



County Technical Assistance Service
INSTITUTE *for* PUBLIC SERVICE

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Chapter X - Law Enforcement

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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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Chapter X - Law Enforcement

Sheriff

Private Acts of 1996 Chapter 160

SECTION 1. As used in this act, the following words and terms shall have the following meaning:

- (a) "Appointing Authority" means the sheriff of the county who is charged with the duty of appointing and/or dismissing the personnel employed under his direction.
- (b) "Board" means the civil service board.
- (c) "Classified Service" means those positions of employment contained in the civil service system.
- (d) "Employee" means any person appointed to a position or office in the classification service.
- (e) "Secretary" means secretary to the civil service board.
- (f) "System" means the civil service system of the county.

SECTION 2. There is hereby created a civil service board composed of five (5) members.

SECTION 3. As soon as practicable after approval of the act, the chairman of the county commission shall convene the board of county commissioners for the purpose of electing members to the civil service board.

The board of county commissioners shall by a majority vote elect five (5) board members who shall take office upon the effective date of the system and who shall serve for the following terms: two (2) members for a term of one (1) year, two (2) members for a term of two (2) years, one (1) member for a term of three (3) years. Subsequent to the initial terms of board members, as provided in this section, each member thereafter appointed to the board shall serve for a term of three (3) years. Vacancies on the board caused by the expiration of the terms of its members will be filled by election in the same manner as set out in this section for the initial appointment of members. Any vacancy occurring on the board other than those due to the expiration of a term shall be filled for the unexpired term by a majority vote at the next regularly scheduled meeting of the county commission. Each board member shall serve until his successor is appointed and qualified. No person shall be eligible to serve as a member of the board:

- (a) Who is under the age of eighteen (18) years;
- (b) Who resides outside the county;
- (c) Who holds any elected or appointive office of the county;
- (d) Who is an employee of the county; and
- (e) Who is an officer of any organized political party.

Any member of the board may be removed for just cause during the member's term of office by a two-thirds (2/3) vote of the body which elected the board member, but only after such board member shall have been served with a statement in writing of the reasons alleged to justify removal, and only after such member is allowed an opportunity to be represented and publicly heard in his or her defense before the body which elected the board member.

SECTION 4. The board shall meet as soon as practicable following the effective date of the system. By a majority vote of all board members, the board shall, at its first meeting elect a chairman for a term of one (1) year who will preside at all subsequent meetings during said term. Thereafter, the board will elect a chairman by a majority vote of all board members upon the expiration of the former chairman's term. The board shall determine the order of business at its meetings and shall make out such rules and procedures as it deems necessary for the efficient and orderly conduct of its meetings.

The board shall also designate the time and place within the county for its regularly scheduled meetings and any special meetings.

At all meetings of the board subsequent to the first meeting, the presence of any three (3) members of the board shall constitute a quorum for the transaction of the business of the board.

SECTION 5. The powers and duties of the civil service board shall be as follows:

- (a) To adopt and amend rules and regulations for the administration of this part;
- (b) To make investigations concerning the enforcement and effect of this part and require

observance of the rules and regulations made thereunder:

(1) The practice and procedure of the board with respect to any investigation by the board authorized by this part shall be in accordance with the rules and regulations to be established by the board. The rules shall provide for reasonable notice to all persons affected and for the opportunity to be heard, either in person or as represented by counsel, and to introduce testimony on their behalf at a public hearing;

(2) The board, when conducting any investigations or hearings authorized by this part shall have the power to administer oaths, take depositions, issue subpoenas, and compel the attendance of witnesses and the production of books, accounts, papers, records, documents and testimony;

(c) To hear and determine appeals and complaints respecting the administration of this part;

(d) To establish and maintain a roster of all employees of the classified service showing their position, rank, compensation and place of residence;

(e) To ascertain and record the duties and responsibilities pertaining to all positions in the classified service and classify such positions in the manner hereinafter provided;

(f) Except as otherwise provided in this part, 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) Establish records of performance and a system of service ratings to be used to determine the order of lay-offs and re-employment and for other purposes; and

(h) Keep any other such records as may be necessary for the proper administration of this part.

