

1 HB483
2 216227-1
3 By Representatives Whitt, Reynolds, Sanderford, McCutcheon,
4 Whorton and Ball (N & P)
5 RFD: Madison County Legislation
6 First Read: 09-MAR-22

A BILL
TO BE ENTITLED
AN ACT

Relating to Madison County; to amend Sections 1, 2, 4, 7, 10, 11, 12, 13, 14, 15, and 16 of Act 941 of the 1973 Regular Session (Acts 1973, p. 1447), creating and establishing a county-wide personnel system; to further provide for the composition, powers, duties, functions, and expenses of the personnel board; to provide for the employees to be covered by the personnel board; to establish a method for the board to hear and decide appeals filed by covered employees; to provide for injunctive relief for violations of this amendatory act; to repeal Sections 3, 5, 6, 8, and 9 of Act 941 of the 1973 Regular Session (Acts 1973, p. 1447); and to make nonsubstantive, technical revisions to update the existing language to current style.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

1 Section 1. Sections 1, 2, 4, and 7 of Act 941 of the
2 1973 Regular Session (Acts 1973, p. 1447) are amended to read
3 as follows:

4 "Section 1. (a) In Madison County, there is hereby
5 created and established a personnel ~~department for the~~
6 ~~government and control of all employees and appointees holding~~
7 ~~positions in the classified service, as defined in Section 4~~
8 board to hear and decide appeals filed by employees who are
9 covered under this act as provided in Section 4 of Act 941 of
10 the 1973 Regular Session (Acts 1973, p. 1447), as amended by
11 this amendatory act.

12 "(b) ~~The personnel department shall consist of a~~
13 ~~personnel board and a personnel director.~~ The personnel board
14 shall consist of three members~~;~~ One to be appointed by the
15 sheriff of the county; one to be appointed by the county
16 governing body; one to be appointed as a joint appointee by
17 ~~the Sheriff of the County, the Circuit Court Clerk, the County~~
18 ~~Judge and the District Attorney; one to be appointed by the~~
19 ~~county governing body; and one to be appointed as a joint~~
20 ~~appointee by the County Tax Assessor, the County Tax~~
21 ~~Collector, and the Probate Judge. Members of the Personnel~~
22 ~~Board now serving in Madison County by authority of Acts 1392~~
23 ~~and 1488 of the 1971 Regular Session shall continue to serve~~
24 ~~until the end of their respective terms. At the expiration of~~
25 ~~the term of each member, his successor shall be appointed for~~
26 ~~a term of six years~~ county tax assessor, the county license
27 director, the county tax collector, and the judge of probate,

1 with the county commission having the authority to break any
2 tie vote as between the tax assessor, license director, tax
3 collector, and judge of probate. Members of the personnel
4 board may be replaced at any time during their term through
5 appointment of a new member in the manner set forth in this
6 subsection.

7 "(c) No later than 90 days following the effective
8 date of the act adding this amendatory language, members of
9 the personnel board shall be selected and appointed in the
10 manner provided in subsection (b) and shall replace any
11 existing members of the personnel board upon appointment.
12 Members of the personnel board shall be appointed for a term
13 of three years from their date of appointment; provided,
14 however, that in order to establish and maintain staggered
15 terms of office, the initial term of the member selected
16 jointly by the tax assessor, license director, tax collector,
17 and judge of probate shall be two years, and the initial term
18 of the member appointed by the sheriff shall be one year.
19 Vacancies shall be filled for the unexpired term in the same
20 manner as the initial appointment.

21 ~~"(c)~~ (d) The members of the board shall be qualified
22 electors of the county. No person shall be appointed to the
23 board who holds any salaried public office or employment with
24 the county, nor shall any member, while a member of the board
25 or for a period of one year after he or she has ceased to be a
26 member, be eligible for appointment to any salaried office or

1 employment in the service of the county or any county elective
2 office.

3 ~~"(d) The board shall hold one regular meeting each
4 month and such special meetings as it shall deem necessary.~~

5 (e) The board shall meet as specified in Section 2 of Act 941
6 of the 1973 Regular Session (Acts 1973, p. 1447), as amended
7 by this amendatory act, to carry out the business of the board
8 and hear any appeals under this act. The members of the board
9 shall receive ~~Fifteen Dollars~~ fifteen dollars (\$15.00) per
10 diem for each meeting of the board they attend. The board
11 ~~shall~~ may not meet in excess of ~~thirty~~ 10 days per year;
12 provided, however, that the time consumed by the personnel
13 board in hearings conducted under the provisions of subsection
14 (c) of Section 10(b) of this Act Act 941 of the 1973 Regular
15 Session (Acts 1973, p. 1447), as amended by this amendatory
16 act, shall not be counted as a part of ~~said thirty~~ the 10
17 days.

