

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

A Bill

ACT 206 OF 1993
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;

36 (4) One shall hold office until the first Monday in April of the

1 eighth year after his appointment; and

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

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

11

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

13 "§ 14-51-202. Qualifications of commissioners.

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

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

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

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

26

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

28 "§ 14-51-205. Secretary of board.

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

30 (b) The secretary shall:

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

32 (2) Conduct the correspondence of the board;

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

35 (4) Act as clerk when the board is conducting a trial court;

1 (5) Work with and act as liaison to the city employee assigned to
2 assist the board; and

3 (6) Perform any other duties that may be ordered by the board."
4

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

6 "§ 14-51-206. Attorney for commission and city.

7 (a) The city attorney shall act as attorney for the commission in all
8 trials or other legal transactions.

9 (b) The city shall hire, on an annual basis, independent legal counsel
10 to represent the city and/or the department head, when the cities managerial
11 employment decisions are brought for review before the commission; and in all
12 such trials, proceedings or other legal transactions before the commission."
13

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

15 "§ 14-51-207. Responsibilities of the city.

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

18 (1) Provide suitable rooms for the board to hold meetings;

19 (2) Allow all reasonable supplies;

20 (3) Permit use of public buildings for holding examinations by
21 the board;

22 (4) Provide, designate, manage and supervise a paid city
23 employee, full-time or part-time as may be deemed necessary by the city_s
24 Chief Executive Officer, to be known as the administrative assistant to the
25 commission, this assistant shall help with the clerical and administrative
26 needs of the board; and

27 (5) Provide adequate funding for legal counsel as enumerated in
28 this chapter."
29

30 SECTION 7. Arkansas Code 14-51-209 is amended to read as follows:

31 "§ 14-51-209. Investigation powers.

32 (a) In any investigation conducted by the commission provided for in
33 this chapter, the commission shall have the power of subpoena, to require the
34 attendance of any witness and the production of any papers or records
35 pertinent to the investigation, and to administer oaths to the witnesses.

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

5

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

7 "§ 14-51-301. Rules and regulations generally. (Supp.1991)

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

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

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

16 (b) These rules shall provide for:

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

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

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

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

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

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

34 (4) (A) (i) The creation and maintenance of current eligibles lists
35 for each rank of employment in the departments in which shall be entered the

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

18 (B) Leave of absence;

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

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

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

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

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

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

35 (c) The commission shall adopt such rules not inconsistent with this

1 chapter for necessary enforcement of this chapter, but shall not adopt any
2 rule or rules which would authorize any interference with the day-to-day
3 management or operation of a police or fire department."
4

5 SECTION 9. All provisions of this act of a general and permanent nature
6 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
7 Revision Commission shall incorporate the same in the Code.
8

9 SECTION 10. If any provision of this act or the application thereof to
10 any person or circumstance is held invalid, such invalidity shall not affect
11 other provisions or applications of the act which can be given effect without
12 the invalid provision or application, and to this end the provisions of this
13 act are declared to be severable.
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15 SECTION 11. All laws and parts of laws in conflict with this act are
16 hereby repealed.

17 */s/Myra Jones*

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19 APPROVED: 2/24/93
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