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CHAMBER ACTION

1 The Committee on Local Government & Veterans' Affairs recommends  
2 the following:

3  
4 **Committee Substitute**

5 Remove the entire bill and insert:

6 A bill to be entitled

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

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

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

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24 (1) APPLICABILITY.--

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

29 (b) As used in this act, the terms "member," "employee,"  
 30 "employ," and "employment" shall refer to all persons, whether  
 31 employed or appointed, to whom the act applies. It is not,  
 32 however, the intent of this act to grant any rights not  
 33 specifically stated in this act beyond the provisions of this  
 34 act to persons in the employ of the Columbia County Sheriff's  
 35 Office who do not otherwise have those rights pursuant to law.

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

37 (a) After a member of the Columbia County Sheriff's Office  
 38 to whom the provisions of this act apply has served in such  
 39 employment for a period of 1 calendar year and successfully  
 40 completed a probationary training program, such employee shall  
 41 have attained career status with the Columbia County Sheriff's  
 42 Office, provided that, if an employee is terminated and rehired  
 43 at a later date, said employee shall be required to complete 1  
 44 calendar year of service from the date of rehire before being  
 45 granted the right of appeal provided in section 4 of this act.

46 (b) Any employee who has achieved career status with the  
 47 Columbia County Sheriff's Office may only be terminated for just  
 48 cause, provided that prior to such action the employee shall be  
 49 furnished written notice of the proposed action and offered an  
 50 opportunity to respond to the reasons for the termination.  
 51 However, in situations in which delay could result in damage or

52 injury, an employee may be relieved of duty immediately and  
 53 provided notice thereof and reasons therefor within 24 hours.

54 (c) Just cause for initiating an internal investigation  
 55 that may result in termination of employment shall include  
 56 violation of the provisions of law or office rules or direct  
 57 violation of published Sheriff's Office policy.

58 (d) Just cause for initiating an internal investigation  
 59 shall also include, with respect to any felony or misdemeanor,  
 60 adjudication of guilt by a court of competent jurisdiction, a  
 61 plea of guilty or of nolo contendere, or adjudication of guilt  
 62 withheld and the accused placed on probation.

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

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

67 (a) When a newly elected or appointed Sheriff assumes  
 68 office, the new Sheriff shall continue the employment of all  
 69 currently employed career personnel unless just cause for  
 70 termination of employment, as provided herein, exists. However,  
 71 the incoming Sheriff shall have the option of maintaining the  
 72 current personnel assigned to the positions of Lieutenant and  
 73 above, Executive Assistants, Executive Office Managers, and  
 74 Administrative Positions of Trust.

75 (b) Positions of Trust include the Comptroller, the  
 76 Director of Property Management, and Special Investigators  
 77 assigned and involved in conducting internal inquiries or  
 78 internal investigations.

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79        (c) If the incoming Sheriff fills the positions of  
 80 Lieutenant and above, Executive Assistants, Executive Office  
 81 Managers, and Administrative Positions of Trust with new  
 82 personnel, the current occupants of those positions may be  
 83 reduced to the next lower existing rank or civilian designation  
 84 and transferred to another assignment within the same division  
 85 or a salary adjustment of up to 10 percent downward, or both. In  
 86 the event no position is available downward, as in a one-person  
 87 department, the occupant may be transferred to another  
 88 assignment within the Sheriff's Office with up to a 10-percent  
 89 pay adjustment downward.

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

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

97        (4) ADMINISTRATION.--

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

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

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

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107       (1) A complaint receipt and processing procedure shall be  
 108 established in order to provide adequately for the prompt  
 109 receipt, investigation, and disposition of complaints against  
 110 members of the Columbia County Sheriff's Office. The complaint  
 111 procedure shall reflect the provisions in section 112.532,  
 112 Florida Statutes.

113       (2) After written receipt of the disposition of the  
 114 complaint, if an employee is dissatisfied with the decision of  
 115 the Sheriff regarding disciplinary action resulting in  
 116 termination of employment, the employee may appeal the action to  
 117 the Career Service Appeal Board.

