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CS/HB 1547

2008 Legislature

1 A bill to be entitled
2 An act relating to the Wakulla County Sheriff's Office;
3 providing permanent status for certain employees of the
4 Sheriff; specifying rights of employees; providing
5 procedures for appeal of disciplinary actions and
6 complaints against employees; providing for transition
7 between sheriffs; providing for the appointment of career
8 service appeals boards to hear appeals and procedures with
9 respect thereto; providing for complaints against
10 employees; providing applicability; providing an effective
11 date.

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

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15 Section 1. Employees of Wakulla County Sheriff;
16 applicability of act; permanent status of employees;
17 administration.--

18 (1) APPLICABILITY.--The provisions of this act shall apply
19 to all sworn and nonsworn persons in the employ of the Office of
20 the Wakulla County Sheriff, including deputy sheriffs. The
21 provisions of this act shall not apply to the Sheriff, to
22 special deputy sheriffs appointed pursuant to section 30.09(4),
23 Florida Statutes, to members of the Sheriff's Posse or Reserve
24 Unit, or to individuals appointed as part-time deputy sheriffs,
25 as defined by the Criminal Justice Standards and Training
26 Commission, unless any such person is also employed full-time by
27 the Office of the Sheriff. As used in this act, the terms
28 "employee," "employ," and "employment" shall refer to all

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29 persons, whether employed or appointed, to whom the act applies.
 30 It is not, however, the intent of this act to grant the right of
 31 collective bargaining to persons in the employ of the Office of
 32 the Sheriff who do not otherwise have that right pursuant to
 33 law.

34 (2) PERMANENT STATUS; CAUSE FOR SUSPENSION OR DISMISSAL.--

35 (a) After an employee of the Sheriff to whom the
 36 provisions of this act apply has served in such employment for a
 37 period of 1 calendar year, such employee shall have attained
 38 permanent status in the Office of the Sheriff; provided, that if
 39 an employee is placed on disciplinary probation for a period of
 40 6 months or more or is terminated and rehired at a later date,
 41 said employee shall be required to complete 1 calendar year of
 42 service from the date of the action before being granted the
 43 right of appeal provided in section 2. An employee who is
 44 promoted to a higher rank or position shall serve a probationary
 45 period of 6 months. A promoted employee shall retain permanent
 46 status, but may be demoted to his or her prior rank or position
 47 during such probationary period without the right of appeal
 48 pursuant to this act.

49 (b) Any employee who has achieved permanent status in the
 50 Office of the Sheriff may only be suspended or dismissed for
 51 cause, provided that prior to such disciplinary action the
 52 employee must be furnished written notice of the proposed action
 53 and offered an opportunity to respond to the reasons for the
 54 suspension or dismissal. However, in extraordinary situations
 55 such as when delay could result in damage or injury, an employee
 56 may be suspended or dismissed for cause immediately and provided

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57 notice thereof and reasons therefor within 24 hours. Cause for
58 suspension or dismissal shall include, but not be limited to,
59 negligence, inefficiency, or inability to perform assigned
60 duties, insubordination, violation of the provisions of law or
61 office rules, conduct unbecoming a public employee, misconduct,
62 or habitual drug abuse. Cause for suspension or dismissal shall
63 also include adjudication of guilt by a court of competent
64 jurisdiction, a plea of guilty or nolo contendere, or a jury
65 verdict of guilty when adjudication of guilt is withheld and the
66 accused is placed on probation, with respect to any felony,
67 misdemeanor, or major traffic infraction. The filing of felony,
68 misdemeanor, or major traffic infraction charges against an
69 employee shall constitute cause for suspension.

70 (3) TRANSITION OF EMPLOYEES.--When a newly elected or
71 appointed Sheriff assumes office, the new Sheriff shall continue
72 the employment of all currently employed permanent status
73 personnel unless cause for dismissal, as provided herein,
74 exists. However, the incoming Sheriff shall have the option of
75 replacing the current personnel assigned to the positions of
76 Sheriff's Executive Secretary, Chief Deputy, and Major. If the
77 incoming Sheriff fills the Chief Deputy or Major positions with
78 new personnel, the current occupants of those positions shall
79 not be reduced lower than the rank of Captain, which rank shall
80 be permanent unless later reduced by disciplinary demotion, and
81 their salaries may be reduced accordingly. If the new Sheriff
82 fills the Sheriff's Executive Secretary position with a new
83 employee, the current occupant of the position shall be
84 transferred to another position for which the employee is

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85 qualified within the Office of the Sheriff. Actions taken
86 pursuant to this subsection shall not be appealable under
87 section 2.

