

LAWS AND RULES  
OF  
THE PERSONNEL BOARD  
FOR  
MOBILE COUNTY, ALABAMA



As Revised to August 21, 2018

## INTRODUCTION

In this revised edition of the Law and Rules of the Personnel Board for Mobile County, Alabama, the wording of the original Civil Service Act (Local Act No. 470, approved September 15, 1939, Local Acts of Alabama, page 298) is quoted verbatim except where subsequent Legislative Amendments repeal, alter or change portions of the original Act, in which case such amendments are incorporated herein. The purpose of this manual is to provide an easy reference to the Law and the Rules. For more formal purposes, the reader is referred to the applicable statutes.

## AN ACT

### TO CREATE AND ESTABLISH IN MOBILE COUNTY, ALABAMA A COUNTY-WIDE CIVIL SERVICE SYSTEM

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BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section I. DEFINITIONS: In this Act, words used in the masculine gender include the feminine and neuter genders, and words used in the neuter gender include the masculine and feminine genders. The following words, terms, and phrases, wherever used in this Act, shall have the meanings respectively ascribed to them in this Section unless the context plainly indicates a contrary meaning: (1) "Committee" means the Supervisory Committee created by this Act. (2) "Board" or "The Board" means the Personnel Board created by this Act. (3) "Municipality" or "Such Municipality" or "City" means a duly incorporated town, village, or city within Mobile County. (4) "Director" means the Personnel Director created by this Act. (5) "Appointing Authority", or "Appointing Power" means a person, officer, board, commission, or other body or person whose lawful jurisdiction or powers are confined wholly or primarily within the territorial limits of Mobile County, or any incorporated city or town therein, and who or which have the power to make appointments to offices or positions of employment or trust in any of the Classified Services as in this Act defined. (6) "Employee" or "Appointee" means a person in the Classified Services herein set up and appointed by an Appointing Authority, unless herein specifically excepted. (7) (a) The "Classified Service" includes all offices, positions, and employment in Mobile County or any such city therein as these offices, positions, and employment now exist or as they may hereafter exist, the holders of which are paid whether by salary, wages or fees in whole or in part from public funds of Mobile County or any such city, or the holders of which receive their compensation from any elected official or officer, or other Appointing Power, except those placed in the "Unclassified Service" by Section Two hereof. (7) (b) It is also intended that the classified service shall include the administrative personnel of the Mobile Housing Board; provided, that the appointive members of such board shall not be so included. All such administrative personnel employed by the Mobile Housing

Board on July 1, 1966, shall be blanketed in as civil service employees without standing the initial test provided for in Act No. 470, H. 952 of the Regular Session of 1939. (8) "Employment Register" means records containing names of those persons who have successfully completed their prescribed tests, listed and ranked in order of their final earned average from the highest to the lowest. (9) "Roster" means records of persons in the Classified Service, containing information as to their service. (10) "Tests" means written and/or oral examinations and/or other methods established by rules and regulations of the Board and/or the Director as herein provided, to determine the merit, efficiency, and general fitness of applicants for positions. (11) "Public Hearings" means a meeting of the Board, open to the public, whereat any citizen, taxpayer or party at interest may appear and be heard subject to such rules and regulations as may be fixed by the Board. (12) "Public Record" means a record which the public shall have the right to inspect in a reasonable manner during ordinary business hours. (13) "Rules" means the regulations adopted by the Board for carrying out the provisions of this Act.

Section II. UNCLASSIFIED SERVICE: The following shall be in the Unclassified Service: (1) Officials elected by popular vote and, in case of death, resignation, or removal, their legal substitute; (2) Where by present law official duties of any officer mentioned in subdivision One of this section are or may be performed by a chief assistant appointed by him, such chief assistant; (3) Principals, supervisors, teachers and instructors in the Public Schools engaged in teaching and/or supervising teaching, and all employees of the Mobile County School Board; (4) The Personnel Director provided for by this Act; (5) Independent contractors receiving their remuneration from public funds under contract awarded by competitive bidding; (6) Persons in the "Classified Service" within the meaning of and subject to the State of Alabama merit system under any present or future law, and so long as any such law remains effective. (7) Common laborers not engaged in regular employment. (8) Attorneys, physicians, surgeons, and dentists employed in their professional capacities. (9) The Judge of any Court. (10) Members of Boards who are not employed on a full time basis and are not required to devote their services exclusively to such counties and cities therein. (11) Any person whose employment is subject to the approval of the United States Government or of any agency thereof. (12) Chief hospital administrator and interns, student technicians, and student nurses while undergoing training in a hospital maintained by public funds.

Section III. LOCAL PERSONNEL DEPARTMENT CREATED. There is hereby created and established, in and for Mobile County, of the State of Alabama, a Personnel Department, with a Supervisory Committee, a Personnel Board and a Personnel Director, each of which shall have the nature, authority, functions, duties and remuneration as hereinafter provided.

Section IV. PURPOSE OF PERSONNEL DEPARTMENT: The Personnel Department created by this Act shall, to the extent set out in this Act, govern and

control, by Civil Service rules, regulations and practices, hereinafter set out or provided for, all individuals in the Classified Service.

Section V. SUPERVISORY COMMITTEE: (a) There is hereby established the Supervisory Committee of the Mobile County Personnel Board. This committee shall be in lieu of the Citizen's Supervisory Committee created by Act. No. 470, H. 952 of the 1939 Regular Session (Acts 1939, p. 298) and in lieu of the Supervisory Committee of the Mobile County Personnel Board created by Act No. 167, H. 231 of the 1955 Regular Session, (Acts 1955, p. 431) both of which are hereby abolished. The Supervisory Committee hereby created shall succeed to and exercise all the rights, powers, and authority, and shall perform all the duties and functions now vested in and required of the Citizen's Supervisory Committee created by Act No. 470, H. 952 of 1939 Regular Session (Acts 1939, p. 298) and the Supervisory Committee of the Mobile County Personnel Board created by Act No. 167, H. 231 of the 1955 Regular Session (Acts 1955, page 431).

(b) The Supervisory Committee of the Mobile County Personnel Board shall be composed of the following:

1. The persons holding each of the following elective offices in Mobile County, Alabama, namely, the Presiding Judge of the Circuit Court, the Judge of Probate, the Revenue Commissioner, the Presiding Judge of the District Court of Mobile County, the County License Commissioner, the Chair of the Mobile County Commission, the Sheriff of Mobile County, and the Mayor of each of the incorporated towns and cities in Mobile County.

(Amended by Act No. 84-623, House Bill No. 311, 5/31/84.)

