

Amendment No. 1 (for drafter's use only)

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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The Committee on Community Affairs offered the following:

Amendment (with title amendment)

Remove from the bill: Everything after the enacting clause
and insert in lieu thereof:

Section 1. This act constitutes the codification of chapter 89-516, Laws of Florida, relating to the Osceola County Sheriff's Office. It is the intent of the Legislature in enacting this law to provide a single, comprehensive special act, including current legislative authority and any additional authority granted by this act.

Section 2. Chapter 89-516, Laws of Florida is codified and repealed as provided by this act.

Section 3. Members of the Osceola County Sheriff's Office; applicability of the act; career services of agency members; transition; administration.--

(1) Applicability.--The provisions of this act shall apply to all appointed deputy sheriffs and nonappointed members of the Osceola County Sheriff's Office. The provisions of this act shall not apply to the sheriff; nor to

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1 those above the rank of lieutenant; nor to special deputy
2 sheriffs appointed pursuant to s. 30.09(4), Florida Statutes,
3 members of the sheriff's reserve, auxiliary, posse units,
4 volunteers, task force members, and individuals appointed as
5 part-time deputy sheriffs, as defined by the Criminal Justice
6 Standards and Training Commission. As used in this act, the
7 terms "member," "personnel," "employee," "employ," and
8 "employment" shall refer to all persons, whether employed or
9 appointed, to whom the act applies. It is not, however, the
10 intent of this act to grant the right of collective bargaining
11 to members of the Osceola County Sheriff's Office who do not
12 otherwise have that right pursuant to law.

13 (2) Career Service positions.--

14 (a) The following Career Service positions are
15 established and recognized:

- 16 1. Level 4 lieutenant.
17 2. Level 3 sergeant.
18 3. Level 2 deputy sheriff.
19 4. Level 1 nonappointed.

20 (b) Promotions above level 1 shall be made by
21 content-valid examinations according to the agency's
22 promotional system. All promotions to the rank of sergeant
23 and lieutenant made after the effective date of this act must
24 be as a result of said competitive examinations.

25 (3) Career Service status.--

26 (a) After a member of the Sheriff's Office, to whom
27 the provisions of this act apply, has served for a period of
28 one (1) calendar year, such member shall have attained Career
29 Service status, unless the member is placed on extended
30 probation for just cause.

31 (b) Effective upon this act becoming a law, all

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1 current nonprobationary members of the Sheriff's Office will
2 be granted Career Service status at the rank which they
3 currently hold, provided that said member currently holds a
4 Career Service rank.

5 (c) If a member is separated but later rejoins the
6 Sheriff's Office, said member shall be required to complete
7 one (1) further calendar year of service before being granted
8 the right of appeal provided in section 3.

9 (d) Any member who is required to serve a probationary
10 period attendant to a promotion shall retain Career Service
11 status with the Sheriff, but may be demoted to his/her prior
12 rank during such probationary period without the right of
13 appeal as provided in section 3.

14 (e) A member demoted to a Career Service rank from a
15 non-Career Service rank shall complete a one (1) year
16 probationary period in the Career Service rank before being
17 eligible to protection offered with Career Services status.

18 (f) Promotions or demotions of members or creation of
19 rank to circumvent the intent of this act shall be held as
20 invalid and shall not affect the Career Service status of any
21 member affected by such invalid action.

22 (4) Transition of Career Service members.--

23 (a) When a newly elected or appointed sheriff assumes
24 office, the new sheriff shall continue the status of current
25 Career Service personnel unless cause for dismissal or
26 demotion exists.

27 (b) Cause shall be misfeasance, nonfeasance, or
28 malfeasance of office.

29 (c) Said Career Service members shall retain their
30 Career Service ranks up to and including the rank of
31 lieutenant.

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1 (5) Administration.--The sheriff has and shall
2 continue to have the authority to adopt such rules,
3 regulations, and procedures as are necessary for the
4 implementation and administration of this act, including, but
5 not limited to, appeal hearing proceedings. Nothing in this
6 act shall be construed as affecting the budgetmaking powers of
7 the Board of County Commissioners of Osceola County.

8 Section 4. Complaints against members; standards of
9 conduct; discipline; discipline appeals.--

10 (1) Standards of conduct and complaint procedure.--The
11 sheriff shall establish general rules and standards of conduct
12 for all personnel and a complaint receipt and processing
13 procedure in order to adequately provide for the prompt
14 receipt, investigation, and disposition of complaints against
15 personnel of the Sheriff of Osceola County.

