

A Guide to Qualifying for Two Different Offices on the Same Ballot

I. Two Federal Offices

- A. You can run for two federal offices at the same time.
- B. Federal Hatch Act - The Federal Hatch Act provisions govern political activity by federal employees.
 - 1. The Federal Hatch Act does not disqualify an individual from seeking and holding a public office; however, violation of it could place an employee who is subject to it in jeopardy of losing his or her job.
 - 2. According to the Federal Hatch Act, federal employees may be candidates for public office in partisan elections as long as the federal employees' salary is not entirely – 100% - funded by federal loans or grants. (2012 change)
 - 3. Make sure state or local laws do not prohibit the person from running.

II. Two State Offices

- A. You cannot run for two state offices at the same time.
- B. TCA 2-5-101(f)(5) states, in pertinent part:

No candidate, whether independent or represented by a political party, may be permitted to submit and have accepted by any election commission, more than one (1) qualifying petition, or otherwise qualify and be nominated, or have such candidate's name anywhere appear on any ballot for any election or primary, wherein such candidate is attempting to be qualified for and nominated or elected to more than one (1) state office as described in either § 2-13-202(1), (2) or (3) or in article VI of the Constitution of Tennessee....
- C. State Employee - State Office
 - 1. A state employee may not simultaneously hold another state office.
 - 2. A state employee may hold any elected office other than a state office.
 - a) **Example: A state employee may hold the office of county commissioner. However, city charters should be reviewed for any prohibitory language regarding their elected officials holding public offices or offices of public trust.**

3. State employees may be governed by the Federal Hatch Act if the individual's salary is entirely – 100% - funded by federal loans or grants. In this scenario, the state employee must review the requirements of the Federal Hatch Act regarding the prohibition against being a candidate in a partisan election.

III. County Offices

A. County Office - County Office

1. You cannot run for two constitutional county offices or two countywide offices or district based offices that have countywide jurisdiction.

B. TCA 2-5-101(f)(5) states, in pertinent part:

No candidate, whether independent or represented by a political party, may be permitted to submit and have accepted by any election commission, more than one (1) qualifying petition, or otherwise qualify and be nominated, or have such candidate's name anywhere appear on any ballot for any election or primary, wherein such candidate is attempting to be qualified for and nominated or elected to ... more than one (1) constitutional county office described in article VII, § 1 of the Constitution of Tennessee or any other county-wide office, voted on by voters during any primary or general election. See Attorney General Opinion No. 02-012 (January 18, 2002).

C. County Employee - County Legislative Body

1. TCA 5-5-102(c)(2) states:

No person elected or appointed to fill the office of county mayor, sheriff, trustee, register, county clerk, assessor of property, or any other county--wide office filled by vote of the people or the county legislative body, shall also be nominated for or elected to membership in the county legislative body.

2. A county employee can run for county commissioner (county legislative body). TCA 5-5-102(c)(1). Both offices can be held at the same time. TCA 5-5-102(c)(4)(A).

D. County Office – Federal/State Office

1. You can run for a county office and a federal or state office at the same time. (OAG 92-66, 1992).

a) EXCEPTION: TCA 5-6-104(b) states that a county executive may not hold any other public office for profit, i.e., a public office which receives a salary.

E. County Office - School Board

1. No member of the county legislative body or any other county official shall be eligible for election as a member of the county board of education. TCA 49-2-202(a)(2).

F. Teacher - School Board

1. TCA 49-2-203(a)(1)(D) states that:

No member of any local board of education shall be eligible for election as a teacher, or any other position under the board carrying with it any salary or compensation;

2. However, an employee of the school system may run for the office of school board without resigning the teacher's position.

IV. Municipal Offices

A. City Office - County Office

1. You can run for a city office and a county office at the same time. (OAG 83-337, July 11, 1983)

2. EXCEPTIONS

a) TCA 5-6-104(b) states that a county mayor may not hold any other public office for profit, i.e., a public office that receives a salary.

b) Full Time Judge (ex. General Sessions Judge) and City Judge – Seeking two judicial positions is a violation of the Code of Judicial Conduct because General Sessions Judge is a full time position. The Code of Judicial Conduct binds both candidates and sitting judges. (Ethical Opinion from Judge Alan Glenn April 2, 2014)

3. A county employee cannot hold an office if a municipal charter prevents it.

a) Example: County school board member wants to run for mayor. He or she may run for mayor while holding their school board seat and can hold both offices at the same time unless the city charter prevents it. See also Title 5.

B. City Office - City Office

1. You can hold two or more city offices at the same time if the city charter doesn't prevent it. (OAG 80-53, January 31, 1980).

C. City Employee - City Office

1. A city employee may not run for city office unless the charter or ordinance expressly allows it.
2. TCA 7-51-1501 "...that unless otherwise authorized by law or local ordinance an employee of a municipal government or of a metropolitan government shall not be qualified to run for elected office in the local governing body of such local government unit in which the employee is employed."