SECTION 6. The board of county commissioners shall set the compensation, if any, of the members of the civil service board.

SECTION 7. The civil service of the county is hereby divided into classified and unclassified services. The classified service shall comprise all positions of employment for the sheriff's department not specifically included in the unclassified service.

Persons holding classified service positions at the time this part becomes operative, who have served for period longer than six (6) months, shall be retained without preliminary or performance tests, but shall thereafter be subject in all other aspects to the provisions of this part.

Any other persons in the classified service at the time this part becomes operative shall be regarded as holding their positions under provisional appointment. The unclassified service shall include:

(a) Officials elected by popular vote and persons appointed to fill vacancies in such elective offices;

(b) Members of duly established boards and commissions of the county;

(c) Any person retained by the county on a consulting basis and any professional person hired in his professional capacity as determined by the board;

(d) Any person who provides services to the county on a volunteer basis or who receives no compensation for said services;

(e) Any person occupying the position of department head, deputy department head, chief deputy, or a personal assistant to a department head as is designated by an appointing authority. The intent of this provision is to restrict positions in the unclassified services to those that involve sensitive policy-making duties. In granting its approval, the board shall consider this intent as well as the size of the department in question. A list of these additional positions shall be prepared and maintained by the secretary; and

(f) Any person who is a part-time employee who works less than twenty (20) hours per week. Part-time employees who work more than twenty (20) hours per week but less than forty (40) hours will remain unclassified unless thirty-nine (39) weeks per year are worked in excess of twenty (20) hours per week.

SECTION 8. Any person coming under the classified service who shall hereafter be inducted into the armed forces of the United States, or who shall hereafter enter the service voluntarily in a time of war or other national emergency, shall, upon application, receive a military leave of absence for the duration of the period of service required. The employee shall retain all rights or seniority and shall be entitled to re-employment in the same capacity and position he held at the time of entering military service; however, an application for reinstatement in such position must be made by or on behalf of such employee within three (3) months after termination of active service in the armed forces.

SECTION 9. The appointing authority will keep the board informed by periodic reports of the employment needs of his office.

The board shall, as often as necessary, hold tests to establish lists of persons eligible for the various positions in the classified service.

Such tests shall be public, competitive and free to all persons who may be lawfully appointed under the rule promulgated by the board and existing prior to the announcement of the examination and shall be in compliance with all state and local rules and regulations governing discrimination on the basis of race, creed, color, sex, age, national origin, or handicap as well as any laws regarding Americans with disabilities. Such rules may set limitations as to health, previous criminal convictions, misdemeanors involving theft, and other necessary prerequisites for the performance of the duties of the position for which examination is designated.

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 question 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 and without reference to when the tests were given. No lists of eligibles shall be valid after one (1) year; however, the civil service board may extend an eligible period for not more than one (1) additional 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 10. Whenever a vacancy occurs in any position in the classified section, the department shall ask the board for the names and addresses of all eligible persons. The board shall certify the names of all persons on the eligible list for that position within five (5) working days of the request. The department head shall investigate each of the five (5) highest on the list of eligibles. If none of the five (5) eligibles are acceptable to the department head, he shall investigate the next five (5) eligibles on the list, one (1) after the other until one (1) of the eligibles investigated is acceptable. The department head shall appoint this person to the position and notify the board of his or her action. If the civil service board fails to provide a list, then the department head may make appointments to vacancies after having notified the board of his or her intention to do so.

No appointment for any position in the classified services shall be deemed complete until after the expiration of six (6) months of probationary service, during which time the department head may determine the effectiveness of the employee and if, in the standards, the department head may terminate the employment of that person.

Whenever a position of the classified services is filled by promotion, and the services of the person promoted are terminated by the department head during the probationary period, such person shall be returned to the person's former position in the classified service unless such person's conduct during the probationary period has given grounds for dismissal for cause under this part.

