Rep. Kelley
Act No. 82-206
H.623

Enrolled, An Act,

To provide for the establishment of a merit system for Marshall County, Alabama, and a Personnel Board governing the appointment, hiring, salaries, benefits, removal and official conduct of employees of the County; defining violations of the act; imposing penalties for violations; and repealing conflicting laws.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA;

Section 1. This act shall apply only in Marshall County, Alabama.

Section 2. As used in this Act, unless the context clearly requires a different meaning: "County" means Marshall County, Alabama; "employee" means any person, including law enforcement officers, not excepted by Section 3 of this Act, who is employed in the service of Marshall County or any board, agency or instrumentality thereof; "merit employee" means any such employee who has completed his six months of probationary employment; "Board" means the Personnel Board created by this Act; "appointing authority" means in the case of employees in the offices of the elected officials of the county, such elected officials, and means, in the case of all other county employees, the county governing body, or the Board or other agency supervising their work.

Section 3. The provisions of this Act shall apply to all officials and employees in the service of the County or any board paid by the Marshall County Commission, agency or instrumentality therof except: (a) persons holding elective offices; (b) members of appointive boards, commissions and committies; (c) all employees of the County Board of Education; (d) independent contractor; (e) and any person whose employment is subject to the approval of the United States Government or any agency thereof.

Section 4. All employees to whom the provisions of this Act apply shall be governed by the rules and regulations prescribed in or promulgated pursuant to this Act, administered by the Personnel Board, the creation of which is provided for in Section 5 hereof. Present such employees shall remain in their respective employment's during good behavior; but nothing herein shall be construed to prevent or preclude the removal of such an employee for cause in manner hereinafter provided; and such employees shall be subject fully to the provisions of this Act. Present such employees who have been employed by the County for less than six (6) months shall be probationary employees as provided for in Section 11 hereof.

Section 5. There is hereby created the Personnel Board of Marshall County, Alabama, which shall be composed of five (5) members. One member shall be appointed by the County Commission, three members shall be appointed by the Marshall County Legislative Delegation and one shall be elected by the county employees who will be subject to the provisions of this Act. All appointments to the Board shall be made within 30 days. One of the members originally so appointed shall serve for a term of two years, one for a term of three years, one for a term of four years, one for a term of five years and one for a term of six years. The original members of the Board so appointed shall draw lots to determine the length of term each shall serve. Thereafter all members shall serve for terms of six years each, and until their respective successors are appointed as specified above. Any member of the Board whose term shall expire shall be eligible for reappointment, but for no more than two full terms.

No person shall be appointed to the Board unless he is of recognized good character and ability, and is an actual resident in and qualified elector of the County. No person shall be eligible to appointment or shall continue to be a member of a Board created under this Act who holds an elective office under the state, county, or any city therein, or who is a candidate for elective office.

Vacancies on the Board shall be filled for the unexpired terms in the same manner as original appointments are made. Following the initial appointment of the Board, the Board shall, within 15 days convene and elect a chairman from among its members, who shall preside at its meetings. Three members shall constitute a quorum for the transaction of any business which may properly come before the Board. Each person so appointed shall, within fifteen days after appointment, qualify by making oath (which shall be recorded as provided by law) that he will faithfully execute the duties of office to the best of his ability and that he will faithfully execute the duties of office to the best of his ability and knowledge. The Board shall adopt reasonable rules regulating the procedure of the Board. Notice of all meetings of the Board shall be given to each member by the secretary of the Board. The Personnel Board is authorized and may employ clerical assistants, personnel officers and engage legal counsel.

Section 6. Each member of the Board shall be paid an expense allowance of one hundred dollars per month by the Marshall County Commission.

Section 7. The Board shall fix the times for its regular meetings which shall not be less than monthly and it may call, adjourn, or hold special meetings at

any time. A majority of the members of the Board shall constitute a quorum for the transaction of business. All meetings of the Board shall be held in the Marshall County Courthouse. The Board may prescribe rules governing its procedure, not inconsistent with the provision of this Act.

Section 8. The Board shall keep minutes of its meetings and a record of all business transacted by it. Its records, except those which the rules of the Board require to be held confidential for reasons of public policy, shall be open for inspection by any resident of the County at reasonable times.

Section 9. The Board shall make rules and regulations governing examinations, eligible registers, appointments, transfers, salaries, promotions, demotions, annual and sick leave, employee fringe benefits, seniority **(which shall be based on actual time employed by the County)** and such other matters as may be necessary to accomplish the purpose of this Act.

