

744-120AX-06

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

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
1		.	
2		.	
3		.	
4		.	

ORIGINAL STAMP BELOW

1
2
3
4
5
6
7
8
9

10
11 Representative(s) Atwater offered the following:

12

13 **Amendment (with title amendment)**

14 Remove everything after the enacting clause

15

16 and insert:

17

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

20

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

23

(1) CAREER SERVICE EMPLOYEES.--The term "career service employee" as used in this act shall mean those employees hired at the entry level(nonsupervisory, nonmanagement positions)who have successfully completed their probationary period. Employees who are hired directly into supervisory or management positions below the rank of Major or its civilian equivalent must complete 10 years of full-time service to be considered a career service employee. Colonels, Majors, Directors, Assistant Directors,or their executive

31

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

1 staff equivalents promoted through the ranks(hired and having
2 successfully completed a probationary period as a
3 nonsupervisory, nonmanagement employee, and having
4 successfully completed the probationary period in all
5 successive promotions through ranks in which the employee
6 served, although an intermediary rank may have been skipped
7 during a promotion as long as the employee had completed a
8 minimum of 10 years of full-time service with the agency prior
9 to skipping a rank)shall be considered career employees, and
10 during any transition may only be reduced to the rank of
11 Captain or its civilian equivalent. The sworn officer status
12 and Florida Retirement System Special Risk Class status of
13 sworn staff may not be affected through actions taken pursuant
14 to this section. Colonels, Majors, Directors, Assistant
15 Directors, or their executive staff equivalents directly
16 appointed to those ranks by the Sheriff ~~laterally~~ must have
17 completed 10 years of service in the appointed rank to be
18 considered career service employees. The Undersheriff shall
19 at no time be considered a career service employee. Career
20 service employees below the rank of Major or its civilian
21 equivalent shall not be subject to dismissal or demotion
22 without just cause.

23 Section 2. Section 2 of chapter 93-367, Laws of
24 Florida, as amended by chapter 98-517, Laws of Florida, is
25 amended to read:

26 Section 2. Hearing review boards; functions;
27 membership; procedures.--

28 (1) FUNCTION OF BOARDS.--Ad hoc hearing review boards
29 shall be appointed as provided herein for the purpose of
30 hearing appeals of career service employees arising from
31 personnel actions brought under the rules, regulations, or

1 policies of the Office of Sheriff which result in dismissal,
2 suspension, demotion, or reduction in pay. Lateral transfers,
3 shift changes, reprimands, oral or written, and suspensions of
4 2 working days or less shall not be applicable to the board;
5 however, no more than one such action of suspension may occur
6 within 1 calendar year without the right to appeal. The scope
7 of the review board is limited to disciplinary proceedings and
8 termination actions. Review boards have the authority to
9 conduct hearings and make findings of fact and recommendations
10 to the Sheriff. The Sheriff shall ~~not~~ be bound by the findings
11 or recommendations of the majority vote of the board such
12 ~~boards, but will consider them in making his final decision.~~
13 ~~There shall be no further appeals Except in the case of~~
14 ~~termination, the decision of the Sheriff is final and not~~
15 ~~appealable within the office.~~

16 (2) MEMBERSHIP AND RESPONSIBILITY OF BOARD.--

17 (a) There shall be a fixed pool of 20 board members
18 and 6 alternate members mutually agreed upon by the Sheriff
19 and any labor organization representing the employees of the
20 office of the Sheriff. If any group of employees has a
21 certified bargaining agent, the pool of hearing review board
22 members and six alternates for that certified bargaining unit
23 shall be mutually agreed upon by the Sheriff and the
24 collective bargaining representative for said bargaining unit.
25 The pool of board members shall be selected as follows: the
26 Sheriff shall produce a list of 30 potential board members for
27 the law-enforcement discipline, 30 potential board members for
28 the corrections discipline, and 30 potential board members for
29 the administrative employees. The bargaining agent/labor
30 organization shall produce a list of 30 potential board
31 members for the law-enforcement discipline, 30 potential board

