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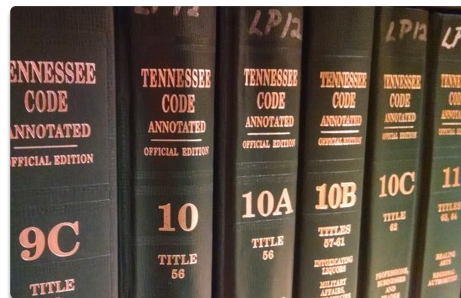
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# COUNTY ETHICS POLICY UNDER THE ETHICS REFORM ACT OF 2006

The “Comprehensive Governmental Ethics Reform Act of 2006” is codified in T.C.A. § 8-17-101 *et seq.*

Ethics Reform Act requires local governments to adopt ethical standards related to the acceptance of gifts and disclosure of conflicts of interest.

Provisions of state law, to the extent they are more restrictive, shall control.



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# COUNTY ETHICS POLICY

- The policies are required to cover two things:

disclosure and/or limits on gifts

disclosure of conflict of interests

- The policies cannot include personnel, employment, or operational regulations of local government offices.



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## COUNTY ETHICS POLICY IMPORTANT POINTS IN THE LEGISLATION

- The policies apply broadly to all officials and employees in all offices, agencies, and departments of the county and to the members, officers, and employees of all boards, commissions, authorities, corporations, or other instrumentalities of a county.



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## UTILITY DISTRICTS & SCHOOLS

The County Ethics Policy DOES NOT apply to utility districts or schools.



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# COUNTY ETHICS POLICY

Ethical standards adopted by a county cannot be less restrictive than the general law or county private acts.



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# COUNTY ETHICS COMMITTEE



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## COUNTY ETHICS COMMITTEE

Ethics legislation passed in 2005 & 2006 does not require a county to have an ethics committee.



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## COUNTY ETHICS COMMITTEE

Any complaints received by your county ethics committee that do not address either the acceptance of gifts or a conflict of interest need not be pursued by the ethics committee.



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## County Ethics Committee

```

    graph LR
      A[Review: Is it a gift or conflict of interest?] --> B[Yes]
      A --> C[No]
      B --> D[Determine whether further inquiry is warranted]
      C --> E[Direct complainant to appropriate person/agency as applicable]
  
```

We advise county officials who serve on a county ethics committee to review ethics complaints to make sure that the complaint first addresses either the acceptance of a gift or a conflict of interest.

If the ethics complaint does not address one of these two issues, we advise that they direct the complainant to the appropriate person or agency (if applicable) and proceed no further.

If the complaint does address an appropriate issue, we advise the committee to try to determine if the complaint bears further inquiry.

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## COUNTY ETHICS COMMITTEE

```

    graph LR
      A[Review: Is it a gift or conflict of interest?] --> B[Yes]
      A --> C[No]
      B --> D[Determine whether further inquiry is warranted]
      C --> E[Direct complainant to appropriate person/agency as applicable]
      D --> F[Criminal violation: turn over to district attorney]
      D --> G[Valid ethics policy violation: turn over to proper county official]
  
```

If the complaint states a valid criminal violation, we advise they turn the matter over to the district attorney's office.

If the complaint states a valid violation of the county ethics policy, we advise they turn the complaint over to the proper county official.

Depending upon the stated complaint, that could be a county office holder if the complaint is against an employee, or the county attorney if the complaint is against an elected county official and the ethics committee needs further clarification of the law.

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## COUNTY ETHICS COMMITTEE

Because the statutes in question do not mandate that a county have an ethics committee, we advise ethics committee members that they have no authority other than to make recommendations to the appropriate county official who could take action in the event that an actual violation of the county ethics policy is presented to the ethics committee.



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## CONFLICT OF INTEREST LAWS



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**CONFLICT OF INTEREST  
T.C.A. § 12-4-101**

**The general conflict of interest statute that applies in all counties.**



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**CONFLICT OF INTEREST  
T.C.A. § 12-4-101**

Under T.C.A. § 12-4-101(a)(1), it is unlawful for a public official, or other person, whose duty it is to vote for, let out, overlook, or in any manner to superintend any work or any contract with the county, to be directly interested in any such contract.

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## CONFLICT OF INTEREST T.C.A. § 12-4-101

“Directly interested” means any contract with the official personally or with any business in which the official is the sole proprietor, a partner, or the person having the controlling interest.



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## CONFLICT OF INTEREST T.C.A. § 12-4-101

**County commissioners cannot  
do business with the county.**



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## CONFLICT OF INTEREST T.C.A. § 12-4-102

An official who violates the provisions of T.C.A. § 12-4-101 shall forfeit all pay and compensation under the contract and shall be dismissed from office and shall be ineligible for the same or a similar position for 10 years.

