

HB97 INTRODUCED



1 HB97
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3 By Representative Paschal (N & P)
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A BILL
TO BE ENTITLED
AN ACT

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

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

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

(1) Attract to the service of the City of Pelham qualified individuals of character and ability by providing for their equal treatment and equal opportunity without regard



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29 to race, national origin, ancestry, religion, political
30 affiliation, or other non-merit factors.

31 (2) Establish a means to recruit, select, develop, and
32 maintain an effective and responsible workforce based upon
33 merit principles by providing policies and procedures for
34 hiring and advancement, training and career development, job
35 classification, salary administration, fringe benefits,
36 retirement, discipline, and discharge.

37 Section 3. For the purposes of this act, the following
38 terms have the following meanings:

39 (1) APPOINT. To hire to a regular classified position
40 with the city.

41 (2) APPOINTING AUTHORITY. The mayor, city council, city
42 manager, or any department head of the city authorized to make
43 appointments to the regular classified service due to his or
44 her supervisory capacity.

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

46 (4) CERTIFICATION. The submission of eligible names
47 from a promotion list or a register to an appointing authority
48 for the purpose of filling a position in the regular
49 classified service.

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

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

55 (7) CLASS. A group of positions in the regular
56 classified service sufficiently similar in duties,



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57 responsibilities, and authority, such that the same
58 descriptive title may be used to identify all positions
59 allocated to the class, the positions encompassing similar
60 requirements as to education, experience, skill, knowledge,
61 proficiency, and ability, with the same tests of fitness to
62 choose qualified employees, and within a defined pay grade.

63 (8) CLASSIFICATION. The assignment of a position to the
64 appropriate class in accordance with its required duties and
65 authority.

66 (9) CLASSIFIED SERVICE. An employment position that
67 exists in the city that is included in the compensation plan
68 approved by the City Council.

69 (10) COUNCIL. The Pelham City Council.

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

73 (12) DIRECTOR. The Human Resources Director.

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

76 (14) ELIGIBLE REGISTER. A record containing the names
77 of those individuals who have applied for public safety
78 positions and successfully completed prescribed tests, listed
79 and ranked in order of their final earned average from the
80 highest to the lowest, and are qualified for appointment to
81 positions in the class for which the test was held.

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

83 (16) OPEN-COMPETITIVE. The process of seeking qualified
84 candidates for a regular classified position from any



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85 qualified individual including taking applications from the
86 general public and other employees in the regular classified
87 service.

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

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

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

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

99 (21) PROBATIONARY EMPLOYEE. An employee appointed to a
100 regular classified position from an employment list, promotion
101 list, or eligible register who has not completed his or her
102 probationary period.

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

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

108 (24) REGULAR CLASSIFIED POSITION. Any position in the
109 regular classified service.

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



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113 (26) SPECIFICATIONS. A formal statement descriptive of
114 a position that shall contain the title and class of the
115 position, a description of the duties of the position, and the
116 minimum qualifications required of applicants as to education,
117 experience, physical ability, and other attributes.

118 (27) TEMPORARY POSITION. Any employment position in the
119 city which is not a regular classified position but which
120 requires or is likely to require the services for a set period
121 of time.

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

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

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

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

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

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

140 (2) After the initial term, each member shall be



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141 elected or appointed as provided in subdivision (1), and each
142 shall serve for a term of four years.

143 (3) Any vacancy in membership shall be filled for the
144 unexpired term in the manner provided for the member in
145 subdivision (1).

146 (b) An individual shall meet all of the following
147 qualifications on the date of the individual's election or
148 appointment to the board:

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

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

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

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

158 (c) The board shall meet in regular session at least
159 semiannually and at other times as necessary to transact the
160 business of the board, which shall include the following
161 duties:

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

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

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

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169 Section 5. (a) The mayor or city manager shall appoint
170 a human resources director. The director shall be experienced
171 in the field of personnel administration and shall administer
172 an efficient and economical merit system and carry out the
173 rules and policies established by the mayor, city manager,
174 council, or the board.

175 (b) In addition to the responsibilities set forth
176 elsewhere in this act, the director's duties shall include the
177 following:

178 (1) Serve as secretary to the board.

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

181 (3) Become familiar with the organization, operation,
182 and personnel requirements of each city department and make
183 recommendations for the department's efficient, economical,
184 and equitable operation.

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

187 (5) Promote and assist in the establishment of programs
188 for general employee pension, welfare, health, and career
189 development.

