HB97

7UH6V2-1

By Representative Paschal (N & P)

RFD: Shelby County Legislation

First Read: 06-Feb-24

PFD: 05-Feb-24

A BILL

TO BE ENTITLED

AN ACT

Relating to the City of Pelham in Shelby County; to repeal Act 89-189 of the 1989 Regular Session (Acts 1989, p. 186) as amended by Act 2001-906 of the 2001 3rd Special Session (Acts 2001, p. 748), and as amended and reenacted by Act 2015-419 of the 2015 Regular Session (Acts 2015, p. 1263); and to establish a new civil service system that provides for a personnel board, human resources director, employee classification and pay, employment, retention, and disciplinary process, and for employee appeals.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. This act shall apply only to the City of Pelham and shall be known as The City of Pelham Civil Service System Act.

Section 2. The purpose of this act is to promote greater efficiency and economy in the administration of the government of the City of Pelham by accomplishing both of the following:

(1) Attract to the service of the City of Pelham qualified individuals of character and ability by providing for their equal treatment and equal opportunity without regard

to race, national origin, ancestry, religion, political affiliation, or other non-merit factors.

(2) Establish a means to recruit, select, develop, and maintain an effective and responsible workforce based upon merit principles by providing policies and procedures for hiring and advancement, training and career development, job classification, salary administration, fringe benefits, retirement, discipline, and discharge.

Section 3. For the purposes of this act, the following terms have the following meanings:

(1) APPOINT. To hire to a regular classified position with the city.

(2) APPOINTING AUTHORITY. The mayor, city council, city manager, or any department head of the city authorized to make appointments to the regular classified service due to his or her supervisory capacity.

(3) BOARD. The City of Pelham Personnel Board.

(4) CERTIFICATION. The submission of eligible names from a promotion list or a register to an appointing authority for the purpose of filling a position in the regular classified service.

(5) CITY. The City of Pelham, Alabama.

(6) CITY MANAGER. The executive administrator appointed pursuant to Section 11-43-20, Code of Alabama 1975, who oversees the day-to-day operations of the city's departments as the administrative head of the municipal government.

(7) CLASS. A group of positions in the regular classified service sufficiently similar in duties,

responsibilities, and authority, such that the same descriptive title may be used to identify all positions allocated to the class, the positions encompassing similar requirements as to education, experience, skill, knowledge, proficiency, and ability, with the same tests of fitness to choose qualified employees, and within a defined pay grade.

(8) CLASSIFICATION. The assignment of a position to the appropriate class in accordance with its required duties and authority.

(9) CLASSIFIED SERVICE. An employment position that exists in the city that is included in the compensation plan approved by the City Council.

(10) COUNCIL. The Pelham City Council.

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

(12) DIRECTOR. The Human Resources Director.

(13) ELIGIBLE CANDIDATE. An individual whose name is on an employment list, a promotion list, or an eligible register.

(14) ELIGIBLE REGISTER. A record containing the names of those individuals who have applied for public safety positions and successfully completed prescribed tests, listed and ranked in order of their final earned average from the highest to the lowest, and are qualified for appointment to positions in the class for which the test was held.

(15) MAYOR. The Mayor of the City of Pelham.

(16) OPEN-COMPETITIVE. The process of seeking qualified candidates for a regular classified position from any

qualified individual including taking applications from the general public and other employees in the regular classified service.

(17) PAY GRADE. The specific pay range set forth in the compensation plan for a classification.

(18) PAY STEP. The specific pay rate within a pay range as set forth in the compensation plan.

(19) POLICY or RULE. Policies or rules adopted by the city which are considered necessary to develop a comprehensive civil service system to implement this act. No policy or rule shall change or modify the intent of this act.

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

(21) PROBATIONARY EMPLOYEE. An employee appointed to a regular classified position from an employment list, promotion list, or eligible register who has not completed his or her probationary period.

(22) PROMOTION. An advancement from one class to another class with increased duties or responsibilities for which a higher rate of pay is prescribed.

(23) PUBLIC RECORDS. A record that the public has the right to inspect in a reasonable manner.

(24) REGULAR CLASSIFIED POSITION. Any position in the regular classified service.

(25) REGULAR EMPLOYEE. An employee who is appointed under this act to a regular classified position and who has completed his or her probationary period.

