

1 HB628
2 166399-4
3 By Representative Brown (N & P)
4 RFD: Local Legislation
5 First Read: 07-MAY-15

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9 A BILL
10 TO BE ENTITLED
11 AN ACT
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13 Relating to the Civil Service Board of the City of
14 Oxford in Calhoun County, Cleburne County, and Talladega
15 County; to amend Sections 45-8A-112 to 45-8A-112.17,
16 inclusive, of the Code of Alabama 1975, to further provide for
17 employees, appointed employees, and vacancies of appointed
18 positions.

19 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

20 Section 1. Sections 45-8A-112 to 45-8A-112.17,
21 inclusive, of the Code of Alabama 1975, are amended to read as
22 follows:

23 "§45-8A-112.

24 "This part shall apply only in the City of Oxford in
25 Calhoun County, Cleburne County, and Talladega County.

26 "§45-8A-112.01.

1 ~~"As used in this part, unless the context clearly~~
2 ~~requires a different meaning: "City" means the City of Oxford~~
3 ~~in Calhoun County; "employee" means any person including~~
4 ~~firemen and policemen, not excepted by Section 45-8A-112.02,~~
5 ~~who is employed in the service of the City of Oxford; "board"~~
6 ~~means the civil service board created by this part;~~
7 ~~"appointing authority" means in the case of employees in the~~
8 ~~offices of the elected officers of the city, such elected~~
9 ~~officers; in the case of all other city employees, the city~~
10 ~~governing body, or the board or other agency supervising their~~
11 ~~work.~~

12 "For the purposes of this part, the following terms
13 shall have the following meanings:

14 "(1) APPOINTING AUTHORITY. In the case of the
15 employees in the offices of the elected officers of the city,
16 the elected officers. In the case of all other city employees,
17 the mayor.

18 "(2) BOARD. The Civil Service Board created by this
19 part.

20 "(3) CITY. The City of Oxford in Calhoun County,
21 Cleburne County, and Talladega County.

22 "(4) EMPLOYEE. Any person, including firefighters
23 and police officers, not excepted by Section 45-8A-112.02, who
24 is employed in the service of the City of Oxford.

25 "(5) SEASONAL WORKERS. An employee who works less
26 than 700 hours per 12-month period.

27 "§45-8A-112.02.

1 ~~The provisions of this~~ This part shall apply to all
2 officers and employees in the service of the city, or any
3 board, agency, or instrumentality of the city, except any of
4 the following:

5 "(a) ~~elective~~ Elective officers,.

6 "(b) ~~members~~ Members of appointive boards,
7 commissions, and committees,.

8 "(c) ~~all~~ All employees of the city board of
9 education ~~engaged in the profession of teaching or in~~
10 ~~supervising teaching in the public schools,~~.

11 "(d) ~~attorneys~~ Attorneys, physicians, surgeons,
12 nurses, and dentists employed in their professional capacities
13 and employees under the direct or indirect supervision of the
14 Oxford Hospital Board,.

15 "(e) ~~the~~ The judge of any court,.

16 "(f) ~~independent~~ Independent contractors receiving
17 their remuneration from public funds under contracts awarded
18 by competitive bidding, (g) ~~any person whose employment is~~
19 ~~subject to the approval of the United States government or any~~
20 ~~agency of the United States government;~~ (h) ~~all~~

21 "(g) All employees of the water and sewer board,
22 ~~and (i) the mayor's secretary.~~

23 "(h) All employees of the Oxford emergency medical
24 services.

25 "(i) Seasonal workers.

26 "\$45-8A-112.03.

1 "All employees of the city shall be governed by
2 civil service rules and regulations prescribed in or
3 promulgated pursuant to this part, and administered by a civil
4 service board, ~~the creation of which is provided for in~~
5 created under Section 45-8A-112.04. Present employees shall
6 remain in their respective employments during good behavior;
7 but nothing ~~herein in this part~~ shall be construed to prevent
8 or preclude the removal of an employee for cause ~~in the manner~~
9 ~~hereinafter provided~~ as provided for in this part; and ~~such~~
10 the employees, except for appointment, shall be subject fully
11 to ~~the provisions of~~ this part.

12 "§45-8A-112.04.