190 (6) Maintain all employee and retiree files complete
191 with all tax and benefit elections of the employee, resumes,
192 disciplinary actions, responses, applications, and copies of
193 certifications and training classes relevant to the class or
194 position of the employee or required by the city for continued
195 employment.

196 (7) Counsel employees on their rights under this act



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197 and city policy.

198 (8) In connection with the investigations, hearings, or
199 inquiries of the board, administer oaths, issue subpoenas,
200 require the attendance of witnesses, and compel the production
201 of records, documents, and papers pertaining to the subject
202 under consideration.

203 Section 6. (a) On the effective date of this act, all
204 employees holding regular full-time positions in the service
205 of the city shall continue in their regular status in the
206 classified service, unless the position to which they are
207 appointed or elected is otherwise exempted by this act.

208 (b) The service shall be divided into two categories,
209 as follows:

210 (1) A regular service comprised of all employees
211 holding regular classified full-time positions. Employees
212 occupying these positions shall be in the classified service
213 unless specifically exempted from the service under this act.

214 (2)a. The exempt service, which shall include the
215 following:

216 1. Part-time employees, including part-time members of
217 different city boards.

218 2. Any official elected pursuant to Chapter 43 of Title
219 11, Code of Alabama 1975, including the city treasurer, city
220 clerk, city clerk-treasurer, police chief, and fire chief.

221 3. Any other individual elected or appointed to a
222 statutory position provided for under Chapter 43 of Title 11,
223 Code of Alabama 1975, including any city manager; provided,
224 nothing herein shall require the appointment of a city



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225 manager.

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

227 5. The administrative assistant to the mayor.

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

230 7. Professionals, including attorneys, physicians,
231 accountants, and consultants who donate their services to the
232 city on a part-time or temporary basis or are retained as
233 independent contractors.

234 8. Seasonal and temporary employees.

235 b. Individuals appointed to fill exempt positions are
236 employees at-will.

237 Section 7. (a) Public records are those records as
238 defined in Section 41-13-1, Code of Alabama 1975. The records
239 may be reviewed in a manner prescribed by the city, taking
240 into account confidentiality, convenience, and related
241 factors.

242 (b) Minutes of board meetings and financial records
243 shall be retained permanently. Applications and examination
244 papers of a candidate shall be retained for as long as the
245 candidate is carried on the appropriate promotion list or
246 eligible register.

247 Section 8. (a) (1) The classification plan shall provide
248 a complete inventory of all employee positions in the service
249 of the city and include an accurate description and
250 specifications for each class of work, and all other employee
251 positions in the city for which salary and benefits are set
252 out by the city, with the exception of the city council,



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253 mayor, and city manager. The plan shall standardize titles so
254 that each is indicative of a definite range of duties and
255 responsibilities and has the same meaning throughout the
256 service and shall show whether the position is deemed a
257 regular position or exempt position.

258 (2) The classification plan shall consist of:

259 a. A grouping of positions into classes that are
260 approximately alike in required qualifications, tasks, duties,
261 and working conditions and, based on these factors, can be
262 equitably compensated within the same range of pay under
263 similar working conditions.

264 b. Class titles that are descriptive of the work of the
265 class and identify the class. These class titles shall be used
266 in all personnel, accounting, budget, and related records. No
267 person shall be appointed to or employed in a position in the
268 classified service under a title not included in the
269 classification plan. Working titles may be used in the course
270 of departmental routine to indicate authority, status in the
271 organization, or administrative rank.

272 c. Job descriptions for each position shall first be
273 recommended by the mayor or city manager, or their designee,
274 and then adopted by the council by resolution in their
275 discretion. The written specifications for each position shall
276 consist of the following items:

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

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



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281 3. A list of formal qualifications including education,
282 certification, and previous employment experience.

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

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

287 d. Specifications shall be interpreted in their
288 entirety and in relation to others in the classification plan.
289 Particular phrases or examples shall not be isolated and
290 treated as a full definition of the class. Specifications
291 shall be descriptive and explanatory of the kind of work
292 performed and may not necessarily be inclusive of all duties
293 performed.

294 (3) An allocation list showing the class title of each
295 position in the regular service as identified by the name of
296 the occupant.

297 (b) The classification plan shall be used for the
298 following purposes:

299 (1) As a guide in recruiting and examining candidates
300 for employment.