(26) SPECIFICATIONS. A formal statement descriptive of a position that shall contain the title and class of the position, a description of the duties of the position, and the minimum qualifications required of applicants as to education, experience, physical ability, and other attributes.

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

(28) TEST. A written or oral examination, or combination thereof, or other means established to assess the qualifications of an applicant for a position.

(29) TITLE. The term used to designate all employment by class and pay grade that generally describes the duties of the position.

Section 4. (a)(1) The City of Pelham Personnel Board is established. The personnel board shall have three members, who shall be selected as follows:

a. One member shall be elected by the regular classified service employees to serve the initial term, under this act, of four years.

b. One member shall be appointed jointly by the mayor and the council to serve the initial term, under this act, of three years.

c. One member shall be appointed jointly by the members provided for in paragraphs a. and b. to serve the initial term, under this act, of two years.

(2) After the initial term, each member shall be

elected or appointed as provided in subdivision (1), and each shall serve for a term of four years.

(3) Any vacancy in membership shall be filled for the unexpired term in the manner provided for the member in subdivision (1).

(b) An individual shall meet all of the following qualifications on the date of the individual's election or appointment to the board:

(1) Be a qualified elector of the city.

(2) Not have been a city employee within the preceding three years, and if the individual has been a city employee, the individual shall have been in good standing at the time he or she was separated from city employment.

(3) Not have been a candidate for or held public office within the preceding three years.

(4) Not have held a position with any political party within the preceding three years.

(c) The board shall meet in regular session at least semiannually and at other times as necessary to transact the business of the board, which shall include the following duties:

(1) Adopt the rules and policies necessary to carry out its duties under this act.

(2) Hear and render decisions in disciplinary appeals and related matters as set forth in this act.

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

Section 5. (a) The mayor or city manager shall appoint a human resources director. The director shall be experienced in the field of personnel administration and shall administer an efficient and economical merit system and carry out the rules and policies established by the mayor, city manager, council, or the board.

(b) In addition to the responsibilities set forth elsewhere in this act, the director's duties shall include the following:

(1) Serve as secretary to the board.

(2) Prepare for approval of the board any rules or policies needed to implement board action under this act.

(3) Become familiar with the organization, operation, and personnel requirements of each city department and make recommendations for the department's efficient, economical, and equitable operation.

(4) Maintain an official inventory of all positions, including their specifications and pay grades.

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

(6) Maintain all employee and retiree files complete with all tax and benefit elections of the employee, resumes, disciplinary actions, responses, applications, and copies of certifications and training classes relevant to the class or position of the employee or required by the city for continued employment.

(7) Counsel employees on their rights under this act

and city policy.

(8) In connection with the investigations, hearings, or inquiries of the board, administer oaths, issue subpoenas, require the attendance of witnesses, and compel the production of records, documents, and papers pertaining to the subject under consideration.

Section 6. (a) On the effective date of this act, all employees holding regular full-time positions in the service of the city shall continue in their regular status in the classified service, unless the position to which they are appointed or elected is otherwise exempted by this act.

(b) The service shall be divided into two categories, as follows:

(1) A regular service comprised of all employees holding regular classified full-time positions. Employees occupying these positions shall be in the classified service unless specifically exempted from the service under this act.

(2)a. The exempt service, which shall include the following:

1. Part-time employees, including part-time members of different city boards.

2. Any official elected pursuant to Chapter 43 of Title 11, Code of Alabama 1975, including the city treasurer, city clerk, city clerk-treasurer, police chief, and fire chief.

3. Any other individual elected or appointed to a statutory position provided for under Chapter 43 of Title 11, Code of Alabama 1975, including any city manager; provided, nothing herein shall require the appointment of a city

manager.

4. Any judge, city attorney, and city prosecutor.

5. The administrative assistant to the mayor.

6. Individuals serving in long-term positions whose pay is funded at least partially by state or federal grant.

7. Professionals, including attorneys, physicians, accountants, and consultants who donate their services to the city on a part-time or temporary basis or are retained as independent contractors.

8. Seasonal and temporary employees.

b. Individuals appointed to fill exempt positions are employees at-will.

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

(b) Minutes of board meetings and financial records shall be retained permanently. Applications and examination papers of a candidate shall be retained for as long as the candidate is carried on the appropriate promotion list or eligible register.