88 (4) ADMINISTRATION.--

89 (a) The Sheriff shall have the authority to adopt such
90 rules and regulations as are necessary for the implementation
91 and administration of this act; however, nothing in this act
92 shall be construed as affecting the budgetmaking powers of the
93 Board of Commissioners of Wakulla County.

94 (b) Dismissals or demotions pursuant to across-the-board
95 actions directed by the Board of Commissioners of Wakulla County
96 resulting from county fiscal impacts shall not be appealable
97 under section 2.

98 Section 2. Career Service Appeals Boards; creation;
99 membership; duties.--

100 (1) FUNCTION OF CAREER SERVICE APPEALS BOARD.--An ad hoc
101 Career Service Appeals Board shall be appointed as provided
102 herein for the purpose of hearing appeals of permanent status
103 employees arising from personnel actions brought under agency
104 rules or policies which result in dismissal, suspension,
105 demotion, or reduction in pay, provided that reprimands, oral or
106 written, and suspension of 5 working days or less shall not be
107 appealable to a Career Service Appeals Board. Any such board may
108 also provide assistance and advice to the Sheriff in matters
109 concerning disciplinary actions and may take any other action
110 authorized by the Sheriff.

111 (2) MEMBERSHIP AND SELECTION OF CAREER SERVICE APPEALS
112 BOARD.--

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113 (a) An ad hoc Career Service Appeals Board shall be
 114 appointed upon the call of the Sheriff or upon the filing of an
 115 appeal. The membership of each such board shall consist of five
 116 law enforcement officers or correctional officers, or a
 117 combination thereof, all of whom shall be employees of the
 118 Office of the Sheriff. The Sheriff shall select two members, the
 119 employee filing the appeal shall select two members, and the
 120 fifth member, who shall serve as chair of the board, shall be
 121 selected by the other four members.

122 (b) The five-member board shall select an alternate board
 123 member who shall sit for the appeal hearing proceedings. If at
 124 the conclusion of the hearing, the original five board members
 125 remain, the alternate member shall be excused and shall have no
 126 authority to vote or participate in the deliberations. However,
 127 if at any time during the hearing or prior to deliberations, any
 128 original board member is unable to continue to serve for any
 129 reason, the alternate member shall replace that original board
 130 member. The alternate member who replaces an original board
 131 member shall then have voting authority and shall participate in
 132 the deliberations.

133 (c) The ranking officer in charge of personnel, or his or
 134 her designee, shall serve as an ex officio member of the board,
 135 but shall have no vote. Any employee shall have the right to
 136 decline to serve as a member of a board. Any employee selected
 137 to serve on a board shall serve without additional compensation
 138 or overtime compensation with respect to such service. Once
 139 selected to a board, the members thereof shall serve until final
 140 action is taken by the board with respect to the purpose for

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141 which the board was selected, at which time the board shall be
142 dissolved.

143 (3) PROCEDURE WITH RESPECT TO CAREER SERVICE APPEALS.--

144 (a) An appeal of an action specified in subsection (1)
145 shall be made to the Sheriff in writing and must be received by
146 the Sheriff no later than 3 working days after the employee is
147 notified of the action on which the appeal is based.

148 (b) A Career Service Appeals Board shall be selected and
149 must meet for purposes of hearing the appeal no later than 20
150 working days after receipt of an appeal by the Sheriff, unless
151 the employee requesting the hearing waives the time period, in
152 writing.

153 (c) During any hearing, the employee filing the appeal
154 shall have the right to be heard publicly, to be represented by
155 a person of his or her choice, and to present any evidential
156 facts in his or her behalf, and during such hearings the
157 technical rules of evidence shall not apply. The board shall, in
158 the conduct of such hearings, have the power to administer
159 oaths, issue subpoenas, compel the attendance of witnesses, and
160 require the production of books, records, accounts, papers,
161 documents, and testimony. In case of the failure of any person
162 to obey an order of the board or a subpoena issued by the board,
163 or upon the refusal of a witness to testify on any matter
164 regarding which he or she may be lawfully interrogated, the
165 chair of the board may request a county judge of the county in
166 which a person resides, to compel compliance by proceeding as
167 for contempt. Each witness who appears in obedience to a
168 subpoena before the board shall receive compensation for

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169 attendance fees and mileage as provided for witnesses in civil
170 cases in the courts of this state. Such payments shall be made
171 by the party calling the witness, except that with respect to
172 any witnesses called by the board, payments shall be made by the
173 Sheriff upon presentation of proper vouchers.