18 "Section 2. The members of the board shall elect one
19 of their members ~~chairman~~ as chair, whose duties shall include
20 calling, organizing, and presiding over meetings of the board,
21 as well as ruling upon any evidentiary objections raised in
22 the course of adjudicating appeals filed before the board. The
23 members of the board shall also elect a secretary whose duty
24 shall be to keep the minutes of the board. Each officer
25 elected by the board shall serve in that capacity for a term
26 of one year. The board shall ~~determine the order of business~~
27 ~~for the conduct of its meetings and meet on the call of the~~

1 ~~chairman~~ chair or by two of the members or by request of the
2 county governing body, and as necessary to timely adjudicate
3 any appeals filed under this act. Two members of the board
4 shall constitute a quorum for the transaction of business. The
5 functions of the board shall be:

6 ~~"(a)(1)~~ To formulate and ~~promulgate~~ adopt a set of
7 rules to supplement this ~~Act~~ act and revisions and amendments
8 thereof.

9 ~~"(b) To act in an advisory capacity to the governing~~
10 ~~body of the county on problems concerning personnel~~
11 ~~administration.~~

12 ~~"(c)(2)~~ As provided by this ~~Act~~ act, and by rule, to
13 hear and decide appeals submitted by any person ~~in the~~
14 ~~classified service~~ covered under this act, as set out in
15 Section ~~10~~ 4 of Act 941 of the 1973 Regular Session (Acts
16 1973, p. 1447), as amended by this amendatory act.

17 ~~"(d)(3)~~ In any investigation or hearing conducted by
18 the board, it ~~shall have the power to~~ may examine witnesses
19 under oath and compel their attendance or the production of
20 evidence before it by subpoenas issued in the name of the
21 county. Each member of the board shall have the power to
22 administer oaths to witnesses.

23 ~~"(e) To hold hearing on and adopt or revise the~~
24 ~~position classification plan. The board shall adopt a position~~
25 ~~classification plan and class specifications and revisions~~
26 ~~thereof, allocate and reallocate positions in the classified~~
27 ~~service to classes.~~

1 ~~"(f) To establish, after consultation with the~~
2 ~~governing body of the county and the elective officials of the~~
3 ~~county, coming within the provisions of this Act, a pay plan~~
4 ~~for all employees in the classified service. Such pay plan~~
5 ~~shall include, for each class of positions, a minimum and a~~
6 ~~maximum rate or rates as may otherwise in specific~~
7 ~~circumstances be fixed by law and such intermediate rates as~~
8 ~~may be deemed necessary or advisable by the personnel board;~~
9 ~~provided, however, that in the establishing of said pay plan~~
10 ~~for employees in the classified service and in the fixing of~~
11 ~~said minimum and maximum rates the board may not reduce the~~
12 ~~salary or wage of any employee in the classified service below~~
13 ~~that which is being earned by said employee at the time of the~~
14 ~~enactment of this bill into law unless said reduction is an~~
15 ~~economy measure or is part of a general curtailment program as~~
16 ~~specified in Section 10 (c) of this act.~~

17 Section 4. (a) The provisions of this ~~Act~~ act shall
18 apply to all of the following ~~officers and employees in the~~
19 ~~service of the county:~~

20 ~~"(a) (1)~~ All employees of the county tax assessor;

21 ~~"(b) (2)~~ All employees of the county tax collector;

22 ~~"(c) (3)~~ All employees of the county sheriff; except
23 the chief deputy.

24 ~~"(d) (4)~~ All employees of the ~~circuit court clerk;~~
25 Madison County License Director.

26 ~~"(e) (5)~~ All employees of the ~~circuit court register;~~
27 the board of registrar's office.

