

**Set forth facts below showing nature and character of question that make the "advice sought necessary to the present performance of some official act that such officer must immediately perform." ALA. CODE § 36-15-1(1)d.**

[Use additional sheets if necessary. MAXIMUM CHARACTERS 1800.]

The Marshall County Revenue Commissioner desires to appoint a Deputy Revenue Commissioner pursuant to Ala. Code §40-4-6 and §40-5-2 (1975, as amended). To do so the Commissioner requested that the Marshall County Personnel Board determine a salary to for a new Deputy Revenue Commissioner position. The Commissioner represented to the Board that the Board's only involvement in the creation of the position was to set the salary for the position.

Further review of the matter leads the board to believe that pursuant to Ala. Code §40-6A-5 and §45-48-241.02 1975, as amended) the Deputy Revenue Commissioner would be a merit based employee; therefore, the creation of the position is required to follow the polices and procedures of the Board. These policies include but are not limited to, the creation of job specific qualifications and job duties, and advertisement and posting of such position, and an application process. The position would also be offered the same protections provided by the Board as all other merit based positions.

**SPECIFIC QUESTION:**

[Use additional sheets if necessary. MAXIMUM CHARACTERS 2400.]

(1) Would a Deputy Revenue Commissioner be a merit based employee pursuant to Ala. Code §40-6A-5 and §45-48-241.02 1975, as amended)?

(2) Specifically, is the creation of such position required to follow the policies and procedures of the Marshall County Personnel Board, or may the Revenue Commissioner appoint an individual to the position to serve at the pleasure to the Revenue Commissioner without following the policies and procedures of the Board concerning the hiring of employees of the Board?

**NOTE:** A resolution requesting an opinion must accompany opinion requests from county commissions, city councils, boards of education, and like governing bodies. Public officials shall not submit moot, private, or personal questions in which the state, county, or public is not materially or primarily interested. ALA. CODE § 36-15-1(1)c.



**REQUEST FOR ATTORNEY GENERAL'S OPINION**

Opinions Division  
Attorney General's Office  
Post Office Box 300152  
Montgomery, Alabama 36130-0152

Telephone: (334) 242-7403  
www.alabamaag.gov

(Please print or type)

**THIS OFFICE DOES NOT ADDRESS ISSUES ON MATTERS CURRENTLY IN LITIGATION**

Is this issue in litigation? Yes  No  (YOU MUST CHECK ONE)

If yes, please supply the following information:

Case Number: \_\_\_\_\_

Case Name: \_\_\_\_\_

Court or governmental body (board, commission, etc.):  
\_\_\_\_\_

If no, do you anticipate that litigation will be filed?

Yes  No  (YOU MUST CHECK ONE)

Requestor's Name: Charles Whisenent Date: \_\_\_\_\_

City/County/Agency Name: Marshall County Personnel Board

Mailing Address: 424 Blount Avenue, Room A342

City: Guntersville County: Marshall State: AL Zip Code: 35976

Email address: ckelley@marshallco.org

Telephone numbers: (Office) (256) 571-7720 (Fax) (256) 571-7837

Specify public title or official public position that qualifies you to request an opinion: Chairman, Marshall County Personnel Board

**Signature and title of individual requesting opinion:**

  
SIGNATURE

Chairman  
TITLE

STATE OF ALABAMA )  
 )  
MARSHALL COUNTY )

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**RESOLUTION NO. 24-04**

**RESOLUTION OF THE  
MARSHALL COUNTY PERSONNEL BOARD**

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**WHEREAS**, the Marshall County Personnel Board has received a request from Revenue Commissioner Michael Johnson to set the pay for a Deputy Revenue Commissioner position; and


**WHEREAS**, a Deputy Revenue Commissioner position has not, heretofore, existed in Marshall County since the inception of the Marshall County Personnel Board; and

**WHEREAS**, the Marshall County Personnel Board presently desires to obtain an opinion from the Alabama Attorney General as to whether the position of Deputy Revenue Commissioner would be subject to the personnel policies and procedures of the Marshall County Personnel Board pursuant to Ala. Code § 45-48-121 et seq. (1975, as amended).

**NOW, THEREFORE BE IT RESOLVED** that Charles Whisenant, Chairman of the Marshall County Personnel Board is hereby authorized to execute a request to the Attorney General of the State of Alabama for an opinion as to whether the position of Deputy Revenue Commissioner would be subject to the personnel policies and procedures of the Marshall County Personnel Board pursuant to Ala. Code § 45-48-121 et seq. (1975, as amended).

**Adopted this 24<sup>th</sup> day of October 2024.**

  
\_\_\_\_\_  
**CHARLES WHISENANT, Chairman**

**ATTEST:**  
  
\_\_\_\_\_  
**TIM WHITE, Secretary**