

By Representative Casey

1 A bill to be entitled
2 An act relating to Alachua County; amending
3 chapter 84-388, Laws of Florida, as amended;
4 providing permanent status for certain
5 employees of the Alachua County Sheriff;
6 specifying rights of employees; providing
7 procedures for appeal of disciplinary actions
8 and complaints against employees; providing for
9 the appointment of boards to hear appeals and
10 procedures with respect thereto; providing that
11 Alachua County deputy sheriffs shall be deemed
12 public employees and shall enjoy all rights
13 granted public employees by law; providing an
14 effective date.

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

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18 Section 1. Chapter 84-388, Laws of Florida, as amended
19 by chapter 86-342, Laws of Florida, is reenacted and amended
20 to read:

21 Section 1. Employees of Alachua County Sheriff;
22 applicability of act; permanent status of employees;
23 administration.--

24 (1) APPLICABILITY.--The provisions of this act shall
25 apply to all commissioned and noncommissioned persons in the
26 employ of the Office of the Alachua County Sheriff, including
27 deputy sheriffs. The provisions of this act shall not apply to
28 the Sheriff; or to special deputy sheriffs appointed pursuant
29 to s. 30.09(4), Florida Statutes, members of the Sheriff's
30 Posse or Reserve Unit, and individuals appointed as part-time
31 deputy sheriffs, as defined by the Criminal Justice Standards

1 and Training Commission, unless any such person is also
2 employed full time by the Office of the Sheriff. As used in
3 this act, the terms "employee," "employ," and "employment"
4 shall refer to all persons, whether employed or appointed, to
5 whom the act applies. It is ~~not however,~~ the express intent of
6 this act to grant the right of public employee status
7 ~~collective bargaining~~ to persons in the employ of the Office
8 of the Alachua County Sheriff who do not otherwise have that
9 right pursuant to law.

10 (2) PERMANENT STATUS; CAUSE FOR SUSPENSION OR
11 DISMISSAL.--

12 (a) After an employee of the Sheriff to whom the
13 provisions of this act apply has served in such employment for
14 a period of one (1) calendar year, such employee shall have
15 attained permanent status in the Office of the Sheriff;
16 provided that if an employee is ~~placed on disciplinary~~
17 ~~probation for a period of 6 months or more or is~~ terminated
18 and rehired at a later date, said employee shall be required
19 to complete 1 calendar year of service from the date of the
20 action before being granted the right of appeal provided in
21 Section 2. Any employee who is required to serve a
22 probationary period attendant to a promotion shall retain
23 permanent status in the Office of the Sheriff, but may be
24 demoted to his prior rank during such probationary period
25 without the right of appeal as provided in Section 2.

26 (b) Any employee who has achieved permanent status in
27 the Office of the Sheriff may only be suspended or dismissed
28 for just cause, provided that prior to such action the
29 employee must be furnished written notice of the proposed
30 action and offered an opportunity to respond to the reasons
31 for the suspension or dismissal. However, in extraordinary

1 situations, such as when delay could result in damage or
2 injury, an employee may be suspended or dismissed for cause
3 immediately and provided notice thereof and reasons therefor
4 within 24 hours afterwards. Cause for suspension or dismissal
5 shall include, but not be limited to, negligence, inefficiency
6 or inability to perform assigned duties, insubordination,
7 willful violation of the provisions of law or office rules,
8 conduct unbecoming a public employee, misconduct, or habitual
9 drug abuse. Cause for suspension or dismissal shall also
10 include adjudication of guilt by a court of competent
11 jurisdiction, a plea of guilty or of nolo contendere, or a
12 jury verdict of guilty when adjudication of guilt is withheld
13 and the accused is placed on probation, with respect to any
14 felony, misdemeanor or major traffic infraction. The filing of
15 felony, misdemeanor, or major traffic infraction charges
16 against an employee shall constitute cause for suspension.

