

1 HB126
2 181073-1
3 By Representative Brown (N & P)
4 RFD: Local Legislation
5 First Read: 07-FEB-17

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9 A BILL
10 TO BE ENTITLED
11 AN ACT
12

13 Relating to the Civil Service Board of the City of
14 Jacksonville in Calhoun County; to amend Sections 45-8A-71.04,
15 45-8A-71.05, 45-8A-71.06, 45-8A-71.08, 45-8A-71.09,
16 45-8A-71.10, 45-8A-71.11, 45-8A-71.12, 45-8A-71.13,
17 45-8A-71.14, and 45-8A-71.15, Code of Alabama 1975, to clarify
18 that the minimum age of a board member is 25; to provide
19 further for the compensation of board members; to provide that
20 certain actions of the board are subject to the approval of
21 the Jacksonville City Council; to provide for the maintenance
22 and review of employee personnel files; to provide further for
23 the review, examination, and registration of job applicants;
24 to provide further for the filling of job vacancies from
25 qualified applicants; to provide further for the discharge of
26 unsatisfactory probationary subordinate employees and the
27 suspension of employees for personal misconduct; to provide

1 further for the authority of the mayor and administrator when
2 charges filed against an employee are of a minor nature; to
3 require the city council to provide a board office within the
4 city in lieu of within city hall; and to prohibit any person
5 dismissed from service for willfully violating civil service
6 rules and regulations from being reappointed.

7 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

8 Section 1. Sections 45-8A-71.04, 45-8A-71.05,
9 45-8A-71.06, 45-8A-71.08, 45-8A-71.09, 45-8A-71.10,
10 45-8A-71.11, 45-8A-71.12, 45-8A-71.13, 45-8A-71.14, and
11 45-8A-71.15 of the Code of Alabama 1975, are amended to read
12 as follows:

13 "45-8A-71.04.

14 "(a) There is created the Civil Service Board of the
15 City of Jacksonville, which shall be composed of five members
16 appointed by the state senator and state representative who
17 represent the city in the Legislature from a list of three
18 nominees for each position on the board submitted by each of
19 the following groups of city employees:

20 "(1) Employees of the street and sanitation
21 department.

22 "(2) Employees of the police and fire department.

23 "(3) Employees of the gas, water, and sewer
24 department.

25 "(4) Employees of the offices of the mayor, the city
26 council, the city clerk, the city library, and the city
27 recreation department.

1 "(b) At least 60 days prior to the expiration of the
2 term of a member of the civil service board, each of the
3 aforementioned groups of city employees shall hold a
4 department meeting for the purpose of nominating three
5 candidates for appointment to each board position with an
6 expiring term of office. The head of each of the
7 aforementioned city departments, or his or her designee, shall
8 preside over the meeting in accordance with Roberts Rules of
9 Order and shall administer the nominating process including
10 any necessary election. If more than three candidates are
11 nominated, a secret ballot election shall be conducted at the
12 meeting. The three candidates on the ballot who come in first,
13 second, and third in the balloting shall be the nominees for
14 the group. The names of the three nominees shall be submitted
15 to the state senator and state representative at least 30 days
16 prior to the expiration of the term of the board member. The
17 state senator and state representative representing the city
18 shall appoint one member from the nominees submitted by each
19 group. One other board member-at-large shall be appointed by
20 the state senator and state representative representing the
21 city. Each appointee shall serve for terms of six years and
22 until his or her successor is appointed.

23 "(c) No person shall be appointed to the board who
24 is not a qualified elector of the City of Jacksonville and
25 ~~over~~ under the age of 25 years.

26 "(d) Members of the board shall take the
27 constitutional oath of office, which shall be filed in the

1 office of the judge of probate. Vacancies on the board shall
2 be filled in the same manner as the original appointment. The
3 members of the board shall elect a chair, vice chair, and a
4 secretary from among their members.