2. The following non-elected officials shall also be members of the Supervisory Committee: The President or other chief executive officer of the Mobile County Municipal Association; a representative elected by all of the professional law enforcement officers of Mobile County, including all members of MCLEA; a representative elected by all the professional fire fighters of Mobile County; and a representative elected by the employees, other than the professional law enforcement officers and firefighters, employed under the Mobile County Merit System; each of whom shall be a bona fide resident and qualified elector of Mobile County. The representatives of the professional law enforcement officers of Mobile County, including all members of MCLEA, the professional fire fighters of Mobile County, and the employees employed under the Mobile County Merit System, shall be elected at meetings called for that purpose by the Chair of the Supervisory Committee, notice of which shall be given to the members of their representative class by publication once each day for three consecutive days preceding the meetings in a newspaper of general circulation, published in Mobile County. The notice of publication shall be signed by the Chair of the Supervisory Committee, and shall state briefly the purpose of the meeting together with the date, time, and place of holding the meeting. All such meetings shall be held at the Mobile County Courthouse, or some other public meeting place

designated by the Chair of the Supervisory Committee. The Chair of the Supervisory Committee or such other person as may be designated by the chair, shall preside at the meetings and Roberts' Rules of Order shall be followed in the conduct of the meetings. The members of the Supervisory Committee so elected shall serve for four-year terms or until successors are elected and qualified. In the event of a vacancy, the vacancy shall be filled in the same manner as the initial members are elected, to complete the unexpired term. Only full-time permanent employees in each representative class shall be eligible to vote at any election. The Personnel Department shall certify to the Chair of the Supervisory Committee the names of all law enforcement officers, fire fighters, and other employees eligible to vote at any election at least two days prior to the meeting or meetings called for that purpose.

(c) Except as otherwise provided herein, each member of the Supervisory Committee shall be entitled to cast one vote on any matters considered at any regular or special meeting of the Supervisory Committee. In addition thereto, each jurisdiction in Mobile County under the control of the Mobile County Civil Service System, shall be entitled to cast one additional vote for each 400, or major fraction thereof, Civil Service employees occupying permanent positions as of December 31st of the year preceding any such meeting of the Supervisory Committee, the additional votes to be cast by the elected official designated in subsection (b) 1. having appointing authority over such employees in the jurisdiction. All voting of the Supervisory Committee shall be by roll call vote. Voting by proxy shall not be allowed.

(d) The Presiding Judge of the Circuit Court of Mobile County shall be chair of the committee and shall be entitled to vote only in case of a tie. The chair shall pass upon the credentials and right of each person to sit thereon. In the event the presiding judge can not serve for any reason, or should decline to serve as chair, he or she shall appoint a sitting circuit judge as chair of the committee. The chair shall be the sole judge of the number of votes a member of the committee shall have as provided for in subsection (c). The chair shall call the first organizational meeting of the Supervisory Committee hereby created as soon as practicable after this act becomes effective. In the call, the chair shall specify the date and hour of the meeting and designate the place thereof, and shall mail a copy thereof to each member of the committee. At its first meeting, the committee shall adopt rules, regulations and modes of procedure as it deems expedient to enable it to dispatch its business in an orderly manner, and thereafter, from time to time, the committee may amend or rescind the rules, regulations, and modes of procedure or adopt additional ones. In addition to the organizational meeting hereby prescribed, the committee shall meet on the second Tuesday in June of each year, unless such day is a legal holiday, in which event the annual meeting of the committee shall be held on the day following the legal holiday. In addition to these meetings, the committee may hold special meetings on the call of the chair or any seven members thereof. All meetings of the committee shall be held at the county courthouse or some other public place designated by the chair. Notice shall be given of all meetings and shall be signed by the person or persons calling the meeting and shall state briefly the purpose of the meeting, shall be mailed to each person registered as a member of the committee or known to be a member, and shall also be

published once each day for three consecutive days immediately preceding the meeting in any daily newspaper published in Mobile County. Notice of the annual meeting shall be given in like manner, but failure of any member to receive notice by mail of the meeting, either annual or special, shall not invalidate the meeting. At any regular or special meeting of the committee, a day may be set for the next meeting of the committee and in this event no further notice of the meeting shall be required. A majority of the persons then serving as members of the committee shall constitute a quorum for the transaction of business, but a less number may adjourn from time to time and compel the attendance of absent members in such manners and under such penalties as may be prescribed by rules and regulations of the committee. The Supervisory Committee shall serve without compensation.

(Section V (b) through (d) amended by Act No. 86-479, House Bill No. 629, 4/30/86.)

(e) At each meeting of the Supervisory Committee it shall make recommendations to the Personnel Board as it shall deem in the interest of the sound administration of this act in Mobile County and shall fill any existing vacancy on the board, and shall elect a successor to any member of the board whose term will expire before the next annual meeting of the committee. The committee shall review the rules of the Personnel Board promulgated since the last annual meeting of the committee, and may, by a two-thirds vote of the entire committee, repeal any such rule of the Personnel Board which it may deem not in the best interest of the sound administration of this act, but shall not have the power to amend any rule or to promulgate any new rule within the province of the Personnel Board to adopt according to the provisions of this act. The word "rule" shall not be construed to mean orders, actions, or decisions of the Personnel Board made in the administration of this act.

(Section V amended by Act No. 2004-105, 04/08/04.)

Section VI. ALTERNATE METHOD OF SELECTION OF BOARD: In the event the Supervisory Committee shall for thirty days after the passage of this Act fail for any reason to elect the Personnel Board or in the event said Committee shall fail to fill any vacancy on said Personnel Board within thirty days after such vacancy occurs, then and in that event the Governor of the State of Alabama is hereby empowered and directed to appoint the members of said Board or to fill the vacancy thereon as the case may be.

Section VII. (a) PERSONNEL BOARD: The Personnel Board shall consist of five members designated respectively as Member No. 1, Member No. 2, Member No. 3, Member No. 4, and Member No. 5, each of whom shall be over 19 years of age, of recognized good character and ability, a qualified elector of Mobile County, and shall not, when appointed nor for three years then next preceding the date of his or her appointment have held elective public office, nor have been a candidate for public office. If any person actively solicits a position on the board, the committee shall, for this reason, refuse to consider his or her appointment. After the effective date of this amendment, each member shall be a resident of his or her respective district, as

hereinafter provided, at the time of his or her appointment and for the duration of his or her term; provided however, that those members in office on the effective date of the amendment may serve out the remainder of their then unexpired term without regard to their respective districts of residence. Members shall be appointed from the following districts:

1. Member No. 1 shall be appointed from Personnel Board District 1, which shall include the part of Mobile County which is included in House District 96 and all of House District 102.

2. Member No. 2 shall be appointed from Personnel Board District 2, which shall include all of House Districts 100 and 101.

3. Member No. 3 shall be appointed from Personnel Board District 3, which shall include all of House Districts 97 and 103.

4. Member No. 4 shall be appointed from Personnel Board District 4, which shall include all of House Districts 104 and 105.

5. Member No. 5 shall be appointed from Personnel Board District 5, which shall include all of House Districts 98 and 99.

The members of the board serving at the time of the passage of this act shall serve out their respective terms and until their successors are appointed and qualified. Thereafter, all members shall be appointed for five-year terms. In the event of a vacancy on the board, occasioned by death, resignation, impeachment, or other cause, the vacancy shall be filled by the appointment of a qualified successor by the Supervisory Committee for the then unexpired term. Each member of the board shall receive an expense allowance of six hundred dollars (\$600) per month and shall receive sixty dollars (\$60) per meeting for each meeting attended, and sixty dollars (\$60) per day for attendance upon all trials and hearings by the board. The expense allowance and compensation shall be paid from the same funds as other expenses of the department are paid.