13 "(a) ~~There is hereby created the~~ The Civil Service
14 Board of the City of Oxford is created, ~~which~~ The board shall
15 be composed of five members appointed by the members of the
16 Legislature who represent the City of Oxford or any portion
17 thereof. Appointees shall serve for terms of one year, two
18 years, three years, four years, and five years respectively,
19 or until his or her successor is appointed. Thereafter, all
20 appointees shall serve for terms of ~~one year, two years, three~~
21 ~~five~~ six years. Initial terms of office shall be determined by
22 drawing names after nominees have been appointed. No person
23 shall be appointed to the board who is not a resident and
24 qualified elector of the City of Oxford and over the age of 25
25 years.

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

1 office of the probate judge. Vacancies on the board shall be
2 filled in the same manner as original appointments. The
3 members of the board shall elect a chairman and secretary from
4 among their number. Any member of the board who becomes a
5 candidate for, or is elected or appointed to another public
6 office vacates his or her office as a member of the board.

7 "§45-8A-112.05.

8 "Each member of the board and the chair of the board
9 shall be paid two hundred dollars (\$200) per month by the City
10 of Oxford. The board may appoint clerical assistance and
11 engage legal counsel of its own choice, except that for the
12 purposes of Section 45-8A-112.13, the appointing authority for
13 clerical assistance shall be the mayor.

14 "§45-8A-112.06.

15 "The board shall fix the times for its regular
16 meetings, ~~and it~~ The board may hold special meetings,
17 ~~adjourned~~ adjourn meetings, or call meetings at any time. A
18 majority of the members of the board shall constitute a quorum
19 for the transaction of business. All meetings of the board
20 shall be held in ~~the city hall~~ a municipal building chosen by
21 the board.

22 "§45-8A-112.07.

23 "The board shall keep minutes of its meetings and a
24 record of all business transacted by ~~it~~ the board. ~~Its~~ All
25 records of the board, except those records the rules of the
26 board require to be held confidential for reasons of public
27 policy, shall be open for inspection by any resident of the

1 city at all reasonable times, after a written request has been
2 submitted to and approved by the board.

3 "§45-8A-112.08.

4 "(a) The board shall have power to make rules and
5 regulations governing examinations, eligible ~~registers~~
6 rosters, appointments, transfers, salaries, promotions,
7 demotions, annual and sick leave, performance assessments, and
8 ~~such~~ any other matters as may be necessary to accomplish the
9 purposes of this part. A rule or regulation may be made
10 effective only after a public hearing is held on the proposal
11 ~~thereof~~ of the rule or regulation and after a certified copy
12 ~~thereof~~ of the proposed rule or regulation has been filed with
13 the city clerk. All employees shall be appointed upon a
14 nonpartisan merit basis. There ~~shall~~ may not be appointed, and
15 the board ~~shall~~ may not examine, any person who is not a
16 ~~citizen of~~ legally authorized to work in the United States and
17 the State of Alabama.

18 "(b) The board ~~shall~~, with the approval of the city
19 governing body, shall do all of the following:

20 "(1) Classify the different types of services to be
21 performed in the service of the city~~;~~.

22 "(2) ~~prescribe~~ Prescribe qualifications, including
23 those of education, training, and experience, for the
24 appointees and incumbents of each class~~;~~.

25 "~~(3) with the approval of the appointing authority,~~
26 ~~fix a maximum and minimum salary~~ Fix a minimum and maximum
27 salary range for each class;~~and.~~

1 "~~allocate~~ Allocate each position in the service
2 to its proper class. ~~It shall provide for the periodic rating~~
3 ~~of employees according to their merit to determine whether~~
4 ~~they are maintaining standards of service.~~ The city governing
5 body shall determine the number of positions eligible for
6 appointment in each class through its budgetary processes.

7 "(c) The board shall establish rules and regulations
8 governing dismissals, suspensions, layoffs, terminations, and
9 leaves of absence, and the severance of an employee's
10 relationship with the city ~~shall be in accordance with such~~
11 ~~regulations.~~

12 "§45-8A-112.09.

