

By Senator Argenziano

3-1558-04

See HB 771

1 A bill to be entitled
2 An act relating to Columbia County; providing
3 for career service for members of the Columbia
4 County Sheriff's Office; providing for
5 application of the act, career status of
6 members, and administration; providing for a
7 procedure with respect to complaints against
8 members; providing for appeals; providing for
9 certain protections during the transition of a
10 new Sheriff; providing for a Career Service
11 Appeal Board; providing for status as career
12 members; prohibiting certain actions to
13 circumvent the act; providing for exclusions;
14 providing severability; providing an effective
15 date.

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

19 Section 1. Members of the Columbia County Sheriff's
20 Office; applicability of the act; career status of the
21 members; administration.--

22 (1) APPLICABILITY.--

23 (a) The provisions of this act shall apply to all
24 full-time certified and noncertified persons in the employ of
25 the Columbia County Sheriff's Office except as specifically
26 described in section 6 of this act.

27 (b) As used in this act, the terms "member,"
28 "employee," "employ," and "employment" shall refer to all
29 persons, whether employed or appointed, to whom the act
30 applies. It is not, however, the intent of this act to grant
31 any rights not specifically stated in this act beyond the

1 provisions of this act to persons in the employ of the
2 Columbia County Sheriff's Office who do not otherwise have
3 those rights pursuant to law.

4 (2) CAREER STATUS; CAUSE FOR TERMINATION OF
5 EMPLOYMENT.--

6 (a) After a member of the Columbia County Sheriff's
7 Office to whom the provisions of this act apply has served in
8 such employment for a period of 1 calendar year and
9 successfully completed a probationary training program, such
10 employee shall have attained career status with the Columbia
11 County Sheriff's Office, provided that, if an employee is
12 terminated and rehired at a later date, said employee shall be
13 required to complete 1 calendar year of service from the date
14 of rehire before being granted the right of appeal provided in
15 section 4 of this act.

16 (b) Any employee who has achieved career status with
17 the Columbia County Sheriff's Office may be terminated only
18 for just cause, provided that prior to such action the
19 employee shall be furnished written notice of the proposed
20 action and offered an opportunity to respond to the reasons
21 for the termination. However, in situations in which delay
22 could result in damage or injury, an employee may be relieved
23 of duty immediately and provided notice thereof and reasons
24 therefor within 24 hours.

25 (c) Just cause for initiating an internal
26 investigation that may result in termination of employment
27 shall include violation of the provisions of law or office
28 rules or direct violation of published Sheriff's Office
29 policy.

30 (d) Just cause for initiating an internal
31 investigation shall also include, with respect to any felony

1 or misdemeanor, adjudication of guilt by a court of competent
2 jurisdiction, a plea of guilty or of nolo contendere, or
3 adjudication of guilt withheld and the accused placed on
4 probation.

5 (e) The filing of felony or misdemeanor charges by the
6 state attorney against an employee shall constitute just cause
7 for initiating an internal investigation.

8 (3) TRANSITION OF CAREER SERVICE EMPLOYEES.--

9 (a) When a newly elected or appointed Sheriff assumes
10 office, the new Sheriff shall continue the employment of all
11 currently employed career personnel unless just cause for
12 termination of employment, as provided herein, exists.

13 However, the incoming Sheriff shall have the option of
14 maintaining the current personnel assigned to the positions of
15 Lieutenant and above, Executive Assistants, Executive Office
16 Managers, and Administrative Positions of Trust.

17 (b) Positions of Trust include the Comptroller, the
18 Director of Property Management, and Special Investigators
19 assigned and involved in conducting internal inquiries or
20 internal investigations.

21 (c) If the incoming Sheriff fills the positions of
22 Lieutenant and above, Executive Assistants, Executive Office
23 Managers, and Administrative Positions of Trust with new
24 personnel, the current occupants of those position may be
25 reduced to the next lower existing rank or civilian
26 designation and transferred to another assignment within the
27 same division except that those individuals' basic salaries
28 may not be reduced but remain frozen until "cost of living" or
29 "across the board" raises would authorize an increase.

30
31

1 (d) The new rank of the individuals shall be the
2 permanent rank of the individuals for a period of 6 months and
3 then may be later changed by independent disciplinary action.

4 (e) Initial actions taken pursuant to this subsection
5 affecting the Lieutenants and above and other Executive
6 Positions of Trust and within the guidelines of section 3
7 shall not be subject to appeal under section 4.

