

1 HB628  
2 166399-5  
3 By Representative Brown (N & P)  
4 RFD: Local Legislation  
5 First Read: 07-MAY-15

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ENROLLED, An Act,

Relating to the Civil Service Board of the City of Oxford in Calhoun County, Cleburne County, and Talladega County; to amend Sections 45-8A-112 to 45-8A-112.17, inclusive, of the Code of Alabama 1975, to further provide for employees, appointed employees, and vacancies of appointed positions.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Sections 45-8A-112 to 45-8A-112.17, inclusive, of the Code of Alabama 1975, are amended to read as follows:

"§45-8A-112.

"This part shall apply only in the City of Oxford in Calhoun County, Cleburne County, and Talladega County.

"§45-8A-112.01.

~~"As used in this part, unless the context clearly requires a different meaning: "City" means the City of Oxford in Calhoun County; "employee" means any person including firemen and policemen, not excepted by Section 45-8A-112.02, who is employed in the service of the City of Oxford; "board" means the civil service board created by this part; "appointing authority" means in the case of employees in the offices of the elected officers of the city, such elected officers; in the case of all other city employees, the city~~

1 ~~governing body, or the board or other agency supervising their~~  
2 ~~work.~~

3 "For the purposes of this part, the following terms  
4 shall have the following meanings:

5 "(1) APPOINTING AUTHORITY. In the case of the  
6 employees in the offices of the elected officers of the city,  
7 the elected officers. In the case of all other city employees,  
8 the mayor.

9 "(2) BOARD. The Civil Service Board created by this  
10 part.

11 "(3) CITY. The City of Oxford in Calhoun County,  
12 Cleburne County, and Talladega County.

13 "(4) EMPLOYEE. Any person, including firefighters  
14 and police officers, not excepted by Section 45-8A-112.02, who  
15 is employed in the service of the City of Oxford.

16 "(5) SEASONAL WORKERS. An employee who works less  
17 than 700 hours per 12-month period.

18 "§45-8A-112.02.

19 ~~"The provisions of this~~ This part shall apply to all  
20 officers and employees in the service of the city, ~~or any~~  
21 board, agency, or instrumentality of the city, ~~except any of~~  
22 the following:

23 "(a) ~~elective~~ Elective officers,

24 "(b) ~~members~~ Members of appointive boards,  
25 commissions, and committees.

1           "~~all~~ All employees of the city board of  
 2 education ~~engaged in the profession of teaching or in~~  
 3 ~~supervising teaching in the public schools;~~.

4           "(d) ~~attorneys~~ Attorneys, physicians, surgeons,  
 5 nurses, and dentists employed in their professional capacities  
 6 and employees under the direct or indirect supervision of the  
 7 Oxford Hospital Board;

8           "(e) ~~the~~ The judge of any court;

9           "(f) ~~independent~~ Independent contractors receiving  
 10 their remuneration from public funds under contracts awarded  
 11 by competitive bidding; ~~(g) any person whose employment is~~  
 12 ~~subject to the approval of the United States government or any~~  
 13 ~~agency of the United States government; (h) all~~

14           "(g) All employees of the water and sewer board;  
 15 and ~~(i) the mayor's secretary.~~

16           "(h) All employees of the Oxford emergency medical  
 17 services.

18           "(i) Seasonal workers.

19           "§45-8A-112.03.

20           "All employees of the city shall be governed by  
 21 civil service rules and regulations prescribed in or  
 22 promulgated pursuant to this part, and administered by a civil  
 23 service board, ~~the creation of which is provided for in~~  
 24 created under Section 45-8A-112.04. Present employees shall  
 25 remain in their respective employments during good behavior;

1 but nothing ~~herein~~ in this part shall be construed to prevent  
2 or preclude the removal of an employee for cause ~~in the manner~~  
3 ~~hereinafter provided~~ as provided for in this part; and ~~such~~  
4 the employees, except for appointment, shall be subject fully  
5 to ~~the provisions of~~ this part.

6 "§45-8A-112.04.

7 "(a) ~~There is hereby created the~~ The Civil Service  
8 Board of the City of Oxford is created., ~~which~~ The board shall  
9 be composed of five members appointed by the members of the  
10 Legislature who represent the City of Oxford or any portion  
11 thereof. Appointees shall serve for terms of one year, two  
12 years, three years, four years, and five years respectively,  
13 or until his or her successor is appointed. Thereafter, all  
14 appointees shall serve for terms of ~~one year, two years, three~~  
15 ~~five~~ six years. Initial terms of office shall be determined by  
16 drawing names after nominees have been appointed. No person  
17 shall be appointed to the board who is not a resident and  
18 qualified elector of the City of Oxford and over the age of 25  
19 years.

