

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

1
2 ENROLLED, An Act,

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

22 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

23 Section 1. This act shall apply only in Etowah
24 County.

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

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

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

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

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

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

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

21 (1) The chief deputy.

22 (2) The chief of detention.

23 (3) The chief of administration.

24 (4) The chief of investigation.

25 (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:

1 (1) The member appointed by the Sheriff of Etowah
2 County shall serve an initial term of four years and shall
3 serve as chair of the board.

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

7 (3) The member appointed by the House of
8 Representatives member representing House District 28 shall
9 serve an initial term of three years.

10 (4) The member appointed by the House of
11 Representatives member representing House District 29 shall
12 serve an initial term of two years.

13 (5) The member appointed by the House of
14 Representatives member representing House District 30 shall
15 serve an initial term of one year.

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

18 (d) Each member of the board shall be a qualified
19 elector of the county. No person shall be appointed to the
20 board who holds any salaried public office or employment with
21 the county, nor shall any member of the board be eligible for
22 appointment to any salaried office or employment in the
23 service of the county or any county elective office or board
24 for a period of one year after he or she has ceased to be a
25 member of the personnel board. Any member of the board who is

1 a candidate for, or is elected or appointed to another public
2 office, shall not be eligible to serve as a member of the
3 board.

4 (e) Members of the board shall take the
5 constitutional oath of office, which shall be filed in the
6 office of the probate judge. Vacancies on the board shall be
7 filled in the same manner as original appointments.

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

19 (b) In any matter requiring the services of an
20 attorney, the board may call upon the county attorney to
21 render such legal service to the board as it may deem
22 necessary or advisable. In the event of a conflict of
23 interest, the board may retain outside counsel, to be paid
24 from the county treasury.

1 (c) For regular meetings of the board or special
2 hearings or meetings of the board relating to a pending
3 disciplinary action, each member shall receive sixty dollars
4 (\$60) per day, not to exceed one hundred eighty dollars (\$180)
5 per month paid from the county treasury, plus reimbursement
6 for mileage based on the current business mileage rate as
7 prescribed by the Internal Revenue Service. For regular
8 meetings of the board or special hearings or meetings of the
9 board relating to a pending disciplinary action, the chair
10 shall receive seventy-five dollars (\$75) per day, not to
11 exceed two hundred twenty-five dollars (\$225) per month, paid
12 from the county treasury, plus reimbursement for mileage based
13 on the current business mileage rate as prescribed by the
14 Internal Revenue Service.

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

22 Section 8. The board shall keep minutes of its
23 meeting and a record of all business transacted by it. All
24 board records, except those required by board rules to be held
25 confidential for reasons of public policy shall be open for

1 inspection by any resident of the county at all reasonable
2 times.

3 Section 9. The board may promulgate such rules
4 governing the employees of the office of the sheriff through a
5 personnel manual which shall contain provisions for equal
6 opportunity in employment and advancement on a
7 nondiscriminatory basis for all persons, and shall contain
8 provisions that all employment policies shall be administered
9 without regard to race, color, religion, sex, age, or national
10 origin in regard to examinations, eligible registers,
11 appointments, transfers, salaries, promotions, demotions,
12 annual, holiday, and sick leave, and such other matters as may
13 be necessary to accomplish the purposes of this act. Any
14 proposed rule shall become effective only after it is adopted
15 at a meeting of the board which meeting is open to the public,
16 and after a certified copy thereof has been filed with the
17 office of the probate judge. All employees shall be appointed
18 upon a nonpartisan merit basis. The rules promulgated by the
19 board shall not apply to those exempt appointees enumerated in
20 Section 3 (b), who shall serve at the pleasure of the sheriff.

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

23 (1) Classify the various types of service under its
24 jurisdiction.

1 (2) Prescribe minimum qualifications, including
2 those of education, training, and experience to each
3 classification of service.

