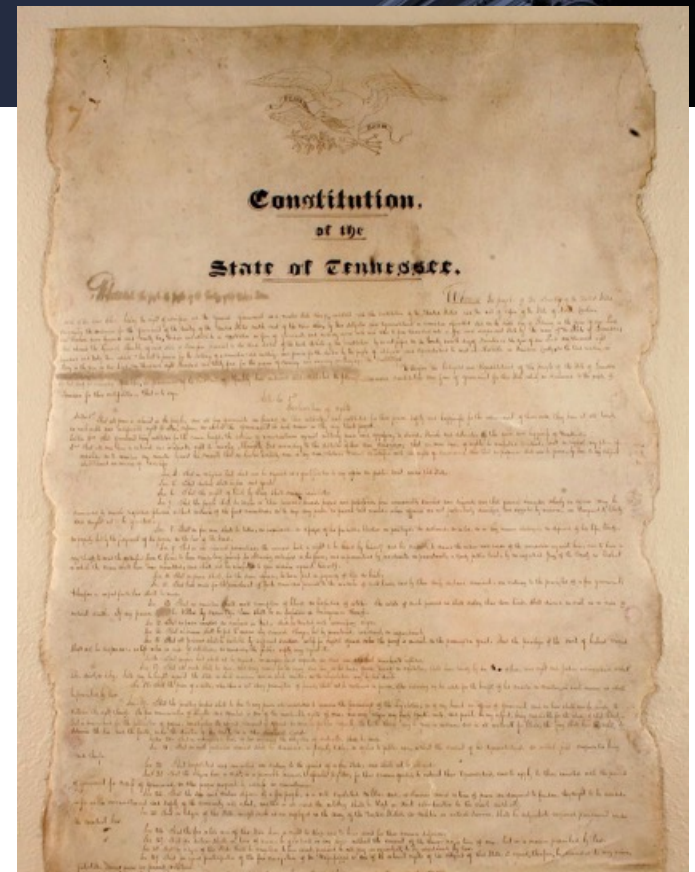
TENNESSEE CONSTITUTION

Limits power of legislature

Few limits on what legislature may enact regarding county and city government

Duties of officials set by legislature

Constitutional requirements differ for counties with consolidated county/city government or county charters



THREE FORMS OF COUNTY GOVERNMENT

Basic Form

- 90 counties

Metropolitan Government

- Davidson
- Moore
- Trousdale

County Charter

- Knox
- Shelby

BASIC FORM

Constitutional Officers

Tenn. Const. Art. 7

County
Executive
(Mayor)

County
Commissioners

County Clerk

Sheriff

Trustee

Register of
Deeds

Assessor of
Property

OTHER OFFICES

Clerks of Court (Tenn. Const. Art. 6)

- Inferior court clerks (elected)
- Clerks and masters (appointed by chancellors)

Highway Officials

- Private act (creates office)
- General law (powers and duties)

BASIC FORM

- Collection of offices and positions
- No hierarchy
- Most offices “independent”
- County Mayor has few statutory powers
- County Legislative Body has limited powers granted by statutes



OFFICE OF COUNTY MAYOR



Tenn. Const. Art. 7,
Sec. 1

Required constitutional office except in counties with a metropolitan government or county charter

One of several constitutional county officers

Popularly elected to a 4-year term

DUTIES OF THE COUNTY MAYOR

Duties determined chiefly by general law

Private act may add duties not conflicting with general law

Must share many executive duties with other constitutional offices

Powers may be enhanced or lessened by county charter or metro charter, if office retained