1 ~~"(f) (6) All employees of the County Court; judge of~~
2 ~~probate's office.~~

3 ~~"(g) (7) All Assistant District Attorneys and all~~
4 ~~employees of the circuit district attorney. employees of any~~
5 ~~elected officials of Madison County whose operations and~~
6 ~~employees are funded through the Madison County Commission by~~
7 ~~law.~~

8 ~~"(h) The director of the county license department~~
9 ~~and all employees of the director; (8) All officers and~~
10 ~~employees of Madison County except any of the following:~~

11 ~~"(i) Employees of the board of registrar's office;~~

12 ~~"(j) All employees of the probate judge's office;~~

13 ~~"(k) All employees of the Circuit Court including~~
14 ~~court reporters and bailiffs, provided, however, that the~~
15 ~~provisions of this Act shall apply to court reporters for the~~
16 ~~sole and limited purpose of allowing the personnel board to~~
17 ~~fix the amount of county salary supplement to be paid to such~~
18 ~~court reporters, and such board is hereby authorized and~~
19 ~~empowered to fix such supplement.~~

20 ~~"(l) All probation officers of the circuit court;~~

21 ~~"(m) All other officers and employees in the service~~
22 ~~of the county except:~~

23 ~~"(i) Elective officers; a. Elected officials.~~

24 ~~"b. Members of appointed boards, commissions, and~~
25 ~~committees.~~

26 ~~"(ii) Members of appointive boards, commissions and~~
27 ~~committees;~~

1 ~~"(iii) All employees or appointees of the county~~
2 ~~board of education, or persons engaged in the profession of~~
3 ~~teaching or in supervising teaching in the public schools;~~

4 ~~"(iv) Attorneys, physicians, surgeons, and dentists~~
5 ~~who with the express or implied permission of any appointing~~
6 ~~authority or of the county, hold themselves out for employment~~
7 ~~by others in the same or a like line of work as that performed~~
8 ~~by them for such appointing authority;~~

9 ~~"(v) Persons in the "classified service" within the~~
10 ~~meaning of and subject to the State of Alabama merit system~~
11 ~~under any present or future law, and so long as any such law~~
12 ~~remains effective;~~

13 ~~"Offices, positions and employments specifically~~
14 ~~designated above as coming within the scope of this Act, and~~
15 ~~other offices, positions and employments not exempted above,~~
16 ~~shall constitute the classified service of the county. It is~~
17 ~~intended hereby to include within the classified service all~~
18 ~~offices, positions and employments now existing, or as they~~
19 ~~may hereafter exist, in whole or in part from funds of any~~
20 ~~such county, or the holders of which receive their~~
21 ~~compensation from any elected official and perform duties~~
22 ~~pertaining to the office of such elected official or officer~~
23 ~~except those hereinabove exempted in this Section. It shall be~~
24 ~~made mandatory, upon the enactment of this bill into law, that~~
25 ~~all employees hereinbefore designated as included within the~~
26 ~~"classified service" of the county shall be so included.~~

1 "(b) This act shall not apply to independent
2 contractors of any employer covered by this act.

3 "(c) If any individual holds the position of
4 personnel director on the effective date of this amendatory
5 act, that director, on the effective date of this act, shall
6 become an employee solely of Madison County and shall cease to
7 hold any authority with respect to the operations of the
8 personnel board.

9 "Section 7. During the period of suspension of any
10 employee, or pending final action on proceedings to review the
11 suspension, demotion, or dismissal of an employee, the vacancy
12 may be filled by the appointing power only by temporary
13 appointment. The personnel board's power following a review of
14 any suspension or termination hereunder shall be limited to
15 either affirming the suspension or termination or vacating the
16 suspension or termination.

17 Section 2. (a) Upon initial hire and in the event of
18 any promotion or change in job title, any employee covered by
19 Act 941 of the 1973 Regular Session (Acts 1973, p. 1447), as
20 amended by this amendatory act, shall be subject to an initial
21 probationary period of six months, except that the length of
22 the probationary period for any employee of the sheriff shall
23 be one year, during which period the employee may be
24 terminated at any time and for any reason, without any right
25 of appeal pursuant to this act.

26 (b) With respect to any employee whose initial
27 probationary period has expired, an additional period of

1 disciplinary probation may be imposed upon any employee
2 covered by this act, but that employee may exercise his or her
3 right to appeal under Section 10 of Act 941 of the 1973
4 Regular Session (Acts 1973, p. 1447), as amended by this
5 amendatory act. During any term of disciplinary probation, the
6 employee may be terminated upon the first occurrence of any
7 further violations of any written rules or policies of the
8 appointing authority.

9 Section 3. Any employee covered Act 941 of the 1973
10 Regular Session (Acts 1973, p. 1447), as amended by this
11 amendatory act, shall be subject to suspension without pay by
12 the appointing authority without right of appeal pursuant to
13 this act, provided any unpaid suspension may not exceed a
14 total of 15 working days. Any unpaid suspension exceeding 15
15 working days shall be subject to a right of appeal by the
16 employee pursuant to Section 10 of Act 941 of the 1973 Regular
17 Session (Acts 1973, p. 1447), as amended by this amendatory
18 act.

