

ENABLING ACT
of the
PERSONNEL BOARD
OF
JEFFERSON COUNTY
(as amended)

Act No. 248, H. 580, of the Alabama Legislature of 1945, P. 376, establishes The Personnel Board of Jefferson County and governs its operation. The Act is popularly referred to as the Board's *Enabling Act*, and has been subsequently amended as indicated at the end of each section where noted.

The reader's attention is specifically directed to the fact that Sections 2, 12, and 22 of the Enabling Act were each amended by two acts which were enacted simultaneously, but which contain contradictory and inconsistent provisions. Reference should be made to both versions of each of these sections because it is unclear how a court would resolve the inconsistencies or construe these sections. To assist the reader, both versions of each of these four sections are set out in full, with differences between the sections marked.

The reader should also note that Section 5, Citizens Supervisory Commission, was significantly amended by a Final Judgment entered April 29, 1985, by the U.S. District Court for the Northern District of Alabama.

This compilation of the Enabling Act is current through the 1999 Regular Session of the Alabama Legislature.

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Act No. 248, 1945 Regular Session, As Amended

AN ACT

To create and establish in each county in Alabama which has a population of 400,000 or more according to the last or any future Federal census, a county-wide Civil Service System, affecting certain personnel whose compensation is now or may hereafter be payable in whole or in part from the public funds of such counties or municipalities located therein, including personnel employed or appointed by the County Board of Health and the Board of Registrars in such counties; to create a Citizens Supervisory Commission and to create a Personnel Board and other agencies for the supervision and administration of said System in each of such counties; to regulate and define the manner, form and extent of the control, supervision and authority of such agencies over such personnel and over such counties and municipalities therein and County Boards of Health and Registrars in such counties; to provide for the payment of the expenses of such agency and for a division of such expense between the county affected thereby and the municipalities therein including the County Board of Health; to provide penalties for the violation of this Act and of rules and regulations adopted pursuant thereto; and to repeal all laws and parts of laws inconsistent with the provisions hereof.

Be it Enacted by the Legislature of Alabama:

Section 1. Definitions. In this Act words used in the masculine gender include the feminine and neuter genders and words used in the neuter gender include the masculine and feminine genders. The terms “governing body,” “governing bodies” and “government” as used in this Act shall include the County Board of Health. The following words, terms and phrases, wherever used in this Act, shall have the meanings respectively ascribed to them in this section unless the context plainly indicates a contrary meaning; “Commission,” the Citizens Supervisory Commission. “Board” or “the Board”, the Personnel Board created hereby. “Municipality” or “such municipality” or “city,” a village, town or city duly incorporated and not excepted, excluded or excused from the operation of this Act and the county board of health within a county subject to this Act. “County,” “the county,” “said county” or “such county,” a county within the population class prescribed by this Act. “Appointing Authority,” or “Appointing Power,” person, officer, board, council, commission or other body including the County Board of Health whose lawful jurisdiction or powers are confined wholly or primarily within the territorial limits of such county and who or which possesses final power to appoint persons to services, jobs, offices or positions, the compensation of which is paid in whole or in part from the public funds of such county or from the public funds of a municipality in such county subject to this Act. “Employee” or “appointee,” persons in the classified service herein set up and appointed by an appointing authority, unless herein specifically excepted.

Section 2. Personnel Board: Extent of its Authority Defined.

(Alternative derived from Act No. 782, 1977) In and for each separate county of the State of Alabama which has a population of four hundred thousand or more inhabitants according to the last or any future federal census, there shall be a Personnel Board for the government and control, by rules and regulations and practices hereinafter set out or authorize [sic] of all employees and appointees holding positions in the classified service of such counties, the municipalities herein having a population of five thousand or more according to the last federal census, whose corporate limits lie wholly within the county, the police officers who are employed by any municipality therein having a population of 2500 or more inhabitants, according to the last federal census, whose corporate limits lie wholly within the county, and the County Board of Health, and such Personnel Board is vested with such powers, authority and jurisdiction. Provided, however, that such Board shall not govern any officers or appointees holding positions in the unclassified service. The unclassified service shall include: All employees or appointees of a city or county Board of education, or a library board; persons engaged in the profession of teaching or in supervising teaching in the public schools; officers elected by popular vote; the judge of any court; the county attorney; the Director of Personnel; the county health officer, provided, however, that if any law or laws now or hereafter enacted shall cause the offices of all other county health officers in the State of Alabama to become subject to any state or county civil service or merit system now or hereafter established, in such event the office of county health officer in each county subject to the provisions of this Act shall be a position in the classified service as herein defined; one private secretary of a member of the governing body and of each officer except judges elected by vote of the people; interns, [sic] resident physicians, resident dentists, student technicians and student nurses, while undergoing training in a county health department or in a hospital maintained by public funds; common laborers, members of Boards who are not employed on a full-time basis and are not required to devote their time and services exclusively to such counties and municipalities therein; attorneys, physicians, surgeons and dentists who with the express or implied permission of an Appointing Authority or of such county or city hold themselves out for employment by others in the same or a like line of work as that performed by them for such Appointing Authority; where there are two county sites or county courthouse sites maintained in one county and a county officer or officers are required to maintain an office in one courthouse and a branch of [sic] subsidiary office in the other of said courthouses, the chief deputy of each elective officer in charge of such branch office. The classified service shall include all other offices and positions in the county and municipal service, including the services of the County Board of Health and the Board of Registrars of such county, except as otherwise provided in this Act. Each member of the Board in all hearings before it may administer oaths, certify to official acts, issue subpoenas, compel the attendance of witnesses and the production of papers, books and records and may punish for contempt of the Board in like manner and extent as may be done by courts of county commissioners: A member of the Board or his employer shall be prohibited from selling materials, supplies or services to a county or municipality unless such sales are made as the result of open competitive bidding. The term 'independent contractor,' as used in this section shall include a prospective independent contractor, and the term 'Appointing Authority' as used

in this section, shall also include the public entity for which an Appointing Authority acts. The term 'employee', as used in this Act, shall not be deemed to include 'independent contractors,' but, in order to prevent evasions of the policy of this Act, the Board shall have power to control, in the manner hereinafter specified, the use of independent contractors for performance of work for an Appointing Authority except in cases hereinafter specifically exempted from such control. The Board shall exercise constant vigilance to see that the policy of this Act be not evaded by the use of independent contractors, and whenever the Board shall have reason to believe that work is about to be or is being done, continued or completed by an independent contractor for an Appointing Authority, and that such work is such as to be, or, at the time of commencement thereof, to have been, performable as well, practically, expeditiously and economically by one or more employees appointed or appointable, under this Act as by an independent contractor, the Board may serve such Appointing Authority and such independent contractor, if such independent contractor be known, with a written request to appear before the Board at a time and place specified in such written instrument and show cause, if any there be, why such work should not be done, continued or completed by one or more employees appointed, or appointable, under this Act. Deposit of such written request in the United States registered mail, postage and registration fee prepaid and properly addressed, shall be sufficient service. At the time and place specified in said written request such Appointing Authority and independent contractor, or either of them, may appear, and, in such event, shall be accorded a fair hearing. If, upon such hearing, or in the event opportunity therefore not availed of, in the absence thereof, the Board shall determine that such work is such, or of such character, as to be, or, at the time of commencement thereof, to have been, performable as well, practically, expeditiously and economically by one or more employees appointed, or appointable, under this Act as by an independent contractor, and that no sufficient reason has been made to appear why such work should be performed by an independent contractor in preference to one or more employees appointed, or appointable, under this Act, the Board may enter an order prohibiting the doing, continuance or completion of such work after a date specified in such order otherwise than by and through one or more employees appointed, or to be appointed, under this Act, and no compensation shall be paid to, or received by, an independent contractor effected [sic] by such order for work done after the date specified in such order. In arriving at its determination, the Board shall consider, among other things, and give appropriate weight, to the circumstances of whether or not competent persons are available for appointment under this Act for performance of the type of work involved, and of whether or not the type of work involved is such as may be reasonably expected to be continuous for an indefinite time, regularly recurrent, or sporadic, and of whether or not the type of work involved is such as is customarily and generally let to independent contractors, and of whether or not the Appointing Authority possesses, or should reasonably be expected to obtain, physical facilities for performance of such work by one or more employees appointed, or appointable, under this Act. The Board, however, shall have no power to prohibit the use of independent contractors for the construction of viaducts, bridges, street improvements, sewers, canals, public buildings, or public utilities, and, should an Appointing Authority desire to do any such construction work by means of its own construction forces or employees, the Board, upon application to it first made, may, but is not required, to permit the doing of such a construction work by construction forces or employees of the Appointing Authority not appointed under this Act, subject to such conditions and limitations as

the Board may prescribe. In order to forestall the possibility of prohibition by the Board of use of an independent contractor for the further performance of any work after such work has been let to such independent contractors, an Appointing Authority may apply to the Board in advance of the letting of any work to an independent contractor for permission to do so, such application to be in writing and to contain a copy of the proposed contract or such general description of its substance as may be satisfactory to the Board. The Board may grant such application with or without conditions or limitations, and if the same be granted the Board shall not thereafter prohibit anything thus authorized. In its determination concerning grant or refusal of such application, the Board shall be guided by the same considerations as are hereinabove indicated for guidance of its determination upon the question of whether or not to prohibit the commencement or continuation of work by an independent contractor.

In the event the governing body of any municipality whose corporate limits lie Partly within said county and Partly within any other county and having a population of five thousand or more inhabitants, according to the last federal census, or any succeeding federal census, shall adopt a resolution in favor of such municipality coming under the provisions of this Act, and transmit or cause to be transmitted a certified copy of such resolution to the Personnel Board of such civil service system, then, sixty days after the effective date of such resolution, the provisions of this Act shall apply to any such municipality having a recruited number of inhabitants and whose corporate boundaries lie partly within said county and partly without said county. Any municipality which adopts a resolution and comes under the provisions of this Act, as herein provided, shall thereafter remain under this Act, and may not repeal or rescind such action either by the adoption of a resolution or otherwise. (As amended by Act No.119, 2nd Ex. Sess. 1956; Act No. 657, 1959; Act No. 677, 1977; Act No. 782, 1977.)

