

By Representative Bucher

1 A bill to be entitled
2 An act relating to Palm Beach County; amending
3 chapter 93-367, Laws of Florida, as amended;
4 defining "career service employee" and
5 providing restrictions for reduction in rank of
6 certain employees; providing applicability;
7 specifying rights of such employees; revising
8 procedures for appeal of disciplinary actions
9 and complaints against employees of the
10 Sheriff; revising provisions for the
11 appointment of boards to hear appeals and
12 procedures with respect thereto; revising
13 provisions relating to monetary emoluments
14 based on performance; extending collective
15 bargaining status to deputy sheriffs; providing
16 an effective date.

17
18 Be It Enacted by the Legislature of the State of Florida:

19
20 Section 1. Section 1 of chapter 93-367, Laws of
21 Florida, as amended by chapter 99-437, Laws of Florida, is
22 amended to read:

23 Section 1. Employees of the Palm Beach County Sheriff;
24 applicability of act; permanent status of employees;
25 transition; administration.--

26 (1) CAREER SERVICE EMPLOYEES.--The term "career
27 service employee" as used in this act shall mean the following
28 personnel: deputy sheriffs of nonsupervisory rank who have
29 completed their probationary period; Law Enforcement and
30 Corrections Sergeants, Lieutenants, Captains, Majors,
31 Colonels, or Undersheriffs who have either been promoted

1 through the ranks from a nonsupervisory, nonmanagerial rank
2 and who have at least 5 years of full-time, sworn law
3 enforcement or sworn corrections service with the Office of
4 the Sheriff or who have at least 10 years of full-time, sworn
5 law enforcement or sworn corrections service with the Office
6 of the Sheriff, whether such time is continuous or not. During
7 any transition, the Undersheriff, Colonels, and Majors who are
8 career service employees may be reduced only to the rank of
9 Captain (sworn). Career service employees below the rank of
10 Major shall not be subject to dismissal or demotion without
11 just cause. The term "career service employee" as used in this
12 act shall also mean the following personnel: nonmanagerial,
13 non-sworn personnel who have completed their probationary
14 period and non-sworn supervisors and managers who have either
15 been promoted through the ranks from a nonsupervisory,
16 nonmanagerial position and have at least 5 years of full-time
17 service with the Office of the Sheriff, or who have at least
18 10 years of full-time service with the Office of the Sheriff,
19 whether such time is continuous or not. During any transition,
20 the non-sworn equivalents of Colonel or Major who are career
21 service employees may be reduced only to the non-sworn
22 equivalent of the rank of Captain.~~those employees hired at~~
23 ~~the entry level who have successfully completed their~~
24 ~~probationary period. Colonels, Majors, Directors, or their~~
25 ~~executive staff equivalents promoted through the ranks shall~~
26 ~~be considered career service employees, and during any~~
27 ~~transition may only be reduced to the rank of Captain or its~~
28 ~~civilian equivalent. Colonels, Majors, Directors, or their~~
29 ~~executive staff equivalents appointed by the Sheriff laterally~~
30 ~~must have completed 10 years of service in the appointed rank~~
31 ~~to be considered career service employees. The Undersheriff~~

1 ~~shall at no time be considered a career service employee.~~
2 Career service employees below the non-sworn equivalent of the
3 rank of Major ~~or its civilian equivalent~~ shall not be subject
4 to dismissal or demotion without just cause.

5 (2) APPLICABILITY.--

6 (a) The provisions of this act shall apply to all
7 certified and noncertified persons in the employ of the
8 Sheriff of Palm Beach County, including deputy sheriffs. The
9 provisions of this act do not apply to the Sheriff,
10 ~~Undersheriff,~~ special deputies appointed pursuant to s.
11 30.09(4), Florida Statutes, members of the Sheriff's posse,
12 reserve units, or persons appointed as part-time deputy
13 sheriffs, as defined by the Criminal Justice Standards and
14 Training Commission, unless any such person is also employed
15 full time by the Office of the Sheriff. As used in this act,
16 the terms "employee," "employ," and "employment" refer to all
17 persons, whether employed or appointed, to whom the act
18 applies.

19 (b) Nothing in this act shall be construed as
20 affecting the budget-making authority and power of the Palm
21 Beach County Board of County Commissioners.