16 (2) Discipline procedure.--A discipline procedure
17 shall be established which contains provisions for factual
18 review of each disciplinary action by the sheriff's director
19 of personnel, or other person so designated by the sheriff,
20 and an opportunity for the accused to respond to the charges.
21 A decision by the disciplining authority to impose a
22 disciplinary action shall result in the completion of a Notice
23 of Disciplinary Action form by the disciplining authority.

24 (3) Discipline appeal procedure.--

25 (a) An appeal of a Notice of Disciplinary Action must
26 be made in accordance with the sheriff's disciplinary
27 procedure and shall result in a hearing by a departmental
28 Disciplinary Appeal Board as specified in said procedure. The
29 sheriff shall appoint the chairperson and the board shall
30 serve as specified in the discipline procedure.

31 (b) Following the hearing the board shall report to

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1 the sheriff via the director of personnel, or other person so
2 designated by the sheriff, specifying whether the appeal is
3 with or without merit.

4 (c) The sheriff shall render a decision in writing
5 that shall be final.

6 Section 5. Career Service Board; creation; membership
7 duties.--

8 (1) Function of the board.--A Career Service Appeals
9 Board shall be appointed herein for the purposes of hearing
10 appeals of Career Service members arising from disciplinary
11 actions brought under the sheriff's rules, procedures, or
12 policies which result in dismissal, suspension, demotion, or
13 reduction in pay, provided that oral or written reprimand,
14 probation, and suspension from work for three (3) work days or
15 less as a result of a single investigation shall not be
16 appealable to the board.

17 (2) Membership of the Career Service Board.--The
18 Career Service Board shall consist of five (5) members, none
19 of whom shall have been involved in the original event which
20 resulted in the disciplinary process that is the subject of
21 the appeal, none of whom are related to the appellant, none of
22 whom have been terminated from a law enforcement agency within
23 Osceola County due to a disciplinary action, none of whom have
24 any ongoing litigation against the Osceola Sheriff's Office,
25 and none of whom are on probation or have received discipline
26 within the last year. A method of selection and terms of
27 office are as follows:

28 (a) The sheriff shall appoint two full-time law
29 enforcement officers from an agency within Osceola County to
30 serve on the board only with regard to the appellant's
31 particular appeal.

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1 (b) The appellant shall appoint two full-time law
2 enforcement officers from an agency within Osceola County to
3 serve on the board only with regard to the appellant's
4 particular appeal.

5 (c) The four members of the board, having been
6 selected as per paragraphs (a) and (b) shall between them
7 select a full-time law enforcement officer employed at the
8 Osceola County Sheriff's Office to serve as the fifth member
9 and chairperson of the board. This chairperson/member shall
10 serve only with regard to the appellant's particular appeal.

11 (d) In the event that either the sheriff or the
12 appellant's appointees to the board do not qualify as per
13 section 3., paragraph (2), an alternate name shall be
14 submitted to the career service administrator by the
15 applicable party within three (3) working days of notification
16 of the disqualification.

17 (e) The appeal board will be declared at an impasse by
18 the administrator if the four members fail to agree on a fifth
19 member/chairperson. After declaring an impasse, the
20 administrator shall notify the sheriff or his/her designated
21 representative and the appellant. To break the impasse, the
22 administrator may utilize the following options:

23 1. The sheriff and/or appellant may choose to appoint
24 new board members or retain the present appointees.

25 2. If neither party wishes to replace their
26 appointees, or if new appointees still result in an impasse,
27 the administrator shall contact a circuit or county judge and
28 request the court appoint a fifth member to serve as a
29 chairperson from a current roster of law enforcement officers
30 employed on a full-time basis at the Osceola Sheriff's Office.

31 (f) All five members, as provided for above, shall

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1 constitute a quorum.

2 (g) Seated board members may not be replaced or
3 substituted without advanced approval of the entire remaining
4 board.

5 (h) The sheriff shall select a member of the Osceola
6 County Sheriff's Office to serve as the administrator of the
7 Career Service Board. This administrator shall have no voting
8 right as to the actions of the board and shall serve only to
9 assist the board in scheduling, recording, the calling of
10 witnesses, and other such administrative duties and shall be
11 responsible for advising the board of the board's
12 responsibilities under the provisions of this act.

