

By Senator Mitchell

4-555-01

See HB

1 A bill to be entitled
2 An act relating to Citrus County; specifying
3 rights of certain employees and appointees of
4 the Citrus County Sheriff; providing
5 definitions; providing proceedings and
6 provisions with respect to dismissal; providing
7 for transition between administrations;
8 providing for career appeals boards; providing
9 for appeals procedures; providing an effective
10 date.

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

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14 Section 1. Employees and appointees of Citrus County
15 Sheriff; applicability of act; career status and
16 administration.--

17 (1) APPLICABILITY.--

18 (a) The provisions of this act shall apply to all
19 certified and noncertified persons appointed or employed by
20 the Citrus County Sheriff, with the following exceptions:

21 1. Commanders or, in the event of a title change, the
22 highest ranked certified law enforcement officer or officers
23 reporting directly to the sheriff.

24 2. Special deputy sheriffs appointed under section
25 30.09(4), Florida Statutes.

26 3. Members of a sheriff's posse or reserve unit.

27 4. Part-time appointees and employees, whether
28 salaried or hourly paid, who are scheduled to work less than
29 24 hours per week.

30 5. Independent contractors, temporary employees, or
31 contract employees.

1 6. Appointees and employees employed pursuant to a
2 grant, the continued existence or funding of which is subject
3 to the expiration or withdrawal of the grant provider.

4 7. For the purpose of the act, "appointee" and
5 "employee" are synonymous, and any derivative of "employ"
6 refers to the persons to whom this act applies.

7 (b) This act does not apply to an otherwise covered
8 person who claims that a dismissal was for lawful off-duty
9 political activity or for discriminatory reasons.

10 (c) This act does not change the independence of the
11 sheriff as set forth in section 30.53, Florida Statutes, which
12 reserves the final authority and responsibility of dismissing
13 employees and appointees solely to the sheriff's discretion.

14 (d) This act does not grant the right of collective
15 bargaining to the sheriff's employees who do not otherwise
16 have that right pursuant to law.

17 (e) This act does not cover the nondisciplinary
18 dismissal of employees or appointees. Such nondisciplinary
19 dismissals include those arising from a reduction in force,
20 layoff, and partial or total abolition or cessation of a
21 program, service, operation, department, subdivision, or
22 grant-funded position, at the discretion of the sheriff.

23 (2) DEFINITIONS.--As used in this act:

24 (a) "Appointee" means a person selected by the sheriff
25 to serve in the position of deputy sheriff or correctional
26 officer who is a certified officer within the meaning of
27 chapter 943, Florida Statutes.

28 (b) "Employee" means any person employed by the
29 sheriff for a position which does not require certification
30 under chapter 943, Florida Statutes.

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1 (c) "Dismissal" means the discharge or withdrawal of
2 appointment by the sheriff or his or her designee of a person
3 employed or appointed to a position with the Office of the
4 Sheriff.

5 (d) "Initial probationary period" means 1 year of
6 conditional employment or appointment commencing on the
7 initial date of actual work and continuing for 12 months in a
8 regularly established position. This probationary period may
9 be extended at the discretion of the sheriff for a period
10 equal to any work time taken off during the 12-month period.
11 The initial 12-month probationary period may also be extended
12 at the discretion of the sheriff for an additional 6 months.

13 (e) "Career appeals board" means an ad hoc board
14 authorized under this act to hear disciplinary dismissal
15 appeals.

16 (f) "Reemployment" means the reappointment or
17 reemployment of a person who was previously an appointee or
18 employee of the Office of the Sheriff.

19 (3) CAREER STATUS.--

20 (a) After an employee or appointee of the sheriff to
21 whom the provisions of this act apply has completed the
22 initial or extended probationary period, the person shall have
23 attained career status in the Office of the Sheriff. If the
24 person is reemployed at a later date, he or she shall be
25 required to again complete the probationary period before
26 being granted the right of appeal provided in section 2.

