

By Senator Bronson

18-623-00

See HB

1                           A bill to be entitled  
2           An act relating to Osceola County; amending  
3           chapter 89-516, Laws of Florida; providing for  
4           authority of sheriff over appeal hearing  
5           proceedings; revising requirements for  
6           membership of Career Service Board; providing  
7           for alternative appointee to the board;  
8           providing rules regarding an impasse on  
9           appointment of fifth board member; requiring  
10          advance approval of entire board to replace or  
11          substitute seated board member; increasing  
12          number of days for board to hear an appeal;  
13          revising compensation for certain witnesses  
14          before the board; providing an effective date.

15  
16 Be It Enacted by the Legislature of the State of Florida:

17  
18           Section 1. Section 1 of chapter 89-516, Laws of  
19 Florida, is amended to read:

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

23           (1) Applicability.--The provisions of this act shall  
24 apply to all appointed deputy sheriffs and nonappointed  
25 members of the Osceola County Sheriff's Office. The  
26 provisions of this act shall not apply to the sheriff; nor to  
27 those above the rank of lieutenant; nor to special deputy  
28 sheriffs appointed pursuant to s. 30.09(4), Florida Statutes,  
29 members of the sheriff's reserve, auxiliary, posse units,  
30 volunteers, task force members, and individuals appointed as  
31 part-time deputy sheriffs, as defined by the Criminal Justice

1 Standards and Training Commission. As used in this act, the  
2 terms "member," "personnel," "employee," "employ," and  
3 "employment" shall refer to all persons, whether employed or  
4 appointed, to whom the act applies. It is not, however, the  
5 intent of this act to grant the right of collective bargaining  
6 to members of the Osceola County Sheriff's Office who do not  
7 otherwise have that right pursuant to law.

8 (2) Career Service positions.--

9 (a) The following Career Service positions are  
10 established and recognized:

- 11 1. Level 4 lieutenant.
- 12 2. Level 3 sergeant.
- 13 3. Level 2 deputy sheriff.
- 14 4. Level 1 nonappointed.

15 (b) Promotions above level 1 shall be made by  
16 content-valid examinations according to the agency's  
17 promotional system. All promotions to the rank of sergeant  
18 and lieutenant made after the effective date of this act must  
19 be as a result of the ~~said~~ competitive examinations.

20 (3) Career Service status.--

21 (a) After a member of the Sheriff's Office, to whom  
22 the provisions of this act apply, has served for a period of 1  
23 ~~one~~ (1) calendar year, such member shall have attained Career  
24 Service status, unless the member is placed on extended  
25 probation for just cause.

26 (b) Effective upon this act becoming a law, all  
27 current nonprobationary members of the Sheriff's Office will  
28 be granted Career Service status at the rank which they  
29 currently hold, provided that said member currently holds a  
30 Career Service rank.

31

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

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

10 (e) A member demoted to a Career Service rank from a  
11 non-Career Service rank shall complete a 1-year ~~one (1)~~ year  
12 probationary period in the Career Service rank before being  
13 eligible to protection offered with Career Services status.

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

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

19 (a) When a newly elected or appointed sheriff assumes  
20 office, the new sheriff shall continue the status of current  
21 Career Service personnel unless cause for dismissal or  
22 demotion exists.

23 (b) Cause shall be misfeasance, nonfeasance, or  
24 malfeasance of office.

25 (c) Said Career Service members shall retain their  
26 Career Service ranks up to and including the rank of  
27 lieutenant.

28 (5) Administration.--The sheriff has and shall  
29 continue to have the authority to adopt such rules,  
30 regulations, and procedures as are necessary for the  
31 implementation and administration of this act, including, but

1 not limited to, appeal hearing proceedings. ~~however,~~ Nothing  
2 in this act shall be construed as affecting the budgetmaking  
3 powers of the Board of County Commissioners of Osceola County.

4 Section 2. Section 3 of chapter 89-516, Laws of  
5 Florida, is amended to read:

6 Section 3. 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 3 ~~three (3)~~ work days  
15 or 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. ~~and a board administrator whose~~ A method  
27 of selection and terms of 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.

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 ~~from an agency within~~ Osceola County Sheriff's Office to serve  
9 as the fifth member and chairperson of the board. This  
10 chairperson/member shall serve only with regard to the  
11 appellant's particular appeal.

12           (d) If either the sheriff or the appellant's  
13 appointees to the board do not qualify as per section 3.,  
14 paragraph (2), an alternative name shall be submitted to the  
15 career service administrator by the applicable party within 3  
16 working days after notification of the disqualification.~~For~~  
17 ~~the purpose of this appeal board, both appointees from~~  
18 ~~paragraph (a), both appointees from paragraph (b), and the~~  
19 ~~chairperson shall constitute a quorum.~~

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

26           1. The sheriff or appellant may choose to appoint new  
27 board members or retain the present appointees.

28           2. If neither party wishes to replace his or her  
29 appointees, or if new appointees still result in an impasse,  
30 the administrator shall contact a circuit or county court  
31 judge and request the court appoint a fifth member to serve as

1 a chairperson from a current roster of law enforcement  
2 officers employed on a full-time basis at the Osceola  
3 Sheriff's Office.

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

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

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

17 Section 3. Section 4 of chapter 89-516, Laws of  
18 Florida, is amended to read:

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

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

1           (2) Conduct of hearing.--

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

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

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

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

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

1 presentation of proper vouchers and approval of the  
2 chairperson and administrator.

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

6 (3) Board responsibilities and findings.--

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

10 (b) Such decision shall either sustain or not sustain  
11 the action being appealed.

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

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

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

22 Section 4. This act shall take effect upon becoming a  
23 law.

24  
25  
26  
27  
28  
29  
30  
31