Note: This section was amended by Acts No. 677 and 782, 1977, which were both enacted as of 6:00 p.m., May 23, 1977. Both acts purport to set forth the current version of this section, but the acts contain inconsistent and contradictory provisions. Therefore, reference should be made both to this version of Section 2 and to the following version. It is unclear how conflicting or inconsistent provisions in these two versions will be resolved or how this section will be construed.

Section 2. Personnel Board; Extent of its Authority Defined.

(Alternative derived from Act No. 677, 1977) In and for each separate county of the State of Alabama which has a population of four hundred thousand or more people according to the last or any future federal census, there shall be a Personnel Board for the government and control, by rules and regulations and practices hereinafter set out or authorized of all employees and appointees holding positions in the classified service of such counties and the municipalities therein whose population according to the last federal census was five thousand or more and the County Board of Health, and such Personnel Board is vested with such power, authority and jurisdiction. Provided, however, that such Board shall not govern any officers or appointees holding positions in the unclassified service. The unclassified service shall include: All employees or appointees of a city or county board of education, or a library board; persons engaged in the profession of teaching in the public schools; officers elected by popular vote; the judge of any court; the county attorney; the city manager of any municipality; the Director of Personnel; the county health officer, provided, however, that if any law or laws now or hereafter enacted shall cause the offices of all other county health officers in the State of Alabama to become subject to any state or county civil service or merit system now or hereafter established, in such event, the office of county health officer in each county subject to the provisions of this Act shall be a position in the classified service as herein defined; one private secretary of a member of the governing body and of each officer except judges elected by vote of the people; interns, [sic] resident physicians, resident dentists, student technicians and student nurses, while undergoing training in a county health department or in a hospital maintained by public funds; common laborers, members of boards who are not employed on a full-time basis and are not required to devote their time and services exclusively to such counties and municipalities therein; attorneys, physicians, surgeons and dentists who with the express or implied permission of an Appointing Authority or of such county or city hold themselves out for employment by others in the same or a like line of work as that performed by them for such Appointing Authority; where there are two county sites or county courthouse sites maintained in one county and a county officer or officers are required to maintain an office in one courthouse and branch or subsidiary office in the other of said courthouses, the chief deputy of each elective officer in charge of such branch office. The classified service shall include all other offices and positions in the county and municipal service, including the services of the County Board of Health and the Board of Registrars of such county, except as otherwise provided in this Act. Each member of the Board in all hearings before it may administer oaths, certify to official acts, issue subpoenas, compel the attendance of witnesses and the production of papers, books and records and may punish for contempt of the Board in like manner and extent as may be done by courts of county commissioners: A member of the Board or his employer shall be prohibited from selling materials, supplies or services to a county or municipality unless such sales are made as the result of open competitive bidding. The term ,independent contractor,' as used in this section shall include a prospective independent contractor, and the term 'Appointing Authority,' as used in this section, shall also include the public entity for which an Appointing Authority acts. The term, employee, as used in this Act, shall not be deemed to include ,independent contractors,' but in order to prevent evasions of the policy of this Act, the Board shall have power to control, in the manner hereinafter specified, the use of independent contractors for performance of work for

an Appointing Authority except in cases hereinafter specifically exempted from such control. The Board shall exercise constant vigilance to see that the policy of this Act be not evaded by the use of independent contractors, and whenever the Board shall have reason to believe that work is about to be, or is being done, continued or completed by an independent contractor for an Appointing Authority, and that such work is such as to be, or, at the time commencement thereof, to have been, performable as well, practically, expeditiously and economically by one or more employees appointed or appointable, under this Act as by an independent contractor, the Board may serve such Appointing Authority, and such independent contractor if such independent contractor be known, with a written request to appear before the Board at a time and place specified in such written instrument and show cause, if any there be, why such work should not be done, continued or completed by one or more employees appointed, or appointable, under this Act. Deposit of such written request in the United States registered mail, postage and registration fee prepaid and properly addressed, shall be sufficient service. At the time and place specified in said written request such Appointing Authority and independent contractor, or either of them, may appear, and, in such event, shall be accorded a fair hearing. If, upon such hearing, or in the event opportunity therefor be not availed of, in the absence thereof, the Board shall determine that such work is such, or of such character, as to be, or, at the time of commencement thereof, to have been performable as well, practically, expeditiously and economically by one or more employees appointed, or appointable, under this Act as by an independent contractor, and that no sufficient reason has been made to appear why such work should be performed by an independent contractor in preference to one or more employees appointed, or appointable, under this Act, the Board may enter an order prohibiting the doing, continuance or completion of such work after a date specified in such order otherwise than by and through one or more employees appointed, or to be appointed, under this Act, and no compensation shall be paid to, or received by, an independent contractor affected by such order for work done after the date specified in such order. In arriving at its determination, the Board shall consider, among other things, and give appropriate weight, to the circumstances of whether or not competent persons are available for appointment under this Act for performance of the type of work involved, and of whether or not the type of work involved is such as may be reasonably expected to be continuous for an indefinite time, regularly recurrent, or sporadic, and of whether or not the type of work involved is such as is customarily and generally let to independent contractors, and of whether or not the Appointing Authority possesses, or should reasonably be expected to obtain physical facilities for performance of such work by one or more employees appointed, or appointable, under this Act. The Board, however, shall have no power to prohibit the use of independent contractors for the construction of viaducts, bridges, street improvements, sewers, canals, public buildings, or public utilities, and, should an Appointing Authority desire to do any such construction work by means of its own construction forces or employees, the Board, upon application to it first made, may, but is not required, to permit the doing of such construction work by construction forces of employees of the Appointing Authority not appointed under this Act, subject to such conditions and limitations as the Board may prescribe. In order to forestall the possibility of prohibition by the Board of use of an independent contractor for the further performance of any work after such work has been let to such independent contractor, an Appointing Authority may apply to the Board in advance of the letting of any work to an independent contractor, an Appointing Authority may apply to the

Board in advance of the letting of any work to an independent contractor for permission to do so, such application to be in writing and to contain a copy of the proposed contract or such general description of its substance as satisfactory to the Board. The Board may grant such application with or without conditions or limitations, and if the same be granted the Board shall not thereafter prohibit anything thus authorized. In its determination concerning grant or refusal of such application, the Board shall be guided by the same considerations as are herein above indicated for guidance of its determination upon the question of whether or not to prohibit the commencement or continuation of work by an independent contractor. The Board is especially charged with the responsibility and empowered to place special emphasis on making provisions for inclusion in the merit system of physically and mentally handicapped persons and to make special regulations and to grant exceptions from the provisions of this Act and its regulations promulgated hereunder as it shall from time to time deem appropriate to carry out this provision. (As amended by Act No. 119, 2nd Ex. Sess. 1956; Act No. 657, 1959; Act No. 677, 1977, Act No. 782, 1977.)

Note: This section was amended by Acts No. 677 and 782, 1977, which were both enacted s of 6:00 p.m., May 23, 1977. Both acts purport to set forth the current version of this section, but the acts contain inconsistent and contradictory provisions. Therefore, reference should be made both to this version of Section 2 and the prior version. It is unclear how conflicting or inconsistent provisions in these two versions will be resolved or how this section will be construed.

Section 3. Membership of Personnel Board. Said Personnel Board shall consist of three members designated respectively as member number one, member number two and member number three, each of whom shall be over twenty-one years of age, of recognized character and ability, a bona fide resident and qualified voter of such county and shall not, when appointed, nor for the three years then last past before the date of his appointment, have held public office or political party office, nor have been a candidate for such and who shall not directly or indirectly have solicited membership on such Board, provided that in any county which is or may hereafter be divided by law into two divisions for the trial of cases in the circuit court of such county, not more than two members of the Board shall be residents of the same division. The Board shall meet once a month on dates to be fixed by its rules and regulations and as often as shall be necessary for the orderly dispatch of its business. Members number one, two and three shall be appointed by the citizens supervisory commission of such county, which commission shall likewise appoint their successors. In all counties becoming subject to the provisions of this act, said Board shall be appointed as soon as it is determined that such county is in the population class subject to this act. Member number one who shall be the chairman of the Board shall hold office for a term of two years and until his successor is appointed and has qualified. His successors shall hold office for terms of six years each beginning at the ends of the legal terms, as distinguished from the possible holdover terms of their respective predecessors. Member number two shall hold office for a term of four years and until his successor is appointed and has qualified. His successors shall hold office for terms of six years each beginning at the ends of the legal terms, as distinguished from the possible holdover terms of their respective predecessors. Member number three shall hold office for a term of six years each beginning at the ends of the legal terms, as distinguished from the possible holdover terms of their respective predecessors. In the event of a vacancy on the Board occasioned by death, resignation, impeachment or other cause, such vacancy shall be filled by the citizens supervisory commission for the then unexpired term. The chairman of the Board shall receive an expense allowance of One Hundred Dollars (\$100.00) for each meeting of the Board attended by him and an expense allowance of One Hundred Twenty-Five Dollars (\$125.00) per day for attendance upon trials and hearings. Each member of the Board other than the chairman shall receive an expense allowance of Seventy-Five Dollars (\$75.00) for each meeting of the Board attended by him and an expense allowance of One Hundred Dollars (\$100.00) per day for attendance upon trials or hearings. No accounting shall be required for such expense allowance. This expense allowance shall not be deemed to be compensation. This expense allowance shall qualify as per the amount under Act No. 87-706 of the Alabama Legislature, Section 10-11-1 et seq., Code of Alabama 1975. This expense allowance shall not reduce or limit the ability of the chairman and members of the Board to receive reimbursements for further actual expense as approved by the Board. This expense allowance shall be paid as the salaries of county employees are paid on the warrant of the member claiming such expense allowance, and said expense allowance shall be the sole remuneration received by the chairman and members of the Board. (As amended by Act No. 636, 1967; Act No. 684, 1977; Act No. 739, 1989.)

