CURRENT ARTICLE II.

CIVIL SERVICE MERIT SYSTEM

ARTICLE I. IN GENERAL

Secs. 12-1—12-25. Reserved.

ARTICLE II. CIVIL SERVICE MERIT SYSTEM*

DIVISION 1. GENERALLY

Sec. 12-26. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Administrator of human resources means administrator of human resources or his/her designee.

Appointing authority means any elected official of the county or head of an office of the county government specifically charged by the appropriate elected official with the responsibility of appointing and/or dismissing personnel employed under his direction.

Board means the civil service merit board.

Classified service means those positions of employment contained in the civil service merit system.

Employee means any person appointed to a position or office in the classified service.

Secretary means the secretary of the civil service merit board.

System means the civil service merit system of the county. (Priv. Acts 1971, Ch. 110, § 2; Ord. No. 304, § 3, 7-25-05)

Cross reference—Definitions and rules of construction generally, § 1-2.

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*NOTES:

1. Ch. 110 was amended by Ch. 128, Pvt. 1977 to make it compatible with the Shelby County Restructure Act (Ch. 260, Pvt. 1974).

2. The alternate position on the civil service merit board was created by Ch. 292, Pvt. 1980.

Sec. 12-27. Civil service merit system established.

There is hereby established a civil service merit system for employees of the county.
(Priv. Acts 1971, Ch. 110, § 1)

Sec. 12-28. Unclassified and classified services.

(a) The civil service of the county is hereby divided into the unclassified and classified services.

(b) The unclassified service shall include:

(1) Officials elected by popular vote and persons appointed to fill vacancies in such elective offices;

(2) Members of duly established boards and commissions of the county;

(3) Any person retained by the county on a consulting basis and any professional person hired in his professional capacity as determined by the board;

(4) Any employee of the county whose employment is on a temporary basis;

(5) Any person who provides services to the county on a volunteer basis or who receives no compensation for such services;

(6) Any person employed by the county board of education;

(7) Such person occupying the position of department head, deputy department head, chief clerk, personal assistant to a department head or personal secretary to a department head as is designated by an appointing authority and approved by the board. The intent of this provision is to restrict positions in the unclassified service to those which involve sensitive policy-making duties. In granting its approval the board shall consider this intent as well as the size of the department in question. A list of these additional positions shall be prepared and maintained by the secretary.

(8) All county employees of the Shelby County Head Start Program.

(c) The classified service shall comprise all offices and positions of employment for the county not specifically included in the unclassified service.
(Priv. Acts 1971, Ch. 110, § 9; Priv. Acts 1984, Ch. 192, § 2; Ord. No. 281, 2-23-94)

Sec. 12-29. Classification plan.

(a) All offices and positions of employment included in the system shall be listed and classed and a written plan of such will be prepared and maintained.

(b) Such classification plan will contain a description of the duties and responsibilities of each individual office or position. Each office or position shall be assigned to an appropriate class of positions, each class consisting of those offices or positions which have the same or reasonably similar duties and responsibilities. Written specifications will be given to each class and must include the title of the class; a general description of the duties and responsibilities of the offices and positions within the class; the minimum requirements of education, training, experience, licensing or certification, and any other qualifications necessary to hold an office or position within the class. As far as practicable, the lines of promotion to and from each class should be included in the classification plan.

(c) Under the provisions of this section, a class may be comprised of a single office or position.
(Priv. Acts 1971, Ch. 110, § 10)

Sec. 12-30. Schedule of compensation.

(a) For each class of positions established in the classification plan, a study shall be made of the rates paid for similar services elsewhere and of other information pertaining to proper rates of compensation, and a schedule of compensation will accordingly be established. Such schedule shall show for each class a minimum salary rate, a maximum salary rate and such intermediate rate or rates as are equitable and proper.

(b) The financial condition of the county and the personnel policies of the county, in addition to other relevant factors, will be taken into consideration in the assignment of a minimum rate for each class of position.

(c) The schedule of compensation may include, in addition to the minimum, maximum and intermediate merit rates, a rate of pay to be based on longevity of service with the county, and a rate of pay based on cost of living factors.
(Priv. Acts 1971, Ch. 110, § 11)

Sec. 12-31. Personnel policies.