22 (c) Approved and authorized reductions in staff shall
23 be accomplished on a seniority basis within the Office of the
24 Sheriff.

25 (3) CAREER SERVICE STATUS; CAUSE FOR SUSPENSION OR
26 DISMISSAL.--

27 (a) When an employee of the Sheriff to whom the
28 provisions of this act apply has served in such employment for
29 a period of 1 calendar year from the date the employee first
30 enters the Sheriff's orientation program or the beginning of
31 field training, whichever comes first, such employee shall

1 have attained career service status in the Office of the
2 Sheriff; however, if an employee is placed on disciplinary
3 probation for a period of 6 months or more or is terminated
4 and rehired at a later date, the employee shall be required to
5 complete 1 calendar year of service from the date of the
6 disciplinary action before being granted the right to appeal
7 as provided in section 2. Any employee who is required to
8 serve a probationary period attendant to a promotion shall
9 retain permanent status in the Office of the Sheriff, but may
10 be returned to his prior rank during such probationary period
11 without the right of appeal as provided in section 2. For the
12 purpose of determining career service status as defined by the
13 provisions of this act, all time in the employment of the
14 Office of the Sheriff while in the police academy or other
15 comparable training for certification as a sworn officer or
16 deputy sheriff shall not be counted or considered in any
17 manner in determining whether the employee has attained 1
18 calendar year of minimum service for career service
19 protection.

20 (b) Any employee who has achieved career service
21 status in the Office of the Sheriff may only be suspended or
22 dismissed for cause, provided that, prior to such action, the
23 employee has been furnished written notice of the proposed
24 action and has been offered an opportunity to respond to the
25 reasons for the suspension or dismissal. In extraordinary
26 situations, however, such as when delay could result in damage
27 or injury, an employee may be suspended or dismissed
28 immediately and then provided notice thereof and reasons
29 therefor within 48 hours, or as soon as is practical if
30 circumstances surrounding such extraordinary situation makes
31 notice within 48 hours impractical. Cause for suspension or

1 dismissal includes, but is not limited to, negligence,
2 inefficiency, or inability to perform assigned duties,
3 insubordination, violation of provisions of law or office
4 rules, conduct unbecoming a public employee, misconduct, proof
5 of alcohol abuse, proof of abuse of prescription drugs, or
6 proof of use of illegal drugs. Cause for suspension or
7 dismissal also includes, but is not limited to, adjudication
8 of guilt by a court of competent jurisdiction, a plea of
9 guilty or of nolo contendere, or a verdict of guilty when
10 adjudication of guilt is withheld and the accused is placed on
11 probation, with respect to any felony, misdemeanor, or major
12 traffic infraction. The filing by a law enforcement agency of
13 felony, misdemeanor, or major traffic infraction charges
14 against an employee or an arrest of an employee for such
15 infractions constitutes cause for suspension.

16 (4) TRANSITION OF EMPLOYEES.--

17 (a) When a newly elected or appointed Sheriff assumes
18 office, the new Sheriff shall continue the employment of all
19 currently employed career service personnel unless cause for
20 dismissal, as provided herein, exists. The incoming Sheriff
21 may maintain the current staff personnel assigned to the
22 position of Undersheriff, Colonel, Major, Director, or their
23 executive staff equivalents. However, in the event that the
24 incoming Sheriff fills such positions with new personnel, the
25 current occupants of those positions who are career service
26 employees shall be reduced to no lower than the rank of
27 Captain, or its equivalent, which rank shall be permanent
28 unless later reduced by disciplinary demotion. Their salaries
29 may be reduced accordingly; however, any reduction in salary
30 shall represent the least financial impact to the career
31 service employee within the existing Captain or equivalent pay

1 scale. Actions taken pursuant to this subsection affecting the
2 Undersheriff, Colonels, Majors, Directors, or their executive
3 staff equivalents shall not be appealable under section 2.

4 (b) Dismissals or demotions pursuant to
5 across-the-board actions directed by the Palm Beach County
6 Board of County Commissioners, resulting from county fiscal
7 impacts, shall not be appealable under the provisions of
8 section 2.