301 (2) For determining lines of promotion.

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

304 (4) For determining personnel items in departmental
305 budgets.

306 (5) For providing uniform job terminology
307 understandable to all city officials and employees and the
308 general public.



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309 (c) (1) The director shall prepare or direct the
310 preparation of the classification plan as needed from time to
311 time. When the plan is completed and adopted by the council,
312 the director shall submit to each department head a copy of
313 the class specifications for each position class and a list
314 allocating the positions in the jurisdiction to the tentative
315 position classes. The department head shall notify employees
316 about the allocation of their respective positions. A copy of
317 the class specification and individual allocation shall be
318 made available to the employee or his or her representative on
319 request.

320 (2) The director's responsibilities regarding the plan
321 shall include the following:

322 a. Distribute the plan to each department head, with an
323 explanation of the class allocation of each position in the
324 department.

325 b. Make the plan available upon request to any employee
326 or member of the public.

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

329 d. In consultation with the mayor, city manager,
330 department heads, and supervisors, review any position to
331 determine if changes in duties that are more than temporary
332 would warrant reclassification of the position to a different
333 class that is equal, higher, or lower in terms of
334 responsibility and pay grade.

335 e. Maintain the classification plan so that it will
336 reflect the duties performed by each employee in the



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337 classified service and the class to which each position is
338 allocated by doing the following:

339 1. Recommend to the mayor or city manager and city
340 council the establishment of new position classes and the
341 deletion or revision of existing classes.

342 2. Review the duties and responsibilities of each new
343 position established and allocate the position to the
344 appropriate position class.

345 3. Make periodic studies of positions to determine
346 changes in duties and responsibilities and, based on findings,
347 recommend reallocation or reclassification of positions.
348 Classification studies may be made at the request of the
349 mayor, city manager, or city council. Changes in duty
350 assignments must be more than temporary in nature, and the
351 current employee must be performing the duties for a
352 sufficient duration to warrant investigation.

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

355 (d) (1) When a position is reallocated to a higher
356 position class, a lower position class, or another position
357 class at the same level, the method of filling the position
358 shall be determined under this act regarding transfers,
359 demotions, or promotions as may be appropriate.

360 (2) The mayor or city manager may recommend to the city
361 council the elimination of, or modification to, approved job
362 descriptions and positions in the classification plan together
363 with any pay grade recommendations associated with the
364 position. Upon approval by the council of the proposed



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365 changes, any non-exempt regular employee currently serving in
366 a position being eliminated or modified, in which the
367 elimination or modification results in the non-exempt
368 employee's termination or demotion, shall have all rights of
369 appeal afforded employees solely as to the question of whether
370 the elimination or modification was arbitrary and capricious.

371 Section 9. (a) (1) The mayor or city manager, in
372 consultation with the director and department heads, shall
373 adopt rules, policies, and procedures for employees and
374 compile them in an employee handbook that shall be amended
375 from time to time. All such rules, policies, and procedures
376 will be effective immediately upon adoption by the mayor or
377 city manager in consultation with the human resources director
378 and department heads.

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

382 (3) All rules, policies, and procedures shall be
383 consistent with any state or federal law that governs the
384 subject.

385 (4) At a minimum, the employee handbook shall contain
386 rules, policies, and procedures covering the following
387 subjects:

388 a. Accrual and use of sick leave. However, sick leave
389 of any employee in the regular service already accrued as of
390 the date of the adoption of this act shall in no wise be
391 diminished.

392 b. Accrual and use of personal leave or vacation time.



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393 However, vacation time of any employee in the regular service
394 already accrued as of the date of the adoption of this act
395 shall in no wise be diminished.

396 c. Compensation, including accurate time-keeping,
397 payroll calculation, and overtime pay.

398 d. Military leave of absence, including leave for
399 National Guard and Reserve service.

400 e. Jury duty or other court attendance.

401 f. Unpaid leaves of absence, including leave under the
402 Family and Medical Leave Act, and any other unpaid leave
403 mandated by law.

404 g. Holding other employment and outside work and
405 conflicts of interest related thereto.

406 h. Probationary status.

407 i. Promotion and open-competitive position posting,
408 applicant testing, eligibility determination, and register
409 ranking.

410 j. Handling grievances between employees that do not
411 rise to the disciplinary level.

412 k. Acts, omissions, or conduct that subject employees
413 to discipline, reporting infractions, disciplinary measures up
414 to termination, and appeals.