All policies, rules and regulations regarding personnel and employees within the systems shall be reduced to writing. The personnel policies of the county shall establish specific procedures for the governing and maintenance of the personnel system of the county. Such written statements of policy will set out all pertinent information concerning working conditions such as working hours, attendance, holidays, leaves of absence, vacations, in addition to residency requirements, minimum age requirements, programs available to employees, and any and all other information which properly may be the subject of such statement of policy.
(Priv. Acts 1971, Ch. 110, § 12)

Sec. 12-32. Application forms.

Appropriate application forms for employment to a classified position shall be prepared and kept in the office of the secretary or such other public and convenient place as is designated. The forms shall require such information as will reveal the qualifications of the applicant for appointment in the system. All applicants for appointment in the system will be required to complete the appropriate employment application form. Such additional and further investigation concerning the applicant may be conducted as is necessary and proper.
(Priv. Acts 1971, Ch. 110, § 13)

Sec. 12-33. Examination; bonus for veterans.

(a) Open competitive and promotional examinations shall be prepared and conducted by or under the direction of the administrator of personnel.

(b) Examinations may be assembled and may include, but not be limited to, rating of training and experience; written, oral, physical or performance tests or other measures which are technically sound; or any combination as determined by the administrator of personnel.

(c) The examination process may take into consideration such factors as education, experience, recency of experience, knowledge, skill, physical fitness or any other qualifications which are job-related, which may be applied equitably, and which in the judgment of the administrator of personnel enter into the determination of the relative fitness of applicants. For all examinations, the minimum performance or requirements on which eligibility is attained shall be established by the administrator of personnel. A minimum qualifying grade shall be established for each examination segment or the combined ratings of the several parts of the examination.

(d) Any applicant for original appointment into the system achieving at least a minimum passing score on the competitive examination process, who shall have received an honorable discharge from any branch of the armed forces of the United States and who served in time of war or national emergency as declared by the President of the United States, shall be entitled to receive a bonus of additional points, the number of which to be determined by the board, which shall be added to his competitive examination score.
(Priv. Acts 1971, Ch. 110, § 14)

Sec. 12-34. Eligibility lists.

Employment and promotion eligibility lists for the various classes of positions in the system shall be maintained as are necessary or desirable to meet the needs of the system. These lists shall contain the names of persons arranged in order of final earned ratings. Certificates of eligibles drawn from these lists shall be provided, as required, to the appointing authorities for the filling of vacancies in accord with the provisions of this article.
(Priv. Acts 1971, Ch. 110, § 15)

Sec. 12-35. Appointment; probationary period.

(a) Whenever a position in the classified service is to be filled, the appropriate appointing authority shall so notify the secretary. Notices shall be posted for any examinations given by the county government to establish promotion eligibility for civil service employment. Such notice shall be posted at least 30 days prior to the examination.

(b) The county mayor may, upon written notice to an affected department head, waive the posting requirement of this section.

(c) The secretary shall forward to the appointing authority a certificate of eligibles drawn from the applicants eligible for the class or grade to which such position belongs, and the appointing authority shall forthwith appoint to such position one of such persons whose name appears on the certificate. Such appointments shall be for a probationary period of six months, commencing with the first working day. During the probationary period, the newly appointed employee may be dismissed with or without cause, and such dismissed employee shall have no recourse as is otherwise provided in section 12-42. Upon application of the appointing authority, the board may extend the probationary period for any newly appointed employee for a period not to exceed an additional three months. If the employee has not been discharged prior to the expiration of the period of probation, his appointment to the classified service shall be deemed complete.

(Priv. Acts 1971, Ch. 110, § 16)

State law reference—Similar provisions, T.C.A. § 7-51-1301.

Sec. 12-36. Extraordinary and emergency appointments.

Notwithstanding the other provisions of this article, in order to prevent the stoppage of business or to meet extraordinary conditions or emergency, an appointing authority may appoint any individual to a classified position for a period not to exceed 90 days and only until regular appointment can be made under the provisions of this article.

(Priv. Acts 1971, Ch. 110, § 17)

Sec. 12-37. Provisional appointments.

