

1 HB473
2 204778-2
3 By Representative Simpson (N & P)
4 RFD: Baldwin County Legislation
5 First Read: 04-MAY-20

1
2 ENROLLED, An Act,

3 Relating to Baldwin County; to amend Sections
4 45-2-234.05, 45-2-234.06, 45-2-234.07, 45-2-234.08, and
5 45-2-234.09, Code of Alabama 1975, relating to the Baldwin
6 County Sheriff's Office Personnel Merit System; to further
7 provide for the qualifications of members of the board; to
8 amend the election process for members of the board; and to
9 further provide for a process for appeal from decisions of the
10 board.

11 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

12 Section 1. Sections 45-2-234.05, 45-2-234.06,
13 45-2-234.07, 45-2-234.08, and 45-2-234.09, Code of Alabama
14 1975, are amended to read as follows:

15 "§45-2-234.05.

16 "All ~~annual, personal,~~ sick leave, and longevity
17 time accrued by an employee shall be transferred, with the
18 employee, from the county system to the Sheriff's Personnel
19 Merit System.

20 "§45-2-234.06.

21 "(a) There shall be established the Sheriff's Office
22 Personnel Appeals Board. The board shall hear all appeals from
23 final action as requested by an affected employee of the
24 sheriff's office, other than an appointed employee.

1 "(b) The Sheriff's Office Personnel Appeals Board
2 shall be composed of five persons ~~who are residents of the~~
3 ~~county~~. The members of the board shall be appointed as
4 follows: Two members shall be appointed by the sheriff and two
5 members shall be selected by the classified employees using
6 the procedure provided in Section 45-2-234.07. The fifth
7 member shall be selected by the other four members of the
8 board within 30 days after the four members of the board are
9 selected and take office. In the event the four members of the
10 board cannot agree on a fifth member within 30 days, then the
11 fifth member shall be selected as follows: The members
12 appointed by the sheriff shall nominate one person and the
13 members selected by the classified employees shall nominate
14 one person. From these two nominees, the fifth member of the
15 board shall be selected by lot.

16 "§45-2-234.07.

17 "(a) The personnel officer shall ~~cause to be placed~~
18 ~~with the paychecks tendered to all classified employees, other~~
19 ~~than appointed officials, a notification~~ notify all classified
20 employees that nominations for membership on the board will be
21 accepted for a period of 10 days from that date and
22 instructing all interested classified employees to submit
23 nominations to the personnel officer of the sheriff's office
24 within that period. Nominations shall be limited to persons
25 who are ~~classified~~ merit employees of the sheriff's office.

1 "(b) The personnel officer shall compile a list of
2 the nominations and cause ballots to be prepared ~~for inclusion~~
3 ~~with the next paychecks tendered~~ and distributed to all
4 classified employees, other than appointed officials, and
5 shall instruct all classified employees of their right to vote
6 for ~~two names and only two names~~ one name contained on the
7 list of nominees.

8 "(c) The employees shall be instructed to tender
9 their ballots in sealed envelopes to ~~their supervisors within~~
10 ~~five days for submission to~~ the personnel officer who shall
11 make appropriate arrangements for their ~~retrieval and~~
12 ~~tabulation in the presence of at least two members of the~~
13 ~~Baldwin County legislative delegation~~ tabulation. Upon
14 tabulation of the ballots, the personnel officer shall obtain
15 written certification executed by all the county employees who
16 assisted during the counting of the ballots and shall submit
17 the fully executed written certification to the Baldwin County
18 legislative delegation following each election. The
19 certification and ballots shall be retained by the personnel
20 officer as public records for 12 months from the date of the
21 certification of the results.

22 "(d) In the event that any one employee receives a
23 majority of all votes cast, he or she shall be deemed elected
24 to serve on the board. In the event that no ~~two employees~~
25 ~~receive at least a 25 percent plurality of all votes,~~ employee

1 receives a majority of all votes cast, then the names of the
2 ~~four~~ two employees receiving the most votes on the initial
3 ballot shall be placed on a run-off ballot and voted upon by
4 the employees as set forth above. The ~~two employees~~ employee
5 then receiving the most votes shall be deemed elected to
6 membership on the board.

7 "§45-2-234.08.

8 "(a) The original members shall serve for the
9 following terms: One for one year, one for two years, one for
10 three years, and two for four years, as determined by the
11 drawing of lots. Thereafter, all members shall serve for a
12 period of four years. No person shall be appointed to the
13 board unless he or she is ~~a resident and qualified elector of~~
14 ~~Baldwin County~~ and over the age of ~~21~~ 18 years.

15 "(b) Members of the board shall take the
16 constitutional oath of office, ~~which shall be filed in the~~
17 ~~office of the Judge of Probate of Baldwin County.~~ Vacancies on
18 the board shall be filled for the unexpired term of the vacant
19 position in the same manner as original appointments are made.
20 The members of the board shall elect a chair and secretary
21 from among their members. Any member of the board who becomes
22 a candidate for, or is elected or appointed to, another public
23 office of profit must vacate his or her office as a member of
24 the board. No board member shall be an elected official,

1 appointed employee, or employee of the county commission, or
2 any municipal government.

3 "(c) The office of sheriff may provide reasonable
4 compensation to members of the board for the performance of
5 their duties. The compensation may be paid from any monies
6 allocated to the office of sheriff.

