

ACT 2013 - 316

1 SB465
2 150674-2
3 By Senator Ward (N & P)
4 RFD: Local Legislation No. 1
5 First Read: 25-APR-13



1 SB465

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With Notice and Proof

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6 ENROLLED, An Act,

7 Relating to the City of Alabaster in Shelby County;

8 to establish a civil service system and to provide for

9 classified services; to establish a personnel board and to

10 provide for the appointment, term, and powers of board

11 members; to provide for the establishment of registers and

12 filling of vacancies; to provide penalties; and to repeal Act

13 93-493, 1993 Regular Session (Acts 1993, p. 789) and Act

14 96-504, 1996 Regular Session (Acts 1996, p. 640).

15 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

16 Section 1. TITLE. This act shall apply only to the

17 City of Alabaster in Shelby County and shall be known and may

18 be cited as "The City of Alabaster Civil Service System Act."

19 Section 2. PURPOSE. The purpose of this act includes

20 all of the following:

21 (1) To promote the greater efficiency and economy in

22 the administration of the government of the City of Alabaster.

23 (2) To prohibit political and personal retaliation.

24 (3) To promote longevity and equal treatment of all

25 employees of the city by the establishment of conditions of

1 service which will attract to the service of the city
2 qualified persons of character and ability.

3 (4) To provide a means to recruit, select, develop,
4 and maintain an effective and responsible workforce that
5 includes policies and procedures for employee hiring and
6 advancement, training and career development, job
7 classification, salary administration, retirement fringe
8 benefits, discipline, discharge, and other related activities.

9 (5) To ensure that all personnel administration
10 actions regarding employees in the regular service are made
11 without regard to race, national origin or ancestry, religion,
12 political affiliation, or other non-merit factors.

13 (6) To provide that all personnel administration
14 actions shall be based on merit principles and fitness to
15 perform the work required.

16 (7) To provide fair and equal opportunity for public
17 service.

18 Section 3. DEFINITIONS. For the purposes of this
19 act, the following words shall have the following meanings:

20 (1) APPOINTING AUTHORITY. The mayor, the city
21 council, the city manager, or any employee of the city duly
22 authorized to make appointments to the regular service by
23 virtue of his or her supervisory capacity.

24 (2) CERTIFICATION. A submission of names of
25 eligibles from a reemployment list, a promotion list, or an

1 eligible register to an appointing authority for the purpose
2 of filling a position in the classified service.

3 (3) CITY. The City of Alabaster, Shelby County,
4 Alabama.

5 (4) CITY MANAGER. The person appointed pursuant to
6 Section 11-43-20, Code of Alabama 1975, as the administrative
7 head of the municipal government.

8 (5) CLASS. A group of positions in the regular
9 service sufficiently similar in respect to the duties,
10 responsibilities, and authority that the same descriptive
11 title may be used to identify all positions allocated to the
12 class, that the same requirements as to education, experience,
13 capacity, knowledge, proficiency, ability, and other
14 qualifications should be required of the incumbents, that the
15 same tests of fitness may be used to choose qualified
16 employees, and that the same schedule of compensation can be
17 made to apply with equity.

18 (6) CLASSIFICATION. The assigning of a position to
19 the appropriate class in accordance with its duties,
20 responsibilities, and authority.

21 (7) CLASSIFIED SERVICE. Any employment position in
22 the city, whether regular, probationary, temporary, or exempt,
23 for which a position of employment exists and the salary and
24 benefits of which are determined by the appointing authority.

1 (8) COUNCIL. Those individuals elected to the city
2 council of the city.

3 (9) DEMOTION. Any disciplinary or other action which
4 reduces the pay grade or pay step of a non-exempt employee in
5 the regular service.

6 (10) DIRECTOR. The personnel director appointed by
7 the mayor or city manager.

8 (11) ELIGIBLE. A person whose name is on a
9 reemployment list, a promotion list, or an eligible register.

10 (12) ELIGIBLE REGISTER. A record containing the
11 names of those persons who have successfully completed
12 prescribed tests, listed and ranked in order of their final
13 earned average from the highest to the lowest, and are
14 qualified for original appointment to positions in the class
15 for which the test was held.

16 (13) MAYOR. The individual elected to the official
17 position of mayor of the city.

18 (14) OPEN-COMPETITIVE. The process of seeking
19 qualified candidates for a regular position from any qualified
20 person including taking applications from the general public
21 and other employees in the regular service not otherwise in
22 the department for which the position exists.

23 (15) PAY GRADE. The specific pay range set forth in
24 the pay plan for a classification.

1 (16) PAY STEP. The specific pay rate within a pay
2 range as set forth in the pay plan.

3 (17) PERSONNEL BOARD. The board created by this act.

4 (18) POSITION. Any job or set of duties in the
5 regular service requiring the full-time employment of one
6 person in the performance and exercise thereof.

7 (19) PROBATIONARY EMPLOYEE. An employee appointed to
8 a regular position from a reemployment list, promotion list,
9 or eligible register who has not completed his or her
10 probationary period.

11 (20) PROMOTION. An advancement from one class to
12 another related occupational class with increased duties or
13 responsibilities, or both, and for which a higher rate of pay
14 is prescribed.

15 (21) POLICY, RULE, or REGULATION. Policies, rules,
16 or regulations adopted by the city in accordance with this act
17 which are considered necessary to carry out this act and to
18 develop a comprehensive civil service system, so long as the
19 policies, rules, and regulations adopted by the city do not
20 modify or change the intent of this act.

21 (22) PUBLIC HEARING. A meeting of the board, open to
22 the public, at which any citizen, taxpayer, or party at
23 interest may appear and be heard.