20 "(b) Members of the board shall take the  
21 constitutional oath of office, which shall be filed in the  
22 office of the probate judge. Vacancies on the board shall be  
23 filled in the same manner as original appointments. The  
24 members of the board shall elect a chairman and secretary from  
25 among their number. Any member of the board who becomes a

1 candidate for, or is elected or appointed to another public  
2 office vacates his or her office as a member of the board.

3 "§45-8A-112.05.

4 "Each member of the board and the chair of the board  
5 shall be paid two hundred dollars (\$200) per month by the City  
6 of Oxford. The board may appoint clerical assistance and  
7 engage legal counsel of its own choice, except that for the  
8 purposes of Section 45-8A-112.13, the appointing authority for  
9 clerical assistance shall be the mayor.

10 "§45-8A-112.06.

11 "The board shall fix the times for its regular  
12 meetings~~7.~~ and it The board may hold special meetings,  
13 adjourned adjourn meetings, or call meetings at any time. A  
14 majority of the members of the board shall constitute a quorum  
15 for the transaction of business. All meetings of the board  
16 shall be held in ~~the city hall~~ a municipal building chosen by  
17 the board.

18 "§45-8A-112.07.

19 "The board shall keep minutes of its meetings and a  
20 record of all business transacted by ~~it~~ the board. ~~Its~~ All  
21 records of the board, except those records the rules of the  
22 board require to be held confidential for reasons of public  
23 policy, shall be open for inspection by any resident of the  
24 city at all reasonable times, after a written request has been  
25 submitted to and approved by the board.

1           "§45-8A-112.08.

2           "(a) The board shall have power to make rules and  
3 regulations governing examinations, eligible ~~registers~~  
4 rosters, appointments, transfers, salaries, promotions,  
5 demotions, annual and sick leave, performance assessments, and  
6 ~~such~~ any other matters as may be necessary to accomplish the  
7 purposes of this part. A rule or regulation may be made  
8 effective only after a public hearing is held on the proposal  
9 ~~thereof~~ of the rule or regulation and after a certified copy  
10 ~~thereof~~ of the proposed rule or regulation has been filed with  
11 the city clerk. All employees shall be appointed upon a  
12 nonpartisan merit basis. There ~~shall~~ may not be appointed, and  
13 the board ~~shall~~ may not examine, any person who is not ~~a~~  
14 ~~citizen of~~ legally authorized to work in the United States and  
15 the State of Alabama.

16           "(b) The board ~~shall~~, with the approval of the city  
17 governing body, shall do all of the following:

18           "(1) Classify the different types of services to be  
19 performed in the service of the city~~;~~.

20           "(2) ~~prescribe~~ Prescribe qualifications, including  
21 those of education, training, and experience, for the  
22 appointees and incumbents of each class~~;~~.

23           "(3) ~~with the approval of the appointing authority,~~  
24 ~~fix a maximum and minimum salary~~ Fix a minimum and maximum  
25 salary range for each class~~;~~ and.

1           "~~allocate~~ Allocate each position in the service  
2 to its proper class. ~~It shall provide for the periodic rating~~  
3 ~~of employees according to their merit to determine whether~~  
4 ~~they are maintaining standards of service.~~ The city governing  
5 body shall determine the number of positions eligible for  
6 appointment in each class through its budgetary processes.

7           "(c) The board shall establish rules and regulations  
8 governing dismissals, suspensions, layoffs, terminations, and  
9 leaves of absence, and the severance of an employee's  
10 relationship with the city ~~shall be in accordance with such~~  
11 ~~regulations.~~

12           "§45-8A-112.09.

13           "The salary to be paid each subordinate employee and  
14 department head shall be determined by his or her appointing  
15 authority; ~~and the salary to be paid each department head~~  
16 ~~employee shall be determined by the city governing body; but~~  
17 ~~in.~~ In every case the salary paid shall be within the pay plan  
18 and pay rules and regulations minimum and maximum salary range  
19 established by the board ~~and shall be no more than the board~~  
20 ~~approves.~~ It shall be unlawful for any official or employee to  
21 draw or issue any warrant on the city treasury for the payment  
22 of salary to any employee covered by ~~the provisions of this~~  
23 part unless the warrant is in an amount authorized by the  
24 board to be paid ~~such~~ to the employee. A sum paid as salary  
25 contrary to ~~the provisions of~~ this section may be recovered in



1 an action brought by any resident of the city against the  
2 official or employee who draws or issues the warrant, or  
3 against the sureties on his or her bond.