7 "(d) No person who holds elected office, is a
8 candidate for elected office, or receives a salary from the
9 sheriff's office, except the classified employee board
10 members, shall serve on the board. An employee board member's
11 term shall immediately terminate upon occurrence of any one of
12 the foregoing conditions. A vacancy shall be filled in the
13 same manner as the original appointment of a board member as
14 soon as possible after a vacancy occurs. A board member shall
15 be eligible for reappointment to successive terms on the
16 board.

17 "(e) The board shall follow administrative
18 procedures adopted by the appointing authority to implement
19 the appeals process. The personnel officer shall provide all
20 necessary clerical and administrative support for the board.
21 The board shall meet as needed. Each year, board members shall
22 select from among themselves a chairperson and secretary of
23 the board. Board members may be compensated as established
24 from time to time by the sheriff's office.

1 "(f) All testimony shall be under oath and the board
2 has the power to subpoena witnesses and demand production of
3 relevant documents. The board has the authority to affirm,
4 revise, or amend any previous personnel decisions after a
5 hearing. Final action may be taken by the sheriff or by a
6 division or department head subject to the final authority of
7 the sheriff.

8 "(g) The board shall hear all appeals from the final
9 action of the division or department head or the sheriff with
10 respect to disciplinary action, except for appointed
11 officials. From any adverse decision of the board, the
12 employee or the sheriff may, within seven work days, appeal to
13 the Circuit Court of Baldwin County based on the record of the
14 administrative hearing before the board."

15 "§45-2-234.09.

16 "(a) A classified employee, other than appointed
17 officials, shall have the right to appeal any disciplinary
18 action taken against him or her. An employee on probationary
19 status shall not have that right unless the employee had
20 permanent status in some other position at the time of
21 appointment to the probationary position. An employee, other
22 than appointed officials, desiring to appeal any disciplinary
23 action directed against him or her shall first exhaust any
24 administrative remedy as provided by policy of the sheriff's
25 personnel system. Upon exhausting any administrative remedy,

1 the employee shall then file his or her appeal in writing with
2 the personnel officer within seven calendar days of the last
3 final administrative action on the disciplinary action, and
4 shall request a hearing before the personnel appeals board.
5 Within seven calendar days after the receipt of the appeal,
6 the personnel officer shall file with the chair of the board
7 and mail to the employee by certified mail a statement
8 specifying the charges against the employee on which the
9 disciplinary action was based. Upon the filing of the charges,
10 the chair shall call a meeting of the board to be held within
11 30 days after the filing of charges to hear the appeal, and
12 shall forthwith give notice by certified mail to the employee
13 and the board of the time and place of the meeting. Notice
14 must be given 10 working days prior to the meeting. The board
15 shall have the authority to continue the hearing from time to
16 time as may be necessary. In preparing for and conducting the
17 hearing, the chair and secretary of the board shall each have
18 the power to administer oaths, to subpoena and require the
19 attendance of witnesses and the production of books,
20 documents, and accounts pertaining to the grievance.

21 "(b) Subpoenas issued as herein provided shall be
22 served and the fees and allowances for the services thereof
23 shall be the same as is provided by law for the service of
24 subpoenas issued by the Circuit Court of Baldwin County. The
25 fees and allowances in connection with the service of the

1 subpoena issued at the request of the sheriff's office upon
2 request of the board shall constitute reasonable and necessary
3 expenses of the board. Any subpoena issued at the request of
4 the employee shall be served as provided above, but only after
5 the employee shall have deposited sufficient security with the
6 sheriff or other recognized officer as will guarantee payment
7 of the fees and allowances for the service. Any person failing
8 to obey any summons by either of the officers of the board
9 without good cause, to be determined by the Circuit Court of
10 Baldwin County, may be punished by the court in the same
11 method and manner as is provided by law for contempt of the
12 court, and any person failing to obey any order or subpoena of
13 the court, may be proceeded against by the court as is by law
14 provided in the case of contempt of the court. In addition,
15 any employee of the county who fails to obey any of the orders
16 or subpoenas may be disciplined as provided in this subpart.

17 "(c) At the hearing before the board, the employee
18 and his or her department head or supervisor shall each have
19 the right to be represented by counsel, with the sheriff's
20 office authorized to employ legal counsel to represent the
21 interest of the sheriff's office, the hearing shall be
22 governed by rules of practice and procedure as shall be
23 adopted by the board, and in conducting the hearing, the board
24 shall not be bound by the technical rules of evidence. No
25 informality of procedure in the conduct of the hearing shall

1 invalidate any recommendation made by the board. At the
2 conclusion of the hearing, and within five working days
3 therefrom, the board shall recommend to the sheriff one of the
4 following:

5 "(1) That the disciplinary action taken against the
6 employee be affirmed.

7 "(2) That the disciplinary action be reversed and
8 that the employee be reinstated with full back pay at the
9 normal rate of pay that would have been in effect for the
10 employee had he or she not been suspended without pay.

11 "(3) That the disciplinary action be reduced and
12 that the employee be reinstated either without or with pay for
13 any time suspended without pay. The recommendation shall be in
14 writing to the sheriff, and the sheriff shall act upon the
15 recommendation within 10 working days of receipt of the
16 recommendation and shall approve or disapprove of the action
17 of the board, or may modify if the modification is less
18 stringent than the action of the board, with the action
19 becoming a matter of public record."

20 Section 2. This act shall become effective
21 immediately following its passage and approval by the
22 Governor, or its otherwise becoming law.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17

Speaker of the House of Representatives

President and Presiding Officer of the Senate

House of Representatives

I hereby certify that the within Act originated in
and was passed by the House 06-MAY-20.

Jeff Woodard
Clerk

Senate	09-MAY-20	Passed
--------	-----------	--------