

## **Chapter 30**

### **Deputy Sheriffs - Merit System**

#### **17-30-1 Definitions.**

- (1) "Governing body" means the county legislative body.
- (2) "Appointing authority" means the sheriff of a county having jurisdiction over any peace officer.
- (3) "Peace officer" means any paid deputy sheriff, other than a chief deputy designated by the sheriff, who is in the continuous employ of a county.
- (4) "Commission" means the merit system commission consisting of three persons appointed as provided in Section 17-30-3 and having the duty, power, and responsibility for the discharge of the functions of this chapter.
- (5) "Department of Public Safety" means the department created in Section 53-1-103.

Amended by Chapter 218, 2009 General Session

#### **17-30-2 Application -- Subordinate officers in sheriff's office to be appointed from list -- Officers serving on effective date considered qualified.**

- (1) This chapter does not apply to a county of the first class or an interlocal entity, as defined in Section 11-13-103, in which a county of the first class is a party to an interlocal agreement to provide law enforcement service.
- (2) From and after the effective date of this act the sheriff of each county with a population of 20,000 people or more which shall regularly employ one or more peace officers shall, by and with the advice and consent of the county legislative body, and subject to the rules and regulations of the merit service commission, appoint from the classified merit service list furnished by the merit service commission, all subordinate peace officers in his department and in like manner fill all vacancies in the same and shall further promote, transfer, demote, suspend or remove peace officers in accordance with the provisions of this act.
- (3) Every peace officer who is serving as such upon the effective date of this act is considered fully qualified for such position without examination or test and is considered to have been appointed and to hold his position and classification pursuant to the provisions of this act.
- (4) Counties with a population of less than 20,000 people may implement a deputy sheriff's merit system if approved by the county legislative body or the people of the county through referendum or initiative.

Amended by Chapter 366, 2014 General Session

#### **17-30-3 Establishment of merit system commission -- Appointment, qualifications, and compensation of members.**

- (1)
  - (a) Each county with a population of 20,000 or more shall establish a merit system commission consisting of three members appointed as provided in Subsection (1)(b).
  - (b)
    - (i) As used in this Subsection (1)(b):
      - (A) "Police interlocal entity" means an interlocal entity, as defined in Section 11-13-103, that is created:
      - (I) under Title 11, Chapter 13, Interlocal Cooperation Act, by an agreement to which a county of the first class is a party; and

- (II) to provide law enforcement service to an area that includes the unincorporated part of the county.
- (B) "Police special district" means a special district, as defined in Section 17B-1-102:
  - (I) whose creation was initiated by the adoption of a resolution under Section 17B-1-203 by the legislative body of a county of the first class, alone or with one or more other legislative bodies; and
  - (II) that is created to provide law enforcement service to an area that includes the unincorporated part of the county.
- (ii) For a county in which a police interlocal entity is created, whether or not a police special district is also created in the county:
  - (A) two members shall be appointed by the legislative body of the county; and
  - (B) one member shall be appointed by the governing body of the interlocal entity.
- (iii) For a county in which a police special district is created but in which a police interlocal entity has not been created:
  - (A) two members shall be appointed by the legislative body of the county; and
  - (B) one member shall be appointed by the board of trustees of the police special district.
- (iv) For each other county, all three members shall be appointed by the county legislative body.
- (c) Of the original appointees, one member shall be appointed for a term ending February 1 of the first odd-numbered year after the date of appointment, and one each for terms ending two and four years thereafter.
- (d) Upon the expiration of any of the terms, a successor shall be appointed for a full term of six years.
- (e) Appointment to fill a vacancy resulting other than from expiration of term shall be for the unexpired portion of the term only.
- (2) Members of a commission shall be citizens of the state, shall have been residents of the area embraced by the governmental unit from which appointed not less than five years next preceding the date of appointment, and shall hold no other office or employment under the governmental unit for which appointed.
- (3) The county legislative body may compensate a member for service on the commission and reimburse the member for necessary expenses incurred in the performance of the member's duties.

Amended by Chapter 57, 2025 General Session

#### **17-30-4 General duty of commission.**

The commission shall be responsible for carrying out the provisions of this act, and shall make all necessary rules and regulations, not in conflict with the provisions hereof, as may be necessary for that purpose.