8 (4) ADMINISTRATION.--

9 (a) The Sheriff shall have the authority to adopt such
10 rules and regulations as are necessary for the implementation
11 and administration of this act.

12 (b) The promulgation of rules and regulations related
13 to this act by the Sheriff are at his or her sole discretion;
14 however, nothing in this act shall be construed as affecting
15 the budget-making powers of the Board of County Commissioners
16 of Columbia County.

17 Section 2. Complaints against employees; procedure.--

18 (1) A complaint receipt and processing procedure shall
19 be established in order to provide adequately for the prompt
20 receipt, investigation, and disposition of complaints against
21 members of the Columbia County Sheriff's Office. The complaint
22 procedure shall reflect the provisions in section 112.532,
23 Florida Statutes.

24 (2) After written receipt of the disposition of the
25 complaint, if an employee is dissatisfied with the decision of
26 the Sheriff regarding disciplinary action resulting in
27 termination of employment, the employee may appeal the action
28 to the Career Service Appeal Board.

29 Section 3. Disciplinary appeal procedure.--

30 (1) An appeal of disciplinary action resulting in
31 termination of employment shall result in the opportunity for

1 a hearing before a Career Service Appeal Board as specified in
2 said procedure.

3 (2) Immediately following the hearing, the board shall
4 report to the Sheriff via the Director of Human Resources or
5 other person so designated by the Sheriff.

6 Section 4. Career Service Appeal Board; creation;
7 membership; duties.--

8 (1) FUNCTION OF BOARD.--

9 (a) An ad hoc Career Service Appeal Board shall be
10 appointed as provided herein for the purpose of hearing
11 appeals from career employees brought under the provisions of
12 this act or the Sheriff's Office rules or policies that result
13 in termination of employment.

14 (b) A board may also, upon the request of the Sheriff,
15 provide assistance and advice to the Sheriff in matters
16 concerning disciplinary actions and may take any other actions
17 as authorized by the Sheriff.

18 (2) MEMBERSHIP OF BOARD.--

19 (a) When needed upon the call of the Sheriff or the
20 filing of an appeal of a termination of employment, an ad hoc
21 Career Service Appeal Board shall be appointed. The membership
22 of each such board shall consist of two members selected by
23 the Sheriff from among the certified law enforcement or
24 correctional officers from within the Sheriff's Office who are
25 assigned to the same division as the appealing member; two
26 members selected by the employee filing the appeal from among
27 the certified law enforcement or correctional officers within
28 the Sheriff's Office who are members of the same division as
29 the appealing member; and one member who may be any qualified
30 member currently employed by the Columbia County Sheriff's
31

1 Office, selected by the other members of the board, who shall
2 serve as chairperson.

3 (b) If a noncertified member requests an appeal, the
4 two members selected by the noncertified member must be
5 certified members but may be selected from any division of the
6 Sheriff's Office.

7 (c) Upon receipt of a request to appoint a Career
8 Service Appeal Board, the Sheriff shall instruct Human
9 Resources to compile a list of members who meet the
10 requirements to serve on the board. This list shall be hand
11 delivered to the Sheriff, who shall ensure that the list is
12 delivered to the appealing member.

13 (d) The appealing member shall have 7 calendar days
14 from the date that the request for a hearing was delivered
15 directly to the Sheriff, or to one of the Administrative
16 Assistants in the Sheriff's office, to select two qualified
17 members willing to serve as members of the board and deliver
18 their names directly to Human Resources. If, within the 7-day
19 period, the appealing member fails to submit the names of two
20 qualified members as outlined in this paragraph and paragraphs
21 (a) and (b) who have been contacted and are willing to serve,
22 the option to be heard by a Career Service Appeal Board is
23 procedurally waived and ceases to exist.

24 (e) The Sheriff shall, within this same 7-day period,
25 deliver to Human Resources the names of his or her two
26 selections to serve as members of the board. If, within the
27 7-day period, the Sheriff fails to submit the names of two
28 qualified members as outlined in this paragraph and paragraph
29 (a), the action against the employee is procedurally waived
30 and ceases to exist.

31

1 (f) The four members shall then have 5 calendar days
2 to select the fifth member from the list of remaining
3 qualified members.