AUTHORITY OF COUNTY MAYOR

Power rests more on
persuasion than law

County
Mayor
Powers



*Tennessee
Code
Annotated*



Supplement
ed by
private act
in some
counties



No implied
powers

COUNTY MAYOR ROLES

General agent or
“representative”
of the county

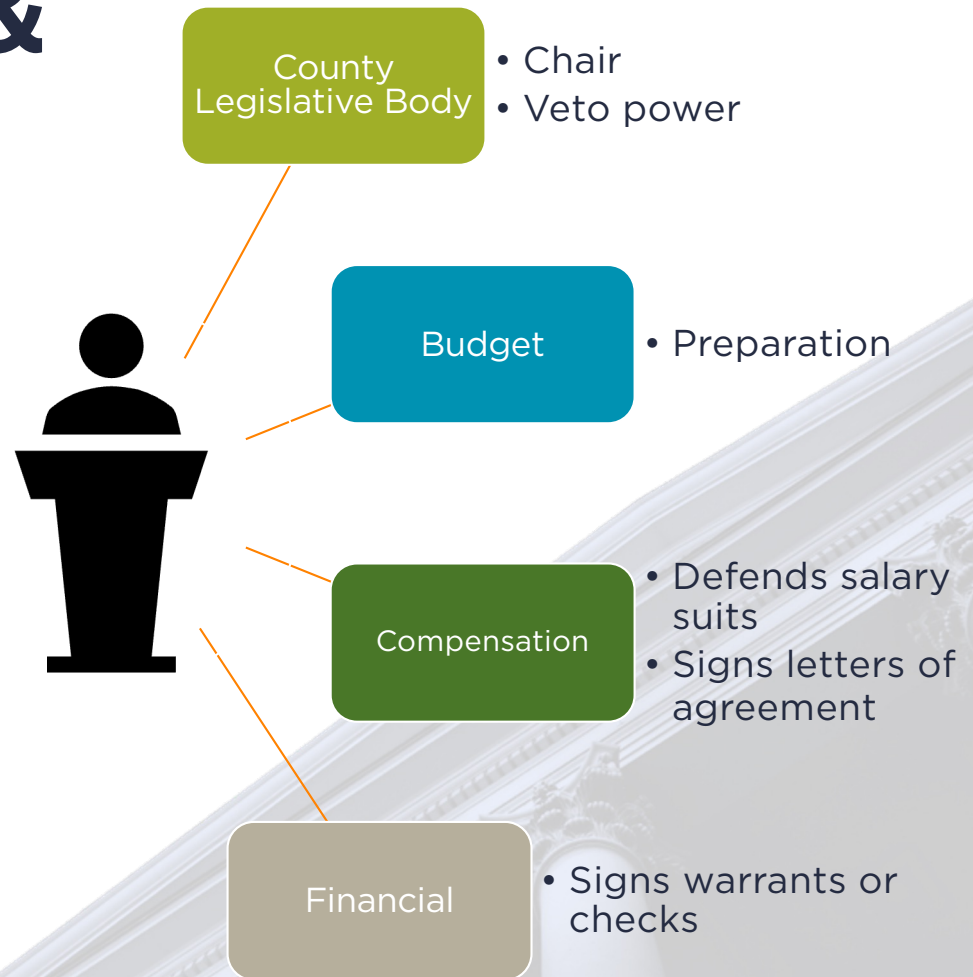
Chief financial officer

County Mayor

Legislative leader
(chair or veto power)

Executive appointments
(limited)

COUNTY MAYOR & OTHER OFFICES



COUNTY COMMISSIONER

9-25
members

3 or fewer
per district

Districts
reapportioned
every 10
years

At-large or
designated
seat

4-year term
(Art. 7, Sec. 1)

Elected in
August

COUNTY LEGISLATIVE BODY BASIS OF AUTHORITY



Tennessee Code Annotated

Powers given by general law codified



Private Acts

May supplement powers given by general law



Combined powers

Metro councils have combined powers of city council and county commission

COUNTY LEGISLATIVE BODY IN ACTION

CLB Chair & Pro Tempore

Elected at 1st meeting

1-year term

Own member or county
executive/mayor

Mayor may refuse election & retain
veto power



COUNTY LEGISLATIVE BODY IN ACTION

Property Taxes

Levy property tax rate

Adopt annual budget

Must meet state funding requirements for mandated services

No limit on property tax rate

Must balance budget



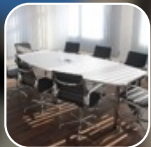
CLB Powers



Issue debt (subject to referendum)