(a) Should there arise an urgent or pressing need for filling a vacancy in any position in the classified service and the secretary is unable to provide the appropriate appointing authority with the name of an applicant eligible for the vacancy, the appointing authority may provisionally appoint an individual to fill the vacancy. Such provisional appointment shall continue only until an appropriate eligible list can be established and submitted to the appointing authority, but in no event for more than 90 days.

(b) When, in the opinion of an appointing authority, there arises the urgent or pressing need for a new permanent position in his office or department not contemplated in the existing classification plan, he may provisionally appoint an individual to fill such position. Such provisional appointment shall continue only until the classification plan can be amended to include such position, if same is found to be necessary or desirable, and regular appointment can be made under the provisions of this article. Immediately following such provisional appointment, the necessity or desirability of inclusion of such position within the system shall be studied and determined. In no event shall such provisional appointment exceed 90 days.
(Priv. Acts 1971, Ch. 110, § 18)

Sec. 12-38. Promotion.

(a) Vacancies occurring in the classified service may be filled by the promotion of those officers and employees of a lesser class of position within the system who are otherwise qualified for the position and certified as eligible by the secretary. In filling any vacancy arising in an office or department, an appointing authority may restrict his consideration of applicants to those individuals presently in the classified service, provided that the names of applicants considered have been certified as eligible for promotion by the secretary.

(b) Following a promotional appointment, the promoted employee shall serve a three-month probationary period in that position, at the successful completion of which the promotion shall be deemed complete. Should the appointing authority determine that the service of an employee in a position to which he

was promoted is unsatisfactory within the three-month probationary period, he shall reinstate the employee to the position which he occupied immediately prior to the promotion.

(c) Should the promotion of any employee result in his exclusion from the classified service, he shall thereafter be entitled to reinstatement in the system at the same or equivalent position which he held immediately prior to the promotion, upon 30 days' notice to the board of his desire to be reinstated in the system. Provided, however, the aforementioned notice to the board must be given no later than 60 calendar days after the date of the correspondence notifying the employee that the appointment has been terminated and/or discontinued. Additionally, this privilege shall not be granted to any employee who has been terminated from employment because of a conviction or a guilty plea to a misdemeanor involving either theft or act of moral turpitude or a felony associated with his/her employment with Shelby County Government. The limitations to the privilege of fall-back rights shall be applied prospectively from the date of enactment, not retroactively.

(d) Employees who have not completed original appointment probation, including extended original appointment probation, or who are on disciplinary probation or suspension, shall not apply for positions posted as closed promotion positions.
(Priv. Acts 1971, Ch. 110, § 19; Priv. Acts 1984, Ch. 192, § 3; Ord. No. 293, 1-10-05)

Sec. 12-39. Service rating.

The secretary, in cooperation with the various appointing authorities of the county, shall prepare for approval by the board a system for rating the performance of the individual employees in the system. The rating system shall be so designed as to give a fair evaluation of the quality and quantity of the employee's work performed. The service rating for the individual employee will be based on periodic reports of the appointing authority and made on no less than an annual basis. No employee will be eligible for a promotion in rank or compensation who does not maintain a

satisfactory service rating. An unsatisfactory service rating may be a basis for disciplinary action to be taken against the employee.
(Priv. Acts 1971, Ch. 110, § 20)

Sec. 12-40. Appointments permanent.

Except as otherwise provided in this article, no employee in the classified service who is not a durational employee and who shall have successfully completed the prescribed period of probation and therefore shall have been permanently appointed or inducted into the system under the provisions of this article shall be dismissed, suspended, demoted or subjected to other discipline, except for cause.
(Priv. Acts 1971, Ch. 110, § 21)

Sec. 12-41. Disciplinary action.

For unsatisfactory performance of duties or other just cause, an employee in the classified service may be subject to the following discipline by the appointing authority:

(1) Reprimand;

(2) Suspension without pay for a period not to exceed 30 days;

(3) Reduction in pay within allowable range for class of employee;

(4) Demotion to a lower classification;

(5) Dismissal from service;

(6) Retirement under the terms of the retirement law (T.C.A. § 8-35-101 et seq.), as applicable.

(Priv. Acts 1971, Ch. 110, § 22)

Sec. 12-42. Reply to discipline; appeal from discipline.

