

**STATE OF TENNESSEE**

OFFICE OF THE  
**ATTORNEY GENERAL**  
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March 24, 2009

Opinion No. 09-36

Authority to Solemnize Marriage

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**QUESTIONS**

1. Does the language “former members of quarterly county courts or county commissions” in Tenn. Code Ann. § 36-3-301(a)(1) include former members of a metropolitan council for the purpose of being able to solemnize marriages?
2. If the answer to question number one is no, does House Bill 2047/Senate Bill 2076 allow former members of a metropolitan council to solemnize marriages?

**OPINIONS**

1. Yes, the reference in Tenn. Code Ann. § 36-3-301(a)(1) to former members of quarterly county courts or county commissions includes former members of a metropolitan council for the purpose of solemnizing marriages.
2. Because we have answered your first question in the affirmative, it is unnecessary to answer your second question.

**ANALYSIS**

1. You have asked whether the current language of Tenn. Code Ann. § 36-3-301 authorizes former members of a metropolitan council to solemnize marriages. We believe that it does.

Currently, Tenn. Code Ann. § 36-3-301 provides a list of religious leaders and governmental officials who may solemnize marriages in Tennessee, including “former members of quarterly county courts or county commissions.” Tenn. Code Ann. § 36-3-301(a)(1). By statute, quarterly county courts and county councils have been abolished:

- (a) The county legislative body is established as a basic legislative unit of each county of this state; provided, that the provisions of

this subsection (a) shall not apply to counties that have already adopted the metropolitan form of government.

(b) Effective September 1, 1978, except in any county organized under the consolidated government provisions of the Tenn. Const., art. XI, § 9, the quarterly county court, county council and any other forms of county legislative bodies are abolished and all legislative powers that remained with such court, council and other forms of legislative bodies are hereby vested in the county legislative body. The county legislative body is further vested with all legislative powers and duties vested in justices of the peace prior to May 11, 1978.

(c) References to the quarterly county court, county council or other county legislative body appearing elsewhere in this code shall be deemed references to the county legislative body.

(d) References to the magistrates, justices of the peace, members or membership of such court, council or body appearing elsewhere in this code shall be deemed references to the members of the county legislative body.

Tenn. Code Ann. § 5-5-101. According to subsection (c), references throughout the code to the quarterly county court, county council, and other county legislative bodies are to be deemed references to the county legislative body. Therefore, the reference to “former members of quarterly county courts or county commissions” in the statute governing solemnization of marriages means former members of the county legislative body. The metropolitan council is the county legislative body in counties with a metropolitan form of government. *See Metropolitan Government of Nashville and Davidson County v. Barry Construction Company, Inc.*, 240 S.W.3d 840, 843 n.1 (Tenn. Ct. App. 2007); Charter of the Metropolitan Government of Nashville and Davidson County, Tenn. § 3.01. Thus, reading Tenn. Code Ann. § 36-3-301(a)(1) and Tenn. Code Ann. § 5-5-101(c) together, we believe that former members of a metropolitan council are included in the language of Tenn. Code Ann. § 36-3-301 as individuals who may solemnize marriages.

Since the answer to your first question is yes, it is unnecessary to answer your second question.

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