

PRIVATE CHAPTER NO. 26

HOUSE BILL NO. 2368

By Representative DuBois

Substituted for: Senate Bill No. 2346

By Senator Ketron

AN ACT relative to the creation of a civil service system for the department of sheriff in Maury County.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. The classified service to which this act shall apply shall include all positions and employees in the sheriff's department of Maury County except for the sheriff, his chief deputy, and any appointed position established in which the sheriff appoints the person to serve in such position.

SECTION 2. There is hereby created a civil service board to administer the terms of this act to be composed of five (5) members selected by the Maury county legislative body. After missing three (3) consecutive meetings a board member's position shall be vacated. The board chairman shall notify the county mayor of such vacancy. The board shall meet at least annually.

SECTION 3. Civil service board members shall serve three year terms, but the initial appointments shall be:

- (1) Two (2) members selected by the county commission for one (1) year;
- (2) Two (2) members selected by the county commission for two (2) years; and
- (3) One (1) member selected by the county commission for three (3) years. All appointments thereafter shall be for three year terms.

SECTION 4. All members of the board shall be over twenty-one (21) years of age, of good moral character, a citizen of the United States and the state of Tennessee and must reside in the county where appointed.

SECTION 5. The members of the board shall receive such salary, if any, as determined by the Maury county legislative body in its sound discretion.

SECTION 6. The civil service board shall elect a board member as chairman. The county human resources director shall designate a human resources employee to be board secretary and keeper of the civil service board records.

SECTION 7. The board as a body shall have the power:

(1) To adopt and amend rules and regulations for the administration of this act, provided that no such rules and regulations conflict with the terms of this act.

(2) To make investigations concerning the enforcement and effect of this act and to require observance of the rules and regulations made thereunder.

(3) To hear and decide appeals and complaints respecting the administration of this act.

(4) Except as otherwise provided in this act, to formulate and hold competitive exams based upon performance and other selection criteria to determine the qualifications of persons seeking employment in any position covered by this act.

(5) The board shall establish records of performance based on the exam and time in classification to be used to determine hiring, promotions, the order of layoffs and re-employment, and for other purposes.

(6) To keep any other such records as may be necessary for the proper administration of this act.

SECTION 8. All persons in the employ of the office of the sheriff upon the effective date of this act who have completed their probationary period as classified service as provided under this act, shall be retained without preliminary or performance examinations, but shall thereafter in all other respects be subject to the provisions of this act.

SECTION 9. The Maury county human resources department shall establish job descriptions and minimum qualifications for sheriff's department jobs as provided in this act. The human resources director shall adopt a classification plan and make rules for its administration to meet state and county requirements.

SECTION 10. Upon request by the sheriff and funding by the Maury county legislative body, positions may be created, combined, altered or abolished. After proper classification by the human resources director, the board shall begin the processing of sheriff's employees as directed in Section 7. Provided, however, that no position in the classified service shall be abolished except upon approval of the board acting in good faith upon the advice of the sheriff.

SECTION 11. The sheriff may approve leaves of absence subject to requirements of state and federal laws. Sheriff's department employees covered by this act shall receive the same vacation, sick leave and other leaves provided to other county employees by regular county human resources policies.

SECTION 12. Promotions shall be competitive for all persons examined or appointed under the provisions of this act.

The civil service board shall hold exams for the purpose of establishing lists of eligibles for the various positions in the classified service as often as required by the

office of sheriff. Such exams shall be competitive and shall be open to all persons who lawfully may be appointed under the rules promulgated by the board prior to the announcement of the examination. Such rules may set limitations as to residence, age, health, habits, moral character, and other prerequisites necessary for the performance of the duties of the position for which examination is designated.

The civil service board shall establish rules and regulations for persons eligible for promotion.

All promotion examinations shall be applicable to the positions and shall consist only of the subjects which shall fairly determine the capacity of the person examined to perform the duties of the position for which the appointment is to be made. Exams may include examination for physical fitness or agility. No questions in any exam shall relate to religious or political opinions or affiliation. The eligible employee candidates shall be ranked upon a list compiled for each position in order of their relative excellence as determined by the civil service board through exams and other selection criteria. No list of eligibles shall be valid after one (1) year. Notice of the time, place, and general scope of the duties, pay, and experience required for all positions for which the exam is to be held shall be given to each applicant by the human resource department prior to the exam.

