

HB97 ENROLLED



1 HB97
2 7UH6V2-2
3 By Representative Paschal (N & P)
4 RFD: Shelby County Legislation
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HB97 Enrolled

1 Enrolled, An Act,

2 Relating to the City of Pelham in Shelby County; to
3 repeal Act 89-189 of the 1989 Regular Session (Acts 1989, p.
4 186) as amended by Act 2001-906 of the 2001 3rd Special
5 Session (Acts 2001, p. 748), and as amended and reenacted by
6 Act 2015-419 of the 2015 Regular Session (Acts 2015, p. 1263);
7 and to establish a new civil service system that provides for
8 a personnel board, human resources director, employee
9 classification and pay, employment, retention, and
10 disciplinary process, and for employee appeals.

11 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

12 Section 1. This act shall apply only to the City of
13 Pelham and shall be known as The City of Pelham Civil Service
14 System Act.

15 Section 2. The purpose of this act is to promote
16 greater efficiency and economy in the administration of the
17 government of the City of Pelham by accomplishing both of the
18 following:

19 (1) Attract to the service of the City of Pelham
20 qualified individuals of character and ability by providing
21 for their equal treatment and equal opportunity without regard
22 to race, national origin, ancestry, religion, political
23 affiliation, or other non-merit factors.

24 (2) Establish a means to recruit, select, develop, and
25 maintain an effective and responsible workforce based upon
26 merit principles by providing policies and procedures for
27 hiring and advancement, training and career development, job
28 classification, salary administration, fringe benefits,



HB97 Enrolled

29 retirement, discipline, and discharge.

30 Section 3. For the purposes of this act, the following
31 terms have the following meanings:

32 (1) APPOINT. To hire to a regular classified position
33 with the city.

34 (2) APPOINTING AUTHORITY. The mayor, city council, city
35 manager, or any department head of the city authorized to make
36 appointments to the regular classified service due to his or
37 her supervisory capacity.

38 (3) BOARD. The City of Pelham Personnel Board.

39 (4) CERTIFICATION. The submission of eligible names
40 from a promotion list or a register to an appointing authority
41 for the purpose of filling a position in the regular
42 classified service.

43 (5) CITY. The City of Pelham, Alabama.

44 (6) CITY MANAGER. The executive administrator appointed
45 pursuant to Section 11-43-20, Code of Alabama 1975, who
46 oversees the day-to-day operations of the city's departments
47 as the administrative head of the municipal government.

48 (7) CLASS. A group of positions in the regular
49 classified service sufficiently similar in duties,
50 responsibilities, and authority, such that the same
51 descriptive title may be used to identify all positions
52 allocated to the class, the positions encompassing similar
53 requirements as to education, experience, skill, knowledge,
54 proficiency, and ability, with the same tests of fitness to
55 choose qualified employees, and within a defined pay grade.

56 (8) CLASSIFICATION. The assignment of a position to the



HB97 Enrolled

57 appropriate class in accordance with its required duties and
58 authority.

59 (9) CLASSIFIED SERVICE. An employment position that
60 exists in the city that is included in the compensation plan
61 approved by the City Council.

62 (10) COUNCIL. The Pelham City Council.

63 (11) DEMOTION. Any disciplinary or other action which
64 reduces the pay grade or pay step of a non-exempt employee in
65 the regular classified service.

66 (12) DIRECTOR. The Human Resources Director.

67 (13) ELIGIBLE CANDIDATE. An individual whose name is on
68 an employment list, a promotion list, or an eligible register.

69 (14) ELIGIBLE REGISTER. A record containing the names
70 of those individuals who have applied for public safety
71 positions and successfully completed prescribed tests, listed
72 and ranked in order of their final earned average from the
73 highest to the lowest, and are qualified for appointment to
74 positions in the class for which the test was held.

75 (15) MAYOR. The Mayor of the City of Pelham.

76 (16) OPEN-COMPETITIVE. The process of seeking qualified
77 candidates for a regular classified position from any
78 qualified individual including taking applications from the
79 general public and other employees in the regular classified
80 service.

81 (17) PAY GRADE. The specific pay range set forth in the
82 compensation plan for a classification.

83 (18) PAY STEP. The specific pay rate within a pay range
84 as set forth in the compensation plan.



HB97 Enrolled

85 (19) POLICY or RULE. Policies or rules adopted by the
86 city which are considered necessary to develop a comprehensive
87 civil service system to implement this act. No policy or rule
88 shall change or modify the intent of this act.

89 (20) POSITION. Any job or set of duties in the regular
90 classified service requiring the full-time employment of one
91 person in the performance and exercise thereof.

92 (21) PROBATIONARY EMPLOYEE. An employee appointed to a
93 regular classified position from an employment list, promotion
94 list, or eligible register who has not completed his or her
95 probationary period.