9 (5) ADMINISTRATION.--The Sheriff shall have the full
10 authority to adopt such rules, regulations, and procedures
11 necessary for the administration and implementation of this
12 act. The rules, regulations, and procedures shall meet or
13 exceed approved Standards of Accreditation for Law Enforcement
14 Agencies.

15 Section 2. Section 2 of chapter 93-367, Laws of
16 Florida, as amended by chapter 98-517, Laws of Florida, is
17 amended to read:

18 Section 2. Hearing review boards; function;
19 membership; procedures.--

20 (1) FUNCTION OF BOARDS.--Ad hoc hearing review boards
21 shall be appointed as provided herein for the purpose of
22 hearing appeals of career service employees arising from
23 personnel actions brought under the rules, regulations, or
24 policies of the Office of the Sheriff which result in
25 dismissal, suspension, demotion, or reduction in pay. Lateral
26 transfers, shift changes, reprimands, oral or written, and
27 suspensions of 2 working days or less shall not be appealable
28 to the board; however, no more than one such action of
29 suspension may occur within 1 calendar year without the right
30 to appeal. The scope of the review board is limited to
31 disciplinary proceedings and termination actions. Review

1 boards have the authority to conduct hearings and make
2 findings of fact and recommendations to the Sheriff. The
3 Sheriff shall ~~not~~ be bound by the findings or recommendations
4 of the majority of the board. There shall be no further
5 appeals such boards, but will consider them in making his
6 final decision. Except in the case of termination, the
7 decision of the Sheriff is final and not appealable within the
8 office.

9 (2) MEMBERSHIP AND RESPONSIBILITY OF BOARD.--
10 (a) There shall be a fixed pool of board members
11 mutually agreed upon by the Sheriff and any labor organization
12 representing the employees of the Office of the Sheriff. If
13 any group of employees has a certified bargaining agent, the
14 pool of Hearing Review Board members for that certified
15 bargaining unit shall be mutually agreed upon by the Sheriff
16 and the collective bargaining representative for said
17 bargaining unit. The pool of board members shall be identified
18 as follows: the Sheriff shall name 50 potential board members
19 for the law enforcement discipline, 50 potential board members
20 for the corrections discipline, and 50 potential board members
21 for the administrative employees. In addition, the Sheriff
22 shall designate seven potential chairpersons above the rank of
23 Lieutenant, or the civilian equivalent, for each employee
24 discipline as stated herein. To be named as a potential board
25 member, an employee must have at least 3 years' experience
26 with the Office of the Sheriff, have above-average evaluations
27 for the previous 3 years, and have no discipline above a
28 written reprimand for the prior 2 years. Every employee of the
29 Office of the Sheriff shall have a right to decline to be
30 named as a potential designee. Each employee organization or,
31 if there are none, a committee elected by the employees within

1 a discipline shall take turns, in alphabetical order, striking
2 the names of the Sheriff's designees in order to arrive at a
3 permanent list of 15 Hearing Review Board member designees,
4 and five alternates, who shall serve a term of 3 years.

5 (b)(a) The Hearing Review Board shall consist of five
6 members of the Office of the Sheriff selected from the same
7 discipline as the aggrieved employee. The Sheriff shall select
8 two members of the board from the established list of Hearing
9 Review Board member designees, ~~with at least one member above~~
10 ~~the rank of Lieutenant to serve as the board chairperson.~~ Two
11 members of the board shall be selected by the employee
12 requesting the hearing from the established list of Hearing
13 Review Board member designees. The fifth member shall be
14 selected by the other four members. Each selected member shall
15 have the right to decline to serve for good cause.

16 (c)(b) All members of the Hearing Review Board shall
17 be selected on the basis of fairness, objectivity, and
18 impartiality. No member of the board shall be above the rank
19 of Captain, or its civilian equivalent, nor shall any member
20 of the board be on probationary status.The board shall have
21 no investigative powers and shall function in the capacity of
22 a fact finder in an effort to arrive at a fair and equitable
23 recommendation in all matters brought before it. Selected
24 members shall have no involvement with the issues under
25 consideration. Membership on ~~of~~ the board is not mandatory
26 voluntary and without remuneration. However, all members shall
27 serve on an "on-duty status."Members will not discuss matters
28 to be heard before the board until the board convenes.

