



# County Technical Assistance Service

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## Insurance

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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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## Insurance

**Reference Number:** CTAS-1086

Two sets of statutes coexist that authorize counties to provide group insurance for county employees and officials. Under T.C.A. §§ 8-27-401 through 8-27-404, the county legislative body is authorized to provide group life, hospitalization, disability and medical insurance for county employees, and to provide for payment by the county of a portion of the premiums. The county legislative body is authorized to include retired county employees, officials, and their surviving spouses. The county legislative body approves the insurance contracts by majority vote. The county legislative body is also authorized to include volunteer firefighters who have passed the Firefighter I exam and have practiced as a volunteer firefighter for at least one year after completion of the exam before making application for benefits, as set out in T.C.A. § 8-27-401(b)(1)(B). Under T.C.A. § 8-27-404, counties that have elected to provide health insurance to first responders are authorized to provide health insurance to the surviving spouses and children of first responders who are killed in the line of duty, for a period not exceeding two years after the death of the first responder. Any county that provides this insurance is to notify the commissioner of finance and administration, and the state will reimburse the county in an amount equal to the portion of health insurance premiums and benefits for which the county is responsible under the health insurance policy. “First responders” means paid, full-time law enforcement officers and firefighters.

Counties also are authorized to provide group life, hospitalization, disability and medical insurance under T.C.A. § 8-27-501 *et seq.* Under this set of statutes, all county employees and county officials have the option of electing the coverage, and the county is authorized to pay all or any portion of the premiums with the remainder to be deducted from the employees’ salaries. The county legislative body is authorized to include retired county employees, officials and their surviving spouses. A county insurance fund must be established for deposits of the county’s share of the premiums as well as the payroll deductions. Once established, the insurance program cannot be discontinued except by two-thirds vote of the county legislative body and after three months notice to officials and employees.

On the state level, a local government insurance committee was created by the legislature in 1989 to establish a health insurance plan for employees of local governments and certain quasi-governmental organizations, with all costs of the plan to be paid by the participating local governments and eligible quasi-governmental organizations. The staff of the state group insurance program is to act as the staff of this program.<sup>[1]</sup>

A state supported local education employee group insurance program is established under T.C.A. § 8-27-301 *et seq.* Group insurance is available under either the basic state plan or an optional plan.<sup>[2]</sup> The state pays a portion of the cost of participation in the plan.<sup>[3]</sup> Local education agencies that have group insurance determined to be equal to or better than the state plan are eligible for direct payments from the state for a portion of the costs.<sup>[4]</sup>

The Tennessee Attorney General has opined that a county is without authority to give employees cash in lieu of paying health insurance premiums.<sup>[5]</sup> However, the Attorney General has opined that counties may provide “cafeteria plans” under § 125 of the Internal Revenue Code as a benefit to their employees.<sup>[6]</sup> Cafeteria plans are authorized under T.C.A. § 8-25-501.<sup>[7]</sup>

The Tennessee Supreme Court has held that unless a county employer expressly provides that benefits such as health insurance are intended to vest or are not to be terminated, those benefits may be modified or terminated at any time. Benefits of this type are welfare benefits, and must be distinguished from retirement or pension benefits that vest automatically.<sup>[8]</sup>

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[1] T.C.A. § 8-27-207.

[2] T.C.A. § 8-27-302.

[3] T.C.A. § 8-27-303.

[4] T.C.A. § 8-27-303.

[5] Op. Tenn. Att’y Gen. 04-162 (November 10, 2004).

[6] Op. Tenn. Att’y Gen. 87-165 (October 26, 1987).

[7] This statute also authorizes counties to have “qualified transportation fringe benefit plans” authorized under I.R.C. § 132(f).

[8] *Davis v. Wilson County*, 70 S.W.3d 724 (Tenn. 2002).

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