

By Senator Gutman

34-1072-98

1 A bill to be entitled
 2 An act relating to the rulemaking authority of
 3 the Department of Management Services and other
 4 agencies; creating s. 110.1085, F.S.; requiring
 5 the department to adopt rules to implement a
 6 review and performance planning system to
 7 assess employee performance; amending s.
 8 110.1095, F.S.; directing the department to
 9 adopt rules for training programs; amending s.
 10 110.201, F.S.; authorizing agencies to
 11 prescribe penalties for misconduct; amending s.
 12 110.207, F.S.; prohibiting positions from being
 13 filled before they have been classified;
 14 amending s. 110.227, F.S.; directing the
 15 department to adopt a grievance procedure for
 16 career service employees; amending s. 216.262,
 17 F.S.; providing rulemaking authority; amending
 18 s. 272.18, F.S.; providing rulemaking
 19 authority; providing an effective date.

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 21 Be It Enacted by the Legislature of the State of Florida:

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 23 Section 1. Section 110.1085, Florida Statutes, is
 24 created to read:

25 110.1085 Review and performance planning.--The
 26 department shall establish a review and performance planning
 27 system to assess employee performance. The department shall
 28 adopt rules to implement the review and performance planning
 29 system.

30 Section 2. Subsection (3) is added to section
 31 110.1095, Florida Statutes, to read:

1 110.1095 Supervisory and management training and
2 continuing education for executive branch agencies.--The
3 department shall represent the public interest in the
4 improvement of administration by providing training programs
5 for all executive branch agencies, except the State University
6 System, aimed at improving managerial, administrative, and
7 technical skills.

8 (3) The department shall adopt rules for the
9 administration of training programs for employees in the
10 career service, senior management service, and selected exempt
11 service.

12 Section 3. Present subsections (3) and (4) of section
13 110.201, Florida Statutes, are redesignated as subsections (4)
14 and (5), respectively, and new subsection (3) is added to that
15 section to read:

16 110.201 Personnel rules, records, and reports.--

17 (3) Notwithstanding subsections (1) and (2) or other
18 provisions of law, each agency may prescribe penalties or
19 ranges of penalties for various types of misconduct without
20 adopting them as rules. Copies of the prescribed penalties
21 must be given to the agency's career service employees.

22 Section 4. Subsection (1) of section 110.207, Florida
23 Statutes, is amended to read:

24 110.207 Classification plan.--

25 (1) The department shall establish and maintain a
26 uniform classification plan applicable to all positions in the
27 career service and shall be responsible for the overall
28 coordination, review, and maintenance of the plan. No action
29 may be taken to fill any position until it has been classified
30 in accordance with the classification plan.

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1 (a) The department shall develop class specifications
2 necessary for the establishment of new classes or for the
3 revision of existing classes and shall adopt the appropriate
4 class title and class code for each class. Such class
5 specifications, titles, and codes shall not constitute rules
6 within the meaning of s. 120.52.

7 (b) The department shall be responsible for conducting
8 periodic studies and surveys to assure that the classification
9 plan is maintained on a current basis.

10 (c) The department may review in a postaudit capacity
11 the action taken by an employing agency in classifying or
12 reclassifying a position.

13 (d) The department shall effect a classification
14 change on any classification or reclassification action taken
15 by an employing agency if the action taken by the agency was
16 not based on the duties and responsibilities officially
17 assigned the position as they relate to the concepts and
18 allocation factors contained in the official class
19 specifications adopted by the department.

20 (e) Any action taken by the department in regard to
21 the classification or reclassification of a position which
22 affects a department headed by a Cabinet officer or by the
23 Governor and Cabinet may be reviewed by the Administration
24 Commission, and the decision of the department may be changed
25 by a majority vote of the Administration Commission.

26 (f) In cooperation and consultation with the employing
27 agencies, the department shall adopt rules necessary to govern
28 the administration of the classification plan. Such rules
29 shall be approved by the Administration Commission prior to
30 their adoption by the department.

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1 (g) In consultation with the Executive Office of the
2 Governor, the department shall facilitate the statewide
3 planning of the career service broadbanding compensation and
4 classification system.

5 1. Upon approval by the Executive Office of the
6 Governor, the department shall begin developing the
7 broadbanding system to ensure agency flexibility and
8 accountability on a statewide basis, and shall have the
9 authority to determine system modifications necessary to
10 permit use by all agencies. The proposed structure shall
11 address all issues raised in the January 1997 report on the
12 "Review of the Department of Transportation Model
13 Classification Plan" submitted to the Governor, the President
14 of the Senate, and the Speaker of the House of
15 Representatives. The Department of Management Services shall
16 provide alternatives for a rate funding formula that will not
17 exceed the statewide cost under the current formula and will
18 ensure that agencies are able to effectively recruit and
19 retain employees. The Department of Transportation shall
20 continue to use the model system it developed under the
21 provision of s. 334.0445 until July 1, 1999.

22 2. Once the Executive Office of the Governor has
23 approved a statewide broadbanding compensation and
24 classification system, state agencies will come under the
25 uniform personnel system based on an implementation schedule
26 developed by the Department of Management Services and
27 approved by the Executive Office of the Governor.