The board shall meet once a month on dates to be fixed by its rules and regulations and as often as shall be necessary for the orderly dispatch of its business.

(Section VII (a) amended by Act No. 80-796, House Bill No. 591, 5/28/80.)

(Section VII (a) amended by Act No. 86-479, House Bill No. 629, 4/30/86.)

(Section VII (a) amended by Act No. 2009-553, House Bill No. 240, 5/15/09.)

(b) DUTIES OF THE BOARD: It shall be the duty of the board as a body:

1. To select a Personnel Director as provided in Section 8.

2. After a public hearing or hearings to adopt and amend rules and regulations for the administration of the act.

3. After a public hearing or hearings to adopt, modify, or reject such Classification and Compensation Plans for the Classified Service together with rules for their administration, as may be recommended by the director after a thorough survey by him or her of the personnel and department organizations included in the plan or plans.

4. To make such investigations as, in the board's opinion, are reasonable, either on petition of a citizen, taxpayer, or party at interest, or of its own motion, concerning the enforcement and effect of this act, and to require observance of its provisions and the rules and regulations made pursuant thereto.

5. To conduct hearings and to render decisions, as hereinafter provided, on charges preferred against persons in the Classified Service.

6. To make investigations as, in the board's opinion, are reasonable, as may be requested by the governing bodies of the county or of any city therein or by the Supervisory Committee and to report thereon to the governing body or committee requesting same.

7. To consider and act on such matters as may be referred to the board by the director.

8. To represent the public interest in the improvement of personnel administration in the Classified Service.

9. To formulate and conduct orientation seminars on a regular monthly basis open to all job applicants for the purpose of familiarizing applicants with testing methods, procedures, and general subject range.

10. To devise and implement various methods of testing as alternatives to written examinations, which may include, among others, oral and applied skills testing.

11. To advise and assist the director in fostering the interest on institutions of learning, civic, professional, and employee organizations in the improvement of personnel standards in the Classified Service.

12. To elect at the regular monthly meeting in April of each year one of its members to serve as chair of the board for the ensuing twelve months. Should the Personnel Board fail to elect the chair within 30 days after the regular monthly meeting in April of each year, then a chair shall be elected by the Supervisory Committee of the Mobile County Personnel Board.

(Amended by Act No. 80-796, Senate Bill No. 591, 5/28/80.)



13. Whenever by law or rules of the Personnel Board any positions in the service of Mobile County or of any municipality or of any other appointing authority within Mobile County, are duly transferred to and designated as positions in the Classified Service, or whenever a municipality or other appointing authority shall hereafter become subject to the provisions of this act, if the municipality or appointing authority at the time of becoming subject to this act had in its employment employees or appointees in positions within the classified service, as defined in this act, the Personnel Board may continue any or all persons employed by the county, a municipality, or other appointing authority in the same positions which they, respectively, held when the positions became subject to this act, without examination. The employees shall thereby be given a permanent status and their continued employment, promotions and discharges shall in all matters be subject to, and governed by this act. It is the intent of this act that all present employees or appointees of the county, and any municipality, agency or other appointing authority who were not in the classified service prior to the passage of this act, in the discretion of the Personnel Board, may be blanketed in the classified service and continue to hold the same position, which they, respectively, held when the positions became subject to this act. The board shall also have the authority, functions, and duties as provided in other sections of this act. It is further the intent of this act that no employees, appointees of the county, any municipality, agency or other appointing authority shall be a member of both a collective bargaining unit and the classified service.

(c) STATUS OF FUTURE EMPLOYEES: In the event that both of the following happens (1) that a municipality or other governmental agency hereafter becomes subject to the provision of this act, and (2) that at the time the municipality or other governmental agency becomes subject to the provisions of this act it then has in its employ employees or appointees who would come within the classified service as defined in this act, the board, may extend or grant permanent status to any or all the employees or appointees or require such evidence of fitness and ability it may deem necessary. All employees given permanent status shall thereafter in all matters be subject to and governed by the provisions of this act and any rules and regulations promulgated hereunder.

(d) GRIEVANCES: The board shall provide a meaningful and orderly procedure for the resolutions of employee grievances.

(e) EMPLOYEE-EMPLOYER RELATIONS: The board may provide an orderly procedure for discussion of matters which will improve and maintain a harmonious employee-employer relationship in all jurisdictions under the Mobile County Personnel Board. The board may establish an employee-management committee for any governmental agency whose employees are under civil service and it shall determine the composition, functions, and operations of the committees. All governmental agencies whose employees are under civil service shall cooperate with the Personnel Board to further these objectives.

(f) EMPLOYEE TRAINING: The Personnel Board has the inherent responsibility for establishing an overall policy relative to the pretraining and development of

employees in the public service. The board shall adopt rules and regulations in cooperation with the appointing authorities as well as administrative guidelines to carry out its responsibility hereunder. The various governmental agencies, appointing authorities, and department heads under the jurisdiction of the Mobile County Personnel Board shall cooperate fully with the Personnel Board in furtherance of these objectives so that the disadvantaged will be provided opportunities for employment.

(g) SAFETY: The Personnel Director, under the supervision of the Personnel Board, shall be responsible for developing and maintaining programs for improving safety practices and conditions affecting the safety, health, and morale of employees under the Mobile County Personnel System.

(h) IMPEACHMENT: The members of the Personnel Board shall be subject to impeachment for the same causes and in the same manner as other officers, as provided under Section 175 of the Constitution of Alabama of 1901.

(Section VII amended by Act No. 2004-105, 04/08/04.)

Section VIII. PERSONNEL DIRECTOR: The board shall elect and fix the salary of the director who shall hold office at the will of the board. The board shall prescribe qualifications as to residence, education, and experience as may be necessary in its opinion to fill the position of director. The director, as executive head of the department, shall direct and supervise all its administrative and technical activities. It shall be the director's duty to:

1. Attend all meetings of the board and provide for recording its official actions, but he or she shall not have a vote.
2. Appoint from the employment register employees of the department, and experts and special assistants as may be necessary to carry out effectively the provisions of this act. Upon approval by the Supervisory Board, the director may employ a Deputy Personnel Director outside of the merit system who shall serve at the director's pleasure. The deputy director may be employed at a salary not to exceed 75 percent of the salary of the director.
3. Prepare and recommend rules and regulations for the administration of this act.
4. Recommend, and on its adoption, establish, administer, and execute a classification plan for the classified service.
5. Submit to the board a pay plan for all positions in the classified service.
6. Conduct tests, formulate employment registers, and certify persons qualified for appointment; devise and administer employee service ratings.

7. Audit all payrolls or other compensation for personal services within the classified service as the director deems necessary, with authority to disapprove, from time to time, any item or items thereof, and no items so disapproved in writing by the director shall be paid or authorized for payment.

8. Establish and maintain a roster of all of the officers and employees in the Classified Service.

9. Make reasonable investigations pertaining to personnel, salary scales, and employment conditions in the classified service as may be requested by the board, the Supervisory Committee, or by the governing bodies of the county or any city therein.