Section 4. Expenses of Personnel Board. The salaries and all other expenses of the Personnel Board, the Personnel Director and all others arising under the provisions hereof, unless otherwise herein provided, shall be paid by warrants drawn by the Personnel Board and signed by at least two members thereof on the general fund of the county. At the end of the county's fiscal year, it shall prorate the total sum which it has expended for the purposes of this Act between itself and the cities and appointing authorities subject to this Act, charging each with such part of the total sum so expended as the total number of employees of such county, city, or Appointing Authority who were subject to the provisions of this Act on the last day of the county's fiscal year bears to the total number of employees of all appointing authorities subject to the provisions of this Act on such last day of the county's fiscal year. The sum so arrived at by the county as the proper contribution of each shall be certified to the Director of Personnel and when approved by him in writing, shall become a liability of the respective county, city, and appointing authorities and shall be paid immediately to the county. In the event the salaries of a county, city, or an Appointing Authority are paid in part from different treasuries or different funds, in the same treasury, the liability for this contribution shall accrue against such various treasuries or funds in the same proportion, as the salaries of the employees of the county, city, or the appointing authorities are paid therefrom. In the event any contribution levied hereunder shall not be paid within thirty days after approval by the Personnel Director, the county may bring suit therefor in any court of competent jurisdiction and any judgment so recovered shall be satisfied from any funds in such treasury or funds against which such contribution levy lies.

Section 5. Citizens Supervisory Commission. (Note: See Editorial Comment at end of this Section.). There shall be a citizens supervisory commission of not less than five persons for each county subject to this Act which shall consist of the persons who now are, and who from time to time shall be: (1) The Presidents, or other Chief Executive Officers by whatever name called, of institutions of high learning not operated for profit and offering two or more years of instruction in a general level curriculum, if there be any in such county. (2) The President, or other Chief Executive Officer, of the association, group, or society if there be one in such county, comprising within its membership at least fifty-five percent of the licensed practicing physicians, resident in such county, and provided that not less than ninety percent of the membership of such association, group or society shall consist of licensed physicians, and provided that any reputable citizen of such county who shall be licensed by the State of Alabama to practice medicine and who shall have paid his state and county license fee to practice shall, under the rules of such association, group or society, be eligible to membership therein. (3) The President, or other Chief Executive Officer, of the trades council, group, society or association, if there be one in such county with which is affiliated more than one-half of the unions or other organizations of the workers in the organized trades and crafts in such county, provided that no union or other labor organization shall be counted for the purposes of this Act as affiliated with more than one such trade council group, society or association in such county, and provided that if there be no council, group, society or association in such county with which is affiliated more than one-half of the unions or other organizations of the workers in the organized trades and crafts in such county, then the council, group, society or association having the largest affiliation of such unions or organizations shall be here designated. (4) If there be in such county as many as three or more trades, crafts, groups or division of workers, who are organized into what are commonly known as labor unions, or organizations whose organizations are not affiliated with the trades council, group, society or association described in the subparagraph (3) immediately preceding this subparagraph, then such organized crafts, groups, or divisions of workers may in any manner agreeable to the majority of the presidents, or other Chief Executive Officers, of the locals of such non-affiliated labor organizations located in such county select one of such presidents, or other Chief Executive Officers, as a member of the Citizen's Supervisory Commission who shall remain a member of such commission as long as his electors shall designate. of the locals of such nonaffiliated labor organizations located in such county select one of such presidents, or other Chief Executive Officers, as a member of the Citizen's Supervisory Commission who shall remain a member of such commission as long as his electors shall designate. This subparagraph shall be applicable solely to the county as a whole and not to the separate cities therein. (5) The President or other Chief Executive Officer of the chamber of commerce, or other most nearly similar organization, of the largest city subject to this Act in such county; provided, however, if there be two courthouses in any such county, then the President or other Chief Executive Officer of the chamber of commerce or other most nearly similar organization of the largest city subject to this Act in each division of said county, provided that by chamber of commerce' is meant an organization to membership in which any reputable man engaged in mercantile, manufacturing, banking, jobbing, or similar businesses is

eligible, and which most nearly of all organizations in such city regardless of name performs the functions of such organizations as are commonly known as chambers of commerce. (6) The President or other Chief Executive Officer of the junior chamber of commerce or other most nearly similar organizations of the largest city subject to this Act in such county, provided that by junior chamber of commerce is meant an organization substantially similar to chambers of commerce as defined hereinbefore, except that membership therein may be restricted by an age qualification, and if there be no organization in such city substantially like a junior chamber of commerce, representation for such city under classification shall fail. (7) The President, chairman, or other Chief Executive Officer, of any county-wide council, group, society or association of Post of the American Legion. By Posts of the American Legion is meant a local organization with its meeting place in such county of persons who are residents of Alabama, and who actually served as soldiers, sailors or marines in the armed services of the United States of America. If at any time there be no such county-wide organization of such posts, then the President, chairman, commander or other Chief Executive Officer of the post in the county which as of the first day of January of each year has the largest bona fide membership. (8) The President, or other Chief Executive Officer by whatever name called of any council of parent-teacher associations of the entire county school system. (9) The President, or other Chief Executive Officer, of the engineering council of the engineers, club having the largest membership of any engineers, club in the county, if there be such club or clubs in the county. (10) The President or other Chief Executive Officer, of the county farm bureau of such county, if there be one. (11) The probate judge of such county. (12) The occupant of a position in the classified service of such county. Such commission member shall be elected in October of each year by the classified employees of such county, and his term as commission member shall begin November 1st thereafter and terminate October 31st in the next succeeding year. Such commission member may succeed himself for one year only. Every such election shall be fairly noticed and held. Such election shall be called and conducted by the chairman of the commission. For the purposes of this section all classified employees of the county board of health, subject to this Act shall be considered as holding positions in the classified service of such county. (13) The occupant of a position in the classified service of a municipality in such county. Such commission member shall be elected in October of each year by the classified employees of all municipalities subject to this Act, and his terms as commission member shall begin November 1st thereafter and terminate October 31st in the next succeeding year. Such commission member may succeed himself for one year only. Every such election shall be fairly noticed and held. Such election shall be called and conducted by the chairman of the commission. No employee of any municipal police or fire department as a member of the commission, and no employee of any other municipal department shall succeed an employee of the same municipal department as a member of the commission, and no single municipality shall have employee representation upon the commission for more than three successive terms. Vacancies on the commission due to death, resignation or any other cause shall be filled in the same manner that the member whose position is vacant was designated or elected. In the event one or more of the foregoing persons fail or refuse to serve, such fact shall not invalidate the acts of the commission, provided as many as five members of the commission serve. A majority of the persons serving as members of the commission shall constitute a quorum to do business but a less number may adjourn from time to time and compel the attendance of absent members in

such manner and under such penalties as may be prescribed by the rules and regulations of the commission. Each member of the commission, subject to this Act shall be paid a per diem of ten dollars for attending a meeting of the commission. These expenses and the cost of giving notice of meeting shall be paid as other expenses of the personnel system are paid. The commission shall adopt, from time to time, such rules, regulations and modes of procedure as it deems expedient to enable it to dispatch in an orderly manner its business. The probate judge shall be chairman of said commission and shall have a vote only in case of a tie. He shall also examine and pass upon the credentials and right of each person presenting himself for membership on said commission to sit thereon both at the organizational meeting and at all subsequent meetings. Provided, however, it shall be the duty and responsibility of each organization which has a representative on this commission to present the proper credentials and qualifications of their representative to the probate judge, and it shall be the duty of the probate judge to keep or cause to be kept a permanent record of such credentials and qualifications. The probate judge shall discharge his duties hereunder, under the sanction of his oath as judge of probate and he shall administer the oath of office to the other members of such commission prescribed by Section 279 of the constitution of this state. The chairman may call upon the sheriff of the county or any deputy sheriff thereof, to attend the meetings of the commission and preserve order and execute the decisions, rulings and orders of the commission and of the chairman thereof. Provided, that if for any reason the probate judge is unable to attend because of illness or otherwise, the chief clerk to the probate judge shall act as chairman and shall be clothed with the same authority and responsibilities as are herein provided for the probate judge. The chairman may punish for contempt of the commission in like manner and extent as may be done if the circuit courts of this state. The chairman of the commission shall be the keeper and custodian of the minutes, records, property and paraphernalia of the commission, and may call upon the Director of Personnel to furnish him such clerical assistance, supplies and place of safe deposit for such records and property as he deems necessary. The chairman or the Director of Personnel under his supervision shall establish and keep in the office of the Director of Personnel a roster of the membership of the commission by place, office or position, and keep as nearly as possible up to date the changes in the persons occupying such places, offices or positions, and it shall be the duty of each person vacating a place, office or position which entitled him to a seat on such commission to notify the chairman of the name and address of the person who in his opinion is, under the law his successor on such commission. At the organizational meeting all persons ruled eligible by the chairman to sit on said commission shall be seated as such and shall vote on all questions arising at such meeting. At any time after the organizational meeting has adjourned, any citizen of such county may file with the chairman of the commission written objection to the right of any person to sit on such commission. Such objection shall be based on the sole ground that such person is not one of those designated by this Act for membership on such commission. The chairman shall rule upon said objection in writing and the first order of business at the next meeting of the commission shall be a report by the chairman of the objections and his ruling thereon. If no member of the commission other than the person affected by such ruling appeals from the ruling of the chairman his ruling shall be final; if any appeal is made from the ruling of the chairman, all persons then seated, except the member affected shall be entitled to vote on said appeal. In all matters a majority vote of the commission present, if a quorum be present, shall govern. The commission shall, except as herein otherwise provided, be the judge of the

qualifications of its own membership. In addition to the original organizational meeting herein prescribed, the commission shall meet twice each year. One of such semi-annual meetings shall be held at noon on the third Tuesday in May and the other at noon on the third Tuesday in November. At the semi-annual meeting in November the commission shall receive the annual report of the Personnel Board. At each semi-annual meeting the commission shall make such recommendations to the Personnel Board as it shall deem in the interest of the sound administration of this Act in such county and shall fill any existing vacancy on the Board, and shall elect a successor to any member of the Board whose term will expire before the next semi-annual meeting of the commission. At each semiannual meeting, also, the commission shall review rules of the Personnel Board promulgated since the last semi-annual meeting of the commission, and may repeal any such rule of the Personnel Board which it may deem not in the interest of the sound administration of this Act in such county, but shall not have power to amend any such rule or to promulgate any new rule within the province of the Personnel Board to adopt according to the provisions of this Act. The word "rule" shall not be construed to mean orders, actions or decisions of the Personnel Board made in the administration of this Act. The chairman of the commission or any five members thereof may call a meeting of the commission at the courthouse at the county site of the county, at noon on any Tuesday they deem it in the public interest for it to meet. Such notice shall be signed by the person or persons calling such meeting and shall state briefly the purposes of the meeting; shall be mailed to each person registered as a member of the commission or known to be such and published once each day for three consecutive days immediately preceding such meeting in some daily newspaper published in such county; if no such paper is published in the county, then by posting in a public place in the main and each branch courthouse in the county and in the city hall of each city in the county subject to this Act more than five days before such proposed meeting. Notice of each semi-annual meeting shall be given in like manner, but failure of any member to receive notice by mail of any such meeting, either semi-annual or special, shall not invalidate it. Failure to call a semi-annual meeting shall not invalidate it. The members of the Personnel Board shall be subject to impeachment for the same causes and in the same manner as other county officers, as provided under Section 175 of the Constitution of Alabama. (As amended by Act No. 97, 1956; Act No. 476, 1957; Act No. 591, 1967; Act No. 684, 1977.)

