

By the Committee on Governmental Operations; and Senator Saunders

585-2657-07

1 A bill to be entitled
 2 An act relating to Lee County; amending ch.
 3 74-522, Laws of Florida, as amended;
 4 redesignating the Lee County Sheriff's
 5 Department as the Lee County Sheriff's Office;
 6 revising qualifications for membership on the
 7 civil service board; revising the date for
 8 electing board members; deleting certain
 9 limitations for classification as members of
 10 the civil service; revising requirements for
 11 demotions in rank following the election of a
 12 new sheriff; deleting provisions authorizing a
 13 specified amount of annual leave for certain
 14 employees; deleting certain restrictions on the
 15 age at which an applicant may be employed as a
 16 deputy sheriff; deleting certain restrictions
 17 on the employment of persons with a medical
 18 discharge; revising requirements for the
 19 posting of notices of employment; clarifying
 20 provisions authorizing political activities
 21 during off-duty hours; providing an effective
 22 date.

23
 24 Be It Enacted by the Legislature of the State of Florida:

25
 26 Section 1. Chapter 74-522, Laws of Florida, as amended
 27 by chapters 99-434 and 2003-329, Laws of Florida, is amended
 28 to read:

29 Section 1. Composition and purpose of board.--There is
 30 hereby created a civil service board, hereafter referred to as
 31 the "board", composed of five~~(5)~~ members whose duty it is to

1 administer the terms of this act which shall apply to all
2 classified appointees ~~deputy sheriffs~~ and employees of the Lee
3 County Sheriff's Office.

4 (1) The board shall consist of five~~(5)~~ members who
5 shall be elected by a majority of persons voting or appointed
6 as follows:

7 (a) One~~(1)~~ member of the board will be the sheriff or
8 his or her designate.

9 (b) One~~(1)~~ member of the board will ~~to~~ be elected by
10 a majority of the employees with the rank of lieutenant or
11 above. An alternate member shall be elected at the same time
12 and in the same manner for this position.

13 (c) One~~(1)~~ member of the board to be elected by a
14 majority of the employees below ~~with~~ the rank of lieutenant
15 deputy or sergeant. An alternate member shall be elected at
16 the same time and in the same manner for this position.

17 (d) One~~(1)~~ member to be an upstanding resident of Lee
18 County to be selected and appointed ~~elected~~ by the board at
19 the first organizational meeting held on the first business
20 day of October after taking office.

21 (e) One~~(1)~~ member of the board to be the lead
22 department chaplain or his or her designee, as determined by
23 the Sheriff.

24 (f) Election for board members and their alternates ~~of~~
25 the three (3) members shall be held on the second Tuesday of
26 at the first staff meeting in September, and the newly elected
27 member shall take ~~with the members taking~~ office on the 1st
28 day of October.

29 (g) Civilian employees not assigned a rank may vote
30 for the position identified in paragraph (b) or (c), but not
31 both. ~~If for any reason, a member of the board cannot serve,~~

1 ~~an alternate member will be elected in the same manner as~~
2 ~~provided in this section.~~

3 (h) Alternate members shall serve if, for any reason,
4 a member of the board cannot serve.

5 (i)(h) All vacancies on the board will be filled by
6 the procedure established in this section.

7 (2) No board member shall be subject to any adverse
8 action in retaliation for his or her service on the board,
9 decisions of the board, or performance of his or her official
10 duties in transacting business of the board.

11 (3) The term of office for elected board members shall
12 be 2 years.

13 Section 2. Qualifications for board members.--Members
14 of the board shall be 18 ~~twenty one (21)~~ years of age or over,
15 of good moral character, a citizen of the United States of
16 America, a permanent resident of Florida, and must have
17 resided in Lee County for at least 1 ~~one (1)~~ year prior to his
18 or her appointment.

