

1 HB650
2 164305-4
3 By Representative Butler (N & P)
4 RFD: Local Legislation
5 First Read: 12-MAY-15

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9 A BILL
10 TO BE ENTITLED
11 AN ACT
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13 Relating to Etowah County; to provide for a
14 personnel board for employees of office of the sheriff; to
15 provide for the compensation and terms of the members of the
16 board; to authorize the board to promulgate rules providing
17 for the appointment, qualification, tenure, salaries,
18 promotions, and dismissals of the employees of the office; to
19 provide for the duties and functions of the board; to provide
20 for a disciplinary hearing and appeal process for both
21 employees and the sheriff; to provide a procedure for
22 accepting and filing applications for employment within the
23 office; to provide for the appointment of applicants to such
24 positions; to provide for a procedure for hearing complaints;
25 to grant subpoena powers to the board; to provide that all
26 meetings of the board shall be open to the public; to provide
27 for an appeal to the circuit court for adverse decisions of

1 the board; to provide that the operations of the board shall
2 be financed by the county commission; and to repeal
3 conflicting laws.

4 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

5 Section 1. This act shall apply only in Etowah
6 County.

7 Section 2. As used in this act, unless the context
8 clearly requires a different meaning, the following terms
9 shall have the following meanings:

10 (1) APPOINTING AUTHORITY. The sheriff, or any
11 designee of the sheriff who is exempt pursuant to Section 3,
12 vested with powers to appoint employees as provided by this
13 act.

14 (2) BOARD. The Personnel Board of the Office of the
15 Sheriff of Etowah County created by this act.

16 (3) CLASSIFIED SERVICE. All custodial,
17 administrative, and clerical employees of the Office of the
18 Sheriff of Etowah County not specifically exempted as command
19 staff in subsection (b) of Section 3.

20 (4) EMPLOYEE. Any person not exempt pursuant to
21 Section 3 who is employed in the service of the Office of the
22 Sheriff of Etowah County.

23 Section 3. (a) This act shall apply to all employees
24 of the office of the sheriff.

25 (b) The following persons shall be exempt to the
26 rules promulgated by the board:

27 (1) The chief deputy.

- 1 (2) The chief of detention.
- 2 (3) The chief of administration.
- 3 (4) The chief of investigation.
- 4 (5) The director of communications.
- 5 (6) The food service manager.

6 (c) The persons specified in subsection (b) shall be
7 appointed by the sheriff and serve at the pleasure of the
8 sheriff. The salary of the employees specified in subsection
9 (b) shall be established by the sheriff and paid from the
10 county treasury. In the event any exempt employee enumerated
11 in subsection (b) is dismissed from his or her position by the
12 sheriff, the exempt employee shall return to the classified
13 service at the last classification held.

14 Section 4. All classified employees covered under
15 this act shall be governed by the rules promulgated by the
16 board. Present employees shall remain in their respective
17 employments.

18 Section 5. (a) There is hereby created the Personnel
19 Board of the Office of the Sheriff of Etowah County which
20 shall be composed of five members. One member shall be
21 appointed by the sheriff and one member shall be appointed by
22 each of the four members of the legislative delegation
23 representing Etowah County.

24 (b) The initial appointments shall be as follows:
25 (1) The member appointed by the Sheriff of Etowah
26 County shall serve an initial term of four years and shall
27 serve as chair of the board.

1 (2) The member appointed by the State Senator
2 representing Senate District 10 shall serve an initial term of
3 four years.

4 (3) The member appointed by the House of
5 Representatives member representing House District 28 shall
6 serve an initial term of three years.

7 (4) The member appointed by the House of
8 Representatives member representing House District 29 shall
9 serve an initial term of two years.

10 (5) The member appointed by the House of
11 Representatives member representing House District 30 shall
12 serve an initial term of one year.

13 (c) After completion of the initial term, all
14 appointees shall serve terms of four years.

15 (d) Each member of the board shall be a qualified
16 elector of the county. No person shall be appointed to the
17 board who holds any salaried public office or employment with
18 the county, nor shall any member of the board be eligible for
19 appointment to any salaried office or employment in the
20 service of the county or any county elective office or board
21 for a period of one year after he or she has ceased to be a
22 member of the personnel board. Any member of the board who is
23 a candidate for, or is elected or appointed to another public
24 office, shall not be eligible to serve as a member of the
25 board.

26 (e) Members of the board shall take the
27 constitutional oath of office, which shall be filed in the

1 office of the probate judge. Vacancies on the board shall be
2 filled in the same manner as original appointments.

3 Section 6. (a) The personnel director shall be
4 appointed by the county commission. The personnel director
5 shall attend all meetings of the board, serve as the recording
6 secretary of the board, provide clerical assistance to the
7 board, and administer all provisions of this act and the rules
8 established hereunder that are not specifically reserved to
9 the board. The personnel director and the personnel department
10 shall facilitate the administration of compensation and
11 benefits to the employees of the office of the sheriff in the
12 same manner as those benefits are administered to the
13 employees of the county.