13 Section 6. Career Service Board appeal procedure.--

14 (1) Timeliness.--A Career Service appeal of the final
15 decision of the sheriff on a disciplinary action as specified
16 in section 3 shall be made in writing to the administrator of
17 the Career Service Board. The Career Service appeal must be
18 received by the administrator no later than five (5) working
19 days after the disciplined individual is served with the
20 sheriff's final decision. Said appeal shall include the names
21 of the two members of the board selected by the appellant as
22 provided in section 3(2)(b). The Career Service Board shall
23 meet for purposes of hearing the appeal no later than thirty
24 (30) working days after the receipt of an appeal by the
25 administrator.

26 (2) Conduct of hearing.--

27 (a) During any Career Service hearing the member
28 filing the appeal shall have the right to be heard publicly,
29 to be represented by an individual of his/her choice, other
30 than an elected or appointed official of Osceola County or an
31 attorney licensed to practice law in the State of Florida, and

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1 to present any evidentiary facts in his/her behalf, however,
2 said facts shall be restricted to those presented during the
3 disciplinary procedure.

4 (b) During such hearings, the technical rules of
5 evidence shall not apply.

6 (c) The board shall, in the conduct of such hearings,
7 have the power to administer oaths, issue subpoenas, compel
8 the attendance of witnesses, and require the production of
9 books, records, accounts, papers, documents, and testimony.

10 (d) In the event of disobedience by any person to
11 comply with an order of the board or a subpoena issued by the
12 board, or upon refusal of a witness to testify on any matter
13 regarding which he/she may be lawfully interrogated, a Circuit
14 Judge of the Ninth Judicial Circuit, upon application of the
15 chairperson of the board, shall compel obedience by proceeding
16 as for contempt.

17 (e) Each witness who appears in obedience to a
18 subpoena before the board shall receive compensation for
19 attendance fees and mileage as provided witnesses in civil
20 cases in the courts of this state unless the witness is a law
21 enforcement officer appearing before the board during normal
22 duty hours. Such payments shall be made by the party calling
23 the witness; except that with respect to any witness called by
24 the board, payments shall be made by the sheriff upon
25 presentation of proper vouchers and approval of the
26 chairperson and administrator.

27 (f) The board shall have the power to enact, adopt,
28 and amend rules and regulations governing procedures before
29 the board.

30 (3) Board responsibilities and findings.--

31 (a) The board shall, by majority vote, dispose of the

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1 appeal by making findings of fact and issuing a written
2 decision to the sheriff and the appellant.

3 (b) Such decision shall either sustain or not sustain
4 the action being appealed.

5 (c) If an action by the sheriff is not sustained by
6 the board, the board shall offer such remedial action as is
7 appropriate, which may include reinstatement with or without
8 back pay and may modify any disciplinary action which was the
9 subject of the appeal.

10 (d) No board shall have the authority to impose on any
11 member any penalty which is more harsh than that which formed
12 the basis of the appeal.

13 (e) The decision of the board shall be final and
14 binding on the appellant and the sheriff.

15 Section 7. All persons to whom this act applies as
16 specified in section 1 who have served for a period of one (1)
17 calendar year or more as of the effective date of this act
18 shall be Career Service members subject to the provisions of
19 this act. All other members shall become Career Service
20 members subject to the provisions of this act upon reaching
21 their one (1) year service anniversary date.

22 Section 8. The provisions of this act shall be
23 severable and, if any of the provisions shall be
24 unconstitutional, the decision of the court shall not affect
25 the validity of the remaining provisions. It is hereby
26 declared to be the intent of the Legislature that this act
27 would have been adopted had such unconstitutional provision
28 not been included therein.

29 Section 9. This act repeals chapter 89-516, Laws of
30 Florida.

31 Section 10. This act shall take effect upon becoming a

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1 law.

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4 ===== T I T L E A M E N D M E N T =====

5 And the title is amended as follows:

6 On page 1, lines 2-14,

7 remove from the title of the bill: all of said lines

8

9 and insert in lieu thereof:

10 An act relating to Osceola County; providing
 11 Career Service status for certain members of
 12 the Osceola County Sheriff's Office; providing
 13 for codification of chapter 89-516, Laws of
 14 Florida; specifying rights of members; providing
 15 promotional procedures and Career Service
 16 positions; providing for the appointment of a
 17 Career Service board to hear appeals and
 18 procedures with respect thereto; specifying a
 19 disciplinary policy and providing procedures of
 20 appeal and complaint handling; repealing
 21 chapter 89-516, Laws of Florida; providing an
 22 effective date.

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