1 members for the corrections discipline, and 30 potential board
2 members for the administrative employees. In addition, the
3 Sheriff and the bargaining agent shall each produce a list of
4 eight potential chairpersons above the rank of Lieutenant (or
5 sworn equivalent), but no higher than Major (or sworn
6 equivalent), or the civilian/nonsworn equivalent, for each
7 employee discipline as stated herein. Both the Sheriff and the
8 certified bargaining agents of the employees/appointees shall
9 then strike from the other's list 20 names with which they do
10 not concur, in order to arrive at the appropriate hearing
11 review board number of 20. Both the Sheriff and the bargaining
12 agent shall then strike four names from the other's list of
13 eight potential chairpersons, arriving at a final list of
14 eight. The Sheriff and the bargaining agent shall then each
15 add three names to the list of hearing review board members,
16 from the stricken names, who shall serve as the six
17 alternates. All those chosen as board members, chairpersons,
18 and alternates shall serve a term of 3 years; however, this
19 does not prevent their being reappointed to the board for
20 consecutive terms. If for any reason the hearing review board
21 member pool should be reduced to 18, the Sheriff and the
22 employee bargaining agent shall each choose a replacement
23 member from the list of alternates. If for any reason the list
24 of chairpersons should be reduced to six, the Sheriff and the
25 bargaining agent shall each choose one person from the other's
26 list of those stricken from the original pool of names. Those
27 two persons shall then assume the vacant chairperson
28 ~~positions. The Hearing Review Board shall consist of five~~
29 ~~members of the Office of the Sheriff. The Sheriff shall~~
30 ~~select two members, with at least one member above the rank of~~
31 ~~Lieutenant to serve as the board chairperson. Two members~~

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

1 ~~shall be selected by the employee requesting the hearing. The~~
2 ~~fifth member shall be selected by the other four members.~~
3 ~~Each selected member shall have the right to decline to serve.~~

4 (b) The hearing review board shall consist of five
5 members from the same discipline as the aggrieved employee.
6 The Sheriff shall select 2 members of the board, 1 from the
7 established list of the 20 mutually agreed-upon hearing review
8 board members and 1 from the established list of 8
9 chairpersons. The employee requesting the hearing shall select
10 2 members from the established list of 20 hearing review board
11 members. The four selected board members shall then select the
12 fifth board member from the existing mutually agreed-upon
13 list. If the four selected board members cannot agree upon the
14 fifth person, one name from the existing list shall be
15 randomly selected by computer.

16
17 At no time shall any member of a hearing review board sit on a
18 consecutive hearing review board.

19 (c) All members of the hearing review board shall be
20 selected on the basis of fairness, objectivity, and
21 impartiality. To be named as a potential hearing review board
22 member, an employee must have at least 3 years' experience
23 with the office of the Sheriff, must have received at least
24 average evaluations for the previous 2 years, and must have no
25 discipline above an informal educational counseling form.
26 Written reprimands or higher levels of discipline occurring
27 within the prior 2 years shall disqualify an employee from
28 consideration as a hearing review board pool member. Every
29 employee of the office of Sheriff shall have the right to
30 decline to be named as a potential pool member designee. The
31 Sheriff shall notify the certified bargaining agent of the

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

1 approved employee pool members as outlined in the
2 above-referenced selection process.

3 (d) No member of the board shall be above the rank of
4 Major or its civilian equivalent, nor shall any member of the
5 board be on probationary status.

6 (e) The board shall have no investigative powers and
7 shall function in the capacity of a fact finder in an effort
8 to arrive at a fair and equitable recommendation in all
9 matters brought before it. Selected members shall have no
10 involvement with the issues under consideration. Membership
11 on of the board is not mandatory ~~voluntary and without~~
12 remuneration. However, all members shall serve on an on-duty
13 status. Members shall ~~will~~ not discuss matters to be heard
14 before the board until the board convenes.

15 (f) ~~(c)~~ The hearing review board chairperson shall have
16 the responsibility to:

17 1. Chair all meetings utilizing parliamentary rules of
18 order.