4 "§45-8A-112.10.

5 "The board shall make and keep a ~~register~~ roster of  
6 all persons eligible and available for appointment to each  
7 class of ~~position~~ positions in the service of the city, ranked  
8 according to ability; ~~it is provided, however, except~~ that no  
9 examination shall be given and no ~~register~~ roster kept for  
10 positions to be filled by persons designated by the board as  
11 common laborers. Layoffs available for reemployment shall be  
12 placed at the head of the proper present and subsequent  
13 eligible ~~registers~~ rosters in the inverse order of their  
14 terminations. Employees who voluntarily terminate their  
15 services may be granted reemployment status under proper  
16 eligible ~~registers~~ rosters under ~~such~~ the circumstances and in  
17 ~~such~~ the manner as may be provided for in the ~~board's~~ rules  
18 and regulations of the board, subject, ~~however,~~ to  
19 stipulations of this section concerning layoffs. Persons  
20 desiring appointment may file applications with the board, and  
21 the board ~~shall~~, from time to time, shall conduct examinations  
22 to test the ability of ~~such~~ the applicants. All qualified  
23 applicants shall be examined, and examinations shall be  
24 public, competitive, and, subject to limitations specified by  
25 the board as to ~~age, residence, health, height, weight,~~

1 ~~habits, moral character, and other~~ any factors pertinent to  
2 the ability of an applicant to discharge the duties of the  
3 position, shall be open to all ~~citizens of~~ persons legally  
4 authorized to work in the United States and the State of  
5 Alabama. Examinations shall be practical in character and  
6 shall relate to those matters which test the ability of the  
7 person examined to discharge intelligently the duties of the  
8 position for which he or she applies. The board may charge  
9 each applicant a reasonable examination fee to be determined  
10 by the board. In no case shall an appointment be made from an  
11 eligible ~~register~~ roster which is more than two years old, and  
12 no eligible ~~register~~ roster shall be the result of more than  
13 one type of examination.

14 "§45-8A-112.11.

15 "Whenever a vacancy exists in any position in the  
16 service of the city, ~~it~~ with the exception of common laborers,  
17 the vacancy shall be filled by appointment of one of the six  
18 persons who ranks highest on the appropriate eligible ~~register~~  
19 roster of the board or by transfer within the service of the  
20 city from another position of the same class. However, the  
21 ranking layoff of the same class shall be appointed in every  
22 instance. Whenever it is impossible for the board to certify  
23 eligible persons to a vacancy, the board may authorize the  
24 appointing authority to fill the vacancy temporarily pending  
25 the establishment of an eligible ~~register~~ roster. No

1 authorization may be given for longer than 120 days, and no  
2 employee shall ~~have~~ acquire seniority or permanent status  
3 under this part by virtue of the temporary appointment. All  
4 appointments, other than temporary appointments, shall be  
5 probationary for ~~six~~ 12 months from the date of appointment,  
6 ~~except that the probationary period for employees in the~~  
7 ~~police department shall be 12 months. A probationary~~  
8 ~~subordinate employee may be discharged by this appointing~~  
9 ~~authority for unsatisfactory service at any time before the~~  
10 ~~expiration of that period if the action is approved by the~~  
11 ~~board; a probationary department head employee may be~~  
12 ~~discharged or demoted similarly by his or her appointing~~  
13 ~~authority upon approval by the board.;~~ provided, however, that  
14 any employee who obtained permanent status prior to the  
15 passage of the act adding this amendatory language shall  
16 maintain his or her permanent status. During any probationary  
17 period provided for under this act, the employee may be  
18 summarily dismissed, demoted, suspended, or otherwise  
19 disciplined by the appointing authority with or without cause  
20 and with no right of appeal to the board. After the expiration  
21 of the probationary period, an appointment shall become  
22 permanent.

23 "§45-8A-112.12.