29 (d)(c) The Hearing Review Board chairperson shall have
30 the responsibility to:
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- 1 1. Chair all meetings utilizing parliamentary rules of
2 order.
3 2. Convene an organizational meeting of the board to
4 select a fifth member.
5 3. Request that the employee provide the names of any
6 witnesses and a short statement of material facts about which
7 that witness is expected to testify.
8 4. Schedule and provide written notification of all
9 meetings to the Internal Affairs Bureau, witnesses, board
10 members, and employees.
11 5. Provide copies of all charges to board members.
12 6. Ensure compliance with hearing procedures.
13 7. Request that the employee furnish copies of all
14 exhibits to be introduced at the hearing.
15 (3) PROCEDURE WITH RESPECT TO HEARINGS.--
16 (a) Any career service employee may request a hearing
17 before the Hearing Review Board for any appealable
18 disciplinary action of his or her superiors which adversely
19 affects his or her employment.
20 (b) Requests for a hearing shall be made in writing to
21 the employee's immediate supervisor within 10 working days of
22 notice of appealable disciplinary action. The request shall
23 contain a brief statement of the matters to be considered by
24 the board and the names of the two employees selected to be
25 members of the board.
26 (c) The immediate supervisor shall forward the hearing
27 request to the Sheriff and the appropriate division commander
28 without delay. The Hearing Review Board will be impaneled and
29 a hearing date will be scheduled by the Sheriff within 10
30 working days of receipt.
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1 (d) Legal questions or case law must be submitted to
2 the chairperson 10 days before the board convenes.

3 (e) The employee or his or her representative has the
4 right to be present, to present a his case, to explain or
5 defend, and to cross-examine ~~cross-examine~~ all witnesses and
6 complainants, provided that neither the employee nor his or
7 her representative shall disrupt the proceedings.

8 (f) The employee has the right to be represented
9 during the hearing by counsel or other representative of
10 choice who shall serve as an observer and advisor to the
11 employee. ~~The representative may not actively participate in~~
12 ~~the proceedings.~~

13 (g) The employee shall not discuss the circumstances
14 of the matter being brought before the board except through
15 the chairperson.

16 (h) All witnesses shall be notified in writing of the
17 date and time of the Hearing Review Board ~~through the~~
18 ~~appropriate chain of command~~ by the chairperson of the board.
19 Employee witnesses shall be notified through the appropriate
20 chain of command. All employee witnesses notified by the
21 chairperson of the board shall be required to appear to
22 testify before the board.~~Written statements from nonemployee~~
23 ~~witnesses should be used in lieu of personal appearance.~~
24 ~~Nonemployee witnesses should only be called to appear before~~
25 ~~the board at the request of the board.~~

26 (4) CONDUCT OF HEARING.--

27 (a) Hearing review boards are designed to determine
28 the truth while maintaining an atmosphere of fundamental
29 fairness and shall not be controlled by civil or criminal
30 rules of procedure.

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1 (b) Board members are authorized to receive verbal or
2 written testimony concerning any matter considered relevant by
3 the board. The board may review any record, including, but not
4 limited to, performance evaluations and disciplinary files.

5 (c) Employees and their representatives shall have an
6 opportunity to present evidence, conduct cross-examination
7 ~~cross examination~~, and submit rebuttal evidence.

8 (5) FINDINGS AND RECOMMENDATIONS OF THE REVIEW
9 BOARD.--

10 (a) Each complaint shall receive a separate finding
11 and recommendation by the majority of the board. Each finding
12 shall consider the seriousness of the complaint, any
13 extenuating circumstances, the tenure of the employee, and
14 past conduct record. The board shall submit to the Sheriff its
15 written findings of fact and recommendations within 5 days
16 after the hearing.

17 (b) The board may place before the Sheriff any
18 recommended disposition of the charges before it that the
19 board believes may be of benefit to the Office of the Sheriff,
20 including, but not limited to: no disciplinary action; oral or
21 verbal reprimand; suspension; reduction of rank; termination
22 of employment; sustaining or reversing the original policy
23 violation charged decision; or recommending a more severe
24 disposition.