19 Section 3. Affected employees.--The civil service act,
20 as set forth, will encompass all classified ~~employees members~~
21 of the Lee County Sheriff's Office. The term "classified
22 employees" shall include all full-time deputy sheriffs,
23 correctional officers, and civilian employees who have
24 completed their original or reemployment probationary period.
25 "Classified employees" shall not include: any contractual
26 employees, appointees, volunteers, or other persons who do not
27 serve in a regularly budgeted position in the Sheriff's office
28 on a full-time basis; and the Sheriff or his or her second in
29 command, whether designated as chief deputy, undersheriff, or
30 otherwise, except as to the Sheriff's obligations set forth
31 under sections 1, 2, and 15. All members of the sheriff's

1 ~~office under the rank of chief deputy shall be classified~~
2 ~~members of the civil service act.~~

3 Section 4. Board positions.--The board shall, upon its
4 organization, elect one(1) member as chairperson ~~chairman~~ and
5 one(1) member as secretary and they shall perform their
6 duties in accordance with the rules and regulations ~~to be~~
7 adopted by the board from time to time as necessary to carry
8 out the purpose of this act.

9 Section 5. Certification of the act.--This act shall
10 become operative upon the certification to the board by the
11 sheriff that the office of the Sheriff of Lee County is
12 functioning under the civil service rules as established in
13 this document. When the certification of organization and
14 capability has been filed by the sheriff, the board shall
15 forthwith acknowledge such certification. Thereafter, the
16 certification shall be irrevocable except by subsequent act of
17 Legislature. The act shall carry over from Sheriff to Sheriff
18 and it shall not be necessary for subsequent Sheriffs to
19 recertify the act.

20 Section 6. Powers of the board.--The board, as a body,
21 shall have the power, ~~subject to minimum requirements, to act~~
22 to:

23 (1) Investigate and enforce compliance by the Sheriff
24 and any and all classified and unclassified employees of the
25 Sheriff's office with regards to the terms and conditions of
26 the act and implement investigations and determinations ~~Make~~
27 ~~investigations concerning the enforcement and effect of this~~
28 ~~act, and to require observance of its provisions and the rules~~
29 ~~and regulations~~ made thereunder.

30 (2) Hear and determine appeals of complaints
31 respecting the administration of this act.

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

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

10 (5) Keep any other records as may be necessary for the
11 proper administration of this act.

12 (6) Issue subpoenas for the appearance of witnesses
13 and production of documents and things in connection with
14 investigations and hearings conducted pursuant to this act.

15 Section 7. Positions after adoption of the act and
16 election of a new Sheriff.--All classified employees persons
17 in the employ of the office of the Sheriff shall be retained
18 in the same capacity, at the time this act becomes operative,
19 who have served for a period longer than one (1) year in a
20 position and rank shall now be under this act, retained as
21 same, without preliminary or performance tests but shall
22 thereafter be subject in all other respects to the provisions
23 of this act. In the event a new sheriff is elected to office
24 in Lee County, all classified employees of the Sheriff's
25 office shall remain in the same position with the exception of
26 those serving in a rank or grade immediately below the chief
27 deputy. These persons who comprise the Sheriff's executive and
28 administrative staff and who command a major component,
29 subdivision, or bureau of the Sheriff's office personnel who
30 are ranked at captain or above, who may be subject to a one
31 ~~(1)~~ grade demotion in rank ~~to lieutenant or above in order to~~

1 allow the Sheriff to establish his or her new administration.
2 The salary of all persons so demoted may be reduced to no less
3 than the top of the grade to which they are demoted. If
4 transferred, the transfer shall be to a position equal in
5 terms of rank, pay, and benefits to those in which other
6 persons of the same rank serve. The elimination by a new
7 Sheriff of a position or grade under a previous administration
8 constitutes a demotion for purposes of this section.

9 Section 8. Leaves of absence and military
10 service.--The Sheriff shall formulate reasonable rules
11 governing the granting of leaves of absence to members of the
12 Sheriff's office ~~sheriff's office~~ in good standing. Except as
13 hereinafter provided, no leave of absence shall be approved
14 ~~given~~ for more than 1 ~~one (1)~~ year, however, such leaves may
15 be extended with the approval of the Sheriff upon the showing
16 of good cause, so long as the leave period does not exceed the
17 Sheriff's current term of office.

