1

A bill to be entitled

2 An act relating to Lee County; amending chapter 74-522, 3 Laws of Florida, as amended; redesignating the Lee County Sheriff's Department as the Lee County Sheriff's Office; 4 revising qualifications for membership on the civil 5 service board; revising the date for electing board 6 7 members; deleting certain limitations for classification 8 as members of the civil service; revising requirements for demotions in rank following the election of a new sheriff; 9 deleting provisions authorizing a specified amount of 10 annual leave for certain employees; deleting certain 11 restrictions on the age at which an applicant may be 12 employed as a deputy sheriff; deleting certain 13 restrictions on the employment of persons with a medical 14 discharge; revising requirements for the posting of 15 16 notices of employment; clarifying provisions authorizing political activities during off-duty hours; providing an 17 effective date. 18 19 20 Be It Enacted by the Legislature of the State of Florida: 21 Chapter 74-522, Laws of Florida, as amended by 22 Section 1. chapters 99-434 and 2003-329, Laws of Florida, is amended to 23 24 read: Section 1. 25 Composition and purpose of board. -- There is 26 hereby created a civil service board, hereafter referred to as the "board", composed of five (5) members whose duty it is to 27 administer the terms of this act which shall apply to all 28 Page 1 of 18

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	HB 1617, Engrossed 1 2007
29	classified <u>appointees</u> <del>deputy sheriffs</del> and employees of the Lee
30	County Sheriff's Office. For purposes of this act, the term
31	"employee" shall be synonymous and interchangeable with the term
32	"appointee."
33	(1) The board shall consist of five <del>(5)</del> members who shall
34	be elected by a majority of persons voting or appointed as
35	follows:
36	(a) One $(1)$ member of the board will be the sheriff or his
37	<u>or her</u> designate.
38	(b) One <del>(1)</del> member of the board <u>will</u> <del>to</del> be elected by a
39	majority of the employees with the rank of lieutenant or above.
40	An alternate member shall be elected at the same time and in the
41	same manner for this position.
42	(c) One $(1)$ member of the board to be elected by a
43	majority of the employees <u>below</u> with the rank of <u>lieutenant</u>
44	deputy or sergeant. An alternate member shall be elected at the
45	same time and in the same manner for this position.
46	(d) One <del>(1)</del> member to be an upstanding resident of Lee
47	County to be <u>selected and appointed</u> <del>elected</del> by the board <u>at the</u>
48	first organizational meeting held on the first business day of
49	October after taking office.
50	(e) One <del>(1)</del> member of the board to be the <u>lead</u> department
51	chaplain or his or her designee, as determined by the Sheriff.
52	(f) Election for board members and their alternates <del>of the</del>
53	<del>three (3) members</del> shall be held <u>on the second Tuesday of</u> <del>at the</del>
54	first staff meeting in September, and the newly elected member
55	shall take with the members taking office on the 1st day of
56	October.

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57	(g) Civilian employees not assigned a rank may vote for
58	the position identified in paragraph (b) or (c), but not both.
59	If for any reason, a member of the board cannot serve, an
60	alternate member will be elected in the same manner as provided
61	in this section.
62	(h) Alternate members shall serve if, for any reason, a
63	member of the board cannot serve.
64	(i)(h) All vacancies on the board will be filled by the
65	procedure established in this section.
66	(2) No board member shall be subject to any adverse action
67	in retaliation for his or her service on the board, decisions of
68	the board, or performance of his or her official duties in
69	transacting business of the board.
70	(3) The term of office for elected board members shall be
71	2 years.
72	Section 2. <u>Qualifications for board members</u> Members of
73	the board shall be <u>18</u> <del>twenty one (21)</del> years of age or over, of
74	good moral character, a citizen of the United States of America,
75	a permanent resident of Florida <u>,</u> and must have resided in Lee
76	County for at least <u>1</u> <del>one (1)</del> year prior to his <u>or her</u>
77	appointment.
78	Section 3. <u>Affected employees</u> The civil service act, as
79	set forth, will encompass all classified <u>employees</u> members of
80	the Lee County Sheriff's Office. <u>The term "classified employees"</u>
81	shall include all full-time deputy sheriffs, correctional
82	officers, and civilian employees who have completed their
83	original or reemployment probationary period. "Classified
84	employees" shall not include: any contractual employees,

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85 appointees, volunteers, or other persons who do not serve in a 86 regularly budgeted position in the Sheriff's office on a full-87 time basis; and the Sheriff or his or her second in command, whether designated as chief deputy, undersheriff, or otherwise, 88 89 except as to the Sheriff's obligations set forth under sections 90 1, 2, and 15. All members of the sheriff's office under the rank 91 of chief deputy shall be classified members of the civil service 92 act.