415 l. Employee performance reviews.

416 m. Reduction in force and reinstatement.

417 n. Resignation and retirement.

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

420 (b) The employee handbook shall indicate which rights



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421 of employees and benefits do not apply or apply only in part
422 to probationary employees and employees and roles in the
423 exempt service.

424 (c) Each employee shall follow the rules, regulations,
425 codes of conduct, policies, and procedures set out by the
426 city, the infraction of which the city may impose disciplinary
427 action.

428 (d) Any department, in consultation with the mayor or
429 city manager and the director, may institute standard
430 operating procedures necessary to the work of that department
431 which govern the department's personnel and are not
432 inconsistent with the rules, policies, and procedures in the
433 employee handbook.

434 Section 10. (a) The city council, in consultation with
435 the director, mayor, or city manager, and other city personnel
436 it deems necessary, shall adopt by resolution a compensation
437 plan as the basis of compensation for employees in the service
438 of the city.

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

442 a. Varying degrees of difficulty and responsibility in
443 work between classes.

444 b. Prevailing rates of pay and benefits for similar
445 employment in the area, in both the private sector and for
446 other municipalities.

447 c. The recruiting experience for each class.

448 d. The city's financial condition.



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449 (2) The compensation plan shall contain the following
450 provisions:

451 a. Guidance for implementing and administering the
452 plan.

453 b. A pay grade for each class in the classification
454 plan, containing the minimum, maximum, and intermediate pay
455 steps within the class grade.

456 c. The time period measured for pay, indicating the
457 number of weekly hours or any other appropriate measure for
458 the class grade.

459 (b) Upon final adoption by the council, the plan shall
460 be certified by the director and disseminated to all
461 department heads and made available to all employees. The plan
462 shall go into effect 30 days after its adoption by the
463 council.

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

466 (1) When the mayor and the council by resolution add a
467 new position to the classification plan and fix the salary
468 grade, the job description shall assign the position to the
469 appropriate pay grade.

470 (2) In the case of a proposed cost-of-living or other
471 compensation plan amendment that has been previously approved
472 in the council's annual budget, the council's approval of said
473 amendment in the annual budget shall obviate the need for a
474 separate resolution approving said amendment.

475 (d) (1) Each employee in the classified service shall be
476 paid at a rate set forth in the compensation plan for the



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477 classification in which he or she serves.

478 (2) A new appointee to the regular classified service
479 shall normally be paid the minimum pay step within the pay
480 grade for the class in which the position falls, unless in the
481 discretion of the hiring authority and the director,
482 circumstances, skills, or experience dictate a higher pay
483 step.

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

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

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

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

501 b. When an employee is demoted, compensation shall be
502 reduced to the salary prescribed for the class or grade to
503 which demoted or the step rate reduced if the employee remains
504 in the position. In no event shall the pay grade exceed the



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505 maximum approved rate of the new classification.

506 c. When an employee is transferred from one department
507 to another, the step in the pay range shall be in accord with
508 the approved job description of the position to be occupied by
509 the employee. All transfers shall be approved by the
510 appointing authority.

511 (e) (1) Holidays are paid.

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

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

519 Section 11. (a) (1) Vacancies and newly created
520 positions in the regular service shall be filled either by
521 promotion, open-competitive, transfer, appointment, re-
522 appointment, demotion, or transfer as determined by the
523 appointing authority.

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



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533 her.

534 (3) Vacancies in positions above the lowest rank in any
535 category in the classified service shall be filled as far as
536 practicable by the promotion of employees in the service
537 unless otherwise determined by the appointing authority. In
538 each case, the appointing authority, in consultation with the
539 human resources director, shall determine whether an
540 open-competitive or promotional examination will serve the
541 best interests of the service in attracting well-qualified
542 candidates. Promotions in every case must involve a definite
543 increase in duties and responsibility. The change of an
544 employee from a position in a class to a position in another
545 related occupational class for which the maximum rate is
546 higher shall be deemed a promotion.

547 (b) (1) Any appointment to a regular classified
548 position, whether filled by open-competitive, promotion,
549 appointment, or transfer, shall be subject to a probationary
550 period.

551 (2) The probationary period shall last one year from
552 the date of appointment with no interruption in service. The
553 probationary period may be extended for an additional six
554 months upon recommendation by the appointing authority and
555 approval by the director.

556 (3) A probationary employee may be discharged without
557 the right of appeal.