18 (1) All classified employees of ~~persons employed by~~
19 ~~Lee County~~ Sheriff's office who shall be inducted in the
20 armed forces of the United States of America or who shall
21 voluntarily by enlistment enter into such forces in time of
22 war or national emergency shall, upon application to the
23 Sheriff, receive a military leave of absence for the duration
24 of the period of service required. During the period of
25 service, all persons servicing shall be entitled to all the
26 benefits and privileges of this act and shall retain all
27 rights of seniority. All persons shall be entitled to
28 reemployment in the same capacity and position they held at
29 the time of entering said military service, provided, however,
30 that application for reinstatement to ~~in~~ such position must be
31 made by or on behalf of such employee within 3 ~~three (3)~~

1 months after termination of military service. ~~Provided~~ Further
2 ~~that~~ to be entitled to the benefits of this subsection, any
3 discharge from such military service must have been honorable.

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

9 Section 9. Qualifications for employment.-- The
10 minimum standards and qualifications for ~~an original applicant~~
11 ~~for~~ employment or reemployment as a classified employee of
12 ~~deputy sheriff, or in any other capacity in~~ the office of the
13 Sheriff of Lee County, shall be as follows:

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

17 (2)(1) All applicants must be graduates of An
18 ~~applicant shall have graduated from~~ a duly accredited high
19 school or possess shall have the equivalent of a high school
20 diploma from a school recognized by the state.

21 (3)(2) All applicants must An applicant shall be
22 physically capable of performing all functions and duties of
23 the position that they are seeking and must submit to a
24 physical exam conducted by a physician licensed in this state
25 ~~of a deputy sheriff as established by the board, and this~~
26 ~~physical capacity shall be certified by a physician licensed~~
27 ~~in this state and selected by the board.~~

28 (4)(3) All applicants are required to submit to a
29 background investigation, drug screen, polygraph, or CVSA
30 examination and oral interview ~~No person is eligible to~~
31 ~~receive public funds as a salary or for services rendered as a~~

1 ~~deputy sheriff of Lee County until such person has submitted~~
2 ~~to the sheriff, a written application for employment and has~~
3 ~~passed an oral examination.~~

4 (5)(4) All applicants ~~An applicant~~ shall not have been
5 convicted of a felony of any kind, a crime involving moral
6 turpitude, or ~~of~~ a misdemeanor for which the penalty is
7 greater ~~be more than a~~ \$300 ~~three hundred dollar~~ (~~\$300~~) fine
8 and/or 90 ~~ninety~~ (~~90~~) days confinement.

9 (6)(5) All applicants having military service must
10 submit a DD 214 indicating that their military service and
11 discharge were under honorable conditions. Persons discharged
12 for medical conditions or reasons must be able to perform all
13 functions of the position for which they are applying ~~An~~
14 ~~applicant with military service shall have an honorable~~
15 ~~discharge.~~

16 (7) In addition to the requirements in subsections
17 (1)-(6), all persons applying for certified law enforcement or
18 corrections positions must comply with the requirements of the
19 Florida Department of Law Enforcement and be eligible for
20 state certification.

21 Section 10. Appointments, promotions, and
22 transfers.--Promotional procedures with respect to all
23 classified employees shall conform to Sheriff's office
24 policies based on CALEA standards as adopted by the Sheriff's
25 office for so long as the Sheriff's office remains an
26 accredited agency. In the event that the Sheriff's office is
27 no longer an accredited agency, promotions will be made on a
28 merit basis considering work performance, knowledge of job,
29 and other similar qualifications. All promotions will be made
30 by the Sheriff ~~Promotions will be made on a merit basis such~~
31

1 ~~as work performance, knowledge of job and other~~
2 ~~qualifications. All promotions will be made by the sheriff.~~

