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Public Acts of 1973 Chapter 169

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We hope this information will be useful to you; reference to it will assist you with many of the questions that will arise in your tenure with county government. However, the *Tennessee Code Annotated* and other relevant laws or regulations should always be consulted before any action is taken based upon the contents of this document.

Please feel free to contact us if you have questions or comments regarding this information or any other CTAS website material.

Sincerely,

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Public Acts of 1973 Chapter 169

COMPILER'S NOTE: Although this is a Public rather than a Private Act, its provisions have special effect, applying only to Loudon County, and are not contained in Tennessee Code Annotated.

SECTION 1. All counties having a population of not less than twenty-four thousand (24,000) nor more than twenty-four thousand three hundred (24,300) inhabitants according to the Federal Census of population of 1970 or any subsequent federal census, may establish a merit system for employees of the Office of Sheriff of such counties.

SECTION 2. The merit system to which this Act shall apply shall be the classified service which includes all positions and salaried employees in the Office of Sheriff except the Sheriff, chief deputy sheriff, jail cook, bookkeeper and his personal secretary. The Sheriff may appoint his chief deputy provided such chief deputy meets the minimum standards as required by applicable State and County law. The chief deputy is not subject to the merit service board under this Act and serves at the will of the Sheriff, and his employment terminates when the Sheriff's term expires.

SECTION 3. There is hereby created a merit service board composed of three (3) members appointed by the County Judge from the membership of the Quarterly County Court, such appointments being subject to confirmation by the Quarterly Court, to administer the provisions of this Act. No more than two (2) of the members may be from the same political party.

SECTION 4. The terms of the members shall be three (3) years; provided, however, that the initial appointment shall be as follows:

- (a) One (1) member for one (1) year.
- (b) One (1) member for two (2) years.
- (c) One (1) member for three (3) years.

All appointments thereafter shall be for three-year terms. A member shall be eligible to reappointment. Each member shall have the right to vote.

SECTION 5. All members of the board must 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.

SECTION 6. The members of the board shall receive a per diem of \$25.00 per meeting attended provided that no more than \$25.00 be paid to any one member during any one month.

SECTION 7. The board shall designate one of its members to serve as chairman of the board. Two (2) members of the Board shall constitute a quorum. The sheriff shall appoint one of his employees to be personnel officer, or the Sheriff may by agreement with the Quarterly Court and/or the County Law Enforcement Agency Board of such county appoint a personnel officer other than one of his employees. The personnel officer shall be the keeper of the personnel records of employees under the provisions of this Act and shall serve as secretary of the merit service board.

SECTION 8. The merit service board as a body shall have the power:

- (a) To adopt and amend rules and regulations for the administration of this Act.
- (b) To make investigations concerning the enforcement and effect of this Act and to require observance of the rules and regulations.
- (c) To hear and determine appeals and complaints respecting the administration of this Act.
- (d) To establish and maintain a roster of all employees of the classified service in the office of the sheriff showing their positions, rank, compensation and places of residence.
- (e) To ascertain and record the duties and responsibilities pertaining to all positions in the classified service and to classify such positions in the manner hereinafter provided.
- (f) Except as otherwise provided in this Act, to formulate and hold competitive tests to determine the qualifications of persons who seek employment in any position, and as a result of such tests, establish employment lists of eligibles for the various positions.
- (g) To establish records of performance and a system of service ratings to be used to determine promotions, the order of lay-offs or reduction of force, the order of reemployment, to assist in the determination of dismissal for cause and for other purposes.
- (h) To provide for part-time and temporary positions and appointments and to establish rules defining and governing such positions; provided, however, that no temporary position shall be more than three (3) months.
- (i) To keep any other records as may be necessary for the administration of this Act.

SECTION 9. The board shall, as soon as practical after this Act becomes operative, adopt a classification plan and make rules and regulations for its administration. The classification plan shall state for each class of positions, a class title, and the duties, authorities, responsibilities and character of work required for each position. Each class of positions may be subdivided, and classes may be grouped and ranked in such manner as is deemed appropriate. The board shall determine the requirements of each position and class thereof as to education, experience, capabilities, knowledge and skill. As far as practical, the probable lines of promotion to and from the classes of position shall be indicated. The Sheriff will have the authority to appoint his chief deputy, but said chief deputy must be an employee from the classified service or on the eligibility list certified by the Board.