SECTION 13. Whenever a vacancy occurs in any initial entry level position involving a newly hired employee in the classified section of the sheriff's office, the sheriff shall make requisition to the board for the names and addresses of all persons eligible for such position. The sheriff shall investigate the persons on the list of eligibles. The sheriff shall approve the person or persons to the vacant position or positions and shall notify the board of the action.

No appointment or promotion for any position in the classified service shall be deemed complete until after the expiration of one (1) year probationary service during which time the sheriff may determine the effectiveness of the employee, and if in the sheriff's judgment the employee does not meet the applicable standards, the sheriff may terminate the employment of any person certified and appointed. Provided, that whenever a position of the classified service is filled by promotion, and the services of the person promoted are terminated by the sheriff during the probationary period, such person shall be returned to duty in the former position held by such person in the classified service unless such person's conduct during the probationary period has given grounds for dismissal for cause under this act. Any person dismissed during a probationary period shall not be eligible for a hearing before the board. The human resources department shall notify persons who successfully complete their probation.

A person certified to the sheriff who does not report for duty at the designated time and who does not explain in writing within five (5) days his/her failure to report, may be rejected by the sheriff. The sheriff shall promptly notify the board of the action taken and the reason for such action. The person's name shall then be deleted from the eligible list.

SECTION 14. Whenever a vacancy occurs in any promotional civil service position, the sheriff shall notify the civil service board in writing of any promotional vacancy in the service which the sheriff desires to fill, and shall request a certification of eligible persons. The board shall certify from the appropriate eligible list the names of the five (5) persons that bear the highest rating under the regulations and examinations

prescribed by the board. The sheriff shall make the desired appointment from such eligible list. Should the sheriff determine that any person in that certified list should be disqualified, the sheriff may request in writing that the board remove that person from the certified list. The request shall include the reasons why the person should be removed. Upon approval of the board the person shall be removed and the next highest ranking candidate shall be forwarded to the sheriff. The sheriff shall then consider all five (5) applicants in making the desired appointments. When there are a number of positions of the same kind to be filled at the same time, each appointment shall be made separately and in accordance with the foregoing provisions. Whenever the list of eligible applicants has previously been selected from, the sheriff may request that the board readvertise and test new applicants for eligibility before certifying the names of the five (5) highest rated eligible persons.

The board may refuse to examine an applicant, or after examination may refuse to certify an applicant if he or she:

- (1) Is determined to lack any of the established preliminary requirements for the examination of the position or employment for which he or she made application;
- (2) Is physically unable to perform the essential functions of the position for which he or she has made application;
- (3) Does not successfully pass a drug screen;
- (4) Does not have good moral character (as determined by a thorough investigation);
- (5) Has been dismissed from the public service for misconduct; or practiced or attempted to practice any deception or fraud in his or her application, in his or her examination, or in any way while establishing his or her eligibility; or any applicant who is determined in any manner to have failed to comply with the rules and regulations of the board; or
- (6) Who the board determines for just cause to be unfit for the civil service position for which he or she has made application.

The board shall remove from any such certified list the name of any person, who after certification and upon further review, the board finds to be disqualified due to the aforementioned guidelines and any person who notifies the board or the sheriff that he or she no longer desires to be considered for a particular position. Whenever there are urgent reasons for filling a vacancy in any civil service position, by appointment or promotion, and there is not a current list of persons eligible for appointment, the sheriff may make a provisional appointment to such position. However, no such provisional appointment may continue for longer than three (3) months, except that entry level appointments are governed by Section 13. Upon the termination of a provisional appointment, the board may ratify the appointment whereupon such employee shall become a probationary employee of the sheriff, or shall certify to the sheriff a list of the five (5) highest rated qualified applicants for the position and the sheriff shall make the desired appointment from the list of eligible persons so certified.