19 Section 4. Sections 10, 11, 12, 13, 14, 15, and 16
20 of Act 941 of the 1973 Regular Session (Acts 1973, p. 1447)
21 are amended to read as follows:

22 "Section 10. (a) No employee ~~in the classified~~
23 ~~service~~ covered by this act may be demoted, dismissed, or
24 reduced in pay without just cause and the opportunity to
25 demand a hearing pursuant to this section prior to
26 implementation of the demotion, dismissal, or reduction in
27 pay.

1 " (b) ~~Any employee in the classified service who has~~
2 ~~been demoted, dismissed or reduced in pay, shall be entitled~~
3 ~~to receive a written statement of the reasons for such action~~
4 ~~from the appointing authority within three working days, and~~
5 ~~he shall have three working days time thereafter within which~~
6 ~~to file an answer in writing thereto. A copy of such charges~~
7 ~~and answer shall be filed with the personnel director. In the~~
8 ~~event the employee files an answer, a copy of the written~~
9 ~~charges and of such answer shall be transmitted by the~~
10 ~~personnel director to the personnel board. Within ten working~~
11 ~~days from the date of the filing of his answer to the written~~
12 ~~charges, or in the event such written charges have not been~~
13 ~~made available to him within the time prescribed, then within~~
14 ~~ten working days after the action taken to demote, dismiss or~~
15 ~~reduce the pay of the employee, he may file a written demand~~
16 ~~with the personnel director, requesting a hearing before the~~
17 ~~personnel board. The board shall then investigate the case and~~
18 ~~conduct a hearing as provided by this Act and by the rules.~~
19 ~~Hearings shall be informally conducted and the rules of~~
20 ~~evidence need not apply. Any time an appointing authority~~
21 ~~proposes to demote, dismiss, place upon disciplinary~~
22 ~~probation, reduce in pay, or suspend without pay any covered~~
23 ~~employee, the appointing authority shall first present to the~~
24 ~~employee a written statement of the specific adverse action~~
25 ~~proposed and the reasons for that action, and shall inform the~~
26 ~~employee of a specific date and time at which the employee~~
27 ~~shall have an opportunity to discuss the proposed adverse~~

1 action with the appointing authority. This meeting shall not
2 occur sooner than three days after the notice of the proposed
3 action. The appointing authority shall consider any argument
4 made by the employee prior to implementing any proposed
5 adverse action.

6 "(c) (1)a. No later than five working days following
7 any dismissal, demotion, reduction in pay, or unpaid
8 suspension of greater than 15 days of any covered employee,
9 the employee may file a written demand with the chair of the
10 personnel board requesting a hearing before the board to
11 contest the adverse action and requesting that the adverse
12 action be vacated.

13 "b. The employee, in that same manner and within
14 that same time frame, also may request a hearing before the
15 personnel board to appeal to the board to rectify any alleged
16 failure by the appointing authority to provide the notice and
17 meeting required by subsection (b).

18 "(2)a. Upon receipt of a valid, timely written
19 notice of appeal, the board shall conduct a hearing as
20 provided by this act and by the rules of the personnel board,
21 and shall either affirm the decision of the appointing
22 authority or vacate the action of the appointing authority.

23 "b. The board shall affirm the decision of the
24 appointing authority so long as it is reasonably satisfied
25 from the evidence that a proper pre-disciplinary meeting was
26 provided and that the employee violated the rules, policies,
27 or procedures of the appointing authority in effect at the

1 time of the acts or omissions of the employee that resulted in
2 the adverse action.

3 "(d) Hearings under subsection (c) shall be
4 informally conducted. The rules of evidence do not apply. All
5 witnesses shall be sworn, and the employee and appointing
6 authority may each be represented by counsel of their own
7 choosing. A verbatim record of all proceedings before the
8 board shall be prepared and transcribed by a certified court
9 reporter.

10 ~~"(c) The~~ (e) Notwithstanding any provision of this
11 section to the contrary, the provisions of this section,
12 including those providing a method for appeal to the personnel
13 board, shall not apply to reductions in pay which are part of
14 a general plan to reduce salaries and wages as an economy
15 measure or as part of a general curtailment program; ~~provided,~~
16 ~~however, that said reductions.~~ Reductions in pay which are
17 part of a general plan to reduce salaries and wages as an
18 economy measure or as part of a general curtailment program
19 shall be prorated to all employees ~~in the classified service~~
20 of the appointing authority.

