

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

1  
2 ENROLLED, An Act,

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

16 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

17           Section 1. Sections 1, 2, 4, and 7 of Act 941 of the  
18 1973 Regular Session (Acts 1973, p. 1447) are amended to read  
19 as follows:

20           "Section 1. (a) In Madison County, there is hereby  
21 created and established a personnel ~~department for the~~  
22 ~~government and control of all employees and appointees holding~~  
23 ~~positions in the classified service, as defined in Section 4~~  
24 board to hear and decide appeals filed by employees who are  
25 covered under this act as provided in Section 4 of Act 941 of

1 the 1973 Regular Session (Acts 1973, p. 1447), as amended by  
2 this amendatory act.

3 " (b) ~~The personnel department shall consist of a~~  
4 ~~personnel board and a personnel director.~~ The personnel board  
5 shall consist of three members~~;~~: One to be appointed by the  
6 sheriff of the county; one to be appointed by the county  
7 governing body; one to be appointed as a joint appointee by  
8 ~~the Sheriff of the County, the Circuit Court Clerk, the County~~  
9 ~~Judge and the District Attorney; one to be appointed by the~~  
10 ~~county governing body; and one to be appointed as a joint~~  
11 ~~appointee by the County Tax Assessor, the County Tax~~  
12 ~~Collector, and the Probate Judge. Members of the Personnel~~  
13 ~~Board now serving in Madison County by authority of Acts 1392~~  
14 ~~and 1488 of the 1971 Regular Session shall continue to serve~~  
15 ~~until the end of their respective terms. At the expiration of~~  
16 ~~the term of each member, his successor shall be appointed for~~  
17 ~~a term of six years~~ county tax assessor, the county license  
18 director, the county tax collector, and the judge of probate,  
19 with the county commission having the authority to break any  
20 tie vote as between the tax assessor, license director, tax  
21 collector, and judge of probate. Members of the personnel  
22 board may be replaced at any time during their term through  
23 appointment of a new member in the manner set forth in this  
24 subsection.

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

15           "~~(c)~~ (d) The members of the board shall be qualified  
16 electors 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, while a member of the board  
19 or for a period of one year after he or she has ceased to be a  
20 member, be eligible for appointment to any salaried office or  
21 employment in the service of the county or any county elective  
22 office.

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

25           (e) The board shall meet as specified in Section 2 of Act 941

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

13 "Section 2. The members of the board shall elect one  
14 of their members ~~chairman~~ as chair, whose duties shall include  
15 calling, organizing, and presiding over meetings of the board,  
16 as well as ruling upon any evidentiary objections raised in  
17 the course of adjudicating appeals filed before the board. The  
18 members of the board shall also elect a secretary whose duty  
19 shall be to keep the minutes of the board. Each officer  
20 elected by the board shall serve in that capacity for a term  
21 of one year. The board shall ~~determine the order of business~~  
22 ~~for the conduct of its meetings and~~ meet on the call of the  
23 ~~chairman~~ chair or by two of the members or by request of the  
24 county governing body, and as necessary to timely adjudicate  
25 any appeals filed under this act. Two members of the board

1 shall constitute a quorum for the transaction of business. The  
2 functions of the board shall be:

3 ~~"(a)(1)~~ To formulate and ~~promulgate~~ adopt a set of  
4 rules to supplement this ~~Act~~ act and revisions and amendments  
5 thereof.

6 ~~"(b) To act in an advisory capacity to the governing~~  
7 ~~body of the county on problems concerning personnel~~  
8 ~~administration.~~

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

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

20 ~~"(e) To hold hearing on and adopt or revise the~~  
21 ~~position classification plan. The board shall adopt a position~~  
22 ~~classification plan and class specifications and revisions~~  
23 ~~thereof, allocate and reallocate positions in the classified~~  
24 ~~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 assessor7.

21           ~~"(b) (2)~~ All employees of the county tax collector7.

22           ~~"(c) (3)~~ All employees of the county sheriff7, except  
23 the chief deputy.

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

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

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

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

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

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

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

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

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

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

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



1                   "b. Members of appointed boards, commissions, and  
2 committees.