5 "(e) (1) Any member of the board who becomes a
6 candidate for, or is elected or appointed to another public
7 office, shall vacate his or her office as a member of the
8 board.

9 "(2) Any member of the board who fails to attend
10 three consecutive regular meetings of the board or six regular
11 meetings of the board within a twelve-month period shall be
12 deemed to have vacated his or her office as a member of the
13 board and the vacancy shall be filled as provided herein.

14 "45-8A-71.05.

15 "(a) (1) The chair of the board serving in that
16 position before the effective date of the act amending this
17 subdivision shall be paid one hundred twenty-five dollars
18 (\$125) per month, the vice chair serving in that position
19 before the effective date of the act amending this subdivision
20 shall be paid one hundred ten dollars (\$110) per month, and
21 all other members of the board serving on the board before the
22 effective date of the act amending this subdivision shall be
23 paid one hundred dollars (\$100) per month.

24 "(2) The monthly compensation of any member elected
25 to the position of chair or vice chair on or after the
26 effective date of the act adding this subdivision, or
27 appointed to serve on the board on or after the effective date

1 of the act adding this subdivision, shall be an amount
2 mutually agreed upon by the board and the governing body.

3 "(b) Board members shall be paid by the City of
4 Jacksonville. The board shall have power to appoint clerical
5 assistance and engage the legal counsel of its choice.

6 "45-8A-71.06.

7 "The board shall fix the times for its regular
8 meetings, and it shall hold at least one regular meeting each
9 month. The board may also hold special, adjourned, or called
10 meetings at any time. Members of the board serving before the
11 effective date of the act amending this section who are in
12 attendance at special or called meetings shall receive twenty
13 dollars (\$20) for attendance. Members of the board appointed
14 on and after the effective date of the act adding this
15 sentence shall receive additional compensation, in an amount
16 mutually agreed upon by the board and the governing body, for
17 attending special or called meetings of the board. Board
18 members shall not be paid for more than two special or called
19 meetings in any calendar month. A majority of the members of
20 the board shall constitute a quorum for the transaction of
21 business. All meetings of the board shall be held in ~~the city~~
22 hall accordance with all applicable open meeting requirements
23 in a location provided by the city.

24 "45-8A-71.08.

25 "(a) The board may make rules and regulations
26 governing examinations, eligible registers, appointments,
27 transfers, minimum and maximum salaries, promotions,

1 demotions, annual and sick leave, ~~step~~ and merit raises. Any
2 action taken by the board affecting a rule or regulation
3 relating to transfers, minimum and maximum salaries,
4 promotions, demotions, annual leave, sick leave, and other
5 matters as may be necessary to accomplish the purposes of this
6 part, is subject to the consent of the governing body. If any
7 ~~step~~ merit raise has been denied or demotion has been
8 recommended by the appointing authority, the employee has 10
9 working days to contest the denial or demotion to the board.
10 After the review of all facts, the ~~decision~~ findings of the
11 board shall ~~be final~~ stand unless the ruling of the board is
12 appealed to the governing body for a final decision regarding
13 the matter. A rule or regulation may be made only after a
14 public hearing is held on the proposed rule or regulation and
15 after a certified copy of ~~it~~ the rule or regulation has been
16 filed with the city clerk. All employees shall be appointed
17 upon a nonpartisan merit basis without regard to race, color,
18 national origin, political affiliation, disability, age, sex,
19 or religion. There shall not be appointed, and the board shall
20 not examine, any person who is not a citizen of the United
21 States. ~~The~~ With the approval of the governing body, the board
22 shall do all of the following:

23 "(1) Classify the different types of services to be
24 performed in the service of the city.

25 "(2) Prescribe qualifications, including those of
26 education, training, and experience, for the appointees and
27 incumbents of each class.

1 "~~(3) With the approval of the appointing authority,~~
2 ~~fix~~ Fix a maximum and minimum salary for each class.