10. Make investigations concerning the administration and effect of this act and the rules made thereunder and report his or her findings and recommendations to the board.

11. Make an annual report to the board.

12. Perform any other act or acts required of the director under this act or required of the director by the board which may be necessary or proper to carry into effect its purposes and spirit. The director may join or subscribe to any association or service or publication having as its purpose the interchange or dissemination of information relating to the improvement of personnel administration.

13. The director and deputy director shall be eligible to participate in the same pension plan to which the other employees of the Personnel Department are members.

(Section VIII amended by Act No. 2004-105, 04/08/04.)

14. **DISCRIMINATION PROHIBITED:** No persons shall be denied the opportunity to take any test or examination given under authority of the Mobile County Personnel Board solely because of race, color, creed, national origin, sex or age. No person shall be denied employment within the Mobile County Civil Service System solely because of race, color, creed, national origin, sex or age.

15. **HANDICAPPED PERSON<sup>1</sup>:** The Director of the Mobile County Personnel Board shall, upon request of an Appointing Authority, add to any certification of three applicants eligible for employment, the name of any handicapped person on the eligible list who is certified by the Director of the Division of Rehabilitation of Crippled Children, State Department of Education, as being eligible for rehabilitation services; but, said Personnel Director shall not give preference in certification for employment to any handicapped person if he finds such person is physically or otherwise unfit to perform

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<sup>1</sup>Addition by Act No. 86-479, House Bill No. 629, 4/30/86.)

effectively the duties of the position in which he seeks employment.

The decision of the said Personnel Director shall be final.

Section IX. RULES:

(a) The Director shall recommend such Rules as he may consider necessary, appropriate, or desirable to carry out the provisions of this Act, and may from time to time recommend amendments thereto. When such Rules or amendments are recommended by the Director, the Board shall hold a Public Hearing thereon, and at or after such hearing shall approve or reject the recommendations of the Director wholly or in part or to modify them and approve them as so modified. Rules hereunder shall be recommended by the Director with or without the advice of any appointing authorities as soon as practicable after his appointment. The Board shall have power on its own initiative to propose Rules, amendments or additions to the Rules and, after holding a Public Hearing thereon, adopt, modify, or reject them.

(b) Rules adopted under this section shall have the force and effect of law.

(c) Among other things, such Rules shall provide for the method of administering the Classification Plan and the Pay Plan; the establishment, maintenance, consolidation, and cancellation of Lists; the charge, if any, to be made for receipt of applications or admission to Tests; the application of Service Ratings; the hours of work, attendance regulation, and leaves of absence for employees in the Classified Service; and the order and manner in which Lay-offs shall be effected. Such Rules may include any provisions relating to the Classified Service, not inconsistent with the laws of the state, which may be necessary or appropriate to give effect to the provisions and purposes of this Act.

(d) The powers herein conferred upon the Director shall be subject only to the provisions of this Act and of the Rules adopted hereunder, and may be exercised by regulation or by order as the Director sees fit. His powers and duties shall not be limited or restricted by the authorization to adopt Rules, except to the extent that Rules are adopted thereunder.

Section X. CLASSIFICATION OF POSITIONS: The Director shall, as soon as practicable after this Act takes effect, ascertain and record an outline of the duties of each position in the Classified Service, and after consultation with Appointing Authorities and principal supervising officials, recommend to the Board a Classification Plan, together with proposed Rules for its administration. Such Classification Plan shall show each class of position in the Classified Service separately stated as to each appointing authority and when approved by the Board shall be made public, together with the Rules for its administration. Each such class shall include positions requiring duties which are substantially similar in respect to the authority, responsibility, and

character of the work required in the performance thereof and shall be designated by a title indicative of such duties. Each class shall be so defined that the same general requirements as to education, experience, capacity, knowledge, skill and aptitude are demanded of incumbents for the proper performance of their duties; that the same Tests of fitness may be used in choosing qualified appointees; and that the same schedule of pay can be made to apply with equity under like conditions. The class titles shall be used in personnel, budget and financial records and communications. As far as practicable the natural or probable lines of promotion to and demotion from the class of position shall be designated or indicated.

The Director of Personnel shall have authority to investigate concerning the number of employees in any department or office for employment and if in his opinion, after conference with the department head, there are an excessive number or an insufficient number of employees in proportion to the amount of work required in such department or office, the Director shall recommend to the Personnel Board that the excessive number of employees, if any there be, be laid off or transferred, either permanently or temporarily, in accordance with the provisions of this act, or the Director, if in his judgment there be an insufficient number of employees, may certify to the Appointing Authority additional names to fill such positions, and the Appointing Authority shall put into effect the order of the Personnel Board in any such respect.

Section XI. PAY PLAN: After consultation with appointing authorities, or other officers, or both, the director shall prepare and recommend to the board a pay plan for all employees in the classified service. The pay plan shall include, for each class of positions, a minimum and a maximum rate not inconsistent with the rate or rates as may otherwise in specific instances be fixed by law. In establishing the rates, the director shall give consideration to the experience in recruiting for positions in the classified service, the prevailing rates of pay for the services performed, and for comparable services in public and private employment, living costs, maintenance or other benefits received by employees, and the county's and cities' financial condition and policies. The pay plan shall take effect when approved by the board. Amendments thereto may be made from time to time in the same manner or upon motion of the board, or both.

The budgeting authority for each Appointing Authority may establish pay ranges, salary steps and number of steps for any given class provided that parity is continued for public safety employees and that the ranges, salary steps and number of steps are not less than those established by the Personnel Board.

1. ENTRY LEVEL EMPLOYEES. Each appointing authority shall determine the rate to be paid initially for each entry level employee. Each employee shall be paid initially at the minimum rate set forth in the pay plan for the class of positions in which the employee is employed. However, for professional and technical classes of positions, other than public safety officers, at the discretion of the appointing authority, the employee may be paid at a rate up to but not in excess of the midrange of the pay

plan established for the professional and technical position. The subsequent raising and lowering of the pay of an individual within the maximum and minimum rate shall be done upon the request of the appointing authority with a similar recommendation by the director, and the approval of the governing body.

2. PROMOTIONAL EMPLOYEES. Upon a regular employee being promoted to a higher position, the employee shall receive not less than two steps, nor more than the maximum rate established by the class, at the discretion of the appointing authority. Notwithstanding the above, upon a regular employee being promoted to a higher position within the City of Mobile Fire Department, the employee shall receive two steps.

(Section XI amended by Act No. 2004-105, 04/08/04.)

