

1 any special deputy sheriff appointed pursuant to s.
2 30.09(4)(b), Florida Statutes, members of the Mounted
3 Enforcement Unit, ~~or~~ Auxiliary or Reserve Unit, or any person
4 appointed as a part-time employee. ~~It is the intent of this~~
5 ~~act to authorize an advisory personnel system, to maintain the~~
6 ~~full powers of the Sheriff, and to continue to respect the~~
7 ~~legal limitations on the right of collective bargaining and~~
8 ~~other rights under part II of chapter 447, Florida Statutes,~~
9 ~~and not to grant such rights to any deputy, member, or~~
10 ~~employee of the Polk County Sheriff's Office who, prior to the~~
11 ~~effective date of this act, did not otherwise have such rights~~
12 ~~pursuant to law.~~

13 Section 2. The Sheriff of Polk County is hereby
14 authorized to appoint a personnel board, hereafter referred to
15 as the "board," to act as an advisory agency of and to the
16 Sheriff, which board shall be composed of five members to be
17 appointed as follows:

18 (1) Two members of the board shall be selected and
19 appointed by the Sheriff.

20 (2) Two members of the board shall be appointed by the
21 Sheriff after being elected in an election among members of
22 the classified service from a group of three nominations
23 chosen by a majority vote of a three-person committee known as
24 the Members Nominating Committee representing the classified
25 members of the Sheriff's Office as described in section 9.
26 Each of three candidates nominated by the Members Nominating
27 Committee shall possess qualifications for board membership as
28 outlined in subsections (5) and (6).

29 (3) The fifth member shall be selected by the four
30 appointed members of the board and shall be appointed by the
31 Sheriff.

1 (4) All members shall be appointed by the Sheriff and
2 shall also possess the qualifications for board membership
3 outlined in subsections (5) and (6).

4 (5) No member appointed pursuant to subsection (1),
5 subsection (2), or subsection (3), or that member's ~~his or her~~
6 alternate, may be:

7 (a) A member ~~An employee~~ of the Sheriff's Office or of
8 any city or county of this state or of the State of Florida or
9 the United States; or

10 (b) A member of any national, state, or county
11 committee of a political party; or

12 (c) A candidate for, or incumbent of, any paid public
13 office; or

14 (d) The spouse, parent or grandparent, child or
15 grandchild, brother or sister, aunt or uncle, niece or nephew,
16 by consanguinity or affinity, of a member of the classified
17 service; or

18 (e) Situated so as to have a conflict of interest in
19 the terms of the member's or alternate's ~~his or her~~ related
20 business, duties, or responsibilities in connection with the
21 board.

22 (6) All the members of the personnel board shall be at
23 least 21 years of age; of good moral character; of good
24 reputation in the community; citizens of the United States;
25 permanent residents of Florida; and residents of Polk County
26 for at least 2 years prior to the date of appointment.

27 (7) Two alternates to the board shall be appointed by
28 the Sheriff. In the event that a vacancy occurs in that a
29 board member terminates or that a matter before the board
30 involves a conflict of interest, the alternate member shall
31 serve for the hearing or term of office as the case may be.

1 (8) The ranking officer in charge of the Human
2 Resources Division ~~Section~~ shall be designated as the Human
3 Resources Director ~~Administrator~~ and shall serve as secretary
4 to the board and as an ex officio member of the board but
5 shall have no vote.

6 Section 3. To ensure continuity, board members shall
7 be appointed by the Sheriff to 2-year terms on an alternating
8 schedule effective the second Tuesday of February ~~January~~. Two
9 members shall be appointed during even numbered years, and
10 three members shall be appointed during odd numbered years.
11 Nothing contained herein shall prohibit board members from
12 being reappointed by the Sheriff for additional terms.

13 Section 4. Members of the board shall receive no
14 salary, but each shall be paid a monthly allowance, the amount
15 to be determined by the Sheriff, for expenses incurred in
16 performing the duties of the board.

17 Section 5. The board shall elect one member to serve
18 as chairperson ~~the chair~~ for a 1-year period ~~2-year period~~.
19 The chairperson ~~chair~~ shall perform such duties as are
20 provided for by the board's rules.

21 Section 6. The Sheriff shall make available to the
22 board a table of organization and a list of all employees and
23 members, positions, and classes and the pay scale of each
24 position and class in the Sheriff's Office.

25 Section 7. The board shall have the following powers
26 and duties:

27 (1) To adopt and amend rules and regulations for its
28 hearing procedures subject to approval by the Sheriff.

29 (2) To hear appeals and complaints in matters provided
30 for in this act and to make recommendations to the Sheriff
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1 regarding the same. Three members shall constitute a quorum
2 for hearing an appeal and rendering a decision.

3 Section 8. The Sheriff shall have the authority to
4 adopt such rules and regulations as are necessary for ~~the~~
5 ~~implementation and~~ administration of this act.