SECTION 10. The board may, after advice from the sheriff, create new positions or combine, alter or abolish existing positions in such manner as the board, acting with the advice of the sheriff, deems necessary for the effective operation of the Office of Sheriff; provided, however, that no position in the classified service shall be abolished except upon approval of the board acting in good faith, after consultation with the sheriff.

SECTION 11. The board shall formulate reasonable rules governing the granting of leaves of absence to members of the classified service in good standing. The board shall request the recommendation of the sheriff upon any request of leave of absence before acting thereon and shall be guided by the requirements of the adequate law enforcement and operational efficiency of the Office of Sheriff when considering any such request for a leave.

Any person coming under the classified service who shall hereafter be inducted into the armed forces of the United States of America, or who shall hereafter enter said service voluntarily, by enlistment or otherwise in a time of war or other national emergency shall, upon application to the sheriff, receive a military leave of absence for the duration of the period of service required. Such employee shall retain all rights for seniority and shall be entitled to reemployment in the same capacity and position which he held at the time of entering said military service. The application for such reinstatement in position shall be made by or on behalf of such employee within three (3) months after termination of active service in the armed forces.

SECTION 12. The sheriff shall inform the board by periodic reports of the employment needs of the office of sheriff and the board shall, as often as required by the needs of the Office of Sheriff, hold tests for the purpose of establishing lists of eligibles for the various positions in the classified service. Such tests shall be public, competitive and open to all persons who may be lawfully appointed under the rules promulgated by the board and existing prior to the announcement of the examination. Such rules shall set limitations as to residence, age, health, habits, moral character and other necessary pre-requisites for the performance of the duties of the position for which examination is designated and such rules shall not be less than those provided in Section 38-1104 of the Tennessee Code Annotated.

Promotion tests shall be public, competitive and free to all persons examined and appointed under the provisions of this Act and who have held a classified position with the Office of Sheriff for at least a one (1) year period of time. All tests shall be practical and shall consist only of subjects which will fairly determine the capacity of the person examined to perform the duties of the position in which the appointment is to be made. Tests may include examination for physical fitness and manual skill. No questions in any test shall relate to religious or political opinions or affiliations. The eligibles shall take rank upon a list which shall be compiled for each position, in the order of their relative excellence as determined by the tests without reference to the priority of the time from when the tests are given. No lists of eligible persons shall be valid after one (1) year except, however, the merit service board may extend an eligible period for not more than one (1) year. Notice of the time, place and general scope of each test and the duties, pay and experience required for all positions for which the test is to be held, shall be given by the board to each applicant at least one (1) week preceding the test. The notice must be in writing and addressed to the last known address supplied by the applicant. Notice of promotional tests shall be given as the board may prescribe.

SECTION 13. Whenever a vacancy occurs in any position in the classified section of the office of sheriff, the sheriff shall make requisition to the board for the names and addresses of all persons eligible for appointment thereto. The board shall certify the names of all persons on the eligible list for position wherein the vacancy exists within thirty (30) days of the requisition to the board. The sheriff thereupon shall investigate each of the five (5) highest on the list of eligibles. In the event the investigations result in none of the first five (5) eligible persons being acceptable to the sheriff, he shall investigate the next five (5) eligibles on the list, one after another until one of the eligibles investigated is acceptable to the sheriff. The sheriff shall appoint such person to the position wherein the vacancy exists and shall notify the board of his action. If the merit service board fails to provide a list, then the sheriff may make appointments to vacancies after having notified the board of his action or his intentions so to do. No appointment or promotion for any position in the classified service, shall be deemed complete until after the expiration of

six (6) months probationary service during which time the sheriff may determine the effectiveness of the employee. If in his judgment the employee does not meet the standards, he may terminate the employment of any person certified and appointed when he deems it to be 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 forthwith be returned to duty in the previous position held by him in the classified service unless such person's conduct during the probationary period had given grounds for dismissal for cause under this Act. Any person dismissed during the probationary period shall not be eligible to a hearing before the board except as may be otherwise provided in this Act.

A person who is certified to the sheriff and selected by him and does not report for duty at the time so designated and who does not explain such failure to report in writing within five (5) days, may be rejected by the sheriff who shall forthwith notify the board of the action taken and the reason therefor, and the person's name will then be removed from the eligible list.

SECTION 14. All employees in the classified service may be transferred from one position to another in the same class, and not otherwise. Transfers may be instituted only by the sheriff and shall be permitted only with the consent of the sheriff.