Section XII. TESTS: The Director shall conduct Tests to establish Employment Registers for the various classes of positions in the Classified Service. The Director shall so conduct the tests as to take into consideration elements of character, reputation, education, aptitude, experience, knowledge, physical fitness, and other pertinent matters. The Tests may be written and/or oral, and/or any other demonstration of fitness as the Director may determine. Public notice of the time, place, and general scope of every test shall be given. The Director shall determine the qualifications for admission to any Test. For a promotion Test, the qualifications shall include the requirements that an applicant be employed in a position in such class, and for such length of time, as the Director shall specify, subject to the Rules. Subject to such limitations as to age and sex as the Director considers for the best interests of the service, admission to tests shall be open to all persons who appear to possess the required qualification for such Test and may be lawfully appointed to a position in the class for which a List is to be established, and who pay the fee, if any, prescribed by the Rules. The Director may, however, reject the application of any person for admission to a Test or may strike the name of any person from a list or refuse to certify the name of any person on a list for a position if he finds that such person lacks any of the required qualifications, or is physically unfit to perform effectively the duties of the position in which he seeks employment, or is addicted to the habitual excessive use of drugs or intoxicating liquor, or has been convicted of a felony or guilty of any crime involving moral turpitude, or had been dismissed from the public service for delinquency, or has made a false statement of a material factor practiced or attempted to practice any fraud or deception in his application or test or in attempting to secure appointment. The names of persons employed in any Classified Service at the time of the passage of this Act shall be placed on the employment roster without standing the initial test herein provided for and shall be subject to the provisions of this Act.

Section XIII. FILLING VACANCIES: Vacancies in the classified service shall be filled either by promotion, appointment, transfer, or demotion. The appointing authority shall notify the director when a vacancy is to be filled.

(Section XIII amended by Act No. 2004-105, 04/08/04.)

Section XIV. PROMOTION: Vacancies in positions shall be filled by the appointing authority and, as far as practicable, the same shall be filled by promotion, from among regular employees holding positions in the classified service, with the exception of the entry level classification for merit system laborers. These unskilled laborers who have been employed in such jurisdictions for a minimum of six months shall be entitled to take a promotional examination for entry into the merit system. Promotions shall be based upon merit, ability, and competency as may be provided in the rules.

(Section XIV amended by Act No. 80-796, Senate Bill No. 591, 5/28/80.)  
(Section XIV amended by Act No. 2004-105, 04/08/04.)

Section XV. APPOINTMENTS: Whenever a vacancy is to be filled by an appointment, the appointing authority shall submit to the director a statement of the position and, if requested by the director, the duties of the position and desired qualifications of the person to be appointed, with a request that the director certify to the appointing authority the names of persons eligible for appointment to the position. The director shall then certify to the appointing authority the names of the top 10 eligible persons on the appropriate register in alphabetical order and, if more than one vacancy is to be filled, the name of one additional eligible person for each additional vacancy, shall be added to the certification in the order they appear on the register, or if agreeable to the appointing authority, all the names on the register if they are fewer than ten eligible persons.

However, for initial applicants for appointment as law enforcement officers the director shall certify to the appointing authority the names of the top ten eligible persons on the appropriate register in alphabetical order, and if more than one vacancy is to be filled, the names of ten additional eligible persons for each additional vacancy shall be added to the certification in the order they appear on the register, or if agreeable to the appointing authority, all names on the register if there are less than ten eligible persons. Notwithstanding the above, no more than 70 names of eligible persons, regardless of the number of vacancies to be filled, shall be certified to the appointing authority. Notwithstanding the above, all lists of applicants and employees for promotion in the Mobile Police Department, Mobile County Sheriff's office and Mobile Fire Department shall be in ranked order when delivered to the appointing authority.

Furthermore, the Mobile County Health Department, after July 1, 2004, may hire and fire servants, agents, employees, and officers at will employed in jobs not funded by monies generated directly by the State of Alabama, the County of Mobile or incorporated municipalities therein.

Where residence qualifications are prescribed by the appointing authority, only those complying with residence qualifications shall be certified. If it is impossible to locate any of the eligible persons so certified, or should it become known to the director

that an eligible person is not willing to accept the position, or there are less than the above required number of eligible persons, the appointing authority may request that additional names be certified until the proper number of persons eligible and available for the appointment have been certified. Within 30 days after the names are certified, the appointing authority shall appoint one eligible person who is certified to each vacancy which is to be filled. In no event shall extensions be granted beyond the 30 days unless approved by the Personnel Director. Should the appointing authority fail to return the certification to the director within 30 days, the certification shall be null and void. In the event there are fewer than the authorized number of eligible persons from which to make the selection, the choice may be from the remaining names or a provisional appointment may be made as provided by Section XIX. In the event there is not an employment register which the director deems appropriate for the class in which the position is established, the director shall prepare a register within a reasonable time after receipt of the request of the appointing authority that eligible persons be certified. Whenever an eligible person has been certified to and rejected by the appointing authority three times, the director may remove the name of the rejected person from the employment register. No vacancy shall be filled except as provided in this act.

(Section XV amended by Act No. 86-479, House Bill No. 629, 4/30/86.  
See SECTION VIII. PERSONNEL DIRECTOR: 14. HANDICAPPED PERSON.)

(Section XV amended by Act No. 2004-105, 04/08/04.)

**Section XVI. TRANSFER:** An Appointing Authority may, at any time, assign a classified employee under his jurisdiction from one position to another in the same class. Any classified employee may be transferred from one department to another in the same class, providing that the Director has authorized the transfer and has received approval of both Appointing Authorities concerned. In every case involving transfer, the Appointing Authority shall give written notice to the Director. Such transfer cannot be made without approval of the Director.

**Section XVII. DEMOTION:** An Appointing Authority may, upon giving written notice stating reasons, to and with the approval of the Director, demote a classified employee under his jurisdiction from a position in one class to a position in a lower class.

**Section XVIII. PROVISIONAL APPOINTMENTS:** Whenever in the opinion of the Director it is impossible within a reasonable time to certify eligible persons for appointment to a vacancy in the Classified Service, the Appointing Authority may nominate a person for the vacancy to the Director. If such nominee is found by the Director to have had experience and training which appear to qualify him for the position, the Director may authorize the appointment of such person to such vacancy only until an appropriate eligible register can be established and appointment made therefrom.



## Section XIX. WORKING TEST PERIOD:

### (a) Entry Level and/or Initial Employment.

1. Every person appointed to an initial position with each jurisdiction for entry into the classified service is a probationary employee with that jurisdiction, and shall be tested by a working test while occupying the position. The period of the working test shall commence immediately upon appointment and shall continue for such time, not less than six months, as shall be established by the director. At times during the working test period and in the manner as the director may require, the appointing authority shall report to the director his or her observation of the employee's work, and his or her judgement as to the employee's willingness and ability to perform his or her duties satisfactorily, and as to his or her habits and dependability. At any time during his or her working test period, after the first two months thereof, the appointing authority may remove an employee if, in the opinion of the appointing authority, the working test indicates that the employee is unable or unwilling to perform his or her duties satisfactorily or that his or her habits and dependability do not merit his or her continuance in the service. Upon removal, the appointing authority shall report to the director and to the employee removed, his or her action and the reason therefor. No more than three employees shall be removed successively from the same position during their working test periods without the approval of the director. The appointing authority may remove an employee within the first two months of his or her working test period only with the approval of the director. The director may remove an employee during his or her working test period if the director finds, after giving the employee notice and an opportunity to be heard, that the employee was appointed as a result of a fraud or error.

2. Prior to the expiration of an employee's working test period, unless the employee has been previously removed, the appointing authority shall notify the director in writing whether the service of the employee has been satisfactory and whether he or she will continue the employee in his or her position. If the employee is not to be continued in his or her position, the employee must be provided a copy of the notice and should not be paid for work performed after the expiration of his or her working test period.