96 (22) PROMOTION. An advancement from one class to
97 another class with increased duties or responsibilities for
98 which a higher rate of pay is prescribed.

99 (23) PUBLIC RECORDS. A record that the public has the
100 right to inspect in a reasonable manner.

101 (24) REGULAR CLASSIFIED POSITION. Any position in the
102 regular classified service.

103 (25) REGULAR EMPLOYEE. An employee who is appointed
104 under this act to a regular classified position and who has
105 completed his or her probationary period.

106 (26) SPECIFICATIONS. A formal statement descriptive of
107 a position that shall contain the title and class of the
108 position, a description of the duties of the position, and the
109 minimum qualifications required of applicants as to education,
110 experience, physical ability, and other attributes.

111 (27) TEMPORARY POSITION. Any employment position in the
112 city which is not a regular classified position but which



HB97 Enrolled

113 requires or is likely to require the services for a set period
114 of time.

115 (28) TEST. A written or oral examination, or
116 combination thereof, or other means established to assess the
117 qualifications of an applicant for a position.

118 (29) TITLE. The term used to designate all employment
119 by class and pay grade that generally describes the duties of
120 the position.

121 Section 4. (a) (1) The City of Pelham Personnel Board is
122 established. The personnel board shall have three members, who
123 shall be selected as follows:

124 a. One member shall be elected by the regular
125 classified service employees to serve the initial term, under
126 this act, of four years.

127 b. One member shall be appointed jointly by the mayor
128 and the council to serve the initial term, under this act, of
129 three years.

130 c. One member shall be appointed jointly by the members
131 provided for in paragraphs a. and b. to serve the initial
132 term, under this act, of two years.

133 (2) After the initial term, each member shall be
134 elected or appointed as provided in subdivision (1), and each
135 shall serve for a term of four years.

136 (3) Any vacancy in membership shall be filled for the
137 unexpired term in the manner provided for the member in
138 subdivision (1).

139 (b) An individual shall meet all of the following
140 qualifications on the date of the individual's election or



HB97 Enrolled

141 appointment to the board:

142 (1) Be a qualified elector of the city.

143 (2) Not have been a city employee within the preceding
144 three years, and if the individual has been a city employee,
145 the individual shall have been in good standing at the time he
146 or she was separated from city employment.

147 (3) Not have been a candidate for or held public office
148 within the preceding three years.

149 (4) Not have held a position with any political party
150 within the preceding three years.

151 (c) The board shall meet in regular session at least
152 semiannually and at other times as necessary to transact the
153 business of the board, which shall include the following
154 duties:

155 (1) Adopt the rules and policies necessary to carry out
156 its duties under this act.

157 (2) Hear and render decisions in disciplinary appeals
158 and related matters as set forth in this act.

159 (3) Transact any other business within the purview of
160 the board and within the intent of this act.

161
162 Section 5. (a) The mayor or city manager shall appoint
163 a human resources director. The director shall be experienced
164 in the field of personnel administration and shall administer
165 an efficient and economical merit system and carry out the
166 rules and policies established by the mayor, city manager,
167 council, or the board.

168 (b) In addition to the responsibilities set forth



HB97 Enrolled

169 elsewhere in this act, the director's duties shall include the
170 following:

171 (1) Serve as secretary to the board.

172 (2) Prepare for approval of the board any rules or
173 policies needed to implement board action under this act.

174 (3) Become familiar with the organization, operation,
175 and personnel requirements of each city department and make
176 recommendations for the department's efficient, economical,
177 and equitable operation.

178 (4) Maintain an official inventory of all positions,
179 including their specifications and pay grades.

180 (5) Promote and assist in the establishment of programs
181 for general employee pension, welfare, health, and career
182 development.

183 (6) Maintain all employee and retiree files complete
184 with all tax and benefit elections of the employee, resumes,
185 disciplinary actions, responses, applications, and copies of
186 certifications and training classes relevant to the class or
187 position of the employee or required by the city for continued
188 employment.

189 (7) Counsel employees on their rights under this act
190 and city policy.

191 (8) In connection with the investigations, hearings, or
192 inquiries of the board, administer oaths, issue subpoenas,
193 require the attendance of witnesses, and compel the production
194 of records, documents, and papers pertaining to the subject
195 under consideration.

196 Section 6. (a) On the effective date of this act, all



HB97 Enrolled

197 employees holding regular full-time positions in the service
198 of the city shall continue in their regular status in the
199 classified service, unless the position to which they are
200 appointed or elected is otherwise exempted by this act.

201 (b) The service shall be divided into two categories,
202 as follows:

203 (1) A regular service comprised of all employees
204 holding regular classified full-time positions. Employees
205 occupying these positions shall be in the classified service
206 unless specifically exempted from the service under this act.

207 (2)a. The exempt service, which shall include the
208 following:

209 1. Part-time employees, including part-time members of
210 different city boards.