Any person dismissed during the probationary period shall not be eligible for a hearing before the board.

A person certified to the department head who does not report for duty at the time so designated may be rejected by the department head, who shall notify the board of the action taken and the reason for it. The person's name will then be stricken from the eligible list.

SECTION 11. For unsatisfactory performance of duties or other causes, an employee in the classified service may be subject to the following discipline by the appointing authority:

- (a) Reprimand;
- (b) Suspension without pay for a period not to exceed thirty (30) days;
- (c) Reduction in pay within allowable range for class of employee;
- (d) Demotion to a lower classification;
- (e) Dismissal for service; and
- (f) Retirement under the terms of the retirement act, as applicable.

The appointing authority will make the disciplinary order in writing stating the discipline to be taken and the reasons for such discipline.

The disciplined employee may respond in writing within seven (7) days of receipt of the order of discipline. The board will then hold a hearing thereon, and shall thereupon fully hear and determine the matter and shall either affirm, modify or revoke such order of discipline. The appellant shall be entitled to appear personally, produce evidence, and to have counsel, and to a public hearing.

SECTION 12. Employees in the classified services may be transferred from one position to another in the same class. Transfers may be instituted only by the department head and shall be permitted only with the consent of the department head.

SECTION 13. The department heads shall be given an immediate report in writing of all appointments, reinstatements, vacancies, or other matters 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 department head may suspend any employee for not more than ten (10) days for cause and there shall be no right of appeal for such suspension. The department head shall not have the authority to suspend any employee for more than one (1) suspension of ten (10) days within any given six (6) month period of time without the right of appeal.

If the department head shall suspend any employee for a period longer than ten (10) days, the suspended employee shall be notified in writing of the charges placed against him or her. The employee shall thereafter have ten (10) days to request a hearing before the civil service board. Upon receiving the employee's request, the board shall set a hearing, not more than thirty (30) days from the date of the receipt of the request.

SECTION 14. No person holding a position in the classified service shall take an active part in any political campaign while on duty, nor under any circumstances shall any employee solicit money for political campaigns. An employee shall not use his or her position to reflect the employee's personal political feelings as those of the department head or to exert any pressure on anyone to influence that person's political views. No employee while on duty, nor any officer while in uniform, shall display any political advertising or paraphernalia on the employee's person or on the employee's automobile.

However, nothing in this part 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. An employee shall not be denied freedom in the casting of a vote nor seeking election to a non-partisan office. If an employee seeks election to a partisan office, that employee must take an unpaid leave during that campaign.

Any person violating the provisions of this section shall be dismissed from the service of the county.

SECTION 15. Notwithstanding the other provisions of this act, in the event that conditions in the sheriff's department of the county or the financial condition of the county necessitates a reduction in the work force, the required reduction shall be made in such class or classes as the appointing authority designates. Favorable consideration must, however, be given toward retention of those employees in the highest class of positions. If necessary to achieve their retention, employees may be temporarily demoted to a lower class or position. The determination as to which employees within a particular class are to be laid off rests with the sound discretion of the appointing authority and will be based on such considerations as serving ratings, seniority, department head recommendations and other relevant factors. Any employee laid off or temporarily demoted to a lower class of position under this section shall be given priority over other applicants to reinstatement to the employee's former position or to a comparable position in the system.

SECTION 16. The civil service system established under the provisions of this act shall become operative upon certification by the chairman of the board of county commissioners to the Secretary of State that a civil service board has been duly elected and that the board of county commissioners, by a majority vote of its members, has approved:

- (a) A plan for examination of applicants; and
- (b) A listing of classified and unclassified positions.

SECTION 17. Upon ratification by the county legislative body and the full implementation of this act's provisions and until such time as this act is revoked, this act will supersede all laws, acts, rules and regulations relative to the Sheriff's Department personnel that are in conflict with this act.

SECTION 18. The provisions of this act are severable, and if any such provisions or sections are held to be unconstitutional, the remaining provisions and sections are not so affected but continue in full force and effect.