24 "An appointing authority, shall have authority to  
25 ~~suspend an employee~~ Any permanent employee subject to this

1 part may be suspended by his or her department head for any  
2 personal misconduct, or fact, affecting or concerning his or  
3 her fitness or ability to perform his or her duties in the  
4 public interest. In the event an employee is suspended without  
5 pay for more than ~~30~~ five days, he or she shall be entitled to  
6 a public hearing by the board upon written demand filed within  
7 five days from the date of the order of suspension. If, after  
8 a hearing, the board determines that the action ~~of the~~  
9 ~~appointing authority was not with~~ was undertaken without  
10 sufficient cause, the suspension shall be revoked or modified  
11 as the board deems appropriate.

12 "§45-8A-112.13.

13 "(a) ~~The governing body of the city, any member of~~  
14 ~~the governing body, or the head of any department or office~~  
15 ~~can remove, discharge, or demote any employee, officer, or~~  
16 ~~official of the city who is subject to the provisions of~~ Any  
17 permanent employee subject to this part and who is directly  
18 ~~under such governing body, member thereof, or department head~~  
19 may be removed, discharged, or demoted by his or her  
20 appointing authority, provided that within five days the  
21 appointing authority makes a report in writing of ~~such action~~  
22 ~~is made~~ the action to the board, giving the reason for ~~such~~  
23 the removal, discharge, or demotion. The employee shall have  
24 10 days from the time of notification of his or her discharge,  
25 removal, or demotion in which to appeal to the board. The

1 board shall thereupon order the charges or complaint to be  
2 filed ~~forthwith~~ immediately in writing and shall hold a  
3 hearing de novo on ~~such~~ the charges. No permanent employee,  
4 officer, or official of the city whose employment comes within  
5 the jurisdiction of this part, and whose probationary period  
6 has been served, shall be removed, discharged, or demoted  
7 except for some personal misconduct, or fact, rendering his or  
8 her further tenure harmful to the public interest, or for some  
9 cause affecting or concerning his or her fitness or ability;  
10 and if ~~such~~ the removal, discharge, or demotion is appealed to  
11 the board, then the same will become final only after a  
12 hearing upon written charges or complaint has been had and  
13 after an opportunity has been given him or her to face his or  
14 her accusers and be heard in his or her own defense. Pending a  
15 hearing on appeal, the affected employee may be suspended; ~~and~~  
16 ~~after such.~~ After the hearing the board may order the employee  
17 reinstated, demoted, removed, discharged, or suspended, or  
18 take ~~such~~ other disciplinary action as in its judgment  
19 warranted by the evidence and under the ~~laws~~ law. Charges may  
20 be filed by any resident citizen of the city as follows: The  
21 charges must be in writing, must set forth succinctly the  
22 matters complained of, and must be sworn to before any member  
23 of the board or before any person authorized to administer  
24 oaths. Upon the receipt of ~~such~~ the charges, the board, after  
25 due consideration, shall determine whether in its opinion it

1 considers that the good of the service will be served by a  
2 trial thereon; and, if not, ~~such~~ the charges may be dismissed  
3 by the board. If in the judgment of the board ~~such~~ the charges  
4 are of a minor nature, ~~such~~ the charges may be referred by the  
5 board to the proper department head who shall make an  
6 investigation of the charges and make his or her  
7 recommendation to the board within ~~such~~ a time as the board  
8 may prescribe, as to what disciplinary action, if any, should  
9 be taken. After ~~such~~ the recommendation is made by the  
10 department head and after due notice is given to the affected  
11 employee of the receipt of ~~such~~ the recommendation and the  
12 contents thereof, the board may, in its discretion, adopt and  
13 order executed the action recommended by the department head  
14 or any part thereof. However, if the complainant or the  
15 affected employee, or both of them, objects to the  
16 recommendation of the department head, the board shall hold a  
17 public hearing de novo on the charges, and take ~~such~~  
18 disciplinary action as in its judgment is warranted by the  
19 evidence and under the law. All hearings before the board  
20 shall be open to the public. All testimony given in all  
21 hearings before the board shall be taken down in shorthand by  
22 a stenographer or by some other legally accepted means. In all  
23 cases, the decision of the board shall be reduced to writing  
24 and entered in the record of the case. In all proceedings  
25 before the board, the city attorney may appear and prosecute