118       Section 3. Disciplinary appeal procedure.--

119       (1) An appeal of disciplinary action resulting in  
 120 termination of employment shall result in the opportunity for a  
 121 hearing before a Career Service Appeal Board as specified in  
 122 said procedure.

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

126       Section 4. Career Service Appeal Board; creation;  
 127 membership; duties.--

128       (1) FUNCTION OF BOARD.--

129       (a) An ad hoc Career Service Appeal Board shall be  
 130 appointed as provided herein for the purpose of hearing appeals  
 131 from career employees brought under the provisions of this act  
 132 or the Sheriff's Office rules or policies which result in  
 133 termination of employment.

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134       (b) A board may also, upon the request of the Sheriff,  
 135 provide assistance and advice to the Sheriff in matters  
 136 concerning disciplinary actions and may take any other actions  
 137 as authorized by the Sheriff.

138       (2) MEMBERSHIP OF BOARD.--

139       (a) When needed upon the call of the Sheriff or the filing  
 140 of an appeal of a termination of employment, an ad hoc Career  
 141 Service Appeal Board shall be appointed. The membership of each  
 142 such board shall consist of two members selected by the Sheriff  
 143 from among any full-time eligible employees from within the  
 144 Sheriff's Office; two members selected by the employee filing  
 145 the appeal from among any full-time eligible employees within  
 146 the Sheriff's Office; and one member, who is a full-time  
 147 eligible member from within the Columbia County Sheriff's  
 148 Office, selected by the other members of the board, who shall  
 149 serve as chairperson.

150       (b) If a noncertified member requests an appeal, the two  
 151 members selected by the noncertified member may be from among  
 152 any full-time eligible employees from any division of the  
 153 Sheriff's Office.

154       (c) The appealing member shall have 7 calendar days from  
 155 the date that the request for a hearing was delivered directly  
 156 to the Sheriff, or to one of the Administrative Assistants in  
 157 the Sheriff's Office, to select two qualified members willing to  
 158 serve as members of the board and deliver their names directly  
 159 to Human Resources. If, within the 7-day period, the appealing  
 160 member fails to submit the names of two qualified members as  
 161 outlined in this paragraph and paragraphs (a) and (b) who have

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162 been contacted and are willing to serve, the option to be heard  
 163 by a Career Service Appeal Board is procedurally waived and  
 164 ceases to exist.

165 (d) The Sheriff shall, within this same 7-day period,  
 166 deliver to Human Resources the names of his or her two  
 167 selections to serve as members of the board. If, within the 7-  
 168 day period, the Sheriff fails to submit the names of two  
 169 qualified members as outlined in this paragraph and paragraph  
 170 (a), the action against the employee is procedurally waived and  
 171 ceases to exist.

172 (e) The four members shall then have 5 calendar days to  
 173 select the fifth member from the list of remaining qualified  
 174 members.

175 (f) If an impartial chairperson cannot be agreed upon  
 176 within 5 calendar days after the first four members are  
 177 selected, a judge from within the Third Circuit of the state  
 178 shall, within 5 days, appoint a chairperson who is a full-time  
 179 eligible member within the Columbia County Sheriff's Office.

180 (g) The ranking officer or his or her designee in charge  
 181 of personnel matters shall serve as an ex officio member of the  
 182 board for the purpose of providing procedural guidance to the  
 183 board concerning the application of this act and any rules or  
 184 regulations of this act and any rules or regulations adopted by  
 185 the Sheriff relating thereto, but such ex officio member shall  
 186 have no vote.