24 (23) PUBLIC NOTICE. A written notice placed upon the
25 bulletin board maintained at or near the entrance to the

1 offices of the city clerk in a place accessible to the public
2 during business hours.

3 (24) PUBLIC RECORDS. A record which the public has
4 the right to inspect in a reasonable manner during ordinary
5 business hours.

6 (25) QUALIFICATIONS. The minimum experience,
7 educational, physical, and personal requirements determining
8 the eligibility of an applicant for examination.

9 (26) REEMPLOYMENT LIST. A list containing the names
10 of persons who have occupied, and have been separated from,
11 regular positions in the classified service and who are
12 entitled to preference in appointment to vacancies in
13 positions.

14 (27) REGULAR EMPLOYEE. An employee who was appointed
15 under this act to a regular classified position and who has
16 completed his or her probationary period, the hours of work of
17 which shall be fixed by the appointing authority with due
18 regard to the convenience of the public, and to working hours
19 customarily observed in the community.

20 (28) REGULAR POSITION. Any position in the regular
21 service which has required or which is likely to require the
22 full-time services of an individual without interruption for a
23 period of more than six months.

24 (29) SEASONAL POSITION. Any position in the
25 classified service which requires or is likely to require the

1 services of an incumbent during certain parts of each year,
2 only at recurring annual or other periods.

3 (30) SERIES. A subdivision of a group consisting of
4 two or more classes of positions, similar as to line of work
5 but differing in responsibility or difficulty, which
6 constitutes steps in a normal line of promotion.

7 (31) SPECIFICATIONS. A formal statement descriptive
8 of a position that contains all of the following:

9 a. The title and class.

10 b. A description of the duties or responsibilities
11 thereof.

12 c. The minimum qualifications required of applicants
13 as to education, experience, physical ability, and other
14 attributes.

15 (32) TEMPORARY POSITION. Any employment position in
16 the city which is not regular, but which requires or is likely
17 to require the services for a set period of time.

18 (33) TESTS. Written or oral examinations, or both,
19 or other methods established as herein provided to determine
20 the merit, efficiency, and general fitness of applicants for
21 positions.

22 (34) TITLE. The term used to designate all
23 employment by class and grade and shall be descriptive of the
24 duties of the position.

1 Section 4. PERSONNEL BOARD. (a) (1) There is created
2 a personnel board which shall be composed of three members to
3 be selected as follows:

4 a. One member shall be elected by the employees of
5 the regular service to serve for a term of four years.

6 b. One member shall be appointed by the mayor and
7 the council to serve for a term of three years.

8 c. One member shall be appointed by the two members
9 appointed by the mayor and council, and elected by the
10 employees of the regular service, respectively, to serve for a
11 term of two years.

12 (2) Each member elected or appointed thereafter
13 shall serve a term of four years or until their successor is
14 selected and takes office. Vacancies shall be filled for the
15 unexpired term by the selecting authority in the same manner
16 as the original appointees. Any board members serving at the
17 adoption of this act shall continue to serve the fullness of
18 the term to which they were appointed.

19 (b) Only persons who are qualified resident electors
20 of the city shall be selected to the board. No person shall be
21 selected to the board who, at the time of appointment, or for
22 three years prior to appointment, shall have held public
23 office or political party office or have been a candidate for
24 public office. No person shall be selected to the board who at
25 the time of appointment is an employee of the city.

1 (c) The board shall do all of the following:

2 (1) Meet in regular session at least semiannually
3 and at other times as necessary to transact the business of
4 the board.

5 (2) Promulgate the board policies, rules, and
6 regulations necessary to carry out its duties under this act.

7 (3) Hear and render decisions relative to appeals of
8 disciplinary and related matters as set forth in this act.

9 (4) Transact any other business within the purview
10 of the board and within the intent of this act.

11 Section 5. PERSONNEL DIRECTOR. (a) The mayor or city
12 manager shall appoint a personnel director. The director shall
13 be experienced in the field of personnel administration and
14 shall administer an efficient and economical merit system in
15 accordance with the rules arising therefrom, and shall carry
16 out the policies established by the board. The personnel
17 director shall maintain neutrality between employees and the
18 appointing authority. The personnel director may be suspended
19 or terminated by the mayor or city manager for cause set forth
20 in the act, subject to a right of appeal directly to the
21 personnel board. Any regular employee may file a complaint
22 against the director directly to the mayor.

23 (b) In addition to the duties and responsibilities
24 set forth elsewhere in this act, the director shall do all of
25 the following:

1 (1) Serve as secretary to the board.

2 (2) Prepare for approval of the board any policies,
3 rules, and regulations needed to carry out board action under
4 this act.

5 (3) Coordinate with the city as to the effectiveness
6 of the system and compliance with this act by the conduct of
7 studies and inquires deemed necessary, and report the findings
8 along with any recommendations for improvements to the city.
9 In connection with the investigations, hearings, or inquiries,
10 the director may administer oaths, issue subpoenas, require
11 the attendance of witnesses, and compel the production of
12 records, documents, and papers pertaining to the subject under
13 consideration.

14 (4) Study the organization and operation, and
15 manpower requirements of the departments, and make
16 recommendations for improvements to the council.

17 (5) Maintain an official roster of all positions in
18 the city wherein shall be recorded the various personnel
19 transactions affecting the employee.

20 (6) Promote and assist in the establishment of
21 programs for general employee pension, welfare, health, and
22 career development.

23 (7) Maintain all employee and retiree files complete
24 with all tax and benefit elections of the employee, resumes,
25 disciplinary actions, responses, applications, and copies of

1 certifications and training classes relevant to the class or
2 position of the employee and required by the city for
3 continued employment.

