



# Haywood County Commission, March 16, 2026

## Amendment to Private Acts of 1945, Chapter 350 – County Attorney

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### Commission Agenda Item - Recommended Action

As recommended by the Local Government Committee on March 10, 2026: To adopt the proposed amendment to Private Acts of 1945, Chapter 350, concerning the County Attorney of Haywood County, and to approve its submission to the Tennessee General Assembly, contingent upon two-thirds (2/3) vote of the Haywood County Commission.

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### I. Proposed Amendment Bill

AN ACT

To amend Chapter 350 of the Private Acts of 1945, as amended, and any acts amendatory thereto, relative to the County Attorney of Haywood County.

**BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:**

SECTION 1.

Chapter 350 of the Private Acts of 1945, as amended, and any acts amendatory thereto, is amended by deleting Sections 2 and 3 and substituting instead the following:

SECTION 2.

The County Attorney shall be licensed to practice law in the State of Tennessee.

Preference should be given to an attorney who is a resident citizen of Haywood County; however, residency within the county shall not be required.

Before assuming office, the County Attorney shall take and subscribe the following oath, which shall be filed with the County Clerk: "I, \_\_\_\_\_, do solemnly swear that I will support the Constitutions of the United States and of the State of Tennessee, and that I will perform the duties of said office according to the law and to the best of my skill and ability."

SECTION 3.

The County Attorney shall serve as legal counsel to Haywood County government and shall advise and represent members of the County Commission, the County Mayor, and other county officials, including elected, appointed, or confirmed officials, and chairs of boards and commissions serving county government on legal matters relating to the performance of their official duties.

The County Attorney shall prepare and render written legal opinions to county officials.

The County Attorney shall give legal advice to the County Mayor and to the County Commission regarding the issuance and sale of county bonds and shall prepare and execute all necessary legal papers pertaining thereto when requested by the County Mayor or the County Commission.

In the event of conflicting requests among county officials, the County Attorney shall act in the best interest of Haywood County.

**SECTION 2.**

Chapter 350 of the Private Acts of 1945, as amended, and any acts amendatory thereto, is amended by deleting the term "Quarterly County Court" wherever it appears and substituting instead "County Commission," and by deleting the term "County Judge" wherever it appears and substituting instead "County Mayor."

**SECTION 3.**

Chapter 350 of the Private Acts of 1945, as amended, and any acts amendatory thereto, is amended by adding the following new section:

**SECTION 9.**

The County Commission may employ legal counsel other than, or in addition to, the County Attorney when such additional or specialized counsel is deemed necessary or appropriate.

**SECTION 4.**

This act shall have no effect unless it is approved by a two-thirds (2/3) vote of the legislative body of Haywood County. Its approval or nonapproval shall be proclaimed by the presiding officer of the legislative body and certified to the Secretary of State.

**SECTION 5.**

For the purpose of approving or rejecting the provisions of this act, this act shall take effect upon becoming a law, the public welfare requiring it. For all other purposes, it shall take effect as provided in Section 4.

**THIS AMENDATORY ACT IS APPROVED FOR SUBMISSION TO THE TENNESSEE STATE LEGISLATURE, THE PUBLIC WELFARE REQUIRING IT.**

Adopted this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_ **APPROVED:** Jeffery Richmond, Commission Chair

\_\_\_\_\_ **APPROVED:** David M Livingston, County Mayor

\_\_\_\_\_ **ATTEST:** County Clerk, Sonya Castellaw

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## II. Summary of Proposed Changes

### 1. Modernization of Government Titles

- Quarterly County Court → County Commission
- County Judge → County Mayor

**2. Residency Requirement Clarification** - Preference should be given to an attorney who is a resident citizen of Haywood County; however, residency within the county shall not be required.

**3. Oath of Office** - Requires the County Attorney to take the constitutional oath of office required of county officials before performing duties.

**4. Clarification of Legal Representation** - Clarifies that the County Attorney serves as legal counsel to Haywood County government, including the County Commission, County Mayor, and other county officials, elected, appointed, or confirmed, acting in their official capacities.

**5. Conflicting Legal Direction** - Stipulates the County Attorney shall act in the best interest of Haywood County in the event of conflicting requests among different county officials.

**6. Authority to Employ Additional Counsel** - Authorizes the County Commission to retain additional legal counsel when specialized services or additional representation are needed.

**7. No Change to Existing Term** - The amendment does not change the current provision that the County Attorney serves a two-year term. (However, the LGC should review the provisions of County Commission Rule 12 regarding the procedural selection process for filling the attorney position.)

**8. Local Approval Requirement** - The amendment must be approved by a two-thirds vote of the Haywood County Commission before it can take effect.

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## III. Supporting / Background Information

### Purpose Statement

The purpose of this amendment is to modernize and clarify Private Acts of 1945, Chapter 350, which established the office of County Attorney for Haywood County. The amendment updates governmental terminology, clarifies the qualifications and duties of the County Attorney, affirms that the attorney serves as legal counsel to Haywood County government, and provides flexibility for the County Commission to employ additional legal counsel when necessary.