Section 8. (a)(1) The classification plan shall provide a complete inventory of all employee positions in the service of the city and include an accurate description and specifications for each class of work, and all other employee positions in the city for which salary and benefits are set out by the city, with the exception of the city council,

mayor, and city manager. The plan shall standardize titles so that each is indicative of a definite range of duties and responsibilities and has the same meaning throughout the service and shall show whether the position is deemed a regular position or exempt position.

(2) The classification plan shall consist of:

a. A grouping of positions into classes that are approximately alike in required qualifications, tasks, duties, and working conditions and, based on these factors, can be equitably compensated within the same range of pay under similar working conditions.

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

c. Job descriptions for each position shall first be recommended by the mayor or city manager, or their designee, and then adopted by the council by resolution in their discretion. The written specifications for each position shall consist of the following items:

1. A job title that is descriptive and consistent in terminology with other titles in the plan.

2. A brief description of the work required by the job with examples of typical tasks or duties performed.

3. A list of formal qualifications including education, certification, and previous employment experience.

4. A list of required knowledge, skills, and physical fitness required to perform the job.

5. The class in which the job is allotted, its departmental supervisory level, and its pay grade.

d. Specifications shall be interpreted in their entirety and in relation to others in the classification plan. Particular phrases or examples shall not be isolated and treated as a full definition of the class. Specifications shall be descriptive and explanatory of the kind of work performed and may not necessarily be inclusive of all duties performed.

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

(b) The classification plan shall be used for the following purposes:

(1) As a guide in recruiting and examining candidates for employment.

(2) For determining lines of promotion.

(3) For determining salaries to be paid for various types of work based on wage surveys and job analyses.

(4) For determining personnel items in departmental budgets.

(5) For providing uniform job terminology understandable to all city officials and employees and the general public.

(c)(1) The director shall prepare or direct the preparation of the classification plan as needed from time to time. When the plan is completed and adopted by the council, the director shall submit to each department head a copy of the class specifications for each position class and a list allocating the positions in the jurisdiction to the tentative position classes. The department head shall notify employees about the allocation of their respective positions. A copy of the class specification and individual allocation shall be made available to the employee or his or her representative on request.

(2) The director's responsibilities regarding the plan shall include the following:

a. Distribute the plan to each department head, with an explanation of the class allocation of each position in the department.

b. Make the plan available upon request to any employee or member of the public.

c. Review the duties of each new regular position to be established and allocate the position to a class.

d. In consultation with the mayor, city manager, department heads, and supervisors, review any position to determine if changes in duties that are more than temporary would warrant reclassification of the position to a different class that is equal, higher, or lower in terms of responsibility and pay grade.

e. Maintain the classification plan so that it will reflect the duties performed by each employee in the

classified service and the class to which each position is allocated by doing the following:

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

2. Review the duties and responsibilities of each new position established and allocate the position to the appropriate position class.

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

4. Direct the grading and classifying of all positions in the classified service at least once every five years.

(d)(1) When a position is reallocated to a higher position class, a lower position class, or another position class at the same level, the method of filling the position shall be determined under this act regarding transfers, demotions, or promotions as may be appropriate.

(2) The mayor or city manager may recommend to the city council the elimination of, or modification to, approved job descriptions and positions in the classification plan together with any pay grade recommendations associated with the position. Upon approval by the council of the proposed

changes, any non-exempt regular employee currently serving in a position being eliminated or modified, in which the elimination or modification results in the non-exempt employee's termination or demotion, shall have all rights of appeal afforded employees solely as to the question of whether the elimination or modification was arbitrary and capricious.

Section 9. (a)(1) The mayor or city manager, in consultation with the director and department heads, shall adopt rules, policies, and procedures for employees and compile them in an employee handbook that shall be amended from time to time. All such rules, policies, and procedures will be effective immediately upon adoption by the mayor or city manager in consultation with the human resources director and department heads.

(2) The employee handbook, and any amendments thereto, shall be periodically reviewed by the council, which, by resolution, may direct reissue of an updated edition.

(3) All rules, policies, and procedures shall be consistent with any state or federal law that governs the subject.

(4) At a minimum, the employee handbook shall contain rules, policies, and procedures covering the following subjects:

a. Accrual and use of sick leave. However, sick leave of any employee in the regular service already accrued as of the date of the adoption of this act shall in no wise be diminished.

b. Accrual and use of personal leave or vacation time.

