

CHAMBER ACTION

1 The Committee on State Administration recommends the following:

2
3 **Committee Substitute**

4 Remove the entire bill and insert:

5 A bill to be entitled

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

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

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

23 (1) APPLICABILITY.--

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

96 (4) ADMINISTRATION.--

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

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

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

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

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

117 Section 3. Disciplinary appeal procedure.--

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

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

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

127 (1) FUNCTION OF BOARD.--

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

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

137 (2) MEMBERSHIP OF BOARD.--

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

224 2. Is related to the appellant.

225 3. Is currently under investigation or suspension.

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

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

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

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

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

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

HB 771 CS

2004
CS

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

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

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

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

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

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

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

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

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

301 (f) The board hearing and the board's deliberations shall
 302 be open to the public, recorded, and preserved for the public
 303 record.

304 (g) The chairperson of the board shall have the authority
 305 to receive and consider written prehearing motions that shall be
 306 presented to the full board at the hearing. He or she shall
 307 preside over the hearing, enforce the decorum of the hearing,
 308 receive requests for breaks, convene the deliberations, and
 309 cause the removal of anyone attempting to disrupt any of the
 310 proceedings.

311 Section 5. Upon enactment.--

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

322 (2) CIRCUMVENTION.--

323 (a) Promotions or demotions of members or creation of rank
 324 to circumvent the intent of this act shall be held as a valid

325 reason to request the Sheriff to appoint a Career Service
 326 Appeals Board to consider the issue in question.

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

332 Section 6. Exclusions.--

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

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

350 (3) This act shall not apply to an otherwise covered
 351 person who claims that a termination of employment was for

HB 771 CS

2004
CS

352 discriminatory purposes. Claims of this nature are already
353 covered under state and federal statutes.

354 Section 7. Severability.--The provisions of this act shall
355 be severable and, if any of the provisions shall be
356 unconstitutional, the decision of the court shall not affect the
357 validity of the remaining provisions. It is hereby declared to
358 be the intent of the Legislature that this act would have been
359 adopted had such unconstitutional provision not been included
360 therein.

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