13 "The salary to be paid each subordinate employee and
14 department head shall be determined by his or her appointing
15 authority; ~~and the salary to be paid each department head~~
16 ~~employee shall be determined by the city governing body; but~~
17 ~~in.~~ In every case the salary paid shall be within the pay plan
18 ~~and pay rules and regulations~~ minimum and maximum salary range
19 established by the board ~~and shall be no more than the board~~
20 ~~approves.~~ It shall be unlawful for any official or employee to
21 draw or issue any warrant on the city treasury for the payment
22 of salary to any employee covered by ~~the provisions of this~~
23 part unless the warrant is in an amount authorized by the
24 board to be paid ~~such~~ to the employee. A sum paid as salary
25 contrary to ~~the provisions of~~ this section may be recovered in
26 an action brought by any resident of the city against the

1 official or employee who draws or issues the warrant, or
2 against the sureties on his or her bond.

3 "§45-8A-112.10.

4 "The board shall make and keep a ~~register~~ roster of
5 all persons eligible and available for appointment to each
6 class of ~~position~~ positions in the service of the city, ranked
7 according to ability; ~~it is provided, however, except~~ that no
8 examination shall be given and no ~~register~~ roster kept for
9 positions to be filled by persons designated by the board as
10 common laborers. Layoffs available for reemployment shall be
11 placed at the head of the proper present and subsequent
12 eligible ~~registers~~ rosters in the inverse order of their
13 terminations. Employees who voluntarily terminate their
14 services may be granted reemployment status under proper
15 eligible ~~registers~~ rosters under ~~such~~ the circumstances and in
16 ~~such~~ the manner as may be provided for in the ~~board's~~ rules
17 and regulations of the board, subject, ~~however,~~ to
18 stipulations of this section concerning layoffs. Persons
19 desiring appointment may file applications with the board, and
20 the board ~~shall~~, from time to time, shall conduct examinations
21 to test the ability of ~~such~~ the applicants. All qualified
22 applicants shall be examined, and examinations shall be
23 public, competitive, and, subject to limitations specified by
24 the board as to ~~age, residence, health, height, weight,~~
25 ~~habits, moral character, and other~~ any factors pertinent to
26 the ability of an applicant to discharge the duties of the
27 position, shall be open to all ~~citizens of~~ persons legally

1 authorized to work in the United States and the State of
2 Alabama. Examinations shall be practical in character and
3 shall relate to those matters which test the ability of the
4 person examined to discharge intelligently the duties of the
5 position for which he or she applies. The board may charge
6 each applicant a reasonable examination fee to be determined
7 by the board. In no case shall an appointment be made from an
8 eligible ~~register~~ roster which is more than two years old, and
9 no eligible ~~register~~ roster shall be the result of more than
10 one type of examination.

11 "§45-8A-112.11.

12 "Whenever a vacancy exists in any position in the
13 service of the city, ~~it~~ with the exception of common laborers,
14 the vacancy shall be filled by appointment of one of the six
15 persons who ranks highest on the appropriate eligible ~~register~~
16 roster of the board or by transfer within the service of the
17 city from another position of the same class. However, the
18 ranking layoff of the same class shall be appointed in every
19 instance. Whenever it is impossible for the board to certify
20 eligible persons to a vacancy, the board may authorize the
21 appointing authority to fill the vacancy temporarily pending
22 the establishment of an eligible ~~register~~ roster. No
23 authorization may be given for longer than 120 days, and no
24 employee shall ~~have~~ acquire seniority or permanent status
25 under this part by virtue of the temporary appointment. All
26 appointments, other than temporary appointments, shall be
27 probationary for ~~six~~ 12 months from the date of appointment.

1 ~~except that the probationary period for employees in the~~
2 ~~police department shall be 12 months. A probationary~~
3 ~~subordinate employee may be discharged by this appointing~~
4 ~~authority for unsatisfactory service at any time before the~~
5 ~~expiration of that period if the action is approved by the~~
6 ~~board; a probationary department head employee may be~~
7 ~~discharged or demoted similarly by his or her appointing~~
8 ~~authority upon approval by the board.;~~ provided, however, that
9 any employee who obtained permanent status prior to the
10 passage of the act adding this amendatory language shall
11 maintain his or her permanent status. During any probationary
12 period provided for under this act, the employee may be
13 summarily dismissed, demoted, suspended, or otherwise
14 disciplined by the appointing authority with or without cause
15 and with no right of appeal to the board. After the expiration
16 of the probationary period, an appointment shall become
17 permanent.

18 "§45-8A-112.12.