27 (b) The sheriff may at any time dismiss an appointee
28 or employee who has not completed the initial or extended
29 probationary period without granting the right of appeal
30 provided in section 2.

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1 (c) Any person who has attained career status must be
2 provided with written notice of the reason or reasons for the
3 proposed dismissal. If, however, the sheriff perceives a
4 significant hazard in keeping the employee on the job, or when
5 delay could result in damage or injury, the employee may be
6 immediately dismissed without notice and reasons; however, the
7 employee must be provided with such notice and reasons within
8 2 calendar days after the date of dismissal, except when
9 circumstances surrounding the situation make notice within 2
10 days impracticable.

11 (d) An employee or appointee who has achieved career
12 status is entitled to appeal a disciplinary dismissal to a
13 career appeals board.

14 (4) TRANSITION.--When a newly elected or appointed
15 sheriff assumes office, all career status appointees and
16 employees shall remain employees of the new administration,
17 including bureau, division, and judicial services commanders
18 as defined in subparagraph (1)(a)1. In addition to the
19 commanders, those persons entitled to the rights of this
20 provision are those who have achieved career service status
21 and who, when the new sheriff assumes office, hold the rank of
22 captain or lieutenant or the positions of civilian division
23 director, public information officer, or sheriff's secretary.

24 (a) The new sheriff may reduce a commander, captain,
25 or judicial services commander only one rank below the rank
26 held on the day before the new sheriff assumes office.

27 (b) The new sheriff may reassign the civilian
28 directors, public information officers, and sheriff's
29 secretary to the next highest position classification within
30 the pay and classification system.

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1 (c) The reductions in rank and reassignments provided
2 for in paragraphs (a) and (b) shall remain in effect for no
3 more than 6 months, and thereafter the respective positions or
4 assignments shall be at the sheriff's discretion.

5 (d) The salary of a displaced officer or person shall
6 not be reduced below the maximum of the new pay grade which is
7 applicable to the officer's or person's new position as set
8 forth in the existing pay and classification guide or 6
9 percent of the person's former rate of pay or salary,
10 whichever is less.

11 (e) The commanders, directors, and other employees and
12 appointees set forth in paragraphs (a) and (b) shall retain
13 career service appeal rights applicable to their reduced rank
14 or reassigned position as set forth in this section.

15 (5) ADMINISTRATION.--The sheriff shall have the
16 authority to adopt such rules and regulations as are necessary
17 for the implementation and administration of this act;
18 however, nothing in this act shall be construed as affecting
19 the budget-making powers of the Board of County Commissioners
20 of Citrus County.

21 Section 2. Career appeals boards; creation;
22 membership; duties.--

23 (1) FUNCTION OF BOARDS.--Ad hoc career appeals boards
24 shall be appointed for the purpose of hearing appeals of
25 employees having career status arising from their disciplinary
26 dismissal. Any such board may also provide assistance and
27 advice to the sheriff in matters concerning disciplinary
28 dismissal and may take any other actions authorized by the
29 sheriff.

30 (a) A career appeals board shall be utilized to make a
31 nonbinding recommendation to the sheriff as to whether the

1 dismissal was for a violation of sheriff's office policy,
2 rule, regulation, procedure, or practice.

3 (b) An employee or appointee who is dismissed is not
4 granted the right of appeal if said person is charged with a
5 felony, misdemeanor, or major traffic infraction and enters a
6 plea of guilty or of nolo contendere, is adjudicated guilty,
7 or adjudication of guilt is withheld and the accused is placed
8 on probation or a pretrial intervention plan.

9 (2) MEMBERSHIP OF BOARD.--Upon the call of the
10 sheriff, or upon the filing of an appeal, an ad hoc career
11 appeals board shall be appointed. The membership of each board
12 shall consist of five appointees or employees of the Office of
13 the Sheriff. Two members shall be selected by the employee or
14 appointee filing the appeal, two members shall be selected by
15 the sheriff, and the fifth member, who shall serve as the
16 chair, shall be selected by the other four members. If these
17 four members are unable to agree upon the fifth member within
18 15 days after the filing of the appeal and after exercising
19 due diligence, they shall request the circuit court to appoint
20 the fifth member, who shall serve as chair. Any employee may
21 decline to serve as a member of the board.