A rule or regulation may be made effective only after a public hearing, for which a thirty (30) day notice must be given, is held on the proposal thereof and after certified copy there of has been filed with the county governing body. All employees shall be appointed upon a non-partisan merit basis. There shall not be appointed, and the Board shall not examine, any person who is not a citizen of the United States. The Board shall: (1) classify the different types of services to be performed in the service of the County; (2) prescribe qualifications, including those of education, training, and experience, for the appointees and incumbents of each class; (3) fix a maximum and minimum salary for each class; (The Board shall review salaries paid by local industry and provide salary scales consistent to the extent possible with the local private sector.) and (4) allocate each position in the service to its proper class. It shall provide for the periodic rating of employees according to their merit to determine whether they are maintaining standards of service. The Board shall establish rules and regulations governing dismissals, suspensions, layoffs, terminations, leaves of absence, and the severance of any employee's relationship with the County shall be in accordance with such regulations.

Section 10. The Personnel Board shall make or contract with the State Merit System Board or other appropriate agency, for a register of all persons eligible and available for appointment to each class of position in the service of the County, ranked according to ability; it is provided, however, that no examination shall be given and no register kept for positions to be filled by persons designated by the Board as common laborers. Veterans shall be given

preference in hiring in the same manner as provided by the State of Alabama. Layoffs available for re-employment shall be placed at the head of the proper present and subsequent eligible registers in the inverse order of their terminations. Employees who voluntarily terminate their services may be granted re-employment status upon proper eligible registers under such circumstances and in such manner as may be provided for the Board's rules and regulations subject, however, to stipulations of this section concerning layoffs. Persons desiring appointment may file applications with the Board, and the Board may from time to time, conduct examinations to test the ability of such applicants. All qualified applicants shall be examined, and examinations shall be public, competitive, subject to limitations specified by the Board, and open to all citizens of the United States. Examinations shall be practical in character and shall be related to those matters which test the ability of the person examined to discharge intelligently the duties of the position for which he applies.

In no case shall an appointment be made from an eligible register which is more than two years old, and no eligible register shall be the result of more than one examination.

Section 11. Whenever a vacancy exists in any position in the service of the County, it shall be filled by appointment of one of the three persons who rank highest on the appropriate eligible register of the Board or by transfer within the service of the County from another position of the same class. However, the ranking lay-off of the same class shall be appointed in every instance. Wherever it is impossible for the Board to certify eligible persons to a vacancy, the Board may authorize the appointing authority to fill the vacancy temporarily pending the establishment of an eligible register. No such authorization may be given for longer than one hundred and twenty days, and an employee shall not receive more than one temporary appointment during one calendar year, and no such employee shall have status under this Act. All appointments, other than temporary appointments, shall be probationary for six months from the date of the appointment. A probationary subordinate employee may be discharged by his appointing authority for unsatisfactory service at any time before the expiration of that period if the action is approved by the Board; a probationary department head employee may be discharged or demoted similarly by his appointing authority upon approval by the Board. After the expiration of the probationary period, an appointment shall become permanent.

Section 12. An appointing authority by written

notice to the merit employee shall have authority to suspend without pay a merit employee for any personal misconduct, or fact, affecting or concerning his fitness or ability to perform his duties in the public interest. In the event a merit employee is suspended without pay, he shall be entitled to a public hearing by the Board upon written demand filed within five calendar days from the date of the order of suspension. If, after hearing, the Board determines that the action of the appointing authority was not with good cause, the suspension shall be revoked, and pay reinstated to date of suspension.

Section 13. (a) The county commission, any member of the governing body, or the head of any department or office, respectively, can remove, discharge, or demote any merit employee who is directly under such governing body, member thereof, or department head, provided that within five calendar days a report in writing of such action is made to the Board and employee, giving the reason for such removal, discharge or demotion. The employee shall have ten calendar days from the time of notification of his discharge, removal, or demotion, in which to appeal to the Board. If such appeal is filed, the Board shall thereupon order the charges or complaint to be filed forthwith in writing, if not already filed, and within 15 calendar days shall hold a hearing de novo on such charges. No merit employee shall be removed, discharged or demoted except for some personal misconduct or fact, rendering his further tenure harmful to the public interest, or for some cause affecting or concerning his fitness or ability; and if such removal, discharge or demotion is appealed to the Board, then the same will become final only upon affirmation by the Board

After a hearing upon written charges or complaint has been had and after an opportunity has been given such employee to face his accusers and be heard in his own defense. Pending a hearing on said appeal, the affected employee may be suspended; and after such hearing the Board may order said employee reinstated, demoted, removed, discharged, or suspended, or take such other disciplinary action as in their judgement is warranted by the evidence and under the law. Hearings on an appeal shall be held within 30 days from the date of receipt of written request to the Board. In all cases, the decision of the Board shall be reduced to writing and entered in the record of the case and shall include the Board's finding of facts upon which the decision is based.

