

1 HB473  
2 204778-1  
3 By Representative Simpson (N & P)  
4 RFD: Baldwin County Legislation  
5 First Read: 04-MAY-20

A BILL  
TO BE ENTITLED  
AN ACT

Relating to Baldwin County; to amend Sections 45-2-234.05, 45-2-234.06, 45-2-234.07, 45-2-234.08, and 45-2-234.09, Code of Alabama 1975, relating to the Baldwin County Sheriff's Office Personnel Merit System; to further provide for the qualifications of members of the board; to amend the election process for members of the board; and to further provide for a process for appeal from decisions of the board.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Sections 45-2-234.05, 45-2-234.06, 45-2-234.07, 45-2-234.08, and 45-2-234.09, Code of Alabama 1975, are amended to read as follows:

"§45-2-234.05.

"All ~~annual, personal,~~ sick leave, and longevity time accrued by an employee shall be transferred, with the

1 employee, from the county system to the Sheriff's Personnel  
2 Merit System.

3 "§45-2-234.06.

4 "(a) There shall be established the Sheriff's Office  
5 Personnel Appeals Board. The board shall hear all appeals from  
6 final action as requested by an affected employee of the  
7 sheriff's office, other than an appointed employee.

8 "(b) The Sheriff's Office Personnel Appeals Board  
9 shall be composed of five persons ~~who are residents of the~~  
10 ~~county~~. The members of the board shall be appointed as  
11 follows: Two members shall be appointed by the sheriff and two  
12 members shall be selected by the classified employees using  
13 the procedure provided in Section 45-2-234.07. The fifth  
14 member shall be selected by the other four members of the  
15 board within 30 days after the four members of the board are  
16 selected and take office. In the event the four members of the  
17 board cannot agree on a fifth member within 30 days, then the  
18 fifth member shall be selected as follows: The members  
19 appointed by the sheriff shall nominate one person and the  
20 members selected by the classified employees shall nominate  
21 one person. From these two nominees, the fifth member of the  
22 board shall be selected by lot.

23 "§45-2-234.07.

24 "(a) The personnel officer shall ~~cause to be placed~~  
25 ~~with the paychecks tendered to all classified employees, other~~  
26 ~~than appointed officials, a notification~~ notify all classified  
27 employees that nominations for membership on the board will be

1 accepted for a period of 10 days from that date and  
2 instructing all interested classified employees to submit  
3 nominations to the personnel officer of the sheriff's office  
4 within that period. Nominations shall be limited to persons  
5 who are ~~classified~~ merit employees of the sheriff's office.

6 "(b) The personnel officer shall compile a list of  
7 the nominations and cause ballots to be prepared ~~for inclusion~~  
8 ~~with the next paychecks tendered~~ and distributed to all  
9 classified employees, other than appointed officials, and  
10 shall instruct all classified employees of their right to vote  
11 for ~~two names and only two names~~ one name contained on the  
12 list of nominees.

13 "(c) The employees shall be instructed to tender  
14 their ballots in sealed envelopes to ~~their supervisors within~~  
15 ~~five days for submission to~~ the personnel officer who shall  
16 make appropriate arrangements for their ~~retrieval and~~  
17 ~~tabulation in the presence of at least two members of the~~  
18 ~~Baldwin County legislative delegation~~ tabulation. Upon  
19 tabulation of the ballots, the personnel officer shall obtain  
20 written certification executed by all the county employees who  
21 assisted during the counting of the ballots and shall submit  
22 the fully executed written certification to the Baldwin County  
23 legislative delegation following each election. The  
24 certification and ballots shall be retained by the personnel  
25 officer as public records for 12 months from the date of the  
26 certification of the results.

1           "(d) In the event that any one employee receives a  
2 majority of all votes cast, he or she shall be deemed elected  
3 to serve on the board. In the event that no ~~two employees~~  
4 ~~receive at least a 25 percent plurality of all votes,~~ employee  
5 receives a majority of all votes cast, then the names of the  
6 ~~four~~ two employees receiving the most votes on the initial  
7 ballot shall be placed on a run-off ballot and voted upon by  
8 the employees as set forth above. The ~~two employees~~ employee  
9 then receiving the most votes shall be deemed elected to  
10 membership on the board.

11           "§45-2-234.08.

12           "(a) The original members shall serve for the  
13 following terms: One for one year, one for two years, one for  
14 three years, and two for four years, as determined by the  
15 drawing of lots. Thereafter, all members shall serve for a  
16 period of four years. No person shall be appointed to the  
17 board unless he or she is ~~a resident and qualified elector of~~  
18 ~~Baldwin County~~ and over the age of ~~21~~ 18 years.

19           "(b) Members of the board shall take the  
20 constitutional oath of office, ~~which shall be filed in the~~  
21 ~~office of the Judge of Probate of Baldwin County.~~ Vacancies on  
22 the board shall be filled for the unexpired term of the vacant  
23 position in the same manner as original appointments are made.  
24 The members of the board shall elect a chair and secretary  
25 from among their members. Any member of the board who becomes  
26 a candidate for, or is elected or appointed to, another public  
27 office of profit must vacate his or her office as a member of

1 the board. No board member shall be an elected official,  
2 appointed employee, or employee of the county commission, or  
3 any municipal government.

4 "(c) The office of sheriff may provide reasonable  
5 compensation to members of the board for the performance of  
6 their duties. The compensation may be paid from any monies  
7 allocated to the office of sheriff.