4 (8) Counsel employees on their rights under the act
5 and city policy.

6 Section 6. EMPLOYEES. On the effective date of this
7 act, all employees holding regular full-time positions in the
8 service of the city shall continue in their regular status in
9 the classified service as provided in this section, unless the
10 position to which they are appointed or elected is otherwise
11 exempted by this act. The service shall be divided into two
12 categories, as follows:

13 (1) A regular service comprised of all employees and
14 appointees holding regular full-time positions in the service
15 of the city. Employees occupying these positions shall be in
16 the classified service unless specifically exempted from the
17 service under this act.

18 (2) The exempt service shall include any of the
19 following:

- 20 a. Part-time employees.
- 21 b. Persons engaged in teaching or in supervising
22 teaching in the public schools who work for the city.
- 23 c. Officials elected by popular general vote.

1 d. The city clerk, the city treasurer, or the city
2 clerk-treasurer elected pursuant to Section 11-43-3, Code of
3 Alabama 1975, or any equivalent statute.

4 e. The police chief or fire chief elected pursuant
5 to Section 11-43-5, Code of Alabama 1975, or any equivalent
6 statute.

7 f. Any city manager appointed under Section
8 11-43-20, Code of Alabama 1975, or any equivalent statute.
9 Provided, that nothing herein shall require the appointment of
10 a city manager.

11 g. Any person other than the city clerk, city
12 treasurer, or city clerk-treasurer appointed or elected under
13 Section 11-43-3 or 11-43-5, Code of Alabama 1975, but only to
14 the extent of the official designation as a statutory official
15 within the city.

16 h. The judge of any court.

17 i. The city attorney.

18 j. The city prosecutor.

19 k. The administrative assistant to the mayor.

20 l. The director of personnel.

21 m. Persons serving in long-term positions funded or
22 partially funded by state or federal grant funds.

23 n. Common laborers, seasonal employees, and
24 temporary employees as determined by the city.

25 o. Part-time members of boards.

1 p. Attorneys, physicians, surgeons, and dentists
2 who, with permission of the appointing authority of the city,
3 engage in outside similar employment.

4 Section 7. PUBLIC RECORDS. (a) Public records are
5 those records as defined in Section 41-13-1, Code of Alabama
6 1975. The records may be reviewed in a manner prescribed by
7 the city, taking into account confidentiality, convenience,
8 and related factors.

9 (b) Minutes of board meetings, active employment
10 rosters, and financial records shall be retained permanently.
11 Applications and examination papers of successful candidates
12 shall be retained for the duration of appropriate eligible
13 registers.

14 Section 8. CLASSIFICATION PLAN. (a) The
15 classification plan shall provide a complete inventory of all
16 employee positions in the service of the city and an accurate
17 description and specifications for each class of work, and all
18 other employee positions in the city for which salary and
19 benefits are set out by the city, with the exception of the
20 city council and mayor. The plan shall standardize titles so
21 that each is indicative of a definite range of duties and
22 responsibilities and has the same meaning throughout the
23 service and shall show whether the position is deemed a
24 regular position or exempt position.

1 (b) The classification plan shall consist of the
2 following:

3 (1) A grouping in classes of positions which are
4 approximately equal in difficulty and responsibility that call
5 for the same general qualifications, and that can be equitably
6 compensated within the same range of pay under similar working
7 conditions.

8 (2) Class titles that are descriptive of the work of
9 the class, and identify the class. These class titles shall be
10 used in all personnel, accounting, budget, and related
11 records. No person shall be appointed to or employed in a
12 position in the classified service under a title not included
13 in the classification plan. Working titles may be used in the
14 course of departmental routine to indicate authority, status
15 in the organization, or administrative rank.

16 (3)a. Job descriptions for each position shall first
17 be recommended by the mayor or city manager and then adopted
18 by the council by resolution in its discretion. The written
19 specifications for each position shall consist of the
20 following:

21 1. A title which is descriptive and consistent with
22 other titles in the plan.

23 2. A brief overall description of the kind and level
24 of work.

1 3. Examples of typical duties performed in positions
2 in the class.

3 4. Qualification requirements setting forth the
4 necessary experience, education, certifications, physical
5 endurance, physical fitness level, or other requirements.

6 5. The required knowledge, skills, and abilities
7 needed in order to perform the work, the pay grade associated
8 with the position, and the supervision of the position.

9 b. Specifications shall be interpreted in their
10 entirety and in relation to others in the classification plan.
11 Particular phrases or examples shall not be isolated and
12 treated as a full definition of the class. Specifications
13 shall be descriptive and explanatory of the kind of work
14 performed and not necessarily inclusive of all duties
15 performed.

16 (4) An allocation list showing the class title of
17 each position in the regular service as identified by the name
18 of the occupant.

19 (c) The classification plan shall be used as
20 follows:

21 a. As a guide in recruiting and examining candidates
22 for employment.

23 b. For determining lines of promotion and in
24 developing employee training programs.

1 c. For determining salaries to be paid for various
2 types of work based on wage surveys and job analysis.

3 d. For determining personnel service items in
4 departmental budgets.

5 e. For providing uniform job terminology
6 understandable by all officials, employees, and the general
7 public.

8 (d) The council by resolution, with the assistance
9 of the director, shall prepare or direct the preparation of
10 the classification plan as needed from time to time. When the
11 plan is completed and adopted, the director shall submit to
12 each department head a copy of the class specifications for
13 each position class and a list allocating the positions in the
14 jurisdiction to the tentative position classes. The department
15 head shall notify employees about the allocation of their
16 respective positions. A copy of the class specification and
17 individual allocation shall be made available to the employee
18 or his or her representative on request.