25 ~~(c) The Sheriff will review the findings and~~
26 ~~recommendations of the board and may either approve or~~
27 ~~disapprove them. The Sheriff has the sole discretion to~~
28 ~~overrule the findings of the board.~~

29 (c)(d) The Sheriff will notify the employee of the
30 final results of the Hearing Review Board and the reasons
31 therefor.

1 (d)~~(e)~~ In the event the employee's discipline is
2 reduced ~~employee is exonerated~~, the employee shall be returned
3 to work ~~reinstated~~ without prejudice or penalty.

4 (e)~~(f)~~ When summary discipline is imposed by any
5 supervisor, the Sheriff may order a board to convene and
6 review the action of the supervisor.

7 ~~(g) Except for termination, there shall be no further~~
8 ~~appeals within the Office of the Sheriff. Terminations may be~~
9 ~~appealed to the Termination Review Board.~~

10 (f)~~(h)~~ All proceedings of the board shall be recorded
11 and retained by the Internal Affairs Bureau. Rest periods
12 shall be duly noted and there shall be no unrecorded questions
13 or statements by any parties or witnesses. Recordings shall be
14 properly marked and identified prior to filing.

15 (g)~~(i)~~ All associated reports, paperwork, and
16 personnel action taken as a result of the Hearing Review Board
17 shall be retained by the Internal Affairs Bureau.

18 (6) CRIMINAL CHARGES ~~TERMINATION REVIEW BOARD~~.--

19 ~~(a) In the event of termination, the employee may~~
20 ~~request that the termination decision be resubmitted to the~~
21 ~~board which originally heard the appeal within 10 days of~~
22 ~~notice of termination.~~

23 ~~(b) Upon review of their original recommendation and~~
24 ~~the Sheriff's rationale for termination, the board may uphold~~
25 ~~or reverse the decision of the Sheriff, provided that any~~
26 ~~reversal shall require at least four members of the board~~
27 ~~voting to reverse. The reversal shall be binding upon the~~
28 ~~Sheriff.~~

29 ~~(c)~~ In the event the termination is based upon
30 criminal charges, the charges must be disposed of prior to a
31 determination by the Hearing ~~Termination~~ Review Board.

1 Section 3. Section 3 of chapter 93-367, Laws of
2 Florida, as amended by chapters 96-450, 97-325, and 98-517,
3 Laws of Florida, is amended to read:

4 Section 3. Preservation of employment benefits and
5 emoluments.--

6 (1) The provisions of this section shall apply to all
7 certified and noncertified persons in the employ of the
8 Sheriff of Palm Beach County, including deputy sheriffs, as
9 specified in section 1(2)(a) of chapter 93-367, Laws of
10 Florida, except that this section shall not apply to those
11 employees beyond the rank of Captain or its civilian
12 equivalent.

13 (2) Existing employer-paid benefits and emoluments
14 with regard to the pay plan, longevity plan,
15 tuition-reimbursement plan, career-path program, health
16 insurance, life insurance, and disability benefits may not be
17 substantially reduced, except in the case of exigent
18 operational necessity, ~~except all moneys which would have been~~
19 ~~allocated to longevity pay for those at the rank of captain or~~
20 ~~its civilian equivalent shall be disbursed in accordance with~~
21 ~~objective performance-related criteria. The objective~~
22 ~~performance-related criteria shall take into consideration~~
23 ~~input from a committee including those at the rank of captain~~
24 ~~or its civilian equivalent.~~

25 (3) Nothing in this act shall preclude the Sheriff
26 from enhancing those benefits and emoluments for employees ~~and~~
27 ~~appointees~~ of the Palm Beach County Sheriff's Office.

28 (4) Nothing in this act shall be construed as
29 affecting the budget-making authority and power of the Palm
30 Beach County Board of County Commissioners.

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1 Section 4. Section 4 is added to chapter 93-367, Laws
2 of Florida, to read:

3 Section 4. Collective bargaining status.--

4 (1) It is the intent of this act that all full-time
5 deputy sheriffs, as defined in this act, shall be deemed
6 "public employees," as defined in part II of chapter 447,
7 Florida Statutes.

8 (2) Deputy sheriffs, in their status as public
9 employees, shall be entitled to all rights, privileges, and
10 obligations granted by law, including the right to organize
11 and collectively bargain, pursuant to part II of chapter 447,
12 Florida Statutes.

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