However, vacation time of any employee in the regular service already accrued as of the date of the adoption of this act shall in no wise be diminished.

c. Compensation, including accurate time-keeping, payroll calculation, and overtime pay.

d. Military leave of absence, including leave for National Guard and Reserve service.

e. Jury duty or other court attendance.

f. Unpaid leaves of absence, including leave under the Family and Medical Leave Act, and any other unpaid leave mandated by law.

g. Holding other employment and outside work and conflicts of interest related thereto.

h. Probationary status.

i. Promotion and open-competitive position posting, applicant testing, eligibility determination, and register ranking.

j. Handling grievances between employees that do not rise to the disciplinary level.

k. Acts, omissions, or conduct that subject employees to discipline, reporting infractions, disciplinary measures up to termination, and appeals.

l. Employee performance reviews.

m. Reduction in force and reinstatement.

n. Resignation and retirement.

o. Benefits, including qualifying for medical coverage, post-separation continuation of coverage, and retirement.

(b) The employee handbook shall indicate which rights

of employees and benefits do not apply or apply only in part to probationary employees and employees and roles in the exempt service.

(c) Each employee shall follow the rules, regulations, codes of conduct, policies, and procedures set out by the city, the infraction of which the city may impose disciplinary action.

(d) Any department, in consultation with the mayor or city manager and the director, may institute standard operating procedures necessary to the work of that department which govern the department's personnel and are not inconsistent with the rules, policies, and procedures in the employee handbook.

Section 10. (a) The city council, in consultation with the director, mayor, or city manager, and other city personnel it deems necessary, shall adopt by resolution a compensation plan as the basis of compensation for employees in the service of the city.

(1) The plan shall be constructed to provide fair compensation for all classes in the classification plan and exempt positions, taking into account the following factors:

a. Varying degrees of difficulty and responsibility in work between classes.

b. Prevailing rates of pay and benefits for similar employment in the area, in both the private sector and for other municipalities.

c. The recruiting experience for each class.

d. The city's financial condition.

(2) The compensation plan shall contain the following provisions:

a. Guidance for implementing and administering the plan.

b. A pay grade for each class in the classification plan, containing the minimum, maximum, and intermediate pay steps within the class grade.

c. The time period measured for pay, indicating the number of weekly hours or any other appropriate measure for the class grade.

(b) Upon final adoption by the council, the plan shall be certified by the director and disseminated to all department heads and made available to all employees. The plan shall go into effect 30 days after its adoption by the council.

(c) The compensation plan shall be amended by one of the following procedures:

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

(2) In the case of a proposed cost-of-living or other compensation plan amendment that has been previously approved in the council's annual budget, the council's approval of said amendment in the annual budget shall obviate the need for a separate resolution approving said amendment.

(d)(1) Each employee in the classified service shall be paid at a rate set forth in the compensation plan for the

classification in which he or she serves.

(2) A new appointee to the regular classified service shall normally be paid the minimum pay step within the pay grade for the class in which the position falls, unless in the discretion of the hiring authority and the director, circumstances, skills, or experience dictate a higher pay step.

(3) Salary advancements within a pay grade shall be based on satisfactory job performance in the position as set out in the employee handbook and shall be implemented according to the administrative procedures in the compensation plan. A performance rating reflecting satisfactory performance shall be required for advancement. An employee with uninterrupted satisfactory service shall be eligible for a salary increase on an annual basis until the maximum step for the pay grade is reached.

(4) In the event a regular employee is promoted, demoted, or transferred pursuant to Section 11, his or her rate of pay shall be determined as follows:

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

1. A one-step increase above the former rate; or

2. The entrance rate for the promotional class.

b. When an employee is demoted, compensation shall be reduced to the salary prescribed for the class or grade to which demoted or the step rate reduced if the employee remains in the position. In no event shall the pay grade exceed the

maximum approved rate of the new classification.

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

(e)(1) Holidays are paid.

(2) The mayor, subject to council approval, shall determine the holidays that employees shall observe.

(3) Employees on non-pay status, such as a leave of absence or on paid military leave, shall not earn additional time for holidays. All employees shall receive the same number of holidays, and employees required to work on holidays shall receive an equal amount of time off in compensation.

