

Item #: _____
Moved by: _____
Seconded by: _____

Prepared By: Rhonda O'Dell
Reviewed By: Kim Koratsky

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 14, ARTICLE II, SECTION 14-28 AND CHAPTER 2, ARTICLE IV, SECTION 2-263 OF THE CODE OF ORDINANCES OF SHELBY COUNTY, TENNESSEE TO RECLASSIFY ALL ATTORNEYS SUBORDINATE TO THE COUNTY ATTORNEY AS CLASSIFIED EMPLOYEES UNDER THE CIVIL SERVICE MERIT SYSTEM. SPONSORED BY COMMISSIONER VAN TURNER AND COMMISSIONER TERRY ROLAND.

WHEREAS, The Shelby County Charter states the “county attorney shall act as chief counsel to the Shelby County government, and he [or she] shall act as legal advisor to the county mayor, the county commission, and to all departments ... and officials of the Shelby County government and shall perform such other duties as may be required.” Section 3.08(A)(2); and

WHEREAS, The Board of County Commissioners did adopt the Code of Ordinances, specifically, Chapter 14, Article II, Section 14-28 which defines which positions are unclassified and classified under the provisions of the Civil Service Merit System; and

WHEREAS, The Board of County Commissioners did adopt the Code of Ordinances, specifically Chapter 2, Article IV, Section 2-263 which authorizes the county mayor to appoint “such assistant county attorneys as may be deemed necessary for the efficient operation of the county attorney’s office;” and

WHEREAS, Such assistant county attorneys (including deputy and supervising county attorneys) act under the direction of the County Attorney, who, pursuant to the Shelby County Charter cited above, represent the county mayor, the county commission and all departments and officials of Shelby County government; and

WHEREAS, The Shelby County Code of Ordinances currently provides that such assistant county attorneys “shall serve under the direction and at the pleasure of the county mayor;” and

WHEREAS, The Shelby County Board of Commissioners passed Ordinance No. 466 on August 29, 2016, to change the process whereby the County Attorney may be terminated so as to alleviate any concern of the County Commission about the independence of the County Attorney from the Administration, in particular, on those occasions when the opinions of the County Commission and Administration may present a conflict; and

WHEREAS, The Board of County Commissioners desires to make the termination process for all attorneys in the County Attorney’s Office who are subordinate to the County Attorney based on a system intended to better allow for open and candid legal analysis without undue influence from a single appointing official, as was the intent of Ordinance No. 466 adopted on August 29, 2016; and

WHEREAS, The Board of County Commissioners desires to assure the continuity of the County Attorney’s Office during changes of administration by placing all attorney positions subordinate to the County Attorney under the Civil Service Merit System as classified positions.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF SHELBY COUNTY, TENNESSEE, That Chapter 14, Article II, Section 14-28(b) of the Code of Ordinances of Shelby County, Tennessee, shall be and hereby is amended as follows:

Sec. 14-28. - Unclassified and classified services.

- (a) The job positions of the county are hereby divided into the unclassified and classified services.
- (b) Those employed in positions deemed to be included in the unclassified service are not included and not covered under the provisions of the civil service merit system. 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/or any professional person, **other than deputy, supervising, and assistant county attorneys**, 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) Such person occupying the position of department head, deputy department head, **other than deputy county attorneys**, chief clerk, manager responsible for policy-making, 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;
- ~~(7) All county employees of the Shelby County Head Start Program.~~

BE IT FURTHER ORDAINED, That Chapter 2, Article IV, Section 2-263 of the Code of Ordinances of Shelby County, Tennessee, be amended to read as follows:

Sec. 2-263. - Assistant county attorneys.

The county mayor is authorized to ~~appoint~~ **select** such **deputy, supervising, and assistant county attorneys** as may be deemed necessary for the efficient operation of the county attorney's office. The **attorneys subordinate to the county attorney, including but not limited to the deputy, supervising, and assistant county attorneys** shall each be a person licensed to practice law in the state, ~~and~~ shall serve under the direction **of the county attorney, and shall be henceforth deemed classified employees under the Civil Service Merit System, and, thus, may only be terminated for cause as outlined under the Civil Service Merit System** ~~and at the pleasure of the county mayor~~. The compensation for each such **attorney** ~~assistant attorneys~~ shall be fixed by the board of county commissioners and shall be paid out of the general funds of the county.

BE IT FURTHER ORDAINED, That all attorneys subordinate to the County Attorney, including those currently employed, shall be deemed as classified employees immediately upon the passage of this ordinance; and

BE IT FURTHER ORDAINED, That this Ordinance shall take effect fifteen (15) days from and after the date of its final passage, the public welfare requiring the same.

County Mayor

Date: _____

ATTEST:

Clerk of County Commission

FIRST READING: _____

SECOND READING: _____

ADOPTED

THIRD READING: _____

SUMMARY SHEET

I. DESCRIPTION OF ITEM

Enactment of this Ordinance will place all attorneys in the County Attorney's Office who are subordinate to the County Attorney under the Civil Service Merit System as classified employees.

II. SOURCE AND AMOUNT OF FUNDING

This ordinance requires no County funding.

III. CONTRACT ITEMS

Not applicable.

IV. ADDITIONAL INFORMATION RELEVANT TO APPROVAL OF THIS ITEM

None.