

CIVIL SERVICE DIVISION I. IN GENERAL

SECTION 79. EXISTING CIVIL SERVICE COMMISSION ABOLISHED.

The three-member Municipal Civil Service Commission of the City of Jackson existing on the effective date hereof is abolished and the office of all existing Civil Service Commissioners is terminated.

SECTION 80. MUNICIPAL CIVIL SERVICE COMMISSION CREATED;

MEMBERSHIP, QUALIFICATIONS. There is hereby created a Municipal Civil Service Commission (the "Commission"), consisting of five (5) persons, two (2) of whom shall be appointed by the Council on recommendation of the Mayor, two (2) of whom shall be selected by the classified employees (as hereinafter defined) of the City by a majority vote thereof, and one (1) of whom shall be selected by the four (4) members selected in the manner provided above.

Commissioners must be thirty (30) years of age or older and must have been residents of the City for at least five (5) years. Commissioners shall serve for a period of four (4) years commencing with the date of appointment. No Commissioner may serve more than two (2) consecutive full terms. Provided, however, for the initial appointment, one (1) member appointed by the Council and one (1) member selected by the classified employees shall serve for two (2) years, one (1) member appointed by the Council and one (1) member selected by the classified employees shall serve for four (4) years, and the fifth member selected by the above described procedure shall serve for three (3) years. Each initial term shall constitute a full term. Any person serving on the Municipal Civil Service Commission of the City of Jackson prior to the effective date of this Act shall be eligible for reappointment notwithstanding any other limitations of this Act.

Each member shall have equal powers and the majority shall rule. Three (3) members of said Commission shall constitute a quorum for the transaction of business. No member of the Commission shall be employed in any manner by any City, State, County, or Federal government, nor hold an elected or appointed office of any such government, nor be a member of the immediate family of any employee of the City of Jackson, nor be a former employee of the City of Jackson. Any vacancy occurring in said Commission shall immediately be filled in the same manner that said vacating Commissioner was selected, and any Commissioner appointed to fill such a vacancy shall serve for the remainder of the term of the vacating Commissioner.

Notwithstanding the establishment of a quorum, any classified position holder requesting a contested case hearing is entitled to have at least one (1) Commissioner selected by the classified position holders in attendance as a member of the Heming Board.

SECTION 81. MUNICIPAL CIVIL SERVICE COMMISSION, SALARY. The compensation of the Commissioners shall be fifty dollars (\$50.00) per meeting or contested case hearing. The compensation of the chairman shall be seventy-five dollars (\$75.00) per meeting or contested case hearing. Each Commissioner shall be paid his reasonable and necessary expenses incurred in the discharge of his official duty. The Council of the City of Jackson shall make adequate financial provision for the performance of its duties by the Commission in carrying out this Act, including stenographic service. The Commission shall not meet more frequently than once each calendar quarter. Contested case hearings will be held as required.

SECTION 82. MUNICIPAL CIVIL SERVICE COMMISSION, OFFICERS; DUTIES OF SECRETARY: OPEN MEETINGS. The Commission shall elect a Chairman who shall preside over all meetings except contested case hearings, a Vice-Chairman to serve in the absence of the Chairman, and a Secretary.

It shall be the duty of said Secretary to keep complete and accurate records of all proceedings held by said Commission in a minute's book to be provided for this purpose. All records of the Commission shall be maintained in the office of the Recorder of the City of Jackson.

The Commission is declared to be a governing body within the meaning of the Tennessee Open Meetings Act as provided in Tennessee code Annotated, Sections 8-44-101 et seq., and all of its meetings, including contested case hearings and the deliberations of the Commission thereon, shall be conducted in public and the vote of each Commissioner recorded.