19 2. Convene an organizational meeting of the board to
20 select a fifth member.

21 3. Request that the employee provide the names of any
22 witnesses and a short statement about what that witness is
23 expected to testify.

24 4. Schedule and provide written notification of all
25 meetings to the Internal Affairs Bureau, witnesses, board
26 members, and employees.

27 5. Provide copies of all charges to board members.

28 6. Ensure compliance with hearing procedures.

29 7. Request that the employee furnish copies of all
30 exhibits to be introduced in the hearing.

31 (3) PROCEDURE WITH RESPECT TO HEARINGS.--

1 (a) Any career service employee may request a hearing
2 before any ~~the~~ hearing review board for any appealable
3 disciplinary action of his or her superiors which adversely
4 affects his or her employment.

5 (b) Requests for a hearing shall be made in writing to
6 the employee's immediate supervisor within 10 working days
7 after ~~of~~ notice of appealable disciplinary action. The
8 request shall contain a brief statement of the matters to be
9 considered by the board and the names of the two employees
10 selected to be members of the board.

11 (c) The immediate supervisor shall forward the hearing
12 request to the Sheriff and the appropriate division commander
13 without delay. The hearing review board shall ~~will~~ be
14 impaneled and a hearing date shall ~~will~~ be scheduled by the
15 Sheriff within 10 working days after ~~of~~ receipt of the hearing
16 request.

17 (d) Legal questions or case law must be submitted to
18 the chairperson 10 days before the board convenes.

19 (e) The employee or his or her representative has the
20 right to be present, to present his or her case, to explain or
21 defend, and to cross-examine all witnesses and complainants,
22 provided that neither the employee nor his or her
23 representative shall disrupt the proceedings.

24 (f) The employee has the right to be represented
25 during the hearing by counsel or other representative of
26 choice, who shall serve as an observer and advisor to the
27 employee. ~~The representative may not actively participate in~~
28 ~~the proceedings.~~

29 (g) The employee shall not discuss the circumstances
30 of the matter being brought before the board except through
31 the chairperson.

1 (h) All witnesses shall be notified in writing by the
2 chairperson of the board of the date and time of the hearing.
3 Employee witnesses shall be notified through the appropriate
4 chain of command. All employee witnesses notified by the
5 chairperson of the board shall be required to appear to
6 testify before the board.~~Review Board through the appropriate~~
7 ~~chain of command by the chairperson of the board. Written~~
8 ~~statements from nonemployee witnesses should be used in lieu~~
9 ~~of personal appearance. Nonemployee witnesses should only be~~
10 ~~called to appear before the board at the request of the board.~~

11 (4) CONDUCT OF HEARING.--

12 (a) Hearing review boards are designed to determine
13 the truth while maintaining an atmosphere of fundamental
14 fairness and shall not be controlled by civil or criminal
15 rules of procedure.

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

21 (c) Employees and their representatives shall have an
22 opportunity to present evidence, conduct cross-examination,
23 and submit rebuttal evidence.

24 (5) FINDINGS AND RECOMMENDATIONS OF THE REVIEW
25 BOARD.--

26 (a) Each complaint shall receive a separate finding
27 and recommendation by the majority of the board. Each finding
28 shall consider the seriousness of the complaint, any
29 extenuating circumstances, the tenure of the employee, and the
30 employee's past conduct record. The board shall submit to the
31 Sheriff its written findings of fact and recommendations

1 within 5 days after the hearing.

2 (b) The board may place before the Sheriff any
3 recommended disposition of the charges before it that the
4 board believes may be of benefit to the office of the Sheriff,
5 including, but not limited to: no disciplinary action; oral
6 or verbal reprimand; suspension; reduction of rank;
7 termination of employment; sustaining or reversing the
8 original policy violation charged ~~decision~~; or recommending a
9 more severe disposition.