187 (h) The Sheriff may, on his or her own initiative, appoint  
 188 a Career Service Appeal Board for the purpose of receiving,  
 189 considering, and making a recommendation on matters related to

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190 the formation or streamlining of rules related to this act or to  
 191 consider any other matter deemed appropriate by the Sheriff,  
 192 excluding disciplinary termination of employment. If the issue  
 193 to be under consideration involves a specific member of the  
 194 Sheriff's Office and may result in some disciplinary  
 195 recommendation by the board, the Sheriff shall notify the  
 196 individual and offer the opportunity for the individual to  
 197 provide two members to the board to consider the specific  
 198 question at issue. If no specific member is involved, the  
 199 Sheriff shall appoint two members from the Civil Division and  
 200 two members from the Criminal Division, and the Captain of the  
 201 Administrative Division shall serve as the chairperson. A board  
 202 appointed by initiative may only make recommendations.

203 (3) HEARING TIME; DATE; COMPENSATION; CONSOLIDATION;  
 204 EXCLUSIONS.--

205 (a) Standardized dates and times of meetings shall be  
 206 established by rule and shall occur during normal administrative  
 207 office hours.

208 (b) Members selected to serve on the board shall serve  
 209 without additional compensation for meetings occurring during  
 210 their normal work hours. For nonwork hours, compensatory time at  
 211 the rate of 150 percent for the actual hours in session shall be  
 212 credited to the member.

213 (c) Once selected to the board, the members thereof shall  
 214 serve until final action is taken with respect to the purpose  
 215 for which the board was selected, at which time the board shall  
 216 be dissolved.



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

221 (e) A person may not serve as a member of an ad hoc Career  
 222 Service Appeal Board who:

223 1. Was involved in the original incident that resulted in  
 224 the disciplinary process that is the subject of the appeal.

225 2. Is related to the appellant.

226 3. Is currently under investigation or suspension.

227 4. Has any ongoing litigation against the Columbia County  
 228 Sheriff's Office.

229 5. Is on probation or has received sustained discipline  
 230 within the past year.

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

232 (a) An appeal of an action specified in section 3 shall be  
 233 made to the Sheriff in writing and must be received by the  
 234 Sheriff no later than 5 calendar days after the employee is  
 235 notified of the action on which the appeal is based.

236 (b) When a Career Service Appeal Board has been selected  
 237 for purposes of hearing the appeal, the Sheriff shall publish  
 238 and furnish notice to the appealing person of the date,  
 239 location, and time of the hearing before the Career Service  
 240 Appeal Board. In any case, the date of the hearing shall be  
 241 within 15 calendar days, excluding weekends and holidays, after  
 242 notification of the selection of the fifth member.

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

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245       (d) During the hearing, the employee filing the appeal  
246 shall have the right to be heard, to be represented by a person  
247 of his or her choice, and to present any relevant evidence on  
248 his or her behalf, and during the hearing the technical rules of  
249 evidence shall not apply.

250       (e) The board shall, in the conduct of a hearing, have the  
251 power to administer oaths, issue subpoenas, compel the  
252 attendance of witnesses, and require the production of books,  
253 records, accounts, papers, documents, prior statements,  
254 testimony, and investigative files related to the issue that are  
255 in the possession of or have been delivered to Human Resources a  
256 minimum of 5 business days prior to the beginning of the  
257 hearing. In case of disobedience of any person to comply with an  
258 order of the board or a subpoena issued by the board, or upon  
259 the refusal of a witness to testify on any matter regarding  
260 which he may be lawfully interrogated, a County Judge of the  
261 county in which a person resides, upon application of a member  
262 of the board, shall compel obedience by proceeding as for  
263 contempt. Each witness who appears in obedience to a subpoena  
264 before the board shall receive compensation for attendance fees  
265 and mileage as provided for witnesses in civil cases in the  
266 courts of this state. Such payments shall be made by the party  
267 calling the witness, except that with respect to any witnesses  
268 called by the board, payments shall be made by the Sheriff upon  
269 presentation of proper vouchers and approval by three members of  
270 the board. In any case, the board shall restrict its  
271 considerations and deliberations to the evidence presented at  
272 the hearing.