19 "An appointing authority, shall have authority to
20 ~~suspend an employee~~ Any permanent employee subject to this
21 part may be suspended by his or her department head for any
22 personal misconduct, or fact, affecting or concerning his or
23 her fitness or ability to perform his or her duties in the
24 public interest. In the event an employee is suspended without
25 pay for more than ~~30~~ five days, he or she shall be entitled to
26 a public hearing by the board upon written demand filed within
27 five days from the date of the order of suspension. If, after

1 a hearing, the board determines that the action ~~of the~~
2 ~~appointing authority was not with~~ was undertaken without
3 sufficient cause, the suspension shall be revoked or modified
4 as the board deems appropriate.

5 "§45-8A-112.13.

6 "(a) ~~The governing body of the city, any member of~~
7 ~~the governing body, or the head of any department or office~~
8 ~~can remove, discharge, or demote any employee, officer, or~~
9 ~~official of the city who is subject to the provisions of~~ Any
10 permanent employee subject to this part and who is directly
11 under such governing body, member thereof, or department head
12 may be removed, discharged, or demoted by his or her
13 appointing authority, provided that within five days the
14 appointing authority makes a report in writing of ~~such action~~
15 ~~is made~~ the action to the board, giving the reason for ~~such~~
16 the removal, discharge, or demotion. The employee shall have
17 10 days from the time of notification of his or her discharge,
18 removal, or demotion in which to appeal to the board. The
19 board shall thereupon order the charges or complaint to be
20 filed ~~forthwith~~ immediately in writing and shall hold a
21 hearing de novo on ~~such~~ the charges. No permanent employee,
22 officer, or official of the city whose employment comes within
23 the jurisdiction of this part, and whose probationary period
24 has been served, shall be removed, discharged, or demoted
25 except for some personal misconduct, or fact, rendering his or
26 her further tenure harmful to the public interest, or for some
27 cause affecting or concerning his or her fitness or ability;

1 and if ~~such~~ the removal, discharge, or demotion is appealed to
2 the board, then the same will become final only after a
3 hearing upon written charges or complaint has been had and
4 after an opportunity has been given him or her to face his or
5 her accusers and be heard in his or her own defense. Pending a
6 hearing on appeal, the affected employee may be suspended;~~and~~
7 ~~after such.~~ After the hearing the board may order the employee
8 reinstated, demoted, removed, discharged, or suspended, or
9 take ~~such~~ other disciplinary action as in its judgment
10 warranted by the evidence and under the ~~laws~~ law. Charges may
11 be filed by any resident citizen of the city as follows: The
12 charges must be in writing, must set forth succinctly the
13 matters complained of, and must be sworn to before any member
14 of the board or before any person authorized to administer
15 oaths. Upon the receipt of ~~such~~ the charges, the board, after
16 due consideration, shall determine whether in its opinion it
17 considers that the good of the service will be served by a
18 trial thereon; and, if not, ~~such~~ the charges may be dismissed
19 by the board. If in the judgment of the board ~~such~~ the charges
20 are of a minor nature, ~~such~~ the charges may be referred by the
21 board to the proper department head who shall make an
22 investigation of the charges and make his or her
23 recommendation to the board within ~~such~~ a time as the board
24 may prescribe, as to what disciplinary action, if any, should
25 be taken. After ~~such~~ the recommendation is made by the
26 department head and after due notice is given to the affected
27 employee of the receipt of ~~such~~ the recommendation and the

1 contents thereof, the board may, in its discretion, adopt and
2 order executed the action recommended by the department head
3 or any part thereof. However, if the complainant or the
4 affected employee, or both of them, objects to the
5 recommendation of the department head, the board shall hold a
6 public hearing de novo on the charges, and take ~~such~~
7 disciplinary action as in its judgment is warranted by the
8 evidence and under the law. All hearings before the board
9 shall be open to the public. All testimony given in all
10 hearings before the board shall be taken down in shorthand by
11 a stenographer or by some other legally accepted means. In all
12 cases, the decision of the board shall be reduced to writing
13 and entered in the record of the case. In all proceedings
14 before the board, the city attorney may appear and prosecute
15 all charges instituted by the city governing body or any
16 member thereof or by any department head, when requested or
17 directed to do so by ~~such~~ the city governing body. ~~It shall~~
18 ~~not be the duty of the~~ The city attorney ~~to~~ may not prosecute
19 any charges brought by a private citizen. In all proceedings
20 before the board, the city attorney may appear and represent
21 the interests of the city, ~~and he or she shall also give such~~
22 ~~legal advice and legal assistance to the board as may be~~
23 ~~requested by it.~~