3                   ~~"(ii) Members of appointive boards, commissions and~~  
4 ~~committees;~~

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

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

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

17                   ~~"Offices, positions and employments specifically~~  
18 ~~designated above as coming within the scope of this Act, and~~  
19 ~~other offices, positions and employments not exempted above,~~  
20 ~~shall constitute the classified service of the county. It is~~  
21 ~~intended hereby to include within the classified service all~~  
22 ~~offices, positions and employments now existing, or as they~~  
23 ~~may hereafter exist, in whole or in part from funds of any~~  
24 ~~such county, or the holders of which receive their~~  
25 ~~compensation from any elected official and perform duties~~

1 ~~pertaining to the office of such elected official or officer~~  
2 ~~except those hereinabove exempted in this Section. It shall be~~  
3 ~~made mandatory, upon the enactment of this bill into law, that~~  
4 ~~all employees hereinbefore designated as included within the~~  
5 ~~"classified service" of the county shall be so included.~~

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

8 "(c) If any individual holds the position of  
9 personnel director on the effective date of this amendatory  
10 act, that director, on the effective date of this act, shall  
11 become an employee solely of Madison County and shall cease to  
12 hold any authority with respect to the operations of the  
13 personnel board.

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

22 Section 2. (a) Upon initial hire and in the event of  
23 any promotion or change in job title, any employee covered by  
24 Act 941 of the 1973 Regular Session (Acts 1973, p. 1447), as  
25 amended by this amendatory act, shall be subject to an initial

1 probationary period of six months, except that the length of  
2 the probationary period for any employee of the sheriff shall  
3 be one year, during which period the employee may be  
4 terminated at any time and for any reason, without any right  
5 of appeal pursuant to this act.

6 (b) With respect to any employee whose initial  
7 probationary period has expired, an additional period of  
8 disciplinary probation may be imposed upon any employee  
9 covered by this act, but that employee may exercise his or her  
10 right to appeal under Section 10 of Act 941 of the 1973  
11 Regular Session (Acts 1973, p. 1447), as amended by this  
12 amendatory act. During any term of disciplinary probation, the  
13 employee may be terminated upon the first occurrence of any  
14 further violations of any written rules or policies of the  
15 appointing authority.

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

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

4           "Section 10. (a) No employee ~~in the classified~~  
5 ~~service~~ covered by this act may be demoted, dismissed, or  
6 reduced in pay without just cause and the opportunity to  
7 demand a hearing pursuant to this section prior to  
8 implementation of the demotion, dismissal, or reduction in  
9 pay.

10           "~~(b) Any employee in the classified service who has~~  
11 ~~been demoted, dismissed or reduced in pay, shall be entitled~~  
12 ~~to receive a written statement of the reasons for such action~~  
13 ~~from the appointing authority within three working days, and~~  
14 ~~he shall have three working days time thereafter within which~~  
15 ~~to file an answer in writing thereto. A copy of such charges~~  
16 ~~and answer shall be filed with the personnel director. In the~~  
17 ~~event the employee files an answer, a copy of the written~~  
18 ~~charges and of such answer shall be transmitted by the~~  
19 ~~personnel director to the personnel board. Within ten working~~  
20 ~~days from the date of the filing of his answer to the written~~  
21 ~~charges, or in the event such written charges have not been~~  
22 ~~made available to him within the time prescribed, then within~~  
23 ~~ten working days after the action taken to demote, dismiss or~~  
24 ~~reduce the pay of the employee, he may file a written demand~~  
25 ~~with the personnel director, requesting a hearing before the~~

1 ~~personnel board. The board shall then investigate the case and~~  
2 ~~conduct a hearing as provided by this Act and by the rules.~~  
3 ~~Hearings shall be informally conducted and the rules of~~  
4 ~~evidence need not apply. Any time an appointing authority~~  
5 ~~proposes to demote, dismiss, place upon disciplinary~~  
6 ~~probation, reduce in pay, or suspend without pay any covered~~  
7 ~~employee, the appointing authority shall first present to the~~  
8 ~~employee a written statement of the specific adverse action~~  
9 ~~proposed and the reasons for that action, and shall inform the~~  
10 ~~employee of a specific date and time at which the employee~~  
11 ~~shall have an opportunity to discuss the proposed adverse~~  
12 ~~action with the appointing authority. This meeting shall not~~  
13 ~~occur sooner than three days after the notice of the proposed~~  
14 ~~action. The appointing authority shall consider any argument~~  
15 ~~made by the employee prior to implementing any proposed~~  
16 ~~adverse action.~~

17 "(c) (1)a. No later than five working days following  
18 any dismissal, demotion, reduction in pay, or unpaid  
19 suspension of greater than 15 days of any covered employee,  
20 the employee may file a written demand with the chair of the  
21 personnel board requesting a hearing before the board to  
22 contest the adverse action and requesting that the adverse  
23 action be vacated.

24 "b. The employee, in that same manner and within  
25 that same time frame, also may request a hearing before the

1 personnel board to appeal to the board to rectify any alleged  
2 failure by the appointing authority to provide the notice and  
3 meeting required by subsection (b).