The amendment does not change the existing two-year term of office or the method of selection of the County Attorney. *(The Local Government Committee will review Commission Rule 12 for any relevant procedural updates.)*

## History of the Act

Private Acts of 1945, Chapter 350 established the office of **County Attorney for Haywood County**. Several provisions of the Act reflect the structure of county government as it existed in 1945. Since that time, Tennessee law has replaced the **Quarterly County Court** with the **County Commission**, and the **County Judge** with the **County Mayor**. The proposed amendment modernizes this language and clarifies the duties and qualifications of the County Attorney while preserving the existing structure of the office.

## General Law vs. Private Act

In the absence of a private act establishing the Office of County Attorney, a county's legal services would be governed by general state statutes, which authorize the county mayor to retain or employ legal counsel when a county attorney has not otherwise been established. Counties may instead establish the Office of County Attorney by private act of the General Assembly, as Haywood County did in 1945.

## Legislative History

Legislative history obtained by County Attorney Sarah Levy indicates that the 1945 Act represented a deliberate step by the then-Quarterly County Court to establish the Office of County Attorney rather than relying on the default provisions of general law. Copies of these archival materials are attached to the Local Government Committee minutes of February 10, 2026.

## Committee Review

The recommendations that follow are the culmination of ongoing discussions by the **Budget Committee**, **Local Government Committee**, and **County Commission** regarding whether to repeal or amend the 1945 Act governing legal services and the Office of County Attorney. Minutes from the February 2026 meeting of the Local Government Committee document the studies and resources reviewed and serve as the basis for the recommendations presented herein.

## County Commission Direction

At its February 2026 meeting, the County Commission voted to proceed with amendment of the Act rather than repeal by approving the following motion recommended by the Local Government Committee:

***Motion by LGC Chair Sharon Hayes:** I move that the County Commission approve the recommendation of the Local Government Committee to pursue amendment—not repeal—of the 1945 Private Act governing the Haywood County Attorney, and that the matter be referred back to the Committee to develop proposed revised language in an open process incorporating input from Commission members, with the intent of presenting an amended Private Act for consideration at the March meeting.*

## Purpose of the Proposed Amendment

These recommendations are intended to update and clarify the existing private act while maintaining the authority of the County Commission, as the legislative body, to provide for legal services necessary for the effective operation of county government.

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## **IV. Original 1945 Act as Amended in 1974**

### **Haywood County - Private Acts of 1945 Chapter 350**

**Source URL:** <https://www.ctas.tennessee.edu/private-acts/private-acts-1945-chapter-350>

**SECTION 1.** That the office of County Attorney is hereby created in all Counties of the State of Tennessee, having a population of not less than 27,680 nor more than 27,720, according to the Federal Census of 1940 or any subsequent Federal Census. The County Attorney shall be elected by the Quarterly County Court of such Counties at the next regular session of said Quarterly County Court following the effective date of this Act and shall serve for a term of two (2) years or until his successor is elected and qualified. In the event of a vacancy in said office of County Attorney, the same shall be filled by the Quarterly County Court.

**SECTION 2.** That such County Attorney shall be a resident citizen of the County for which he is elected and shall be licensed to practice law in the State of Tennessee.

**SECTION 3.** That it shall be the duty of such County Attorney to advise with the County Judge and all other County Officials upon legal matters pertaining to their respective offices, and shall prepare and render written legal opinions to all County Official pertaining to the performance of their official duties. He shall give legal advice to the County Judge and to the Quarterly County Court in regard to the issuance and sale of County Bond and shall execute and prepare all necessary legal papers pertaining thereto when requested to do so by the County Judge or by the Quarterly County Court.

**SECTION 4.** That upon an election of the County Attorney by the Quarterly County Court, the said Quarterly County Court shall fix his compensation for the term to which he has been elected but which shall be payable on a monthly basis payable on the first day of each month out of the general funds of the County upon a warrant drawn by the County Judge upon the County Trustee.

As amended by: Private Acts of 1974, Chapter 246.

**SECTION 5.** That in the event the County Attorney is called upon to represent the County in any extra or special matters or litigation not mentioned or referred to in this Act, he shall be entitled to additional compensation the amount of said additional compensation being within the discretion of the Quarterly County Court of such counties.

**SECTION 6.** That all laws and parts of laws in conflict with this Act be and the same are hereby repealed.

**SECTION 7.** That all prior appropriations of the Quarterly County Court of such Counties heretofore made for compensation of County Attorneys are hereby ratified and confirmed and said appropriations are declared to have and possess the same validity and effect as though the said Courts were legally authorized to do so in the first instance.

**SECTION 8.** That this Act take effect from and after its passage, the public welfare requiring it.

Passed: February 21, 1945.

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*Respectfully Submitted,*  
*Sharon Hayes*  
*Chair, Haywood Local Government Committee*  
*March 12, 2026*