

By: Representative Busby

To: Local and Private
Legislation

HOUSE BILL NO. 1493

1 AN ACT TO AMEND CHAPTER 814, LOCAL AND PRIVATE LAWS OF 1990,
2 AS AMENDED BY CHAPTER 935, LOCAL AND PRIVATE LAWS OF 1996, TO
3 REMOVE THE AUTHORITY OF THE CIVIL SERVICE COMMISSION FOR THE
4 SHERIFF'S DEPARTMENT TO MAKE RULES PERTAINING TO THE MANNER OF
5 CONDUCTING EXAMINATIONS, APPOINTMENTS, PROMOTIONS, TRANSFERS AND
6 REINSTATEMENTS FOR THE DEPARTMENT; TO REMOVE THE AUTHORITY OF THE
7 COMMISSION TO FORMULATE METHODS OF DETERMINING QUALIFICATIONS FOR
8 THOSE SEEKING EMPLOYMENT WITH THE SHERIFF'S DEPARTMENT; AND FOR
9 RELATED PURPOSES.

10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

11 **SECTION 1.** Chapter 814, Local and Private Laws of 1990, as
12 amended by Chapter 935, Local and Private Laws of 1996, is amended
13 as follows:

14 Section 1. The Board of Supervisors of Jackson County is
15 authorized to create by order a civil service commission for the
16 Jackson County Sheriff's Department.

17 Section 2. (1) The three (3) members of the civil service
18 commission shall be appointed by the Board of Supervisors of
19 Jackson County, with a majority of the Board of Supervisors of
20 Jackson County voting therefor. No person shall be appointed a
21 member of such commission who is not a citizen of the United



22 States and Jackson County, and who has not lived in Jackson County
23 for at least five (5) years immediately preceding such
24 appointment. Terms of office for such members shall be for six
25 (6) years, except that the first three (3) members shall be
26 appointed for staggered terms as follows: One (1) shall serve a
27 period of two (2) years, one (1) shall serve a period of four (4)
28 years and one (1) shall serve a period of six (6) years.

29 The Board of Supervisors of Jackson County may, in its
30 discretion, pay the members of the commission One Hundred Dollars
31 (\$100.00) each per month to compensate them for their services.
32 However, this compensation in no way entitles the commissioners to
33 be members of the Public Employees' Retirement System. In
34 addition, the board of supervisors shall provide the members of
35 the commission with a budget, with the amount to be determined by
36 the board of supervisors, to carry on the business of the
37 commission.

38 (2) Any member of the commission may be removed from office
39 for incompetency, incompatibility, dereliction of duty, or other
40 good cause, by the Board of Supervisors of Jackson County.
41 However, no member shall be removed until charges have been
42 preferred in writing and a full hearing had before the board of
43 supervisors. Any member being so removed shall have the right of
44 appeal to the Circuit Court of Jackson County any time within
45 thirty (30) days thereafter, and may demand a jury trial. Such
46 trial shall be confined to the determination of whether the order



of removal made by the board of supervisors was or was not made in good faith and for cause.

(3) Two (2) members shall constitute a quorum and the votes of any two (2) members shall constitute a majority and be sufficient for the decision of all matters and transactions.

Section 3. (1) Immediately after the appointment of the civil service commission, the commission shall organize by electing one (1) of its members chairman. The commission shall hold regular meetings at least once each quarter of the calendar year, and such additional meetings as may be required for the proper discharge of its duties.

(2) The commission shall appoint a secretary who shall serve without compensation. The secretary shall keep the records and preserve all reports made to the commission, and also a record of all examinations held under the direction of the commissioners, and perform such other duties as the commission may prescribe. The secretary is subject to suspension and discharge in the same manner as the commissioners.

Section 4. It shall be the duty of the * * * commission to make suitable rules and regulations not inconsistent with the provisions of this amended act. Such rules and regulations shall provide in detail the manner of * * * demotions, suspensions and discharges * * *. * * * The commission shall have the power to conduct investigations, and make reports on all matters touching the enforcement and effect of the provisions of this amended act



72 and the rules and regulations prescribed hereunder. The
73 commission shall have the power to investigate all complaints,
74 which must be reduced to writing, and to subpoena witnesses,
75 administer oaths and conduct hearings.