3. If any employee is removed from his or her position during his or her working test period, and the director determines that he or she is suitable for appointment to another position, his or her name may be restored to the list from which it was certified.

### (b) Promotion Level.

Section 1. Every person in the classified service is a probationary employee in each promoted position and shall be tested by a working test period while occupying the promoted position. All provisions of Section XIX (a) (1) and (2) apply to the promoted employee. If an employee is removed from his or her promoted position during his or

her working test period, the employee may be restored to the position from which the employee was promoted.

(Section XIX amended by Act No. 2004-105, 04/08/04.)

Section XX. **SERVICE RATINGS:** In co-operation with authorities, the director shall establish, and may from time to time amend, standards of performance and output for employees in each class of positions in the classified service or for groups of classes, and a system of service ratings based upon such standards. In such manner and with such weight as shall be provided in the rules, unsatisfactory service ratings shall be considered in determining the salary increases and decreases within the limits established by the pay plan; as a factor in promotion tests; as a factor in determining the order of lay-offs when forces must be reduced because of lack of funds or work, and the order in which names are to be placed on re-employment lists; and as a means of discovering employees who should be promoted, transferred, or dismissed. In the manner and at the time as the rules may require, each appointing authority shall report to the director the service ratings of employees in his or her division or information as the director may request as a basis for determining the service ratings.

(Section XX amended by Act No. 2004-105, 04/08/04.)

Section XXI. **LAY-OFFS:** In accordance with the Rules adopted under this Act an Appointing Authority may lay-off an employee in the Classified Service whenever he deems it necessary by reason of shortage of work or funds, or the abolition of a position or other material change in duties or organization. The seniority and service ratings of employees shall be controlling in determining the order of lay-offs. The Appointing Authority shall give written notice to the Director of every proposed lay-off a reasonable time before the effective date thereof, and the Director shall make such orders relating thereto as he considers necessary to secure compliance with the Rules. The name of every regular employee so laid off shall be placed on the appropriate re-employment list.

Section XXII. **DISMISSAL:** (a) An Appointing Authority may dismiss a classified employee whenever he considers the good of the service will be served thereby, for reasons stated in writing, served on the affected employee, and a copy furnished to the Director, which action shall become a Public Record; the dismissed employee may, within ten days after notice, appeal from the action of the Appointing Authority by filing a written answer to the charges. The Board may after investigation order a Public Hearing upon notice to, and opportunity to be heard by, the employee and if the charges are proved unwarranted, order the reinstatement of the employee under such conditions as the Board may determine. (b) In addition to removal by an Appointing Authority, persons in the classified service may be removed or disciplined in the following manner. Charges may be filed by any officer, citizen, or taxpayer of the County with the Director who may after investigation cause a copy to be served upon the person complained against and set a day for a public hearing of such charges. This hearing may be before

the Director, a special agent appointed for the purpose by the Director, or the Board itself. If before the Director or a special agent, the Director or special agent shall take testimony offered in support and denial of such charges and from the same submit to the Board, within five days, a finding of the facts (and law involved) and a recommended decision. The Board at its next regular or special meeting shall consider said report and modify, alter, set aside or affirm said recommendation and certify its findings to the Appointing Authority who shall forthwith put the same into effect. If the Board hears said charges directly or requires the Transcribing and Submission of the testimony taken before the Director or special agent, it shall make up and file its own findings and decision. The findings of fact of the Board based upon its records and the testimony taken before it, or before the Director shall be conclusive if supported by any substantial evidence. (c) In proceedings under this section it shall be no defense or excuse for a forbidden act, or for an omission to observe the laws or rules, that such act or omission was directed by a superior, unless a direction or order from such superior to that effect is proved to the satisfaction of the Board.

Section XXIII. (a) **SUSPENSIONS:** An appointing authority may suspend a regular employee whenever he or she considers the good of the service will be served thereby, for reasons stated in writing, served on the affected employee and a copy furnished to the director, which action shall become public record. However, no employee may be suspended by the appointing authority for a period or periods in the aggregate of more than 30 days in any year of service. The suspended employee, within ten days after notice, may appeal from the action of the appointing authority by filing a written answer to the charges. No suspension shall become effective until the suspended employee is accorded due process in the form of a disciplinary hearing. The suspended employee shall have the right to file an appeal of the suspension for a hearing before the board. The hearing before the board shall be in accordance with the rules promulgated by the board.

(b) **ADMINISTRATIVE LEAVE.** For good cause shown or when an employee has been charged with a violation of the penal code, the appointing authority may place him or her on administrative leave for a period not to exceed 60 days. If a further extension is necessary, it shall require approval of the Personnel Board. During the administrative leave, the employee's compensation and other emoluments of his or her position shall not be diminished. Provided, however, the appointing authority shall have the right to take disciplinary action against any employee who has been placed on administrative leave, if, in the opinion of the appointing authority, disciplinary action is warranted, at which time the employee's administrative leave shall cease.

(Section XXIII amended by Act No. 2004-105, 04/08/04.)

Section XXIV. **POLITICAL ACTIVITIES:** ACT 95-378 was approved and signed into law by the Governor of Alabama on July 24, 1995. This Act is codified as S17-1-7 of the 1975 Code of Alabama and is known as the "EQUALITY OF CITIZENSHIP ACT".

(a) (1) No person in the employment of any city, whether classified or

unclassified, shall be denied the right to participate in city, county or state political activities to the same extent as any other citizen of the State of Alabama, including endorsing candidates and contributing to the campaigns of his or her choosing.

(2) No person in the employment of the county, whether classified or unclassified, shall be denied the right to participate in city, county, or state political activities to the same extent as any other citizen of the State of Alabama, including endorsing candidates and contributing to campaigns of his or her choosing.

(3) No person in the employment of the State of Alabama, whether classified or unclassified, shall be denied the right to participate in city, county, or state political activities to the same extent as any other citizen of the State of Alabama, including endorsing candidates and contributing to campaigns of his or her choosing. Notwithstanding the foregoing, any person within the classified service shall comply with Section 36-26-38.

(4) All persons in the employment of any city, county, or state shall have the right to join local political clubs and organizations, and state or national political parties.

(5) All persons in the employment of any city, county, or state shall have the right to publicly support issues of public welfare, circulate petitions calling for or in support of referendums, and contribute freely to those of his or her choosing.

(b) No person shall attempt to use his or her official authority or position for the purpose of influencing the vote or political action of any person. Any person who violates this subsection (b) shall be guilty of a felony and punishable by a fine not to exceed ten thousand dollars (\$10,000) imprisonment in the state penitentiary for a period of not to exceed two years, or both.

(c) No person in the employment of the State of Alabama, a county, or a city whether classified or unclassified, shall use any state, county, or city funds, property or time, for any political activities. Any person who is in the employment of the State of Alabama, a county, or a city shall be on approved leave to engage in political action or the person shall be on personal time before or after work and on holidays. It shall be unlawful for any officer or employee to solicit any type of political campaign contributions from other employees who work for the officer or employee in a subordinate capacity. It shall also be unlawful for any officer or employee to coerce or attempt to coerce any subordinate employee to work in any capacity in any political campaign or cause. Any person who violates this section shall be guilty of the crime of trading in public office and upon conviction thereof, shall be fined or sentenced, or both as provided by Section 13A-10-63.

