

1 **State of Arkansas**
2 **79th General Assembly**
3 **Regular Session, 1993**
4 **By: Representative Jones**

A Bill

HOUSE BILL 1216

For An Act To Be Entitled

8 "AN ACT TO AMEND VARIOUS SECTIONS OF CHAPTER 51 OF TITLE
9 14 OF THE ARKANSAS CODE PERTAINING TO CIVIL SERVICE FOR
10 POLICE AND FIRE DEPARTMENTS; AND FOR OTHER PURPOSES."

Subtitle

13 "TO AMEND ARKANSAS CODE PERTAINING TO CIVIL SERVICE FOR
14 POLICE AND FIRE DEPARTMENTS."

16 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

18 SECTION 1. Arkansas Code 14-51-103 is amended to read as follows:
19 "§ 14-51-103. Penalty.

20 Any person violating any part of this chapter, shall be subject to civil
21 suit for injunctive and declaratory relief, by the aggrieved party."

23 SECTION 2. Arkansas Code 14-51-201 is amended to read as follows:
24 "§ 14-51-201. Appointment of members.

25 (a) In all cities of the first class having a civil service system, the
26 city_s governing body shall, by ordinance, name five (5) upright and
27 intelligent citizens of their cities as a board of civil service commissioners
28 for the police and fire departments or the nonuniform employees. (b)

29 The commissioners shall hold office as follows:

30 (1) One shall hold office until the first Monday in April of the
31 second year after his appointment;

32 (2) One shall hold office until the first Monday in April of the
33 fourth year after his appointment;

34 (3) One shall hold office until the first Monday in April of the
35 sixth year after his appointment;

1 (4) One shall hold office until the first Monday in April of the
2 eighth year after his appointment; and

3 (5) One shall hold office until the first Monday in April of the
4 tenth year after his appointment.

5 (c) In all cities of the first class having a civil service system, the
6 governing body may, by ordinance, add two more members to its civil service
7 commission. The law applicable to the commission shall apply to the
8 additional members except that in each such city the first two (2) additional
9 members appointed pursuant to this act shall serve staggered terms to be
10 determined by lot so that one will serve a three (3) year term and one a six
11 (6) year term and their successors shall serve six year terms."

12

13 SECTION 3. Arkansas Code 14-51-202 is amended to read as follows:

14 "§ 14-51-202. Qualifications of commissioners.

15 (a) The commissioners shall be citizens of the State of Arkansas and
16 residents of the city for more than three (3) years preceding their
17 appointment.

18 (b)(1) No person on the commission shall hold, or be a candidate for,
19 any political office under any national, state, county, or municipal
20 government or be connected in any way in any official capacity with any
21 political party or *political* organization.

22 (2) No person as enumerated in this subsection shall be eligible
23 as a member of the board who at the time of his election shall hold any
24 office.

25 (c) The commissioners shall be familiar with these statutes, civil
26 rights laws, and all other state and federal public employment laws."

27

28 SECTION 4. Arkansas Code 14-51-205 is amended to read as follows:

29 "§ 14-51-205. Secretary of board.

30 (a) The board shall elect one of its members as secretary.

31 (b) The secretary shall:

32 (1) Keep the books and records of the board;

33 (2) Conduct the correspondence of the board;

34 (3) Report the evidence in all trials or cause the evidence to be
35 reported, for which the reasonable expense shall be paid by the municipality;

- 1 (4) Act as clerk when the board is conducting a trial court;
- 2 (5) Work with and act as liaison to the city employee assigned to
- 3 assist the board; and
- 4 (6) Perform any other duties that may be ordered by the board."
- 5

6 SECTION 5. Arkansas Code 14-51-206 is amended to read as follows:

7 "§ 14-51-206. Attorney for commission and city.

8 (a) The city attorney shall act as attorney for the commission in all

9 trials or other legal transactions.

10 (b) The city shall hire, on an annual basis, independent legal counsel

11 to represent the city and/or the department head, when the cities managerial

12 employment decisions are brought for review before the commission; and in all

13 such trials, proceedings or other legal transactions before the commission."

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15 SECTION 6. Arkansas Code 14-51-207 is amended to read as follows:

16 "§ 14-51-207. Responsibilities of the city.

17 (a) The city council or other governing body, as the case may be,

18 shall:

- 19 (1) Provide suitable rooms for the board to hold meetings;
- 20 (2) Allow all reasonable supplies;
- 21 (3) Permit use of public buildings for holding examinations by
- 22 the board;
- 23 (4) Provide, designate, manage and supervise a paid city
- 24 employee, full-time or part-time as may be deemed necessary by the city's
- 25 Chief Executive Officer, to be known as the administrative assistant to the
- 26 commission, this assistant shall help with the clerical and administrative
- 27 needs of the board; and
- 28 (5) Provide adequate funding for legal counsel as enumerated in
- 29 this chapter."
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31 SECTION 7. Arkansas Code 14-51-209 is amended to read as follows:

32 "§ 14-51-209. Investigation powers.

33 (a) In any investigation conducted by the commission provided for in

34 this chapter, the commission shall have the power of subpoena, to require the

35 attendance of any witness and the production of any papers or records

1 pertinent to the investigation, and to administer oaths to the witnesses.

2 (b) To punish for contempt the nonattendance of witnesses, or the
3 failure to produce books or papers, or misbehavior of any person during the
4 investigation, the commission may impose a fine not to exceed five hundred
5 dollars (\$500.00) for each offense."

6

7 SECTION 8. Arkansas Code 14-51-301 is amended to read as follows:

8 "§ 14-51-301. Rules and regulations generally. (Supp.1991)

9 (a) (1) The board provided for in this chapter shall prescribe, amend,
10 and enforce rules and regulations governing the fire and police departments of
11 their respective cities.

