



County Technical Assistance Service
INSTITUTE *for* PUBLIC SERVICE

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Private Acts of 1972 Chapter 332

Dear Reader:

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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,

The University of Tennessee
County Technical Assistance Service
226 Anne Dallas Dudley Boulevard, Suite 400
Nashville, Tennessee 37219
615.532.3555 phone
615.532.3699 fax
www.ctas.tennessee.edu

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Private Acts of 1972 Chapter 332

SECTION 1. All counties having a population of not less than sixty-three thousand and seven hundred (63,700) nor more than sixty-three thousand eight hundred (63,800) inhabitants according to U. S. Census of population of 1970 or any subsequent U. S. Census of population may establish 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, his chief deputy, jail cook, bookkeeper and his personal secretary, unless such secretary is deputized as a deputy sheriff.

SECTION 3. There is hereby created a merit service board composed of five (5) members selected by the Quarterly County Court to administer the provisions of this Act.

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

- (a) Two (2) members for one (1) year.
- (b) Two (2) members 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.

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 such compensation as may be determined by the Quarterly County Court.

SECTION 7. The board shall designate one of its members to serve as chairman of the board. The sheriff shall appoint one of his employees to be personnel officer. 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 the performance and a system of service ratings to be used to determine promotions, the order of lay-offs or reduction of force and the order or re-employment 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.

SECTION 10. The board may, upon request and advice of 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 upon the advice of 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 re-employment in the same capacity and position which he held at the time of entering said military service. The application for such rein-statement 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 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 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.

A person who is certified to the sheriff 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 obedience of any person to comply 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 he 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 proceedings as for contempt. The sheriff or his legal deputy shall serve such 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 matter effecting 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. He shall have ten (10) days to request a hearing before the board and upon his request the council 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 board, the board may order the employee to be reinstated.

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's 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. 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 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. If any provision of this Act or the application thereof to any person or circumstance is held

invalid, such invalidity shall not effect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to that end the provision of this Act are declared to [sic] severable.

SECTION 21. All laws or parts of laws in conflict with the provisions or [sic] this Act are hereby repealed.

SECTION 22. 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 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 1972, the public welfare requiring it 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 23. For the purpose of approving or rejecting the provisions of this Act, as provided in Section 22, it shall be effective on becoming a law, the public welfare requiring it. For all other purposes it shall become effective September 1, 1972 upon being approved as provided in Section 22.

PASSED: March 22, 1972.

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