19 (e) The director shall maintain the classification
20 plan so that it will reflect the duties performed by each
21 employee in the classified service and the class to which each
22 position is allocated. The director shall do all of the
23 following:

1 (1) Recommend to the mayor or city manager and city
2 council the establishment of new position classes and the
3 deletion or revision of existing classes.

4 (2) Review the duties and responsibilities of each
5 new position established, and allocate the position to the
6 appropriate position class.

7 (3) Make periodic studies of positions to determine
8 changes in duties and responsibilities and based on findings
9 recommend reallocation or reclassification of positions.
10 Classification studies may be made at the request of the
11 mayor, city manager, or city council. Changes in duty
12 assignments must be more than temporary in nature and the
13 current employee must be performing the duties for a
14 sufficient duration to warrant investigation.

15 (4) Direct the grading and classifying of all
16 positions in the classified service at least once every five
17 years.

18 (f) When a position is reallocated to a higher
19 position class, a lower position class, or another position
20 class at the same level, the method of filling the position
21 shall be determined under this act regarding transfers,
22 demotions, or promotions as may be appropriate.

23 (g) The mayor or city manager may recommend to the
24 city council the elimination of, or modification to, approved
25 job descriptions and positions in the classification plan,

1 together with any pay grade recommendations associated with
2 the position. Upon approval by the council of the proposed
3 changes, any non-exempt regular employee currently serving in
4 a position being eliminated or modified in which the
5 elimination or modification results in the non-exempt
6 employee's termination or demotion, shall have all rights of
7 appeal afforded employees solely as to the question of whether
8 the elimination or modification was arbitrary and capricious.
9 In the event a modification of a non-exempt employee position
10 results in additional duties, the affected employee may
11 request, in writing, a pay grade review by the council, which
12 may, in its sole discretion, modify the pay grade
13 classification.

14 Section 9. (a) EMPLOYEE HANDBOOK. The city, after
15 recommendation of the mayor and resolution of the council,
16 shall promulgate rules, policies, and procedures for employees
17 and compile same in an employee handbook, which may be amended
18 from time to time in the discretion of the city. At a minimum,
19 the employee rules, policies, and procedures shall contain all
20 of the following:

21 (1) The policy and rules for the accrual and use of
22 sick leave by employees. However, sick leave of any employee
23 in the regular service already accrued as of the date of the
24 adoption of this act shall in no wise be diminished.

1 (2) The policy and procedures in regard to overtime
2 and compensation not inconsistent with this act or state and
3 federal law.

4 (3) The policy and procedures for the accrual and
5 use of vacation time. However, vacation time of any employee
6 in the regular service already accrued as of the date of the
7 adoption of this act shall in no way be diminished.

8 (4) The policy and procedures concerning military
9 leave of absence, including temporary leave for National Guard
10 and armed forces reserve training not inconsistent with this
11 act and state and federal law.

12 (5) The policy and procedures for employees summoned
13 for jury duty or as a witness in court not inconsistent with
14 this act and state and federal law.

15 (6) The policy and procedures for periods of a
16 permitted absence without leave not inconsistent with this act
17 and federal and state law.

18 (7) The policy and procedures for employment outside
19 of the regular service and conflicts of interest related
20 thereto.

21 (8) The policy and procedures for open position
22 posting, applicant recruitment, applicant testing, and
23 eligibility determination.

1 (9) The policy and procedures for resignation and
2 retirement from the regular service not inconsistent with this
3 act or federal law.

4 (10) The policy and procedures for annual and
5 intermittent reviews of employee performance.

6 (11) The policy and procedures for loss of required
7 certifications and other requirements for continued
8 performance in the class.

9 (12) The policy and procedures for reporting
10 conflicts of interest.

11 (13) The policy and procedures for handling
12 grievances between and among employees that do not rise to the
13 level of disciplinary actions.

14 (14) The policy and procedures for the proper
15 certification of payroll such that payroll compensation is
16 timely and accurately kept.

17 (15) The establishment of procedures governing
18 layoff, reduction in force, and reinstatement.

19 (16) The establishment of policy and procedures
20 regarding disciplinary causes and actions for employees in the
21 public service.

22 (b) Each and every employee shall follow the rules,
23 regulations, and codes of conduct set out in the rules,
24 regulations, policies, and procedures adopted by the city, an
25 infraction of which the city may impose disciplinary action.

1 (c) Nothing herein shall prohibit the police, fire
2 department, and utility department from instituting standard
3 operating procedures, rules, and regulations for departmental
4 operations enforceable upon employees in that department that
5 are in addition to and not otherwise inconsistent with the
6 rules, policies, and procedures of the city, the infraction of
7 which the city may impose disciplinary action.

8 Section 10. EMPLOYEE PAY PLAN. (a) The city council,
9 with the aid of the director, mayor or city manager, and other
10 city personnel it deems necessary, shall adopt by resolution a
11 pay plan as the basis of compensation for employees in the
12 service of the city. The plan shall be constructed to provide
13 fair compensation for all classes in the classification plan
14 with due regard to such factors as the following:

15 (1) Varying degrees of difficulty and responsibility
16 among the several classes of work.

17 (2) Prevailing rates of pay and fringe benefits for
18 similar employment in private establishments and other public
19 jurisdictions in the area.

20 (3) Recruiting experience for the several classes of
21 work.

22 (4) Financial conditions of the city.

23 (5) The pay plan shall contain all of the following:

24 a. Special and specific provisions for administering
25 the plan.

1 b. A basic salary grade for each position class in
2 the classification plan.

