

By Senator Laurent

17-1974-98

See HB 4319

1 A bill to be entitled
2 An act relating to Polk County; amending ch.
3 88-443, Laws of Florida, to revise provisions
4 relating to a personnel system for the
5 Sheriff's Office, a personnel board, board
6 members' powers and duties, board expenditures,
7 a classified service, new positions and
8 vacancies, probationary periods, hearings,
9 appointments, rules, policies, pay plans,
10 rights, and benefits; providing for a Members
11 Nominating Committee for selecting board
12 members; providing an effective date.

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

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16 Section 1. Sections 1 through 17 of chapter 88-443,
17 Laws of Florida, are amended to read:

18 Section 1. The terms of this act shall apply to the
19 classified service of the Polk County Sheriff's Office, which
20 shall include all certified deputy sheriffs, certified
21 detention deputies ~~correctional officers~~, and noncertified
22 support staff of the Polk County Sheriff's Office. The
23 provisions of this act shall not include the sheriff or under
24 sheriff, colonels, directors, legal advisors, personnel
25 holding the rank of major or above or equivalent noncertified
26 support positions, contract personnel, nonsalaried personnel,
27 any special deputy sheriff appointed pursuant to s. 30.09(4),
28 Florida Statutes, members of the Mounted Enforcement Unit,
29 ~~Sheriff's Posse~~ or Auxiliary or Reserve Unit, or any person
30 appointed as a part-time employee ~~deputy sheriff~~, as defined
31 ~~by the Criminal Justice Standards and Training Commission,~~

1 ~~unless such person is also employed full-time by the office of~~
2 ~~the Sheriff.~~ It is the intent of this act to authorize an
3 advisory personnel system, to maintain the full powers of the
4 Sheriff, and to continue to respect the legal limitations on
5 the right of collective bargaining and other rights under part
6 II of chapter 447, Florida Statutes, and not to grant such
7 rights to any deputy, member, or employee of the Polk County
8 Sheriff's Office who, prior to the effective date of this act,
9 did not otherwise have such rights pursuant to law.

10 Section 2. The Sheriff of Polk County is hereby
11 authorized to appoint a personnel board, hereafter referred to
12 as the "board," to act as an advisory agency of and to the
13 Sheriff, which board shall be composed of five members to be
14 appointed as follows:

15 (1) Two members of the board shall be selected and
16 appointed by the Sheriff.

17 (2) Two members of the board shall be appointed by the
18 Sheriff after being elected in an election among members of
19 the classified service from a group of three nominations
20 chosen by a majority vote of a three-person ~~seven-person~~
21 committee known as the Members Nominating Committee ~~Advisory~~
22 ~~Council~~ representing the classified members of the Sheriff's
23 Office as described in section 9. Each of the three
24 candidates nominated by the Members Nominating Committee
25 ~~Advisory Council~~ shall possess qualifications for board
26 membership as outlined in subsections (5) and (6).

27 (3) The fifth member shall be selected by the four
28 appointed members of the board and shall be appointed by the
29 Sheriff.

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1 (4) All members shall be appointed by the Sheriff and
2 shall also possess the qualifications for board membership
3 outlined in subsections (5) and (6).

4 (5) No member appointed pursuant to subsection (1),
5 subsection (2), or subsection (3), or his or her alternate,
6 may be:

7 (a) An employee of the Sheriff's Office or of any city
8 or county of this state or of the State of Florida or the
9 United States; or

10 (b) A member of any national, state, or county
11 committee of a political party; or

12 (c) A candidate for, or incumbent of, any paid public
13 office; or

14 (d) The spouse, parent or grandparent, child or
15 grandchild, brother or sister, aunt or uncle, niece or nephew,
16 by consanguinity or affinity, of a member of the classified
17 service; or

18 (e) Situated so as to have a conflict of interest in
19 the terms of his or her related business, duties, or
20 responsibilities in connection with the board.

21 (6) All members of the personnel board shall be at
22 least 21 years of age; of good moral character; of good
23 reputation in the community; citizens of the United States;
24 permanent residents of Florida; and residents of Polk County
25 for at least 2 years prior to the date of appointment.

26 (7) Two alternates to the board shall be appointed by
27 the Sheriff. In the event that a vacancy occurs in that a
28 board member terminates or that a matter before the board
29 involves a conflict of interest, the alternate member shall
30 serve for the hearing or term of office as the case may be.