211 2. Any official elected pursuant to Chapter 43 of Title
212 11, Code of Alabama 1975, including the city treasurer, city
213 clerk, city clerk-treasurer, police chief, and fire chief.

214 3. Any other individual elected or appointed to a
215 statutory position provided for under Chapter 43 of Title 11,
216 Code of Alabama 1975, including any city manager; provided,
217 nothing herein shall require the appointment of a city
218 manager.

219 4. Any judge, city attorney, and city prosecutor.

220 5. The administrative assistant to the mayor.

221 6. Individuals serving in long-term positions whose pay
222 is funded at least partially by state or federal grant.

223 7. Professionals, including attorneys, physicians,
224 accountants, and consultants who donate their services to the



HB97 Enrolled

225 city on a part-time or temporary basis or are retained as
226 independent contractors.

227 8. Seasonal and temporary employees.

228 b. Individuals appointed to fill exempt positions are
229 employees at-will.

230 Section 7. (a) Public records are those records as
231 defined in Section 41-13-1, Code of Alabama 1975. The records
232 may be reviewed in a manner prescribed by the city, taking
233 into account confidentiality, convenience, and related
234 factors.

235 (b) Minutes of board meetings and financial records
236 shall be retained permanently. Applications and examination
237 papers of a candidate shall be retained for as long as the
238 candidate is carried on the appropriate promotion list or
239 eligible register.

240 Section 8. (a) (1) The classification plan shall provide
241 a complete inventory of all employee positions in the service
242 of the city and include an accurate description and
243 specifications for each class of work, and all other employee
244 positions in the city for which salary and benefits are set
245 out by the city, with the exception of the city council,
246 mayor, and city manager. The plan shall standardize titles so
247 that each is indicative of a definite range of duties and
248 responsibilities and has the same meaning throughout the
249 service and shall show whether the position is deemed a
250 regular position or exempt position.

251 (2) The classification plan shall consist of:

252 a. A grouping of positions into classes that are



HB97 Enrolled

253 approximately alike in required qualifications, tasks, duties,
254 and working conditions and, based on these factors, can be
255 equitably compensated within the same range of pay under
256 similar working conditions.

257 b. Class titles that are descriptive of the work of the
258 class and identify the class. These class titles shall be used
259 in all personnel, accounting, budget, and related records. No
260 person shall be appointed to or employed in a position in the
261 classified service under a title not included in the
262 classification plan. Working titles may be used in the course
263 of departmental routine to indicate authority, status in the
264 organization, or administrative rank.

265 c. Job descriptions for each position shall first be
266 recommended by the mayor or city manager, or their designee,
267 and then adopted by the council by resolution in their
268 discretion. The written specifications for each position shall
269 consist of the following items:

270 1. A job title that is descriptive and consistent in
271 terminology with other titles in the plan.

272 2. A brief description of the work required by the job
273 with examples of typical tasks or duties performed.

274 3. A list of formal qualifications including education,
275 certification, and previous employment experience.

276 4. A list of required knowledge, skills, and physical
277 fitness required to perform the job.

278 5. The class in which the job is allotted, its
279 departmental supervisory level, and its pay grade.

280 d. Specifications shall be interpreted in their



HB97 Enrolled

281 entirety and in relation to others in the classification plan.
282 Particular phrases or examples shall not be isolated and
283 treated as a full definition of the class. Specifications
284 shall be descriptive and explanatory of the kind of work
285 performed and may not necessarily be inclusive of all duties
286 performed.

287 (3) An allocation list showing the class title of each
288 position in the regular service as identified by the name of
289 the occupant.

290 (b) The classification plan shall be used for the
291 following purposes:

292 (1) As a guide in recruiting and examining candidates
293 for employment.

294 (2) For determining lines of promotion.

295 (3) For determining salaries to be paid for various
296 types of work based on wage surveys and job analyses.

297 (4) For determining personnel items in departmental
298 budgets.

299 (5) For providing uniform job terminology
300 understandable to all city officials and employees and the
301 general public.

302 (c) (1) The director shall prepare or direct the
303 preparation of the classification plan as needed from time to
304 time. When the plan is completed and adopted by the council,
305 the director shall submit to each department head a copy of
306 the class specifications for each position class and a list
307 allocating the positions in the jurisdiction to the tentative
308 position classes. The department head shall notify employees



HB97 Enrolled

309 about the allocation of their respective positions. A copy of
310 the class specification and individual allocation shall be
311 made available to the employee or his or her representative on
312 request.

313 (2) The director's responsibilities regarding the plan
314 shall include the following:

315 a. Distribute the plan to each department head, with an
316 explanation of the class allocation of each position in the
317 department.

318 b. Make the plan available upon request to any employee
319 or member of the public.

320 c. Review the duties of each new regular position to be
321 established and allocate the position to a class.