6 Section 9. There shall be a three-person Members
7 Nominating Committee which shall nominate candidates for
8 appointment to the board. All members of the committee shall
9 be members of the classified service. One member shall be
10 elected from the Office of Business Affairs, the Department of
11 Law Enforcement, and the Department of Detention ~~each~~
12 ~~department~~ by secret vote of all members of the classified
13 service within each respective office or department. Members
14 of the committee shall serve a 2-year term of office beginning
15 July 1.

16 Section 10. The Sheriff or the Sheriff's designee may
17 create new positions within the Sheriff's Office or combine,
18 alter, or abolish existing positions in such manner as the
19 Sheriff deems necessary.

20 Section 11. The Human Resources Director ~~Administrator~~
21 shall give public notice of vacancies and of open competitive
22 examinations for positions in the classified service. The
23 Human Resources Director ~~Administrator in the Sheriff's Office~~
24 shall establish and maintain such eligibility lists for the
25 various job classes as are deemed necessary to meet the needs
26 of the Sheriff's Office.

27 Section 12. ~~(1)~~ Whenever a vacancy occurs in any
28 position in the classified service, the Sheriff or the
29 Sheriff's designee shall make requisition to the Human
30 Resources Director ~~Administrator~~ for the names and addresses
31 of all persons eligible for appointment thereto. In the event

1 that a candidate acceptable to the Sheriff or the Sheriff's
2 designee is recommended, the Sheriff or the Sheriff's designee
3 thereupon shall appoint this person to the position where the
4 vacancy exists. The Sheriff or the Sheriff's designee shall
5 immediately inform the Human Resources Director ~~Administrator~~
6 of such ~~his~~ action.

7 ~~(1)(2)~~ In the absence of an eligibility list, the
8 Sheriff or the Sheriff's designee may, if either ~~he or she~~
9 determines that the necessity of adequate law enforcement or
10 operational efficiency so requires, appoint a person without
11 reference to an eligibility list to fill a vacant position on
12 a provisional basis. The Sheriff or the Sheriff's designee
13 shall immediately inform the Human Resources Director
14 ~~Administrator~~ of such ~~his~~ action. Such provisional appointee
15 shall be a person who lawfully could be appointed within the
16 personnel system had the appointee ~~he or she~~ been an
17 applicant. Such provisional appointee shall acquire no rights
18 under the system by virtue of said appointment and said
19 appointment shall terminate immediately when an eligible
20 person from an eligibility list is certified to and accepted
21 by the Sheriff, or within 6 months from the date of the
22 appointment, or 45 days after the establishment of an
23 eligibility list, whichever is the shorter length of time.
24 Acceptance or refusal or a provisional appointment shall not
25 prejudice or in any way affect the standing of a person who is
26 an applicant or who shall become an applicant for an
27 established position.

28 ~~(2)(3)~~ In the event of an emergency, the Sheriff or
29 the Sheriff's designee may appoint a person to fill a position
30 not to exceed 3 calendar months during any 12-month period.
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1 Section 13. No employee shall become a member of
2 ~~appointment to any position in the classified service shall be~~
3 ~~deemed complete~~ until the expiration of a period of at least
4 1-year probationary service. During the initial probationary
5 period, the Sheriff or the Sheriff's designee may terminate or
6 otherwise discipline the employee appointee and the employee
7 ~~appointee~~ shall not be eligible for a hearing before the
8 board. The initial probationary period ~~Appointments~~ may be
9 regarded as taking effect upon the date the employee
10 successfully completes all entry-level training ~~person~~
11 ~~appointed reports for duty.~~

12 Section 14. Whenever a position in the classified
13 service is filled by promotion, the employee person may be
14 returned to duty in a position at the level formerly held ~~by~~
15 ~~him or her~~ in the classified service without a hearing during
16 the employee's ~~his or her~~ promotion probationary period. The
17 member may have the opportunity for a hearing if dismissed
18 from the service or suspended for greater than 40 hours if the
19 member ~~he or she~~ has completed an initial 1-year probationary
20 period.

21 Section 15. It is not the intent of this act to modify
22 the Sheriff's absolute control over the selection and
23 retention of the Sheriff's deputies and of other members of
24 the Sheriff's Office as provided for by the law. No dismissal,
25 demotion, suspension, or reduction in pay shall be taken
26 against any nonprobationary member of the classified service
27 unless notice of the action and the reason therefor is given
28 to the member verbally or in writing prior to the action
29 taking effect. An opportunity to respond orally and in writing
30 to the Sheriff or the Sheriff's designee ~~representative in the~~
31 ~~decisionmaking process~~ may be granted prior to the effective