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1 (8) The ranking officer in charge of the Human
2 Resources ~~Civil Service~~ Section shall be designated as the
3 Human Resources ~~Civil Service~~ Administrator and shall serve as
4 secretary to the board and as an ex officio member of the
5 board but shall have no vote.

6 Section 3. To ensure continuity,~~the initial~~ board
7 members shall be appointed by ~~serve from the date~~ the Sheriff
8 to 2-year terms on an alternating schedule effective the
9 second Tuesday of January ~~makes the appointments until the~~
10 ~~second Tuesday in January of the year following the effective~~
11 ~~date of this act.~~ Two Board members shall ~~then~~ be appointed
12 during even-numbered years ~~on a staggered basis, with two~~
13 ~~members appointed for a 2-year term~~ and three members shall be
14 appointed during odd-numbered years ~~for a 3-year term.~~
15 ~~Thereafter, board members shall serve at the pleasure of the~~
16 ~~Sheriff for 2-year terms.~~ Nothing contained herein shall
17 prohibit board members from being reappointed by the Sheriff
18 for additional terms.

19 Section 4. Members of the board shall receive no
20 salary, but each shall be paid a monthly allowance, the amount
21 to be determined by the Sheriff, for expenses incurred in
22 performing the duties of the board.

23 Section 5. The board ~~Sheriff~~ shall elect ~~designate~~ one
24 member to serve as the chair for a 2-year period. The chair
25 ~~chairman who~~ shall perform such duties as are provided for by
26 the board's rules.

27 Section 6. The Sheriff shall make available to the
28 board a table of organization and a list of all employees and
29 members ~~officers~~, positions, and classes and the pay scale of
30 each position and class ~~now existing~~ in the Sheriff's Office.

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1 Section 7. The board shall have the following powers
2 and duties:

3 (1) To adopt and amend rules and regulations for its
4 hearing procedures subject to approval by the Sheriff.

5 (2) To hear appeals and complaints in matters provided
6 for in this act and to make recommendations to the Sheriff
7 regarding the same. Three members shall constitute a quorum
8 for hearing an appeal and rendering a decision.

9 Section 8. ~~Job descriptions, job classifications,~~
10 ~~personnel rules, general orders, schedules, and pay plans in~~
11 ~~effect at the time this act is adopted are hereby confirmed~~
12 ~~and ratified and shall remain in effect until amended by the~~
13 ~~Sheriff with such review and recommendation by the personnel~~
14 ~~board as the sheriff may deem appropriate.~~ The Sheriff shall
15 have the authority to adopt such rules and regulations as are
16 necessary for the implementation and administration of this
17 the act.

18 Section 9. There shall be a three-person ~~seven-person~~
19 ~~Members Nominating Committee Advisory Council~~ which shall
20 nominate candidates for appointment to the board ~~serve in an~~
21 ~~advisory capacity to the Civil Service Administrator~~
22 ~~concerning personnel matters, civil service policies, and~~
23 ~~rules and regulations affecting members of the classified~~
24 ~~service.~~ The departmental representation of the ~~Members~~
25 ~~Advisory Council shall be determined by the Sheriff.~~ All
26 members of the committee ~~Members Advisory Council~~ shall be
27 members of the classified service. One member shall be
28 elected from each department ~~of seven areas determined by the~~
29 ~~Sheriff and shall be elected to serve by secret vote of all~~
30 members of the classified service within each respective
31 department ~~area.~~ Members of the committee ~~Members Advisory~~

1 ~~Council~~ shall serve a 2-year ~~1-year~~ term of office beginning
2 July 1 ~~of each year~~. ~~The initial council shall serve from the~~
3 ~~date elected until July 1 of the following year.~~

4 ~~Section 10. Members in the classified service who have~~
5 ~~held positions for 1 year or more immediately prior to the~~
6 ~~effective date of this act shall be continued in their~~
7 ~~respective positions until separated from their positions.~~
8 ~~Those holding positions for less than 1 year immediately prior~~
9 ~~to the effective date of this act shall serve the remainder of~~
10 ~~the probationary period in effect at the time the individual~~
11 ~~was appointed.~~

12 ~~Section 10~~11. The Sheriff or the Sheriff's designee
13 may create new positions within the Sheriff's Office or
14 combine, alter, or abolish existing positions in such manner
15 as the Sheriff deems necessary.