322 d. In consultation with the mayor, city manager,
323 department heads, and supervisors, review any position to
324 determine if changes in duties that are more than temporary
325 would warrant reclassification of the position to a different
326 class that is equal, higher, or lower in terms of
327 responsibility and pay grade.

328 e. Maintain the classification plan so that it will
329 reflect the duties performed by each employee in the
330 classified service and the class to which each position is
331 allocated by doing the following:

332 1. Recommend to the mayor or city manager and city
333 council the establishment of new position classes and the
334 deletion or revision of existing classes.

335 2. Review the duties and responsibilities of each new
336 position established and allocate the position to the



HB97 Enrolled

337 appropriate position class.

338 3. Make periodic studies of positions to determine
339 changes in duties and responsibilities and, based on findings,
340 recommend reallocation or reclassification of positions.
341 Classification studies may be made at the request of the
342 mayor, city manager, or city council. Changes in duty
343 assignments must be more than temporary in nature, and the
344 current employee must be performing the duties for a
345 sufficient duration to warrant investigation.

346 4. Direct the grading and classifying of all positions
347 in the classified service at least once every five years.

348 (d) (1) When a position is reallocated to a higher
349 position class, a lower position class, or another position
350 class at the same level, the method of filling the position
351 shall be determined under this act regarding transfers,
352 demotions, or promotions as may be appropriate.

353 (2) The mayor or city manager may recommend to the city
354 council the elimination of, or modification to, approved job
355 descriptions and positions in the classification plan together
356 with any pay grade recommendations associated with the
357 position. Upon approval by the council of the proposed
358 changes, any non-exempt regular employee currently serving in
359 a position being eliminated or modified, in which the
360 elimination or modification results in the non-exempt
361 employee's termination or demotion, shall have all rights of
362 appeal afforded employees solely as to the question of whether
363 the elimination or modification was arbitrary and capricious.

364 Section 9. (a) (1) The mayor or city manager, in



HB97 Enrolled

365 consultation with the director and department heads, shall
366 adopt rules, policies, and procedures for employees and
367 compile them in an employee handbook that shall be amended
368 from time to time. All such rules, policies, and procedures
369 will be effective immediately upon adoption by the mayor or
370 city manager in consultation with the human resources director
371 and department heads.

372 (2) The employee handbook, and any amendments thereto,
373 shall be periodically reviewed by the council, which, by
374 resolution, may direct reissue of an updated edition.

375 (3) All rules, policies, and procedures shall be
376 consistent with any state or federal law that governs the
377 subject.

378 (4) At a minimum, the employee handbook shall contain
379 rules, policies, and procedures covering the following
380 subjects:

381 a. Accrual and use of sick leave. However, sick leave
382 of any employee in the regular service already accrued as of
383 the date of the adoption of this act shall in no wise be
384 diminished.

385 b. Accrual and use of personal leave or vacation time.
386 However, vacation time of any employee in the regular service
387 already accrued as of the date of the adoption of this act
388 shall in no wise be diminished.

389 c. Compensation, including accurate time-keeping,
390 payroll calculation, and overtime pay.

391 d. Military leave of absence, including leave for
392 National Guard and Reserve service.



HB97 Enrolled

393 e. Jury duty or other court attendance.

394 f. Unpaid leaves of absence, including leave under the
395 Family and Medical Leave Act, and any other unpaid leave
396 mandated by law.

397 g. Holding other employment and outside work and
398 conflicts of interest related thereto.

399 h. Probationary status.

400 i. Promotion and open-competitive position posting,
401 applicant testing, eligibility determination, and register
402 ranking.

403 j. Handling grievances between employees that do not
404 rise to the disciplinary level.

405 k. Acts, omissions, or conduct that subject employees
406 to discipline, reporting infractions, disciplinary measures up
407 to termination, and appeals.

408 l. Employee performance reviews.

409 m. Reduction in force and reinstatement.

410 n. Resignation and retirement.

411 o. Benefits, including qualifying for medical coverage,
412 post-separation continuation of coverage, and retirement.

413 (b) The employee handbook shall indicate which rights
414 of employees and benefits do not apply or apply only in part
415 to probationary employees and employees and roles in the
416 exempt service.

417 (c) Each employee shall follow the rules, regulations,
418 codes of conduct, policies, and procedures set out by the
419 city, the infraction of which the city may impose disciplinary
420 action.



HB97 Enrolled

421 (d) Any department, in consultation with the mayor or
422 city manager and the director, may institute standard
423 operating procedures necessary to the work of that department
424 which govern the department's personnel and are not
425 inconsistent with the rules, policies, and procedures in the
426 employee handbook.

427 Section 10. (a) The city council, in consultation with
428 the director, mayor, or city manager, and other city personnel
429 it deems necessary, shall adopt by resolution a compensation
430 plan as the basis of compensation for employees in the service
431 of the city.