Enacted by Statewide Initiative A, Nov. 8, 1960

#### **17-30-5 Organization of commission -- Secretary -- Offices -- Job classification plan.**

Each merit system commission shall be organized by its members who shall select one member as chairman and shall have assigned to it by the county legislative body, a qualified employee of the county to act as secretary. Such employee shall be acceptable to the commission and shall act and serve as secretary without additional compensation unless the county legislative body so specifies. The county legislative body shall provide suitable accommodations, supplies and equipment as needed to enable the commission to attend to its business. The commission shall

formulate a comprehensive job classification plan covering all peace officers of the governmental unit. The plan shall place all positions requiring substantially the same duties and qualifications in the same classification and shall include minimum physical and educational qualifications of the applicants for each position, and provide standards for promotion. The commission shall adopt a classification plan which shall be the basis of the administration of this act until changed with the approval of the commission. In the event a new position is created and approved by the governing body, such position shall automatically be classified and become a part of the classification plan.

Amended by Chapter 227, 1993 General Session

**17-30-6 Examinations -- How prepared, conducted, and graded -- Notice of examination.**

- (1)
  - (a) When necessary, the commission shall give competitive examinations to determine the qualification of applicants for positions as peace officers.
  - (b) The examinations shall be practical in character and shall relate to matters that will fairly test the mental and physical ability and knowledge of the applicants to discharge the duties of the positions.
  - (c) The examinations shall be prepared, conducted, and graded under the direction of the commission, or by impartial special examiners if the commission finds it necessary.
- (2)
  - (a) Notice of examination shall be:
    - (i)
      - (A) published one time not less than 15 days before the examination in a newspaper of general circulation in the area concerned; and
      - (B) published, in accordance with Section 45-1-101, for 15 days before the examination; and
    - (ii) posted in a conspicuous place in the office of the department concerned.
  - (b) The notice shall set forth minimum and maximum wages, physical and educational requirements, and passing grades, which shall be not less than 70%.
  - (c) A person completing an examination shall be promptly notified by mail at his last known address of his final grade.

Amended by Chapter 388, 2009 General Session

**17-30-7 Disqualification of applicant for examination -- Appeal to commission.**

- (1) The commission shall disqualify an applicant for examination who:
  - (a) does not meet advertised qualifications;
  - (b) has been convicted of a criminal offense inimical to the public service, or involving moral turpitude;
  - (c) has practiced or attempted deception or fraud in the applicant's application or examination, or in securing eligibility for appointment; or
  - (d) is not:
    - (i) a citizen of the United States; or
    - (ii) a lawful permanent resident of the United States who:
      - (A) has been in the United States legally for the five years immediately before the day on which the application is made; and
      - (B) has legal authorization to work in the United States.
- (2) If an applicant is rejected, the applicant shall be notified by mail at the applicant's last known address.

- (3) At any time before the day on which the examination is held, an applicant may correct a defect in the applicant's application, or appeal in writing to the commission.

Amended by Chapter 13, 2021 Special Session 1

**17-30-8 Preservation and inspection of examination papers.**

All examination papers shall remain the property of the commission, and shall be preserved until the expiration of the eligible register for the preparation of which an examination is given. Examination papers are not open to public inspection without court order, but an applicant may inspect the applicant's own papers at any time within 30 days after the mailing of notice of the applicant's grade. The appointing authority may inspect the papers of any eligible applicant certified for appointment.

Amended by Chapter 297, 2011 General Session

**17-30-9 Preparation and expiration of eligible register.**

- (1) Upon completion of an examination the commission shall prepare an eligible register containing the names of all persons receiving a passing grade in the order of grades earned, beginning with the highest.
- (2) An eligible register shall expire not later than two years after the date of the examination unless the commission, for good reason, shall extend the time not to exceed one additional year. The promulgation of a new eligible register shall automatically cancel all previous registers for the same class or position.

Enacted by Statewide Initiative A, Nov. 8, 1960

**17-30-10 Appointments from eligible register -- Failure to accept appointment.**

- (1) When a peace officer is to be appointed, the appointing authority shall request the merit system commission to certify three eligible applicants for the position. The commission shall thereupon certify to the appointing authority the names of the three applicants standing highest on the eligible register. The appointing authority shall select and appoint one of the persons so certified.
- (2) In the event a certified person fails to accept a proffered appointment, the certified person may, at the certified person's request, retain the certified person's place on the eligible register if the certified person submits in writing reasons sufficient in the judgment of the commission to justify such failure.