T.C.A. § 12-4-102.



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## CONFLICT OF INTEREST T.C.A. § 12-4-101



**Besides prohibiting direct conflicts of interest, the statute also requires the disclosure of any indirect financial interests.**



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# CONFLICT OF INTEREST T.C.A. § 12-4-101

**“Indirectly interested” means any contract in which the officer is interested but not directly so, but includes contracts where the officer is directly interested but is the sole supplier of goods or services in a municipality or county.**



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# CONFLICT OF INTEREST T.C.A. § 12-4-101



**The Attorney General has opined that when spouses commingle assets, a person has an indirect interest in any contract directly affecting his or her spouse’s employment.**



**Op. Tenn. Atty Gen. 05-017 (February 3, 2005).**



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## CONFLICT OF INTEREST T.C.A. § 12-4-101


Accordingly, if a county commissioner and his spouse commingle assets he is “indirectly interested” in any contract his spouse’s company may enter into with the county.



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## CONFLICT OF INTEREST T.C.A. § 12-4-101

Under T.C.A. § 12-4-101, the commissioner must disclose any indirect pecuniary interest in a contract with the county if he has the duty to vote for, let out, or superintend that contract.



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# COUNTY PURCHASING LAW OF 1957

## CONFLICT OF INTEREST PROVISIONS

### T.C.A. § 5-14-114



## CONFLICT OF INTEREST T.C.A. § 5-14-114

### County Purchasing Law of 1957 – Direct Interest

Prohibits the county purchasing agent, members of the county purchasing commission, members of the county legislative body, and other officials of the county from having a direct interest in a contract or purchase order for supplies, materials, equipment, or contractual services used by or furnished to a department or agency of the county government.



# CONFLICT OF INTEREST T.C.A. § 5-14-114

## County Purchasing Law of 1957 – Indirect Interest

Prohibits the county purchasing agent, members of the county purchasing commission, members of the county legislative body, and other officials of the county from having an indirect interest in the purchase of supplies, materials, equipment, or contractual services for the county unless the person publicly acknowledges the interest.



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# GIFTS - PROHIBITED T.C.A. § 5-14-114

## County Purchasing Law of 1957

Prohibits the same group of individuals from accepting or receiving, directly or indirectly, from a person, firm, or corporation to which a contract or purchase order may be awarded, by rebate, gift, or otherwise, money or anything of value whatsoever, or a promise, obligation, or contract for future reward or compensation.



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# COUNTY FINANCIAL MANAGEMENT SYSTEM OF 1981

## CONFLICT OF INTEREST PROVISIONS

### T.C.A. § 5-21-121



## CONFLICT OF INTEREST

### T.C.A. § 5-21-121

#### County Financial Management System of 1981

Prohibits the director, purchasing agent, members of the committee, members of the county legislative body, other officials of the county, members of the board of education, members of the highway commission, and employees of the finance department and purchasing department from having a direct interest in the purchase of supplies, materials, equipment, or contractual services for the county.



## **CONFLICT OF INTEREST T.C.A. § 5-21-121**

### **County Financial Management System of 1981**

Such persons shall not have an indirect interest in the purchase of supplies, materials, equipment, or contractual services for the county unless the person publicly acknowledges the interest.



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## **GIFTS - PROHIBITED T.C.A. § 5-21-121**

### **County Financial Management System of 1981**

Prohibits the finance director, purchasing agent, and employees in those depts from accepting anything of value, directly or indirectly, from anyone who furnishes supplies, materials, equipment or contractual services to the county.



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# COUNTY UNIFORM HIGHWAY LAW

## CONFLICT OF INTEREST PROVISIONS

### T.C.A. § 54-7-203



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## CONFLICT OF INTEREST T.C.A. § 54-7-203

### Purchasing Regulations of Highway Depts

In counties under the County Uniform Highway Law, a very strict conflict of interest statute applies.

Applies to:

- The chief administrative officer
- County highway commissioners
- Members of the county governing body
- Employees of the county road department



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# CONFLICT OF INTEREST T.C.A. § 54-7-203

They cannot be financially interested in or have any personal interest, either directly or indirectly, in the purchase of any supplies, machinery, materials, equipment or contractual services for the department or system of roads for the county, nor in any firm, corporation, partnership, association or individual selling or furnishing such machinery, equipment, supplies and materials.



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# CONFLICT OF INTEREST T.C.A. § 54-7-203

A violation of this section constitutes official misconduct and is a Class C misdemeanor and is grounds for removal from office.



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# THE END



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**CTAS**

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