4 (g) If an impartial chairperson cannot be agreed upon
5 within 5 calendar days after the first four members are
6 selected, the Sheriff shall deliver a list of current
7 remaining qualified Sheriff's Office members to a judge from
8 within the Third Circuit of the state, who shall, within 5
9 days, appoint a chairperson from the list.

10 (h) The Sheriff may, on his or her own initiative,
11 appoint a Career Service Appeal Board for the purpose of
12 receiving, considering, and making a recommendation on matters
13 related to the formation or streamlining of rules related to
14 this act or to consider any other matter deemed appropriate by
15 the Sheriff, excluding disciplinary termination of employment.
16 If the issue to be under consideration involves a specific
17 member of the Sheriff's Office and may result in some
18 disciplinary recommendation by the board, the Sheriff shall
19 notify the individual and offer the opportunity for the
20 individual to provide two members to the board to consider the
21 specific question at issue. If no specific member is involved,
22 the Sheriff shall appoint two members from the Civil Division
23 and two members from the Criminal Division, and the Captain of
24 the Administrative Division shall serve as the chairperson. A
25 board appointed by initiative may only make recommendations.

26 (3) HEARING TIME; DATE; COMPENSATION; CONSOLIDATION;
27 EXCLUSIONS.--

28 (a) Standardized dates and times of meetings shall be
29 established by rule and shall occur during normal
30 administrative office hours.

31

1 (b) Members selected to serve on the board shall serve
2 without additional compensation for meetings occurring during
3 their normal work hours. For nonwork hours, compensatory time
4 at the rate of 150 percent for the actual hours in session
5 shall be credited to the member.

6 (c) Once selected to the board, the members thereof
7 shall serve until final action is taken with respect to the
8 purpose for which the board was selected, at which time the
9 board shall be dissolved.

10 (d) A new Career Service Appeal Board shall be
11 selected for each separate occurrence; however, multiple
12 parties filing appeals on the same incident may request to be
13 heard by a single board.

14 (e)1. A person may not serve as a member of an ad hoc
15 Career Service Appeal Board who:

16 a. Is a member of a different division than the
17 grieving member except as provided in paragraph (2)(b).

18 b. Was involved in the original incident that resulted
19 in the disciplinary process that is the subject of the appeal.

20 c. Is related to the appellant.

21 d. Is currently under investigation or suspension.

22 e. Has any ongoing litigation against the Columbia
23 County Sheriff's Office.

24 f. Is on probation or has been disciplined within the
25 past year.

26 2. Notwithstanding subparagraph 1., the fifth member
27 may be from any division, and certified or noncertified, if he
28 or she meets the other requirements.

29 (4) PROCEDURE WITH RESPECT TO AN APPEAL.--

30 (a) An appeal of an action specified in section 3
31 shall be made to the Sheriff in writing and must be received

1 by the Sheriff no later than 5 calendar days after the
2 employee is notified of the action on which the appeal is
3 based.

4 (b) When a Career Service Appeal Board has been
5 selected for purposes of hearing the appeal, the Sheriff shall
6 publish and furnish notice to the appealing person of the
7 date, location, and time of the hearing before the Career
8 Service Appeal Board. In any case, the date of the hearing
9 shall be within 10 calendar days, excluding weekends and
10 holidays, after notification of the selection of the fifth
11 member.

12 (c) The date of the hearing may be extended by mutual
13 agreement of the parties.

14 (d) During the hearing, the employee filing the appeal
15 shall have the right to be heard, to be represented by a
16 person of his or her choice, and to present any relevant
17 evidence on his or her behalf, and during the hearing the
18 technical rules of evidence shall not apply.

19 (e) The board shall, in the conduct of a hearing, have
20 the power to administer oaths, interview witnesses, and review
21 books, records, accounts, papers, documents, prior statements,
22 and investigative files related to the issue that are in the
23 possession of or have been delivered to Human Resources a
24 minimum of 24 hours prior to the beginning of the hearing. In
25 any case, the board shall restrict its considerations and
26 deliberations to the evidence presented at the hearing.

27 (f) This board is not governed by the Administrative
28 Procedure Act, as codified in chapter 120, Florida Statutes.

29 (5) DISPOSITION WITH RESPECT TO A CAREER SERVICE
30 APPEAL.--

31

1 (a) The board shall, by majority vote, dispose of the
2 appeal for which it was appointed by making a determination of
3 just cause and issuing a written decision. Such decision shall
4 be based upon the simple determination of a preponderance of
5 evidence (51 percent). In the instance of an appeal to the
6 board concerning a termination, the affirmative vote of four
7 members of the board shall be required to overturn the
8 Sheriff's decision to terminate. All members of the board must
9 be present to conduct any official business of the board.