14 (b) In any matter requiring the services of an
15 attorney, the board may call upon the county attorney to
16 render such legal service to the board as it may deem
17 necessary or advisable.

18 (c) For regular meetings of the board or special
19 hearings or meetings of the board relating to a pending
20 disciplinary action, each member shall receive sixty dollars
21 (\$60) per day, not to exceed one hundred eighty dollars (\$180)
22 per month paid from the county treasury, plus such mileage as
23 is provided by law to the county commission. For regular
24 meetings of the board or special hearings or meetings of the
25 board relating to a pending disciplinary action, the chair
26 shall receive seventy-five dollars (\$75) per day, not to
27 exceed two hundred twenty-five dollars (\$225) per month, paid

1 from the county treasury, plus such mileage as is provided by
2 law to members of the county commission.

3 Section 7. The board shall hold such regular
4 meetings as it may by rule prescribe. Special meetings shall
5 be held at such times and places determined by the board upon
6 the call of its chair, or as are otherwise required to hold
7 hearings upon complaint as hereinafter provided. A majority of
8 the board members shall constitute a quorum for the
9 transaction of business.

10 Section 8. The board shall keep minutes of its
11 meeting and a record of all business transacted by it. All
12 board records, except those required by board rules to be held
13 confidential for reasons of public policy shall be open for
14 inspection by any resident of the county at all reasonable
15 times.

16 Section 9. The board may promulgate such rules
17 governing the employees of the office of the sheriff through a
18 personnel manual which shall contain provisions for equal
19 opportunity in employment and advancement on a
20 nondiscriminatory basis for all persons, and shall contain
21 provisions that all employment policies shall be administered
22 without regard to race, color, religion, sex, age, or national
23 origin in regard to examinations, eligible registers,
24 appointments, transfers, salaries, promotions, demotions,
25 annual and sick leave, and such other matters as may be
26 necessary to accomplish the purposes of this act. Any proposed
27 rule shall become effective only after it is adopted at a

1 meeting of the board which meeting is open to the public, and
2 after a certified copy thereof has been filed with the office
3 of the probate judge. All employees shall be appointed upon a
4 nonpartisan merit basis. The rules promulgated by the board
5 shall not apply to those exempt appointees enumerated in
6 Section 3 (b), who shall serve at the pleasure of the sheriff.

7 Section 10. The board shall perform, but shall not
8 be limited to, all of the following specific duties:

9 (1) Classify the various types of service under its
10 jurisdiction.

11 (2) Prescribe minimum qualifications, including
12 those of education, training, and experience to each
13 classification of service.

14 (3) Provide a salary range, from minimum to maximum
15 salary authorized, for each class of service; however, for a
16 period of five years following the effective date of this act,
17 the minimum salary for any class shall not be less than any
18 existing pay plan for such class or service, provided further
19 that after the five-year period has elapsed, the salary ranges
20 prescribed by the board shall be used exclusively, regardless
21 of any conflicting pay plans.

22 (4) Classify and identify each position of the
23 classified service existing in the present system to its
24 proper class of service in the new system.

25 (5) Periodically provide for the rating of
26 employees' performances in the new system.

1 (6) Establish rules governing appointments,
2 promotions, salary increases or decreases, as well as layoffs,
3 leaves of absence, suspensions, dismissals, terminations, and
4 other disciplinary actions affecting employees.

5 (7) Hear and decide appeals submitted by any person
6 in the classified service.

7 (8) Conduct investigations or hearings, examine
8 witnesses under oath and compel their attendance or the
9 production of evidence before it by subpoenas issued in the
10 name of the county.

11 (9) Administer oaths to witnesses who appear before
12 the board.

13 Section 11. The personnel director shall keep a
14 register of all persons eligible and available for appointment
15 to each class and position in the service of the county under
16 this act, ranked according to ability. Employees laid off who
17 are subsequently available for reemployment shall be placed at
18 the head of this list for eligible registrants in the inverse
19 order of their terminations. Employees who voluntarily
20 terminate their services may be granted reemployment status
21 only under such circumstances and in such manner as may be
22 provided for in the board's rules and regulations.

23 Section 12. Persons seeking employment in any
24 position shall file an application with the personnel
25 director, who shall make those applications available to the
26 appointing authority. The appointing authority, from time to
27 time, shall conduct examinations to test the ability of such

1 applicants. All qualified applicants shall be examined based
2 upon factors pertinent to the ability to discharge the duties
3 of the position. Examinations shall be practical and shall
4 relate to those matters which test the ability of the person
5 examined to discharge intelligently the duties of the position
6 for which he or she applies. Once the qualified applicants
7 have been examined, those selected for employment may then be
8 hired by the appointing authority, as long as funding is
9 available for the position. Any person may make reapplication
10 for any position.