12 (2) The rules and regulations shall have the same force and
13 effect of law.

14 (3) The board shall keep a record of its examinations and shall
15 investigate the enforcement and effect of this chapter and the rules as
16 provided for in this section.

17 (b) These rules shall provide for:

18 (1) (A) The qualifications of each applicant for appointment to
19 any position on the police or fire department;

20 (B) (i) No person shall be eligible for appointment to any
21 position on the fire department who has not arrived at the age of twenty-one
22 (21) years or who has arrived at the age of thirty-two (32) years;

23 (ii) No person shall be eligible for appointment on the
24 police department affected by this chapter who has not arrived at the age of
25 twenty-one (21) years or who is over the age of forty-five (45) years;

26 (2) Open competitive examination to test the relative fitness of
27 applicants for the positions;

28 (3) (A) Public advertisement of all examinations by publication of
29 notice in some newspaper having a bona fide circulation in the city and by
30 posting of notice at the city hall at least ten (10) days before the date of
31 the examinations.

32 (B) The examinations may be held on the first Monday in
33 April or the first Monday in October, or both, and more often, if necessary,
34 under such rules and regulations as may be prescribed by the board;

35 (4) (A) (i) The creation and maintenance of current eligibles lists

1 for each rank of employment in the departments in which shall be entered the
2 names of the successful candidates in the order of their standing in the
3 examination. However, for ranks in each department where there may not be
4 openings during an annual period, the board may establish rules to create the
5 eligibles list on an as needed basis.

6 (ii) No person shall be eligible for examination for
7 advancement from lower ranks to higher ranks until that person shall have
8 served at least one (1) year in the lower rank, except in case of emergency,
9 which emergency shall be decided by the board. The board shall determine the
10 rank or ranks eligible to be examined for advancement to the higher rank.

11 (B)(i) All lists for appointments or promotions as
12 certified by the board shall be and remain in force and effect for the period
13 of one (1) year from the date thereof.

14 (ii) At the expiration of this period, all right of
15 priority under the lists shall cease;

16 (5)(A) The rejection of candidates as eligibles who fail to
17 comply with reasonable requirements of the board in regard to age, sex,
18 physical condition, or who have been guilty of a felony, or who have attempted
19 fraud or deception in connection with the examination.

20 (B)(i) All applicants for appointment and all applicants
21 for reinstatement shall undergo a suitable physical examination.

22 (ii) (a) The examination shall be conducted in the
23 manner and form as provided by law.

24 (b) If no provision has been made by existing
25 law for such examination, then the board may adopt proper rules and
26 regulations to carry this subdivision into effect;

27 (6) Certification to the department head of the three (3)
28 standing highest on the eligibility list for appointment for that rank of
29 service, and for the department head to select for appointment or promotion
30 one of the three (3) certified to him and notify the commission thereof.

31 (7)(A) A period of probation not to exceed twelve (12) months
32 before any appointment is complete and six (6) months before any promotion is
33 complete.

34 (B) During the period, the probationer may be discharged,
35 in case of an appointment, or reduced, in case of promotion, by the chief of

1 the police or of the fire department;

2 (8) (A) Temporary employees without examination with the consent
3 of the commission, in cases of emergency, and pending appointment from the
4 eligibles list.

5 (B) No temporary appointment shall continue longer than
6 sixty (60) days, nor shall successive temporary appointment be allowed except
7 in times of grave danger, of which the commission shall decide;

8 (9) (A) Establishing eligibility lists for promotion based upon
9 open competitive examinations. The exams may include a rating of applicants
10 based on results of written, oral, or practical examinations, length of
11 service, efficiency ratings, and educational or vocational qualifications.
12 Lists shall be created for each rank of service and promotions made from the
13 lists as provided in this section.

14 (B) Advancement in rank or increase in salary beyond the
15 limits fixed for the grade by the rules of the commission shall constitute a
16 promotion;

17 (10) (A) Suspension for not longer than thirty (30) calendar days;
18 and

19 (B) Leave of absence;

20 (11) (A) Discharge or reduction in rank or compensation after
21 promotion or appointment is complete, only after the person to be discharged
22 or reduced has been presented with the reasons for the discharge or reduction
23 in writing.

24 (B) (i) The person so discharged or reduced shall have the
25 right, within ten (10) days from the date of notice or discharge of reduction,
26 to reply in writing.

27 (ii) Should the person deny the truth of the reasons
28 upon which the discharge or reduction is predicated and demand a trial, the
29 commission shall grant a trial as provided in this chapter.

30 (iii) The reasons and the reply shall constitute a
31 part of the trial and be filed with the record;

32 (12) The adoption and amendment of rules after public notice and
33 hearing;

34 (13) The preparation of a record of all hearings and other
35 proceedings before it, which shall be stenographically reported.

1 (c) The commission shall adopt such rules not inconsistent with this
2 chapter for necessary enforcement of this chapter, but shall not adopt any
3 rule or rules which would authorize any interference with the day-to-day
4 management or operation of a police or fire department."
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6 SECTION 9. All provisions of this act of a general and permanent nature
7 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
8 Revision Commission shall incorporate the same in the Code.
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10 SECTION 10. If any provision of this act or the application thereof to
11 any person or circumstance is held invalid, such invalidity shall not affect
12 other provisions or applications of the act which can be given effect without
13 the invalid provision or application, and to this end the provisions of this
14 act are declared to be severable.
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16 SECTION 11. All laws and parts of laws in conflict with this act are
17 hereby repealed.

18 */s/Myra Jones*
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