

CHAMBER ACTION

1 The Governmental Operations Committee recommends the following:

2
3 **Council/Committee Substitute**

4 Remove the entire bill and insert:

5 A bill to be entitled

6 An act relating to reemployment after retirement; amending
7 s. 943.1395, F.S.; prohibiting certain reemployment for
8 certain law enforcement, correctional, and correctional
9 probation officers; conforming cross-references; amending
10 s. 943.22, F.S.; conforming a cross-reference; providing
11 an effective date.

12
13 Be It Enacted by the Legislature of the State of Florida:

14
15 Section 1. Subsections (4) through (10) of section
16 943.1395, Florida Statutes, are renumbered as subsections (5)
17 through (11), respectively, present subsections (8) and (9) are
18 amended, and a new subsection (4) is added to that section, to
19 read:

20 943.1395 Certification for employment or appointment;
21 concurrent certification; reemployment or reappointment;
22 reemployment after retirement; inactive status; revocation;
23 suspension; investigation.--

HB 323

2006
CS

24 (4) A law enforcement officer, correctional officer, or
25 correctional probation officer seeking appointment,
26 reappointment, employment, or reemployment with the same
27 employing agency from which the law enforcement officer,
28 correctional officer, or correctional probation officer retired
29 under chapter 121 may only be appointed, reappointed, employed,
30 or reemployed at the lowest rank and pay scale for a certified
31 law enforcement officer, correctional officer, or correctional
32 probation officer within the employing agency for a minimum of 3
33 years. The certification of a law enforcement officer,
34 correctional officer, or correctional probation officer who
35 violates the provisions of this subsection shall become
36 inactive. This subsection shall not otherwise limit the
37 employment or appointment opportunities for the law enforcement
38 officer, correctional officer, or correctional probation officer
39 at any other employing agency. This subsection shall not change
40 the applicable limitations in s. 121.091(9).

41 (9)~~(8)~~(a) The commission shall, by rule, adopt
42 disciplinary guidelines and procedures to administer the
43 penalties provided in subsections (7) ~~(6)~~ and (8) ~~(7)~~. The
44 commission may, by rule, prescribe penalties for certain
45 offenses. The commission shall, by rule, set forth aggravating
46 and mitigating circumstances to be considered when imposing the
47 penalties provided in subsection (8) ~~(7)~~.

48 (b)1. The disciplinary guidelines and prescribed penalties
49 must be based upon the severity of specific offenses. The
50 guidelines must provide reasonable and meaningful notice to
51 officers and to the public of penalties that may be imposed for

HB 323

2006
CS

52 | prohibited conduct. The penalties must be consistently applied
53 | by the commission.

54 | 2. On or before July 1 of each odd-numbered year, the
55 | commission shall conduct a workshop to receive public comment
56 | and evaluate disciplinary guidelines and penalties. The
57 | commission chair shall appoint a 12-member advisory panel,
58 | composed of six officers and six representatives of criminal
59 | justice management positions, to make recommendations to the
60 | commission concerning disciplinary guidelines.

61 | (c) For the purpose of implementing the penalties provided
62 | in subsections (7) ~~(6)~~ and (8) ~~(7)~~, the chair of the commission
63 | may appoint one or more panels of three commissioners each to
64 | determine probable cause. In lieu of a finding of probable
65 | cause, the probable cause panel may issue a letter of guidance
66 | to the officer.

67 | (d) When an employing agency disciplines an officer and
68 | the officer's employment is continued or reinstated by the
69 | agency, the Criminal Justice Professionalism Program shall
70 | review the sustained disciplinary charges and disciplinary
71 | penalty to determine whether the penalty conforms to the
72 | disciplinary penalties prescribed by commission rule, and, in
73 | writing, notify the employing agency and officer of the results
74 | of the review. If the penalty conforms to the disciplinary
75 | penalty provided by rule, the officer and employing agency shall
76 | be notified, by a letter of acknowledgment, that no further
77 | action shall be taken. If the penalty does not conform to such
78 | disciplinary penalty prescribed by rule, the officer and
79 | employer shall be notified, in writing, of further action to be

HB 323

2006
CS

80 taken. The commission shall adopt rules establishing procedures
81 for administering this subsection.

82 (e) An administrative law judge assigned to conduct a
83 hearing under ss. 120.569 and 120.57(1) regarding allegations
84 that an officer is not in compliance with, or has failed to
85 maintain compliance with, s. 943.13(4) or (7) must, in his or
86 her recommended order:

87 1. Adhere to the disciplinary guidelines and penalties set
88 forth in subsections (7) ~~(6)~~ and (8) ~~(7)~~ and the rules adopted
89 by the commission for the type of offense committed.

90 2. Specify, in writing, any aggravating or mitigating
91 circumstance that he or she considered in determining the
92 recommended penalty.

93

94 Any deviation from the disciplinary guidelines or prescribed
95 penalty must be based upon circumstances or factors that
96 reasonably justify the aggravation or mitigation of the penalty.
97 Any deviation from the disciplinary guidelines or prescribed
98 penalty must be explained, in writing, by the administrative law
99 judge.

100 (10) ~~(9)~~ Each person employed pursuant to s. 943.131 is
101 subject to discipline by the commission. Persons who have been
102 subject to disciplinary action pursuant to this subsection are
103 ineligible for employment or appointment under s. 943.131.

104 (a) The commission shall cause to be investigated any
105 conduct defined in subsection (7) ~~(6)~~ or subsection (8) ~~(7)~~ by a
106 person employed under s. 943.131 and shall set disciplinary

HB 323

2006
CS

107 guidelines and penalties prescribed in rules applicable to such
108 noncertified persons.

109 (b) The disciplinary guidelines and prescribed penalties
110 must be based upon the severity of specific offenses. The
111 guidelines must provide reasonable and meaningful notice to
112 officers and to the public of penalties that may be imposed for
113 prohibited conduct. The penalties must be consistently applied
114 by the commission.

115 (c) In addition, the commission may establish violations
116 and disciplinary penalties for intentional abuse of the
117 employment option provided by s. 943.131 by an individual or
118 employing agency.

119 Section 2. Subsection (5) of section 943.22, Florida
120 Statutes, is amended to read:

121 943.22 Salary incentive program for full-time officers.--

122 (5) An officer is not entitled to full or proportional
123 salary incentive payments for training completed pursuant to s.
124 943.1395(8) ~~(7)~~.

125 Section 3. This act shall take effect July 1, 2006.