3 (1) Open positions will be publicly posted throughout
4 the Sheriff's office on department bulletin boards and
5 websites for a period of 7 days to allow for application by
6 qualified Sheriff's office employees who shall be entitled to
7 a preference for any position of higher grade or rank than an
8 entry level position ~~Whenever there is an opening in any~~
9 ~~division, this opening will be publicly posted throughout the~~
10 ~~sheriff's office for a period of five (5) days to allow all~~
11 ~~persons eligible to apply for transfer from their division to~~
12 ~~the division where the opening exists. Those interested should~~
13 ~~apply in writing to the Sheriff requesting a such transfer.~~

14 (2) The Sheriff reserves the right to transfer any
15 employee for the betterment of the service; provided, however,
16 the employees shall not be reduced in rank or compensation and
17 such transfer shall not be considered disciplinary in nature.

18 (3)(2) Employment or reemployment to ~~No appointment or~~
19 ~~promotion in any position in the Sheriff's office shall not be~~
20 ~~deemed complete until after the expiration of a period of 1~~
21 ~~one (1) year's probationary service, during which time the~~
22 ~~sheriff may terminate without cause the employment of any~~
23 ~~person certified and/or appointed.~~

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

29 (5)(3) Employment and reemployment ~~Appointments~~ shall
30 be regarded as taking effect upon the date the employee is
31 scheduled to report ~~person appointed reports~~ for duty. A

1 | person offered employment ~~certified~~ by the Sheriff who does
2 | not report for duty at the time so designated, and who does
3 | not explain his or her said failure to report, in writing,
4 | within 5 ~~five (5)~~ days, may be rejected by the Sheriff.

5 | Section 11. Practice and procedures of the board.--The
6 | practice and procedure of the board with respect to any
7 | investigation by the board authorized by this act shall be in
8 | accordance with rules and regulations to be adopted by the
9 | board which shall provide for a reasonable notice to all
10 | persons affected by recommendations to be made by the board
11 | after such investigation, with the opportunity to be heard
12 | either in person or by counsel.

13 | Section 12. Misconduct and misuse of professional
14 | influence.--

15 | (1) No person covered by this act shall use his or her
16 | official position or influence to solicit orally or in writing
17 | ~~by letter, and no public officer or employee shall receive or~~
18 | ~~be in any manner concerned in receiving or soliciting any~~
19 | money or valuable things from any employee of the Sheriff's
20 | office department or political party or private individual for
21 | any purpose whatsoever.

22 | (2) No person shall use or promise to use his or her
23 | influence or official position ~~authority~~ to secure any
24 | appointment or prospect of appointment to any position
25 | classified under this act as a reward or return for personal
26 | or partisan political service.

27 | (3) No public officer or employee of the Sheriff's
28 | office shall by means of threats or coercion induce or attempt
29 | to induce any person holding a position in the Sheriff's
30 | office to resign his or her position, or to take a leave of
31 | absence from duty or to waive any rights under this act.

1 Section 13. Discipline; suspensions; dismissal;
2 appeals.--

3 (1) The sheriff may discipline, suspend up to 30 days
4 without pay, terminate, or withdraw the appointment of or
5 dismiss an employee only for just cause. An employee subject
6 to substantial discipline, which includes a loss of pay,
7 accrued time, benefits, rank, or position; disciplinary
8 transfer; suspension; or termination may, within 15 days of
9 the discipline, suspension, termination, or withdrawal of
10 appointment, file a notice of appeal with the board's
11 secretary. The board shall schedule a hearing within 30 days
12 of receipt of notice of appeal. Continuation of a hearing may
13 be granted by the board upon a showing of good cause by either
14 party or upon agreement of the parties. The employee so
15 dismissed or suspended will have fifteen (15) days to file an
16 appeal with the board. Officers with the rank of lieutenant
17 and above will have the authority to take immediate
18 disciplinary action including relieving an employee of duty,
19 thereafter securing the approval of the sheriff. The sheriff
20 may summarily suspend an employee for a reasonable period not
21 exceeding thirty (30) days. Every such suspension shall be
22 without pay; provided, however, that the board shall have the
23 authority to investigate every such suspension and if it is
24 found that the sheriff acted in bad faith, it shall have the
25 power to restore pay to the employee for such suspended time.