3 c. A basic salary schedule containing the minimum
4 rate, maximum rate, and intermediate rate of pay for each
5 salary grade; and a conversion of rates for basis of payment.

6 d. The basis of pay indicating the number of weekly
7 work hours in general application to the classified service or
8 exceptions thereto.

9 (b) Upon final adoption by the council, the plan
10 shall be certified by the director and disseminated to all
11 employees. The plan shall become effective within 30 days
12 after its adoption by the council.

13 (c) The pay plan shall be amended in accordance with
14 the following procedures:

15 (1) When the mayor and the council by resolution add
16 a new position to the classification plan and fix the salary
17 grade, the job description shall assign the position to the
18 appropriate pay grade.

19 (2) In the case of a proposed pay plan amendment
20 directly affecting the pay of more than three regular
21 employees, prior to amending the pay plan, the mayor and the
22 council shall provide an opportunity for employees to present
23 their views.

24 (d) The council shall fix by resolution the holidays
25 that employees shall observe. Employees on nonpay status, such

1 as a leave of absence or on paid military leave, shall not
2 earn additional time for holidays. All regular employees of
3 the city shall receive the same number of holidays. Employees
4 who are required to work on an observed holiday shall be
5 compensated in accordance with this act and federal law.

6 (e) Any pay plan previously adopted by the city on
7 the effective date of this act shall remain in force and
8 effect until and unless amended or replaced as provided in
9 this section.

10 (f) Each employee in the regular service shall be
11 paid at a rate set forth in the pay plan for the
12 classification in which he or she serves, in accordance with
13 the provisions for administering the pay plan.

14 (1) New appointments to the regular service shall be
15 made at the beginning rate of the salary range for the
16 classification to which the appointment is made, unless in the
17 discretion of the appointing authority circumstances, skills,
18 or experience dictate a different rate.

19 (2) Salary advancement within established salary
20 ranges shall be based on meritorious performance on the job as
21 set out in the employee handbook and shall be in accordance
22 with the provisions for administering the pay plan. An
23 efficiency rating reflecting satisfactory performance shall be
24 required for advancement. An employee with continued
25 satisfactory service shall be eligible for future annual

1 increases until such time as the maximum rate for the range is
2 reached.

3 (3) In the event a regular employee is promoted,
4 transferred, or demoted, his or her rate of pay for the new
5 position shall be determined as follows:

6 a. Upon promotion, the employee's regular base pay
7 shall determine the new rate in the promotional class. The new
8 rate shall be the larger of either of the following:

9 1. A one step increase above the former rate.

10 2. The entrance rate for the promotional class.

11 b. When an employee is demoted, compensation shall
12 be reduced to the salary prescribed for the class or grade to
13 which demoted, or the step rate reduced if the employee
14 remains in the position. In no event shall the pay grade
15 exceed the maximum approved rate of the new classification.

16 c. When an employee is transferred from one
17 department to another, the step in the pay range shall be in
18 accord with the approved job description of the position to be
19 occupied by the employee. All transfers shall be approved by
20 the appointing authority.

21 (4) In the event the rate of pay of a supervisor is
22 less than or equal to the base rate of pay of subordinates
23 directly supervised in lower related classes, the rate may be
24 advanced in grade by the council.

25 Section 11. EMPLOYEE APPOINTMENT AND RETENTION.

1 (a) (1) Vacancies and newly created positions in the
2 regular service shall be filled either by open-competitive,
3 transfer, promotion, appointment, reappointment, or demotion
4 as determined by the appointing authority.

5 (2) When a vacancy exists for a regular position
6 that is not otherwise exempt from this act, the appointing
7 authority shall inform the director of the vacancy and whether
8 the position is a promotional or open position. The director
9 shall then certify to the appointing authority, eligibles from
10 the appropriate list in the manner and pursuant to the
11 procedures as set forth in the employee handbook. The
12 appointing authority shall then make an appointment from the
13 names certified to him or her.

14 (b) Appointments to the regular service shall be one
15 of the following types:

16 (1) An appointment to a full-time regularly budgeted
17 position made from a certified eligible register shall be a
18 probationary period. The probationary period shall be an
19 integral part of the examination process, and shall be
20 utilized to evaluate the employee's performance on the job and
21 for dismissing any employee who does not meet the required
22 standards of performance. The probationary period shall be one
23 year from the date of appointment with no interruptions in
24 service.

1 a. An employee in probationary status may be
2 discharged without the right of appeal.

3 b. A promotional probationer who is demoted for
4 unsatisfactory service may return to the position held prior
5 to appointment, if still vacant, without right of appeal. In
6 the event the position is filled, the mayor or city manager
7 shall determine the manner in which the employee shall be
8 retained in the service, being closely guided by the
9 provisions governing layoffs and reductions in force. The
10 demoted employee may elect to separate from the service and
11 have his or her name retained on the layoff list for the
12 classification of the former position for a period not to
13 exceed two years.

14 (2) Employment of an eligible from an eligible
15 register in a full-time regularly budgeted position, after the
16 satisfactory completion of a probationary period, shall be a
17 regular appointment, the suspension, demotion, or termination
18 of which shall be subject to all rights of appeal as set forth
19 in the act.

20 (3) In the absence of an eligible register, or until
21 such register is available, the mayor or city manager may, for
22 urgent need, authorize the filling of a vacancy by provisional
23 appointment. Any candidate for provisional appointment shall
24 meet educational, experience, and related requirements set by
25 the appointing authority. Provisional appointment shall be for

1 a period of not more than nine months. Any provisional
2 employee failing to qualify by examination shall be separated
3 from the position after the appropriate eligible register is
4 certified and the replacement appointed, or earlier at the
5 direction of the mayor or city manager. The provisional
6 appointment of an individual shall not confer on the appointee
7 any rights of status, appeal, or related rights set forth
8 under this act.