558 (4) A promotional probationary employee who is demoted
559 for unsatisfactory service may return to the position held
560 prior to promotion, if still vacant, without the right of



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561 appeal. In the event the former position is filled, the mayor
562 or city manager shall determine the manner in which the
563 employee may be retained in the service, subject to the
564 provisions governing layoffs and reductions in force in the
565 employee handbook.

566 (5) On satisfactory completion of the probationary
567 period, an employee shall have all rights of appeal set forth
568 in Section 13 in case he or she is suspended, demoted, or
569 terminated.

570 (c) (1) A demotion occurs when a regular employee's
571 salary is reduced to a lower pay step or the employee is moved
572 from a position in one class to a position in another class in
573 which the maximum step in the pay grade is lower than the
574 employee's former salary.

575 (2) An employee may be demoted for any of the following
576 reasons:

577 a. The employee would otherwise be laid off because the
578 current position he or she fills is being eliminated or
579 reclassified to a different grade, there is a lack of work or
580 funds, or another employee is returning to the position from
581 an authorized leave.

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

584 c. The employee is removed during probation.

585 d. The employee voluntarily requests the demotion.

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

587 (3) A demotion shall be approved by the appointing
588 authority pursuant to the procedures adopted by the city. If a



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589 non-probationary employee is demoted against his or her will,
590 he or she may appeal to the board as provided in this act.

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

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

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

609 (2) Any candidate for temporary appointment shall meet
610 the requirements, other than testing, for the position as
611 described in the classification plan.

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

615 (g) The appointing authority shall not be bound by any
616 promotion list or eligible register to fill any vacancy for a



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617 position or role in the exempt service. Further, an
618 appointment to the exempt service shall not confer any right
619 of status, appeal, or any related right under this act.

620 Section 12. (a) The tenure of every employee in the
621 regular service shall be conditioned on the satisfactory
622 conduct of the employee and the continued efficient
623 performance of assigned duties and responsibilities. A regular
624 employee may be dismissed, demoted, or suspended for cause or
625 for any reason deemed to be in the best interest of the public
626 service and shall have the right of appeal as set forth in
627 Section 13 of this act. The reasons for the action shall be
628 furnished in writing to the employee and the director.

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

631 (1) Absence from work without leave.

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

635 (3) Conduct unbecoming an employee in the public
636 service.

637 (4) Disorderly or immoral conduct.

638 (5) Incompetency or inefficiency.

639 (6) Insubordination.

640 (7) Intoxication while on duty or public intoxication
641 while off duty.

642 (8) Neglect of duty.

643 (9) Negligent or willful damage to public property or
644 waste of public supplies or equipment.



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645 (10) Violation of any regulations, rules, or orders
646 published, made, or given by a supervisor or appointing
647 authority.

648 (11) Use of paid time and city property for personal
649 reasons, including other employment or a private business
650 venture.

651 (12) Failure to maintain certifications or pursue
652 continuing education to perform the duties of the position.

653 (13) Inappropriate comments or behavior towards
654 coworkers, including behavior that exposes the city to
655 liability.

656 (14) Any other reason deemed in the best interest of
657 the public service.

658 (15) Any other reason set forth in the employee
659 handbook.

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

664 a. The reason for the disciplinary action.

665 b. The discipline imposed.

666 c. In the case of suspension, the starting and ending
667 dates or, in case of demotion or termination, the effective
668 date.

669 d. Any other information deemed appropriate.

670 (2) A copy of the notice shall be delivered by the
671 appointing authority to the director at the same time the
672 notice is served on the employee. Notification shall be made



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673 prior to or on the date the dismissal or demotion is to take
674 effect, or as soon as practicable thereafter.

675 (d) A non-probationary regular employee who is demoted
676 or terminated shall have a right of appeal pursuant to
677 subsection 13(a). A non-probationary regular employee who is
678 suspended may have a right of appeal as provided in
679 subdivision (e) (2).

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

684 (2) The suspended regular employee shall have a right
685 to an appeal and hearing before the board in a case in which a
686 single suspension exceeds 40 work hours or where separate
687 suspensions imposed within one calendar year total more than
688 80 work hours.

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

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

698 Section 13. (a) A regular employee may appeal
699 suspension pursuant to subdivision 12(e) (2), or demotion, or
700 termination by filing with the director within 10 calendar



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701 days of receiving the disciplinary notice a written answer to
702 the charge with a request for a hearing that contains all of
703 the following:

704 (1) A copy of the disciplinary notice provided in
705 subsection 12(c).