3 "(4) Allocate each position in the service to its
4 proper class based on a determination by the governing body,
5 pursuant to its budgetary process, of the number of positions
6 eligible for appointment in each class.

7 "(b) The ~~board~~ appointing authority shall provide
8 for the periodic rating of employees according to their merit
9 to determine whether they are maintaining standards of
10 service. ~~The~~ With the consent of the governing body, the board
11 shall establish rules and regulations governing dismissals,
12 suspensions, layoffs, terminations, and leaves of absence. The
13 severance of ~~any employee's~~ the relationship of any employee
14 with the city shall be in accordance with ~~the board's~~ board
15 regulations.

16 "(c) The appointing authority shall maintain a
17 personnel file on each employee. The personnel file of any
18 employee may be reviewed by the board whenever determined
19 necessary by the board.

20 "45-8A-71.09.

21 "The salary to be paid each subordinate employee
22 shall be determined by his or her appointing authority; and
23 the salary to be paid each department head employee shall be
24 determined by the city governing body. The salary paid to each
25 department head and each subordinate employee shall be within
26 the ~~pay plan and pay rules and regulations~~ minimum and maximum
27 salary range established by the governing body and the board

1 ~~and shall be no more than the board approves~~ for the
2 applicable position. It shall be unlawful for any official or
3 employee to draw or issue any warrant on the city treasury for
4 the payment of salary to any employee covered by this part
5 unless the warrant is in an amount within the minimum and
6 maximum salary range authorized by the board and approved by
7 the appointing authority to be paid the employee. A sum paid
8 as salary contrary to this section may be recovered in an
9 action brought by any resident of the city against the
10 official or employee who draws or issues the warrant, or
11 against the sureties on his or her bond.

12 "45-8A-71.10.

13 "The board shall make and keep a register of all
14 persons eligible and available for appointment to each class
15 of position in the service of the city, ~~ranked according to~~
16 ~~ability~~. No examination shall be given and no register kept
17 for positions to be filled by persons designated by the board
18 as ~~common~~ laborers. Layoffs available for re-employment shall
19 be placed at the head of the proper present and subsequent
20 eligible registers in the inverse order of their terminations.
21 Employees who voluntarily terminate their services may be
22 granted re-employment status upon proper eligible registers
23 under the circumstances and in the manner as may be provided
24 for in the ~~board's~~ rules and regulations of the board, subject
25 to stipulations of this section concerning layoffs. Persons
26 desiring appointment may file applications with the board, and
27 the board ~~shall~~, from time to time, may conduct examinations

1 to test the ability of the applicants if requested by the
2 governing body. All ~~qualified~~ applicants shall be ~~examined~~
3 reviewed and determined by the board to be qualified or
4 unqualified based on the applicable job description. Should
5 the governing body request that the applicants for a
6 particular position be examined, ~~and~~ the examinations shall be
7 public, competitive, and subject to the limitations specified
8 by the board, and approved by the governing body, as to age,
9 residence, health, height, weight, habits, moral character,
10 and other factors pertinent to the ability to discharge the
11 duties of the position. The ~~civil service~~ board shall fill
12 vacancies in the classified service, insofar as practicable,
13 by promotions from among regular employees holding positions
14 in the classified service. If the board decides to fill a
15 vacancy within the classified service, ~~it~~ the board shall
16 determine the regular employees holding the classified
17 positions in the department or departments eligible to take
18 the examination. Examinations shall be practical in character
19 and shall relate to those matters which test the ability of
20 the person examined to discharge intelligently the duties of
21 the position for which he or she applies. In no case shall an
22 appointment be made from an eligible register which is more
23 than one year old, ~~and no eligible register shall be the~~
24 ~~result of more than one examination~~.

25 "45-8A-71.11.