Editorial Comment: The statutorily prescribed composition of the Citizens Supervisory Commission was held to be racially discriminatory and unconstitutional in violation of the Fourteenth Amendment. Woods v. Florence, CV82-PT-2272-S (N.D. Ala. entered April 29, 1985). The court ordered that the CSC be reconstituted and the Final Judgment with the current members of the CSC is available from the Personnel Board.

Section 6. Alternate Method of Selection of Board. In the event the citizens supervisory commission shall fail for any reason whatsoever to elect the Personnel Board or to fill any vacancy thereon, then and in that event thirty days thereafter such Board shall be elected or vacancy filled by the delegation consisting of the members of the house of representatives and senate representing such county or the district in which it lies in the legislature of Alabama. Such action shall be taken at a public meeting which shall be called by a majority of such delegation and held at the courthouse at the county site of such county. Each member of such delegation shall be given three days written notice of the purpose, time and place of holding such meeting by the members calling it. At such meeting a majority of the members of such delegation shall constitute a quorum for the transaction of any business coming before the meeting, except that the affirmative vote of at least one-half of the members of such delegation shall be necessary to elect a member of such Personnel Board. Thereafter the vacancies occurring on said Personnel Board shall be filled in the same manner herein prescribed as they occur and the duties herein elsewhere laid upon the said citizens supervisory commission are hereby imposed upon the member of members of the legislature and senate to be performed as herein prescribed.

Section 7. Duties of County and Municipal Officials. It shall be the duty of all elective officials in authority of either the counties or municipalities affected by this Act to aid in all proper ways in carrying into effect the provisions of this Act and the rules and regulations prescribed from time to time thereunder, and especially at the request of the Director of Personnel to allow him the use of public buildings and heat and lights for the purpose of conducting examinations of applicants and investigations as provided by this Act.

Section 8. Accommodations Provided For. The Board of County Commissions or Board of Revenue or other like governing body of the County shall provide suitable rooms and accommodations for Board and Director of Personnel, and cause the same to be furnished, heated and lighted, for carrying out the work of the Board, and shall cause to be furnished and paid for by the county all necessary stationery, postage, printing, clerical assistance and supplies upon the requisition of the Board.

Section 9. Legal Services for Board. If this Act or its enforcement by the Personnel Board shall be called into question in any judicial proceeding, or if any person, county or municipality shall fail or refuse to comply with the lawful orders or directions of the Personnel Board, such Board may call upon the county or city attorney of any county or city subject to its control or may employ independent counsel to represent it in sustaining this Act and its enforcement thereof and the compensation of such independent counsel shall be paid as other employees of the Board are paid.

Section 10. Status of Present and Future Employees. In the event that it both happens (1) that a municipality or other Appointing Authority shall hereafter become subject to the provisions of this Act and (2) that at the time such municipality or other Appointing Authority becomes subject to the provisions of this Act it then has in its employ employees or appointees who would come within the classified service as defined in this Act, the Board in its discretion may extend or grant permanent status to any or all such employees or appointees. The Board in its discretion may extend or grant permanent status to any or all employees or appointees employed or appointed by the county board of health or the Board of Registrars, municipality, or other Appointing Authority at the time this Act becomes effective including appointees of employees who are absent by reason of military service of the United States. The Personnel Board shall also have the authority to take into account in determining the rights, privileges, benefits and liabilities of employees or appointees of said appointing authorities the previous records of such employees and appointees in their employment by said respective employer. Whenever the appointment or employment of new or additional officers or employees of such counties, municipalities or appointing authorities, therein, is hereafter authorized by law, such officers or employees shall be subject to the provisions hereof and included within the county and municipal civil service unless of a class excepted herein. (As amended by Act No. 684, 1977.)

Section 11. Director of Personnel. There shall be a Director of Personnel for each county affected by this Act. The Board shall appoint the Director who shall hold office at the will of the Board, and his salary shall be an amount as fixed by the Personnel Board from time to time which shall not be greater than the highest salary paid to any employee holding a position in the classified service of a county or municipality subject to the jurisdiction of this Act. The Director of Personnel shall act as secretary at Board meetings, and shall be the Board's executive officer, but shall not have a vote in determining the Board's policy. He shall perform such duties as are assigned to him by the Board. The Director shall appoint one employee of the department to be his deputy. In case of the absence of the Director or his inability from any cause to discharge the powers and duties of his office, such powers and duties shall devolve upon his deputy. (As amended by Act No. 17, Ex. Sess., 1951; Act No. 332, 1953.)

Section 12. Duties of Personnel Director. (Alternative derived from Act. No. 684, 1977). The Director of Personnel subject to the provisions of this Act and approval of the Personnel Board shall: Appoint or remove such subordinates as may be necessary to administer a scientific and economical personnel system and fix their compensation. If at any time the citizens supervisory commission recommends that the number of such subordinates or their compensation be reduced, such recommendation shall be immediately put into effect. Prepare and submit to the Board for its consideration and approval such forms, rules and regulations as are necessary to carry out the provisions of this Act including the rules governing examination, appointments, suspensions, dismissals, certification of eligibles, reduction in force, sick leave, leave of absence, resignation, reinstatements, promotions, demotions, transfers, salary adjustments and any and all other rules and regulations necessary for administering a scientific and economical personnel system. Such rules and regulations must be approved by a two-thirds majority of the Personnel Board before becoming effective after which they shall have the force and effect of law unless they are contrary to the provisions of this Act. Enforce the provisions of this Act and the rules and regulations prescribed by the Personnel Board. Any act of the Director complained of shall be subject to review by the Board upon the written request to the Board of any person at interest. Keep the minutes of the official actions of the Personnel Board. Classify or direct the classification of all positions to be held under either municipal or county authority in accordance with the provisions of this Act and in accordance with the duties attached to such positions. At least once every five years, grade and classify or direct the grading and classification of all positions in the county and in each city in the county and for each Appointing Authority with respect to salary to the end that each employee shall receive the same compensation as all other employees of the said county or city or Appointing Authority receive for the same grade and class of service. The question whether or not an employee has been assigned to the proper class and grade shall be a matter subject to the decision of the Board Establish, after consultation with the governing bodies affect a pay plan and salary schedule for all positions which shall contain a minimum rate, a maximum rate and such intermediate and premium rates as are deemed necessary by the Personnel Board, which shall become effective within thirty days after submission to the governing body concerned, provided that the governing body of each county and municipality affected hereby may raise or lower such schedule by applying the same percentage increase or decrease to the entire schedule, provided, however, no governing body shall raise such entire schedule within twelve months after the adoption of a new salary schedule, nor within twelve months immediately preceding any primary or general elections in which the members of the said governing body are to be elected, except upon the approval of the Personnel Board, provided further that any office or position created by an Act of the Legislature, or by a municipality, or county authority, subsequent to the passage of that certain Act of the Legislature, Act No. 248, approved July 6, 1945, (General Acts of Alabama, Regular Session 1945, page 376) the Personnel Director shall survey the duties and responsibilities of such office or position, and submit his findings to the Personnel Board; and the salary for such office or position shall be fixed by the Personnel Board. Provided further, that the Personnel Board shall advise the governing body of the county or municipality of the salary fixed for such office or position. Changes in the salary schedule on one class or a number of classes less than all may also be made by order or resolution of a governing body as follows:

A certified copy of such order or resolution shall be filed with the Personnel Board, and unless the said resolution or order be disapproved by said Personnel Board within thirty days after the date of filing of such certified copy the same shall be valid and operative according to its terms. If, however, the said Personnel Board should disapprove such resolution affecting less ;than all classes within such thirty days, such resolution shall be invalid and of no legal effect. Provide, by proper rules, regulations, and orders and special provisions in the pay plan for the advancement of salary within each class or grade on the basis of efficiency and length of service, and for other special conditions and premium rates of pay. It shall be unlawful for an Appointing Authority or disbursing officer to pay or cause to be paid a salary to any employee greater than or less than the salary to which such employee is entitled to so receive. Such pay plan and salary schedules, classes and grades may from time to time be amended, added to, consolidated or abolished by the Board. Enforce the provisions of this Act and the rules and regulations prescribed by the Personnel Board. Any act of the Director complained of shall be subject to review by the Board upon the written request to the Board of any person of interest. Keep the minutes of the official actions of the Personnel Board. (As amended by Act No. 345, 1947; Act No. 657, 1953; Act No. 591, 1967; Act No. 680, 1977; Act No. 684, 1977.)

Note: This section was amended by Acts No. 680 and 684, 1977, which were both enacted as of 6:00 p.m., May 23, 1977. Both acts purport to set forth the current version of this section, but the acts contain inconsistent and contradictory provisions. Therefore, reference should be made both to this version of Section 12 and to the following version. It is unclear how conflicting or inconsistent provisions in these two versions will be resolved or how this section will be construed.