SECTION 19. The provisions of this act once adopted may be revoked by the same method used to adopt the act. Such revocation shall be effective with the next beginning fiscal year.

SECTION 20. This act shall have no effect unless it is approved by a two-thirds (2/3) vote of the legislative body of Rhea County. Its approval or nonapproval shall be proclaimed by the presiding officer of the county and certified to the Secretary of State.

SECTION 21. 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 upon being approved as provided in Section 20.

Passed: April 1, 1996.

Law Enforcement - Historical Notes

Jails and Prisoners

The following act once affected jails and prisoners in Rhea County, but is no longer operative.

1. Acts of 1825, Chapter 146, appointed Thomas Price, Richard G. Waterhouse, William S. Leuty, John Locke, Miles Vernon, William Smith and Robert Bell, as Commissioners with the power and authority to contract with suitable workmen to build a new jail in Rhea County on the public square or at some other suitable place in Washington. The Quarterly Court may levy a tax over the next three years to finance the cost of construction. The said tax would be collected by the Sheriff, paid to the Trustee and used for no other purpose. The Commissioners will report to the Court when the new jail is completed and then the old jail will be either sold or tom down.

Militia

Those acts once affecting Rhea County, which related to the militia and to other law enforcement agencies other than the sheriff, are mentioned below in chronological order.

1. Acts of 1809, Chapter 43, set up muster times for the militia in Rhea and Bledsoe Counties. The Regiment of infantry in Rhea County shall hold their regimental musters at the place of holding Court in Rhea County on the second Thursday in next October, and every year thereafter. The battalions composing the First Regiment of Rhea County shall hold their battalion and company musters at the same time.
2. Acts of 1809, Chapter 89, stated that the militia of Rhea County shall compose the 30th Regiment of the State Militia, and will muster at the place of holding Court in the said County. Section 14 formed some brigades in the militia and assigned Anderson, Roane, Bledsoe, and Rhea Counties' to the 8th Brigade.
3. Acts of 1815, Chapter 119, was an entirely new militia law for the State saying that the militia shall be composed of free men and indentured servants between 18 and 45 years of age. There is a table of organization complete with the duties of each rank and a re-enactment of all rules and regulations pertinent to the orderly discharge of the functions of the units of the State and County militia including police work. The militia of Rhea County would compose the 30th Regiment. Each regiment consisted of two battalions, made up of companies of not less than 40 privates, 2 musicians, 3 sergeants, 3 corporals, one captain, one lieutenant, and one ensign.
4. Acts of 1821, Chapter 184, stated that the militia of Rhea County which is the 30th Regiment of the State of Tennessee shall hold a regimental muster on the fourth Tuesday in September.
5. Acts of 1822, Chapter 155, stated that all that part of Rhea County which lies on the south of the Tennessee River shall be and compose a separate battalion of militia which shall be known as the Third Battalion and commanded by the second Major of the Regiment.
6. Acts of 1822, Chapter 205, averred that the different militia regiments of the counties of Rhea, Bledsoe, Hamilton, Marion, and McMinn shall constitute a Brigade in the militia of this State and shall be attached to the First Division. Field officers shall meet at the Courthouse in Washington in-Rhea County, to elect a Brigadier General, who, when elected, shall have all the rank, power, and authority as other Brigadier Generals.
7. Acts of 1825, Chapter 69, was a virtual rewriting of the Militia Law of Tennessee ranging the entire scale of military affairs. Rhea County's militia was the 30th Regiment in the 12th Brigade whose regimental muster would be on the first Saturday in October every year.
8. Acts of 1825, Chapter 86, provided that the militia of Rhea County on the north side of the Tennessee River shall compose the 30th Regiment and the militia on the south side shall compose the 96th Regiment which will consist of two battalions and be a part of the 12th Brigade.
9. Acts of 1827, Chapter 162, was the authority for the volunteer Rifle Company in the County of Rhea and the town of Washington, called the Washington Guards, to dissolve their association and unite themselves into a company of calvary, and thus be entitled to receive all the benefits

granted to other calvary companies.