SECTION 83. COVERAGE OF CITY EMPLOYEES. Only a classified employee of the City of Jackson on the effective date of this Act and thereafter shall be covered by the provisions of this Act. For the purposes of this Act, the term "classified employee" means only an employee of the Jackson Police Department and the Jackson Fire Department who has been continuously employed in either of such departments for twenty-four (24) consecutive months, but excluding (i) the Police Chief, (ii) all employees of the Police Department who are not certified police officers, (iii) the Fire Chief, and (iv) all employees of the Fire Department whose job description does not require competence in basic firefighting skills and knowledge. Provided further, that any person holding the position of Fire Chief who was previously a classified employee, upon being terminated as Fire Chief or police chief, shall be restored to his previous position, or another position having pay equal to the previously occupied position unless such termination was for cause. Provided further, that whenever a classified employee resigns to enter the Armed Forces, upon his return he may be re-employed and will be immediately considered a classified employee. Positions other than above that were previously classified positions shall remain classified until such time as personnel occupying those positions vacate those positions by choice or due process, at which time the position will no longer be classified.

SECTION 84. PROCEDURE FOR DEMOTION, SUSPENSION OR DISCHARGE. No person holding any classified position of employment shall be discharged from the service of the City or demoted except for just cause. Just cause shall include but not be limited to any violation of the policies or practices delineated in the City of Jackson Policy and Procedure Manual or department rules. It is expressly intended that engaging in any political activity or refusing to engage in any political activity shall not be cause for discharge, suspension or demotion of any employee holding a classified position. All persons discharged or demoted shall have the right to be heard by said Civil Service Commission in his/her own defense, in person or by counsel, and the action of the Head of the Department in discharging or demoting such person shall be subject to the approval or disapproval of said Commission. If said Commission approves the discharge or demotion, the decision shall be final. If such discharge or demotion be disapproved, the employee shall be reinstated to such position with full pay and rights from the day of discharge or demotion.

Provided, however, reassignment of any employee to other duties which does not result in a salary reduction or benefits is not considered a demotion.

SCOPE OF REVIEW. The Commission is empowered only to hear and determine matters involving the discharge, demotion or suspension for more than three (3) days.

Written request for a hearing must be made in writing to the Commission Chairman within five (5) working days from the date of discharge, demotion or suspension. No employee holding a classified position shall be discharged or suspended for any act not involving moral turpitude, which occurred more than twelve (12) months prior to date of discharge.

However, this limitation is not applicable to suspension made pursuant to Section 84.2.

Any person holding a classified position in the Fire Department or Police Department may be reduced in rank for cause but such action shall likewise be subject to the approval or disapproval of the Commission upon appeal being duly perfected.

None of the provisions of this Section shall apply to prevent the discharge of the holder of a classified position who was employed as the result of the reassignment of the holder of a classified position to enter the Armed Forces, the holder of the position with the least seniority may be discharged, in which case, such holder would revert to the classified position list.

SECTION 84.1. CONTESTED CASES-HEARINGS. Upon the written request of the classified employee for a hearing, the Commission shall set a date for a hearing within sixty (60) calendar days from the date of the classified employee's request.

Should the classified employee move to continue said hearing, any benefits, pay or rights reinstated to the classified employee may be limited to the period between the date of discharge or demotion and the date set for the initial hearing.

Should the City move to continue said hearing, or join with the classified employee in moving to continue said hearing, the classified employee, if reinstated, may be entitled to full benefits, pay and rights from the date of discharge or demotion to the date of reinstatement.

However, the classified employee is not entitled to benefits, pay or rights beyond the latest hearing date agreed to by the City.

Notwithstanding the provisions of this Section, should any criminal prosecution be commenced prior to the hearing, the provisions of Section 84.2 shall apply.

SECTION 84.2. CRIMINAL PROSECUTIONS. Classified employees who are charged with a felony or other crime of moral turpitude shall be suspended without pay until such employee is either found guilty or the charges are dismissed. If the classified employee is found guilty, he shall be dismissed forthwith.

However, notwithstanding an acquittal or dismissal in the criminal proceedings, if it appears in the discretion of the Department Head that there is sufficient evidence to show that the classified employee is not a fit or suitable employee, then he/she may be dismissed, subject to review by the Commission upon an appeal being duly perfected by the classified employee.