(a) Any employee in the system may be subjected to discipline, as provided in section 12-41, by the appointing authority, after his appointment or promotion is complete by written order stating specifically the reasons for such discipline. Such order shall be signed by the appointing authority and directed to the individual employee involved and a copy thereof directed to the secretary for inclusion in a permanent service record to be maintained for each employee in the system. Any employee so disciplined may respond, by directing a reply in writing to the secretary within seven days of receipt of the order of discipline, with a copy of such reply to the appointing authority. Such reply of the employee shall be maintained in his permanent service record.

(b) Any employee demoted in rank or compensation, suspended without pay for a period exceeding ten days, or dismissed, may, within seven days after service of the order of demotion, suspension or dismissal as hereinabove provided, appeal to the board.

(c) Immediately upon service of any order of suspension or dismissal, the employee shall stand relieved of all duties of his office and shall not reassume such duties until the expiration of any suspension or until reinstated from suspension or dismissal by the board. Immediately upon service of any order of demotion in rank or compensation, the employee shall assume the rank or rate of compensation to which he was demoted.

(d) The board shall, within 60 days from the filing of the appeal, commence a hearing hereon and shall thereupon fully hear and determine the matter and shall affirm, modify or revoke such order of discipline. A hearing may be postponed or continued upon the written request of the employee and/or the written or oral request of the employee's attorney. The appellant shall be entitled to appear personally, produce evidence, and to have counsel and to a public hearing. The finding and decision of the board shall be certified to the appointing authority from whose order the appeal is taken and shall forthwith be enforced and followed by him, but no such demotion in rank or compensation, suspension or dismissal, if appealed to the board, shall be considered final until the finding and decision of the board shall be so certified. Any form of discipline not appealed to the board shall be so certified. Any form of discipline not appealed to the board shall be considered final as of the date of the service of the order of discipline on the employee.

(e) The board is required to establish written procedures necessary for the efficient administration of the appeal process set forth in this section. Such written procedures are to be approved by the board of county commissioners.
(Priv. Acts 1971, Ch. 110, § 23; Priv. Acts 1979, Ch. 97, § 2; Priv. Acts 1984, Ch. 192, § 4; Ord. No. 69, § 1, 4-9-90; Ord. No. 304, § 1, 7-25-05)

Sec. 12-43. Appeal from decision of board.

Within 60 days following the publication of the decision of the board on any matter heard by it, either the involved employee or the appointing authority from whose order the appeal was taken may appeal the decision of the board to the circuit court or chancery court of the county.
(Priv. Acts 1971, Ch. 110, § 24; Ord. No. 304, § 2, 7-25-05)

Sec. 12-44. Layoff.

Notwithstanding the other provisions of this article, if conditions in any department or office of the county or the financial

condition of the county necessitates a reduction in the work force, the required reduction shall be made in such class or classes as the appointing authority designates. Favorable consideration must, however, be given toward retention of those employees in the highest class of positions. If necessary to achieve their retention, employees may be temporarily demoted to a lower class of position. The determination as to which employees within a particular class are to be laid off rests with the sound discretion of the appointing authority and will be based on such considerations as service ratings, seniority and other relevant factors. Any employee laid off or temporarily demoted to a lower class of position under this section shall be given priority over other applicants to reinstatement to his former position or to a comparable position in the system.
(Priv. Acts 1971, Ch. 110, § 25)

Sec. 12-45. Discrimination prohibited.

All appointments and promotions in the system, except as otherwise provided under the provisions of this article, shall be on the basis of competitive examination, and no person in the system or seeking admission thereto shall be appointed, disciplined or dismissed, or in any way favored or discriminated against because of his political affiliation, sex, race, color, creed, age, religious belief or national origin. This section does not apply to membership in any organization which has advocated or does advocate disloyalty to or the violent overthrow of the government of the United States or any subdivision thereof.
(Priv. Acts 1971, Ch. 110, § 26)

State law reference—Similar provisions, T.C.A. § 4-21-401.

Sec. 12-46. Political activity prohibited.

(a) No employee in the classified service may be required or directed, either directly or by implication, to contribute or solicit funds for any political candidate, political party, or political activity, nor may such employee be required or directed, in any capacity whatever, to serve or assist a political candidate, political party or political activity.