County property (except schools)



Office space allocation



County Technical Assistance Service
INSTITUTE *for* PUBLIC SERVICE

BUDGETARY VS. FEE SYSTEM

County legislative body decides whether fee offices are on Budgetary or Fee System:

Budgetary System

All fees are turned over to the general fund monthly

All expenses of the office are budgeted

Sheriff is always under budgetary system

Fee System

Only “excess” fees are turned over quarterly

Salaries and expenses are paid from fee account

COUNTY LEGISLATIVE BODY INTERACTION WITH OTHER OFFICES



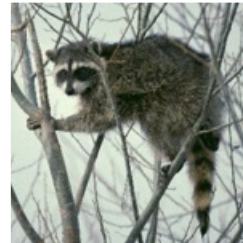
REGULATORY POWERS

Where specifically granted by statute



Zoning

Building Codes,
Permits,
Inspections



Animal Control

County Powers
Act



HIGHWAY OFFICIALS

Chief Administrative Officer

- Popularly elected
- Appointed

Highway Board Member (some counties)

- Most are popularly elected
- Some appointed



COUNTY UNIFORM HIGHWAY LAW

Most counties operate under a general state law known as the County Uniform Highway Law (CUHL)

Shelby, Davidson, Knox and Hamilton counties are generally not under the CUHL (but some sections do still apply)



HIGHWAY OFFICIALS



Chief administrative officers in CUHL counties

- serve a term of 4 years whether popularly elected or appointed (as determined by private act)

Highway Boards

- optional
- most established by private act
- members selected and serve according to private act

HIGHWAY DEPARTMENT POWERS



Under the CUHL, the chief administrative officer has full personnel powers

- hire, dismiss, and set salaries and wages within budget, even if there is an elected highway board

Purchasing officer for the highway department not determined by the CUHL

ASSESSOR OF PROPERTY

The office of assessor of property is a constitutional office under Article VII, Section I of the Tennessee Constitution

Assessors are elected and serve a four-year term beginning September 1 and continuing until a vacancy occurs or a successor is elected and qualified (T.C.A. § 67-1-502)

Duties of the office prescribed by the legislature



ASSESSOR OF PROPERTY DUTIES

- Initial mapping and collection of data on property improvements (size, construction & features) and of the property itself (location, service by road, water and sewer availability, etc.)
- Property classification (real, tangible personal or intangible personal) and further classification of real property (residential, farm, commercial and industrial or public utility)
- Verification of real estate sales with buyer or seller
- Updating physical property information through on-site inspections through reappraisals, building permits, and subdivision of property as reported by the register's office
- Conducting periodic reappraisals of property under schedule established by the Division of Property Assessments (DPA)



REAPPRAISAL

- ❖ Required on a periodic basis to maintain appraisals at market value and to maintain equity in the appraisals
- ❖ Choice of three different reappraisal cycle options: (1) a six-year cycle with a current value update in the third year; (2) a five-year cycle with no intervening update and (3) a four-year cycle with no intervening update
- ❖ Cost of reappraisal shared between county and cities imposing a property tax (T.C.A. § 67-5-1601(c)(2))



COMPENSATION

- Assessors are in the general officers' category under T.C.A. § 8-24-102
- Minimum salary for assessors based on county population
- Salary increases tied to increase in state employees' salaries

OFFICE STAFF

- Authorized to appoint at least one deputy for each 4,500 parcels over the first 4,500 parcels (T.C.A. § 67-1-506).
- In counties that do not qualify for a deputy, the assessor is authorized (with CLB approval) to hire a secretary.