The Board shall have the power to administer oaths, take depositions, certify officials' acts, and issue subpoenas to compel the attendance of witnesses and production of papers necessary as evidence in connection with any hearing, investigation, or

proceeding within the purview of this Act. The Sheriff or some other law enforcement officer of the County shall serve all processes of the Board. In case a person refuses to obey such subpoena, the Board may invoke the aid of the Circuit Court of Marshall County, Alabama, in order that the testimony or evidence be produced. Upon proper showing, such court shall issue a subpoena or order requiring the person to appear before the Board and produce all evidence and give all testimony relating to the matter in issue. A person who fails to obey such subpoena or order may be punished by the court as for contempt. The fees of witnesses for attendance and travel shall be the same as fees for witnesses in the Circuit Court of Marshall County, Alabama, which fees shall be paid from the treasury of the County.

(b) Any person aggrieved by a decision of the Board may appeal such decision to the Circuit Court of Marshall County within thirty days from the rendition of such decision by the Board. Review by the Circuit Court shall be de nova and without a jury.

Section 14. No employee shall be required to make, solicit, or receive any assessment, donations, subscription or contributions for any political purpose whatsoever, or be required to be a member of a committee or an officer of a political party, or take any part in its management or affairs except to exercise his right as a citizen to express his opinion and cast his vote; no employee shall be required to assist any candidate for nomination or election to public office, or required to make any public statement in support of or against any such candidate, or participate in any manner whatever in the campaign of any candidate in any general or primary election; and no employee shall receive any appointment or advancement as a regard for his support of a candidate for office or a political party; nor shall he be dismissed, suspended or reduced in rank or pay as punishment for his failure to support any candidate for political office.

Section 15. The County shall pay the employees the salary established by the Board in accordance with the salary authorization establishing minimum and maximum salaries for each
class and no other additional compensation shall be paid to County employees.

Section 16. The compensation and all other expenses of the Board arising under the provisions hereof shall be paid from fund of the County on the order of the Board in the same manner as other County salaries and expenses are paid.

Section 17. Any merit employee who willfully violates any of the provisions of the Act, or any rule or regulation issued in pursuance hereof, shall be

dismissed from service under the system and shall not be reappointed or reemployed for two years.

Section 18. The provisions of this Act are severable. If any part of the Act is declared invalid or unconstitutional, such declaration shall not affect the part, which remains.

Section 19. All laws or parts of laws which conflict with this Act are hereby repealed, and specifically repealing Act Number 909, 1975 Acts of the Legislature of Alabama, Regular Session which was approved October 5, 1975.

Section 20. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Speaker of the House of Representatives
President and Presiding Officer of the Senate
House of Representatives

I hereby certify that the within Act originated in and was passed by the House March 23, 1982, as amended.

John W. Pemberton
Clerk Senate Passed

Each Probate Judge, Sheriff, District Court Clerk, the Clerk and Registrar of the Circuit Court, County Commission, Chairman and Municipal Clerk is required by law to preserve this slip or pamphlet in a book kept in his office until the Act is published in permanent form.

ALABAMA LAW

(Regular Session, 1993)

Act No. 93-549 H. 982 - Rep. McDaniel

AN ACT

Relating to the merit system for Marshall County and the manner of cost-of-living pay increases for county employees; amending Section 15 of Act No.82-206, H. 623 of the 1982 Regular Session (Acts 1982, p. 247), for the purpose; and providing an effective date.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 15 of Act No. 82-206, H. 623 of the 1982 Regular Session (Acts 1982, p. 247), is amended to read as follows:

"Section 15. (a) The county shall pay the county employees the salary established by the Board in accordance with the salary authorization establishing minimum and maximum salaries for each classification, and no other additional compensation shall be paid to county employees except as provided by subsection (b) of this section.

"(b) The Board shall recommend to the Commission within each classification the amount of step raises after any probation or anniversary, but may not recommend or grant, on its own, any cost-of-living increases applicable to all county employees. Only the County Commission may establish or grant a cost-of-living increase for county employees."

Section 2. This act shall become effective January 1, 1995.

Approved May 13, 1993.

Time: 2:49 P.M.

I hereby certify that the foregoing copy of an Act of the Legislature of Alabama has been compared with the enrolled Act and it is a true and correct copy thereof.

Given under my hand this 17th day of May, 1993.

GREG PAPPAS
Clerk of the House