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 HB 1161

2006 Legislature

1 A bill to be entitled
 2 An act relating to Okeechobee County; providing for career
 3 service for employees of the Okeechobee County Sheriff's
 4 Office; providing for application of the act, permanent
 5 status of employees, suspension or dismissal, transition
 6 of career service employees, and administration; providing
 7 for a procedure with respect to complaints against
 8 employees; providing for ad hoc career service appeal
 9 boards and membership and responsibilities thereof;
 10 providing for a disciplinary procedure and for appeals;
 11 providing for status as permanent employees; prohibiting
 12 certain actions to circumvent the act; providing an
 13 effective date.

14
 15 Be It Enacted by the Legislature of the State of Florida:

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 17 Section 1. Employees of the Okeechobee County Sheriff's
 18 Office; applicability of the act; permanent status of employees;
 19 administration.--

20 (1) APPLICABILITY.--The provisions of this act shall apply
 21 to all full-time sworn and civilian persons in the employ of the
 22 Okeechobee County Sheriff's Office. The provisions of this act
 23 do not apply to the sheriff, undersheriff, special deputies
 24 appointed pursuant to section 30.09(4), Florida Statutes,
 25 members of the sheriff's reserve/auxiliary units, or persons
 26 appointed as part-time deputy sheriffs as defined by the
 27 Criminal Justice Standards and Training Commission, unless any
 28 such person is also employed full time by the Okeechobee County

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29 Sheriff's Office. As used in this act, the terms "employee,"
30 "employ," and "employment" 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 the right of collective
33 bargaining to persons in the employ of the Okeechobee County
34 Sheriff's Office who do not otherwise have that right pursuant
35 to law.

36 (2) PERMANENT STATUS; CAUSE FOR SUSPENSION OR DISMISSAL.--

37 (a)1. When an employee of the sheriff to whom the
38 provisions of this act apply has served in such employment for a
39 period of 1 calendar year, the employee shall have attained
40 permanent status in the Okeechobee County Sheriff's Office;
41 however, if an employee is placed on disciplinary probation for
42 a period of 6 months or more or is terminated and rehired at a
43 later date, the employee shall be required to complete 1
44 calendar year of service from the date of the disciplinary
45 action or rehire before being granted permanent status. The term
46 "career service employee" as used in this act means an employee
47 who has successfully completed his or her probationary period.

48 2. Any employee who is required to serve a probationary
49 period attendant to a promotion shall retain permanent status in
50 the Office of the Sheriff but may be returned to his or her
51 prior rank during such probationary period without the right of
52 appeal as provided in section 2. For the purpose of determining
53 career service status as defined in this act, all time in the
54 employment of the Office of the Sheriff while in a Criminal
55 Justice Standards and Training Commission-approved academy or
56 other comparable training for certification as a sworn officer

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57 or deputy sheriff shall not be counted or considered in any
58 manner in determining whether the employee has attained 1
59 calendar year of minimum service.

60 (b) Any employee who has achieved career service status
61 with the Okeechobee County Sheriff's Office may only be
62 suspended or dismissed for cause, provided that, prior to such
63 action, the employee has been furnished written notice of the
64 proposed action and has been offered an opportunity to respond
65 to the reasons for the suspension or dismissal. In extraordinary
66 situations, however, such as when delay could result in damage
67 or injury to property or persons, an employee may be suspended
68 or dismissed immediately and then be provided notice thereof and
69 reasons therefor within 24 hours or as soon as is practicable if
70 circumstances surrounding such extraordinary situation make
71 notice within 24 hours impracticable. "Cause for suspension or
72 dismissal" includes, but is not limited to, negligence,
73 inefficiency or inability to perform assigned duties,
74 insubordination, violation of provisions of law or office rules,
75 conduct unbecoming a public employee, misconduct, alcohol abuse,
76 prescription drug abuse, or illegal drug use. "Cause for
77 suspension or dismissal" also includes, but is not limited to,
78 adjudication of guilt by a court of competent jurisdiction, a
79 plea of guilty or of nolo contendere, or a verdict of guilty
80 when adjudication of guilt is withheld and the accused is placed
81 on probation with respect to any felony, misdemeanor, or major
82 traffic infraction charges.