432 (1) The plan shall be constructed to provide fair
433 compensation for all classes in the classification plan and
434 exempt positions, taking into account the following factors:

435 a. Varying degrees of difficulty and responsibility in
436 work between classes.

437 b. Prevailing rates of pay and benefits for similar
438 employment in the area, in both the private sector and for
439 other municipalities.

440 c. The recruiting experience for each class.

441 d. The city's financial condition.

442 (2) The compensation plan shall contain the following
443 provisions:

444 a. Guidance for implementing and administering the
445 plan.

446 b. A pay grade for each class in the classification
447 plan, containing the minimum, maximum, and intermediate pay
448 steps within the class grade.



HB97 Enrolled

449 c. The time period measured for pay, indicating the
450 number of weekly hours or any other appropriate measure for
451 the class grade.

452 (b) Upon final adoption by the council, the plan shall
453 be certified by the director and disseminated to all
454 department heads and made available to all employees. The plan
455 shall go into effect 30 days after its adoption by the
456 council.

457 (c) The compensation plan shall be amended by one of
458 the following procedures:

459 (1) When the mayor and the council by resolution add a
460 new position to the classification plan and fix the salary
461 grade, the job description shall assign the position to the
462 appropriate pay grade.

463 (2) In the case of a proposed cost-of-living or other
464 compensation plan amendment that has been previously approved
465 in the council's annual budget, the council's approval of said
466 amendment in the annual budget shall obviate the need for a
467 separate resolution approving said amendment.

468 (d) (1) Each employee in the classified service shall be
469 paid at a rate set forth in the compensation plan for the
470 classification in which he or she serves.

471 (2) A new appointee to the regular classified service
472 shall normally be paid the minimum pay step within the pay
473 grade for the class in which the position falls, unless in the
474 discretion of the hiring authority and the director,
475 circumstances, skills, or experience dictate a higher pay
476 step.



HB97 Enrolled

477 (3) Salary advancements within a pay grade shall be
478 based on satisfactory job performance in the position as set
479 out in the employee handbook and shall be implemented
480 according to the administrative procedures in the compensation
481 plan. A performance rating reflecting satisfactory performance
482 shall be required for advancement. An employee with
483 uninterrupted satisfactory service shall be eligible for a
484 salary increase on an annual basis until the maximum step for
485 the pay grade is reached.

486 (4) In the event a regular employee is promoted,
487 demoted, or transferred pursuant to Section 11, his or her
488 rate of pay shall be determined as follows:

489 a. Upon promotion, the employee's regular base pay
490 shall determine the new rate in the promotional class. The new
491 rate shall be the larger of:

- 492 1. A one-step increase above the former rate; or
- 493 2. The entrance rate for the promotional class.

494 b. When an employee is demoted, compensation shall be
495 reduced to the salary prescribed for the class or grade to
496 which demoted or the step rate reduced if the employee remains
497 in the position. In no event shall the pay grade exceed the
498 maximum approved rate of the new classification.

499 c. When an employee is transferred from one department
500 to another, the step in the pay range shall be in accord with
501 the approved job description of the position to be occupied by
502 the employee. All transfers shall be approved by the
503 appointing authority.

504 (e) (1) Holidays are paid.



HB97 Enrolled

505 (2) The mayor, subject to council approval, shall
506 determine the holidays that employees shall observe.

507 (3) Employees on non-pay status, such as a leave of
508 absence or on paid military leave, shall not earn additional
509 time for holidays. All employees shall receive the same number
510 of holidays, and employees required to work on holidays shall
511 receive an equal amount of time off in compensation.

512 Section 11. (a) (1) Vacancies and newly created
513 positions in the regular service shall be filled either by
514 promotion, open-competitive, transfer, appointment, re-
515 appointment, demotion, or transfer as determined by the
516 appointing authority.

517 (2) When a vacancy exists for a regular position that
518 is not otherwise exempt from this act, the appointing
519 authority shall inform the director of the vacancy and whether
520 the position is a promotional or open position. The director
521 shall then certify to the appointing authority eligible
522 candidates from the appropriate list or, as otherwise
523 provided, in the manner and pursuant to the procedures as set
524 forth in the employee handbook. The appointing authority shall
525 then make an appointment from the names certified to him or
526 her.

527 (3) Vacancies in positions above the lowest rank in any
528 category in the classified service shall be filled as far as
529 practicable by the promotion of employees in the service
530 unless otherwise determined by the appointing authority. In
531 each case, the appointing authority, in consultation with the
532 human resources director, shall determine whether an



HB97 Enrolled

533 open-competitive or promotional examination will serve the
534 best interests of the service in attracting well-qualified
535 candidates. Promotions in every case must involve a definite
536 increase in duties and responsibility. The change of an
537 employee from a position in a class to a position in another
538 related occupational class for which the maximum rate is
539 higher shall be deemed a promotion.