22 (a) The chair shall have the authority to decide all
23 motions or preliminary matters which are raised prior to the
24 opening of the appeals hearing. Any such decision may be
25 renewed before the board.

26 (b) The hearing shall be conducted during the
27 sheriff's administrative office hours; therefore, employees
28 selected to serve on the board shall serve without additional
29 compensation. Once selected, the members of a board shall
30 serve until the board issues its recommendations to the
31 sheriff and, unless reconvened, the board shall be dissolved.

1 (c) The director in charge of personnel matters or the
2 director's designee shall serve as an ex officio member of the
3 board for the purpose of providing procedural guidance to the
4 board concerning the application of this act and any rules or
5 regulations of this act and any rules or regulations adopted
6 by the sheriff relating thereto, but such ex officio member
7 shall not have a vote.

8 (3) PROCEDURE WITH RESPECT TO APPEALS.--An employee or
9 appointee who has achieved career status may submit a written
10 request for a hearing to the sheriff or the sheriff's designee
11 within 7 calendar days after receiving a notice of dismissal
12 which shall be hand delivered or sent certified mail, return
13 receipt requested. The appeal must contain a brief statement
14 of the matters to be considered by the career appeals board
15 and the names of the employees selected to serve on the board.

16 (a) A career appeals board shall be selected and shall
17 meet for the purpose of hearing the appeal within 30 calendar
18 days after receipt of the notice of appeal. However, an
19 extension of time may be granted by the chair for good cause
20 or upon agreement of the parties.

21 (b) The person filing the appeal has the right to a
22 public hearing, to be represented by a person of his or her
23 choice, to present relevant evidence and argument, and to
24 cross-examine witnesses.

25 (c) The rules of evidence and civil procedure are not
26 applicable to hearings conducted under this act.

27 (d) The board in conducting such hearings shall have
28 the power to administer oaths, issue subpoenas, compel the
29 attendance of witnesses, and require the production of
30 documents. In case of the failure of any person to comply with
31 the order of the board or a subpoena issued by the board, or

1 upon the refusal of the witness to testify on any matter
2 regarding which he or she may be lawfully interrogated, a
3 county judge of the county in which the person resides, upon
4 application of the board, shall compel obedience by proceeding
5 as if it were contempt. Each witness who appears before the
6 board in obedience to a subpoena shall receive compensation
7 for attendance fees and mileage as provided for witnesses in
8 civil cases in the courts of this state. Such payment shall be
9 made by the party calling the witness, except that, with
10 respect to any witness called by the board, payment shall be
11 made by the sheriff upon presentation of proper vouchers.

12 (e) The board shall, by majority vote, dispose of the
13 appeal for which it was appointed by making a finding of fact
14 and issuing its written recommendations, including mitigating
15 circumstances, to the sheriff for consideration. The sheriff
16 shall retain the right of final determination, and no person
17 may be reinstated, with or without back pay or benefits,
18 without the concurrence of the sheriff.

19 (f) The board shall confine its deliberations to the
20 evidence presented at the hearing, and such deliberations are
21 exempt from the public meeting requirements of chapter 286,
22 Florida Statutes.

23 (g) The actions of the board and the sheriff shall be
24 exempt from the provisions of chapter 120, Florida Statutes.
25 The actions of the sheriff are executory and are not subject
26 to certiorari appeal.

27 (h) The provisions of this act shall be severable, and
28 if any provision shall be unconstitutional, the decision of
29 the court shall not affect the validity of the remaining
30 provisions.

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1 Section 3. This act shall take effect upon becoming a
2 law.
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