83 (3) TRANSITION OF CAREER SERVICE EMPLOYEES.--When a newly
84 elected or appointed sheriff assumes office, the new sheriff

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85 shall continue the employment of all currently employed career
 86 service personnel unless cause for dismissal, as provided in
 87 this section, exists. The sheriff shall have the right to
 88 replace persons serving in the rank of captain or above,
 89 including the executive secretary, with new personnel of the
 90 sheriff's choosing. The sheriff shall have the right to offer
 91 these persons any position that the sheriff chooses or to cease
 92 their employment with the department. The current employees
 93 holding the rank of lieutenant who are career service employees
 94 may be reduced to the next lowest rank at the current maximum
 95 pay step, which rank shall be permanent unless later reduced by
 96 disciplinary demotion or increased through subsequent promotion.
 97 Their regular base salaries may be reduced or increased
 98 accordingly. Actions taken pursuant to this subsection affecting
 99 the undersheriff, colonels, majors, directors, or their
 100 executive staff equivalents shall not be appealable under this
 101 act. Dismissals or demotions pursuant to across-the-board
 102 actions directed by the Okeechobee County Board of
 103 Commissioners, resulting from county fiscal impacts, shall not
 104 be appealable under the provisions of section 2.

105 (4) ADMINISTRATION.--The sheriff shall have full authority
 106 to adopt such rules, regulations, and procedures necessary for
 107 the administration and implementation of this act. However,
 108 nothing in this act shall be construed as affecting the budget-
 109 making powers of the Okeechobee County Board of Commissioners.

110 Section 2. Career service appeal boards; creation;
 111 membership; duties.--

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112 (1) FUNCTION OF BOARDS.--Ad hoc career service appeal
 113 boards shall be appointed as provided in this section for the
 114 purpose of hearing appeals of career service employees arising
 115 from personnel actions brought under the rules, regulations, or
 116 policies of the Office of the Sheriff which result in dismissal,
 117 suspension, demotion, or reduction in pay. Lateral transfers,
 118 shift changes, oral or written reprimands, and suspensions of 3
 119 working days or fewer shall not be appealable to a career
 120 service appeal board. However, no more than one such suspension
 121 may occur within 1 calendar year without the right to appeal.
 122 The scope of a career service appeal board is limited to
 123 disciplinary proceedings and termination actions. A career
 124 service appeal board shall have the authority to conduct
 125 hearings and make findings of fact and recommendations to the
 126 sheriff. The sheriff shall not be bound by the findings or
 127 recommendations of such boards but shall consider them in making
 128 his or her final decision.

129 (2) MEMBERSHIP AND RESPONSIBILITY OF CAREER SERVICE APPEAL
 130 BOARD.--

131 (a) A career service appeal board shall consist of three
 132 members of the Office of the Sheriff. The sheriff shall select
 133 one member; the employee requesting the hearing shall select one
 134 member; and these two members shall select the third member, who
 135 must hold the rank of lieutenant or above, to serve as
 136 chairperson. Each selected member shall have the right to
 137 decline to serve.

138 (b) All members of the career service appeal board shall
 139 be selected on the basis of fairness, objectivity, and

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140 impartiality. The board shall have no investigative powers and
 141 shall function in the capacity of a fact finder in an effort to
 142 arrive at a fair and equitable recommendation in all matters
 143 brought before it. Selected members shall have no involvement
 144 with the issues under consideration. Membership of the board is
 145 voluntary and is without remuneration. Members may not discuss
 146 matters to be heard before the board until the board convenes
 147 and then they may only discuss such matters during the
 148 officially convened sessions of the board.

149 (c) The career service appeal board chairperson shall have
 150 the responsibility to:

151 1. Chair all meetings using parliamentary rules of order.

152 2. Request that the employee provide the names of any
 153 witnesses.

154 3. Schedule and provide written notification of all
 155 meetings to the witnesses, board members, and the employee.

156 4. Provide copies of all charges to board members.

157 5. Ensure compliance with hearing procedures.

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

159 (a) Any career service employee may request a hearing
 160 before a career service appeal board for any appealable
 161 disciplinary action of his or her superiors that adversely
 162 affects his or her employment.