28 Section 5. Section 110.227, Florida Statutes, is
29 amended to read:

30 110.227 Suspensions, dismissals, reductions in pay,
31 demotions, layoffs, ~~and~~ transfers, and grievances.--

1 (1) Any employee who has permanent status in the
2 career service may only be suspended or dismissed for cause.
3 Cause shall include, but not be limited to, negligence,
4 inefficiency or inability to perform assigned duties,
5 insubordination, willful violation of the provisions of law or
6 agency rules, conduct unbecoming a public employee,
7 misconduct, habitual drug abuse, or conviction of any crime
8 involving moral turpitude. Each agency head shall ensure that
9 all employees of the agency are completely familiar with the
10 agency's established procedures on disciplinary actions and
11 grievances.

12 (2) The department shall establish rules and
13 procedures for the suspension, reduction in pay, transfer,
14 layoff, demotion, and dismissal of employees in the career
15 service. Such rules shall be approved by the Administration
16 Commission prior to their adoption by the department.

17 (3)(a) When a layoff becomes necessary, such layoff
18 shall be conducted within the competitive area identified by
19 the agency head and approved by the Department of Management
20 Services. Such competitive area shall be established taking
21 into consideration the similarity of work; the organizational
22 unit, which may be by agency, department, division, bureau, or
23 other organizational unit; and the commuting area for the work
24 affected.

25 (b) Layoff procedures shall be developed to establish
26 the relative merit and fitness of employees and shall include
27 a formula for uniform application among all employees in the
28 competitive area, taking into consideration the type of
29 appointment, the length of service, and the evaluations of the
30 employee's performance within the last 5 years of employment.

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1 (4) Any permanent career service employee subject to
2 reduction in pay, transfer, layoff, or demotion from a class
3 in which he or she has permanent status in the Career Service
4 System shall be notified in writing by the agency prior to its
5 taking such action. The notice may be delivered to the
6 employee personally or may be sent by certified mail with
7 return receipt requested. Such actions shall be appealable to
8 the Public Employees Relations Commission, pursuant to s.
9 447.208 and rules adopted by the commission.

10 (5)(a) Any permanent career service employee who is
11 subject to suspension or dismissal shall receive written
12 notice of such action at least 10 days prior to the date such
13 action is to be taken. Subsequent to such notice, and prior
14 to the date the action is to be taken, the affected employee
15 shall be given an opportunity to appear before the agency or
16 official taking the action to answer orally and in writing the
17 charges against him or her. The notice to the employee
18 required by this paragraph may be delivered to the employee
19 personally or may be sent by certified mail with return
20 receipt requested. An employee who is suspended or dismissed
21 shall be entitled to a hearing before the Public Employees
22 Relations Commission or its designated agent pursuant to s.
23 447.208 and rules adopted by the commission.

24 (b) In extraordinary situations such as when the
25 retention of a permanent career service employee would result
26 in damage to state property, would be detrimental to the best
27 interest of the state, or would result in injury to the
28 employee, a fellow employee, or some other person, such
29 employee may be suspended or dismissed without 10 days' prior
30 notice, provided that written or oral notice of such action,
31 evidence of the reasons therefor, and an opportunity to rebut

1 the charges are furnished to the employee prior to such
2 dismissal or suspension. Such notice may be delivered to the
3 employee personally or may be sent by certified mail with
4 return receipt requested. Agency compliance with the foregoing
5 procedure requiring notice, evidence, and an opportunity for
6 rebuttal must be substantiated. Any employee who is suspended
7 or dismissed pursuant to the provisions of this paragraph
8 shall be entitled to a hearing before the Public Employees
9 Relations Commission or its designated agent pursuant to s.
10 447.208, except that such hearing shall be held no more than
11 20 days after the filing of the notice of appeal by the
12 employee.

13 (6) The department shall adopt rules establishing a
14 grievance procedure for career service employees. The
15 following matters are not subject to the grievance procedures
16 adopted under this section: claims for discrimination and
17 sexual harassment, suspensions, reductions in pay, transfers,
18 lay-offs, or demotions.

19 Section 6. Subsection (4) is added to section 216.262,
20 Florida Statutes, to read:

21 216.262 Authorized positions.--

22 (4) The Department of Management Services may adopt
23 other rules to administer this section.

24 Section 7. Paragraph (g) of subsection (3) of section
25 272.18, Florida Statutes, is amended to read:

26 272.18 Governor's Mansion Commission.--

27 (3)

28 (g) The commission also shall adopt rules governing
29 the use of the state rooms of the Governor's Mansion, the
30 selection and acquisition of furnishings and decorations for
31 these rooms, and the acceptance of gifts, contributions,

1 bequests, or loans of property. The commission may adopt other
2 rules to administer this section.

3 Section 8. This act shall take effect upon becoming a
4 law.

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7 SENATE SUMMARY

8 Authorizes the Department of Management Services to adopt
9 rules in various areas of delegated responsibility.

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