COUNTY GOVERNMENT

BASIS OF AUTHORITY



BASIS OF AUTHORITY

State of
Tennessee

- Creates and empowers counties

United
States of
America

- Does not empower counties, but limits power of the state and its subdivisions such as counties
- Example: anti-discrimination laws



NATURE OF AUTHORITY

County Government

- Can only do what is authorized by state law
- Must find authority in statutes

Private Business

- Can do anything not prohibited by law

SOURCES OF AUTHORITY

General
Law

Charter
/ Metro

Private
Acts

COUNTY AUTHORITY

Granted by state statutory law

Counties and county officials have NO power to act outside of power granted through state statutes

Federal law may limit action but does not empower county officials



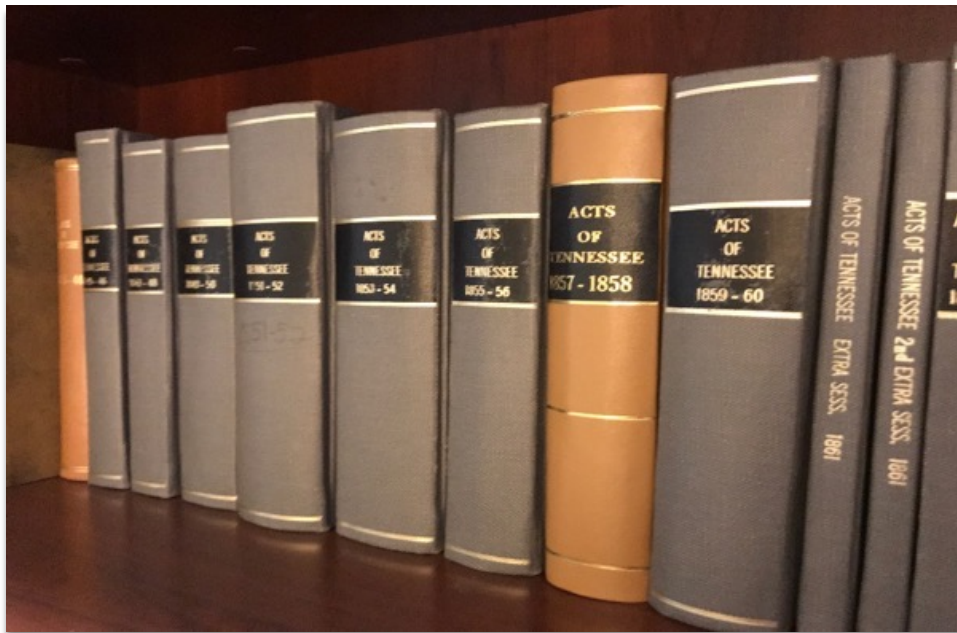
GENERAL LAW

Public Chapters enacted by the General Assembly (codified in Tennessee Code Annotated)

- **General Application**
 - Mandatory
 - Permissive
- **Local Option**
 - Usually adopted by 2/3 vote of county commission or approved by referendum



PRIVATE ACTS



Source of authority when general law is silent

Constitutionally suspect if in conflict with a general law (Tenn. Const. Art. 11, Sec. 8)

Must be enacted by General Assembly and receive local approval by 2/3 vote of county commission or majority in referendum

METRO CHARTERS

Metropolitan Government merges a county with its most populous city with option for other cities in county to join

Under enabling general law, metro government has powers of a county and a city

Wide power granted to restructure local government through metro charter

Must be approved by majority votes both inside and outside most populous city



Metro Government of Nashville and Davidson County, TN

SEARCH

Metro Government of Nashville and Davidson County - Charter / THE CHARTER

VERSION: JUL 26, 2016 (CURRENT)

THE CHARTER OF THE METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY, TENNESSEE **modified**

- THE CHARTER **modified**
 - Part I - CHARTER OF THE METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY, TENNESSEE* **modified**
 - APPENDICES TO CHARTER
 - Article I. - Farmers' Market
 - Article II. - Fair Commissioners
 - Article III. - Parole Officer
 - Article IV. - Juvenile Court
 - Article V. - Employee Pensions and/or Retirement, Insurance Compensation and Benefits
 - Article VI. - Municipal Auditorium
- CHARTER AND RELATED LAWS COMPARATIVE TABLE **modified**

THE CHARTER OF THE METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY, TENNESSEE

Part I - CHARTER OF THE METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY, TENNESSEE

ARTICLE 1. - GENERAL PROVISIONS

- Sec. 1.01. - Consolidation of county and city; creation of metropolitan government: name.
- Sec. 1.02. - Area of metropolitan government.
- Sec. 1.03. - Two services districts and their areas.
- Sec. 1.04. - Expansion of urban services district.
- Sec. 1.05. - Functions within general services district and urban services district.
- Sec. 1.06. - Departments of metropolitan government.
- Sec. 1.07. - Term limits.
- Sec. 1.08. - Mayor's state of metro address.