11 Section 13. Whenever a vacancy exists in any
12 position, it shall be filled by appointment of one of the
13 appropriate eligible registrants, or by transfer within the
14 service from another position of the same class. However, any
15 eligible person of the same class who has been laid off, as
16 provided in Section 12, shall receive preference in hiring in
17 every instance. Whenever it is impossible to certify eligible
18 persons to a vacancy, the board may authorize the appointing
19 authority to fill the vacancy temporarily pending the
20 establishment of an eligible registrant. Temporary
21 appointments shall be effective for six months, and may be
22 extended for six additional months by the board, upon request
23 by the appointing authority. All appointments other than
24 temporary appointments shall be probationary for six months
25 from the date of appointment. A probationary subordinate
26 employee may be discharged by his or her appointing authority
27 for unsatisfactory service at any time before the expiration

1 of that period. After the expiration of the probationary
2 period, an appointment shall be permanent, subject to
3 discharge thereafter only for cause.

4 Section 14. The sheriff, or the appointing authority
5 to whom the sheriff has delegated such disciplinary powers,
6 may remove, discharge, suspend, or demote any subordinate
7 employee in the classified service of the office of the
8 sheriff, provided that within five days thereof, a written
9 report of such action is made to the board, giving the reason
10 or circumstances surrounding such disciplinary action. If any
11 aggrieved employee is suspended for more than one day,
12 removed, discharged, or demoted, he or she shall be entitled
13 to a board hearing on such disciplinary action, upon written
14 demand thereon within 10 days of such action. A hearing shall
15 be held within 10 days of the receipt of the written request
16 therefor. All meetings of the board on disciplinary matters
17 shall be open to the public, and shall observe the aggrieved
18 employee's right to face his or her accusers and be heard in
19 his or her own defense. Pending a hearing on any disciplinary
20 action, the aggrieved employee may be temporarily suspended.
21 Upon a hearing, the board may order the employee reinstated
22 with back pay from the time of such action to the date of
23 reinstatement, or take or approve such disciplinary action as,
24 in its judgment, is warranted by evidence and under the law.
25 Either aggrieved party, the sheriff, or the employee shall,
26 after an adverse hearing, have the right to rehearing and
27 appeal as hereinafter provided.

1 Section 15. The board shall have the power to
2 administer oaths, take depositions, certify official acts, and
3 issue subpoenas to compel the attendance of witnesses and
4 production of papers necessary as evidence in connection with
5 any hearing, investigation, or proceeding within the purview
6 of this act. The sheriff, or some other person so designated
7 by the sheriff, shall serve all processes of the board, and
8 shall attend and preserve order at all public hearings
9 conducted by the board. If a person refuses to obey a subpoena
10 from the board, the board or its authorized representative,
11 may ask the Circuit Court of Etowah County to order the
12 evidence to be produced. Upon proper showing, the circuit
13 court may order compliance with the subpoena. Failure to
14 comply with such an order shall constitute contempt of court.
15 The fees of witnesses for attendance and travel shall be the
16 same as fees for witnesses in the circuit courts of this
17 state, which fees shall be paid from the county treasury.

18 Section 16. The sheriff or the employee aggrieved by
19 a decision of the board in the original hearing shall be
20 entitled to rehearing of the issue before the board as
21 provided herein. The aggrieved party shall make written
22 request upon the board within five days of an adverse decision
23 of the original hearing and the board shall, within 10 days of
24 receipt of a request for rehearing, hold the rehearing in
25 substantially the same manner as the original hearing to
26 review its earlier decision. If, on rehearing, either party is
27 aggrieved by the decision of the board, the party may appeal

1 the decision to the Circuit Court of Etowah County within 30
2 days from the release of the decision by the board. The
3 proceedings before the circuit court shall be without jury and
4 shall be de novo.

5 Section 17. Whenever, in the judgment of the
6 sheriff, it becomes necessary in the interest of the economy
7 or because the necessity for a position no longer exists, the
8 sheriff may abolish any position in the classified service and
9 lay off employees, based on seniority, without filing written
10 charges and without the right to a hearing as provided in this
11 act.

12 Section 18. All expenses incurred in the
13 implementation of this act shall be paid by the county out of
14 the county treasury.

15 Section 19. It is the intent of this act to create a
16 personnel system for the employees of the office of sheriff to
17 be separate from that of other county offices and departments,
18 effective upon enactment of this act into law.

19 Section 20. All laws or parts of laws which conflict
20 with this act are repealed.

21 Section 21. This act shall become effective
22 following its passage and approval by the Governor, or its
23 otherwise becoming law, and following ratification of a
24 constitutional amendment authorizing the creation of a
25 personnel board for the employees of the Office of the Sheriff
26 of Etowah County.