10 ~~(c) The Sheriff will review the findings and~~
11 ~~recommendations of the board and may either approve or~~
12 ~~disapprove them. The Sheriff has the sole discretion to~~
13 ~~overrule the findings of the board.~~

14 ~~(c)~~(d) The Sheriff shall ~~will~~ notify the employee of
15 the final results of the hearing review board and the reasons
16 therefor.

17 ~~(d)~~(e) In the event the employee's discipline is
18 reduced, the employee shall be returned to work ~~employee is~~
19 ~~exonerated, the employee shall be reinstated~~ without prejudice
20 or penalty.

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

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

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

1 ~~(g)(i)~~ All associated reports, paperwork, and
2 personnel action taken as a result of the hearing review board
3 shall be retained by the Internal Affairs Bureau.

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

5 ~~(a) In the event of termination, the employee may~~
6 ~~request that the termination decision be resubmitted to the~~
7 ~~board which originally heard the appeal within 10 days of~~
8 ~~notice of termination.~~

9 ~~(b) Upon review of their original recommendation and~~
10 ~~the Sheriff's rationale for termination, the board may uphold~~
11 ~~or reverse the decision of the Sheriff, provided that any~~
12 ~~reversal shall require at least four members of the board~~
13 ~~voting to reverse. The reversal shall be binding upon the~~
14 ~~Sheriff.~~

15 ~~(c) In the event the termination is based upon~~
16 ~~criminal charges, the charges must be disposed of prior to a~~
17 ~~determination by the hearing ~~Termination~~ review board.~~

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

21 Section 3. Preservation of employment benefits and
22 emoluments.--

23 (1) The provisions of this section shall apply to all
24 certified and noncertified persons in the employ of the
25 Sheriff of Palm Beach County, including deputy sheriffs, as
26 specified in section 1(2)(a) of chapter 93-367, Laws of
27 Florida, except that this section shall not apply to those
28 employees beyond the rank of Captain or its civilian
29 equivalent.

30 (2) Existing employer-paid benefits and emoluments
31 with regard to the pay plan, longevity plan,

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

1 tuition-reimbursement plan, career-path program, health
2 insurance, life insurance, and disability benefits may not be
3 substantially reduced, except in the case of exigent
4 operational necessity, ~~except all moneys which would have been~~
5 ~~allocated to longevity pay for those at the rank of captain or~~
6 ~~its civilian equivalent shall be disbursed in accordance with~~
7 ~~objective performance related criteria. The objective~~
8 ~~performance related criteria shall take into consideration~~
9 ~~input from a committee including those at the rank of captain~~
10 ~~or its civilian equivalent.~~

11 (3) Nothing in this act shall preclude the Sheriff
12 from enhancing those benefit and emoluments for employees ~~and~~
13 ~~appointees~~ of the Palm Beach County Sheriff's Office.

14 (4) Nothing in this act shall be construed as
15 affecting the budget-making authority and power of the Palm
16 Beach County Board of County Commissioners. Any contractual
17 obligations entered into by the Sheriff's office as a result
18 of the right to collectively bargain shall not be used in any
19 appeal or challenge by the Sheriff against the yearly lump sum
20 budget allocation approved by the board of county
21 commissioners for the Sheriff's total annual budget.

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

24 Section 4. Collective bargaining status.--

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

29 (2) Deputy sheriffs, in their status as public
30 employees, shall be entitled to all rights, privileges, and
31 obligations granted by law, including the right to organize

1 and collectively bargain, pursuant to part II of chapter 447,
2 Florida Statutes.

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

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

8 And the title is amended as follows:

9 remove: the entire title

10

11 and insert:

12

A bill to be entitled

13

An act relating to Palm Beach County; amending

14

chapter 93-367, Laws of Florida, as amended;

15

amending the definition of "career service

16

employee"; revising procedures for appeal of

17

disciplinary actions and complaints against

18

employees of the Sheriff of Palm Beach County;

19

revising provisions for the appointment of

20

boards to hear appeals and procedures with

21

respect thereto; revising provisions relating

22

to monetary emoluments based on performance;

23

extending collective bargaining status to

24

deputy sheriffs; providing an effective date.

25

26

27

28

29

30

31