ARTICLE 2. - POWERS

- Sec. 2.01. - Specific powers.
- Sec. 2.02. - General powers.

ARTICLE 3. - THE METROPOLITAN COUNTY COUNCIL

- Sec. 3.01. - Metropolitan county council created: councilmen-at-large and district councilmen.
- Sec. 3.02. - Terms; compensation: age and residence qualification.
- Sec. 3.03. - Quorum; rules of procedure; presiding officer.
- Sec. 3.04. - Regular meetings; adjourned meetings; special meetings.
- Sec. 3.05. - Legislative authority exercised by ordinance; requirements as to, and form of, ordinances.
- Sec. 3.06. - Authority and power of the council.
- Sec. 3.07. - No pensions for councilmen.

ARTICLE 4. - THE URBAN COUNCIL

COUNTY CHARTERS

Shelby County Charter

About the Charter

The Shelby County Charter was approved by the voters of Shelby County, Tennessee, on August 2, 1984, and became effective in 1986. A constitution for the operation of Shelby County's government, the Shelby County Charter places the power to effect government in the hands of the citizens of Shelby County. Download the entire [Shelby County Charter](#) here, or search the charter sections:

- [Introduction](#)
 - Creation of First Shelby County Charter Commission
 - History of Previous County Government Structure
 - Authority for Charter Form of County Government
 - Home Rule Charter
 - Charter Highlights
 - Conclusion
- [Preamble](#)
- [Article I - Powers and Functions](#)
 - Section 1.01 - Powers and functions
 - Section 1.02 - Private and local affairs
 - Section 1.03 - Public corporation powers
 - Section 1.04 - Public corporation rights
 - Section 1.05 - Rights reserved to the people
- [Article VI - Prohibitions](#)
 - Section 6.01 - Consolidation prohibited
 - Section 6.02 - County board of education
 - Section 6.03 - Removal of incumbents
 - Section 6.04 - Constitutional officers
 - Section 6.05 - Municipalities
 - Section 6.06 - Zoning
 - Section 6.07 - Annexation
 - Section 6.08 - Incorporation
 - Section 6.09 - Civil service
 - Section 6.10 - Appointments and promotions
 - Section 6.11 - Existing rights and liabilities
- [Article VII - Transition Provisions](#)
 - Section 7.01 - Repeal of contrary laws

An alternative form of county government provided by Tennessee Constitution since 1978 as enabled by General Assembly and approved in county referendum

Enabling law gives power to restructure county government and adopt ordinances



95 DIFFERENT COUNTIES

Each county has different laws operating within the county

- Laws can differ greatly due to exceptions in the general law, optional laws, private acts and possibly county charters or metropolitan government charters
- Officials must consult with their county attorney to determine what they can and cannot do



COUNTY OFFICIALS

BONDS AND OATHS



OFFICIAL BOND



A promise by the official to faithfully perform the duties of the office, pay over all monies and properties that come into the officer's hands to the persons authorized by law to receive them, safely keep all records required by law, and turn over all property and records to successor

Forms prescribed by Comptroller

Made payable to state upon failure of official to keep promises made in bond

Bond is to protect county and state, not the official (surety may sue official to recover payout under bond!)