17 (3) TRANSITION OF EMPLOYEES.--When a newly elected or
18 appointed Sheriff assumes office, the new Sheriff shall
19 continue the employment of all currently employed permanent
20 personnel unless cause for dismissal, as provided herein,
21 exists. However, the incoming Sheriff shall have the option of
22 maintaining the current personnel assigned to the positions of
23 Administrative Assistant, Chief Deputy, Legal Advisor, and
24 Director. If the incoming Sheriff fills the above positions
25 with new personnel, the current occupants of those positions
26 shall be reduced to the rank of Captain, which rank shall be
27 permanent unless later reduced by disciplinary demotion, and
28 their salaries may be reduced accordingly. If the incoming
29 Sheriff fills the Administrative Assistant position with a new
30 employee, the current occupant of the position shall be
31 transferred to another position for which the employee is

1 qualified within the Office of the Sheriff. Actions taken
2 pursuant to this subsection affecting the Chief Deputy, Legal
3 Advisor, Director and Administrative Assistant positions shall
4 not be appealable under Section 2.

5 (4) ADMINISTRATION.--The Sheriff shall have the
6 authority to adopt such rules and regulations as are necessary
7 for the implementation and administration of this act;
8 however, nothing in this act shall be construed as affecting
9 the budget-making powers of the Board of County Commissioners
10 of Alachua County.

11 Section 2. Career Service Appeals Boards; creation;
12 membership; duties.--

13 (1) FUNCTION OF BOARDS.--Ad hoc Career Service Appeals
14 Boards shall be appointed as provided herein for the purpose
15 of hearing appeals of permanent employees arising from
16 personnel actions brought under Office rules or policies which
17 result in dismissal, suspension, demotion, or reduction in
18 pay; provided that reprimands, oral or written, and
19 suspensions of two (2) working days or less shall not be
20 appealable to a Board; provided, however, that no more than
21 one such action of suspension may occur within 1 calendar year
22 without the right to appeal. Any such Board may also provide
23 assistance and advice to the Sheriff in matters concerning the
24 disciplinary actions, and may take any other action authorized
25 by the Sheriff.

26 (2) MEMBERSHIP OF BOARDS.--When needed upon the call
27 of the Sheriff, or upon the filing of an appeal, an ad hoc
28 Career Service Appeals Board shall be appointed. The
29 membership of each such Board shall consist of five law
30 enforcement officers who are assigned within Alachua County.
31 Two members shall be selected by the Sheriff, two members

1 shall be selected by the employee filing the appeal, and the
2 fifth member, who shall serve as Chairman of the Board, shall
3 be selected by the four members, with the concurrence of the
4 Sheriff and the employee requesting the hearing. The ranking
5 officer in charge of personnel shall serve as an ex officio
6 member of the Board, but shall have no vote. Any person shall
7 have the right to decline to serve as a member of a Board, and
8 persons selected to serve on a Board shall serve without
9 additional compensation or overtime compensation with respect
10 to such service; however, such service shall be considered to
11 be a regular work day for those persons serving. Once selected
12 to a Board, the members thereof shall serve until final action
13 is taken by the Board with respect to the purpose for which
14 the Board was selected, at which time the Board shall be
15 dissolved.

16 (3) PROCEDURE WITH RESPECT TO APPEALS.--

17 (a) An appeal of an action specified in subsection (1)
18 shall be made to the Sheriff in writing, and must be received
19 by the Sheriff no later than 15 working days after the
20 employee is notified of the action on which the appeal is
21 based.

22 (b) A Career Service Appeals Board shall be selected
23 and must meet for purposes of hearing the appeal no later than
24 30 working days after receipt of an appeal by the Sheriff.