76 Section 5. The provisions of this act shall include all
77 full-time paid employees of the Jackson County Sheriff's
78 Department except the sheriff and chief deputy. All appointments
79 to and promotions in the sheriff's department shall be made solely
80 on merit, efficiency and fitness, which may be ascertained by open
81 competitive examination and impartial investigation. No person
82 shall be reinstated in, or transferred, suspended, or discharged
83 from any place, position or employment contrary to the provisions
84 of this act. All incumbents and future appointees shall be
85 subject to civil service, except those appointees now and
86 hereafter serving as extra members.

87 Section 6. Any applicant for any position in the Jackson
88 County Sheriff's Department which is under civil service must be a
89 citizen of the United States and must meet only such bona fide
90 occupational residency requirements as may be determined by the
91 civil service commission.

92 Section 7. For the benefit of the public service and to
93 prevent delay, injury or interruption therein by reason of the
94 enactment of this act, all persons holding a position in the
95 Jackson County Sheriff's Department, except the sheriff and chief
96 deputy, who have served continuously in such positions for a



97 period of at least the preceding twelve (12) months are eligible
98 for permanent appointment under civil service to the offices,
99 positions or employments which they then hold, respectively,
100 without examination or other act on their part, and not on
101 probation, and every such person is automatically adopted and
102 inducted permanently into civil service, into such office, place,
103 position or employment which such person then holds as completely
104 and effectually to all intents and purposes as if such person had
105 been permanently appointed thereto under civil service after
106 examination and investigation. However, those persons who have
107 previously left their positions to participate in the Armed Forces
108 of the United States shall have preference in reemployment and
109 enjoy the rights and privileges of this act as if their services
110 had not been terminated.

111 Section 8. The * * * commission shall keep a list of all
112 members of the Jackson County Sheriff's Department * * *. The
113 commission shall provide that persons laid off because of
114 curtailment of expenditures, reduction in force, and like causes,
115 shall be the last persons, including probationers, that have been
116 appointed to the sheriff's department, until such reductions
117 necessary shall have been accomplished. However, if the sheriff's
118 department again is increased in number, those suspended shall be
119 afforded the opportunity, by notice sent certified mail to their
120 last-known address, to be reinstated before any new appointments
121 shall be made.



Section 9. The tenure of everyone holding an office, place, position or employment under the provisions of this act shall be only during good behavior. Any such person may be removed or discharged, suspended without pay, demoted or reduced in rank, or deprived of vacation privileges or other special privileges, or any combination thereof, for any of the following reasons:

Incompetency, inefficiency, inattention of duty, illegal conduct, dishonesty, intemperance, immoral conduct, insubordination, discourteous treatment of the public or a fellow employee, or any other act of omission or commission tending to injure the public service, or other good cause.

Section 10. No person who has been permanently appointed or inducted into civil service under the provisions of this act, except for such persons as may be employed to fill a vacancy caused by the absence of an employee of the sheriff's department while in service as a member of the Armed Forces of the United States, shall be removed, suspended, demoted or discharged, or any combination thereof, except for cause, and only upon the written accusation of the sheriff or any citizen or taxpayer, a written statement of which accusation, in general terms, shall be served upon the accused, and a duplicate filed with the commission.

In the absence of extraordinary circumstances or situations, before any employee is suspended, removed or discharged, he shall be given written notice of the intended suspension or termination, which notice shall state the reasons for the suspension or



147 termination and inform the employee that he has the right to
148 respond in writing to the reasons given for the suspension or
149 termination within a reasonable time and respond orally before the
150 official charged with the responsibility of making the suspension
151 or termination decision. A written decision on the response of
152 the employee, if any, will be provided to the employee at the
153 earliest practicable date. Such official may, in his discretion,
154 provide for a presuspension or pretermination hearing and
155 examination of witnesses, and if a hearing is to be held, the
156 notice to the employee shall also set out the time and place of
157 the hearing. A duplicate of the notice shall be filed with the
158 commission. After the employee has responded or has failed to
159 respond within a reasonable time, the official charged with the
160 responsibility of making the suspension or termination decision
161 shall determine the appropriate disciplinary action, and shall
162 notify the employee of his decision in writing at the earliest
163 practicable date.

164 Where there are extraordinary circumstances or situations
165 which require the immediate suspension, discharge or removal of an
166 employee, such employee may be suspended or terminated without a
167 presuspension or pretermination hearing as provided in this
168 section, but such employee shall be given written notice of the
169 specific reasons for the suspension or termination within
170 twenty-four (24) hours after the suspension or termination, and
171 shall be given an opportunity for a hearing similar to the



172 presuspension or pretermination hearing provided in this section
173 within five (5) days after the date of the suspension or
174 termination. For the purposes of this section, extraordinary
175 situations or circumstances include, but are not limited to,
176 circumstances where retention of the employee would result in
177 damage to property of the county or the sheriff's department,
178 would be detrimental to the interest of the county government or
179 the sheriff's department, or would result in injury to the
180 employee, to a fellow employee or to the general public.