10 (b) If the board does not sustain the action by the
11 Sheriff, back pay and benefits shall be reinstated. No board
12 shall have the authority to impose on any employee any penalty
13 that is different from that which formed the basis of the
14 appeal. If the board sustains the action of the Sheriff, it
15 may also make a recommendation to the Sheriff to reconsider
16 mitigating circumstances and reconsider the
17 termination-of-employment action. The Sheriff shall review the
18 determination of the board and consider its recommendation
19 prior to imposition of final action.

20 (c) The decision of the board, which is to be arrived
21 at by paper ballot, shall be forwarded to the Sheriff.

22 (d) This final decision of the board shall be binding
23 on the employee and the Sheriff.

24 (e) The Sheriff shall prepare, or cause to be
25 prepared, an order and publish the final disposition of the
26 appeal. The final disposition shall be binding on the employee
27 and becomes a public record at that time.

28 (f) The board hearing shall be open to the public,
29 recorded, and preserved for the public record. After all
30 materials are received and all witnesses heard, the
31

1 chairperson shall declare the hearing completed for the
2 purpose of beginning deliberations.

3 (g) Official written minutes of the deliberations
4 shall be kept by a clerical person and made part of the
5 official record of the board.

6 (h) The chairperson of the board shall have the
7 authority to receive and consider written prehearing motions
8 that shall be presented to the full board at the hearing. He
9 or she shall preside over the hearing, enforce the decorum of
10 the hearing, receive requests for breaks, convene the
11 deliberations, and cause the removal of anyone attempting to
12 disrupt any of the proceedings.

13 Section 5. Upon enactment.--

14 (1) INCLUDED INDIVIDUALS.--All full-time certified and
15 noncertified persons in the employ of the Columbia County
16 Sheriff's Office on the effective date of this act who have
17 served for a period of 1 calendar year or more and
18 successfully completed their probationary period as of such
19 effective date of the act shall be career employees subject to
20 the provisions of this act. All other full-time employees
21 shall become career employees subject to the provisions of
22 this act upon reaching their 1-calendar-year service
23 anniversary date and successfully completing their
24 probationary period.

25 (2) CIRCUMVENTION.--

26 (a) Promotions or demotions of members or creation of
27 rank to circumvent the intent of this act shall be held as a
28 valid reason to request the Sheriff to appoint a Career
29 Service Appeals Board to consider the issue in question.

30 (b) No certified or noncertified full-time employee of
31 the Columbia County Sheriff's Office shall be discharged or

1 discriminated against in regard to his or her employment or
2 appointment, or threatened with any such treatment, by reason
3 of his or her exercise of the rights granted by this act.

4 Section 6. Exclusions.--

5 (1) The career status provisions of this act shall not
6 apply to the Sheriff; to Special Deputy Sheriffs appointed
7 pursuant to section 30.09(4), Florida Statutes; to members
8 employed pursuant to a grant whose continued existence or
9 funding is subject to the expiration or withdrawal of the
10 grant; to nondisciplinary termination of employment arising
11 out of a reduction of force, layoff, or partial or total
12 abolition or cessation of a program, service, operation, or
13 department at the discretion of the Sheriff; to members of the
14 Sheriff's Reserve Unit; or to individuals appointed as
15 part-time Deputy Sheriffs, as defined by the Criminal Justice
16 Standards and Training Commission, unless any such person is
17 also employed full-time by the Columbia County Sheriff's
18 Office.

19 (2) This act shall not apply to an otherwise covered
20 person who claims that a termination of employment was for
21 lawful off-duty political activity. Claims of this nature are
22 already covered under chapter 30, Florida Statutes.

23 (3) This act shall not apply to an otherwise covered
24 person who claims that a termination of employment was for
25 discriminatory purposes. Claims of this nature are already
26 covered under state and federal statutes.

27 Section 7. Severability.--If any provision of this act
28 or its application to any person or circumstance is held
29 invalid, the invalidity does not affect other provisions or
30 applications of the act which can be given effect without the
31

1 invalid provision or application, and to this end the
2 provisions of this act are severable.

3 Section 8. This act shall take effect upon becoming a
4 law.

5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31