540 (b) (1) Any appointment to a regular classified
541 position, whether filled by open-competitive, promotion,
542 appointment, or transfer, shall be subject to a probationary
543 period.

544 (2) The probationary period shall last one year from
545 the date of appointment with no interruption in service. The
546 probationary period may be extended for an additional six
547 months upon recommendation by the appointing authority and
548 approval by the director.

549 (3) A probationary employee may be discharged without
550 the right of appeal.

551 (4) A promotional probationary employee who is demoted
552 for unsatisfactory service may return to the position held
553 prior to promotion, if still vacant, without the right of
554 appeal. In the event the former position is filled, the mayor
555 or city manager shall determine the manner in which the
556 employee may be retained in the service, subject to the
557 provisions governing layoffs and reductions in force in the
558 employee handbook.

559 (5) On satisfactory completion of the probationary
560 period, an employee shall have all rights of appeal set forth



HB97 Enrolled

561 in Section 13 in case he or she is suspended, demoted, or
562 terminated.

563 (c) (1) A demotion occurs when a regular employee's
564 salary is reduced to a lower pay step or the employee is moved
565 from a position in one class to a position in another class in
566 which the maximum step in the pay grade is lower than the
567 employee's former salary.

568 (2) An employee may be demoted for any of the following
569 reasons:

570 a. The employee would otherwise be laid off because the
571 current position he or she fills is being eliminated or
572 reclassified to a different grade, there is a lack of work or
573 funds, or another employee is returning to the position from
574 an authorized leave.

575 b. The employee does not possess the necessary
576 qualifications to render satisfactory service in the position.

577 c. The employee is removed during probation.

578 d. The employee voluntarily requests the demotion.

579 e. The employee is demoted as a disciplinary action.

580 (3) A demotion shall be approved by the appointing
581 authority pursuant to the procedures adopted by the city. If a
582 non-probationary employee is demoted against his or her will,
583 he or she may appeal to the board as provided in this act.

584 (d) A transfer occurs when an appointing authority,
585 with or without the employee's request, assigns an employee in
586 the regular service under his or her supervision from one
587 position to another in the same class regardless of the shift,
588 location, hours of work, or another consideration.



HB97 Enrolled

589 (e) An appointing authority may assign any employee in
590 the regular service under his or her supervision any duties as
591 long as the duties are within the same classification. Any
592 assignment of duties to an employee outside of the
593 classification of the employee's position shall be regarded as
594 temporary and shall receive prior approval from the mayor or
595 city manager and the director. Any transfer made pursuant to
596 this subsection shall be made with the retention of all rights
597 of seniority, vacation, sick leave, and overtime as the
598 employee may have accrued.

599 (f) (1) The mayor or city manager may authorize the
600 filling of a vacant position in the regular service by
601 temporary appointment.

602 (2) Any candidate for temporary appointment shall meet
603 the requirements, other than testing, for the position as
604 described in the classification plan.

605 (3) Temporary appointment may be for a period of up to
606 six months, subject to renewal by the mayor or city manager
607 every six months.

608 (g) The appointing authority shall not be bound by any
609 promotion list or eligible register to fill any vacancy for a
610 position or role in the exempt service. Further, an
611 appointment to the exempt service shall not confer any right
612 of status, appeal, or any related right under this act.

613 Section 12. (a) The tenure of every employee in the
614 regular service shall be conditioned on the satisfactory
615 conduct of the employee and the continued efficient
616 performance of assigned duties and responsibilities. A regular



HB97 Enrolled

617 employee may be dismissed, demoted, or suspended for cause or
618 for any reason deemed to be in the best interest of the public
619 service and shall have the right of appeal as set forth in
620 Section 13 of this act. The reasons for the action shall be
621 furnished in writing to the employee and the director.

622 (b) The following are among the causes which are
623 sufficient for dismissal, demotion, or suspension:

624 (1) Absence from work without leave.

625 (2) Conviction of any criminal act involving drugs,
626 alcohol, violence against a person, theft, embezzlement, moral
627 turpitude, or any crime charged as a felony.

628 (3) Conduct unbecoming an employee in the public
629 service.

630 (4) Disorderly or immoral conduct.

631 (5) Incompetency or inefficiency.

632 (6) Insubordination.

633 (7) Intoxication while on duty or public intoxication
634 while off duty.

635 (8) Neglect of duty.

636 (9) Negligent or willful damage to public property or
637 waste of public supplies or equipment.

638 (10) Violation of any regulations, rules, or orders
639 published, made, or given by a supervisor or appointing
640 authority.

641 (11) Use of paid time and city property for personal
642 reasons, including other employment or a private business
643 venture.

644 (12) Failure to maintain certifications or pursue



HB97 Enrolled

645 continuing education to perform the duties of the position.

646 (13) Inappropriate comments or behavior towards
647 coworkers, including behavior that exposes the city to
648 liability.

649 (14) Any other reason deemed in the best interest of
650 the public service.