Section 11. (a)(1) Vacancies and newly created positions in the regular service shall be filled either by promotion, open-competitive, transfer, appointment, re-appointment, demotion, or transfer as determined by the appointing authority.

(2) When a vacancy exists for a regular position that is not otherwise exempt from this act, the appointing authority shall inform the director of the vacancy and whether the position is a promotional or open position. The director shall then certify to the appointing authority eligible candidates from the appropriate list or, as otherwise provided, in the manner and pursuant to the procedures as set forth in the employee handbook. The appointing authority shall then make an appointment from the names certified to him or

her.

(3) Vacancies in positions above the lowest rank in any category in the classified service shall be filled as far as practicable by the promotion of employees in the service unless otherwise determined by the appointing authority. In each case, the appointing authority, in consultation with the human resources director, shall determine whether an open-competitive or promotional examination will serve the best interests of the service in attracting well-qualified candidates. Promotions in every case must involve a definite increase in duties and responsibility. The change of an employee from a position in a class to a position in another related occupational class for which the maximum rate is higher shall be deemed a promotion.

(b)(1) Any appointment to a regular classified position, whether filled by open-competitive, promotion, appointment, or transfer, shall be subject to a probationary period.

(2) The probationary period shall last one year from the date of appointment with no interruption in service. The probationary period may be extended for an additional six months upon recommendation by the appointing authority and approval by the director.

(3) A probationary employee may be discharged without the right of appeal.

(4) A promotional probationary employee who is demoted for unsatisfactory service may return to the position held prior to promotion, if still vacant, without the right of

appeal. In the event the former position is filled, the mayor or city manager shall determine the manner in which the employee may be retained in the service, subject to the provisions governing layoffs and reductions in force in the employee handbook.

(5) On satisfactory completion of the probationary period, an employee shall have all rights of appeal set forth in Section 13 in case he or she is suspended, demoted, or terminated.

(c)(1) A demotion occurs when a regular employee's salary is reduced to a lower pay step or the employee is moved from a position in one class to a position in another class in which the maximum step in the pay grade is lower than the employee's former salary.

(2) An employee may be demoted for any of the following reasons:

a. The employee would otherwise be laid off because the current position he or she fills is being eliminated or reclassified to a different grade, there is a lack of work or funds, or another employee is returning to the position from an authorized leave.

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

c. The employee is removed during probation.

d. The employee voluntarily requests the demotion.

e. The employee is demoted as a disciplinary action.

(3) A demotion shall be approved by the appointing authority pursuant to the procedures adopted by the city. If a

non-probationary employee is demoted against his or her will, he or she may appeal to the board as provided in this act.

(d) A transfer occurs when an appointing authority, with or without the employee's request, assigns an employee in the regular service under his or her supervision from one position to another in the same class regardless of the shift, location, hours of work, or another consideration.

(e) An appointing authority may assign any employee in the regular service under his or her supervision any duties as long as the duties are within the same classification. Any assignment of duties to an employee outside of the classification of the employee's position shall be regarded as temporary and shall receive prior approval from the mayor or city manager and the director. Any transfer made pursuant to this subsection shall be made with the retention of all rights of seniority, vacation, sick leave, and overtime as the employee may have accrued.

(f)(1) The mayor or city manager may authorize the filling of a vacant position in the regular service by temporary appointment.

(2) Any candidate for temporary appointment shall meet the requirements, other than testing, for the position as described in the classification plan.

(3) Temporary appointment may be for a period of up to six months, subject to renewal by the mayor or city manager every six months.

(g) The appointing authority shall not be bound by any promotion list or eligible register to fill any vacancy for a

position or role in the exempt service. Further, an appointment to the exempt service shall not confer any right of status, appeal, or any related right under this act.

Section 12. (a) The tenure of every employee in the regular service shall be conditioned on the satisfactory conduct of the employee and the continued efficient performance of assigned duties and responsibilities. A regular employee may be dismissed, demoted, or suspended for cause or for any reason deemed to be in the best interest of the public service and shall have the right of appeal as set forth in Section 13 of this act. The reasons for the action shall be furnished in writing to the employee and the director.

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

(1) Absence from work without leave.

(2) Conviction of any criminal act involving drugs, alcohol, violence against a person, theft, embezzlement, moral turpitude, or any crime charged as a felony.

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

(4) Disorderly or immoral conduct.

(5) Incompetency or inefficiency.