93 Section 4. <u>Board positions.--</u>The board shall, upon its 94 organization, elect one (1) member as <u>chairperson</u> <del>chairman</del> and 95 one (1) <u>member as</u> secretary and they shall perform their duties 96 in accordance with the rules and regulations <del>to be</del> adopted by 97 the board <u>from time to time as necessary to carry out the</u> 98 purpose of this act.

Certification of the act.--This act shall 99 Section 5. 100 become operative upon the certification to the board by the sheriff that the office of the Sheriff of Lee County is 101 102 functioning under the civil service rules as established in this 103 document. When the certification of organization and capability has been filed by the sheriff, the board shall forthwith 104 105 acknowledge such certification. Thereafter, the certification 106 shall be irrevocable except by subsequent act of Legislature. 107 The act shall carry over from Sheriff to Sheriff and it shall not be necessary for subsequent Sheriffs to recertify the act. 108 109 Section 6. Powers of the board. -- The board, as a body, 110 shall have the power, subject to minimum requirements, to act 111 to:

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(1) <u>Investigate and enforce compliance by the Sheriff and</u> any and all classified and unclassified employees of the Sheriff's office with regards to the terms and conditions of the act and implement investigations and determinations Make investigations concerning the enforcement and effect of this act, and to require observance of its provisions and the rules and regulations made thereunder.

119 (2) Hear and determine appeals of complaints respecting120 the administration of this act.

(3) Establish and maintain a roster of all employees in
the classified service of the office of the sheriff showing
their position, rank, compensation, benefits and place of
residence.

(4) Ascertain and record the duties and responsibilities
 of appertaining to all positions of the Sheriff's office in a
 manner approved by the board in the classified service and
 classify such positions in the manner hereafter provided.

(5) Keep any other records as may be necessary for theproper administration of this act.

Issue subpoenas for the appearance of witnesses and 131 (6) 132 production of documents and things in connection with 133 investigations and hearings conducted pursuant to this act. Positions after adoption of the act and 134 Section 7. election of a new Sheriff.--All classified employees persons in 135 the employ of the office of the Sheriff shall be retained in the 136 same capacity, at the time this act becomes operative, who have 137 served for a period longer than one (1) year in a position and 138 rank shall now be under this act, retained as same, without 139 Page 5 of 18

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140 preliminary or performance tests but shall thereafter be subject 141 in all other respects to the provisions of this act. In the event a new sheriff is elected to office in Lee County, all 142 143 classified employees of the Sheriff's office shall remain in the 144 same position with the exception of those serving in a rank or grade immediately below the chief deputy. These persons who 145 146 comprise the Sheriff's executive and administrative staff and who command a major component, subdivision, or bureau of the 147 148 Sheriff's office personnel who are ranked at captain or above, 149 who may be subject to a one (1) grade demotion in rank to lieutenant or above in order to allow the Sheriff to establish 150 151 his or her new administration. The salary of all persons so demoted may be reduced to no less than the top of the grade to 152 153 which they are demoted. If transferred, the transfer shall be to a position equal in terms of rank, pay, and benefits to those in 154 which other persons of the same rank serve. The elimination by a 155 156 new Sheriff of a position or grade under a previous 157 administration constitutes a demotion for purposes of this 158 section. Section 8. Leaves of absence and military service.--The 159

Section 8. <u>Deaves of absence and military service.--</u>The Sheriff shall formulate reasonable rules governing the granting of leaves of absence to members of the <u>Sheriff's office</u> <del>sheriff's office</del> in good standing. Except as hereinafter provided, no leave of absence shall be <u>approved given</u> for more than <u>1</u> <del>one (1)</del> year, however, such leaves may be extended with the approval of the Sheriff upon the showing of good cause, so long as the leave period does not exceed the Sheriff's current

167 term of office.

