



County Technical Assistance Service

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County Statutory Offices and Positions

Dear Reader:

The following document was created from the CTAS electronic library known as e-Li. This online library is maintained daily 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 e-Li material.

Sincerely,

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Table of Contents

County Statutory Offices and Positions.....	3
County Attorney.....	3
County Medical Examiner	3
County Medical Investigator	4
County Coroner	4
Constable	4
County Tax Attorney	5
County Surveyor.....	5
County Fire Marshal	5

County Statutory Offices and Positions

Reference Number: CTAS-215

In addition to the county constitutional offices and important statutory offices such as the chief administrative officer of the county highway department and the important employment position of director of schools, counties have various other offices and employment positions that have been created by either general law or private act. Some of the offices and positions described are not found in all counties but are fairly common.

An explanation of the office of [Judicial Commissioner](#) can be found under [Courts](#). [Election Administrators](#) are covered under [Elections](#) and [County Building Commissioner](#) is covered under [Land Use, Planning and Zoning](#).

County Attorney

Reference Number: CTAS-450

The county attorney or law director is a popularly elected official in a few counties by private act or county charter, an officer elected for a term of office by the county legislative body under a private act in a few others, and an executive appointed department head in others by county or metropolitan government charter. In most counties, however, there is not an office of county attorney; rather, the position is one of employment or retainer under the general law authority of the county mayor to employ or retain counsel when there is no county attorney. An attorney employed or retained by the county mayor is to advise the county mayor and the members of the county legislative body as to their legal rights as members, prepare resolutions for passage by the body, and represent the county either as plaintiff or defendant in such suits as may be brought by or against the county, except suits by the county to collect delinquent taxes. An attorney employed or retained by the county mayor under this general law authority is entitled to a reasonable fee for such counsel's services and/or retention, which amount is to be fixed by a majority vote of the members of the county legislative body at one of its regular meetings and paid out of the general fund of the county. T.C.A. § 5-6-112. The counties that have an office of county attorney or law director by charter or private act may have different duties and compensation schemes, but all play an important role in advising the county mayor or metropolitan mayor and representing the county. The county charter, metropolitan government charter or private acts must be examined to determine the exact role and duties of the county attorney in those counties.

County Medical Examiner

Reference Number: CTAS-451

Every county is required to have a county medical examiner. T.C.A. § 38-7-104. The principal function of the medical examiner is to investigate deaths occurring under certain circumstances described by statute and to provide information to law enforcement officials. T.C.A. §§ 38-7-106 through 38-7-119. The county commission may assign the county coroner's duties to the medical examiner and eliminate the office of coroner. T.C.A. § 8-9-101. The county medical examiner may order autopsies in cases where the death is sudden or is possibly not from natural causes.

The county medical examiner is appointed by the legislative body from a list of two doctors of medicine or osteopathy nominated by a convention of physicians residing in the county. In counties with a metropolitan form of government, the medical examiner is appointed by the chief executive officer subject to confirmation by the metropolitan council. T.C.A. § 38-7-104. The county legislative body may appoint a medical examiner from another county if it is impossible to obtain acceptance from a physician in the county. If the legislative body fails to certify a medical examiner, the state's chief medical examiner may appoint a medical examiner for the county until the legislative body takes such action. T.C.A. § 38-7-104.

County Medical Investigator

Reference Number: CTAS-452

The county legislative body has discretionary authority to establish the position of medical investigator to assist the county medical examiner. Generally, this position must have one of the following qualifications: a licensed EMT, paramedic, registered nurse, physician's assistant or a person registered by or a diplomat of the American Board of Medicolegal Death Investigators; and the person must be approved by the county medical examiner as qualified to serve. If a county has a coroner elected by the county legislative body, then the coroner acts as the medical investigator if the coroner is qualified, but if the coroner has served for 10 years or more the coroner is not required to be otherwise qualified. If the position of medical investigator is established and the coroner is not qualified to serve as medical investigator, then the county legislative body must either authorize the county medical examiner to appoint someone subject to confirmation of the county legislative body or provide for this function through a contract for service approved by the county medical examiner and the county legislative body. The county medical investigator may conduct investigations of possible unnatural death under the supervision of the county medical examiner and may make pronouncements of death but cannot sign a death certificate. The medical investigator may recommend an autopsy but cannot order one unless this authority is delegated to the medical investigator by the county medical examiner. T.C.A. § 38-7-104(f).

County Coroner

Reference Number: CTAS-453

The county legislative body has discretionary authority to create the county coroner's office. If the office is created, the legislative body appoints a coroner for a two-year term. T.C.A. § 8-9-101. The coroner must take an oath of office and enter into a \$2,500 surety bond. T.C.A. §§ 8-9-103, 8-9-104.

The coroner may hold an inquest upon receiving an affidavit signed by two or more reliable persons stating that a death has occurred and that there is good reason to believe that the death was due to unlawful violence. T.C.A. § 38-5-101 *et seq.* Courts of general sessions also have the power to hold an inquest upon receiving the proper affidavit. T.C.A. § 38-5-103. The coroner may also serve certain process when the sheriff is an interested party, and must make reports of any traffic-related deaths as required by the Department of Safety. T.C.A. §§ 8-9-106, 55-10-112.