No appointments or promotion for any position in the classified service shall be deemed complete until after the expiration of one (1) year probationary service during which time the sheriff may determine the effectiveness of the employee, and if in the sheriff's judgment the employee does not meet the standards the sheriff may terminate the employment of any person certified and appointed if the sheriff deems it in the best interest of the service. Whenever a position of the classified service is filled by promotion, and the services of the person promoted are terminated by the sheriff during the probationary period, such person shall be returned to the duty in the former position held by him or her in the classified service unless such person's conduct during the probationary period has given grounds for dismissal for cause under this act. Any person dismissed during the probationary period is eligible to a hearing before the board.

SECTION 15. All employees in classified service may be transferred from one position to another in the same class, but not otherwise. Higher classified persons desiring to apply for lower classified positions shall be required to apply for the position as all other applicants must do. In cases where a higher classified person for medical or compassionate reasons needs to be reassigned to a lower classified position which the person has previously held, this may be allowed by the civil service board upon a request by the sheriff. The reassigned positions classification and rate of pay shall be according to county human resources policy. Transfers may be instituted only by the sheriff and shall be permitted only with the consent of the sheriff.

SECTION 16. The practice and procedure of the board with respect to any investigation shall be in accordance with the rules and regulations established by the board. The board shall provide for reasonable notice to all persons affected by any order to be made by the board after such investigation, with an opportunity to be heard either in person or by counsel and to introduce testimony at a public hearing to be held for that purpose.

The board, when conducting any investigations or hearings authorized by this act, shall have the power to administer oaths, take depositions, issue subpoenas, compel the attendance of witnesses and the production of books, accounts, papers, records, documents and testimony. In case of the disobedience of any person in complying with the orders of the board or of a subpoena issued by the board or any of its members, or on the refusal of a witness to testify on any matter on which such witness may be lawfully interrogated, the judge in any court of record within the county on application of any member of the board, shall compel obedience by contempt proceedings. The sheriff or his legal deputy shall serve such subpoenas that are issued by the board.

SECTION 17. The sheriff shall give an immediate report in writing of all appointments, reinstatements, vacancies, absences or other matter affecting the status of any member of the classified service or the performance of the duties of members of the classified service. The report shall be in the manner and form prescribed by the board. The sheriff may suspend any employee for not more than ten (10) days for cause, but there shall be a right of appeal for any such suspension. The board shall have the power to reverse the sheriff's decision and reinstate employees with lost wages.

All suspensions or terminations shall also comply with county general personnel policies.

All appeals to the board must be filed within ten (10) days of the sheriff's disciplinary action, and shall be heard by the board within thirty (30) days of the board's receipt of the appeal request.

SECTION 18. No person holding a position in the classified service shall take an active part in any political campaign while on duty. In addition, no employee of the sheriff's department shall solicit money for political campaigns or in any way use his position as a deputy sheriff so as to indicate his personal political feelings are those of the sheriff's department or to use his position as deputy sheriff to exert any pressure on anyone or on a group of people to sway that person's or persons' political views. No employee while on duty nor any officer while in uniform shall display any political advertising or paraphernalia on their person. No employee of the sheriff's office shall make any public endorsement of any candidate in any campaign for elected office. However, nothing in this act shall be construed to prohibit or prevent any such employee from becoming or continuing to be a member of a political club or organization and enjoying all the rights and privileges of such membership or from attending any political meetings, while not on duty, or in the course of official business nor shall such person be denied from enjoying any freedom or interference in the casting of their vote. Any person violating the provisions of this section shall be dismissed from the service of the office of the sheriff.

SECTION 19. The act shall not be held nor construed to create any property rights or any vested interests in any position in the classified service and the right is hereby reserved to repeal, alter, amend this act, or any provision thereof at any time.

SECTION 20. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 21. This act shall have no effect unless it is approved by a two-thirds ($\frac{2}{3}$) vote of the legislative body of Maury County. Its approval or nonapproval shall be proclaimed by the presiding officer of Maury County and certified to the secretary of state.

SECTION 22. For the purpose of approving or rejecting the provisions of this act, it shall be effective upon becoming a law, the public welfare requiring it. For all other purposes, it shall become effective as provided in Section 21.

PASSED: April 4, 2007



JIMMY NAIFEH, SPEAKER
HOUSE OF REPRESENTATIVES



RON RAMSEY
SPEAKER OF THE SENATE

APPROVED this 17th day of April 2007



PHIL BREDEESEN, GOVERNOR