25 (c) During any hearing, the employee filing the appeal
26 shall have the right to be heard publicly, to be represented
27 by a person of his choice, and to present any evidential facts
28 in his behalf, and during such hearings the technical rules of
29 evidence shall not apply. The Board shall, in the conduct of
30 such hearings, have the power to administer oaths, issue
31 subpoenas, compel the attendance of witnesses, and require the

1 production of books, records, accounts, papers, documents, and
2 testimony. In case of disobedience of any person to comply
3 with an order of the Board or a subpoena issued by the Board,
4 or upon the refusal of a witness to testify on any matter
5 regarding which he may be lawfully interrogated, a County
6 Judge of the county in which a person resides, upon the
7 application of a member of the Board, shall compel obedience
8 by proceeding as for contempt. Each witness who appears in
9 obedience to a subpoena before the Board shall receive
10 compensation for attendance fees and mileage as provided for
11 witnesses in civil cases in the courts of this state. Such
12 payment shall be made by the party calling the witness; except
13 that with respect to any witnesses called by the Board,
14 payments shall be made by the Sheriff upon presentation of
15 proper vouchers and approval by three members of the Board.

16 (d) A Board shall by majority vote dispose of the
17 appeal for which it was appointed by making findings of fact
18 and issuing a written decision. Such decision shall either
19 sustain or not sustain the action being appealed. If an action
20 by the Sheriff is not sustained by a Board, the Board shall
21 order such remedial action as is appropriate, which may
22 include reinstatement with back pay, and may modify any
23 personnel action which was the subject of the appeal. No Board
24 shall have the authority to impose on any employee any penalty
25 which is more harsh than that which formed the basis of the
26 appeal.

27 (e) The decision of the Board shall be final and
28 binding on the employee and the Sheriff.

29 Section 3. Complaints against employees; procedure;
30 Complaint Review Board.--

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1 (1) COMPLAINTS AGAINST EMPLOYEES.--A complaint receipt
2 and processing procedure shall be established in order to
3 provide adequately for the prompt receipt, investigation, and
4 disposition of complaints against employees of the Office of
5 the Alachua County Sheriff.

6 (2) PROCEDURE WITH RESPECT TO COMPLAINTS.--

7 (a) Any employee of the Sheriff is authorized to
8 receive a complaint against any other employee of the Sheriff.
9 All complaints shall be reduced to writing and shall be
10 resolved as provided herein;

11 1. If a complaint is received by an employee during
12 normal working hours, the complaint shall be referred to the
13 appropriate Division Commander unless the receiving employee
14 is able to resolve the complaint, in which case the complaint
15 and resolution shall be reported in writing to the Division
16 Commander. If the complainant wishes to see the Sheriff, he
17 shall be accommodated.

18 2. If a complaint is received after normal working
19 hours, it shall be referred to the Watch Commander unless the
20 receiving employee is able to resolve the complaint, in which
21 case the complaint and resolution shall be reported in writing
22 to the Watch Commander. The Watch Commander, in his
23 discretion, shall conduct an investigation to determine if
24 immediate action is needed to preserve the integrity of the
25 Office of the Sheriff. If immediate action is not required,
26 the complaint shall be referred to the appropriate Division
27 Commander at the beginning of the next working day, or sooner
28 if required.

29 (b) All complaints may ~~shall~~ be reviewed by the
30 Sheriff. If the Sheriff has reason to believe that the

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1 complaint is well founded, he shall review the complaint with
2 the employee's appropriate chain of command.

3 (c) If the Sheriff finds the complaint to be
4 unfounded, a written report shall be filed for information
5 only, and a copy of the report shall be given to the employee.

6 (d) If the Sheriff finds that a complaint is
7 well-founded and that a violation has occurred, the Sheriff
8 shall decide upon appropriate disciplinary action, and the
9 employee shall be notified of the proposed disciplinary action
10 as provided in Section 1.

11 (e) If a nonsworn employee is dissatisfied with the
12 decision of the Sheriff regarding disciplinary action
13 resulting from a complaint, he may appeal the action to a
14 Career Service Appeals Board.

15 (f) If an employee who is subject to the provisions of
16 s. 112.532, Florida Statutes, is dissatisfied with the decision
17 of the Sheriff regarding disciplinary action resulting from a
18 complaint, he may appeal the action to a Career Service
19 Appeals Board, or he may first request a Complaint Review
20 Board under the provisions of s. 112.532, Florida Statutes, as
21 provided in Section 4.