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168 All classified employees of persons employed by the (1)Lee County Sheriff's office who shall be inducted in the armed 169 170 forces of the United States of America or who shall voluntarily by enlistment enter into such forces in time of war or national 171 172 emergency shall, upon application to the Sheriff, receive a 173 military leave of absence for the duration of the period of 174 service required. During the period of service, all persons 175 serving shall be entitled to all the benefits and privileges of 176 this act and shall retain all rights of seniority. All persons shall be entitled to reemployment in the same capacity and 177 position they held at the time of entering said military 178 service, provided, however, that application for reinstatement 179 to in such position must be made by or on behalf of such 180 181 employee within 3 three (3) months after termination of military service. Provided Further that to be entitled to the benefits of 182 183 this subsection, any discharge from such military service must have been honorable. 184

185 (2) This section shall not apply to persons who engage
 186 themselves as private contractors for any security or
 187 peacekeeping force or any service provider not directly under
 188 the supervision and control of the Armed Forces of the United
 189 States of America and the Commander In Chief of those forces.

Section 9. <u>Qualifications for employment.--</u>The minimum standards and qualifications for an original applicant for employment <u>or reemployment</u> as a <u>classified employee of</u> <del>deputy</del> <del>sheriff, or in any other capacity in</del> the office of the Sheriff of Lee County, shall be as follows:

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195 (1) All applicants for any position in the classified
 196 service of the Sheriff's office must submit a complete, written
 197 application for employment.

198 <u>(2)(1)</u> <u>All applicants must be graduates of</u> <del>An applicant</del> 199 <del>shall have graduated from</del> a duly accredited high school or 200 <u>possess</u> <del>shall have</del> the equivalent of a high school diploma <u>from</u> 201 a school recognized by the state.

202 <u>(3)(2)</u> <u>All applicants must</u> An applicant shall be 203 physically capable of performing all functions and duties <u>of the</u> 204 <u>position that they are seeking and must submit to a physical</u> 205 <u>exam conducted by a physician licensed in this state</u> <del>of a deputy</del> 206 <del>sheriff as established by the board, and this physical capacity</del> 207 <del>shall be certified by a physician licensed in this state and</del> 208 <del>selected by the board</del>.

209 <u>(4)(3)</u> <u>All applicants are required to submit to a</u> 210 <u>background investigation, drug screen, polygraph, or CVSA</u> 211 <u>examination and oral interview</u> <del>No person is eligible to receive</del> 212 <u>public funds as a salary or for services rendered as a deputy</u> 213 <u>sheriff of Lee County until such person has submitted to the</u> 214 <u>sheriff, a written application for employment and has passed an</u> 215 <u>oral examination</u>.

216 <u>(5)(4)</u> <u>All applicants</u> An applicant shall not have been 217 convicted of a felony <u>of any kind</u>, a crime involving moral 218 <u>turpitude</u>, or <del>of</del> a misdemeanor for which the penalty <u>is greater</u> 219 <u>be more</u> than a <u>\$300</u> three hundred dollar (\$300) fine and/or <u>90</u> 220 <u>ninety (90)</u> days confinement.

221 (6) (5) All applicants having military service must submit 222 a DD 214 indicating that their military service and discharge Page 8 of 18

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223	were under honorable conditions. Persons discharged for medical
224	conditions or reasons must be able to perform all functions of
225	the position for which they are applying An applicant with
226	military service shall have an honorable discharge.
227	(7) In addition to the requirements in subsections (1)-
228	(6), all persons applying for certified law enforcement or
229	corrections positions must comply with the requirements of the
230	Florida Department of Law Enforcement and be eligible for state
231	certification.
232	Section 10. Appointments, promotions, and
233	transfersPromotional procedures with respect to all
234	classified employees shall conform to Sheriff's office policies
235	based on CALEA standards as adopted by the Sheriff's office for
236	so long as the Sheriff's office remains an accredited agency. In
237	the event that the Sheriff's office is no longer an accredited
238	agency, promotions will be made on a merit basis considering
239	work performance, knowledge of job, and other similar
240	qualifications. All promotions will be made by the Sheriff
241	Promotions will be made on a merit basis such as work
242	performance, knowledge of job and other qualifications. All
243	promotions will be made by the sheriff.
244	(1) Open positions will be publicly posted throughout the
245	Sheriff's office on department bulletin boards and websites for
246	a period of 7 days to allow for application by qualified
247	Sheriff's office employees who shall be entitled to a preference
248	for any position of higher grade or rank than an entry level
249	position Whenever there is an opening in any division, this
250	opening will be publicly posted throughout the sheriff's office
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251 for a period of five (5) days to allow all persons eligible to 252 apply for transfer from their division to the division where the 253 opening exists. Those interested should apply in writing to the 254 Sheriff requesting a such transfer.