Amended by Chapter 365, 2024 General Session

**17-30-11 Probationary period of appointment.**

- (1) Any peace officer appointed under Section 17-30-10 shall serve a probationary period of 12 consecutive months, during which time he may be discharged by the appointing authority.
- (2) The probationary period shall be extended beyond the 12 months under Subsection (1) as necessary for an officer who has not yet satisfactorily completed an approved peace officer training program and also received a certificate of completion, under Title 53, Chapter 6, Peace Officer Standards and Training Act.
- (3)

- (a) Continuance in the position after the expiration of the probationary period constitutes a permanent appointment.
- (b) Service under a temporary or emergency appointment is not considered as part of the probationary period.
- (4) A person removed during the probationary period may not be placed on the eligible register again without having passed another regular examination.

Amended by Chapter 149, 2007 General Session

**17-30-12 Vacancies -- Positions requiring special qualifications -- Competition suspended -- Promotion -- Promotional register.**

- (1) In case of vacancy in a position requiring peculiar and exceptional qualifications of a scientific, professional or expert character, upon satisfactory evidence that competition is impracticable and that the position can best be filled by the selection of some designated person of recognized attainments the board may, after public hearing and by the affirmative vote of all members suspend competition, and all such cases of suspension shall be reported together with the reason therefor, in the annual reports of the commission.
- (2) Vacancies occurring in the merit system classification of any county shall be filled by promotion insofar as possible. A promotion shall be made only after an open competitive examination, admission to which shall be limited to merit system officers. Such examination shall include an average of service ratings for the next preceding year, a rating of seniority, and test the competence of the peace officer to perform the duties required in the position for which application is made. The combined weights of service rating and seniority shall be not more than 40% of the whole examination. Succeeding vacancies shall also be filled by promotion until the lowest grade is reached, which grade shall then be filled from the eligible list as herein set forth.
- (3) After a promotional examination, the commission shall prepare a promotional register which shall take precedence over an eligible register. Certification therefrom shall be made in the same manner as from an eligible register.

Enacted by Statewide Initiative A, Nov. 8, 1960

**17-30-13 Transfer of officer.**

A merit system officer may be transferred, without examination, from one position to a similar position in the same class and grade in the same governmental unit.

Enacted by Statewide Initiative A, Nov. 8, 1960

**17-30-14 Temporary appointment.**

A temporary appointment for a period not exceeding 60 days may be made, pending examination, when there is no eligible, promotion, or re-employment register in existence.

Enacted by Statewide Initiative A, Nov. 8, 1960

**17-30-15 Emergency appointment.**

An emergency appointment may be made for a period not exceeding seven days, and with the consent of the commission may be extended one time for an additional period of not to exceed seven days, in the event an eligible person is not immediately available from the eligible,

promotion, or re-employment register and the work to be performed is necessary to expedite the public business.

Enacted by Statewide Initiative A, Nov. 8, 1960

**17-30-16 Temporary layoffs -- Re-employment register.**

When necessary because of lack of funds or work an officer may, with the approval of the commission, be temporarily laid off. Such layoff shall be made according to the lowest rating of the officers of the class of position affected, calculated upon seniority under a method prescribed by the commission. A person serving under temporary or emergency appointment shall be laid off before any merit system officer. A merit system officer who is laid off shall be placed upon a re-employment register to be re-employed in the inverse order in which the merit system officer is laid off, which register shall take precedence over all eligible registers.

Amended by Chapter 365, 2024 General Session

**17-30-17 Leave of absence -- Sick leaves and vacations.**

- (1) The appointing authority, with the approval of the commission, may grant an officer a leave of absence without pay for a period not to exceed one year. In the event an officer on leave takes a higher position in police work which does not come under the merit system provisions of this act, the leave may, with the consent of the commission, be renewed. In the event an officer is elected sheriff, or is appointed chief deputy, the officer shall automatically be placed on leave for the period of time the officer remains sheriff or chief deputy. Upon the termination of a leave of absence, the officer shall be returned to the officer's former position.
- (2) Sick leaves and vacations with pay shall be as provided by law or ordinance.

Amended by Chapter 365, 2024 General Session

**17-30-18 Demotion, reduction in pay, suspension or discharge -- Grounds -- How made.**

- (1) A merit system officer holding a permanent appointment may be demoted, reduced in pay, suspended, or discharged for:
  - (a) neglect of duty;
  - (b) disobedience of a reasonable order;
  - (c) misconduct;
  - (d) inefficiency, or inability to satisfactorily perform assigned duties;
  - (e) any act inimical to the public service.
- (2) No officer shall be suspended for more than 30 days at one time, nor more than 60 days in one year. Demotion, reduction in pay, suspension, or discharge shall be made upon order of the appointing authority.