22 Section 4. Complaint Review Boards; membership;
23 procedure.--

24 (1) BOARDS, MEMBERSHIP.--If any employee who is
25 subject to the provisions of s. 112.532, Florida Statutes,
26 requests a Complaint Review Board as provided in Section 3,
27 the Sheriff shall so call. Such a Board shall be composed of
28 the following personnel, all of whom shall be law enforcement
29 officers as defined by the Criminal Justice Standards and
30 Training Commission, and who may be selected from any state,
31 county, or municipal agency within Alachua County.

1 (a) Two members selected by the Sheriff, not from the
2 employee's chain of command;

3 (b) Two members selected by the employee; and

4 (c) A fifth member mutually selected by the other four
5 members, with the concurrence of the Sheriff and the employee
6 requesting the hearing, provided that the fifth member shall
7 serve as chairman of the Board and may be selected from the
8 employee's chain of command, with the concurrence of the
9 Sheriff and the employee requesting the hearing. The fifth
10 member is subject to a veto by the Sheriff or the employee
11 requesting the hearing.

12 (d) The ranking officer in charge of personnel shall
13 serve as ex officio member of the Board, but shall have no
14 vote.

15 (2) PROCEDURE WITH RESPECT TO COMPLAINTS.--

16 (a) A Complaint Review Board shall hear all the facts
17 contained in the accusation against the employee. The accused
18 shall be present during the presentation of all allegations,
19 witnesses, and evidence, and shall have the right to question
20 the accuser and all witnesses and to present any witnesses in
21 his own behalf. The Board shall also have the right to
22 question the accuser and all witnesses.

23 (b) A Complaint Review Board, based upon its
24 investigations and deliberations, shall determine by majority
25 vote whether the complaint is:

26 1. "Unfounded," if the complaint is conclusively
27 proved to be unfounded;

28 2. "Not Sustained," if the evidence is insufficient to
29 clearly prove or disprove the allegation;

30 3. "Sustained," if there is sufficient evidence to
31 clearly prove the complaint; or

1 4. That the accused is "exonerated" if the acts which
2 were the basis of the complaint occurred, but were justified,
3 proper, and lawful.

4 (c) If a Board finds that an accused is "exonerated,"
5 or that a complaint is "unfounded" or "not sustained," it
6 shall forward written notice thereof to the Sheriff and to the
7 employee within 24 hours after the decision is reached.

8 (d)1. If a Board finds that a complaint is "sustained,"
9 it shall submit to the Sheriff and to the employee, within 24
10 hours after reaching the decision, written findings stating
11 the law, rule, regulation, or policy violated, as well as any
12 recommendations regarding disciplinary action to be taken
13 against the accused.

14 2. The Sheriff, after notification of a finding of
15 "sustained," shall consult with the employee's chain of
16 command to review the findings and recommendations of the
17 Board, and the Sheriff may take such disciplinary action as he
18 deems appropriate.

19 3. The decision of the Sheriff with respect to the
20 findings of a Board and resulting disciplinary action may be
21 appealed to a Career Service Appeals Board pursuant to Section
22 2. If such an appeal is taken, no findings or recommendation
23 by the Complaint Review Board with respect to the case shall
24 be considered by the Career Service Appeals Board in its
25 proceedings.

26 Section 5. All commissioned and noncommissioned
27 persons in the employ of the Office of the Sheriff of Alachua
28 County on the effective date of this act who have served for a
29 period of 1 calendar year or more as of such date shall be
30 permanent employees subject to the provisions of this act. All
31 other employees shall become permanent employees subject to

1 the provisions of this act upon reaching their 1 calendar year
2 service anniversary date.

3 Section 6. All full-time deputy sheriffs employed by
4 Alachua County shall be deemed public employees and shall
5 enjoy all rights granted public employees by law, including
6 the protection afforded by part VI of chapter 112, Florida
7 Statutes, and the right to engage in collective bargaining as
8 provided for in part II of chapter 447, Florida Statutes.

9 Section 7. This act shall take effect upon becoming a
10 law.

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