255 (2) The Sheriff reserves the right to transfer any 256 employee for the betterment of the service; provided, however, 257 the employees shall not be reduced in rank <u>or compensation and</u> 258 <u>such transfer shall not be considered disciplinary in nature</u>.

259 <u>(3)(2)</u> Employment or reemployment to No appointment or 260 promotion in any position in the Sheriff's office shall <u>not</u> be 261 deemed complete until after the expiration of a period of <u>1</u> one 262 (1) year's probationary service, during which time the sheriff 263 may terminate <u>without cause</u> the employment of any person 264 certified and/or appointed.

265 (4) No promotion shall be deemed complete until after the
 266 expiration of a period of 6 months of service during which time
 267 the Sheriff may return the promoted person to his or her former
 268 rank and pay for failure or inability to perform the duties of
 269 the position to which he or she had been promoted.

270 <u>(5)(3)</u> Employment and reemployment Appointments shall be 271 regarded as taking effect upon the date the <u>employee is</u> 272 <u>scheduled to report person appointed reports</u> for duty. A person 273 <u>offered employment certified</u> by the Sheriff who does not report 274 for duty at the time so designated, and who does not explain his 275 <u>or her</u> said failure to report, in writing, within <u>5 five (5)</u> 276 days, may be rejected by the Sheriff.

277 Section 11. <u>Practice and procedures of the board.--</u>The 278 practice and procedure of the board with respect to any Page 10 of 18

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investigation by the board authorized by this act shall be in accordance with rules and regulations to be adopted by the board which shall provide for a reasonable notice to all persons affected by recommendations to be made by the board after such investigation, with the opportunity to be heard either in person or by counsel.

285 Section 12. <u>Misconduct and misuse of professional</u> 286 influence.--

287 (1) No person <u>covered by this act</u> shall <u>use his or her</u>
 288 <u>official position or influence to</u> solicit orally or <u>in writing</u>
 289 by letter, and no public officer or employee shall receive or be
 290 in any manner concerned in receiving or soliciting any money or
 291 valuable things from any employee of the Sheriff's <u>office</u>
 292 department or political party <u>or private individual</u> for any
 293 purpose whatsoever.

294 (2) No person shall use or promise to use his <u>or her</u> 295 influence or official <u>position</u> <del>authority</del> to secure any 296 appointment or prospect of appointment to any position 297 classified under this act as a reward or return for personal or 298 partisan political service.

299 (3) No public officer or employee of the Sheriff's office
300 shall by means of threats or coercion induce or attempt to
301 induce any person holding a position in the Sheriff's office to
302 resign his or her position, or to take a leave of absence from
303 duty or to waive any rights under this act.

304 Section 13. <u>Discipline; suspensions; dismissal; appeals.--</u> 305 <u>(1)</u> The sheriff may <u>discipline</u>, suspend <u>up to 30 days</u> 306 <u>without pay, terminate, or withdraw the appointment of</u> <del>or</del>