Section 12. Pay Plan. (Alternative derived from Act No. 680, 1977). The Direction [sic] of Personnel shall Establish, after consultation or offer of consultation with the governing bodies affected, a salary schedule for all positions which shall contain a minimum rate, a maximum rate and such intermediate rates as are deemed necessary the Personnel Board, which shall become effective within thirty days after submission to the governing body concerned, provided that the governing body of each county and municipality affected hereby may raise or lower such schedule by applying the same percentage increase or decrease, or flat sum of increase or decrease, or any combination thereof, to each position in the entire schedule; provided, however, no governing body shall raise such entire schedule within twelve months immediately preceding any primary or general election in which the members of the said governing body are to be elected, except upon the approval of the Personnel Board, provided further that any office or position created by an act of the legislature or by a municipality or county authority, subsequent to the passage of that certain act of the legislature, Act No. 248, approved July 6, 1945, (General Acts of Alabama, regular session 1945, page) Sections 645 and 672 of this subdivision, the Personnel Director shall survey the duties and responsibilities of such office or position, and submit his findings to the Personnel Board, and the salary for such office or position shall be fixed by the Personnel Board. Provided, further that the Personnel Board shall advise the governing body of the county or municipality of the salary fixed for such office or position. Changes in the salary schedule of one class or a number of classes less than all may also be made by order or resolution of a governing body as follows: A certified copy of such order or resolution shall be filed with the Personnel Board, and unless the said resolution or order be disapproved by said Personnel Board within thirty days after the date of filing of such certified copy the same shall be valid and operative according to its terms. If, however, said Personnel Board should disapprove such resolution affecting less than all classes within such thirty days, such resolution shall be invalid and of no legal effect. Provided, by proper rules, regulations, and orders for the advancement of salary within each class or grade on the basis of efficiency and length of service. It shall be unlawful for an Appointing Authority or disbursing officer to pay or cause to be paid a salary to any employee greater than or less than the salary to which such employee is entitled to so receive. Such salary schedules, classes and grades may from time to time be amended, added to, consolidated or abolished by the Board. (As amended by Act No. 345, 1947; Act No. 657, 1953; Act No. 591, 1967; Act No. 680, 1977; Act No. 684, 1977).

Note: This section was amended by Acts No. 680 and 684, 1977, which were both enacted as of 6:00 p.m., May 23, 1977. Both acts purport to set forth the current version of this section, but the acts contain inconsistent and contradictory provisions. Therefore, reference should be made both to this version of Section 12 and to the prior version. It is unclear how conflicting or inconsistent provisions in these two versions will be resolved or how this section will be construed.

Section 13. Investigations. The Director of Personnel shall make investigations and report to the Personnel Board upon all matters touching the enforcement and the effect of the provisions of this Act and the rules and regulations prescribed thereunder. He may inspect all places of employment and services affected by this Act in order to ascertain and advise with the heads of the various departments concerning their methods of handling those matters affecting employees in the service, such as hours of work, attendance, training, working conditions, morale, and in order to ascertain whether the provisions of this Act and all such rules and regulations promulgated thereunder are obeyed. The Director of Personnel in the course of such investigations, shall have the power to administer oaths, subpoena and require the attendance of witnesses, and the production of books, papers, documents and accounts pertaining to the subject under investigation. All hearings and investigations made by the Director of Personnel shall be governed by this Act and by rules or practice and procedure adopted by the Personnel Board, and in conducting such investigations he shall not be bound by the technical rules of evidence. No informality in any proceeding or in the manner of taking testimony by the Director of Personnel shall invalidate any order, decision, rule or regulation made by him, and approved or confirmed by the Personnel Board.

Section 14. Survey of Necessity for Personnel. The Director of Personnel shall have authority to investigate concerning the number of employees in any department or office and if in his judgment, after conference with the department head, there is an excessive number of employees in proportion to the amount of work required in such department or office, he shall recommend in writing to the department head and the governing body that the excess number of employees be laid off or transferred either permanently or temporarily in accordance with the provisions of this Act. Final determination shall be vested in the governing body. He shall also study [sic] the organization and procedure of the different departments and suggest to the heads of the departments such changes in procedure as may increase efficiency or enable the organization to carry on its work more economically and with a reduced staff.

Section 15. Official Roster. The Director of Personnel shall keep in the personnel office an official roster of all persons holding positions under the provisions of this Act and shall enter thereon the name of each person who has been appointed to, promoted, reduced, transferred, reinstated or removed from or left any position and require such evidence as may be deemed satisfactory as to whether such person was appointed to, promoted, reduced, transferred, reinstated or removed from such position in accordance with the provisions of this Act and the rules and regulations of the Personnel Board thereunder, and as to when and why and how such action was taken. The official roster shall show opposite or in connection with each name of appointment, promotion, reduction, transfer or reinstatement, rate of compensation of the position, the date of commencement of service and change in or separation from position, and when and why and how such change or separation occurred. The Director may prescribe the manner, forms and procedures necessary to establish and maintain such employment history. (As amended by Act No. 684, 1977.)

Section 16. Examinations. The Director shall prepare and conduct examinations to determine the merit, efficiency and fitness of applicants for positions. Such examinations shall be thorough and practical and shall relate to those matters which fairly test the relative capacity and fitness of the person examined to discharge the duties of the position he seeks. Whenever there is a vacancy in a position in the Classified Service where peculiar and exceptional qualifications of a scientific, professional or educational character are required, and upon satisfactory evidence that for specified reasons competition in such special case is impracticable and that the position can best be filled by the selection of some designated persons of high and recognized attainments in such qualities, the Board, upon recommendation of the Director, may suspend the examination requirements in such case, but no suspension shall be general in its application to such place or position, and all cases of suspension with the reasons for such action in each case shall be reported to the citizens supervisory commission at its next regular meeting. In the case of laborers, or semi-skilled occupations, the Director may rate the applicants solely on experience, physical qualifications and diligence which may be determined by such evidence and in such manner as may be directed by the Board. Such applicant may be required to take further tests as the Director with the approval of the Board deems necessary. The Director shall prepare a list of minimum requirements which the applicants must possess before they are eligible to participate in any specific examination. He shall determine the relative weight which shall be allowed for written examinations, for oral examinations and for training and experience. The Director shall require an applicant to file in the personnel office, in accordance with the rules and regulations, a formal application before he is admitted to any examination. Blank forms for such applications will be furnished by the Director. The Director may require in connection with applications, such evidence of residence, citizenship and right to vote and certificates of physicians, public officers, former employers or associates or others having knowledge of the applicant as the good of the service may require. The Director may refuse to examine, or after examination refuse to certify as eligible anyone who is found to lack any of the established minimum requirements for the examination or position for which he applies or who is physically so disabled as to be unfit to perform the duties of the position to which he seeks appointment or who has been guilty of crime involving moral turpitude, or infamous or disgraceful conduct or who has been dismissed from the public service for delinquency or misconduct or who has intentionally made a false statement of any material fact or practiced or attempted to practice any deception or fraud in his application, in his examination or in securing his eligibility. Any person appointed to a position who has secured his place on the eligible list through fraud shall be removed by the appointing officer and shall not thereafter be eligible for examination for any position except by unanimous permission of the Board. An eligible list containing the names of all persons who successfully passed the examination, ranked in order of their final earned average, from highest to lowest, shall be established as a result of each examination. The effective term of each list shall be fixed by the Board of not less than one year. No person shall wilfully or corruptly make a false mark, grade, estimate or report on an examination or with respect to the proper standing of any person examined under this Act or wilfully or corruptly make any false representation concerning the same or concerning any person examined or furnish to anyone special or secret information for the purpose of improving or injuring the prospects or chances of the appointment, employment or promotion of any person

so examined or to be examined. Any person guilty of the above acts shall be deemed guilty of a misdemeanor. (As amended by Act No. 591, 1967; Act No. 684, 1977.)

Section 17. Efficiency Records. The Director of Personnel shall obtain, rate and preserve the records of individual efficiency of all persons holding positions under the provisions of this Act. Such ratings will be submitted on forms prescribed by the Director of Personnel and will be made by the department heads or their supervising officers or both in accordance with regulations prescribed by the Personnel Board. Such efficiency ratings shall constitute grounds for: Increase in the rate of compensation for employees who have not attained the maximum rate for the class to which their positions are allotted; continuance at the existing rate of compensation without increase or decrease; decrease in the rate of compensation for the employees who are receiving more than the minimum rate for the class to which their positions are allocated; promotion, demotion, lay-off, transfer or dismissal.

Section 18. Appointments. Vacancies in the Classified Service shall be filled either by transfer, promotion, appointment, reappointment, or demotion. Whenever a vacancy in an existing position is to be filled by appointment, the Appointing Authority shall submit to the Director a statement of the title of the position, and if requested by the Director to do so, the duties of the position, and desired qualifications of the person to be appointed, and a request that the Director certify the Appointing Authority the names of persons eligible for appointment to the position. The Director shall thereupon certify to the Appointing Authority the ranking eligibles, correlating to the 10 highest test scores from the appropriate register, and if more than one vacancy is to be filled, the ranking names of the next highest test score for each available vacancy or all the names on the register if there are fewer than 10. The Director shall, upon the request of the Appointing Authority, add to any certification for the employment the name of any person who is certified by the Director of the division of rehabilitation and crippled children of the state department of education, as being eligible for rehabilitation services, or who is certified by a physician duly licensed to practice medicine in the State of Alabama to have a permanent neurological, muscular, skeletal, or other physical impairment rendering the person unable to transport himself or herself from place to place in a normal manner without the use of transportive devices such as a wheelchair or supportive devices such as braces, crutches, or both; but the Director may nevertheless not give preference in certification for employment to any handicapped person if he or she finds the person is physically or otherwise unfit to perform effectively the duties of the position in which he or she seeks employment. The Personnel Board shall adopt appropriate rules and regulations governing all appointments to vacancies in the classified service to the end that such rules shall comply with the law and serve the public interest. In the event that a jurisdiction accepts and utilizes Federal funds for the creation of public employment opportunities, the positions when budgeted on a full-time basis for 12 months, shall be treated as any other regular position in the Classified Service. Should the applicable Federal regulations controlling the use of the funds prescribe the unusual or exceptional prerequisites for employment in the program, the Director subject to approval of the Board, may prescribe the manner in which the position shall be filled and related conditions of employment. If it is impossible to locate any of the persons so certified or should it become known to the Director that any person is not willing to accept the position, the Appointing Authority may request that additional names be certified until 10 persons eligible and available for appointment have been certified. Within 10 days after the names are certified the Appointing Authority shall appoint one of those whose names are certified to each vacancy which he or she is to fill. When a new position is created by the governing body the Appointing Authority shall notify the Director of the duties of the position and the desired qualifications of the person to be appointed. If there is no appropriate eligible list from which certification can be made, the Director shall establish such a list within 45 days after receipt of the request and no provisional appointment shall be authorized within that time except with the unanimous approval of the Board. The Appointing Authority shall report to the Director the name of the person appointed, the effective date of appointment, and any other information as may be required. The names of the remaining eligibles certified shall be returned to the eligible list for certification to the next vacancy which may occur. The name of an eligible may be removed from the eligible list after it has been certified and refused three times. All appointments shall be made for a probationary