706 (2) An admission or denial of the charge in the
707 disciplinary notice.

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

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

712 (c) The city, as principal of the appointing authority
713 who imposed the suspension, demotion, or termination, shall be
714 the responding party.

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

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

726 (2) The hearing may be before the board or a hearing
727 officer appointed by the board. If the matter is heard by a
728 hearing officer appointed by the board, the hearing officer



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729 shall be a practicing attorney licensed in the State of
730 Alabama and shall take testimony offered in support and denial
731 of such charges and, from the same, submit to the board within
732 five days a finding of facts involved and a recommended
733 decision. The board at its next regular or special meeting
734 shall consider the report and set aside or affirm the report
735 and certify its findings to the appointing authority who shall
736 forthwith put the same into effect. If the board hears the
737 charges, it shall make its own opinion and decision.

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

749 (4) When a request for discovery is directed to an
750 officer or employee of the city, the city shall make the
751 officer or employee available on official time for the purpose
752 of responding to the request and shall assist the officer or
753 employee as necessary in providing relevant information that
754 is available to the city. A party seeking discovery from a
755 nonparty officer or employee of the city shall initiate the
756 process by serving a request for discovery on the nonparty



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757 officer or employee. Discovery from other nonparties may be
758 initiated by serving a request for discovery on the nonparty
759 directly. Absent a request or upon failure to obtain voluntary
760 cooperation, discovery from a nonparty may be obtained by a
761 written motion directed to the board or a hearing officer
762 appointed by the board showing the relevance, scope, and
763 materiality of the particular information sought. In addition,
764 in the case of a deposition, the written motion shall include
765 the date, time, and place of the proposed deposition.

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

769 (6) The board shall render its decision within 10
770 calendar days after the conclusion of the hearing which shall
771 forthwith be certified to the appointing authority and
772 enforced by the appointing authority. Copies of the decision
773 shall be delivered to all other parties at interest. The board
774 may rescind or uphold the penalty imposed by the appointing
775 authority as warranted by the facts adduced at the hearing.

776 (f) (1) The order containing the decision of the board
777 may be appealed by either party to the Circuit Court of Shelby
778 County.

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

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



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785 c. The notice shall be accompanied with a bound
786 transcript of the board hearing and any exhibits or with a
787 receipt from a court reporting service as proof that the
788 hearing is being transcribed.

789 d. In the case of an appeal challenging the board's
790 decision to uphold the discipline of an employee, a copy of
791 the notice of appeal shall be served on the director within
792 one day of its filing in circuit court.

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

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

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

798 b. The board's decision was against the great weight of
799 the evidence.

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

801 d. The board's application of the law was clearly
802 erroneous in a case in which the board's decision was
803 determined by that question of law.

804 Section 14. (a) The following politically related
805 activities related to city employees shall be regulated as
806 follows:

807 (1) No individual shall use the authority of his or her
808 position with the city to secure for any other individual an
809 appointment to a position, an increase in pay, or any other
810 advantage in employment for the purpose of influencing the
811 vote or political action of that individual.

812 (2) No individual employed by the city, whether in the



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813 regular or exempt service, shall be denied the right to
814 participate in city, county, state, or national political
815 activities to the same extent as any other resident of the
816 State of Alabama, including endorsing candidates and
817 contributing to campaigns.

818 (3) An individual employed by the city may join local
819 political clubs and organizations and state or national
820 political parties.

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

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

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

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

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

840 a. Within 180 days succeeding the day of resignation,



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841 the employee requests reinstatement to the eligible list for
842 the position.

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

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

847 (1) A serving board member shall serve to the
848 completion of the term for which the board member was elected
849 or appointed.

850 (2) Any employee holding a regular position shall
851 continue with the status of a regular employee in the
852 classified service as provided in Section 6.

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

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

858 Section 16. Act 89-189 of the 1989 Regular Session
859 (Acts 1989, p. 186), and the succeeding amending acts, Act
860 2001-906 of the 2001 3rd Special Session (Acts 2001, p. 748)
861 and Act 2015-419 of the 2015 Regular Session (Acts 2015, p.
862 1263), relating to a civil service system for the City of
863 Pelham in Shelby County are repealed.

864 Section 17. This act shall become effective on October
865 1, 2024.