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307 dismiss an employee only for just cause. An employee subject to substantial discipline, which includes a loss of pay, accrued 308 309 time, benefits, rank, or position; disciplinary transfer; 310 suspension; or termination may, within 15 days of the 311 discipline, suspension, termination, or withdrawal of 312 appointment, file a notice of appeal with the board's secretary. The board shall schedule a hearing within 30 days of receipt of 313 notice of appeal. Continuation of a hearing may be granted by 314 the board upon a showing of good cause by either party or upon 315 316 agreement of the parties. The employee so dismissed or suspended 317 will have fifteen (15) days to file an appeal with the board. 318 Officers with the rank of lieutenant and above will have the 319 authority to take immediate disciplinary action including 320 relieving an employee of duty, thereafter securing the approval 321 of the sheriff. The sheriff may summarily suspend an employee 322 for a reasonable period not exceeding thirty (30) days. Every 323 such suspension shall be without pay; provided, however, that 324 the board shall have the authority to investigate every such 325 suspension and if it is found that the sheriff acted in bad 326 faith, it shall have the power to restore pay to the employee 327 for such suspended time. 328 (1) Subject to the foregoing provisions of this section,

any person holding a position in the sheriff's office who has
been removed or discharged, has the opportunity to be heard in
his own defense upon filing a written request to the board
within fifteen (15) days following the action. The appeal shall,
within thirty (30) days after the filing be heard, investigated

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334 and determined by the board as provided by section 13 of this 335 act. At the hearing the employee has the burden of proving 336 (2) 337 that the Sheriff lacked just cause supported by competent and 338 substantial evidence for the disciplinary action under appeal. 339 The board shall have the authority to investigate any (3) 340 such discipline, suspension, termination, or withdrawal of appointment and, should the board determine following a hearing 341 that the action taken by the Sheriff was without just cause, the 342 343 board has the authority to: (a) Vacate the discipline, restore the employee's pay and 344 benefits as outlined in subsection (1), and, in the event the 345 suspension is not completed, void the remaining suspension time 346 347 and restore the employee to duty. 348 Reinstate the employee's employment and pay without (b) 349 loss of rank or seniority. 350 351 In no case shall back pay exceed 30 days. 352 (4)Should the board determine following the hearing that 353 the action taken by the Sheriff was with just cause it shall 354 uphold the disciplinary decision of the Sheriff. The board may 355 not substitute its judgment for that of the Sheriff regarding 356 the severity of the disciplinary action imposed, provided the disciplinary action is authorized by law. 357 Each party may make a timely appeal to the circuit 358 (5) 359 court upon receipt of the board's written order. In the event a timely appeal is not taken and the Sheriff was found to not have 360 361 just cause for the discipline, the employee's record shall have

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362 the board's final order attached to and included in the employee's personnel file. 363 (6) (2) The board's decision is The decision of the board 364 will be final and absolute. 365 366 Classified employees are free from retaliatory action (7) 367 based on the exercise of rights provided under this act. 368 Section 14. Public meetings. -- It shall be the duty of the authorities having charge of the public buildings of Lee County 369 370 to allow the reasonable use of public buildings and rooms for the holding of meetings of the board and any examinations or 371 372 investigations provided for by this act. The term "public 373 building" shall include any building under the lawful control of the Lee County Government or Lee County Sheriff's Office which 374 375 provides for free public access under minimal restrictions, as 376 necessary, to provide for the safety and security of its 377 occupants.

378

Section 15. Retirement health insurance benefits.--

(1) It shall be and is hereby made the duty of the Sheriff
of Lee County to provide annually in his <u>or her</u> budget, a
sufficient sum of money to enable the board to properly carry
out the purposes of this act.

383 Effective October 1, 1986, and thereafter, it is the (2)duty of the Sheriff of Lee County to provide annually in his or 384 her budget a sufficient sum of money to pay a percentage of the 385 cost of the health insurance of members of the Lee County 386 Sheriff's Office who retire from active service after having 387 accumulated at least 15 years of creditable service under the 388 Florida Retirement System. The health insurance costs payable 389 Page 14 of 18

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390 pursuant to this section include premiums for major medical and 391 hospitalization insurance, but do not include premiums for 392 dental insurance. When a retiree receiving this health insurance 393 benefit becomes eligible for Medicare, his <u>or her</u> health 394 coverage will convert to the Medicare Supplement health 395 insurance.

396 (a) In order to receive this benefit, the retiree must have served with the Lee County Sheriff's Office for the 10 397 years immediately preceding his or her retirement. The retiree 398 399 may claim up to 5 years of creditable service earned while in 400 the employ of another member agency within the Florida Retirement System. The Lee County Sheriff's Office shall verify 401 all years of creditable service claimed through the Division of 402 403 Retirement of the Department of Administration.