24 "(b) The board and its specially authorized
25 representatives shall have the power to administer oaths, take
26 depositions, certify official acts, and issue subpoenas to
27 compel the attendance of witnesses and production of papers

1 necessary as evidence in connection with any hearing,
2 investigation, or proceeding within the purview of this part.
3 The chief of police or some other police officer of the city
4 shall serve all processes of the board, and shall attend upon
5 and preserve order at all public hearings conducted by the
6 board. In case a person refuses to obey ~~such~~ a subpoena, the
7 board or its representative may invoke the aid of any circuit
8 court in order that the testimony or evidence be produced.
9 Upon proper showing, ~~such~~ the court shall issue a subpoena or
10 order requiring the person to appear before the board or its
11 representative and produce all evidence and give all testimony
12 relating to the matter in issue. A person who fails to obey
13 ~~such~~ a subpoena order may be punished by the court ~~as~~ for
14 contempt. The fees of witnesses for attendance and travel
15 shall be the same as fees for witnesses in the circuit courts
16 of this state, which fees shall be paid from the treasury of
17 the city.

18 ~~"(b)~~ (c) Any person aggrieved by a decision of the
19 board may appeal ~~such~~ the decision to the Circuit Court of
20 Calhoun County in equity within 30 days from the rendition of
21 ~~such~~ the decision by the board. Review by the court shall be
22 without a jury and be confined to the record, and to a
23 determination of the questions of law presented; ~~the~~ The
24 board's findings of fact shall be final and conclusive.

25 "§45-8A-112.14.

26 ~~"No employee shall make, solicit, or receive any~~
27 ~~assessment, donation, subscription, or contribution for any~~

1 ~~political purpose whatsoever, or be a member of a committee or~~
2 ~~an officer of a political party, or take any part in its~~
3 ~~management or affairs except to exercise his or her right as a~~
4 ~~citizen to express his or her opinion and cast his or her~~
5 ~~vote; no~~ No employee shall assist any candidate for nomination
6 or election to public office, ~~or make any public statement in~~
7 ~~support of or against any such candidate, or participate in~~
8 ~~any manner whatever in the campaign of any candidate in any~~
9 ~~general or primary election; and no~~ while on duty with the
10 city. No employee shall receive any appointment or advancement
11 ~~as a reward for~~ because of his or her support of a candidate
12 for office or a political party; nor shall he or she be
13 dismissed, suspended, or reduced in rank or pay ~~as punishment~~
14 ~~for~~ because of his or her failure to support any candidate for
15 political office.

16 "§45-8A-112.15.

17 "The compensation and all other expenses of the
18 board arising under ~~the provisions of~~ this part shall be paid
19 from funds of the city on the order of the board in the same
20 manner as other city salaries and expenses are paid, ~~provided,~~
21 ~~however, that the total expenditures in any one year shall not~~
22 ~~exceed five thousand dollars (\$5,000)~~ without the approval of
23 the city governing body. The city governing body shall provide
24 the board an office ~~in the city hall,~~ which shall be suitably
25 equipped and furnished for the needs of the board, and
26 telephone service, postage, office supplies, and stationery.

27 "§45-8A-112.16.

1 "Any person in the service of the city by
2 appointment under civil service rules or regulations who
3 wilfully violates ~~any of the provisions of~~ this part, or any
4 rule or regulation issued in pursuance thereof, shall be
5 dismissed from ~~service under the system and shall~~ employment
6 with the city and may not be reappointed for two years.

7 "§45-8A-112.17.

8 "Any person who violates ~~any of the provisions of~~
9 this part shall be guilty of a Class C misdemeanor."

10 Section 2. The provisions of this act are severable.
11 If any part of this act is declared invalid or
12 unconstitutional, that declaration shall not affect the part
13 which remains.

14 Section 3. All laws or parts of laws which conflict
15 with this act are repealed.

16 Section 4. This act shall become effective
17 immediately following its passage and approval by the
18 Governor, or its otherwise becoming law.