(b) Every employee will have the right freely to express his views as a citizen and to cast his vote. Coercion for political pur-

poses of and by employees of federally aided programs and the use of their positions for political purposes will be prohibited. Participation in partisan political activity by any employee subject to these standards will be prohibited with respect to activity prohibited in federally grant-aided programs under the Federal Hatch Political Activities Act, as amended (5 U.S.C. 1501-1508).

(c) This section is not intended to nor does it deprive any employee from voluntary participation in such proper political activity as is allowed by the policy of the county.
(Priv. Acts 1971, Ch. 110, § 27)

Sec. 12-47. Status of employees on effective date of system.

On the date which the system takes effect, any employee of the county, whose position is to be included in the classified service, shall be appointed to retain his position without being required to take a competitive examination. The appointment of any such employee who has held his position for more than six months prior to the effective date of the system shall be deemed complete and he shall hold his position until discharged or reduced in accordance with the provisions of this article.
(Priv. Acts 1971, Ch. 110, § 28)

Sec. 12-48. Contrary provisions of T.C.A. § 8-20-109 not applicable.

Insofar as T.C.A. § 8-20-109 is contrary to the provisions of this article, T.C.A. § 8-20-109 shall not apply to the county.
(Priv. Acts 1971, Ch. 110, § 29)

Secs. 12-49—12-60. Reserved.

DIVISION 2. CIVIL SERVICE MERIT BOARD*

Sec. 12-61. Created; composition.

There is hereby created in the county a civil service merit board composed of five members and one alternate.
(Priv. Acts 1971, Ch. 110, § 3)

*Cross reference—Administration, ch. 2.

Sec. 12-62. Election to board; term; vacancies; qualification of members; removal of members.

(a) The county mayor, the county sheriff, the county trustee, the register, the county clerk, the assessor of property, the chairman of the board of county commissioners, the chancery court clerk and master, the criminal court clerk, the circuit court clerk, the general sessions court clerk, the probate court clerk, the juvenile court judge, and the juvenile court clerk shall be entitled to vote in the election of the members and alternate of the civil service merit board. The chairman of the board of county commissioners shall give each such official at least ten days' notice in writing of the designated time and place of this meeting. Such notice shall state that the purpose of this meeting is to be the election of the members and alternate to the civil service merit board.

(b) Nominations for the positions of member and alternate of the board may be made by any official entitled to vote in such election, and such nominations must be submitted in writing to the chairman of the board of county commissioners not less than five days prior to the election meeting. The chairman of the board of county commissioners shall, not less than two days prior to the election meeting, give each of those officials entitled to vote in the election a list of all nominations for the positions of board members and alternate.

(c) The elected officials of the county entitled to vote shall, by a majority vote of those present, elect five board members and one alternate, who shall take office upon the effective date of the system and who shall serve for the following terms: two members for a term of one year; two members for a term of two years, and one member for a term of three years and one alternate for a term of one year. Subsequent to the initial terms of board members, as provided in this section, each member thereafter appointed to the board shall serve for a term of three years. Vacancies on the board caused by the expiration of the terms of its members or alternate will be filled by election in the same manner as set out in this section for the initial appointment of members. Any vacancy occurring on the board other than those due to the expiration shall be filled for the unexpired term by a majority vote of the re-

maining board members. Each board member or alternate shall serve until his successor is appointed and qualified. No person shall be eligible to serve as a member or alternate of the board:

(1) Who is under the age of 18 years.

(2) Who resides outside the county.

(3) Who holds any elected or appointive office of the county.

(4) Who is an employee of the county.

(5) Who is an officer of any organized political party.

(d) Any member or alternate of the board may be removed for just cause during his term of office by a two-thirds vote of the body which elected the board member or alternate, but only after such board member shall have been served with a statement in writing of the reasons alleged to justify his removal, and only after such member or alternate is allowed an opportunity to be represented and publicly heard in his defense before the board which elected the board member or alternate. Failure to attend three consecutive meetings of the board for reason other than death in the family or personal illness may, by a majority vote of the remaining board members, constitute just cause for removal and shall serve as constructive resignation from the board. The vacancy shall then be filled as prescribed in this section.
(Priv. Acts 1971, Ch. 110, § 4; Priv. Acts 1979, Ch. 96, § 1; Priv. Acts 1984, Ch. 192, § 1; Ord. No. 45, 5-22-89)

Sec. 12-63. Meetings; election of chairman; designation of secretary.

