

By Senator Alexander

17-1691-06

See HB

1 A bill to be entitled

2 An act relating to Okeechobee County; providing

3 for career service for employees of the

4 Okeechobee County Sheriff's Office; providing

5 for application of the act, permanent status of

6 employees, suspension or dismissal, transition

7 of career service employees, and

8 administration; providing for a procedure with

9 respect to complaints against employees;

10 providing for ad hoc career service appeal

11 boards and membership and responsibilities

12 thereof; providing for a disciplinary procedure

13 and for appeals; providing for status as

14 permanent employees; prohibiting certain

15 actions to circumvent the act; providing an

16 effective date.

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

20 Section 1. Employees of the Okeechobee County

21 Sheriff's Office; applicability of the act; permanent status

22 of employees; administration.--

23 (1) APPLICABILITY.--The provisions of this act shall

24 apply to all full-time sworn and civilian persons in the

25 employ of the Okeechobee County Sheriff's Office. The

26 provisions of this act do not apply to the sheriff,

27 undersheriff, special deputies appointed pursuant to section

28 30.09(4), Florida Statutes, members of the sheriff's

29 reserve/auxiliary units, or persons appointed as part-time

30 deputy sheriffs as defined by the Criminal Justice Standards

31 and Training Commission, unless any such person is also

1 employed full time by the Okeechobee County Sheriff's Office.
2 As used in this act, the terms "employee," "employ," and
3 "employment" refer to all persons, whether employed or
4 appointed, to whom the act applies. It is not, however, the
5 intent of this act to grant the right of collective bargaining
6 to persons in the employ of the Okeechobee County Sheriff's
7 Office who do not otherwise have that right pursuant to law.

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

10 (a)1. When an employee of the sheriff to whom the
11 provisions of this act apply has served in such employment for
12 a period of 1 calendar year, the employee shall have attained
13 permanent status in the Okeechobee County Sheriff's Office;
14 however, if an employee is placed on disciplinary probation
15 for a period of 6 months or more or is terminated and rehired
16 at a later date, the employee shall be required to complete 1
17 calendar year of service from the date of the disciplinary
18 action or rehire before being granted permanent status. The
19 term "career service employee" as used in this act means an
20 employee who has successfully completed his or her
21 probationary period.

22 2. Any employee who is required to serve a
23 probationary period attendant to a promotion shall retain
24 permanent status in the Office of the Sheriff but may be
25 returned to his or her prior rank during such probationary
26 period without the right of appeal as provided in section 2.
27 For the purpose of determining career service status as
28 defined in this act, all time in the employment of the Office
29 of the Sheriff while in a Criminal Justice Standards and
30 Training Commission-approved academy or other comparable
31 training for certification as a sworn officer or deputy

1 sheriff shall not be counted or considered in any manner in
2 determining whether the employee has attained 1 calendar year
3 of minimum service.

4 (b) Any employee who has achieved career service
5 status with the Okeechobee County Sheriff's Office may only be
6 suspended or dismissed for cause, provided that, prior to such
7 action, the employee has been furnished written notice of the
8 proposed action and has been offered an opportunity to respond
9 to the reasons for the suspension or dismissal. In
10 extraordinary situations, however, such as when delay could
11 result in damage or injury to property or persons, an employee
12 may be suspended or dismissed immediately and then be provided
13 notice thereof and reasons therefor within 24 hours or as soon
14 as is practicable if circumstances surrounding such
15 extraordinary situation make notice within 24 hours
16 impracticable. "Cause for suspension or dismissal" includes,
17 but is not limited to, negligence, inefficiency or inability
18 to perform assigned duties, insubordination, violation of
19 provisions of law or office rules, conduct unbecoming a public
20 employee, misconduct, alcohol abuse, prescription drug abuse,
21 or illegal drug use. "Cause for suspension or dismissal" also
22 includes, but is not limited to, adjudication of guilt by a
23 court of competent jurisdiction, a plea of guilty or of nolo
24 contendere, or a verdict of guilty when adjudication of guilt
25 is withheld and the accused is placed on probation with
26 respect to any felony, misdemeanor, or major traffic
27 infraction charges.

28 (3) TRANSITION OF CAREER SERVICE EMPLOYEES.--When a
29 newly elected or appointed sheriff assumes office, the new
30 sheriff shall continue the employment of all currently
31 employed career service personnel unless cause for dismissal,

1 as provided in this section, exists. The sheriff shall have
2 the right to replace persons serving in the rank of captain or
3 above, including the executive secretary, with new personnel
4 of the sheriff's choosing. The sheriff shall have the right to
5 offer these persons any position that the sheriff chooses or
6 to cease their employment with the department. The current
7 employees holding the rank of lieutenant who are career
8 service employees may be reduced to the next lowest rank at
9 the current maximum pay step, which rank shall be permanent
10 unless later reduced by disciplinary demotion or increased
11 through subsequent promotion. Their regular base salaries may
12 be reduced or increased accordingly. Actions taken pursuant to
13 this subsection affecting the undersheriff, colonels, majors,
14 directors, or their executive staff equivalents shall not be
15 appealable under this act. Dismissals or demotions pursuant to
16 across-the-board actions directed by the Okeechobee County
17 Board of Commissioners, resulting from county fiscal impacts,
18 shall not be appealable under the provisions of section 2.

19 (4) ADMINISTRATION.--The sheriff shall have full
20 authority to adopt such rules, regulations, and procedures
21 necessary for the administration and implementation of this
22 act. However, nothing in this act shall be construed as
23 affecting the budget-making powers of the Okeechobee County
24 Board of Commissioners.

