

CHAMBER ACTION

1 The Local Government Council 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 Baker County; providing career service
7 status for certain employees of the Baker County Sheriff's
8 Office; providing definitions; providing for transition
9 between administrations; providing for appeals procedures;
10 providing for career service appeals boards; providing
11 proceedings and provisions with respect to disciplinary
12 suspension and dismissal; providing severability;
13 providing an effective date.

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

16
17 Section 1. Employees and appointees of the Baker County
18 Sheriff's Office; applicability of act; definitions; career
19 service status; transitions; administration.--

20 (1) APPLICABILITY.--The provisions of this act apply to
21 all certified and noncertified persons appointed or employed by
22 the Baker County Sheriff's Office, with the following
23 exceptions:

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24 (a) Chiefs or, in the event of a title change, the highest
25 ranked certified law enforcement officers reporting directly to
26 the sheriff.

27 (b) Special deputy sheriffs appointed under section
28 30.09(4), Florida Statutes.

29 (c) Members of a sheriff's posse or reserve unit.

30 (d) Part-time appointees and employees.

31 (e) Independent contractors, temporary employees, or
32 contract employees.

33 (f) Appointees and employees employed pursuant to a grant
34 whose continued existence or funding is subject to the
35 expiration or withdrawal of the grant provider.

36 (2) APPLICATION TO COLLECTIVE BARGAINING.--This act does
37 not grant the right of collective bargaining to employees of the
38 sheriff's office who do not otherwise have that right pursuant
39 to law.

40 (3) NONDISCIPLINARY DISMISSALS.--This act does not cover
41 the nondisciplinary dismissal of employees or appointees. Such
42 nondisciplinary dismissals include those arising from a
43 reduction in force, layoff, or partial or total abolition or
44 cessation of a program, service, operation, department,
45 subdivision, or grant-funded position.

46 (4) DEFINITIONS.--

47 (a) "Appointee" means a person selected by the sheriff to
48 serve in the position of deputy sheriff or correctional officer
49 who is certified within the meaning of chapter 943, Florida
50 Statutes.

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51 (b) "Career appeals board" means the ad hoc board
52 authorized under this act to hear disciplinary appeals.

53 (c) "Dismissal" means the discharge or withdrawal of
54 appointment by the sheriff or his or her designee of a person
55 employed or appointed to a position with the sheriff's office.

56 (d) "Employee" means any person employed by the sheriff
57 for a position which does not require certification under
58 chapter 943, Florida Statutes.

59 (e) "Initial probationary period" means 1 year of
60 conditional employment or appointment commencing on the initial
61 date of actual work and continuing for 12 months in a regularly
62 established position. This probationary period may be extended
63 at the discretion of the sheriff for a period equal to any work
64 absences during the 12-month period. For the purpose of
65 determining career service status pursuant to paragraph (5)(a),
66 all time in the employment of the sheriff's office, while in a
67 Criminal Justice Standards and Training Commission-approved
68 academy or other comparable training for certification as a
69 sworn officer or deputy sheriff, shall not be considered in any
70 manner in determining whether the employee has attained a
71 minimum of 1 calendar year of service.

72 (f) "Reemployment" means the reappointment or reemployment
73 of a person who was previously an appointee or employee of the
74 sheriff's office.

75
76 For the purposes of this act, "appointee" and "employee" are
77 synonymous and any derivative of "employ" refers to the persons
78 to whom this act applies.

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79 | (5) CAREER SERVICE STATUS.--

80 | (a) After any employee or appointee of the sheriff to whom
81 | the provisions of this act apply has completed the initial or
82 | extended probationary period, such person shall have attained
83 | career service status in the sheriff's office. If such person is
84 | reemployed at a later date, said person shall be required to
85 | again complete the probationary period before being granted the
86 | right of appeal provided in section 2.

87 | (b) The sheriff may dismiss an appointee or employee who
88 | has not completed the initial or extended probationary period at
89 | any time without granting the right of appeal provided in
90 | section 2.

91 | (c) Any person who has attained career service status with
92 | the sheriff's office may only be suspended or dismissed for
93 | cause, provided that, prior to such action, the employee must be
94 | provided with written notice of the proposed action and offered
95 | an opportunity to respond to the reasons for the suspension or
96 | dismissal. If, however, the sheriff perceives a significant
97 | hazard in keeping the employee on the job, or where delay could
98 | result in damage or injury, the employee may be immediately
99 | suspended or dismissed without notice, provided, that the
100 | employee is provided with such notice and reasons within 24
101 | hours. Cause for suspension or dismissal includes, but is not
102 | limited to, negligence, inefficiency or inability to perform
103 | assigned duties, insubordination, violation of provisions of law
104 | or office rules, conduct unbecoming a public employee,
105 | misconduct, alcohol abuse, prescription drug abuse, or illegal
106 | drug use. Cause for suspension or dismissal also includes, but

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107 is not limited to, adjudication of guilt by a court of competent
108 jurisdiction, a plea of guilty or of nolo contendere, or a
109 verdict of guilty when adjudication of guilt is withheld and the
110 accused is placed on probation with respect to any felony,
111 misdemeanor, or major traffic infraction charges.