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

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

276        (a) The board shall, by majority vote, dispose of the  
 277 appeal for which it was appointed by making a determination of  
 278 just cause and issuing a written decision. Such decision shall  
 279 be based upon the simple determination of a preponderance of  
 280 evidence (51 percent). In the instance of an appeal to the board  
 281 concerning a termination, a majority vote of the board shall be  
 282 required to overturn the Sheriff's decision to terminate. All  
 283 members of the board must be present to conduct any official  
 284 business of the board.

285        (b) If the board does not sustain the action by the  
 286 Sheriff, back pay and benefits shall be reinstated. No board  
 287 shall have the authority to impose on any employee any penalty  
 288 that is different than that which formed the basis of the  
 289 appeal. If the board sustains the action of the Sheriff, it may  
 290 also make a recommendation to the Sheriff to reconsider  
 291 mitigating circumstances and reconsider the termination-of-  
 292 employment action. The Sheriff shall review the determination of  
 293 the board and consider its recommendation prior to imposition of  
 294 final action.

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

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

299        (e) The Sheriff shall prepare, or cause to be prepared, an  
 300 order and publish the final disposition of the appeal. The final

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301 disposition shall be binding on the employee and becomes a  
 302 public record at that time.

303 (f) The board hearing shall be open to the public,  
 304 recorded, and preserved for the public record. After all  
 305 materials are received and all witnesses heard, the chairperson  
 306 shall declare the hearing completed for the purpose of beginning  
 307 deliberations.

308 (g) Official written minutes of the deliberations shall be  
 309 kept by a clerical person and made part of the official record  
 310 of the board.

311 (h) The chairperson of the board shall have the authority  
 312 to receive and consider written prehearing motions that shall be  
 313 presented to the full board at the hearing. He or she shall  
 314 preside over the hearing, enforce the decorum of the hearing,  
 315 receive requests for breaks, convene the deliberations, and  
 316 cause the removal of anyone attempting to disrupt any of the  
 317 proceedings.

318 Section 5. Upon enactment.--

319 (1) INCLUDED INDIVIDUALS.--All full-time certified and  
 320 noncertified persons in the employ of the Columbia County  
 321 Sheriff's Office on the effective date of this act who have  
 322 served for a period of 1 calendar year or more and successfully  
 323 completed their probationary period as of such effective date of  
 324 the act shall be career employees subject to the provisions of  
 325 this act. All other full-time employees shall become career  
 326 employees subject to the provisions of this act upon reaching  
 327 their 1-calendar-year service anniversary date and successfully  
 328 completing their probationary period.

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329       (2) CIRCUMVENTION.--

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

334       (b) No certified or noncertified full-time employee of the  
 335 Columbia County Sheriff's Office shall be discharged or  
 336 discriminated against in regard to his or her employment or  
 337 appointment, or threatened with any such treatment, by reason of  
 338 his or her exercise of the rights granted by this act.

339       Section 6. Exclusions.--

340       (1) The career status provisions of this act shall not  
 341 apply to the Sheriff; to Special Deputy Sheriffs appointed  
 342 pursuant to section 30.09(4), Florida Statutes; to members  
 343 employed pursuant to a grant whose continued existence or  
 344 funding is subject to the expiration or withdrawal of the grant;  
 345 to nondisciplinary termination of employment arising out of a  
 346 reduction of force, layoff, or partial or total abolition or  
 347 cessation of a program, service, operation, or department at the  
 348 discretion of the Sheriff; to members of the Sheriff's Reserve  
 349 Unit; or to individuals appointed as part-time Deputy Sheriffs,  
 350 as defined by the Criminal Justice Standards and Training  
 351 Commission, unless any such person is also employed full-time by  
 352 the Columbia County Sheriff's Office.

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

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

361        Section 7. Severability.--The provisions of this act shall  
362 be severable and, if any of the provisions shall be  
363 unconstitutional, the decision of the court shall not affect the  
364 validity of the remaining provisions. It is hereby declared to  
365 be the intent of the Legislature that this act would have been  
366 adopted had such unconstitutional provision not been included  
367 therein.

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