



# County Technical Assistance Service

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## Deputies and Assistants

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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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## Deputies and Assistants

**Reference Number:** CTAS-34

Generally, county "fee officials" (those county officials who regularly collect fees for their services) must have authority other than the county budget resolution before they can hire employees. This authority may come directly from statute, by court order, or through a contract called a **letter of agreement**. T.C.A. § 8-20-101. If the county official's own salary and that of deputies and assistants is paid directly from the county general fund and the county fee official agrees with the amount appropriated for deputies and assistants as set forth in the budget adopted by the county legislative body, the official enters into a letter of agreement with the county mayor, using a form prepared by the state comptroller, that is then filed with the court. T.C.A. § 8-20-101.

If the county official does not agree with the amount appropriated, a salary suit may be filed by petition of the county official under T.C.A. § 8-20-101. The court in which the petition is filed depends on the official. Clerks of court file their petitions with any one of the judges of their respective courts; sheriffs file in circuit or criminal court; clerks and masters, trustees, county clerks and clerks of probate court, and registers of deeds file with the chancery court. The county mayor is named as defendant and the county mayor is required to file an answer within five days after service of the petition. The petition must be filed by the fee official within 30 days after the final adoption of a budget by the county legislative body. Also, a new officeholder has 30 days from the day of taking office to file a petition. The court will then hold a hearing and issue an order determining the appropriate number and compensation of deputies and assistants. T.C.A. § 8-20-102. If the fee official is under the fee system and pays deputies and assistants directly from the official's bank account, the official can negotiate a letter of agreement with the county for the number and compensation of deputies and assistants. If the fee official cannot reach an agreement with the county mayor, the fee official must file suit to obtain authority to hire deputies and assistants.

County officials have the power to employ and discharge employees. The court decree or letter of agreement merely sets the maximum number and maximum compensation of the employees. It is the county official's duty to reduce the number of deputies and assistants or their salaries when it can reasonably be done. T.C.A. § 8-20-105.

The compensation for deputies and assistants established by court decree or letter of agreement must be sufficient to comply with the Federal Fair Labor Standards Act (FLSA) and its minimum wage and overtime provisions. In general, nonexempt employees must receive overtime compensation at the rate of one and one-half their regular rate of pay for all hours worked in excess of 40 in a week. Compensatory time off is allowed in lieu of overtime compensation, but the employee must receive one and one-half hours off for each hour worked in excess of forty (40), and as a general rule, an employee may not accrue more than two hundred forty (240) hours of compensatory time.

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