Enacted by Statewide Initiative A, Nov. 8, 1960

**17-30-19 Disciplinary charges and officer grievances -- Appeal to commission -- Hearing -- Findings.**

- (1) Each person who orders the demotion, reduction in pay, suspension, or discharge of a merit system officer for any cause set forth in Section 17-30-18 shall:
  - (a) file written charges with the commission; and
  - (b) serve the officer with a copy of the written charges.

- (2)
  - (a)
    - (i) An officer who is the subject of charges under Subsection (1) may, within 10 days after service of the charges, appeal in writing to the commission.
    - (ii) In the absence of an appeal, a copy of the charges under Subsection (1) may not be made public without the consent of the officer charged.
  - (b) If an officer files a grievance, as defined by the commission, and exhausts all internal grievance procedures, if any, the officer may, within 10 days after receiving notice of the final disposition of the grievance, file an appeal with the commission.
- (3)
  - (a) The commission shall:
    - (i) fix a time and place for a hearing upon the charges or appeal of the officer grievance; and
    - (ii) give notice of the hearing to the parties.
  - (b)
    - (i) Except as provided in Subsection (3)(b)(ii), each hearing under this Subsection (3) shall be held not less than 10 and not more than 90 days after an appeal or grievance is filed.
    - (ii) A hearing may be held more than 90 days after an appeal or grievance is filed if:
      - (A) the officer and employer agree; or
      - (B) for good cause the commission so orders.
- (4)
  - (a) If the aggrieved officer so desires, the hearing shall be public.
  - (b) The parties may be represented by counsel at the hearing.
- (5) After the hearing the commission shall make its decision in writing, including findings of fact, and shall mail a copy to each party.

Amended by Chapter 151, 2000 General Session

#### **17-30-20 Appeal to district court -- Scope of review.**

A person aggrieved by an act or failure to act of any merit system commission under this act may appeal to the district court, if the aggrieved person has exhausted the remedies of appeal to the commission. The courts may review questions of law and fact and may affirm, set aside, or modify the ruling complained of.

Amended by Chapter 365, 2024 General Session

#### **17-30-21 Power of commission members to administer oaths and subpoena witnesses -- Rights of, and fees for, witnesses.**

- (1) Any member of a commission, in performance of his duties as such, shall have power to administer oaths and subpoena witnesses and documents. If a person refuses to [or] fails to obey a subpoena issued by a commissioner, the district court may, upon application of a commissioner, compel obedience as in like cases before the district court.
- (2) Witnesses in proceedings before a commission shall be subject to all the rights, privileges, duties and penalties of witnesses in courts of record, and shall be paid the same fees, as an expense of the commission.

Enacted by Statewide Initiative A, Nov. 8, 1960

#### **17-30-22 Prohibitions against political activities -- Penalties.**

- (1) Any employee of a governmental unit or member of a governing body, or appointing authority, or peace officer who shall appoint, promote, transfer, demote, suspend, discharge or change the amount of compensation of any merit system officer or seek, aid or abet the appointment, promotion, transfer, demotion, suspension, discharge or change in the amount of compensation of any merit system officer, or promise or threaten to do so, for giving, withholding, or neglecting to make any contributions or any service for any political purpose, or who solicits, directly or indirectly, any such contribution or service, from a merit system officer, is guilty of a class B misdemeanor. This section does not apply to political speeches or use of mass communications media for political purposes by persons not merit system officers even though merit system officers may be present or within the reach of such media unless the purpose and intent is to violate this section with direct respect to those officers.
- (2) No merit system officer may engage in any political activity during the hours of employment, nor shall any person solicit political contributions from merit system officers during hours of employment for political purposes; but nothing in this section shall preclude voluntary contributions by a merit system officer to the party or candidate of the officer's choice.

Amended by Chapter 148, 2018 General Session

**17-30-23 Severability of provisions -- Duty of commission to provide for unspecified activities.**

If any section or provision of this act is declared unconstitutional or void, the fact of such holding shall in no wise affect those sections and provisions not held unconstitutional or void and which can be retained in effect without the provision declared unconstitutional and void, and it shall be the duty of the merit service commission to provide by rule for the operation and functioning of any activity within the purpose and spirit of the act which may be or may become necessary and proper and which is not specifically provided hereby.

Enacted by Statewide Initiative A, Nov. 8, 1960

**17-30-24 More than one chief deputy in larger county departments.**

In counties employing more than 100 full time uniformed peace officers, the appointing authority, with the consent of the merit commission and the county legislative body, may appoint more than one chief deputy or undersheriff.

Amended by Chapter 227, 1993 General Session