9 (c) No officer or employee of any department of the
10 city shall make or approve any payment for personal services
11 to any person holding a position in the regular service not
12 otherwise exempt from this act unless the position was filled
13 from a certified list of eligibles approved by the director.
14 The director may refuse to certify the payroll, voucher, or
15 account of any ineligible person found to be performing the
16 duties of a position.

17 (d) The appointing authority shall not be bound by
18 the list of eligibles to fill any vacancy set forth for
19 positions in the exempt service. Further, an appointment to
20 the exempt service shall not confer any right of status,
21 appeal, or any related right under this act.

22 (e) Vacancies in positions above the lowest rank in
23 any category in the classified service shall be filled as far
24 as practical by the promotion of employees in the service
25 unless otherwise determined by the appointing authority. In

1 each case, the appointing authority shall determine whether an
2 open-competitive or promotional examination will serve the
3 best interests of the service in attracting well-qualified
4 candidates. Promotions in every case must involve a definite
5 increase in duties and responsibility. The change of an
6 employee from a position in a class to a position in another
7 related occupational class for which the maximum rate is
8 higher shall be deemed a promotion.

9 (f) (1) An employee may be demoted to a position of a
10 lower grade or pay for which he or she is qualified for any of
11 the following reasons:

12 a. The employee would otherwise be laid off because
13 the position is being abolished or reclassified to a different
14 grade, there is a lack of work or funds, or another employee
15 returns to the position from an authorized leave.

16 b. The employee does not possess the necessary
17 qualifications to render satisfactory service in the position.

18 c. The employee is removed during probation.

19 d. The employee voluntarily requests the demotion.

20 e. The employee is demoted for disciplinary reasons.

21 (2) All demotions shall be approved by the
22 appointing authority and pursuant to the rules adopted by the
23 city. If a nonprobationary employee is demoted against his or
24 her will, he or she may appeal to the board as provided in
25 this act.

1 (3) The involuntary change of an employee from a
2 position in a class or job to another class or job for which
3 the maximum rate is lower shall be deemed a demotion and shall
4 be effected in accordance with this act.

5 (g) The appointing authority may, at any time,
6 assign an employee in the regular service under his or her
7 jurisdiction from one position to another in the same class
8 regardless of the shift, location, hours of work, or other
9 consideration as long as the workweek basis remains the same.
10 Any transfer made pursuant to this subsection shall be made
11 with the retention of all rights of seniority, vacation, sick
12 leave, and overtime as the employee may have accrued.

13 (h) An appointing authority may assign any employee
14 in the regular service under his or her jurisdiction any
15 duties as long as the duties are within the same
16 classification. No employee in the regular service may be
17 assigned duties of a different class for a period in excess of
18 one year. Any and all assignments outside the classification
19 shall be immediately reported to the director and the mayor or
20 city manager.

21 Section 12. DISCIPLINARY ACTIONS. (a) The tenure of
22 every employee in the regular service shall be conditioned on
23 the satisfactory conduct of the employee and the continued
24 efficient performance of assigned duties and responsibilities.
25 A regular employee may be dismissed, demoted, or suspended for

1 cause or for any reason deemed to be in the best interest of
2 the public service and shall have the right of appeal as set
3 forth in Section 13. The reasons for the action shall be
4 furnished in writing to the employee and the director.

5 (b) The following are among the causes which are
6 sufficient for dismissal, demotion, or suspension:

7 (1) Absence without leave.

8 (2) The commitment of any criminal act involving
9 drugs, alcohol, violence against a person, theft,
10 embezzlement, or any crime charged as a felony.

11 (3) Conduct unbecoming an employee in the public
12 service.

13 (4) Conviction of a criminal offense or of a
14 misdemeanor involving moral turpitude.

15 (5) Disorderly or immoral conduct.

16 (6) Failure to pay or make proper provision for the
17 liquidation of just debts.

18 (7) Incapacity due to mental or physical disability
19 of a permanent nature.

20 (8) Incompetency or inefficiency.

21 (9) Insubordination.

22 (10) Intoxication while on duty or public
23 intoxication while off duty.

24 (11) Neglect of duty.

1 (12) Negligence or willful damage to public property
2 or waste of public supplies or equipment.

3 (13) Violation of any regulations or orders
4 published, made, or given by a superior officer.

5 (14) Willful violation of any provision of this act.

6 (15) Use of paid time for personal or business
7 reasons other than the purposes for which hired.

8 (16) Failure to maintain required objective
9 certifications and other requirements necessary to perform the
10 duties of employment.

11 (17) For any other reason deemed to be in the best
12 interest of the public service.

13 (c) (1) Notice of suspension, dismissal, or demotion
14 shall be in writing and shall set forth the following:

15 a. The cause of action.

16 b. The discipline imposed.

17 c. The dates suspension, dismissal, or demotion are
18 to become effective.

19 d. Any other information deemed appropriate.

20 (2) A copy of the notice shall be delivered to the
21 director on the same day that the notice is served on the
22 employee. Notification shall be made prior to or on the date
23 the dismissal or demotion is to be effected, or as soon as
24 practicable.

1 (d) The appointing authority may suspend without pay
2 any employee under his or her supervision. In the event the
3 suspension or suspensions do not exceed an aggregate of 40
4 working hours as a singular offense or 80 working hours
5 cumulative in any year of service, the employee shall not have
6 the right of a hearing. If the suspension or suspensions
7 exceed the 40 working hour limitation for a single offense or
8 80 working hour cumulative limitation, a regular employee may
9 appeal as provided in Section 13. The suspension shall be
10 effected by service upon the employee by the appointing
11 authority of a written statement of the delinquency for which
12 suspension was made with a copy delivered to the director. The
13 suspended employee may file an answer with the board and the
14 department head.