404 If an employee retires from the Lee County Sheriff's (b) 405 Office after at least 10 years of service with the department, but before reaching retirement age, and has participated in the 406 407 Florida Retirement System for at least 15 years, he or she may 408 pay his and her or his and her dependent's health insurance costs until he or she begins to receive retirement benefits 409 410 under the Florida Retirement System. The Lee County Sheriff's 411 Office shall begin to pay a percentage of the employee's health insurance costs when he or she begins to receive such retirement 412 benefits. The retiree shall give the sheriff's office written 413 notice of the date of payment of his or her initial retirement 414 benefit. The Lee County Sheriff's Office shall verify this date 415 through the Division of Retirement of the Department of 416 Administration. 417

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418 The Lee County Sheriff's Office shall base the (C) 419 percentage of a retiree's health insurance costs it will pay 420 upon the number of years of creditable service that the retiree 421 has accumulated in the Florida Retirement System. Fifteen years 422 of creditable service entitles the retiree to have 75 percent of 423 his or her health insurance premiums paid by the sheriff's 424 office. The sheriff's office shall pay an additional 5 percent of the insurance premiums for each year of service in excess of 425 426 15 years until reaching a maximum of 100 percent of the premium at 20 years of service. The Lee County Sheriff's Office shall 427 pay an additional one-twelfth of 1 percent of the premium for 428 each month served until the full 100 percent is paid. 429

(d) If an employee has health insurance coverage through a
previous employer, the Lee County Sheriff's Office will be the
secondary payor.

(e) If an employee receives a retiree health insurance
subsidy from the state, the Lee County Sheriff's Office shall
reduce the amount it pays of the employee's health insurance
premiums by the amount of the subsidy.

The Lee County Sheriff's Office shall pay for the 437 (f) 438 health insurance coverage of the retiree and 50 percent of his 439 or her dependents' health insurance coverage only if the retiree's health insurance is paid at 100 percent of the premium 440 at 20 years of service. A retiree who obtains benefits without 441 attaining 20 years of service may pay for the health insurance 442 of his or her dependents. Upon a retiree's death, his or her 443 spouse may continue the health insurance coverage previously 444

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445 provided by the retiree. Premiums must be paid to the Lee County 446 Sheriff's Office.

(g) This retiree health insurance benefit is only
available to an employee when he <u>or she</u> retires. If the employee
does not elect to receive the insurance benefit upon retiring,
he <u>or she</u> does not have the option of receiving the benefit at a
later date.

Political activity. -- No employee person 452 Section 16. holding a classified position in the sheriff's office shall take 453 454 an active part in any political campaign while on duty or while off duty and wearing any uniform or part thereof identifying the 455 456 Sheriff's office. Nothing in this act shall be construed to prohibit or prevent any such person from exercising lawful 457 458 political rights while off duty, from becoming or continuing to be a member of a political club or organization, or from 459 460 attending any political meetings, or from enjoying entire 461 freedom from all interferences in casting his or her vote. Any 462 person violating the provisions of this section may be dismissed from the service of the office of the sheriff of Lee County. 463

464 Legal construction and amendment of the Section 17. 465 act.--The provisions of this act shall be severable and if any 466 of the provisions shall be held to be unconstitutional, the 467 decision of the court shall not affect the validity of the remaining provisions. It is hereby declared the legislative 468 intent of this act that it would have been adopted by the 469 legislature had such unconstitutional provision not have been 470 included therein. 471

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472 This act shall not be held or construed to create any (1)473 property rights or any vested interests in any position in the 474 Sheriff's office beyond those specifically enumerated in the act 475 sheriff's office and the right is hereby reserved to repeal, 476 alter or amend this act, or any provision thereof at any time. 477 (2) All requests for changes or amendments to this act 478 proposed by a board member or an alternate board member shall 479 come before the five-member board in a public meeting and be 480 approved by a majority vote of the board. The board as a whole 481 has the authority to request the Legislature to amend the act on 482 behalf of the classified employees of the Sheriff's office whose effect on all classified employees shall be immediate upon 483 484 becoming law. Section 18. All laws and parts of laws, insofar as they 485

486 are inconsistent with this act, or any provision thereof, are, 487 to the extent of such conflict, hereby repealed.

488

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

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