26 ~~(1) Subject to the foregoing provisions of this~~
27 ~~section, any person holding a position in the sheriff's office~~
28 ~~who has been removed or discharged, has the opportunity to be~~
29 ~~heard in his own defense upon filing a written request to the~~
30 ~~board within fifteen (15) days following the action. The~~
31 ~~appeal shall, within thirty (30) days after the filing be~~

1 ~~heard, investigated and determined by the board as provided by~~
2 ~~section 13 of this act.~~

3 (2) At the hearing the employee has the burden of
4 proving that the Sheriff lacked just cause supported by
5 competent and substantial evidence for the disciplinary action
6 under appeal.

7 (3) The board shall have the authority to investigate
8 any such discipline, suspension, termination, or withdrawal of
9 appointment and, should the board determine following a
10 hearing that the action taken by the Sheriff was without just
11 cause, the board has the authority to:

12 (a) Vacate the discipline, restore the employee's pay
13 and benefits as outlined in subsection (1), and, in the event
14 the suspension is not completed, void the remaining suspension
15 time and restore the employee to duty.

16 (b) Reinstate the employee's employment and pay
17 without loss of rank or seniority.

18
19 In no case shall back pay exceed 30 days.

20 (4) Should the board determine following the hearing
21 that the action taken by the Sheriff was with just cause it
22 shall uphold the disciplinary decision of the Sheriff. The
23 board may not substitute its judgment for that of the Sheriff
24 regarding the severity of the disciplinary action imposed,
25 provided the disciplinary action is authorized by law.

26 (5) Each party may make a timely appeal to the circuit
27 court upon receipt of the board's written order. In the event
28 a timely appeal is not taken and the Sheriff was found to not
29 have just cause for the discipline, the employee's record
30 shall have the board's final order attached to and included in
31 the employee's personnel file.

1 ~~(6)(2)~~ The board's decision is ~~The decision of the~~
2 ~~board will be~~ final and absolute.

3 (7) Classified employees are free from retaliatory
4 action based on the exercise of rights provided under this
5 act.

6 Section 14. Public meetings.--It shall be the duty of
7 the authorities having charge of the public buildings of Lee
8 County to allow the reasonable use of public buildings and
9 rooms for the holding of meetings of the board and any
10 examinations or investigations provided for by this act. The
11 term "public building" shall include any building under the
12 lawful control of the Lee County Government or Lee County
13 Sheriff's Office which provides for free public access under
14 minimal restrictions, as necessary, to provide for the safety
15 and security of its occupants.

16 Section 15. (1) It shall be and is hereby made the
17 duty of the Sheriff of Lee County to provide annually in his
18 budget, a sufficient sum of money to enable the board to
19 properly carry out the purposes of this act.

20 (2) Effective October 1, 1986 and thereafter, it is
21 the duty of the Sheriff of Lee County to provide annually in
22 his budget a sufficient sum of money to pay a percentage of
23 the cost of the health insurance of members of the Lee County
24 Sheriff's Office who retire from active service after having
25 accumulated at least 15 years of creditable service under the
26 Florida Retirement System. The health insurance costs payable
27 pursuant to this section include premiums for major medical
28 and hospitalization insurance, but do not include premiums for
29 dental insurance. When a retiree receiving this health
30 insurance benefit becomes eligible for Medicare, his health
31

1 coverage will convert to the Medicare Supplement health
2 insurance.

3 (a) In order to receive this benefit, the retiree must
4 have served with the Lee County Sheriff's Office for the 10
5 years immediately preceding his retirement. The retiree may
6 claim up to 5 years of creditable service earned while in the
7 employ of another member agency within the Florida Retirement
8 System. The Lee County Sheriff's Office shall verify all years
9 of creditable service claimed through the Division of
10 Retirement of the Department of Administration.