(6) Insubordination.

(7) Intoxication while on duty or public intoxication while off duty.

(8) Neglect of duty.

(9) Negligent or willful damage to public property or waste of public supplies or equipment.

(10) Violation of any regulations, rules, or orders published, made, or given by a supervisor or appointing authority.

(11) Use of paid time and city property for personal reasons, including other employment or a private business venture.

(12) Failure to maintain certifications or pursue continuing education to perform the duties of the position.

(13) Inappropriate comments or behavior towards coworkers, including behavior that exposes the city to liability.

(14) Any other reason deemed in the best interest of the public service.

(15) Any other reason set forth in the employee handbook.

(c)(1) When an employee is suspended, demoted, or terminated, the employee shall be notified in writing prior to or on the date the disciplinary action is to take effect, and the notice shall contain all of the following:

a. The reason for the disciplinary action.

b. The discipline imposed.

c. In the case of suspension, the starting and ending dates or, in case of demotion or termination, the effective date.

d. Any other information deemed appropriate.

(2) A copy of the notice shall be delivered by the appointing authority to the director at the same time the notice is served on the employee. Notification shall be made

prior to or on the date the dismissal or demotion is to take effect, or as soon as practicable thereafter.

(d) A non-probationary regular employee who is demoted or terminated shall have a right of appeal pursuant to subsection 13(a). A non-probationary regular employee who is suspended may have a right of appeal as provided in subdivision (e)(2).

(e)(1) Suspension is typically without pay and is imposed by an appointing authority for a definite number of working hours on a predetermined work date with inclusive starting and ending dates.

(2) The suspended regular employee shall have a right to an appeal and hearing before the board in a case in which a single suspension exceeds 40 work hours or where separate suspensions imposed within one calendar year total more than 80 work hours.

(3) Any employee who is suspended for any period, including anyone employed in an exempt position, may obtain a review of any suspension imposed by filing with the mayor or city manager, not more than two days after receiving written notice of the suspension, a written answer to the charge and a request for review.

(f) A regular employee serving a probationary period may be suspended, demoted, or terminated by an appointing authority without right of appeal to the board.

Section 13. (a) A regular employee may appeal suspension pursuant to subdivision 12(e)(2), or demotion, or termination by filing with the director within 10 calendar

days of receiving the disciplinary notice a written answer to the charge with a request for a hearing that contains all of the following:

(1) A copy of the disciplinary notice provided in subsection 12(c).

(2) An admission or denial of the charge in the disciplinary notice.

(3) If the employee admits the charge in whole or in part, the reason why the discipline is inappropriate.

(b) Upon receiving the answer, the director shall forward a copy to the board.

(c) The city, as principal of the appointing authority who imposed the suspension, demotion, or termination, shall be the responding party.

(d) The effective date of the disciplinary action shall not be stayed pending the hearing.

(e)(1) The board shall order a public hearing of such charges. The hearing shall be for the purpose of determining whether or not the employee, by reason of his or her act or acts as charged and his or her record of service, merits retention in the service or should be removed therefrom or otherwise disciplined; and to that end the board shall not be bound by the technical rules of evidence but shall diligently seek all the information bearing on the merits of the case. Each party at interest may be represented by counsel.

(2) The hearing may be before the board or a hearing officer appointed by the board. If the matter is heard by a hearing officer appointed by the board, the hearing officer

shall be a practicing attorney licensed in the State of Alabama and shall take testimony offered in support and denial of such charges and, from the same, submit to the board within five days a finding of facts involved and a recommended decision. The board at its next regular or special meeting shall consider the report and set aside or affirm the report and certify its findings to the appointing authority who shall forthwith put the same into effect. If the board hears the charges, it shall make its own opinion and decision.

(3) Discovery may be obtained by one or more of the methods provided under the Alabama Rules of Civil Procedure, including written interrogatories, depositions, requests for production of documents or things for inspection or copying, and requests for admissions addressed to parties. The Alabama Rules of Civil Procedure may be used as a general guide for discovery practices and proceedings before the board. However, the Alabama Rules of Civil Procedure shall be deemed to be instructive rather than controlling. A party seeking discovery from another party shall initiate the process by serving a request for discovery on the other party.

