

1 HB243  
2 167281-2  
3 By Representatives Pringle and Sessions (N & P)  
4 RFD: Mobile County Legislation  
5 First Read: 16-FEB-16

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9 A BILL  
10 TO BE ENTITLED  
11 AN ACT  
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13 Relating to Mobile County and the countywide civil  
14 service system; to amend Act No. 470 of the 1939 Regular  
15 Session (Acts 1939, p. 298), as amended, which establishes the  
16 countywide civil service system by amending Section II,  
17 relating to the unclassified service, and Section XXI,  
18 relating to layoffs; and to further provide options under the  
19 countywide civil service system for hiring by an appointing  
20 authority and to authorize payments to employees for excess  
21 annual leave.

22 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

23 Section 1. Sections II and XXI of Act No. 470 of the  
24 1939 Regular Session (Acts 1939, p. 298), are amended to read  
25 as follows:

26 "Section II. UNCLASSIFIED SERVICE: The following  
27 shall be in the Unclassified Service:

1           "(1) Officials elected by popular vote and, in case  
2 of death, resignation, or removal, their legal substitute;

3           "(2) Where by present law official duties of any  
4 officer mentioned in subdivision One of this section are or  
5 may be performed by a chief assistant appointed by him, such  
6 chief assistant;

7           "(3) Principals, supervisors, teachers and  
8 instructors in the Public Schools engaged in teaching and/or  
9 supervising teaching, and all employees of the Mobile County  
10 School Board;

11           "(4) The Personnel Director provided for by this  
12 Act;

13           "(5) Independent contractors receiving their  
14 remuneration from public funds under contract awarded by  
15 competitive bidding;

16           "(6) Persons in the "Classified Service" within the  
17 meaning of and subject to the State of Alabama merit system  
18 under any present or future law, and so long as any such law  
19 remains effective.

20           "(7) Common laborers not engaged in regular  
21 employment.

22           "(8) Attorneys, physicians, surgeons, and dentists  
23 employed in their professional capacities.

24           "(9) The Judge of any Court.

25           "(10) Members of Boards who are not employed on a  
26 full time basis and are not required to devote their services  
27 exclusively to such counties and cities therein.

1           "(11) Any person whose employment is subject to the  
2 approval of the United States Government or of any agency  
3 thereof and all employees who are funded by federal or state  
4 funds or private grants.

5           "(12) Chief hospital administrator and interns,  
6 student technicians, and student nurses while undergoing  
7 training in a hospital maintained by public funds.

8           "Section XXI. LAY-OFFS: In accordance with the Rules  
9 adopted under this Act an Appointing Authority may lay-off an  
10 employee in the Classified Service whenever he deems it  
11 necessary by reason of shortage of work or funds, or the  
12 abolition of a position or other material change in duties or  
13 organization. ~~The seniority and service ratings of employees~~  
14 ~~shall be controlling in determining the order of lay-offs.~~ The  
15 order of lay-offs shall be determined by the appointing  
16 authority depending on the critical need for the position and  
17 service ratings of the employees. The Appointing Authority  
18 shall give written notice to the Director of every proposed  
19 lay-off a reasonable time before the effective date thereof,  
20 and the Director shall make such orders relating thereto as he  
21 considers necessary to secure compliance with the Rules. The  
22 name of every regular employee so laid off shall be placed on  
23 the appropriate re-employment list. The name of every regular  
24 employee laid-off shall be placed on the re-employment list of  
25 laid-off employees for the same classification position."

26           Section 2. Any appointing authority under Act 470 of  
27 the 1939 Regular Session, which establish a countywide civil

1 service system in Mobile County, may elect to establish within  
2 the appointing authority a program for the recruitment,  
3 testing, interviewing, and hiring of all employees. An  
4 appointing authority making the election shall notify the  
5 Director in writing and provide a copy of the appointing  
6 authority's human resources policies and procedures manual  
7 adopted by the governing body or delegated authority of the  
8 appointing authority. The human resources policies and  
9 procedures manual may include personnel policy guidelines,  
10 operational standards, employee management, hiring and  
11 termination procedures, and equal employment  
12 opportunities/harassment policies in the workplace to ensure  
13 compliance with applicable federal regulations.

14 At the discretion of the appointing authority making  
15 the election provided in this section, any employee exceeding  
16 performance standards may be paid, during the working test  
17 period, at a rate up to but not in excess of the mid-range of  
18 the pay plan established for the position. Upon recommendation  
19 of the appointing authority and approval of the Personnel  
20 Director, special adjustments in steps within the grade or  
21 range of any class may be established.

22 Classified employees hired by the appointing  
23 authority electing this option shall be subject to all the  
24 rights and protections provided by the laws and rules of the  
25 Mobile County Personnel Board. Nothing in this section shall  
26 limit or impede the ability of a classified employee to file a

1 complaint or grievance pursuant to the rules of the Personnel  
2 Board.

3 Any appointing authority availing itself of the  
4 option contained in this section shall be subject to an annual  
5 audit by the Personnel Board, conducted by a Certified  
6 Professional in Human Resources, to ensure compliance with the  
7 human resources policy of the Appointing Authority and the  
8 Personnel Board law and regulations.

9 Section 3. Each appointing authority under Act 470  
10 of the 1939 Regular Session, which established a countywide  
11 civil service system in Mobile County, at its discretion, on a  
12 yearly basis, may elect to compensate all employees who elect  
13 to receive compensation for excess annual leave at the end of  
14 the calendar year. Excess annual leave is the amount of annual  
15 leave accumulated at the end of the calendar year that exceeds  
16 the employee's maximum allowed annual leave balance according  
17 to Rule III, Annual Leave, Section D, on the effective date of  
18 this act. The appointing authority, prior to October 1 of each  
19 year, shall inform the Personnel Board Director of its  
20 election to purchase excess annual leave. The notice to the  
21 Personnel Board of the appointing authority's election does  
22 not obligate the appointing authority to purchase excess  
23 annual leave or compensate employees. Excess annual leave  
24 payments can be made in whole or in part and under the terms  
25 and conditions as determined by the appointing authority. An  
26 employee will have the right to accept or reject participation  
27 in this benefit each year. All employees electing to

1 participate shall receive an equitable share of the payout as  
2 determined by the appointing authority's budgeted amount for  
3 yearly payout, ability to pay, and financial condition at the  
4 time. An equitable share may consist of units of leave,  
5 dollars of total payout, or some other rational division. The  
6 employee may direct that excess annual leave be compensated in  
7 terms of pay or placed in a deferred compensation plan of the  
8 employee as defined by the appointing authority's benefit  
9 package.

10 Section 4. The provisions of this act are severable.  
11 If any part of this act is declared invalid or  
12 unconstitutional, that declaration shall not affect the part  
13 which remains.

14 Section 5. This act shall become effective  
15 immediately following its passage and approval by the  
16 Governor, or its otherwise becoming law.