period of 12 months. During that period the Appointing Authority may remove an appointee upon filing with the Director, in writing, his or her reasons for the action which action shall not be reviewable. After the expiration of the probationary period, the employees shall have earned permanent status subject to this subdivision as to removals, suspensions, and changes. No persons shall be appointed pursuant to any title not appropriate to the duties of the position to which he or she is appointed except by the consent of the Director. When a position to be filled involves fiduciary or financial responsibility or law enforcement, the appointing power or the Board may require the applicant to furnish a reasonable bond or other security in an amount and form to be fixed by the Appointing Authority subject to the approval of the Board provided, but when the amount and terms of the bonds are now prescribed by law, that provision of law shall remain in effect. The bond or security shall be approved by the Appointing Authority, kept, and conditioned as the Appointing Authority prescribes unless otherwise provided by law. The Appointing Authority in all cases not excepted or exempted pursuant to this subdivision or the Constitution of Alabama of 1901, shall only fill positions in the county or municipalities therein, by appointment, including cases of transfer, reinstatement, promotions, and demotions, in strict accordance with this subdivision and the rules and regulations prescribed. In the event an Appointing Authority fails or refuses to fill a vacancy in an existing position from a certified list of eligibles, the Director may refuse to certify the payroll, voucher or account of any ineligible person found to be performing the duties of the position. When there is no eligible list from which a vacancy in an existing position may be filled, the Director may certify to the Appointing Authority the names of all persons who have filed notice of their intention to take an examination appropriate to the position, and who after investigation appear to have had experience or training which qualify them for the position and a provisional appointment from among the number may be made by the Appointing Authority pending the establishment of an eligible list. No provisional appointment shall be continued for a period of over 10 days after the establishment of an eligible list and shall not be continued for a longer period than four months. During a war emergency period, the Director may, in the absence of any appropriate eligible list, authorize a limited tenure appointment without examination. The appointment shall not be for longer than the duration of the war emergency period plus six months, and shall not give persons appointed status in the Classified Service by reason of the duration appointment.

“Notwithstanding any other provision of this act, when one or more vacancies in the entry-level position of police officer or firefighter is to be filled by appointment, the Appointing Authority may elect to have the Director certify to the Appointing Authority the names of five different eligibles, for each vacancy. The election may be accomplished by letter of the Appointing Authority, or by any other method as the Board may reasonably adopt.” (As amended by Act No. 94-564,, Act No. 89-467, and Act No. 87-815)

Section 19. Leave of Absence. All permanent employees who have held regular full-time positions under the jurisdiction of this subdivision for one year and less than twelve (12) years, shall be allowed an annual vacation with pay at the rate of one work day per month of service not to exceed twelve (12) work days vacation; regular full-time employees with twelve (12) years to twenty-five (25) years full-time service shall be allowed an annual vacation with pay at the rate of one and one-half (1-1/2) work days per month of service not to exceed eighteen (18) days vacation per year; and regular full-time employees with twenty-five (25) years service or more shall be allowed two (2) work days for each month of service not to exceed twenty-four (24) days vacation with pay per year. Such vacation allowance shall be cumulative, not to exceed forty (40) work days. For the purpose of computing vacation allowance sick leave, each period of seven days, excluding holidays, shall be considered as containing five (5) work days, irrespective of the number of days the employee would normally be on duty. In computing vacation for any person hereunder, in addition to the period for which such person has been employed by the county or city for which he works at the time of the computation, there shall be included the following periods of employment: (1) the period such person worked at the county courthouse, or any branch thereof, while employed by the state or any agency or Board of the state, provided that while such person was so employed his position with the state, or state agency or Board, was made subject to the county wide civil service law through the adoption or amendment of this or any previous act establishing a countywide civil service system; and (2) the period during which such person worked at the county courthouse, or any branch thereof, while employed by the state or any agency or Board of the state provided his work and duties for the state, or the state agency or Board were confined within the territorial limits of the county, and provided further that his employment with the county or with some municipality thereof commenced simultaneously with the cessation of his employment by the state or by the state agency or Board. The time for such vacation shall be determined by the Appointing Authority except that the employee, if a vacation has not been allowed him during the calendar year, may demand that he be given a vacation not exceeding twelve work days. An Appointing Authority shall not require an employee to forfeit his vacation allowance as punishment for improper behavior, in lieu of imposing upon such employee a suspension without pay as provided in Section 22 of the Act. Employees who resign in good standing or who are separated from the service without fault or delinquency on their part shall be allowed credit for vacation earned. Any employee who is dismissed for cause shall forfeit all vacation allowances. The rules and regulations shall contain provisions for granting permanent employees sick leave with pay and for leave without pay, consistent with progressive personnel practice; provided however, that any permanent employee shall, upon retirement or termination in good standing after five (5) years of service, be entitled to receive payment for fifty percent (50%) of his accrued and unused sick leave at the time of his retirement or termination and all such payments shall be made at the same rate as his regular pay. At the time of said retirement or termination said payment shall not exceed fifty percent (50%) of sixty (60) days.

Provided, further, that it shall be optional with each Appointing Authority whether such provisions shall be applicable to its employees.”

(As amended by Act No. 109, 1st Ex. Sess., 1956; Act No. 14, 1965; Act No. 1172, 1969; Act No. 318, 1976; Act No. 765, 1989.)

Section 20. Promotions. With the discretion of the Director of Personnel, vacancies in positions shall be filled, in so far as practicable by promotion from among employees holding positions in the classified service. Promotions shall be based upon merit and competition and upon the superior qualifications of the person promoted as shown by his records of efficiency. Upon receipt of a Requisition for Certification from an Appointing Authority, the Director shall thereupon certify, to the Appointing Authority, the names of the three ranking eligibles from the most appropriate register, and if more than one vacancy is to be filled, the name of one additional eligible for each additional vacancy. When the vacancy for which the appointing authority has requested a list of eligibles is that of a department head, the director shall certify to the appointing authority, for its selection, the names of six qualified candidates who apply, unless the appointing authority shall have requested the names of the three ranking eligibles only. However, in the case of a vacancy in a position which requires peculiar and particular training and experience which, in the judgment of the Board, may be properly acquired in the office of [sic] department in which the vacancy exists but not elsewhere, and it can be shown to the satisfaction of the Board that there is in such office or department an employee who was regularly appointed and who is serving in a lower or different class or position following regular appointment, and whose familiarity with the duties of the position vacant and whose ascertained merit in performing or assisting in such work make it desirable for the best interests of the service to suspend competition, the Board may, after a public hearing, approve the promotion of such employee, either without examination or with such tests or evidence of fitness as the Board may see fit to require. Notice of the public hearing held under this section shall be given by mailing or delivering a copy of the notice to each governing body and/or Appointing Authority and/or department head affected, and by posting a copy of said notice publicly in the office of the Board for at least three days prior to said hearing. All such cases shall be fully set forth in the minutes of the Board. No suspension of competition for promotion authorized under this section shall be general in its application to such place or position and all such cases of suspension with the reasons for each action in each case shall be reported to the citizens supervisory commission at its next regular meeting. When promotional examinations are given, all employees who attain a passing grade shall have added to that grade one point for each year of service up to and including twenty years, irrespective of whether such service is continuous or not. (As amended by Act No. 283, 1947; Act No. 684, 1977; Act No. 87-815.)

Section 21. Transfers and Reinstatements. An Appointing Authority may, at any time, assign a classified employee under his jurisdiction from one position to another in the same class. Any classified employee, holding permanent status, may be transferred from one department to a position in the same class in another department or government, provided that the Director has authorized the transfer and has received the consent of both appointing authorities concerned. Any person now or hereafter holding permanent status as an employee of the State of Alabama under the provisions of any present or future merit system or civil service law or any person now or hereafter holding permanent status in a position in the competitive classified service of the federal government, may be appointed by an Appointing Authority without examination to a position in the same or a similar class in the classified service herein set up, provided that any such appointment shall be recommended by the Director to the Board, and approved by the Board. Upon the recommendation of the Personnel Director, the Board is authorized by reason of the previous experience of the employee, to fix the beginning salary of such employee at an amount greater than the minimum but not exceeding maximum salary applicable to the grade or class of the position to which the employee is appointed. Former employees, who have earned permanent status and who have been separated from the service without fault or delinquency on their part, may within two years following their separation apply to the Director to have their name [sic] entered on the eligible list for reemployment in positions of the same class or grade as formerly held. The Director shall submit his recommendations to the Board whose decision shall be final. No promotion, transfer, or reinstatement shall be made from a position in one class to a position in another class nor shall a person be transferred to or reinstated in a position for original entrance to which there is required by this Act or the rules and regulations thereunder, an examination involving essential tests or qualifications different from or higher than those required for original entrance to the position held by such person except that such person takes and successfully passes such examinations as are prescribed by the Director and approved by the Board.

Section 22. Dismissal, Demotion and Suspension. (Alternative derived from Act No. 684, 1977). An Appointing Authority may dismiss or demote an employee holding permanent status for just cause whenever he considers the good of the service will be served thereby, for reason stated in writing, served on the affected employee, and a copy furnished to the Director, which action shall become a public record. The dismissed or demoted employee may within ten days after notice, appeal from the action of the Appointing Authority by filing with the Board and the Appointing Authority a written answer to the charges. The Board must order a public hearing of such charges. The hearing may be before the Board or a hearing officer appointed by the Board. If the matter is heard by a hearing officer appointed by the Board, he shall take testimony offered in support and denial of such charges and from the same submit to the Board, within five days, a finding of facts and law involved and a recommended decision. The Board at its next regular meeting or special meeting shall consider said report And modify, alter, set aside or affirm said report and certify its findings to the Appointing Authority who shall forthwith put the same into effect. If the Personnel Board hears such said charges, it shall make up and file its own findings and decision. In addition, to removal or demotion by an Appointing Authority, an employee may be removed, demoted, suspended, or otherwise disciplined in the following manner: Charges may be filed by any officer, citizen or taxpayer of the state with the Director who shall within five days cause a copy to be served upon the person complained against and the Board shall set a day not more than twenty days after such charges have been served on such employee for a public hearing of such charges. The hearing may be before the Board or by a hearing officer appointed by the Board for that purpose. An employee may also be removed, demoted, suspended or otherwise disciplined upon charges made by the Director and referred to the Board based upon investigation conducted upon his own initiative or upon complaints referred to the Director by a member of the Personnel Board when the Director after such investigation shall be reasonably satisfied that such charges are waived. Charges referred by the Director shall be served and a public hearing held by the Board within the time and in the manner prescribed where charges are preferred by an officer, citizen or taxpayer of this state. Any interested Party at hearing may be represented by counsel. All proceedings at the hearing shall be recorded by a competent stenographer or mechanical recording device. In all disciplinary appeal hearings, the Board shall render its opinion and decision in accordance with this section of the law. If the Board finds the employee not guilty, the Board shall order the reinstatement of the employee under such conditions as the Board may determine. If the Board finds the employee guilty, the Board shall determine whether the employee shall be dismissed, demoted, suspended or otherwise disciplined. The Board's decision shall be certified to the Appointing Authority who shall forthwith put the same into effect. The decision of the Board based upon all proceedings before the Board shall be final subject to appeal by either party to the circuit court to review questions of law and the question of whether or not the decision or order of the Board is supported by the substantial and legal evidence. On such appeal the circuit court shall review the record and shall affirm, reverse, remand or render said cause. The decision of the Board shall be controlling until reversed on appeal as provided for herein. The appeal shall be perfected by filing with the Director of Personnel a statement in writing signed by the party appealing to the effect that said party appeals from the decision or order of the Personnel Board to the circuit court, which statement shall be filed within ten days from the announcement of the