651 (15) Any other reason set forth in the employee
652 handbook.

653 (c) (1) When an employee is suspended, demoted, or
654 terminated, the employee shall be notified in writing prior to
655 or on the date the disciplinary action is to take effect, and
656 the notice shall contain all of the following:

657 a. The reason for the disciplinary action.

658 b. The discipline imposed.

659 c. In the case of suspension, the starting and ending
660 dates or, in case of demotion or termination, the effective
661 date.

662 d. Any other information deemed appropriate.

663 (2) A copy of the notice shall be delivered by the
664 appointing authority to the director at the same time the
665 notice is served on the employee. Notification shall be made
666 prior to or on the date the dismissal or demotion is to take
667 effect, or as soon as practicable thereafter.

668 (d) A non-probationary regular employee who is demoted
669 or terminated shall have a right of appeal pursuant to
670 subsection 13(a). A non-probationary regular employee who is
671 suspended may have a right of appeal as provided in
672 subdivision (e) (2).



HB97 Enrolled

673 (e) (1) Suspension is typically without pay and is
674 imposed by an appointing authority for a definite number of
675 working hours on a predetermined work date with inclusive
676 starting and ending dates.

677 (2) The suspended regular employee shall have a right
678 to an appeal and hearing before the board in a case in which a
679 single suspension exceeds 40 work hours or where separate
680 suspensions imposed within one calendar year total more than
681 80 work hours.

682 (3) Any employee who is suspended for any period,
683 including anyone employed in an exempt position, may obtain a
684 review of any suspension imposed by filing with the mayor or
685 city manager, not more than two days after receiving written
686 notice of the suspension, a written answer to the charge and a
687 request for review.

688 (f) A regular employee serving a probationary period
689 may be suspended, demoted, or terminated by an appointing
690 authority without right of appeal to the board.

691 Section 13. (a) A regular employee may appeal
692 suspension pursuant to subdivision 12(e)(2), or demotion, or
693 termination by filing with the director within 10 calendar
694 days of receiving the disciplinary notice a written answer to
695 the charge with a request for a hearing that contains all of
696 the following:

697 (1) A copy of the disciplinary notice provided in
698 subsection 12(c).

699 (2) An admission or denial of the charge in the
700 disciplinary notice.



HB97 Enrolled

701 (3) If the employee admits the charge in whole or in
702 part, the reason why the discipline is inappropriate.

703 (b) Upon receiving the answer, the director shall
704 forward a copy to the board.

705 (c) The city, as principal of the appointing authority
706 who imposed the suspension, demotion, or termination, shall be
707 the responding party.

708 (d) The effective date of the disciplinary action shall
709 not be stayed pending the hearing.

710 (e) (1) The board shall order a public hearing of such
711 charges. The hearing shall be for the purpose of determining
712 whether or not the employee, by reason of his or her act or
713 acts as charged and his or her record of service, merits
714 retention in the service or should be removed therefrom or
715 otherwise disciplined; and to that end the board shall not be
716 bound by the technical rules of evidence but shall diligently
717 seek all the information bearing on the merits of the case.
718 Each party at interest may be represented by counsel.

719 (2) The hearing may be before the board or a hearing
720 officer appointed by the board. If the matter is heard by a
721 hearing officer appointed by the board, the hearing officer
722 shall be a practicing attorney licensed in the State of
723 Alabama and shall take testimony offered in support and denial
724 of such charges and, from the same, submit to the board within
725 five days a finding of facts involved and a recommended
726 decision. The board at its next regular or special meeting
727 shall consider the report and set aside or affirm the report
728 and certify its findings to the appointing authority who shall



HB97 Enrolled

729 forthwith put the same into effect. If the board hears the
730 charges, it shall make its own opinion and decision.

731 (3) Discovery may be obtained by one or more of the
732 methods provided under the Alabama Rules of Civil Procedure,
733 including written interrogatories, depositions, requests for
734 production of documents or things for inspection or copying,
735 and requests for admissions addressed to parties. The Alabama
736 Rules of Civil Procedure may be used as a general guide for
737 discovery practices and proceedings before the board. However,
738 the Alabama Rules of Civil Procedure shall be deemed to be
739 instructive rather than controlling. A party seeking discovery
740 from another party shall initiate the process by serving a
741 request for discovery on the other party.

742 (4) When a request for discovery is directed to an
743 officer or employee of the city, the city shall make the
744 officer or employee available on official time for the purpose
745 of responding to the request and shall assist the officer or
746 employee as necessary in providing relevant information that
747 is available to the city. A party seeking discovery from a
748 nonparty officer or employee of the city shall initiate the
749 process by serving a request for discovery on the nonparty
750 officer or employee. Discovery from other nonparties may be
751 initiated by serving a request for discovery on the nonparty
752 directly. Absent a request or upon failure to obtain voluntary
753 cooperation, discovery from a nonparty may be obtained by a
754 written motion directed to the board or a hearing officer
755 appointed by the board showing the relevance, scope, and
756 materiality of the particular information sought. In addition,



HB97 Enrolled

757 in the case of a deposition, the written motion shall include
758 the date, time, and place of the proposed deposition.