SECTION 15. The practice and procedure of the board with respect to any investigation by the board as authorized by this Act, shall be in accordance with the rules and regulations to be established by the board. Such rules and regulations shall provide for a reasonable notice to all persons affected by any order which the board may issue upon completion of such investigation. Such persons shall have the opportunity to be heard either in person or by counsel, and to introduce testimony in his behalf at a public hearing which shall 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 to comply with the orders of the board or of a subpoena issued by the board, or on the refusal of a witness to testify on any matter on which he may be lawfully interrogated, the judge in any court of record within the county, upon petition of the board, shall compel obedience by proceedings as for contempt. The sheriff or his legal deputy shall serve subpoenas as issued by the board.

SECTION 16. The sheriff shall give an immediate report in writing of all appointments, reinstatements, vacancies, absences or other matters affecting the status of any member of the classified service or the performance of the duties of such members. 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 and there shall be no right of appeal for any suspension thereof. Provided, however, the sheriff shall not have the authority to suspend any employee for more than one suspension of ten (10) days within any given six (6) month period of time without a right of appeal. If the sheriff shall suspend any employee for a period longer than ten (10) days, the suspended employee shall be notified in writing of the charges which caused his suspension. He shall thereafter have ten (10) days to request a hearing before the merit service board, and upon his request the board shall set a hearing not more than thirty (30) days from the date of the receipt of his request for a hearing.

SECTION 17. The sheriff shall have the authority to dismiss any employee for ordinary cause with a right of appeal to the board assured the employee. The dismissed employee shall be notified in writing of the causes for dismissal. An employee who has completed the probationary period shall have ten (10) days to request a hearing before the board and upon his request the board shall set a hearing not more than thirty (30) days from the date of the receipt of his request. The rules of procedure for the conduct of any investigation by the merit service board shall apply to this hearing. Upon a finding by the board that the sheriff has not complied with the procedures of the board, the board may order the employee to be reinstated. Upon notice to the employee and hearing as provided in this section, the board by unanimous vote may without recommendation of the sheriff dismiss an employee for violation of this Act or for continued violation of the rules and regulations established by the board.

SECTION 18. No employee holding a position in the classified service shall take an active part in any political campaign while on duty, nor under any circumstance shall any employee of the Office of Sheriff solicit money for political campaigns or in any way use his position as a deputy sheriff so as to reflect his personal political feelings as those of the Office of Sheriff or to use his position as deputy sheriff to exert any pressure on any one person or group of people to sway that person or persons' political views. Neither an employee while on duty nor any officer while in uniform shall display any political advertising or paraphernalia on his person or on his automobile. No employee of the Office of Sheriff shall make any public endorsement of any candidate in any campaign for elected office. No employee shall support,

during duty hours or off-duty hours, any candidate for the Office of Sheriff of the County of which he is an employee. 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 his official business, nor shall he be denied from enjoying any freedom from interference in the casting of his vote. Any person violating the provisions of this section shall be dismissed from the service of the Office of the Sheriff.

SECTION 19. The sheriff shall not require any employee in the classified service to participate in any political activity as a condition of employment, continuation of employment, or promotion. If, upon an investigation by the board and its determination that such actions have taken place, the board shall issue an order to the sheriff to cease and desist from such activity. If the sheriff fails to comply or persists in the activity, the council may apply to any court of record in the county for a citation of contempt.

SECTION 20. All employees of the sheriff with six (6) months' service, who after enactment of this Act would be covered by the Act's provisions, shall be automatically considered as members of the classified service upon the Act taking effect. All "probationary" employees shall receive credit for the amount of continuous accrued time of service immediately preceding the date of enactment.

SECTION 21. If any provisions of this Act or the application thereof to any person or circumstances 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 22. All laws or parts of laws in conflict with the provisions of this Act are hereby repealed.

SECTION 23. This Act shall become effective as to any county to which it may apply when the same shall have been approved by the Quarterly County Court of such county by a vote of not less than two-thirds ($\frac{2}{3}$) of the members thereof, such approval to be made by said Quarterly County Court within ninety (90) days after the sine die adjournment of the General Assembly of the State of Tennessee for the year 1973, the public welfare requiring its becoming effective at the time. Its approval or non-approval shall be proclaimed by the presiding officer of the Quarterly County Court and certified by him to the Secretary of State.

SECTION 24. For the purpose of approving or rejecting the provisions of this Act, as provided in Section 23, it shall be effective on becoming a law, the public welfare requiring it. For all other purposes it shall become effective September 1, 1973, upon being approved as provided in Section 23.

Passed: May 1, 1973.

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