163 (b) A request for a hearing shall be made in writing to
 164 the employee's immediate supervisor within 10 working days after
 165 notice of appealable disciplinary action. The request shall
 166 contain a brief statement of the matters to be considered by the
 167 board and the name of the employee selected to be a member of

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168 the board.

169 (c) The immediate supervisor shall forward the hearing
 170 request to the sheriff and the appropriate division commander
 171 without delay. A career service appeal board shall be impaneled
 172 and a hearing date scheduled by the sheriff within 10 working
 173 days after receipt of the request for a hearing unless waived in
 174 writing by the employee.

175 (d) The employee and his or her representative have the
 176 right to be present and to present any relevant evidence on the
 177 employee's behalf. During such hearings, the technical rules of
 178 evidence shall not apply. Neither the employee nor his or her
 179 representative may disrupt the proceedings. The qualification of
 180 disruptive conduct shall be at the exclusive determination of
 181 the chairperson of the career service appeal board.

182 (e) The employee shall not discuss the circumstances of
 183 the matter being brought before the board except through the
 184 chairperson.

185 (f) All witnesses shall be notified in writing by the
 186 chairperson of the board, through the appropriate chain of
 187 command, of the date and time of the convening of the career
 188 service appeal board. Nonemployee witnesses may be called to
 189 appear before the board only at the request of the board.

190 (g) The board shall have the power to issue subpoenas upon
 191 request of any party or upon its own motion.

192 (4) CONDUCT OF HEARING.--

193 (a) Career service appeal boards are designed to determine
 194 the truth while maintaining an atmosphere of fundamental
 195 fairness and shall not be controlled by civil or criminal rules

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196 of procedure.

197 (b) Board members may receive verbal or written testimony
 198 concerning any matter considered relevant by the board. The
 199 board may review any record, including, but not limited to,
 200 performance evaluations and disciplinary files.

201 (c) Employees and their representatives shall have
 202 opportunity to present evidence, conduct cross-examination, and
 203 submit rebuttal evidence.

204 (5) FINDINGS AND RECOMMENDATIONS OF THE CAREER SERVICE
 205 APPEAL BOARD.--

206 (a) Each complaint shall receive a separate finding and
 207 recommendation by a majority of the board. Each finding shall
 208 consider the seriousness of the complaint, any extenuating
 209 circumstances, the tenure of the employee, and the employee's
 210 past conduct record. The board shall submit to the sheriff its
 211 written findings of fact and recommendations within 5 days after
 212 the hearing.

213 (b) The board may place before the sheriff any recommended
 214 disposition that the board believes may be of benefit to the
 215 Office of the Sheriff, including, but not limited to, oral or
 216 verbal reprimand, suspension, reduction of rank, termination of
 217 employment, sustention or reversal of the original decision, or
 218 recommendation of a more severe disposition.

219 (c) The sheriff shall review the findings and
 220 recommendations of the career service appeal board and may
 221 either approve or disapprove them. The sheriff has the sole
 222 discretion to overrule the findings of the board.

223 (d) The sheriff shall notify the employee of the final

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224 results of the career service appeal board and the reasons
225 therefor.

226 (e) In the event the employee is exonerated, the employee
227 shall be reinstated without prejudice or penalty.

228 (f) When summary discipline is imposed by any supervisor,
229 the sheriff may order a career service appeal board to convene
230 and review the action of the supervisor.

231 (g) All proceedings of the board shall be retained by the
232 Human Resources Department of the Office of the Sheriff.

233 (h) All associated reports, paperwork, and personnel
234 action taken as a result of the appeal shall be retained by the
235 Human Resources Department of the Office of the Sheriff.

236 Section 3. (1) All sworn and civilian persons in the
237 employ of the Okeechobee County Sheriff's Office on the
238 effective date of this act who have served for a period of 1
239 calendar year or more as of such date shall be permanent
240 employees subject to the provisions of this act. All other
241 employees shall become permanent employees subject to the
242 provisions of this act upon reaching their 1-calendar-year
243 service anniversary date.

244 (2) No sworn or civilian employee of the Okeechobee County
245 Sheriff's Office shall be discharged; disciplined; demoted;
246 denied promotion, transfer, or reassignment; or otherwise
247 discriminated against in regard to his or her employment or
248 appointment, or be threatened with any such treatment, by reason
249 of his or her exercise of the rights granted by this act.

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