

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

| | <u>Senate</u> | CHAMBER ACTION | <u>House</u> |
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ORIGINAL STAMP BELOW

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The Committee on Governmental Operations offered the following:

Substitute Amendment for Amendment (200433) (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 Chapter 89-516, Laws of Florida, is codified and repealed as provided by this act.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. The Osceola County Sheriff's Office Civil Service Act is re-created and reenacted to read:

Section 1. Members of the Osceola County Sheriff's Office; applicability of the act; career services of agency members; transition; administration.--

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

18 (2) Career Service positions.--

19 (a) The following Career Service positions are
20 established and recognized:

- 21 1. Level 4 lieutenant.
- 22 2. Level 3 sergeant.
- 23 3. Level 2 deputy sheriff.
- 24 4. Level 1 nonappointed.

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

30 (3) Career Service status.--

31 (a) After a member of the Sheriff's Office, to whom

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1 the provisions of this act apply, has served for a period of
2 one (1) calendar year, such member shall have attained Career
3 Service status, unless the member is placed on extended
4 probation for just cause.

5 (b) Effective upon this act becoming a law, all
6 current nonprobationary members of the Sheriff's Office will
7 be granted Career Service status at the rank which they
8 currently hold, provided that said member currently holds a
9 Career Service rank.

10 (c) If a member is separated but later rejoins the
11 Sheriff's Office, said member shall be required to complete
12 one (1) further calendar year of service before being granted
13 the right of appeal provided in section 4.

14 (d) Any member who is required to serve a probationary
15 period attendant to a promotion shall retain Career Service
16 status with the Sheriff, but may be demoted to his/her prior
17 rank during such probationary period without the right of
18 appeal as provided in section 4.

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

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

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

28 (a) When a newly elected or appointed sheriff assumes
29 office, the new sheriff shall continue the status of current
30 Career Service personnel unless cause for dismissal or
31 demotion exists.

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1 (b) Cause shall be misfeasance, nonfeasance, or
2 malfeasance of office.

3 (c) Said Career Service members shall retain their
4 Career Service ranks up to and including the rank of
5 lieutenant.

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

13 Section 2. Complaints against members; standards of
14 conduct; discipline; discipline appeals.--

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

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

29 (3) Discipline appeal procedure.--

30 (a) An appeal of a Notice of Disciplinary Action must
31 be made in accordance with the sheriff's disciplinary

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1 procedure and shall result in a hearing by a departmental
2 Disciplinary Appeal Board as specified in said procedure. The
3 sheriff shall appoint the chairperson and the board shall
4 serve as specified in the discipline procedure.

5 (b) Following the hearing, the board shall report to
6 the sheriff via the director of personnel, or other person so
7 designated by the sheriff, specifying whether the appeal is
8 with or without merit.

9 (c) The sheriff shall render a decision in writing
10 that shall be final.

11 Section 3. Career Service Board; creation; membership
12 duties.--

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

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

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1 office are as follows:

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

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

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

16 (d) In the event that either the sheriff or the
17 appellant's appointees to the board do not qualify as per
18 subsection (2), an alternate name shall be submitted to the
19 career service administrator by the applicable party within
20 three (3) working days of notification of the
21 disqualification.

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

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

30 2. If neither party wishes to replace their
31 appointees, or if new appointees still result in an impasse,

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1 the administrator shall contact a circuit or county judge and
2 request the court appoint a fifth member to serve as a
3 chairperson from a current roster of law enforcement officers
4 employed on a full-time basis at the Osceola Sheriff's Office.

5 (f) All five members, as provided for above, shall
6 constitute a quorum.

7 (g) Seated board members may not be replaced or
8 substituted without advanced approval of the entire remaining
9 board.

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

18 Section 4. Career Service Board appeal procedure.--

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

31 (2) Conduct of hearing.--

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1 (a) During any Career Service hearing the member
2 filing the appeal shall have the right to be heard publicly,
3 to be represented by an individual of his/her choice, other
4 than an elected or appointed official of Osceola County or an
5 attorney licensed to practice law in the State of Florida, and
6 to present any evidentiary facts in his/her behalf, however,
7 said facts shall be restricted to those presented during the
8 disciplinary procedure.

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

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

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

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

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1 (f) The board shall have the power to enact, adopt,
2 and amend rules and regulations governing procedures before
3 the board.

4 (3) Board responsibilities and findings.--

5 (a) The board shall, by majority vote, dispose of the
6 appeal by making findings of fact and issuing a written
7 decision to the sheriff and the appellant.

8 (b) Such decision shall either sustain or not sustain
9 the action being appealed.

10 (c) If an action by the sheriff is not sustained by
11 the board, the board shall offer such remedial action as is
12 appropriate, which may include reinstatement with or without
13 back pay and may modify any disciplinary action which was the
14 subject of the appeal.

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

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

20 Section 5. All persons to whom this act applies as
21 specified in section 1 who have served for a period of one (1)
22 calendar year or more as of the effective date of this act
23 shall be Career Service members subject to the provisions of
24 this act. All other members shall become Career Service
25 members subject to the provisions of this act upon reaching
26 their one (1) year service anniversary date.

27 Section 4. The provisions of this act shall be
28 severable and, if any of the provisions shall be
29 unconstitutional, the decision of the court shall not affect
30 the validity of the remaining provisions. It is hereby
31 declared to be the intent of the Legislature that this act

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1 would have been adopted had such unconstitutional provision
2 not been included therein.

3 Section 5. Chapter 89-516, Laws of Florida, is
4 repealed.

5 Section 6. This act shall take effect upon becoming a
6 law.

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

10 And the title is amended as follows:

11 On page 1, lines 2-14,
12 remove from the title of the bill: all of said lines

13
14 and insert in lieu thereof:

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

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