4 "(2)a. Upon receipt of a valid, timely written  
5 notice of appeal, the board shall conduct a hearing as  
6 provided by this act and by the rules of the personnel board,  
7 and shall either affirm the decision of the appointing  
8 authority or vacate the action of the appointing authority.

9 "b. The board shall affirm the decision of the  
10 appointing authority so long as it is reasonably satisfied  
11 from the evidence that a proper pre-disciplinary meeting was  
12 provided and that the employee violated the rules, policies,  
13 or procedures of the appointing authority in effect at the  
14 time of the acts or omissions of the employee that resulted in  
15 the adverse action.

16 "(d) Hearings under subsection (c) shall be  
17 informally conducted. The rules of evidence do not apply. All  
18 witnesses shall be sworn, and the employee and appointing  
19 authority may each be represented by counsel of their own  
20 choosing. A verbatim record of all proceedings before the  
21 board shall be prepared and transcribed by a certified court  
22 reporter.

23 ~~"(c) The~~ (e) Notwithstanding any provision of this  
24 section to the contrary, the provisions of this section,  
25 including those providing a method for appeal to the personnel

1 board, shall not apply to reductions in pay which are part of  
2 a general plan to reduce salaries and wages as an economy  
3 measure or as part of a general curtailment program; ~~provided,~~  
4 ~~however, that said reductions.~~ Reductions in pay which are  
5 part of a general plan to reduce salaries and wages as an  
6 economy measure or as part of a general curtailment program  
7 shall be prorated to all employees ~~in the classified service~~  
8 of the appointing authority.

9           ~~"(d)(f)~~ The action of the personnel board after  
10 hearing pursuant to this section shall be final and  
11 conclusive; ~~provided, however, that the action of the~~  
12 ~~personnel board pursuant to such hearing may be reviewed by~~  
13 ~~the circuit court of the county upon the filing, by either the~~  
14 ~~employee or the appointing authority, in said circuit court of~~  
15 ~~the county of a petition for writ of mandamus directed to the~~  
16 ~~said personnel board and provided that said petition is filed~~  
17 ~~by the said employee or the said appointing authority within~~  
18 ~~thirty days from the date the decision of the personnel board~~  
19 ~~has been rendered. The circuit court of the county shall have~~  
20 ~~jurisdiction to hear the case de novo in said mandamus~~  
21 proceeding . Any employee wishing to dispute a decision of the  
22 appointing board relating to that employee may seek review of  
23 the board's decision in the circuit court of Madison County by  
24 the filing of a petition for a common law writ of certiorari.  
25 On any appeal, the court shall uphold the decision of the

1 board if due process pursuant to this act was provided to the  
2 employee and if any legal evidence exists to support the  
3 decision of the board. Any review by the circuit court shall  
4 be limited to the record presented to the board, and no party  
5 shall be entitled to a trial by jury in the circuit court.

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

17 "Section 12. In any matter requiring the services of  
18 an attorney, the personnel board may call upon the county  
19 attorney to render ~~such~~ any legal services to the board as it  
20 may deem necessary or advisable, and may contract with outside  
21 legal counsel to provide guidance and assistance to the board  
22 during disciplinary hearings and in preparing any written  
23 decisions.

24 "Section 13. The compensation and all other expenses  
25 of the personnel board, ~~the personnel director and all others~~



1 ~~arising under the provisions hereof,~~ shall be paid by the  
2 county governing body ~~on requisition drawn by the personnel~~  
3 ~~director;~~ provided, however, that the county commission may  
4 establish and enforce a budget for the personnel board  
5 sufficient to fund the operations of the board.

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

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

18 "Section 16. Definitions. The terms "appointing  
19 authority" and "appointing power" ~~are defined to mean any~~  
20 person, persons, department head or elected official of the  
21 county who, ~~at the time of the enactment of this bill into~~  
22 ~~law, had~~ has the power by law to hire, to employ, make  
23 transfers, promotions, demotions, reinstatements, layoffs,  
24 suspensions, and dismissals of employees affected by this ~~Act~~  
25 act."

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

6           Section 6. Any appeals perfected pursuant to Act 941  
7 of the 1973 Regular Session (Acts 1973, p. 1447) prior to the  
8 effective date of this amendatory act, but not yet heard by  
9 the personnel board as of the effective date of this act,  
10 shall be timely taken up and adjudicated by the personnel  
11 board reconstituted by this amendatory act.

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

14           Section 8. This act shall become effective  
15 immediately upon its passage and approval by the Governor, or  
16 upon its otherwise becoming a law.