1 | date of the action. Following issuance of the written notice
2 | of disciplinary action, the affected member of the classified
3 | service may seek a formal hearing for a review of dismissal,
4 | demotion, suspension of greater than 40 hours, or reduction in
5 | pay, provided that the member, as a condition to seeking a
6 | hearing, shall, upon receipt of the written notice, answer the
7 | same in writing and file the answer and a request with the
8 | Sheriff within 7 calendar days after the issuance of the
9 | notice. If a dismissal, demotion, suspension of greater than
10 | 40 hours, or reduction in pay is answered and a hearing is
11 | requested in writing within 7 calendar days, the member of the
12 | classified service may have an opportunity for a hearing
13 | before the board with all the rights and privileges afforded
14 | under section 16. In the case of a notice of dismissal, the
15 | member shall remain dismissed without pay pending the hearing
16 | and the final decision of the Sheriff. In the case of a notice
17 | of a demotion, suspension of greater than 40 hours, or
18 | reduction in pay, the disciplinary action shall not be delayed
19 | pending the review process. The board shall report in writing
20 | its findings and recommendations to the Sheriff along with any
21 | mitigating circumstances noted for review and consideration by
22 | the Sheriff. The Sheriff shall retain the right of final
23 | determination. No member of the classified service may be
24 | reinstated, with or without backpay or benefits, without the
25 | concurrence of the Sheriff. For disciplinary purposes, the
26 | Sheriff or the Sheriff's designee may reprimand, orally or in
27 | writing, or summarily suspend a member of the classified
28 | service for a period not exceeding 40 hours, and such action
29 | shall not be subject to review and recommendation of the
30 | board.

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1 Section 16. The practice and procedure of the board
2 with respect to any hearing by the board authorized by this
3 act shall be in accordance with the rules and regulations ~~to~~
4 ~~be~~ established by the board. Such rules shall provide for a
5 reasonable notice of hearing to all persons affected by a
6 recommendation to be made by the board, with the opportunity
7 to be heard in their ~~his or her~~ behalf at a hearing to be held
8 for that purpose and to examine and cross-examine witnesses.

9 (1) The board, when conducting any hearings authorized
10 by this act, shall have the power to administer oaths and
11 issue subpoenas to compel the attendance of witnesses and the
12 production of books, accounts, papers, records, documents, and
13 testimony. In the case of the disobedience or failure of any
14 person to comply with a subpoena issued by the board or any of
15 its members, or on the refusal of a witness to testify on any
16 matter on which the witness ~~he or she~~ may be lawfully
17 interrogated, the judge of the circuit court of the county, on
18 application of the board, shall compel the obedience by
19 proceedings as for contempt. The service of a subpoena shall
20 be made in the manner provided by the Florida Rules of Civil
21 Procedure. Each witness subpoenaed by the board shall receive
22 for the witness's ~~his or her~~ attendance, fees and mileage in
23 the amount as provided for witnesses in civil cases, if
24 requested.

25 (2) The board shall meet for the purpose of hearing
26 the appeal promptly and no later than 30 days after receipt of
27 the answer and request for hearing, unless good cause exists
28 for, or the affected member agrees to, a postponement.

29 (3) The actions of the board and the Sheriff shall be
30 exempt from the provisions of chapter 120, Florida Statutes.
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1 Section 17. When a newly elected or appointed Sheriff
2 assumes office, the service of all personnel shall continue
3 without the necessity of formal reappointment. Notwithstanding
4 any other provisions of this act, the incoming Sheriff shall
5 have the option of maintaining the current personnel assigned
6 to the rank of major and above or equivalent noncertified
7 support positions or transferring those personnel as described
8 below. If the incoming Sheriff fills any of the above
9 positions with a new person and the current occupant of the
10 above position is a certified law enforcement deputy ~~officer~~
11 or detention deputy, he or she shall be reduced to the rank of
12 captain if certified, or to the equivalent noncertified
13 support position if not certified immediately. The member's
14 salary shall be reduced in compliance with the salary policy
15 in effect at that time, but shall be no less than the salary
16 the member would have attained had the member remained in the
17 highest classification accorded appeal rights under this act.
18 Following the election or appointment of a Sheriff,
19 appointments of all personnel remain at the pleasure of the
20 Sheriff, and personnel in the classified service may be
21 terminated by affirmative action of the Sheriff or the
22 Sheriff's successor in office subject to the provisions of
23 this act.

24 Section 18. If any provision of this act or the
25 application thereof to any person or circumstance is held
26 invalid, it is the legislative intent that the invalidity
27 shall not affect other provisions or applications of the act
28 which can be given effect without the invalid provision or
29 application, and to this end provisions of this act are
30 declared severable.

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1 Section 19. This act shall not be held or construed to
2 create any property rights or any vested interest in any
3 position in the classified service and the right is hereby
4 reserved to repeal, alter, or amend this act or any provision
5 thereof at any time.

6 Section 2. This act shall take effect upon becoming a
7 law.

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