

1 HB650
2 169634-3
3 By Representative Butler (N & P)
4 RFD: Local Legislation
5 First Read: 12-MAY-15

1 ENGROSSED

2
3
4 A BILL
5 TO BE ENTITLED
6 AN ACT
7

8 Relating to Etowah County; to provide for a
9 personnel board for employees of office of the sheriff; to
10 provide for the compensation and terms of the members of the
11 board; to authorize the board to promulgate rules providing
12 for the appointment, qualification, tenure, salaries,
13 promotions, and dismissals of the employees of the office; to
14 provide for the duties and functions of the board; to provide
15 for a disciplinary hearing and appeal process for both
16 employees and the sheriff; to provide a procedure for
17 accepting and filing applications for employment within the
18 office; to provide for the appointment of applicants to such
19 positions; to provide for a procedure for hearing complaints;
20 to grant subpoena powers to the board; to provide that all
21 meetings of the board shall be open to the public; to provide
22 for an appeal to the circuit court for adverse decisions of
23 the board; to provide that the operations of the board shall
24 be financed by the county commission; to reaffirm the
25 sheriff's authority over discretionary funds; and to repeal
26 conflicting laws.

27 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

1 Section 1. This act shall apply only in Etowah
2 County.

3 Section 2. As used in this act, unless the context
4 clearly requires a different meaning, the following terms
5 shall have the following meanings:

6 (1) APPOINTING AUTHORITY. The sheriff, or any
7 designee of the sheriff who is exempt pursuant to Section 3,
8 vested with powers to appoint employees as provided by this
9 act.

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

12 (3) CLASSIFIED SERVICE. All APOST-certified,
13 custodial, administrative, and clerical employees of the
14 Office of the Sheriff of Etowah County not specifically
15 exempted as command staff in subsection (b) of Section 3.

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

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

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

23 (1) The chief deputy.

24 (2) The chief of detention.

25 (3) The chief of administration.

26 (4) The chief of investigation.

27 (5) The director of communications.

1 (6) The food service manager.

2 (c) The persons specified in subsection (b) shall be
3 appointed by the sheriff and serve at the pleasure of the
4 sheriff. The salary of the employees specified in subsection
5 (b) shall be established by the sheriff and paid from the
6 county treasury as supplemented with discretionary funds
7 provided by the sheriff, subject to the budgetary approval of
8 the county commission as otherwise required by state law. In
9 the event any exempt employee enumerated in subsection (b) is
10 dismissed from his or her position by the sheriff, except for
11 cause, the exempt employee may return to the classified
12 service at the last classification held to a position assigned
13 at the discretion of the sheriff.

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. In the event of a conflict of
18 interest, the board may retain outside counsel, to be paid
19 from the county treasury.

20 (c) For regular meetings of the board or special
21 hearings or meetings of the board relating to a pending
22 disciplinary action, each member shall receive sixty dollars
23 (\$60) per day, not to exceed one hundred eighty dollars (\$180)
24 per month paid from the county treasury, plus reimbursement
25 for mileage based on the current business mileage rate as
26 prescribed by the Internal Revenue Service. For regular
27 meetings of the board or special hearings or meetings of the

1 board relating to a pending disciplinary action, the chair
2 shall receive seventy-five dollars (\$75) per day, not to
3 exceed two hundred twenty-five dollars (\$225) per month, paid
4 from the county treasury, plus reimbursement for mileage based
5 on the current business mileage rate as prescribed by the
6 Internal Revenue Service.

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

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

20 Section 9. The board may promulgate such rules
21 governing the employees of the office of the sheriff through a
22 personnel manual which shall contain provisions for equal
23 opportunity in employment and advancement on a
24 nondiscriminatory basis for all persons, and shall contain
25 provisions that all employment policies shall be administered
26 without regard to race, color, religion, sex, age, or national
27 origin in regard to examinations, eligible registers,

1 appointments, transfers, salaries, promotions, demotions,
2 annual, holiday, and sick leave, and such other matters as may
3 be necessary to accomplish the purposes of this act. Any
4 proposed rule shall become effective only after it is adopted
5 at a meeting of the board which meeting is open to the public,
6 and after a certified copy thereof has been filed with the
7 office of the probate judge. All employees shall be appointed
8 upon a nonpartisan merit basis. The rules promulgated by the
9 board shall not apply to those exempt appointees enumerated in
10 Section 3 (b), who shall serve at the pleasure of the sheriff.

