

OFFICE OF THE ATTORNEY GENERAL



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Honorable Thomas A. Snowden, Jr.
Probate Judge
Shelby County
Shelby County Courthouse
Columbiana, Alabama 35051

Shelby County - Personnel -
Compensation

Discussion of the authority
of the Personnel Board of
Shelby County which was
established by Act No. 79-524

Dear Judge Snowden:

The Attorney General received your request for an opinion regarding the responsibility and authority of the Personnel Board of Shelby County under Act No. 79-524 of the 1979 Legislative Session.

You specifically asked:

"1. Deputies and other employees of the Shelby County Sheriff's office are paid by the Shelby County Commission. Section 10(c) of the Act provides for the Board to provide a 'salary range' and under Section 10(f), the Board

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has authority to establish rules and regulations, does the County Commission have the authority to establish (a) the frequency and length of vacations, (b) number and frequency of holidays, (c) number of deputies to be hired by Shelby County and paid by the Shelby County Commission, (d) specific amount of compensation to be paid to each deputy?

"2. In connection with the application for fringe benefits resulting from 'continuous' service with the Sheriff's Department, Deputy J. B. Carter, current employee of the Sheriff's Department, has requested that his years of service be rated as 'continuous' with the Shelby County Sheriff's Department even though for a period of time in the middle of such service, he supervised jail inmates while they worked for the Shelby County Highway Department. During this time, Deputy J. B. Carter was a commissioned Sheriff's Deputy wearing a badge and gun, assisting in keeping control of the prisoners and reporting back to the Sheriff on his daily activities. He was, however, during this period technically listed as an employee under the County Highway Department. Does the authority to recognize or refuse to recognize Deputy Carter's service as 'continuous' for the

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purpose of vacation and fringe benefits rest with the Personnel Board or the Shelby County Commission?"

As stated in your letter Act No. 79-524 established a personnel board for law enforcement officers in Shelby County.

Regarding the frequency and length of vacation given to the law enforcement employees, Section 9 gives the Personnel Board the power to make rules and regulations regarding annual leave. Annual leave is considered as being vacation time. Therefore, it is within the authority of the Personnel Board to determine the frequency and length of vacation time of employees.

Concerning holidays, Code of Alabama 1975, Section 1-3-8 set out the legal holidays to be observed in the State and requires all county offices to be closed on Veterans Day, the 11th of November. Furthermore, all county offices must be closed on Sunday. Otherwise, the Attorney General has concluded that it is discretionary with each county officer as to whether he will close or keep open his office on the other legal holidays set out in Section 1-3-8. Biennial Report of the Attorney General, 1934 - 1936; and opinion to the Honorable Frank T. Salter, Probate Judge of Conecuh County dated November 1, 1976. There is no provision in Act 79-524 authorizing the Personnel Board to designate which legal holidays are to be observed by the county sheriff's offices. Thus, it is the opinion of the Attorney General that the sheriff is to determine whether or not his office is to observe the holidays enumerated in Section 1-3-8.

Act No. 79-524 makes no mention of how deputies are to be appointed except that the chief deputy is to serve

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at the pleasure of the sheriff. However, Act No. 735, Acts of Alabama 1976, page 1015 which amended Act No. 37, Acts of Alabama 1971, page 4170 designates the number of employees including twelve (12) deputies to be appointed in the Sheriff's Department of Shelby County. It further states that the employees are to be appointed by the Sheriff.

Section 11 of Act No. 79-524 says that the salary to be paid each employee is to be determined by the appointing authority or as otherwise provided by law and that such salary shall be within the limitations prescribed by the Personnel Board. Act No. 735, 1976 Regular Session provides that the compensation of employees in the Sheriff's Department of Shelby County shall be comparable to certain positions in the Alabama Highway Patrol. Thus, the deputies are to receive the salary of a State Trooper according to Act No. 735 but such salary is to be within limitations prescribed by the Personnel Board. In other words, the deputies are subject to the same salary scale as State Troopers but the specific salary for each deputy within the State Trooper salary range is to be determined by the Personnel Board.

In answer to your second question considering Section 9 of the Act, it is our opinion that the Personnel Board has the authority to determine if an employee has continuous service. Section 9 states that the Board is, empowered to and shall make all rules and regulations regarding ". . . appointments, transfers . . . annual and sick leave and such other matters as may be necessary to accomplish the purposes of this Act." The matter of continuous service for an employee for the purpose of determining fringe benefits would be included in the above matters to be governed by the Personnel Board. The question of "continuous service" for retirement benefits is to be determined by the retirement system of which the deputy is a member.

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If our office can be of further assistance, please
do not hesitate to call on us.

Sincerely,

CHARLES A. GRADDICK
Attorney General

By

A handwritten signature in cursive script that reads "Lynda F. Knight". The signature is written in dark ink and is positioned above the typed name and title.

LYNDA F. KNIGHT
Assistant Attorney General

LFK;mj