(d) Notwithstanding subsection (c), any employee of a county or a city, whether in the classified or unclassified service, who qualifies to seek a political office with the governmental entity with which he or she is employed, shall be required to take unpaid leave of absence from his or her employment, or use accrued overtime leave, or use accrued vacation time with the county or city from the date he or she qualifies to run for office until the date on which the election results are certified or the employee is no longer a candidate or there are no other candidates on the ballot. For purposes of this subsection, the term “employing authority” means the county commission for county employees or the city council for city employees. Any employee who violates this subsection shall forfeit his or her employment position. In no event shall this subsection apply to elected officials.

(e) When off duty, out of uniform, and acting as a private citizen, no law enforcement officer, firefighter, or peace officer shall be prohibited from engaging in city, county or state political activity or denied the right to refrain from engaging in political activity so long as there is compliance with this section.

Prior to the passage of Act 95-378 (Section 17-1-7) of the Alabama Code, all political activities of classified employees were governed by Section XXIV of the Personnel Board Act (Act No. 470 of the 1939 Local Acts of Alabama). Act 95-378 repealed paragraph (d), (e) and (g) of Section XXIV of Act 470, but paragraphs (a), (b), (c) and (f) of Section XXIV remain valid and enforceable and read as follows:

(a) No person shall be appointed or promoted to, or demoted or dismissed from any position in the Classified Service, or in any way favored or discriminated against with respect to employment in the Classified Service because of his political or religious opinions or his race.

(b) No person shall seek or attempt to use any political endorsement in connection with any appointment to a position in the Classified Service.

(c) No person shall use or promise to use, directly, or indirectly, any official authority or influence, whether possessed or anticipated, to secure or attempt to secure for any person an appointment, or advantage in appointment to a position in the Classified Service, or an increase in pay or other advantage in employment in any such position, for the purpose of influencing the vote or political action of any person, or for any consideration.

(f) Any officer or employee in the Classified Service who violates any of the foregoing provisions of this Section shall forfeit his office or position.

1

<sup>1</sup> Section 17-1-7 of the Code of Alabama, a state wide act, while not a part of the law creating and establishing a countywide Civil Service system for Mobile County (Act 470 of the 1939 Local Acts of Alabama, page 298) nevertheless, has been incorporated in the Personnel Board Laws and Rules manual for easy reference and for the convenience of employees, supervisors, appointing authorities and the public in general. The “Equality of Citizenship Act” is self-explanatory and is enforceable according to the language thereof, but should also be read in para material with those provisions of Section XXIV of Act 470, supra, which may complement each other.

Section XXV. PENSION OR RETIREMENT PLAN: The Board shall cause a thorough investigation to be made of the possibilities of establishing a pension plan or system of retirement benefits for employees in the Classified Service and report their findings and recommendations together with estimates of cost to employees and to the affected County and Cities, to the members of Legislature representing said County.

Section XXVI. INVESTIGATIONS: The Board or its designated agent shall make studies upon all matters touching the enforcement and the effect of the provision of this Act and the Rules and Regulations prescribed thereunder. Members of the Board or its agent or agents may visit all places of employment and services affected by this Act in order to ascertain and advise with the heads of the various departments concerning their methods of handling those matters affecting employees in the service, such as hours of work, attendance, training, working conditions and morale, and in order to ascertain whether the provisions of this Act and the Rules promulgated thereunder are obeyed. The Board in the course of such inquiries shall have the power to administer oaths, subpoena and require the attendance of witnesses and the production of books, papers, documents, and accounts pertaining to the subject under investigation. All hearings and inquiries made by the Board shall be governed by this Act and by Rules of practice and procedure adopted by the Board, and in conducting such inquiries they shall not be bound by the technical rules of evidence. No informality in any proceedings or in the manner of taking testimony by the Board shall invalidate any order, decision, rule, or regulation made by the Board, provided, however, that the Constitutional rights of no individual shall be abridged.

The Board or its designated agent or agents shall have the authority to inquire concerning the number of employees in any department or office, and if after notice, and opportunity to be heard to the Appointing Authority and to the employees affected, in the Board's judgment there is an excessive number of employees in proportion to the amount of work required in such department or office, they shall issue an order in writing to the Appointing Authority that the number of employees so found to be excessive, be laid off or transferred, and this order shall be promptly carried out by the Appointing Authority. The Board or its designated agent or agents shall also study the organization, procedure and/or any other business matter which might affect the classified employment of the different departments and suggest such changes in procedure as may increase efficiency or enable the organization to carry on its work more economically.

Section XXVII. CORRUPT PRACTICES: (a) No person shall make any false statement, certificate, mark, rating or report with regard to any test, certification or appointment made under any provision of this Act or in any manner commit or attempt to commit any fraud preventing the impartial execution of this Act and the Rules. (b) No person shall, directly or indirectly, give, render, pay, offer, solicit or accept any

money, service or other valuable consideration for or on account of any appointment, proposed appointment, promotion or proposed promotion to, or any advantage in, a position in the classified service. (c) No employee of the Department, examiner, or other person shall defeat, deceive or obstruct any person in his right to examination, eligibility, certification or appointment under this Act, or furnish to any person any special or secret information for the purpose of affecting the rights or prospects of any person with respect to employment in the Classified Service. (d) Anything in this Act which might be construed to the contrary notwithstanding, no person whether employed at the time of the passage of this Act in the Classified Service as defined in this Act, or who applies for appointment to any position in the Classified Service after the passage of this Act, shall be allowed to fill any position within the Classified Service, or allowed to continue to hold such position, if said person is related by blood or marriage within the fourth degree to the Public Officer who is or would be his or her superior, or so related to any member of any Board or Body, constituting the Appointing Authority over such position, and the Personnel Board and Personnel Director shall administer this Act accordingly.

The Commission of any such corrupt practice shall be a misdemeanor punishable as such in said County.

Section XXVIII. CERTIFICATIONS OF PAYROLLS: It shall be unlawful for any county or city official, officer, or employee, or any other officer, to pay or to cause to be paid any salary or compensation to any person in the classified service for personal services unless the payroll, estimate, voucher, or account for salary or compensation, containing the name of the person to be paid shall bear the certification of the Personnel Director or the financial officer of the jurisdiction where the employee is employed, that the person or persons named therein are legally entitled to receive the sums stated therein. Any sum paid contrary to any provision of this act or of any rule, regulation, or order thereunder may be recovered in an action maintained in the name of the county or city or jurisdiction by the applicable county or city attorney or by any citizen or taxpayer of the jurisdiction, from any officer who made, approved, or authorized the payment or who signed or countersigned a voucher, payroll, check, or warrant for the payment or from the sureties on the official bond of any officer.

(Section XXVIII amended by Act No. 2004-105, 04/08/04.)