15 (e) An employee serving a probationary period may be
16 disciplined, demoted, or dismissed by an appointing authority
17 without right of appeal.

18 (f) Any employee suspended without right to a
19 hearing may obtain a review of the suspension by the
20 appointing authority by filing with the mayor or city manager,
21 not more than two business days thereafter, a written answer
22 to the charges and a request for the review.

23 Section 13. APPEALS. (a) An employee with regular
24 status may appeal disciplinary action of dismissal, demotion,
25 or suspension. The discipline imposed shall not be otherwise

1 set aside during the pendency of the appeal. An employee
2 desiring to appeal shall, within 10 calendar days after notice
3 of disciplinary action, file with the director and the mayor
4 or city manager a written answer to the charges and request a
5 hearing. The answer shall contain the following:

6 (1) The reason of dismissal, demotion, or
7 suspension.

8 (2) An admission or denial of guilt.

9 (3) Reasons why the dismissal, demotion, or
10 suspension should not take effect.

11 (b) (1) Upon timely appeal, the board shall forthwith
12 order a hearing of the charges before a hearing officer
13 appointed pursuant to board rules and this act. The hearing
14 shall be solely for the purpose of determining whether
15 substantial evidence supports the disciplinary action, and
16 whether the employee, by reason of his or her act or acts as
17 charged and his or her record of service, merits retention in
18 the service or should be removed therefrom or otherwise
19 disciplined. To that end, the hearing officer appointed shall
20 not be bound by the technical rules of evidence but shall
21 diligently seek all the information bearing on the merits of
22 the case. The hearing officer appointed by the board shall be
23 a practicing attorney licensed in this state who shall take
24 testimony offered in support and denial of the charges and
25 therefrom, and shall submit to the board and the parties,

1 within 15 days, a finding of facts involved, interpretation of
2 law and policy, and a recommended decision. Either party at
3 interest may be represented by counsel.

4 (2) The hearing officer shall have authority to
5 permit discovery by any party in the hearing officer's
6 discretion, but shall, in all instances, hold the hearing
7 within 30 calendar days of his or her appointment by the board
8 unless otherwise continued by consent of the parties. As
9 allowed by the hearing officer in his or her discretion,
10 discovery may be obtained by one or more of the methods
11 provided under the Alabama Rules of Civil Procedure,
12 including, but not limited to, written interrogatories,
13 depositions, requests for production of documents or things
14 for inspection or copying, and requests for admissions
15 addressed to parties, the time for response to which shall be
16 set by the hearing officer. The Alabama Rules of Civil
17 Procedure may be used as a general guide for discovery
18 practices and proceedings. However, the Alabama Rules of Civil
19 Procedure shall be deemed instructive rather than controlling.

20 (3) When a request for discovery is directed to an
21 officer or employee of the city, the city shall make the
22 officer or employee available on official time for the purpose
23 of responding to the request, and shall assist the officer or
24 employee as necessary in providing relevant information that
25 is available to the city. A party seeking discovery from a

1 nonparty officer or employee of the city shall initiate the
2 process by serving a request for discovery, signed by the
3 hearing officer, on the nonparty officer or employee.

4 Discovery from other nonparties may be initiated by serving a
5 request for discovery signed by the hearing officer on the
6 nonparty directly. Absent a request or upon failure to obtain
7 voluntary cooperation with discovery from a nonparty the
8 hearing officer appointed by the board shall have the right to
9 issue subpoenas for production and attendance enforceable by
10 the Circuit Court of Shelby County, Alabama. Further, the
11 hearing officer may subpoena witnesses, other than character
12 witnesses, for or against the employee upon written request.
13 Employees in the regular service shall be required to attend
14 and testify without subpoena.

15 (4) The parties shall be present at next regular or
16 special meeting held by the board, who shall consider the
17 report and may set aside the report and order a new hearing,
18 or may rescind, modify, or increase the penalty imposed by the
19 appointing authority as warranted by the facts adduced at the
20 hearing, or affirm the report as written and certify its
21 findings to the appointing authority who shall forthwith put
22 the same into effect. At the meeting, the board may ask
23 summation statements from the parties, not to exceed 15
24 minutes per party, as to the recommended disciplinary
25 recommendation of the hearing officer. The summation shall be

1 limited to the finding of facts contained in the report of the
2 hearing officer. The board shall render its decision at the
3 meeting, unless by affirmative vote of the board, it continues
4 the hearing to a date certain, notifying all parties of the
5 continuation date.

6 (5) The decision of the board shall be final and may
7 be appealed by either party to the circuit court to review
8 questions of law and whether or not the decision or order of
9 the board is supported by substantial and legal evidence. On
10 the appeal, the circuit court shall not reverse the finding of
11 the board unless it finds the decision was arbitrary and
12 capricious, against the great weight of evidence, or otherwise
13 invalid for reasons of fraud, and shall thereafter affirm,
14 reverse, remand, or render the cause. The decision of the
15 board shall be controlling until reversed on appeal as
16 provided for herein.

17 (6) The appeal to circuit court shall be perfected
18 by filing a notice of appeal with the Circuit Court of Shelby
19 County, signed by the party appealing, to the effect that the
20 party appeals from the decision or order of the board to the
21 circuit court and the reasons therefor, and same shall confer
22 jurisdiction upon the court. The statement of appeal shall be
23 filed within 10 calendar days from the announcement of the
24 decision or order of the board, and the appeal shall be served

1 on the director within two days of filing in the Circuit Court
2 of Shelby County.