Surety premium paid by county

OFFICIAL BOND DOCUMENTATION

County Mayor or
Court approves

Recorded with
Register of Deeds

Filed with the
County Clerk
within 30 days of
election (or
appointment)

OFFICIAL BONDS BY POSITION

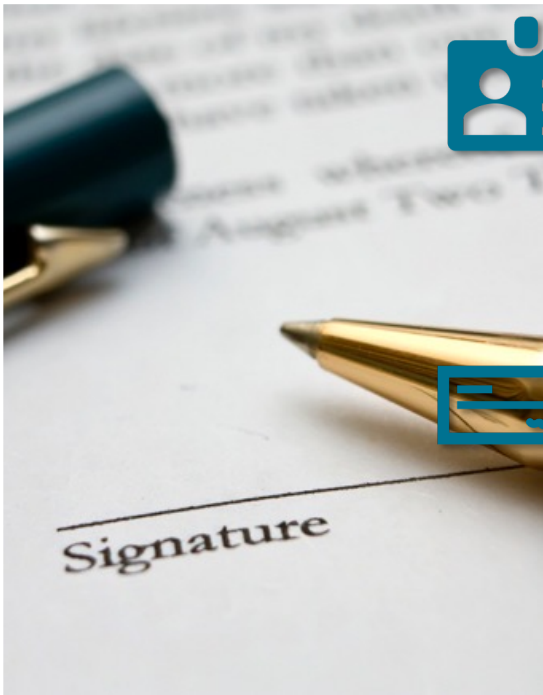
Property Assessor

- \$50,000 (minimum)
- Filed with County Clerk

Highway Chief Administrative Officer

- \$100,000 (minimum)
- Filed with County Clerk

OFFICIAL BONDS



Corporate or individual surety bonds

- County legislative body decides



Blanket bonds

- Separate rider for each official
- Minimum \$150,000 for all county employees not covered by individual bonds

Amount of bond may be increased by county legislative body

INSURANCE INSTEAD OF BOND

Insurance alternative:

- Counties are authorized to purchase insurance policies in place of bonds for both officials and employees.

Purchase of insurance policies is purely optional and at the discretion of the county legislative body.

The county legislative body can opt to cover all or some of the county's officials and employees using insurance rather than bonds.

Must provide at least \$400,000 coverage per occurrence and provide government crime coverage, employee dishonesty insurance coverage, or equivalent coverage that insures the lawful performance by officials and their employees of their fiduciary duties and responsibilities.

- A policy of insurance is deemed to be a blanket official bond for each office and official identified in the policy. A certificate of insurance, policy, or endorsement must be recorded in the register's office and then filed with the county clerk.
- Does not affect GTLA limits.