(a) By a majority vote of all board members, the board shall elect a chairman for a term of one year who will preside at all subsequent meetings during his term. Thereafter, the board will so elect a chairman upon the expiration of the former chairman's term. The board shall determine the order for business at its meetings and shall make such rules and procedures as it deems necessary for the efficient and orderly conduct of its meetings.

(b) The board shall also designate the time and place within the county for its regularly scheduled meetings. The board, in addition to its regularly scheduled meetings, shall also convene:

(1) At the call of the chairman;

(2) At the call of any three board members; or

(3) Upon five days' notice in writing to each board member by any appointing authority of the county, which written notice may be waived by the concurrence of all five members of the board.

(c) At all meetings of the board, the presence of any three members of the board shall constitute a quorum for the transaction of the business of the board.

(d) The board shall appoint the administrator of personnel named by the county mayor to be the secretary of the civil service merit board. The secretary shall record the proceedings of each meeting and shall render such assistance to the board as is required.
(Priv. Acts 1971, Ch. 110, § 5)

Sec. 12-64. Powers and duties.

The powers and duties of the civil service merit board shall be as follows:

(1) To promulgate such information as it deems expedient to promote public understanding of purpose, policies, and practices of the system;

(2) To make recommendations to the secretary and to the county mayor concerning the processing, examination, and certification of applicants and the administration of the system;

(3) To review the classification plan, compensation plan and personnel policies and to make recommendations to the secretary and to the board of county commissioners regarding their adoption and/or revision;

(4) To hear the appeal of any employee in the classified civil service following his removal, suspension or reduction in

rank or compensation by the appointing authority, as provided in section 12-42;

(5) To establish such rules and regulations as are adapted to and necessary for the efficient administration of this article;

(6) To investigate, by itself or otherwise, the enforcement of the provisions of this article, or of rules and procedures duly authorized for the administration of the system, and of the action of employees in classified positions. In the course of such investigation, the board shall have the power to administer oaths and to secure, by subpoena in the name of the county, the attendance and testimony of witnesses and the production of books and papers relevant to such investigation.

(Priv. Acts 1971, Ch. 110, § 6; Priv. Acts 1984, Ch. 192, § 1)

Sec. 12-65. Compensation of board members and alternate.

The board of county commissioners shall set the compensation of the members and alternate of the civil service merit board.
(Priv. Acts 1971, Ch. 110, § 7; Priv. Acts 1984, Ch. 192, § 1)

Sec. 12-66. Powers and duties of secretary.

The powers and duties of the secretary shall be as follows:

(1) To prepare a classification plan for submission to the board for recommendation and to the board of county commissioners for approval.

(2) To prepare a schedule of compensation for the classified service for submission to the board for recommendation and to the board of county commissioners for approval.

(3) To prepare written personnel policies and regulations governing working conditions for submission to the board for recommendation and to the board of county commissioners for approval.

(4) To make necessary amendments to and revisions of such, as required, for submission to the board for recommendation and to the board of county commissioners for approval.

(5) To prepare and administer a selection program including the determination of weights and norms utilizing examination instruments which stress validity and reliability and relate to those characteristics which will test fairly the relative capacity and fitness of candidates to discharge efficiently the duties of the positions to be filled.

(6) To maintain and provide to the various appointing authorities, as required, lists of all eligible candidates for positions in the system.

(7) To maintain the preceding plans, policies and lists on a current basis, and to make them available for inspection by the public.

(8) To prepare, in accordance with this article, for the approval of the board, such rules and regulations as are adapted to and necessary for the efficient administration of this article.

Except as otherwise provided in this article, the secretary shall be responsible for and shall have general supervisory authority over the administration of the system, subject to review by the board. (Priv. Acts 1971, Ch. 110, § 8; Priv. Acts 1984, Ch. 192, § 1)

Secs. 12-67--12-85. Reserved.