112 (d) An employee or appointee who has achieved career
113 service status is entitled to appeal a disciplinary suspension
114 or dismissal to a career service appeals board.

115 (6) TRANSITION.--When a newly elected or appointed sheriff
116 assumes office, all career service status appointees and
117 employees shall remain employees of the new administration,
118 unless cause for dismissal exists.

119 (a) The new sheriff may demote employees holding the rank
120 of chief and lieutenant one rank below that held on the day
121 before the new sheriff assumes office. The regular base salaries
122 of these employees may be adjusted accordingly.

123 (b) The new sheriff may assign the personnel/budget
124 director and the sheriff's secretary to the next lowest position
125 classification within the pay and classification system, and
126 adjust their regular base salaries accordingly.

127 (7) ADMINISTRATION.--The sheriff shall have the authority
128 to adopt such rules and regulations as are necessary for the
129 implementation and administration of this act; however, nothing
130 in this act shall be construed as affecting the budget-making
131 powers of the Board of County Commissioners of Baker County.

132 Section 2. Career service appeals boards; creation;
133 membership; duties.--

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134 (1) FUNCTION OF BOARDS.--Ad hoc career service appeals
135 boards shall be appointed for the purpose of hearing appeals of
136 employees having career service status arising from their
137 disciplinary suspension or dismissal. A career service appeals
138 board shall be utilized to make a nonbinding recommendation to
139 the sheriff as to whether the suspension or dismissal was for a
140 violation of sheriff's office policy, rule, regulation,
141 procedure, or practice. Any such board may also provide
142 assistance and advice to the sheriff in matters concerning
143 disciplinary suspension or dismissal and may take any other
144 actions authorized by the sheriff.

145 (2) MEMBERSHIP OF BOARD.--Upon the call of the sheriff or
146 upon the filing of an appeal, an ad hoc career service appeals
147 board shall be appointed. The membership of each board shall
148 consist of five appointees or employees of the sheriff's office.
149 Two members shall be selected by the employee or appointee
150 filing the appeal, two members shall be selected by the sheriff,
151 and the fifth member, who shall serve as the chair of the board,
152 shall be selected by the other four members. Any employee may
153 decline to serve as a member of the board.

154 (a) The hearing shall be conducted during the sheriff's
155 office administrative office hours; therefore, employees
156 selected to serve on the board shall serve without additional
157 compensation. Once selected, the members of the board shall
158 serve until the board issues its recommendations to the
159 sheriff's office, and, unless reconvened, the board shall be
160 dissolved.

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161 (b) The personnel/budget director or his or her designee
162 shall serve as an ex officio member of the board for the purpose
163 of providing procedural guidance to the board concerning the
164 application of this act and any rules or regulations adopted by
165 the sheriff relating thereto, but such ex officio member shall
166 have no vote.

167 (3) PROCEDURE WITH RESPECT TO APPEALS.--An employee or
168 appointee who has achieved career service status may submit a
169 written request for a hearing to the sheriff or his or her
170 designee within 7 calendar days after receiving a notice of
171 suspension or dismissal which shall be hand-delivered or sent
172 certified mail, return receipt requested. The appeal must
173 contain a brief statement of the matters to be considered by the
174 career service appeals board and the names of the employees
175 selected to serve on the board.

176 (a) A career appeals board shall be selected and shall
177 meet for the purpose of hearing the appeal within 30 calendar
178 days after receipt of the notice of appeal. However, an
179 extension of time may be granted by the chair for good cause or
180 upon agreement of the parties.

181 (b) The person filing the appeal has the right to a public
182 hearing; to be represented by a person of his or her choice; to
183 present relevant evidence; and to cross examine witnesses.

184 (c) The rules of evidence and civil procedure are not
185 applicable to hearings conducted under this act.

186 (d) The board, in conducting such hearings, shall have the
187 power to issue subpoenas, upon the request of any party or upon
188 its own motion.

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189 (e) The board shall, by majority vote, dispose of the
190 appeal for which it was appointed by making findings of fact and
191 issuing its written recommendations to the sheriff for
192 consideration. The sheriff shall retain the right of final
193 determination and no person may be reinstated with or without
194 back pay or benefits without the concurrence of the sheriff.

195 Section 3. Severability.--The provisions of this act shall
196 be severable, and if any provision is held invalid by a court of
197 competent jurisdiction, the decision of the court shall not
198 affect the validity of the remaining provisions except to the
199 extent that an entire section or part of a section may be
200 inseparably connected in meaning and effect with the section or
201 part of a section to which such holding directly applies.

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