759 (5) The board may require that testimony introduced at
760 hearings be recorded, but testimony shall not be transcribed
761 except upon further order.

762 (6) The board shall render its decision within 10
763 calendar days after the conclusion of the hearing which shall
764 forthwith be certified to the appointing authority and
765 enforced by the appointing authority. Copies of the decision
766 shall be delivered to all other parties at interest. The board
767 may rescind or uphold the penalty imposed by the appointing
768 authority as warranted by the facts adduced at the hearing.

769 (f) (1) The order containing the decision of the board
770 may be appealed by either party to the Circuit Court of Shelby
771 County.

772 a. The appeal shall be perfected by filing a notice of
773 appeal in circuit court no later than 10 days after the
774 release of the board's decision.

775 b. The notice shall state that the party appeals the
776 board's decision to the circuit court with a short statement
777 of the reason therefor.

778 c. The notice shall be accompanied with a bound
779 transcript of the board hearing and any exhibits or with a
780 receipt from a court reporting service as proof that the
781 hearing is being transcribed.

782 d. In the case of an appeal challenging the board's
783 decision to uphold the discipline of an employee, a copy of
784 the notice of appeal shall be served on the director within



HB97 Enrolled

785 one day of its filing in circuit court.

786 (2) The decision of the board shall not be stayed
787 pending the circuit court's decision.

788 (3) The circuit court shall not reverse the order of
789 the board unless it finds one of the following:

790 a. The board's decision was arbitrary and capricious.

791 b. The board's decision was against the great weight of
792 the evidence.

793 c. The board's decision was the product of fraud.

794 d. The board's application of the law was clearly
795 erroneous in a case in which the board's decision was
796 determined by that question of law.

797 Section 14. (a) The following politically related
798 activities related to city employees shall be regulated as
799 follows:

800 (1) No individual shall use the authority of his or her
801 position with the city to secure for any other individual an
802 appointment to a position, an increase in pay, or any other
803 advantage in employment for the purpose of influencing the
804 vote or political action of that individual.

805 (2) No individual employed by the city, whether in the
806 regular or exempt service, shall be denied the right to
807 participate in city, county, state, or national political
808 activities to the same extent as any other resident of the
809 State of Alabama, including endorsing candidates and
810 contributing to campaigns.

811 (3) An individual employed by the city may join local
812 political clubs and organizations and state or national



HB97 Enrolled

813 political parties.

814 (4) An individual employed by the city may advocate on
815 public issues outside of work hours, including circulating
816 petitions, taking positions on referenda, and contributing
817 money and time to candidates and causes.

818 (5) No individual employed by the city shall engage in
819 political activity while on duty or while in uniform that
820 identifies the individual as a city employee.

821 (6) No individual shall use his or her political office
822 or position for the purpose of influencing the vote or
823 political action of any city employee.

824 (b) (1) A regular employee who seeks election to a
825 public office shall resign his or her position with the city
826 upon qualifying as a candidate for nomination or election by
827 submitting a written resignation to the appointing authority
828 and the director stating the purpose of the resignation.

829 (2) The employee whose candidacy is unsuccessful may be
830 re-appointed to his or her former position, having been deemed
831 to be on an unpaid leave of absence, if all of the following
832 conditions are met:

833 a. Within 180 days succeeding the day of resignation,
834 the employee requests reinstatement to the eligible list for
835 the position.

836 b. The position has not been filled between the day of
837 resignation and the day of the request for reinstatement.

838 Section 15. On the effective date of this act, the
839 following shall be preserved:

840 (1) A serving board member shall serve to the



HB97 Enrolled

841 completion of the term for which the board member was elected
842 or appointed.

843 (2) Any employee holding a regular position shall
844 continue with the status of a regular employee in the
845 classified service as provided in Section 6.

846 (3) Sick or personal leave already accrued by an
847 employee shall not be reduced.

848 (4) Any compensation plan previously adopted by the
849 city shall remain in effect until it is replaced or amended as
850 provided in Section 10.

851 Section 16. Act 89-189 of the 1989 Regular Session
852 (Acts 1989, p. 186), and the succeeding amending acts, Act
853 2001-906 of the 2001 3rd Special Session (Acts 2001, p. 748)
854 and Act 2015-419 of the 2015 Regular Session (Acts 2015, p.
855 1263), relating to a civil service system for the City of
856 Pelham in Shelby County are repealed.

857 Section 17. This act shall become effective on October
858 1, 2024.



HB97 Enrolled

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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-Feb-24.

John Treadwell
Clerk

Senate

25-Apr-24

Passed