

# Haywood County Commission

## Local Government Committee

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### Agenda Item Packet

Meeting Date: March 10, 2026

Committee: Local Government Committee (LGC)

**Subject: Amendment to Private Acts of 1945, Chapter 350 – County Attorney**

#### Requested Action:

Recommend approval of the proposed amendment to Private Acts of 1945, Chapter 350, and forward the amendment to the Haywood County Commission for approval and submission to the Tennessee General Assembly.

### 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. (*review Commission Rule 12*)

### Background

#### 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 of the county, to provide for legal services necessary for the effective operation of county government.

## **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 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 recruitment and 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.

## **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.

*OPTION 1 - That such County Attorney should be a resident citizen of the County for which the attorney is elected.*

*OPTION 2 - Preference should be given to an attorney who is a resident citizen of Haywood County.*

*OPTION 3 - 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 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 and appointed officials, department heads, and members of boards and commissions serving county government on 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.