174 (d) Employees who have requested a Career Service Hearing
175 may be represented by an attorney or other qualified
176 representative, or the employee may represent himself or
177 herself. The standard required to prove misconduct is a
178 preponderance of the evidence and the procedure for closing
179 arguments shall be that, if the employee offers no testimony or
180 other evidence, the Sheriff shall have the first closing
181 argument and the employee shall follow the Sheriff. Should the
182 employee offer any witness testimony, including the employee's
183 testimony, or any other evidence, the employee shall have the
184 first closing argument and the Sheriff shall follow the
185 employee.

186 (e) A board shall, by majority vote, dispose of the appeal
187 for which it was appointed by making findings of fact and
188 issuing a written decision. Such decision shall either sustain
189 or not sustain the finding of cause. If a finding of cause is
190 not sustained by a board, the board shall order such remedial
191 action as is appropriate with regard to discipline, which may
192 include reinstatement with back pay, and may modify any
193 personnel action which was the subject of the appeal. If the
194 board sustains the finding by the Sheriff, it shall also
195 determine the appropriateness of the discipline imposed by the
196 Sheriff. No board shall have the authority to impose on any

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197 employee any discipline that is harsher than that which formed
 198 the basis of the appeal. Under no circumstance shall the board
 199 have the authority to circumvent, modify, alter, or otherwise
 200 change the rules or policy of the Sheriff.

201 (f) The decision of the board shall be final and binding
 202 on the employee and the Sheriff, unless a state court's
 203 jurisdiction is invoked by appeal or certiorari to review the
 204 board's action. If the court accepts jurisdiction, the board's
 205 order shall be stayed pending completion of the court
 206 proceedings.

207 Section 3. Complaints against employees; procedure.--

208 (1) COMPLAINTS AGAINST EMPLOYEES.--A complaint receipt and
 209 processing procedure shall be established by the Office of the
 210 Sheriff in order to provide adequately for the prompt receipt,
 211 investigation, and disposition of complaints against its
 212 employees.

213 (2) PROCEDURE WITH RESPECT TO RECEIVING COMPLAINTS AGAINST
 214 EMPLOYEES.--

215 (a) Any supervisor of the Office of the Wakulla County
 216 Sheriff is authorized to receive a complaint against any other
 217 employee of the Sheriff. All complaints shall be reduced to
 218 writing and shall be resolved as provided herein.

219 (b) If a complaint is received by a supervisor during
 220 normal working hours, the complaint shall be referred to the
 221 supervisor of the employee against whom the complaint was
 222 received. The supervisor may conduct an investigation to
 223 determine if immediate action is needed to preserve the
 224 integrity of the Office of Sheriff or the supervisor may refer

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225 the complaint to Internal Affairs or to the appropriate
226 investigating unit within the agency.

227 (c) If a complaint is received after normal working hours,
228 it shall be referred to the shift supervisor. The shift
229 supervisor may conduct an investigation to determine if
230 immediate action is needed to preserve the integrity of the
231 Office of Sheriff. If immediate action is not required, the
232 complaint may be referred to Internal Affairs or to the
233 appropriate investigating unit within the agency at the
234 beginning of the next working day, or sooner if required.

235 (d) Upon completion of the investigation, the complaint
236 shall be reviewed by the Sheriff or by his or her designee. If
237 the Sheriff finds that a complaint is well founded and that a
238 violation has occurred, the Sheriff shall decide upon
239 appropriate disciplinary action, and the employee shall be
240 notified of the proposed disciplinary action as provided in
241 section 1.

242 (e) If a nonsworn employee is dissatisfied with the
243 decision of the Sheriff regarding disciplinary action resulting
244 from a complaint, he or she may appeal the action to a Career
245 Service Appeals Board.

246 (f) If an employee who is subject to the provisions of
247 section 112.532, Florida Statutes, is dissatisfied with the
248 decision of the Sheriff regarding disciplinary action resulting
249 from a complaint, he or she may appeal the action to a Career
250 Service Appeals Board.

251 Section 4. All sworn and nonsworn persons in the employ of
252 the Office of the Sheriff who have served for a period of 1

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253 calendar year or more as of the effective date of this act,
254 shall be permanent status employees subject to the provisions of
255 this act. All other employees shall become permanent employees
256 subject to the provisions of this act upon reaching their 1
257 calendar year service anniversary date.

258 Section 5. This act shall take effect upon becoming a law.