3 Section 14. PROHIBITIONS. (a) Activities prohibited
4 shall include the following:

5 (1) No person shall be appointed or promoted to, or
6 dismissed from any position, or in any way favored or
7 discriminated against with respect to employment on the basis
8 of gender, race, national origin, political activity, or age.

9 (2) No person shall seek or attempt to use any
10 political endorsement in connection with any appointment to a
11 position.

12 (3) No person shall use, directly or indirectly, any
13 official authority to influence, whether possessed or
14 anticipated, to secure or attempt to secure for any person an
15 appointment or advantage in appointment to a position, an
16 increase in pay, or any other advantage in employment in a
17 position, for the purpose of influencing the vote or political
18 action of any person, or for any consideration.

19 (4) No person in the employment of the city, whether
20 regular or otherwise, shall be denied the right to participate
21 in city, county, and state political activities to the same
22 extent as any other citizen of this state, including endorsing
23 candidates and contributing to campaigns.

1 (5) Persons in the employment of the city may join
2 local political clubs and organizations and state or national
3 political parties.

4 (6) Persons in the employment of the city may
5 publicly support issues of public welfare, circulate petitions
6 calling for, or in support of, referendums and the right to
7 contribute freely to those of his or her choosing.

8 (7) No persons shall engage in political activity
9 while on duty, or in uniform.

10 (8) No person shall attempt to use political
11 authority or position for the purpose of influencing the vote
12 or political action of any person. Any person who violates
13 this subdivision shall be guilty of a felony punishable by a
14 fine not to exceed ten thousand dollars (\$10,000) or
15 imprisonment in the state penitentiary for a period not to
16 exceed two years, or both.

17 (b) Candidacy for a public office in the city by a
18 regular employee of the city shall be as follows:

19 (1) An employee shall resign his or her position for
20 the purpose of becoming a candidate for nomination or election
21 to a public office in the city, but he or she shall be
22 eligible for a leave of absence without pay if the following
23 conditions are met:

1 a. A written resignation is submitted to the
2 appointing authority stating the purpose of the resignation
3 with a copy forwarded to the director.

4 b. Within the six-month period next succeeding the
5 day of resignation, he or she requests to be reinstated to the
6 eligible register for the position.

7 c. The position has not been filled between the day
8 of resignation and the day of the appointment.

9 d. He or she is reappointed to the position within
10 the six-month period next succeeding the day of resignation.

11 (2) If each of the foregoing conditions are met, the
12 employee shall be considered as having been on a leave of
13 absence.

14 Section 15. Act 93-493, 1993 Regular Session (Acts
15 1993, p. 789) and Act 96-504, 1996 Regular Session (Acts 1996,
16 p. 640), are hereby repealed.

17 Section 16. The provisions of this act are
18 severable. If any part of this act is declared invalid or
19 unconstitutional, that declaration shall not affect the part
20 which remains.

21 Section 17. This act shall become effective
22 immediately following its passage and approval by the
23 Governor, or its otherwise becoming law.

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Kay Ivey

President and Presiding Officer of the Senate

~~_____~~

Speaker of the House of Representatives

SB465

Senate 07-MAY-13

I hereby certify that the within Act originated in and passed the Senate.

Patrick Harris
Secretary

House of Representatives
Passed: 20-MAY-13

By: Senator Ward

APPROVED May 22, 2013

TIME 1:50 pm

Robert Bentley
GOVERNOR

Alabama Secretary Of State

Act Num....: 2013-316
Bill Num...: S-465

Recv'd 05/24/13 11:04amSLF

SQR
SPONSORS

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SENATE ACTION

DATE: 4-25 2013
 RD 1 RFD LLH 1

I hereby certify that the notice & proof is attached to the Bill, SB _____ as required in the General Acts of Alabama, 1975 Act No. 919.
PATRICK HARRIS,
 Secretary

This Bill was referred to the Standing Committee of the Senate on LLH
 and was acted upon by such Committee in session and is by order of the Committee returned therefrom with a favorable report
 w/amd(s) _____ w/sub _____ w/eng sub _____
 years _____ nays _____ abstain _____
 this 20 day of May 2013
B. Harris, Chairperson

DATE: 5-2 2013
 RF FAD RD 2 CAL

I hereby certify that the Resolution as required in Section C of Act No. 81-889 was adopted and is attached to the Bill, SB 465.
 years 20 nays 0 abstain 10
PATRICK HARRIS,
 Secretary

DATE: 5-7-13 RD 3 at length
 PASSED PASSED AS AMENDED
 years 20 nays 0 abstain 10
 And was ordered sent forthwith to the House.
PATRICK HARRIS,
 Secretary

FURTHER SENATE ACTION (OVER)

HOUSE ACTION

DATE: 5-7 2013
 RD 1 RFD SCL

REPORT OF STANDING COMMITTEE
 This bill having been referred by the House to its standing committee on Shelby County Leg.
 was acted upon by such Committee in session, and returned therefrom to the House with the recommendation that it be Passed,
 w/amd(s) _____ w/sub _____
 this 7th day of MAY 2013.
Patrick Harris, Chairperson

DATE: _____ 2013
 RF 59 RD 2 CAL

DATE: _____ 20____
 RE-REFERRED RE-COMMITTED
 COMMITTEE _____

I hereby certify that the Resolution as required in Section C of Act No. 81-889 was adopted and is attached to the Bill, SB 465.
 YEARS _____ NAYS _____
 _____ JEFF WOOD (DATE) _____ Clerk

FURTHER