4 (3) Provide a salary range, from minimum to maximum
5 salary authorized, for each class of service; however, for a
6 period of five years following the effective date of this act,
7 the minimum salary for any class shall not be less than any
8 existing pay plan for such class or service, provided further
9 that after the five-year period has elapsed, the salary ranges
10 prescribed by the board shall be used exclusively, subject to
11 the budgetary approval of the county commission as otherwise
12 required by state law.

13 (4) Classify and identify each position of the
14 classified service existing in the present system to its
15 proper class of service in the new system.

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

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

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

24 (8) Conduct investigations or hearings, examine
25 witnesses under oath and compel their attendance or the

1 production of evidence before it by subpoenas issued in the
2 name of the Etowah County Sheriff's Personnel Board.

3 (9) Administer oaths to witnesses who appear before
4 the board.

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

15 Section 12. Persons seeking employment in any
16 position shall file an application with the personnel
17 director, who shall make those applications available to the
18 appointing authority. The appointing authority, from time to
19 time, shall conduct examinations to test the ability of such
20 applicants. All qualified applicants shall be examined based
21 upon factors pertinent to the ability to discharge the duties
22 of the position. Examinations shall be practical and shall
23 relate to those matters which test the ability of the person
24 examined to discharge intelligently the duties of the position
25 for which he or she applies. Once the qualified applicants

1 have been examined, those selected for employment may then be
2 hired by the appointing authority, as long as funding is
3 available for the position. Any person may make reapplication
4 for any position.

5 Section 13. Whenever a vacancy exists in any
6 position, it shall be filled by appointment of one of the
7 appropriate eligible registrants, or by transfer within the
8 service from another position of the same class. However, any
9 eligible person of the same class who has been laid off, as
10 provided in Section 12, shall receive preference in hiring.
11 Whenever it is impossible to certify eligible persons to a
12 vacancy, the board may authorize the appointing authority to
13 fill the vacancy temporarily pending the establishment of an
14 eligible registrant. Temporary appointments shall be effective
15 for six months, and may be extended for six additional months
16 by the board, upon request by the appointing authority. All
17 appointments other than temporary appointments shall be
18 probationary for six months from the date of appointment. A
19 probationary employee may be discharged by his or her
20 appointing authority without cause during the probationary
21 period. After the expiration of the probationary period, an
22 appointment shall be permanent, subject to discharge
23 thereafter only for cause.

24 Section 14. The sheriff, or the appointing authority
25 to whom the sheriff has delegated such disciplinary powers,

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

23 Section 15. The board shall have the power to
24 administer oaths, take depositions, certify official acts, and
25 issue subpoenas to compel the attendance of witnesses and

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

15 Section 16. The sheriff or the employee aggrieved by
16 a decision of the board in the original hearing shall be
17 entitled to rehearing of the issue before the board as
18 provided herein. The aggrieved party shall make written
19 request upon the board within five days of an adverse decision
20 of the original hearing and the board shall, within 10 days of
21 receipt of a request for rehearing, hold the rehearing in
22 substantially the same manner as the original hearing to
23 review its earlier decision. If, on rehearing, either party is
24 aggrieved by the decision of the board, the party may appeal
25 the decision to the Circuit Court of Etowah County within 30

1 days from the release of the decision by the board. The
2 proceedings before the circuit court shall be without jury and
3 shall be de novo.

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

11 Section 18. All reasonable, necessary, and ordinary
12 expenses incurred in the implementation of this act shall be
13 paid by the county out of the county treasury, subject to the
14 budgetary approval of the county commission as otherwise
15 required by state law.

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

20 Section 20. The provisions of this act shall in no
21 way impair or affect the sheriff's exclusive authority over
22 the use and disposition of discretionary funds available for
23 the use of the Office of Sheriff of Etowah County.

24 Section 21. All laws or parts of laws which conflict
25 with this act are repealed.

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

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Speaker of the House of Representatives

President and Presiding Officer of the Senate

House of Representatives

I hereby certify that the within Act originated in
and was passed by the House 21-MAY-15, as amended.

Jeff Woodard
Clerk

Senate

03-JUN-15

Passed