(4) When a request for discovery is directed to an officer or employee of the city, the city shall make the officer or employee available on official time for the purpose of responding to the request and shall assist the officer or employee as necessary in providing relevant information that is available to the city. A party seeking discovery from a nonparty officer or employee of the city shall initiate the process by serving a request for discovery on the nonparty

officer or employee. Discovery from other nonparties may be initiated by serving a request for discovery on the nonparty directly. Absent a request or upon failure to obtain voluntary cooperation, discovery from a nonparty may be obtained by a written motion directed to the board or a hearing officer appointed by the board showing the relevance, scope, and materiality of the particular information sought. In addition, in the case of a deposition, the written motion shall include the date, time, and place of the proposed deposition.

(5) The board may require that testimony introduced at hearings be recorded, but testimony shall not be transcribed except upon further order.

(6) The board shall render its decision within 10 calendar days after the conclusion of the hearing which shall forthwith be certified to the appointing authority and enforced by the appointing authority. Copies of the decision shall be delivered to all other parties at interest. The board may rescind or uphold the penalty imposed by the appointing authority as warranted by the facts adduced at the hearing.

(f)(1) The order containing the decision of the board may be appealed by either party to the Circuit Court of Shelby County.

a. The appeal shall be perfected by filing a notice of appeal in circuit court no later than 10 days after the release of the board's decision.

b. The notice shall state that the party appeals the board's decision to the circuit court with a short statement of the reason therefor.

c. The notice shall be accompanied with a bound transcript of the board hearing and any exhibits or with a receipt from a court reporting service as proof that the hearing is being transcribed.

d. In the case of an appeal challenging the board's decision to uphold the discipline of an employee, a copy of the notice of appeal shall be served on the director within one day of its filing in circuit court.

(2) The decision of the board shall not be stayed pending the circuit court's decision.

(3) The circuit court shall not reverse the order of the board unless it finds one of the following:

a. The board's decision was arbitrary and capricious.

b. The board's decision was against the great weight of the evidence.

c. The board's decision was the product of fraud.

d. The board's application of the law was clearly erroneous in a case in which the board's decision was determined by that question of law.

Section 14. (a) The following politically related activities related to city employees shall be regulated as follows:

(1) No individual shall use the authority of his or her position with the city to secure for any other individual an appointment to a position, an increase in pay, or any other advantage in employment for the purpose of influencing the vote or political action of that individual.

(2) No individual employed by the city, whether in the

regular or exempt service, shall be denied the right to participate in city, county, state, or national political activities to the same extent as any other resident of the State of Alabama, including endorsing candidates and contributing to campaigns.

(3) An individual employed by the city may join local political clubs and organizations and state or national political parties.

(4) An individual employed by the city may advocate on public issues outside of work hours, including circulating petitions, taking positions on referenda, and contributing money and time to candidates and causes.

(5) No individual employed by the city shall engage in political activity while on duty or while in uniform that identifies the individual as a city employee.

(6) No individual shall use his or her political office or position for the purpose of influencing the vote or political action of any city employee.

(b)(1) A regular employee who seeks election to a public office shall resign his or her position with the city upon qualifying as a candidate for nomination or election by submitting a written resignation to the appointing authority and the director stating the purpose of the resignation.

(2) The employee whose candidacy is unsuccessful may be re-appointed to his or her former position, having been deemed to be on an unpaid leave of absence, if all of the following conditions are met:

a. Within 180 days succeeding the day of resignation,

the employee requests reinstatement to the eligible list for the position.

b. The position has not been filled between the day of resignation and the day of the request for reinstatement.

Section 15. On the effective date of this act, the following shall be preserved:

(1) A serving board member shall serve to the completion of the term for which the board member was elected or appointed.

(2) Any employee holding a regular position shall continue with the status of a regular employee in the classified service as provided in Section 6.

(3) Sick or personal leave already accrued by an employee shall not be reduced.

(4) Any compensation plan previously adopted by the city shall remain in effect until it is replaced or amended as provided in Section 10.

Section 16. Act 89-189 of the 1989 Regular Session (Acts 1989, p. 186), and the succeeding amending acts, Act 2001-906 of the 2001 3rd Special Session (Acts 2001, p. 748) and Act 2015-419 of the 2015 Regular Session (Acts 2015, p. 1263), relating to a civil service system for the City of Pelham in Shelby County are repealed.

Section 17. This act shall become effective on October 1, 2024.