26 "Whenever a vacancy exists in any position in the
27 service of the city, it shall be filled by appointment of ~~one~~

1 ~~of the five persons who rank highest~~ a person on the
2 appropriate eligible register of the board. ~~In the event there~~
3 ~~are less than five eligible qualified applicants,~~ the ~~The~~
4 vacancy may be filled from the ~~number of~~ eligible qualified
5 applicants which are on the appropriate register, or by
6 transfer within the service of the city from another position
7 of essentially the same class. However, the ranking layoff of
8 the same class shall be appointed in every instance. The
9 appointing authority may reject any eligible list ~~that~~
10 ~~contains less than five persons,~~ and the list shall be
11 abolished. ~~However, the appointing authority may select a~~
12 ~~person from an eligible list that has less than five names.~~
13 ~~The board may authorize the governing body to~~ may fill the a
14 vacancy temporarily pending the establishment of an eligible
15 register. No authorization may be given for longer than 120
16 calendar days, and no employee shall have status under this
17 part. All appointments, other than temporary appointments,
18 shall be probationary for 12 months from the date of the
19 appointment. A probationary subordinate employee may be
20 discharged by the ~~governing body~~ appointing authority for
21 unsatisfactory service at any time before the expiration of
22 that period if the action is approved by the ~~board~~ governing
23 body. A probationary department head may be discharged or
24 demoted similarly by the governing body ~~upon approval by the~~
25 ~~board.~~ The discharge of a probationary employee shall be
26 reported to the board at the next regularly scheduled meeting
27 of the board held after the discharge. After the expiration of

1 the probationary period, an appointment shall become
2 permanent.

3 "45-8A-71.12.

4 "The ~~governing body shall be the authority to~~
5 appointing authority may suspend an employee for any personal
6 misconduct or fact affecting or concerning his or her fitness
7 or ability to perform his or her duties in the public
8 interest. In the event an employee is suspended for more than
9 30 work days in any one year, he or she shall be entitled to a
10 public hearing by the board upon a written demand filed within
11 five working days from the date of the order of suspension.
12 If, after a hearing, the board determines that the action of
13 the ~~governing body~~ appointing authority was for insufficient
14 cause, the suspension shall be revoked.

15 "45-8A-71.13.

16 "(a) The governing body of the city may remove,
17 discharge, or demote any employee, officer, or official of the
18 city who is subject to this part and who is directly under the
19 governing body, provided that within five working days a
20 report in writing of the action is made to the board, giving
21 the reason for the removal, discharge, or demotion. The
22 employee shall have 10 working days from the time of written
23 notification of his or her discharge, removal, or demotion in
24 which to appeal to the board. Upon receipt of the appeal, the
25 board shall order the charges or complaint to be filed with it
26 in writing and shall hold a hearing on the charges. No
27 permanent employee, officer, or official of the city whose

1 employment comes within the coverage of this part, and whose
2 probationary period has been served, shall be removed,
3 discharged, or demoted except for some personal misconduct, or
4 fact, rendering his or her further tenure harmful to the
5 public interest, or for some cause affecting or concerning his
6 or her fitness or ability. If the removal, discharge, or
7 demotion is appealed to the board, then the action ~~will~~ shall
8 become final only after a hearing upon written charges or
9 complaint. At the hearing, the employee shall have the
10 opportunity to face his or her accusers and be heard in his or
11 her own defense. Pending a hearing on the appeal, the employee
12 may be suspended. After the hearing the board may order the
13 employee reinstated, demoted, removed, discharged, or
14 suspended, or take any other disciplinary action which in its
15 judgment is warranted by the evidence and the law. Charges may
16 be filed against an employee subject to this part by any
17 citizen as follows:

18 "(1) The charges shall be in writing.

19 "(2) The charges shall state the facts succinctly.

20 "(3) The charges shall be sworn to before any member
21 of the board or before any person authorized to administer
22 oaths.