SECTION 84.3. CONTESTED CASE PROCEDURES. In accordance with Tennessee Code Annotated, Section 27-9-114, all contested case hearings by the Civil Service Commission shall be conducted in conformity with the procedures of Tennessee Code Annotated, Sections 4-5-301 et seq., known as the Uniform Administrative Procedures Act. The Commission shall promulgate rules consistent with this Charter and the Uniform Administrative Procedures Act.

In any contested case hearing conducted, the Civil Service Commission shall have the power to subpoena and require the attendance of witnesses and the production by them of books and papers, pertinent to the hearing and to administer oath to such witnesses.

Each contested case will be presided over by a hearing officer, who shall rule on procedure and evidence, but who shall not take part in deliberations by the Commission. The hearing officer shall not be a member of the Civil Service Commission.

The Hearing Officer will be appointed by the Commission for a period of one (1) year. The Hearing Officer must be an attorney-at-law and required to be licensed to practice law in the State of Tennessee. The Hearing Officer shall not be employed or previously employed in any manner by the City, County, State or Federal governments or hold any elected or appointed office of such governments nor be a member of the immediate family of an employee of the City of Jackson. The Hearing Officer shall also act as counsel to the Commission regarding the rights, powers and duties of the Commission, and shall be compensated for his services by the City of Jackson upon such terms as may be approved by the City Council upon recommendation of the Commission.

SECTION 85. APPEALS TO THE COMMISSION. Any classified employee who is demoted, suspended or discharged shall be entitled to appeal to the Commission by filing a "Request for Review" upon forms provided by the Commission within five (5) working days following the effective date of the discipline. A Request for Review shall:

- (1) be signed by the classified employee, state the department in which he was employed and the classified position held by him;
- (2) state the reason for the discipline as understood by the employee and his position with respect thereto;
- (3) state whether the employee expects to be represented by counsel at the hearing before the Commission, and the name and address of such counsel if counsel has been engaged.

Filing of a Request for Review shall be complete upon delivery to the chairman of the Commission in person or by certified mail. A copy shall be delivered to the classified employee's department head. The Commission shall set a date for a hearing within sixty (60) calendar days following the date of the filing of the Request for Review.

SECTION 86. IMPARTIALITY OF COMMISSION. The Commission shall be impartial, objective and adjudicate contested cases on the merits as presented at hearings. It shall be improper for Commissioner to discuss contested cases with any party prior to a hearing or to base their findings upon evidence not presented at the hearing.

SECTION 87. CIVIL SUITS INVOLVING CIVIL SERVICE COMMISSION. It shall be the duty of the Commission to begin and conduct all civil suits which may be necessary for the proper enforcement of this Act or the rules of the Commission and to defend all civil suits which may be brought against the Commission. The Commission shall be represented in suits against it by the City Attorney, except in cases wherein the City Attorney may be an interested party. In all other cases, the said Commission may employ special counsel, the expense of which shall be borne by the City of Jackson.

SECTION 88. PENALTY FOR FRAUD. Any person who shall obstruct or deceive any person in respect to his/her rights under this Act, make a false report or certificate, or bribe, or attempt to bribe, any Commissioner or in any other way fraudulently conduct themselves to gain favor for any person or persons, shall be guilty of a misdemeanor and shall upon conviction thereof be punished by a fine up to the maximum amount permitted by law.

SECTION 89. REQUIRED REPORTS. Immediate reports in writing shall be given to the Personnel Director of the City by the head of each department of all occurrences which affect the status of a classified employee.

SECTION 90. This act shall have no effect unless it is approved by a two-thirds (2/3) vote of the legislative body of the City of Jackson. Its approval or no approval shall be proclaimed by the presiding officer of the legislative body of the City of Jackson and certified to the Secretary of State.

SECTION 91. 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 90.