decision or order of the Personnel Board; provided further, that the party taking an appeal shall file with the clerk of the circuit court security for costs in an amount approved by any judge of said circuit court, which security for costs may consist of a cash deposit or a bond executed by such party appellant and a surety or sureties approved by the said circuit clerk. Such security for costs shall be filed by the party taking the appeal within ten days from the announcement of the decision or order of the Personnel Board. Within ten days from the filing of such statement of appeal, the Director of Personnel shall forward to the circuit clerk the original or copies of charges preferred and the answer filed to such charges and a complete transcript of all the proceedings before the Personnel Board at such hearing. In the event the Director is unable to complete such transcript of all the proceedings within ten days, the presiding judge of the circuit court shall allow the Director such additional time as may be necessary to do so. In the event copies of said charges and answers are forwarded to the circuit clerk instead of the originals, the Director of Personnel shall certify that said copies are true and correct copies of the originals. The Personnel Board shall make no charge for furnishing the copy of the record required by the circuit court.

Upon receipt of said papers, the circuit clerk shall present same to the presiding judge of the circuit court or the circuit judge sitting in place of the presiding judge if the regular presiding judge be absent; and the presiding judge or the judge sitting in his absence shall assign the case so appealed to three circuit judges of said circuit who shall jointly review the record of the hearing before the Personnel Board. The presiding judge or the judge sitting in his absence in the order assigning such case for review shall designate one of the three judges to whom the case is assigned as presiding judge of such panel. Any such appeal shall be considered and determined as a preferred case in the circuit court. The opinion of a majority of three judges to whom such case is assigned shall be determinative of the case and there shall be no appeal to any appellate court of Alabama. The cost of said appeal shall be taxed against the unsuccessful party. If any employee shall wilfully refuse or fail to appear before any board or body authorized to conduct any hearing or inquiry, or having appeared shall refuse to testify or answer any question relating to the affairs of government or the conduct of any officer or employee on the ground that his testimony or answers would tend to incriminate him, or shall refuse to waive immunity from prosecution on account of any matter about which he may be asked to testify at any such hearing or inquiry, he shall forfeit his position and shall not be eligible for appointment to any position under the jurisdiction of this Act. An Appointing Authority may, from time to time, peremptorily suspend any employee without pay or other compensation, and without the right of a hearing, as punishment for improper behavior, but any one suspension shall not exceed five days and the total suspension by such Appointing Authority of such person shall not exceed ten days in any year of service. Such suspension with loss of pay may be effected only by service upon the employee by the Appointing Authority of written charges setting out clearly the delinquency for which such suspension was made, a copy of which must be at the same time mailed or delivered to the Director. The suspended employee shall have the right to file with the Board and the Appointing Authority a written answer or explanation of such charges. (As amended by Act No. 562, 1947; Act No. 670, 1953; Act No. 1600, 1971; Act No. 679, 1977; Act No. 684, 1977.)

Note: This section was amended by Acts No. 679 and 684, 1977, which were both enacted as of 6:00 p.m., May 23, 1977. Both acts purport to set forth the current version of this section, but the acts contain inconsistent and contradictory provisions. Therefore, reference should be made both to this version of Section 22 and to the following version. It is unclear how conflicting or inconsistent provisions in these two versions will be resolved or how this section will be construed.

Section 22. Dismissal, Demotion and Suspension. (Alternative derived from Act No. 679, 1977). An Appointing Authority may dismiss or demote an employee holding permanent status for just cause whenever he considers the good of the service will be served thereby, for reason stated in writing, served on the affected employee, and a copy furnished to the Director, which action shall become a public record. The dismissed or demoted employee may within ten days after notice, appeal from the action of the Appointing Authority by filing with the Board and the Appointing Authority a written answer to the charges. The Board must order a public hearing of such charges, and if the Board finds the employee not guilty, the Board shall order the reinstatement of the employee under such conditions as the Board may determine. If the Board finds the employee guilty, the Board shall determine whether the employee shall be dismissed, demoted, suspended, or otherwise disciplined. In addition to removal or demotion by an Appointing Authority, an employee may be removed, demoted, suspended or otherwise disciplined in the following manner. Charges may be filed by any officer, citizen or taxpayer of the State with the Director who shall within five days cause a copy to be served upon the person complained against and shall set a day not more than twenty days after such charges have been served on such employee for a public hearing of such charges. This hearing may be before the Director, a special agent appointed for the Purpose by the Director, or the Board itself. If before the Director or a special agent, the Director or special agent shall take testimony offered in support and denial of such charges and from the same submit to the Board, within five days, a finding of facts and law involved and a recommended decision. The Board at its next regular or special meeting shall consider said report and modify, alter, set aside or affirm said report and certify its findings to the Appointing Authority who shall forthwith put the same into effect. If the Board hears said charges directly or requires the transcribing and submission of the testimony taken before the Director or special agent, it shall make up and file its own findings and decision. An employee may also be removed, demoted, suspended or otherwise disciplined upon charges made by the Director and referred to the Board based upon investigation conducted upon his own initiative or upon complaints referred to the Director by a member of the Personnel Board when the Director after such investigation shall be reasonably satisfied that such charges are warranted. Charges Preferred by the Director shall be served and a public hearing held by the Board within the time and in the manner prescribed where charges are preferred by an officer, citizen or taxpayer of this State. Any interested Party at such hearing may be represented by counsel. All proceedings at the hearing shall be recorded by a competent stenographer or mechanical recording device. The decision of the Board based upon all proceedings before the Board shall be final subject to appeal by either party to the Circuit Court to review questions of law and the question of whether or not the decision or order of the Board is supported by the substantial and legal evidence. On such appeal the Circuit Court shall review the record and shall affirm, reverse, remand or render said cause. The decision of the Board shall be controlling until reversed on appeal as provided for herein. The appeal shall be perfected by filing with the Director of Personnel a statement in writing signed by the party appealing to the effect that said party appeals from the decision or order of the Personnel Board to the Circuit Court, which statement shall be filed within ten days from the announcement of the decision or order of the Personnel Board; provided further, that the party taking an appeal shall file with the Clerk of the Circuit Court, security for costs in an amount approved by any judge or said Circuit Court, which

security for costs may consist of a cash deposit or a bond executed by such party appellant and a surety or sureties approved by the said Circuit Clerk. Such security for costs shall be filed by the party taking the appeal within ten days from the announcement of the decision or order of the Personnel Board. Within ten days from the filing of such statement of appeal the Director of Personnel shall forward to the Circuit Clerk the original or copies of charges preferred and the answer filed to such charges and a complete transcript of all the proceedings before the Personnel Board at such hearing. In the event the Director is unable to complete such transcript of all the proceedings within ten days, the Presiding Judge of the Circuit Court shall allow the Director such additional time as may be necessary to do so. In the event copies of said charges and answer are forwarded to the Circuit Clerk instead of the originals, the Director of Personnel shall certify that such copies are true and correct copies of the originals. The Personnel Board shall make no charge for furnishing the copy of the record required by the Circuit Court.

Upon receipt of said papers the Circuit Clerk shall present the same to the Presiding Judge of the Circuit Court or the Circuit Judge sitting in place of the Presiding Judge if the regular Presiding Judge be absent; and the Presiding Judge or the Judge sitting in his absence shall assign the case so appealed to three Circuit Judges of said Circuit who shall jointly review the record of the hearing before the Personnel Board. The Presiding Judge or the Judge sitting in his absence in the order assigning such case for review shall designate one of the three Judges to whom the case is assigned as Presiding Judge of such panel. Any such appeal shall be considered and determined as a preferred case in the Circuit Court. The opinion of a majority of three judges to whom such case is assigned shall be determinative of the case and there shall be no appeal to any appellate court of Alabama. The cost of said appeal shall be taxed against the unsuccessful party. If any employee shall wilfully refuse or fail to appear before any Board or body authorized to conduct any hearing or inquiry, or having appeared shall refuse to testify or answer any question relating to the affairs of government or the conduct of any officer or employee on the ground that his testimony or answers would tend to incriminate him, or shall refuse to waive immunity from prosecution on account of any matter about which he may be asked to testify (text apparently omitted in original) and shall not be eligible for appointment to any position under the jurisdiction of this Act. An Appointing Authority may, from time to time, peremptorily suspend any employee without pay or other compensation, and without the right of a hearing, as punishment for improper behavior, but any one suspension shall not exceed five days and the total suspension by such Appointing Authority of such person shall not exceed ten days in any year of service. Such suspension with loss of pay may be effected only by service upon the employee by the Appointing Authority of written charges setting out clearly the delinquency for which such suspension was made, a copy of which must be at the same time mailed or delivered to the Director. The suspended employee shall have the right to file with the Board and the Appointing Authority a written answer or explanation of such charges. Any employee suspended without right to a hearing before the Board may obtain a review of his or her suspension by the Appointing Authority by filing with the Appointing Authority not more than ten days thereafter a written answer to such charges and a request for such review. A hearing shall be held thereon not more than twenty days thereafter to determine whether such suspension should be rescinded. At any such hearing such employee may be represented by counsel and present relevant testimony. The Appointing Authority may authorize a representative to conduct such hearing and submit within five days thereafter a finding of facts

and law together with recommendations to the Appointing Authority. Within a period of ten days after such hearing the Appointing Authority may rescind all or any part of such suspension. A suspended employee shall be entitled to full salary for any period of suspension rescinded hereunder. (As amended by Act No. 562, 1947; Act No. 670, 1953; Act No. 1600, 1971; Act No. 679, 1977; Act No. 684, 1977.)