The Personnel Director of the Mobile County Personnel Board shall establish a system to audit the payrolls of those various jurisdictions certifying their own payroll on a periodic basis which shall be at least four times per year. Should any audit reveal any monies to be wrongfully paid, the payments shall be reported to the respective jurisdiction which shall take legal action as may be necessary to recover any funds improperly paid. Failure of the official to take action to recover funds improperly disbursed shall be reported to the District Attorney of Mobile County. Notwithstanding

the foregoing, the Personnel Director shall continue to certify the payrolls of any jurisdictions requesting certification.

(Section XXVIII amended by Act No. 2004-105, 04/08/04.)

Section XXIX. ATTENDANCE OF WITNESSES -- FEES – FALSE OATHS: Any person who shall be served with a subpoena, issued in the course of an investigation or hearing conducted under any provision of this Act, to appear and testify or to produce books and papers, who shall disobey or neglect to obey any such subpoena shall be guilty of a misdemeanor. The fees of witnesses for attendance and travel shall be the same as fees of witnesses before the courts of record and shall be paid as is provided in Section 30 hereof. Any judge of a court of record, either in term time or vacation, upon application of a member of the Board or the Director, shall compel the attendance of witnesses, the production of books and papers, and the giving of testimony before the Board or an agent thereof by attachment, or contempt, or otherwise, in the same manner as the production of evidence shall be compelled before said court. Any person who, having taken an oath or made affirmation in the cause of any investigation or hearing under the provisions of this Act, shall willfully and knowingly testify or declare falsely, shall be guilty of perjury and upon conviction shall be punished accordingly. The Director or the Board may require the attendance of employees who are needed as witnesses without subpoena.

Section XXX. EXPENSE OF THE DEPARTMENT: The salaries and expenses of suitable regular office quarters, and all other expenses of the Personnel Board, the Personnel Director, and all other expenses arising under the provisions hereof, unless otherwise herein provided, shall be paid by warrants or requisitions drawn by the Personnel Board and signed by at least two members thereof. On June 1 of each fiscal year, the Personnel Board shall prorate the total sum which it has expended for the purposes of this Act for the fiscal year between itself, the County, the other Cities and/or Appointing Authorities subject to the Personnel Board, charging each with the part of the total sum so expended as the total payroll of the County, City, or Appointing Authority, who were subject to the provisions of this Act on the last day of May, bears to the total payroll of the County and all Cities and Appointing Authorities subject to the provisions of this Act, on the last day of May. The percentage arrived at by the Personnel Board as the proper contribution of each shall be certified to the Director of Personnel and when approved in writing, shall be used to compute the liability of each respective County, City, and/or Appointing Authority for the next fiscal year beginning October 1. In the event the salaries of the County, a City, or an Appointing Authority are paid in part from different treasuries or different funds, in the same treasury, the liability for this contribution shall accrue against such various treasuries or funds in the same proportion, as the salaries of the employees of the County, City, or the Appointing Authorities are paid therefrom. The Personnel Board shall submit a budget of expenses for each fiscal year to the Supervisory Committee with a copy to the governing body of the County, the City of Mobile, and each Appointing Authority before June 1 for the next fiscal year. The budgets may include expenses incurred in any previous year and not



heretofore paid. The governing body of each Appointing Authority may appear before the Board in connection with any budget or any item therein contained. The budget of the Personnel Board for the next fiscal year shall be fixed by the Supervisory Committee prior to July 1. Thereafter, the Personnel Director shall notify each entity of its contribution required which shall be paid in quarterly installments before the beginning of each quarter beginning October 1. In the event any contribution levied hereunder shall not be paid within thirty days after approval by the Personnel Director, the Personnel Board may bring suit therefor in any court of competent jurisdiction and any judgment so recovered shall be satisfied from any funds in such treasury or funds against which the contribution levy lies.

(Section XXX amended by Act No. 2000-771, 5/25/00.)

**Section XXXI. USE OF PUBLIC BUILDINGS:** It shall be the duty of all officers of the County and City to allow the reasonable use of buildings and rooms and to heat and light the same for the holding of any examinations or investigations provided for by this Act, and in all proper ways to facilitate the work of the Department.

**Section XXXII. LEGAL SERVICES:** If this Act or its enforcement by the Director or the Board shall be called into question in any judicial proceedings or if any person shall fail or refuse to comply with the lawful orders or directions of the Board, such Board may call upon the proper county or city attorney or may employ independent counsel to represent it in sustaining this Act and its enforcement. This independent counsel, if the Board by resolution so prescribes, shall be in the Unclassified Service.

**Section XXXIII. RECORDS OF THE DEPARTMENT:** The records of the Department, except such records as the Rules may require to be held confidential for reasons of public policy, shall be Public Records and shall be open to public inspection, subject to regulations as to the time and manner of inspection which may be prescribed by the Director.

**Section XXXIV. COURT PROCEEDINGS:** Orders of the Personnel Director and Personnel Board may be enforced by mandamus, injunction, quo warranto, or other appropriate proceedings in a court of competent jurisdiction. Any person directly interested, within 14 days, may appeal to the Circuit Court of Mobile County from any order of the board, by filing notice thereof with the board, whereupon the board shall certify to a transcript of the proceedings before it and file the same in court. Only findings of fact of the board contained in the transcript, if supported by substantial evidence adduced before the board or before its Personnel Director after hearing and upon notice to the interested party or parties, and after affording the parties an opportunity to be heard, shall be conclusive on appeal. The issues on appeal shall be made up under the direction of the court within 30 days after the transcript is filed therein, and the trial shall proceed on the evidence contained in the transcript, if it

appears therefrom that the evidence was taken after such notice and opportunity to be heard. If upon appeal, the court finds that the ruling, order, or action appealed from is unlawful or unreasonable within the meaning of this act, the court shall vacate or modify the same.

(Section XXXIV amended by Act No. 2004-105, 04/08/04.)

Section XXXV. SEVERABILITY: The sections of this Act and the parts of each section are hereby declared to be independent sections and parts of sections, and the holding of any section or part thereof to be void, ineffective, or unconstitutional for any cause, shall not affect the other sections or parts thereof, and it is now declared that the other parts or sections would have been enacted regardless of any section or parts of sections which might be held unconstitutional, inoperative, or ineffective.

Section XXXVI. REPEALING CLAUSE: All laws or parts of laws inconsistent or in conflict with this Act are hereby expressly repealed. Specifically and again without limiting the generality of the above, all laws or parts of laws, the effect of which is to prescribe a different method of selection or appointment or to fix terms of office or employment and hours of work and the rate of compensation for services contrary to the express or implied effect and provisions hereof are repealed, it being the legislative intent that the terms of this Act shall be fully effective, and laws or parts of laws heretofore enacted, to the contrary notwithstanding.

Section XXXVII. EFFECTIVE DATE: This act shall become effective immediately upon its enactment, provided, however, that a period of ninety (90) days thereafter shall be allowed in which to organize and prepare for the administration hereof, and during such ninety (90) day period any persons in the employ of such county, or department, or officer, or of any municipality thereof, at the time of the passage of this act shall continue in all respects under and subject to the laws to which they were subject at the time of the passage of this Act.