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

13 (1) Classify the various types of service under its
14 jurisdiction.

15 (2) Prescribe minimum qualifications, including
16 those of education, training, and experience to each
17 classification of service.

18 (3) Provide a salary range, from minimum to maximum
19 salary authorized, for each class of service; however, for a
20 period of five years following the effective date of this act,
21 the minimum salary for any class shall not be less than any
22 existing pay plan for such class or service, provided further
23 that after the five-year period has elapsed, the salary ranges
24 prescribed by the board shall be used exclusively, subject to
25 the budgetary approval of the county commission as otherwise
26 required by state law.

1 (4) Classify and identify each position of the
2 classified service existing in the present system to its
3 proper class of service in the new system.

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

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

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

12 (8) Conduct investigations or hearings, examine
13 witnesses under oath and compel their attendance or the
14 production of evidence before it by subpoenas issued in the
15 name of the Etowah County Sheriff's Personnel Board.

16 (9) Administer oaths to witnesses who appear before
17 the board.

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

1 Section 12. Persons seeking employment in any
2 position shall file an application with the personnel
3 director, who shall make those applications available to the
4 appointing authority. The appointing authority, from time to
5 time, shall conduct examinations to test the ability of such
6 applicants. All qualified applicants shall be examined based
7 upon factors pertinent to the ability to discharge the duties
8 of the position. Examinations shall be practical and shall
9 relate to those matters which test the ability of the person
10 examined to discharge intelligently the duties of the position
11 for which he or she applies. Once the qualified applicants
12 have been examined, those selected for employment may then be
13 hired by the appointing authority, as long as funding is
14 available for the position. Any person may make reapplication
15 for any position.

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

1 appointments other than temporary appointments shall be
2 probationary for six months from the date of appointment. A
3 probationary employee may be discharged by his or her
4 appointing authority without cause during the probationary
5 period. After the expiration of the probationary period, an
6 appointment shall be permanent, subject to discharge
7 thereafter only for cause.

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

1 judgment, is warranted by evidence and under the law. Either
2 aggrieved party, the sheriff, or the employee shall, after an
3 adverse hearing, have the right to rehearing and appeal as
4 hereinafter provided.

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

22 Section 16. The sheriff or the employee aggrieved by
23 a decision of the board in the original hearing shall be
24 entitled to rehearing of the issue before the board as
25 provided herein. The aggrieved party shall make written
26 request upon the board within five days of an adverse decision
27 of the original hearing and the board shall, within 10 days of

1 receipt of a request for rehearing, hold the rehearing in
2 substantially the same manner as the original hearing to
3 review its earlier decision. If, on rehearing, either party is
4 aggrieved by the decision of the board, the party may appeal
5 the decision to the Circuit Court of Etowah County within 30
6 days from the release of the decision by the board. The
7 proceedings before the circuit court shall be without jury and
8 shall be de novo.

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

16 Section 18. All reasonable, necessary, and ordinary
17 expenses incurred in the implementation of this act shall be
18 paid by the county out of the county treasury, subject to the
19 budgetary approval of the county commission as otherwise
20 required by state law.

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

25 Section 20. The provisions of this act shall in no
26 way impair or affect the sheriff's exclusive authority over

1 the use and disposition of discretionary funds available for
2 the use of the Office of Sheriff of Etowah County.

3 Section 21. All laws or parts of laws which conflict
4 with this act are repealed.

5 Section 22. This act shall become effective
6 following its passage and approval by the Governor, or its
7 otherwise becoming law, and following ratification of a
8 constitutional amendment authorizing the creation of a
9 personnel board for the employees of the Office of the Sheriff
10 of Etowah County.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18

House of Representatives

Read for the first time and re-
ferred to the House of Representa-
tives committee on Local Legisla-
tion..... 12-MAY-15

Read for the second time and placed
on the calendar..... 14-MAY-15

Read for the third time and passed
as amended..... 21-MAY-15

Yeas 24, Nays 0, Abstains 26

Jeff Woodard
Clerk