1 all charges instituted by the city governing body or any  
2 member thereof or by any department head, when requested or  
3 directed to do so by ~~such~~ the city governing body. ~~It shall~~  
4 ~~not be the duty of the~~ The city attorney ~~to~~ may not prosecute  
5 any charges brought by a private citizen. In all proceedings  
6 before the board, the city attorney may appear and represent  
7 the interests of the city, ~~and he or she shall also give such~~  
8 ~~legal advice and legal assistance to the board as may be~~  
9 ~~requested by it.~~

10 " (b) The board and its specially authorized  
11 representatives shall have the power to administer oaths, take  
12 depositions, certify official acts, and issue subpoenas to  
13 compel the attendance of witnesses and production of papers  
14 necessary as evidence in connection with any hearing,  
15 investigation, or proceeding within the purview of this part.  
16 The chief of police or some other police officer of the city  
17 shall serve all processes of the board, and shall attend upon  
18 and preserve order at all public hearings conducted by the  
19 board. In case a person refuses to obey ~~such~~ a subpoena, the  
20 board or its representative may invoke the aid of any circuit  
21 court in order that the testimony or evidence be produced.  
22 Upon proper showing, ~~such~~ the court shall issue a subpoena or  
23 order requiring the person to appear before the board or its  
24 representative and produce all evidence and give all testimony  
25 relating to the matter in issue. A person who fails to obey

1 ~~such a~~ subpoena order may be punished by the court ~~as~~ for  
2 contempt. The fees of witnesses for attendance and travel  
3 shall be the same as fees for witnesses in the circuit courts  
4 of this state, which fees shall be paid from the treasury of  
5 the city.

6 ~~"(b)~~ (c) Any person aggrieved by a decision of the  
7 board may appeal ~~such the~~ decision to the Circuit Court of  
8 Calhoun County in equity within 30 days from the rendition of  
9 ~~such the~~ decision by the board. Review by the court shall be  
10 without a jury and be confined to the record, and to a  
11 determination of the questions of law presented; ~~the~~ The  
12 board's findings of fact shall be final and conclusive.

13 "§45-8A-112.14.

14 ~~"No employee shall make, solicit, or receive any~~  
15 ~~assessment, donation, subscription, or contribution for any~~  
16 ~~political purpose whatsoever, or be a member of a committee or~~  
17 ~~an officer of a political party, or take any part in its~~  
18 ~~management or affairs except to exercise his or her right as a~~  
19 ~~citizen to express his or her opinion and cast his or her~~  
20 ~~vote; no~~ No employee shall assist any candidate for nomination  
21 or election to public office, ~~or make any public statement in~~  
22 ~~support of or against any such candidate, or participate in~~  
23 ~~any manner whatever in the campaign of any candidate in any~~  
24 ~~general or primary election; and no~~ while on duty with the  
25 city. No employee shall receive any appointment or advancement



1 ~~as a reward for~~ because of his or her support of a candidate  
2 for office or a political party; nor shall he or she be  
3 dismissed, suspended, or reduced in rank or pay ~~as punishment~~  
4 ~~for~~ because of his or her failure to support any candidate for  
5 political office.

6 "§45-8A-112.15.

7 "The compensation and all other expenses of the  
8 board arising under ~~the provisions of~~ this part shall be paid  
9 from funds of the city on the order of the board in the same  
10 manner as other city salaries and expenses are paid, ~~provided,~~  
11 ~~however, that the total expenditures in any one year shall not~~  
12 ~~exceed five thousand dollars (\$5,000)~~ without the approval of  
13 the city governing body. The city governing body shall provide  
14 the board an office ~~in the city hall,~~ which shall be suitably  
15 equipped and furnished for the needs of the board, and  
16 telephone service, postage, office supplies, and stationery.

17 "§45-8A-112.16.

18 "Any person in the service of the city by  
19 appointment under civil service rules or regulations who  
20 wilfully violates ~~any of the provisions of~~ this part, or any  
21 rule or regulation issued in pursuance thereof, shall be  
22 dismissed from ~~service under the system and shall~~ employment  
23 with the city and may not be reappointed for two years.

24 "§45-8A-112.17.

1           "Any person who violates ~~any of the provisions of~~  
2 this part shall be guilty of a Class C misdemeanor."

3           Section 2. The provisions of this act are severable.  
4 If any part of this act is declared invalid or  
5 unconstitutional, that declaration shall not affect the part  
6 which remains.

7           Section 3. All laws or parts of laws which conflict  
8 with this act are repealed.

9           Section 4. This act shall become effective  
10 immediately following its passage and approval by the  
11 Governor, or its otherwise becoming law.