11 (b) If an employee retires from the Lee County
12 Sheriff's Office after at least 10 years of service with the
13 department, but before reaching retirement age, and has
14 participated in the Florida Retirement System for at least 15
15 years, he may pay his and his dependent's health insurance
16 costs until he begins to receive retirement benefits under the
17 Florida Retirement System. The Lee County Sheriff's Office
18 shall begin to pay a percentage of the employee's health
19 insurance costs when he begins to receive such retirement
20 benefits. The retiree shall give the sheriff's office written
21 notice of the date of payment of his initial retirement
22 benefit. The Lee County Sheriff's Office shall verify this
23 date through the Division of Retirement of the Department of
24 Administration.

25 (c) The Lee County Sheriff's Office shall base the
26 percentage of a retiree's health insurance costs it will pay
27 upon the number of years of creditable service that the
28 retiree has accumulated in the Florida Retirement System.
29 Fifteen years of creditable service entitles the retiree to
30 have 75 percent of his health insurance premiums paid by the
31 sheriff's office. The sheriff's office shall pay an additional

1 5 percent of the insurance premiums for each year of service
2 in excess of 15 years until reaching a maximum of 100 percent
3 of the premium at 20 years of service. The Lee County
4 Sheriff's Office shall pay an additional one-twelfth of 1
5 percent of the premium for each month served until the full
6 100 percent is paid.

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

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

14 (f) The Lee County Sheriff's Office shall pay for the
15 health insurance coverage of the retiree and 50 percent of his
16 or her dependents' health insurance coverage only if the
17 retiree's health insurance is paid at 100 percent of the
18 premium at 20 years of service. A retiree who obtains benefits
19 without attaining 20 years of service may pay for the health
20 insurance of his or her dependents. Upon a retiree's death,
21 his or her spouse may continue the health insurance coverage
22 previously provided by the retiree. Premiums must be paid to
23 the Lee County Sheriff's Office.

24 (g) This retiree health insurance benefit is only
25 available to an employee when he retires. If the employee does
26 not elect to receive the insurance benefit upon retiring, he
27 does not have the option of receiving the benefit at a later
28 date.

29 Section 16. Political activity.--No employee person
30 holding a classified position in the sheriff's office shall
31 take an active part in any political campaign while on duty or

1 while off duty and wearing any uniform or part thereof
2 identifying the Sheriff's office. Nothing in this act shall be
3 construed to prohibit or prevent any such person from
4 exercising lawful political rights while off duty, from
5 becoming or continuing to be a member of a political club or
6 organization, or from attending any political meetings, or
7 from enjoying entire freedom from all interferences in casting
8 his or her vote. Any person violating the provisions of this
9 section may be dismissed from the service of the office of the
10 sheriff of Lee County.

11 Section 17. Legal construction and amendment of the
12 act.--The provisions of this act shall be severable and if any
13 of the provisions shall be held to be unconstitutional, the
14 decision of the court shall not affect the validity of the
15 remaining provisions. It is hereby declared the legislative
16 intent of this act that it would have been adopted by the
17 legislature had such unconstitutional provision not have been
18 included therein.

19 (1) This act shall not be held or construed to create
20 any property rights or any vested interests in any position in
21 the Sheriff's office beyond those specifically enumerated in
22 the act ~~sheriff's office and the right is hereby reserved to~~
23 ~~repeal, alter or amend this act, or any provision thereof at~~
24 ~~any time.~~

25 (2) All requests for changes or amendments to this act
26 proposed by a board member or an alternate board member shall
27 come before the five-member board in a public meeting and be
28 approved by a majority vote of the board. The board as a whole
29 has the authority to request the Legislature to amend the act
30 on behalf of the classified employees of the Sheriff's office
31

1 whose effect on all classified employees shall be immediate
2 upon becoming law.

3 Section 18. All laws and parts of laws, insofar as
4 they are inconsistent with this act, or any provision thereof,
5 are, to the extent of such conflict, hereby repealed.

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

8
9 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
10 COMMITTEE SUBSTITUTE FOR
11 Senate Bill 2978

12 The Committee Substitute removes the section on retiree health
13 benefits and returns the special act to current law on that
14 subject.

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