16 ~~Section 11~~12. The Human Resources ~~Civil Service~~
17 Administrator shall give public notice of vacancies and of
18 open competitive examinations for positions in the classified
19 service. The Human Resources ~~Civil Service~~ Administrator in
20 the Sheriff's Office shall establish and maintain such
21 eligibility lists for the various job classes as are deemed
22 necessary to meet the needs of the Sheriff's Office.

23 ~~Section 12~~13. (1) Whenever a vacancy occurs in any
24 position in the classified service, the Sheriff or the
25 Sheriff's designee shall make requisition to the Human
26 Resources ~~Civil Service~~ Administrator for the names and
27 addresses of all persons eligible for appointment thereto. In
28 the event that a candidate acceptable to the Sheriff or the
29 Sheriff's designee is recommended, the Sheriff or the
30 Sheriff's designee thereupon shall appoint this person to the
31 position where ~~when~~ the vacancy exists. The Sheriff or the

1 Sheriff's designee shall immediately inform the Human
2 Resources ~~Civil Service~~ Administrator of such ~~his~~ action.

3 (2) In the absence of an eligibility list, the Sheriff
4 or the Sheriff's designee may, if he or she determines that
5 the necessity of adequate law enforcement or operational
6 efficiency so requires, appoint a person without reference to
7 an eligibility list to fill a vacant position on a provisional
8 basis. The Sheriff or the Sheriff's designee shall
9 immediately inform the Human Resources ~~Civil Service~~
10 Administrator of such ~~his~~ action. Such provisional appointee
11 shall be a person who lawfully could be appointed within the
12 personnel system had he or she been an applicant. Such
13 provisional appointee shall acquire no rights under the system
14 by virtue of said appointment and said appointment shall
15 terminate immediately when an eligible person from an
16 eligibility list is certified to and accepted by the Sheriff,
17 or within 6 months from the date of the appointment, or 45
18 days after the establishment of an eligibility list, whichever
19 is the shorter length of time. Acceptance or refusal or a
20 provisional appointment shall not prejudice or in any way
21 affect the standing of a person who is an applicant or who
22 shall become an applicant for an established ~~a permanent~~
23 position.

24 (3) In the event of an emergency, the Sheriff or the
25 Sheriff's designee may appoint a person to fill a position not
26 to exceed 3 calendar months during any 12-month period.

27 Section ~~1314~~. No appointment ~~or promotional~~
28 ~~appointment~~ to any position in the classified service shall be
29 deemed complete until the expiration of a period of at least
30 1-year probationary service. During the initial probationary
31 period, the Sheriff or the Sheriff's designee may terminate or

1 otherwise discipline the appointee and the appointee shall not
2 be eligible for a hearing before the board. Appointments may
3 be regarded as taking effect upon the date the person
4 appointed reports for duty.

5 Section 14. Whenever a position in the classified
6 service is filled by promotion, the person may be returned to
7 duty in a position at the level formerly held by him or her in
8 the classified service without a hearing during his or her
9 promotion probationary period. The member ~~but~~ may have the
10 opportunity for a hearing if dismissed ~~terminated~~ from the
11 service or suspended for greater than 40 hours ~~5 days~~ if he or
12 she has completed an initial 1-year probationary period.

13 Section 15. It is not the intent of this act to modify
14 the Sheriff's absolute control over the selection and
15 retention of the Sheriff's ~~his~~ deputies and of other
16 ~~department~~ members of the Sheriff's Office as provided for by
17 the law. No dismissal, demotion, suspension, or reduction in
18 pay shall be taken against any nonprobationary member of the
19 classified service unless notice of the action and the reason
20 therefor is given to the member verbally or in writing prior
21 to the action taking effect. ~~Written notice shall be given~~
22 ~~within 24 hours after the action where retention would be~~
23 ~~detrimental to the interest of the Sheriff's Office or fellow~~
24 ~~members or the public.~~ An opportunity to respond orally and in
25 writing to the Sheriff or the Sheriff's ~~his~~ representative in
26 the decisionmaking process may be granted prior to the
27 effective date of the action ~~if so requested~~. Following
28 issuance of the written notice of disciplinary action, the
29 affected member of the classified service may seek a formal
30 hearing for a review of dismissal, demotion, suspension of
31 greater than 40 hours ~~5 days~~, or reduction in pay, provided