Note: This section was amended by Acts No. 679 and 684, 1977, which were both enacted as of 6:00 p.m., May 23, 1977. Both acts purport to set forth the current version of this section, but the acts contain inconsistent and contradictory provisions. Therefore, reference should be made to this version of Section 22 and to the prior version. It is unclear how conflicting or inconsistent provisions in these two versions will be resolved or how this section will be construed.

Section 23. Reduction in Force. Whenever it is necessary because of lack of work, lack of funds or whenever it is advisable in the interest of economy to reduce the staff of any department or agency of the counties, or any municipality affected by this Act, the appointing authorities shall lay off employees according to the procedure set forth in this Act and the rules and regulations prescribed thereunder. The duties performed by the employee or employees so laid off may be assigned to any other permanent civil service employee or employees in the department or office, who, in the opinion of the Director of Personnel, are qualified to perform such duties regardless of the specific classification or grade to which such employees are allocated. Layoffs shall be made by laying off the employee in the classification to be affected by the last layoff who last attained such classification or grade, and so on in succession. In case there are two or more who would be affected by a layoff, and who have an equal rating as to seniority, the employee who stands lowest according to the efficiency records kept by the Director of Personnel shall be laid off. When an employee is laid off in a department which has other classifications or grades lower [sic] than the classification or grade from which he, or she, is laid off, he, or she, shall have the option of working in any other lower classification or grade in the same department, provided the Director of Personnel finds that he, or she, is qualified to perform the duties of such lower classification or grade in the same department, provided the Director of Personnel finds that he, or she, is qualified to perform the duties of such lower classification or grade, such option being subject, however, to the following limitation. Where an employee so laid off elects to drop to a lower classification or grade, and where the Appointing Authority reduces the number of employees in such lower classification or grade, the reduction shall be made in the manner in which it is hereby provided layoffs shall be made, except that such reduction shall in no case cause the lay off of any permanent employees in such lower classification or grade who has more seniority in the department than the employee laid off from the higher classification or grade. A person laid off from a classification or grade shall have the right, so long as he, or she, is in the service or on the layoff list to return to the position from which he, or she, is laid off, in the event such position is refilled. The names of employees laid off as provided herein shall be placed upon the department layoff list for such position as in the opinion of the Director of Personnel the employees are qualified and entitled to hold, including any positions which may be thereafter created in the department. The order of the names on the layoff list shall be in the relative order of seniority; provided, however, that where there are two or more employees who are equal in seniority they shall stand on the layoff list in the order of their efficiency records kept by the Director of Personnel. All permanent employees in the classified service compensated on a monthly basis who are to be laid off are to be given fifteen days' notice of such layoff prior to the effective date hereof.

Section 23(1). Dismissal of Employee or Appointee Who has Reached the Age of Seventy. No appointee or employee, as defined and described in this Act shall hold any position in the classified service provided for in said Act after he shall have attained the age of 70 years. Each Appointing Authority shall cause any employee or appointee who shall have attained the age of 70 years to be dismissed from such classified service. (Added by Act No. 560, 1959.)

Section 24. Certification of Payrolls. It shall be unlawful for the fiscal officer of either a county or any municipality affected by this Act to draw, sign, issue or authorize the drawing, signing, or issuing of any warrant on the treasurer or other disbursing officer of either the municipality or the county for the payment of or for the treasurer or other disbursing officer to pay any salary or compensation to anyone holding any position subject to the provisions of this Act unless the estimate, payroll, warrant, or account for such salary or compensation containing the name of the person to be paid shall bear the certification of the Director of Personnel, that the person or persons named in the estimate, payroll, warrant or account are holding hereunder and are legally entitled to receive the sums stated therein. Any sum paid contrary to any provision of this Act or of any rule, regulation or order thereunder may be recovered, in an action maintained in the name of the county or municipality by the county or city attorney, or by any citizen or taxpayer of the county or who signed or countersigned a voucher payroll, check or warrant for such payment, or from the sureties on the official bond of any such officer. All moneys recovered in any such action shall be paid into the treasury from which payment was made. The county or city attorney or any citizen or taxpayer of the county or municipality may likewise maintain a suit to restrain a disbursing officer from making any payment in contravention of any provision of this Act or any rule, regulation or order thereunder. Any person appointed or employed in contravention of any provision of this Act or of any rule, regulation, or order thereunder who performs service for which he is not paid, may maintain an action against the officer or officers who purported so to appoint or employ him to recover the agreed pay for such services, or the reasonable value thereof if no pay was agreed upon. No officer shall be reimbursed by the county or municipality at any time for any sum paid to such person on account of such services. If the Director wrongfully withholds certification of the payroll voucher or account of any employee, such employee may institute a proceeding to compel the Director to certify such payroll voucher or account. The Director of Personnel shall have the authority to establish rules for calculating pay for payroll purposes. The said rules shall prescribe that pay may be calculated on a bi-weekly, semi-monthly or upon a 30-day month basis, or upon any other basis deemed appropriate by the governing body of a county or municipality, affecting the employees of the said county or municipality; provided, however, that no such rule shall result in any employee being paid during the period of any one year any amount less than or greater than the pay established under Section 12 of this Act for the position held by such employee, or the positions held by him in case he holds more than one position during said period. In order to prevent evasions of the purpose of this Act, the board may require that payrolls for the payment of persons in the unclassified service, except officials exempted from this Act, be submitted for certification in the same manner as herein provided for payrolls covering employees holding positions in the classified service. It shall be unlawful for any person to make or authorize a payment of such payroll after notice by the Board that such certification shall be required.

(Amended by Act No. 715, 1965.)

Section 25. Political Activities Prohibited. No person shall be appointed or promoted to, or demoted or dismissed from any position, or in any way favored or discriminated against with respect to employee because of his political or religious opinions or affiliations or his race. No person shall seek or attempt to use any political endorsement in connection with any appointment to a position. No person shall use or promise to use, directly or indirectly, any official authority or influence, whether possessed or anticipated, to secure or attempt to secure for any person an appointment or advantage in appointment to a position, or an increase in pay or other advantage in employment in any such position, for the purpose of influencing the vote or political action of any person, or for any consideration. No employee and no member of the Board shall, directly or indirectly, pay or promise to pay any assessment, subscription or contribution for any political organization or purpose, or solicit or take any part in soliciting any such assessment, subscription or contribution. No person shall solicit any such assessment, subscription or contribution of any employee. No employee shall be a member of any national, state or local committee of a political party, or an officer of a partisan political club, or a candidate for nomination or election to any public office, or shall take any part in the management or affairs of any political or in any political campaign, except to exercise his right as a citizen privately to express his opinion and to cast his vote. Any officer or employee under the jurisdiction of this Act who violates any of the foregoing provisions of this section shall forfeit his office or position. Provided that nothing in this section shall be construed so as to deny the right of a public servant to petition his city, county, state or national government. (Amended by Act No. 591, 1967.)

Note: Sec. 17-1-7, Code of Alabama, 1975 revises this section, though Section 25 technically remains part of the Enabling Act.

Section 26. Penalties. Any person found guilty of doing any act herein declared to be a misdemeanor shall be punished as provided by Section 327 of Title 15 of the 1940 Code. (Now, Sec. 15-8-3, Code of Alabama 1975).

Section 27. Severability. If for any reason, any clause, sentence, sub-section or section, or provision of this Act, or the application thereof to any person, body, situation, or circumstance is held invalid or inoperative, the remainder of this Act and the application thereof to any other person, body, situation or circumstance shall not be affected hereby.

Section 28. Repealing Clause. All laws or parts of laws inconsistent with or in conflict with this Act are hereby expressly repealed, subject to the provisions of Section 29 hereof.

Section 29. Effective dates. The Civil Service System existing at the time of the passage of this Act, in any county to which this Act shall become applicable upon its passage, shall be continued in force and effect under the terms and provisions of this Act, without any change in the rights, privileges, duties, benefits or liabilities upon the part of any person or body, except to the extent that the terms and provisions of this Act make such change. In other words, such previously existing civil service system shall be absorbed and continued into the civil service system provided by this Act, with no changes of any kind to be made except to the extent that this Act differs in its provisions from the provisions of such previously existing civil service system. As respects the County Board of Health and the Board of Registrars, which, in the only county to which this Act will be applicable forthwith upon its passage, have not hereto before been subject to a civil service system, there shall be allowed a period of six months in which to organize and prepare for the administration of the personnel system herein provided for said Boards, and during such period of six months the employees and appointees of such Boards shall continue in all respects under and subject to the laws to which they are subject at the time of the passage of this Act. When any county or municipality or Appointing Authority hereafter becomes subject to this Act, a period of six months shall be allowed in which to organize and prepare for the administration of the personnel system herein provided for, and during such period of six months the employees of such county, municipality or Appointing Authority shall continue in all respects under and subject to the laws which they are subject to at the time such county, municipality or Appointing Authority becomes subject hereto.

Section 30. Executive Exempt Service. The classification of exempt executive service for Class 1 municipalities is hereby created. The Board shall have authority to designate or create positions in the exempt executive service upon recommendation or request of the Appointing Authority of any Class 1 municipality. Such positions shall be created or designated for primary policy determining positions such as department heads and their chief deputies. Persons employed in the exempt executive service shall serve at the pleasure of the Appointing Authority, at a rate of compensation and benefits set by the Appointing Authority. Such persons shall have no right of appeal to the Board and no property interest in any exempt job. In the event that an employee of the classified service is appointed to the exempt executive service, such employee shall have the option to return to the classified service at any expiration or termination of the exempt appointment, at the same job classification from which such employee was appointed. Exempt executive service employees shall be members of any pension system available for employees in the department they serve unless the exempt person elects in writing to forfeit such participation. No person currently in the classified service shall be designated as in the exempt executive service unless such person voluntarily elects exempt status with the approval of the Board and the Appointing Authority.

Editorial Note: This section was added by Act No. 89-805 which became effective May 11, 1989.