181 Any person so removed, suspended, demoted, discharged or
182 combination thereof may file with the commission, within ten (10)
183 days from the time of such disciplinary action, a written demand
184 for an investigation, whereupon the commission shall conduct such
185 investigation. The investigation shall be confined to the
186 determination of the question of whether such disciplinary action
187 was or was not made for political or religious reasons and was or
188 was not made in good faith for cause. After such investigation
189 the commission may affirm the disciplinary action if in its
190 estimation the evidence is conclusive, or if it finds that the
191 disciplinary action was made for political or religious reasons or
192 was not made in good faith for cause, the commission shall order
193 the immediate reinstatement or reemployment of such person in the
194 office, place, position, or employment from which such person was
195 removed, suspended, demoted, discharged or combination thereof,
196 which reinstatement shall be retroactive, if the commission in its



197 discretion so provides, and shall entitle such person to pay or
198 compensation from the time of such disciplinary action. The
199 commission upon such investigation, in lieu of affirming the
200 disciplinary action, may modify the order of removal, suspension,
201 demotion, discharge or combination thereof by directing a
202 suspension without pay for a given period and subsequent
203 restoration of duty, or by directing a demotion in classification,
204 grade or pay, or by any combination thereof. The findings of the
205 commission shall be certified in writing to the sheriff, and shall
206 be enforced forthwith by the sheriff.

207 All investigations made by the commission pursuant to the
208 provisions of this section shall be by public hearing, after
209 reasonable written notice to the accused of the time and place of
210 such hearing, at which hearing the accused shall be afforded an
211 opportunity of appearing in person and by counsel, and presenting
212 his defense. The findings of the commission shall be conclusive
213 and binding unless either the accused or the sheriff, within
214 thirty (30) days from the date of the entry of such judgment or
215 order on the minutes of the commission and notification to the
216 accused and the sheriff, appeals to the Circuit Court of Jackson
217 County. Any appeal of the judgment or order of the commission
218 shall not act as a supersedeas of such judgment or order, but the
219 judgment or order shall remain in effect pending a final
220 determination of the matter on appeal. Such appeal shall be taken
221 by serving the commission and the appellee, within thirty (30)



222 days after the entry of such judgment or order, a written notice
223 of appeal stating the grounds thereof, and demanding that a
224 certified transcript of the record and of all papers on file in
225 the office of the commission affecting or relating to such
226 judgment or order be filed by the commission with such court, and
227 at the time of the filing of the notice of appeal the appellant
228 shall prepay to the civil service commission all costs associated
229 with the preparation of the record and the cost for the
230 transcript. The commission, within thirty (30) days after the
231 filing of such notice and receiving all costs for preparation of
232 the transcript and record from appellant, shall make, certify and
233 file such transcript and record with the circuit court. The
234 circuit court thereupon shall proceed to hear and determine such
235 appeal. However, such hearing shall be confined to the
236 determination of whether the judgment or order concerning removal,
237 discharge, demotion, suspension or combination thereof made by the
238 commission was or was not made in good faith for cause, and no
239 appeal to such court shall be taken except upon such ground or
240 grounds. An appellant who is successful on his or her final
241 appeal is entitled to collect from the appellee the costs of the
242 preparation of the record and the cost for the transcript which
243 were prepaid to the commission.

244 Section 11. No person holding any office, place, position or
245 employment in the Jackson County Sheriff's Department which is
246 subject to civil service is under any obligation to contribute to



247 any political fund or to render any political service to any
248 person or party whatsoever, and no person shall be removed,
249 reduced in grade or salary, or otherwise prejudiced for refusing
250 so to do. No public officer, whether elected or appointed, shall
251 discharge, promote, demote or in any manner change the official
252 rank, employment or compensation of any person in the sheriff's
253 department under civil service, or promise or threaten so to do,
254 for giving or withholding or neglecting to make any contribution
255 of money or service or any other valuable thing for any political
256 purpose. If any person holding any office, place, position or
257 employment in the sheriff's department which is subject to civil
258 service actively participates in political activity, while on
259 duty, in any primary or election in Jackson County, it shall be
260 deemed cause for removal.

261 **SECTION 2.** This act shall take effect and be in force from
262 and after July 1, 2021.