10. Acts of 1831, Chapter 101, released Edmund Bean, a citizen of Rhea County, from the payment of the sum of \$65, that being the total amount of three separate fines assessed against him by a regimental Court Martial held for the 30th Regiment of Tennessee Militia. The release will be effective upon Bean's paying the Court costs, if any, which remain unpaid.
11. Acts of 1831, Chapter 121, stated that all persons living on Walden's Ridge in Rhea County near Gordon's Road are hereby exempted and discharged from attending all musters of militia unless the same is in case of invasion or insurrection.
12. Acts of 1835-36, Chapter 21, was a reenactment of the entire militia laws of Tennessee to conform to the requirements of the new 1835 State Constitution. Rhea County's militia will constitute the 35th Regiment which shall be commanded by a Colonel.
13. Acts of 1837-38, Chapter 157, was a lengthy amendment to the militia law which set the county drills for every militia unit in the State, plus scheduling the regimental musters for these organizations. Each member was compelled to report equipped according to law for at least three hours of training each day of the muster. Rhea County's militia was in the 7th Brigade with the units in Meigs, Bledsoe, Marion, and Hamilton Counties, and would drill on the Monday and Tuesday after the first Friday and Saturday in September of each year. The regiment in the county would meet on the first Thursday in the following October.

Sheriff

The following acts have no current effect but are included here for reference purposes since they once applied to the Rhea County Sheriff's Office. Also referenced below are acts which repeal prior law without providing new substantive provisions.

1. Acts of 1819, Chapter 134, was the legal authority for the Sheriff of Rhea County to collect any arrearages of tax, or any other debts he was authorized to collect before the establishment of Hamilton County from any person stricken off of Rhea County and placed into Hamilton County.
2. Act of 1831, Chapter 21, was the legal authority for the Sheriffs of Lincoln and Rhea Counties to appoint three Deputy Sheriffs in addition to all other Deputies, who shall be subject to the same rules and regulations as are other Deputies.
3. Acts of 1841-42, Chapter 114, directed the Treasurer of the State of Tennessee to pay to Samuel R. Hackett, the late Sheriff and Tax Collector of Rhea County, the sum of \$13.16, on the warrant of the Comptroller of the State, payable out of any State money which might be available, and uncommitted. The Quarterly Court of Rhea County was expected to refund to Hackett the sum of \$31.32 upon proof he has paid the full amount of the County tax.
4. Private Acts of 1921, Chapter 522, stated that the Sheriff of Rhea County shall be paid the sum of \$2,000 per year as a salary provided the Sheriff shall file quarterly, beginning on January 1, an itemized statement, sworn to by him, showing the amount of fees collected by his office, and when the fees, excluding prisoner's board and tumkeys, fails to equal the \$2,000, the County shall pay the difference, but, if the fees exceed that amount, the Sheriff may retain the excess salary. This Act was repealed in Item 20, below.
5. Private Acts of 1931, Chapter 661, was the legal authority for the Quarterly Court of Rhea County, by Resolution, at any regular, or called, session to appropriate and provide for payment to Sheriffs, Deputy Sheriffs, and Constables, making arrests for violation of the liquor laws of the State, a portion, not to exceed half, of the fines collected upon the conviction of those arrested therefore, which fines may be imposed in the Justice of the Peace Courts, the Circuit Court, or the Criminal Court. This Act was repealed by Private Acts of 1949, Chapter 34.
6. Private Acts of 1949, Chapter 19, expressly repealed Private Acts of 1921, Chapter 522, Item 18, above, which fixed the salary of the Rhea County Sheriff, in its entirety.
7. Private Acts of 1949, Chapter 34, expressly and entirely repealed Private Acts of 1931, Chapter 661, above.
8. Private Acts of 1995, Chapter 65, would have established a civil service system for sheriff's department employees, but was not locally adopted by the county legislative body.

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