

1 HB417  
2 115539-3  
3 By Representatives McMillan, Faust, Shiver, Baker (A) and  
4 Davis (N & P)  
5 RFD: Baldwin County Legislation  
6 First Read: 26-JAN-10

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ENROLLED, An Act,

Relating to Baldwin County; to amend Sections 45-2-120.08 and 45-2-120.12 of the Code of Alabama 1975, relating to the Baldwin County personnel merit system, providing further for the election procedure of the personnel appeals board and providing further for the timing of the written evaluations of appointed contract employees.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Sections 45-2-120.08 and 45-2-120.12 of the Code of Alabama 1975, are amended to read as follows:

"§45-2-120.08.

"(a) There shall be established the Baldwin County Personnel Appeals Board. The board shall hear all appeals from final action as requested by an affected employee.

"(b) The Baldwin County Personnel Appeals Board shall be composed of five persons who are residents of the county. The members of the board shall be appointed as follows: Two members shall be appointed by the county commission, two members shall be selected by the classified employees using the procedure provided in this section. The fifth member shall be selected by the other four members of the board within 30 days after the four members of the board are selected and take office. In the event the four members of the board cannot agree on a fifth member within 30 days, then

1 the fifth member shall be selected as follows: The members  
2 appointed by the county commission shall nominate one person  
3 and the members selected by the classified employees shall  
4 nominate one person. From these two nominees, the fifth member  
5 of the board shall be selected by lot.

6 "(c) (1) The personnel department shall ~~cause to be~~  
7 ~~placed with the paychecks tendered all classified employees a~~  
8 ~~notification~~ notify all classified employees that nominations  
9 for membership on the board will be accepted for a period of  
10 10 work days from that date and instructing all interested  
11 classified employees to submit nominations to the Personnel  
12 Director of Baldwin County within that period. Nominations  
13 shall be limited to persons who are classified employees of  
14 the county.

15 "(2) The personnel director shall compile a list of  
16 the nominations and cause ballots to be prepared ~~for inclusion~~  
17 ~~with the next paychecks tendered~~ and distributed to all  
18 classified employees and shall instruct all classified  
19 employees of their right to vote for ~~two names, and only two~~  
20 ~~names,~~ one name contained on the list of nominees.

21 "(3) The employees shall be instructed to tender  
22 their ballots in sealed envelopes to their supervisors within  
23 five work days for submission to the personnel director who  
24 shall make appropriate arrangements for their ~~retrieval and~~  
25 ~~tabulation in the presence of at least two members of the~~

1 ~~Baldwin County legislative delegation~~ tabulation. Upon  
2 tabulation of the ballots, the personnel director shall obtain  
3 written certification executed by all the county employees who  
4 assisted during the counting of the ballots and shall submit  
5 the fully executed written certification to the Baldwin County  
6 legislative delegation following each election. The  
7 certification and ballots shall be retained by the personnel  
8 director as public records for 12 months from the date of  
9 certification of the results.

10           "(4) In the event that any one employee received a  
11 majority of all votes cast, he or she shall be deemed elected  
12 to serve on the board. In the event that no ~~two employees~~  
13 ~~receive at least a the 25 percent plurality~~ employee receives  
14 a majority of all votes cast, then the names of the ~~four~~ two  
15 employees receiving the most votes on the initial ballot shall  
16 be placed on a run-off ballot and voted upon by the employees  
17 as set forth above. ~~Those two employees~~ The employee then  
18 receiving the most votes shall be deemed elected to membership  
19 on the board.

20           "(d) No person who holds elected office, is a  
21 candidate for elected office, or receives a salary from the  
22 county, except the classified employee board members, shall  
23 serve on the board. An employee board member's term shall  
24 immediately terminate upon occurrence of any one of the  
25 foregoing conditions. A vacancy shall be filled in the same

1 manner as the original appointment of a board member as soon  
2 as possible after a vacancy occurs. A board member shall be  
3 eligible for reappointment to successive terms on the board.

4 "(e) Each member shall serve a three-year term with  
5 the exception of the initial members of the board. The initial  
6 members shall draw lots to determine two members who shall  
7 serve a three-year term, two members who shall serve a  
8 two-year term, and one member who shall serve a one-year term.

9 "(f) The board shall follow administrative  
10 procedures adopted by the county commission to implement the  
11 appeals process. The personnel department shall provide all  
12 necessary clerical and administrative support for the board.  
13 The board shall meet as needed. Each year, board members shall  
14 select from among themselves a chairperson and secretary of  
15 the board. Board members may be compensated as established  
16 from time to time by the county commission.

17 "(g) All testimony shall be under oath and the board  
18 has the power to subpoena witnesses and demand production of  
19 relevant documents. The board has the authority to affirm,  
20 revise, or amend any previous personnel decisions after a  
21 hearing.

22 "(h) The board shall hear all appeals from the final  
23 action of the department head with respect to disciplinary  
24 action. From any adverse decision of the county commission,  
25 the employee shall be entitled to, within seven work days,

1 appeal to the Circuit Court of Baldwin County for a nonjury  
2 trial de novo.

3 "§45-2-120.12.

4 "One appointed employee position may be filled by  
5 the judge of probate which position shall be designated chief  
6 clerk. Two appointed employee positions may be filled by the  
7 revenue commissioner which positions shall be designated chief  
8 clerk of collections and chief appraiser. Three appointed  
9 employee positions may be filled by the sheriff which  
10 positions shall be designated chief deputy, chief jailer, and  
11 chief of the civil division. The following shall be appointed  
12 contract employees: County administrator, emergency management  
13 director, juvenile detention director, personnel director,  
14 building official, clerk/treasurer, county engineer, and  
15 development and environmental director. Each of the appointed  
16 contract employees shall be employed under contract with the  
17 commission. Each contract shall include at a minimum the  
18 following provisions:

19 "(1) A provision for termination and severance.

20 "(2) A job description for the position.

21 "(3) ~~Semiannual~~ Annual written evaluation to be  
22 reviewed with the employee and retained by the commission in  
23 the employee's personnel file.

24 "(4) A provision that the contract will be  
25 nonbinding on the successor commission after each four-year

1 election; however, the contracts must be cancelled or  
2 continued within 90 days of the successor commission taking  
3 office.

4 "(5) A provision that any appointed contract  
5 employee employed by the county commission may not be subject  
6 to any action to cancel or not to renew the contract or in any  
7 other manner dismiss or terminate the contract employee except  
8 by a three-fourths vote of the elected members of the county  
9 commission."

10 Section 2. This act shall become effective  
11 immediately following its passage and approval by the  
12 Governor, or its otherwise becoming law.

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Speaker of the House of Representatives

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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 02-MAR-10.

Greg Pappas  
Clerk

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Senate

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06-APR-10

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Passed