23 "(b) Upon the receipt of the charges, the board,
24 after due consideration, shall determine whether in its
25 opinion it considers that the good of the service will be
26 served by a hearing on the charges and, if not, the charges
27 may be dismissed by the board. If in the judgment of the board

1 the charges are of a minor nature, the charges may be referred
2 by the board to the mayor, administrator, or proper department
3 head. The mayor, administrator, or proper department head
4 shall make an investigation of the charges and make his or her
5 recommendation to the board, within the time prescribed by the
6 board as to what disciplinary action, if any, should be taken.

7 "(c) After the recommendation is made by the mayor,
8 administrator, or department head and after due notice of the
9 recommendation is given to the affected employee the board
10 ~~may~~, in its discretion, may adopt the action recommended by
11 the mayor, administrator, or department head or any part of
12 the order. However, if the complaint of the affected employee,
13 or both of them, objects to the recommendation of the
14 department head, the board shall hold a public hearing again
15 on the charges, and take whatever disciplinary action in its
16 judgment is warranted by the evidence and the law. All
17 hearings before the board shall be open to the public. All
18 testimony given in all hearings before the board shall be
19 under oath and taken down in writing. In all cases, the
20 decision of the board shall be reduced to writing and entered
21 in the record of the case. In all proceedings before the
22 board, the city attorney may appear and prosecute all charges
23 instituted by the mayor, city governing body or any of its
24 members, or by any department head, when requested or directed
25 to do so by the city governing body. It shall not be the duty
26 of the city attorney to prosecute any charges brought by a
27 private citizen. In all proceedings before the board, the city

1 attorney may appear and represent the interests of the city,
2 and give such legal advice and legal assistance as the board
3 may require.

4 "(d) The board and its specially authorized
5 representatives shall have the power to administer oaths, take
6 depositions, certify official acts, and issue subpoenas to
7 compel the attendance of witnesses and production of papers
8 necessary as evidence in connection with any hearing,
9 investigation, or proceedings provided by this part. The chief
10 of police or some other police officer of the city shall serve
11 all processes of the board, and shall attend and preserve
12 order at all public hearings conducted by the board. If a
13 person refuses to obey a subpoena, the board or its
14 representative may enforce the subpoena in any circuit court
15 of competent jurisdiction in order that the testimony or
16 evidence be produced. Upon proper showing, the court shall
17 issue a subpoena or order requiring the person to appear
18 before the board or its representative and produce all
19 evidence and give all testimony relating to the matter in
20 issue. A person who fails to obey the subpoena order may be
21 punished by the court as for contempt. The fees of witnesses
22 for attendance and travel shall be the same as fees for
23 witnesses in the circuit courts of the state, which fees shall
24 be paid from the treasury of the city.

25 "(e) Any person aggrieved by a decision of the board
26 may appeal the decision to the Circuit Court of Calhoun County
27 within 30 days from the rendition of the decision by the

1 board. Review by the court shall be without a jury and be
2 confined to the record. The court shall make a determination
3 of the questions of law presented and the board's findings of
4 fact shall be final and conclusive.

5 "45-8A-71.14.

6 "The board shall receive from the city governing
7 body an annual budget of at least twenty-five thousand dollars
8 (\$25,000) per year. The funds shall be allocated pursuant to
9 the same budgetary process as is applicable to other city
10 departments. The funds shall be accounted for in the same
11 manner as other city funds are accounted. The funds shall be
12 used to pay compensation, expenses, and for the operation of
13 the board. The city governing body shall provide the board an
14 office in ~~the~~ a city hall facility, which shall be suitably
15 equipped and furnished for the needs of the board, including
16 telephone service, postage, office supplies, and stationery.

17 "45-8A-71.15.

18 "Any person in the service of the city by
19 appointment under civil service rules or regulations who
20 willfully violates this part, or any rule or regulation issued
21 pursuant to this part shall be dismissed from service and
22 shall not be reappointed ~~for two years.~~"

23 Section 2. This act shall become effective on the
24 first day of the third month following its passage and
25 approval by the Governor, or its otherwise becoming law.