25 Section 2. Career service appeal boards; creation;
26 membership; duties.--

27 (1) FUNCTION OF BOARDS.--Ad hoc career service appeal
28 boards shall be appointed as provided in this section for the
29 purpose of hearing appeals of career service employees arising
30 from personnel actions brought under the rules, regulations,
31 or policies of the Office of the Sheriff which result in

1 dismissal, suspension, demotion, or reduction in pay. Lateral
2 transfers, shift changes, oral or written reprimands, and
3 suspensions of 3 working days or fewer shall not be appealable
4 to a career service appeal board. However, no more than one
5 such suspension may occur within 1 calendar year without the
6 right to appeal. The scope of a career service appeal board is
7 limited to disciplinary proceedings and termination actions. A
8 career service appeal board shall 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 such boards but shall consider them in
12 making his or her final decision.

13 (2) MEMBERSHIP AND RESPONSIBILITY OF CAREER SERVICE
14 APPEAL BOARD.--

15 (a) A career service appeal board shall consist of
16 three members of the Office of the Sheriff. The sheriff shall
17 select one member; the employee requesting the hearing shall
18 select one member; and these two members shall select the
19 third member, who must hold the rank of lieutenant or above,
20 to serve as chairperson. Each selected member shall have the
21 right to decline to serve.

22 (b) All members of the career service appeal board
23 shall be selected on the basis of fairness, objectivity, and
24 impartiality. The board shall have no investigative powers and
25 shall function in the capacity of a fact finder in an effort
26 to arrive at a fair and equitable recommendation in all
27 matters brought before it. Selected members shall have no
28 involvement with the issues under consideration. Membership of
29 the board is voluntary and is without remuneration. Members
30 may not discuss matters to be heard before the board until the
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1 board convenes and then they may only discuss such matters
2 during the officially convened sessions of the board.

3 (c) The career service appeal board chairperson shall
4 have the responsibility to:

5 1. Chair all meetings using parliamentary rules of
6 order.

7 2. Request that the employee provide the names of any
8 witnesses.

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

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

12 5. Ensure compliance with hearing procedures.

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

14 (a) Any career service employee may request a hearing
15 before a career service appeal board for any appealable
16 disciplinary action of his or her superiors that adversely
17 affects his or her employment.

18 (b) A request for a hearing shall be made in writing
19 to the employee's immediate supervisor within 10 working days
20 after notice of appealable disciplinary action. The request
21 shall contain a brief statement of the matters to be
22 considered by the board and the name of the employee selected
23 to be a member of the board.

24 (c) The immediate supervisor shall forward the hearing
25 request to the sheriff and the appropriate division commander
26 without delay. A career service appeal board shall be
27 impaneled and a hearing date scheduled by the sheriff within
28 10 working days after receipt of the request for a hearing
29 unless waived in writing by the employee.

30 (d) The employee and his or her representative have
31 the right to be present and to present any relevant evidence

1 on the employee's behalf. During such hearings, the technical
2 rules of evidence shall not apply. Neither the employee nor
3 his or her representative may disrupt the proceedings. The
4 qualification of disruptive conduct shall be at the exclusive
5 determination of the chairperson of the career service appeal
6 board.

7 (e) The employee shall not discuss the circumstances
8 of the matter being brought before the board except through
9 the chairperson.

10 (f) All witnesses shall be notified in writing by the
11 chairperson of the board, through the appropriate chain of
12 command, of the date and time of the convening of the career
13 service appeal board. Nonemployee witnesses may be called to
14 appear before the board only at the request of the board.

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

17 (4) CONDUCT OF HEARING.--

18 (a) Career service appeal boards are designed to
19 determine the truth while maintaining an atmosphere of
20 fundamental fairness and shall not be controlled by civil or
21 criminal rules of procedure.

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

26 (c) Employees and their representatives shall have
27 opportunity to present evidence, conduct cross-examination,
28 and submit rebuttal evidence.

29 (5) FINDINGS AND RECOMMENDATIONS OF THE CAREER SERVICE
30 APPEAL BOARD.--

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1 (a) Each complaint shall receive a separate finding
2 and recommendation by a majority of the board. Each finding
3 shall consider the seriousness of the complaint, any
4 extenuating circumstances, the tenure of the employee, and the
5 employee's past conduct record. The board shall submit to the
6 sheriff its written findings of fact and recommendations
7 within 5 days after the hearing.

8 (b) The board may place before the sheriff any
9 recommended disposition that the board believes may be of
10 benefit to the Office of the Sheriff, including, but not
11 limited to, oral or verbal reprimand, suspension, reduction of
12 rank, termination of employment, sustention or reversal of the
13 original decision, or recommendation of a more severe
14 disposition.

15 (c) The sheriff shall review the findings and
16 recommendations of the career service appeal board and may
17 either approve or disapprove them. The sheriff has the sole
18 discretion to overrule the findings of the board.

19 (d) The sheriff shall notify the employee of the final
20 results of the career service appeal board and the reasons
21 therefor.

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

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

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

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

1 Section 3. (1) All sworn and civilian persons in the
2 employ of the Okeechobee County Sheriff's Office on the
3 effective date of this act who have served for a period of 1
4 calendar year or more as of such date shall be permanent
5 employees subject to the provisions of this act. All other
6 employees shall become permanent employees subject to the
7 provisions of this act upon reaching their 1-calendar-year
8 service anniversary date.

9 (2) No sworn or civilian employee of the Okeechobee
10 County Sheriff's Office shall be discharged; disciplined;
11 demoted; denied promotion, transfer, or reassignment; or
12 otherwise discriminated against in regard to his or her
13 employment or appointment, or be threatened with any such
14 treatment, by reason of his or her exercise of the rights
15 granted by this act.

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