As noted above, the county legislative body may abolish the office of coroner and assign the duties of the coroner to the county medical examiner. T.C.A. § 8-9-101.

Constable

Reference Number: CTAS-454

Constables are optional officers. In counties where they exist, they all may serve civil process. In some counties, designated by narrow population class in the general law at T.C.A. § 8-10-108(b), the constable has law enforcement powers and, therefore, may enforce the criminal laws of this state. T.C.A. § 8-10-109.

A county legislative body may, by adopting a resolution by two-thirds majority vote at two consecutive meetings, abolish the office of constable for that county or set the term of office for the constable at either two or four years. Any change would not be effective until the end of the current term being served by the constable. T.C.A. § 8-10-101.

Also, a county legislative body may, by adopting a resolution by a two-thirds vote at two consecutive meetings of the county legislative body, remove the law enforcement powers exercised by the constables of the county. Such action by the county legislative body to remove the law enforcement powers of constables will apply to constables elected to office following the expiration of the term of office of constables in office at the time the action is taken by the county legislative body. T.C.A. § 8-10-109. Note: Some exceptions apply.

In addition to these optional procedures, several counties, by population class exceptions, are exempt from portions of the constable law or have abolished the office of constable entirely. The specific statute should be consulted for provisions applicable to each individual county. T.C.A. § 8-10-101 *et seq.*

Constables are elected from districts established by the legislative body subject to the following limitations: the number of constables elected cannot exceed one-half the number of county commissioners and constable districts must be reasonably compact and contiguous and must not overlap. T.C.A. § 8-10-101. Constables must have the following qualifications:

1. 21 years old,
2. A qualified voter of the district,
3. Ability to read and write,
4. Possess at least a high school diploma or general educational development certificate,
5. No felony convictions, and
6. No armed forces discharge other than honorable.

There are a few exceptions to the aforementioned qualifications. T.C.A. § 8-10-102.

A candidate must file an affidavit stating that he or she meets these qualifications with the county election commission along with the nominating petition. T.C.A. § 8-10-102. There are also permissive specifications regarding uniforms and car markings. T.C.A. §§ 8-10-119, 8-10-120. Prior to taking office, constables must, at their own expense, enter into a surety bond of not less than \$4,000 nor more than \$8,000, at the legislative body's discretion. T.C.A. § 8-10-106. Constables' duties may be limited to serving civil process or may include peacekeeping duties; the oath of office differs according to the nature of the duties. T.C.A. 8-10-108. The duties of the constable are determined according to the population classification of the particular county under T.C.A. §§ 8-10-108 and 8-10-109, unless the county legislative body has acted to remove law enforcement powers. The legislative body may fill any vacancy by temporary appointment until it is filled by an election. T.C.A. § 5-1-104.

For their official bonds, constables must use a surety company authorized to do business in Tennessee. T.C.A. § 8-10-106. The constable pays all of the costs of obtaining and recording the official bond for his or her office. T.C.A. § 8-10-106.

County Tax Attorney

Reference Number: CTAS-455

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. Suits for the collection of delinquent property taxes are to be filed after the trustee delivers the delinquent lists to the attorney by April 1 of each year. The delinquent tax attorney is compensated in an amount determined in advance through negotiations between the trustee and the attorney, subject to the approval of the county legislative body, but in most counties this amount is limited to 10 percent of all delinquent land taxes collected. T.C.A. §§ 67-5-2404, 67-5-2405. 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.

County Surveyor

Reference Number: CTAS-459

The legislative body elects the county surveyor at its January session for a four-year term. T.C.A. § 8-12-101. The surveyor must take an oath of office and enter into a \$2,000 bond. T.C.A. § 8-12-102. The legislative body may fix the compensation of the surveyor, his chain bearers and markers where the fees are not already established by law. T.C.A. § 8-12-107. The surveyor may appoint two deputies who must take the surveyor's oath of office; appointment takes place before the legislative body. T.C.A. § 8-12-104. The surveyor must maintain all office records in the county seat. T.C.A. § 8-12-103.

County Fire Marshal

Reference Number: CTAS-457

The County Fire Marshal is responsible for ensuring fire safety compliance in the unincorporated portions of the county. Typical responsibilities include plan reviews of new site developments; new and modified commercial structures and multi-family dwellings; and fire protection systems. Additional duties include

inspections of new construction for compliance with the applicable building and fire codes, as well as inspections of existing structures (except one and two-family dwellings) to ensure compliance with the fire prevention code adopted in an effort to reduce the risk of death and injury due to fire.

The County Fire Marshal typically conducts fire scene investigations to determine origin and cause and works closely with the local sheriff's department, district attorney's office, and other state/ federal agencies as needed in cases that involve suspected arson activity. The coordination of fire safety public education efforts is an important function of the County Fire Marshal's duties. In counties that have a countywide fire department, the County Fire Marshal's position can be created within that agency to carry out the provisions of T.C.A. § 5-17-102(8).

In counties that do not have a countywide fire department, the position can be created in accordance with T.C.A. § 5-6-121. The Fire Marshal may also function as a coordinator between the county and the independent fire departments that provide fire protection services to the unincorporated portions of the county.

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