1 that the member, as a condition to seeking a hearing, shall,
2 upon receipt of the written notice, answer the same in writing
3 and file the answer and a request with the Sheriff within 7
4 calendar days after the issuance of the notice. If a
5 dismissal, demotion, suspension of greater than 40 hours ~~5~~
6 ~~days~~, or reduction in pay is answered and a hearing is
7 requested in writing within 7 calendar days, the member of the
8 classified service may have an opportunity for a hearing
9 before the board with all the rights and privileges afforded
10 under section 16. In the case of a notice of dismissal, the
11 member shall remain dismissed without pay pending the hearing
12 and the final decision of the Sheriff. In the case of a
13 demotion, suspension of greater than 40 hours ~~5 days~~, or
14 reduction in pay, the ~~member shall be subject to the~~
15 disciplinary action shall not be delayed to be reviewed
16 pending the review process. The board shall report in writing
17 its findings and recommendations to the Sheriff along with any
18 mitigating circumstances noted for review and consideration by
19 the Sheriff. The Sheriff shall retain the right of final
20 determination. No member of the classified service may be
21 reinstated, with or without backpay or benefits, without the
22 concurrence of the Sheriff. For disciplinary purposes, the
23 Sheriff or the Sheriff's designee may reprimand, orally or in
24 writing, or summarily suspend a member of the classified
25 service for a period not exceeding 40 hours ~~5 working days~~,
26 and such action shall not be subject to review and
27 recommendation of the board.

28 Section 16. The practice and procedure of the board
29 with respect to any hearing by the board authorized by this
30 act shall be in accordance with the rules and regulations to
31 be established by the board. Such rules ~~which~~ shall provide

1 for a reasonable notice of hearing to all persons affected by
2 a recommendation to be made by the board, with the opportunity
3 to be heard in his or her behalf at a hearing to be held for
4 that purpose and to examine and cross-examine witnesses.

5 (1) The board, when conducting any hearings authorized
6 by this act, shall have the power to ~~appoint hearing~~
7 ~~examiners, administer oaths, take or allow the taking of~~
8 ~~depositions,~~ and issue subpoenas to compel the attendance of
9 witnesses and the production of books, accounts, papers,
10 records, documents, and testimony. In the case of the
11 disobedience or failure of any person to comply with a
12 subpoena issued by the board or any of its members, or on the
13 refusal of a witness to testify on any matter on which he or
14 she may be lawfully interrogated, the judge of the circuit
15 court of the county, on application of the board, shall compel
16 the obedience by proceedings as for contempt. The service of
17 a subpoena shall be made in the manner provided by the Florida
18 Rules of Civil Procedure. Each witness subpoenaed by the
19 board shall receive for his or her attendance, fees and
20 mileage in the amount as provided for witnesses in civil
21 cases, if requested.

22 (2) The board shall meet for the purpose of hearing
23 the appeal promptly and no later than 30 days after receipt of
24 the answer and request for hearing, unless good cause exists
25 for, or the affected member agrees to, a postponement.

26 (3) The actions of the board and the Sheriff shall be
27 exempt from the provisions of chapter 120, Florida Statutes.

28 Section 17. When a newly elected or appointed Sheriff
29 assumes office, the service of all personnel shall continue
30 without the necessity of formal reappointment.

31 Notwithstanding any other provision of this act, the incoming

1 Sheriff shall have the option of maintaining the current
2 personnel assigned to the rank of major and above or
3 equivalent noncertified support positions or transferring
4 those personnel as described below. If the incoming Sheriff
5 fills any of the above positions with a new person and the
6 current occupant of the above position is a certified law
7 enforcement officer or detention deputy ~~corrections officer~~,
8 he or she shall be reduced to the rank of captain if
9 certified, or to the equivalent noncertified support position
10 if not certified immediately ~~and his or her salary reduced~~
11 ~~accordingly~~. The member's salary shall be reduced in
12 compliance with the salary policy in effect at that time, but
13 shall be no less than the salary the member would have
14 attained had the member remained in the highest classification
15 accorded appeal rights under this act. Following the election
16 or appointment of a Sheriff, appointments of all personnel
17 remain at the pleasure of the Sheriff, and personnel in the
18 classified service may be terminated by affirmative action of
19 the Sheriff or the Sheriff's ~~his~~ successor in office subject
20 to the provisions of this act.

21 Section 2. This act shall take effect upon becoming a
22 law.
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