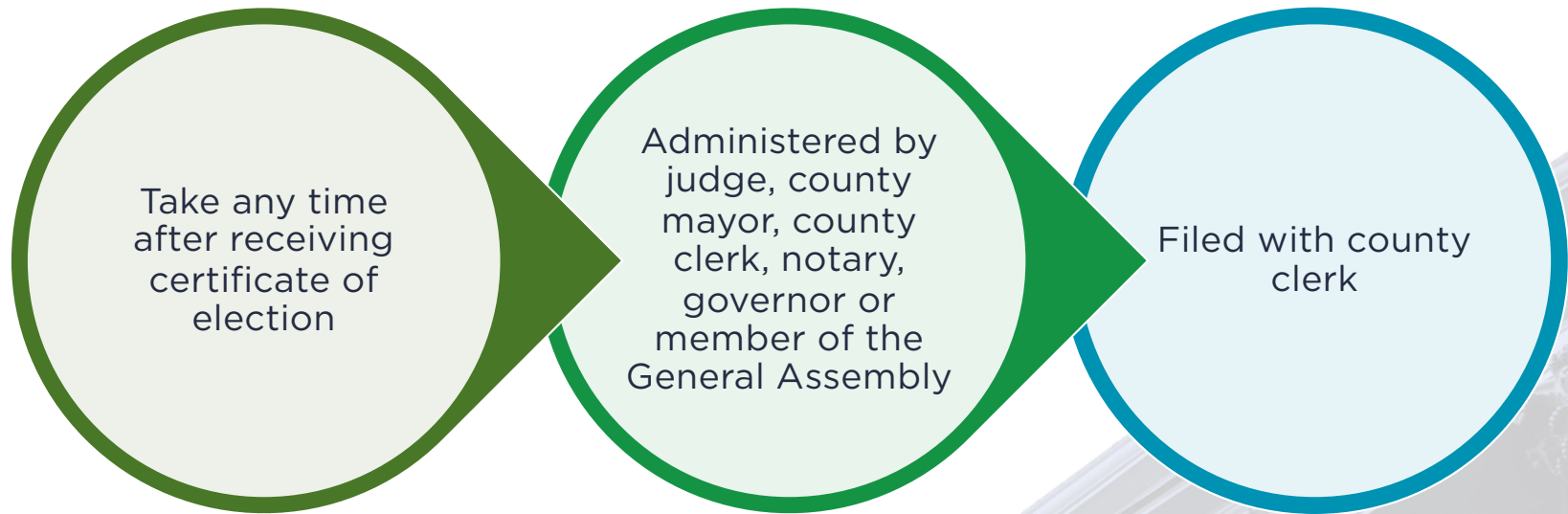
FAILURE TO FILE YOUR OFFICIAL BOND



Failure to timely execute the bond and transmit it to the proper officer for approval will result in a vacancy in office!

T.C.A. § 8-19-117

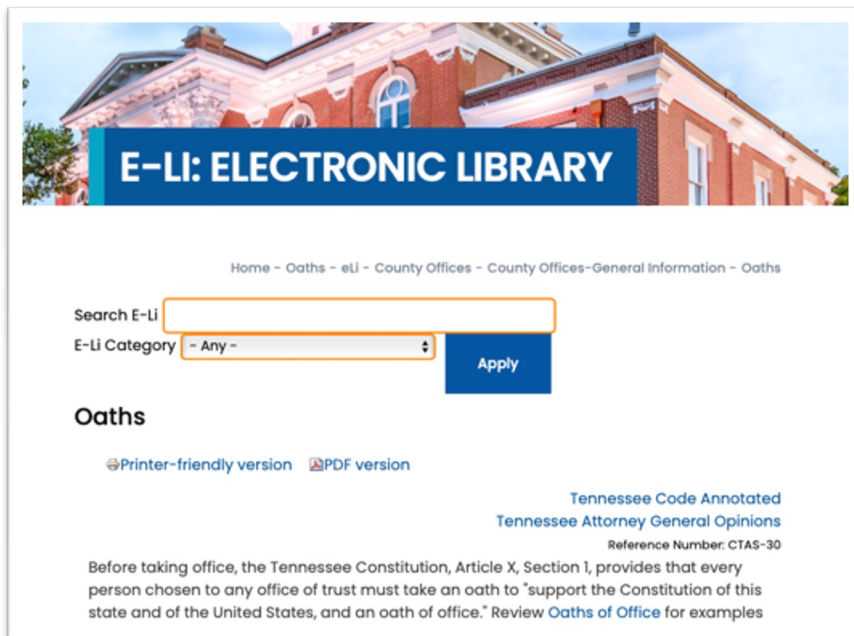
CONSTITUTIONAL OATH AND OATH OF OFFICE



It is a **Class C misdemeanor** to perform the duties of your office prior to taking and filing your oaths. T.C.A. § 8-18-113.



MORE INFO ON OATHS IN E-LI



The screenshot shows the E-LI: ELECTRONIC LIBRARY interface. At the top, there is a navigation breadcrumb: Home - Oaths - eLi - County Offices - County Offices-General Information - Oaths. Below this is a search bar labeled "Search E-LI" and a dropdown menu for "E-LI Category" set to "- Any -". A blue "Apply" button is positioned to the right of the dropdown. Under the heading "Oaths", there are two links: "Printer-friendly version" and "PDF version". To the right, the text reads "Tennessee Code Annotated Tennessee Attorney General Opinions Reference Number: CTAS-30". At the bottom, a paragraph states: "Before taking office, the Tennessee Constitution, Article X, Section 1, provides that every person chosen to any office of trust must take an oath to 'support the Constitution of this state and of the United States, and an oath of office.' Review [Oaths of Office](#) for examples".

Sample Oaths of Office May Be Found in E-li (Reference No. CTAS-30)