8 "(d) No person who holds elected office, is a  
9 candidate for elected office, or receives a salary from the  
10 sheriff's office, except the classified employee board  
11 members, shall serve on the board. An employee board member's  
12 term shall immediately terminate upon occurrence of any one of  
13 the foregoing conditions. A vacancy shall be filled in the  
14 same manner as the original appointment of a board member as  
15 soon as possible after a vacancy occurs. A board member shall  
16 be eligible for reappointment to successive terms on the  
17 board.

18 "(e) The board shall follow administrative  
19 procedures adopted by the appointing authority to implement  
20 the appeals process. The personnel officer shall provide all  
21 necessary clerical and administrative support for the board.  
22 The board shall meet as needed. Each year, board members shall  
23 select from among themselves a chairperson and secretary of  
24 the board. Board members may be compensated as established  
25 from time to time by the sheriff's office.

26 "(f) All testimony shall be under oath and the board  
27 has the power to subpoena witnesses and demand production of

1 relevant documents. The board has the authority to affirm,  
2 revise, or amend any previous personnel decisions after a  
3 hearing. Final action may be taken by the sheriff or by a  
4 division or department head subject to the final authority of  
5 the sheriff.

6 "(g) The board shall hear all appeals from the final  
7 action of the division or department head or the sheriff with  
8 respect to disciplinary action, except for appointed  
9 officials. From any adverse decision of the board, the  
10 employee or the sheriff may, within seven work days, appeal to  
11 the Circuit Court of Baldwin County based on the record of the  
12 administrative hearing before the board."

13 "§45-2-234.09.

14 "(a) A classified employee, other than appointed  
15 officials, shall have the right to appeal any disciplinary  
16 action taken against him or her. An employee on probationary  
17 status shall not have that right unless the employee had  
18 permanent status in some other position at the time of  
19 appointment to the probationary position. An employee, other  
20 than appointed officials, desiring to appeal any disciplinary  
21 action directed against him or her shall first exhaust any  
22 administrative remedy as provided by policy of the sheriff's  
23 personnel system. Upon exhausting any administrative remedy,  
24 the employee shall then file his or her appeal in writing with  
25 the personnel officer within seven calendar days of the last  
26 final administrative action on the disciplinary action, and  
27 shall request a hearing before the personnel appeals board.

1 Within seven calendar days after the receipt of the appeal,  
2 the personnel officer shall file with the chair of the board  
3 and mail to the employee by certified mail a statement  
4 specifying the charges against the employee on which the  
5 disciplinary action was based. Upon the filing of the charges,  
6 the chair shall call a meeting of the board to be held within  
7 30 days after the filing of charges to hear the appeal, and  
8 shall forthwith give notice by certified mail to the employee  
9 and the board of the time and place of the meeting. Notice  
10 must be given 10 working days prior to the meeting. The board  
11 shall have the authority to continue the hearing from time to  
12 time as may be necessary. In preparing for and conducting the  
13 hearing, the chair and secretary of the board shall each have  
14 the power to administer oaths, to subpoena and require the  
15 attendance of witnesses and the production of books,  
16 documents, and accounts pertaining to the grievance.

17 "(b) Subpoenas issued as herein provided shall be  
18 served and the fees and allowances for the services thereof  
19 shall be the same as is provided by law for the service of  
20 subpoenas issued by the Circuit Court of Baldwin County. The  
21 fees and allowances in connection with the service of the  
22 subpoena issued at the request of the sheriff's office upon  
23 request of the board shall constitute reasonable and necessary  
24 expenses of the board. Any subpoena issued at the request of  
25 the employee shall be served as provided above, but only after  
26 the employee shall have deposited sufficient security with the  
27 sheriff or other recognized officer as will guarantee payment



1 of the fees and allowances for the service. Any person failing  
2 to obey any summons by either of the officers of the board  
3 without good cause, to be determined by the Circuit Court of  
4 Baldwin County, may be punished by the court in the same  
5 method and manner as is provided by law for contempt of the  
6 court, and any person failing to obey any order or subpoena of  
7 the court, may be proceeded against by the court as is by law  
8 provided in the case of contempt of the court. In addition,  
9 any employee of the county who fails to obey any of the orders  
10 or subpoenas may be disciplined as provided in this subpart.

11 "(c) At the hearing before the board, the employee  
12 and his or her department head or supervisor shall each have  
13 the right to be represented by counsel, with the sheriff's  
14 office authorized to employ legal counsel to represent the  
15 interest of the sheriff's office, the hearing shall be  
16 governed by rules of practice and procedure as shall be  
17 adopted by the board, and in conducting the hearing, the board  
18 shall not be bound by the technical rules of evidence. No  
19 informality of procedure in the conduct of the hearing shall  
20 invalidate any recommendation made by the board. At the  
21 conclusion of the hearing, and within five working days  
22 therefrom, the board shall recommend to the sheriff one of the  
23 following:

24 "(1) That the disciplinary action taken against the  
25 employee be affirmed.

26 "(2) That the disciplinary action be reversed and  
27 that the employee be reinstated with full back pay at the

1 normal rate of pay that would have been in effect for the  
2 employee had he or she not been suspended without pay.

3 "(3) That the disciplinary action be reduced and  
4 that the employee be reinstated either without or with pay for  
5 any time suspended without pay. The recommendation shall be in  
6 writing to the sheriff, and the sheriff shall act upon the  
7 recommendation within 10 working days of receipt of the  
8 recommendation and shall approve or disapprove of the action  
9 of the board, or may modify if the modification is less  
10 stringent than the action of the board, with the action  
11 becoming a matter of public record."

12 Section 2. This act shall become effective  
13 immediately following its passage and approval by the  
14 Governor, or its otherwise becoming law.