21 ~~"(d) (f)~~ The action of the personnel board after
22 hearing pursuant to this section shall be final and
23 conclusive; ~~provided, however, that the action of the~~
24 ~~personnel board pursuant to such hearing may be reviewed by~~
25 ~~the circuit court of the county upon the filing, by either the~~
26 ~~employee or the appointing authority, in said circuit court of~~
27 ~~the county of a petition for writ of mandamus directed to the~~

1 ~~said personnel board and provided that said petition is filed~~
2 ~~by the said employee or the said appointing authority within~~
3 ~~thirty days from the date the decision of the personnel board~~
4 ~~has been rendered. The circuit court of the county shall have~~
5 ~~jurisdiction to hear the case de novo in said mandamus~~
6 proceeding . Any employee wishing to dispute a decision of the
7 appointing board relating to that employee may seek review of
8 the board's decision in the circuit court of Madison County by
9 the filing of a petition for a common law writ of certiorari.
10 On any appeal, the court shall uphold the decision of the
11 board if due process pursuant to this act was provided to the
12 employee and if any legal evidence exists to support the
13 decision of the board. Any review by the circuit court shall
14 be limited to the record presented to the board, and no party
15 shall be entitled to a trial by jury in the circuit court.

16 "Section 11. Whenever in the judgment of any
17 appointing authority it becomes necessary in the interest of
18 economy or because the necessity for any position in his or
19 her appointing authority no longer exists, ~~he~~ the appointing
20 authority may abolish any position ~~in the classified service~~
21 held by any employee covered by this act within his, her, or
22 its appointing authority and ~~lay off~~ terminate the employee
23 holding such position or employment without filing written
24 charges and without the right to a hearing as provided in
25 Section 10 of ~~this Act~~ Act 941 of the 1973 Regular Session
26 (Acts 1973, p. 1447), as amended by this amendatory act.

1 "Section 12. In any matter requiring the services of
2 an attorney, the personnel board may call upon the county
3 attorney to render ~~such~~ any legal services to the board as it
4 may deem necessary or advisable, and may contract with outside
5 legal counsel to provide guidance and assistance to the board
6 during disciplinary hearings and in preparing any written
7 decisions.

8 "Section 13. The compensation and all other expenses
9 of the personnel board, ~~the personnel director and all others~~
10 ~~arising under the provisions hereof,~~ shall be paid by the
11 county governing body ~~on requisition drawn by the personnel~~
12 ~~director;~~ provided, however, that the county commission may
13 establish and enforce a budget for the personnel board
14 sufficient to fund the operations of the board.

15 "Section 14. It is the intent of this ~~Act~~ act to
16 create a personnel ~~system~~ board to hear and determine
17 personnel appeals for Madison county ~~effective upon the~~
18 ~~enactment of this bill into law~~ County .

19 "Section 15. Any person who violates any of the
20 provisions of this ~~Act~~ act shall be ~~guilty of a misdemeanor~~
21 subject to a suit for injunctive relief only. Notwithstanding
22 the foregoing, the appeal procedure set out in subsection (f)
23 of Section 10 of Act 941 of the 1973 Regular Session (Acts
24 1973, p. 1447), as amended by this amendatory act, shall be
25 exclusive as to any action seeking a review of a personnel
26 board decision.

1 "Section 16. Definitions. The terms "appointing
2 authority" and "appointing power" ~~are defined to~~ mean any
3 person, persons, department head or elected official of the
4 county who, ~~at the time of the enactment of this bill into~~
5 ~~law, had~~ has the power by law to hire, to employ, make
6 transfers, promotions, demotions, reinstatements, layoffs,
7 suspensions, and dismissals of employees affected by this ~~Act~~
8 act."

9 Section 5. Any employee handbook and any pay plan
10 adopted by the personnel board of Madison County prior to this
11 act shall remain in full force and effect until revoked,
12 revised, or modified by majority vote of the county
13 commission.

14 Section 6. Any appeals perfected pursuant to Act 941
15 of the 1973 Regular Session (Acts 1973, p. 1447) prior to the
16 effective date of this amendatory act, but not yet heard by
17 the personnel board as of the effective date of this act,
18 shall be timely taken up and adjudicated by the personnel
19 board reconstituted by this amendatory act.

20 Section 7. Sections 3, 5, 6, 8, and 9 of Act 941 of
21 the 1973 Regular Session (Acts 1973, p. 1447) are repealed.

22 Section 8. This act shall become effective
23 immediately upon its passage and approval by the Governor, or
24 upon its otherwise becoming a law.