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CHAMBER ACTION

Senate

House

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Floor: 1/AD/2R
4/29/2008 4:00 PM

1 Senator Dean moved the following **amendment**:

2
3 **Senate Amendment (with title amendment)**

4 Delete everything after the enacting clause
5 and insert:

6
7 Section 1. Subsections (2), (4), (5), and (6) of section
8 110.227, Florida Statutes, are amended, and subsection (8) is
9 added to that section, to read:

10 110.227 Suspensions, dismissals, reductions in pay,
11 demotions, layoffs, transfers, and grievances.--

12 (2) (a) The department shall establish rules and procedures
13 for the suspension, reduction in pay, transfer, layoff, demotion,
14 and dismissal of employees in the career service. Except with
15 regard to law enforcement or correctional officers, firefighters,
16 or professional health care providers, rules regarding layoff
17 procedures shall not include any system whereby a career service



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18 employee with greater seniority has the option of selecting a
19 different position not being eliminated, but either vacant or
20 already occupied by an employee of less seniority, and taking
21 that position, commonly referred to as "bumping."

22 (b) For the implementation of layoffs as defined in s.
23 110.107, the department shall develop rules requiring retention
24 of the agency's employees based upon objective measures that give
25 consideration to ~~be given to~~ comparative merit, demonstrated
26 skills, and the employee's experience, and the employee's length
27 of service. Such rules shall be approved by the Administration
28 Commission before ~~prior to~~ their adoption by the department.

29 (4) A grievance process shall be available to career
30 service employees who have satisfactorily completed at least a 1-
31 year probationary period in their current positions. A grievance
32 is defined as the dissatisfaction that occurs when an employee
33 believes that any condition affecting the employee is unjust,
34 inequitable, or a hindrance to effective operation. Claims of
35 discrimination and sexual harassment or claims related to
36 suspensions, reductions in pay, demotions, and dismissals are not
37 subject to the career service grievance process. The following
38 procedures shall apply to any grievance filed pursuant to this
39 subsection, except that all timeframes may be extended in writing
40 by mutual agreement:

41 (a) Step One.--The employee may submit a signed, written
42 grievance on a form provided by the agency to his or her
43 supervisor within 14 ~~7~~ calendar days following the occurrence of
44 the event giving rise to the grievance. The supervisor must meet
45 with the employee to discuss the grievance ~~within~~ and provide a
46 written response to the employee within 7 ~~5~~ business days
47 following receipt of the grievance.



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48 (b) Step Two.--If the employee is dissatisfied with the
49 response of his or her supervisor, the employee may submit the
50 written grievance to the agency head or his or her designee
51 within 7 ~~2~~ business days following receipt of the supervisor's
52 written response. The agency head or his or her designee must
53 meet with the employee to discuss the grievance within 5 business
54 days following receipt of the grievance. The agency head or his
55 or her designee must respond in writing to the employee within 5
56 business days following the meeting. The written decision of the
57 agency head shall be the final authority for all grievances filed
58 pursuant to this subsection. Such grievances may not be appealed
59 beyond Step Two.

60 (5) (a) A career service employee who has satisfactorily
61 completed at least a 1-year probationary period in his or her
62 current position and who is subject to a suspension, reduction in
63 pay, demotion, involuntary transfer of more than 50 miles by
64 highway, or dismissal shall receive written notice of such action
65 at least 10 days prior to the date such action is to be taken.
66 Subsequent to such notice, and prior to the date the action is to
67 be taken, the affected employee shall be given an opportunity to
68 appear before the agency or official taking the action to answer
69 orally and in writing the charges against him or her. The notice
70 to the employee required by this paragraph may be delivered to
71 the employee personally or may be sent by certified mail with
72 return receipt requested. Such actions shall be appealable to the
73 Public Employees Relations Commission as provided in subsection
74 (6). Written notice of any such appeal shall be filed by the
75 employee with the commission within 21 ~~14~~ calendar days after the
76 date on which the notice of suspension, reduction in pay,



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77 demotion, involuntary transfer of more than 50 miles by highway,
78 or dismissal is received by the employee.

79 (b) In extraordinary situations such as when the retention
80 of a career service employee who has satisfactorily completed at
81 least a 1-year probationary period in his or her current position
82 would result in damage to state property, would be detrimental to
83 the best interest of the state, or would result in injury to the
84 employee, a fellow employee, or some other person, such employee
85 may be suspended or dismissed without 10 days' prior notice,
86 provided that written or oral notice of such action, evidence of
87 the reasons therefor, and an opportunity to rebut the charges are
88 furnished to the employee prior to such dismissal or suspension.
89 Such notice may be delivered to the employee personally or may be
90 sent by certified mail with return receipt requested. Agency
91 compliance with the foregoing procedure requiring notice,
92 evidence, and an opportunity for rebuttal must be substantiated.
93 Any employee who is suspended or dismissed pursuant to the
94 provisions of this paragraph may appeal to the Public Employees
95 Relations Commission as provided in subsection (6). Written
96 notice of any such appeal shall be filed with the commission by
97 the employee within 21 ~~14~~ days after the date on which the notice
98 of suspension, reduction in pay, demotion, or dismissal is
99 received by the employee.

100 (6) The following procedures shall apply to appeals filed
101 pursuant to subsection (5) with the Public Employees Relations
102 Commission, hereinafter referred to as the commission:

103 (a) The commission must conduct a hearing within 60 ~~30~~
104 calendar days following the filing of a notice of appeal. No
105 extension of time for the hearing may exceed 30 calendar days,
106 absent exceptional circumstances, and no extension of time may be



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107 | granted without the consent of all parties. Discovery may be
108 | granted only upon the showing of extraordinary circumstances. A
109 | party requesting discovery shall demonstrate a substantial need
110 | for the information requested and an inability to obtain relevant
111 | information by other means. Except where inconsistent with the
112 | requirements of this subsection, the provisions of s. 447.503(4)
113 | and (5) and chapter 120 apply to proceedings held pursuant to
114 | this subsection.

115 | (b) A person may represent himself or herself in
116 | proceedings before the commission or may be represented by legal
117 | counsel or by any individual who qualifies as a representative
118 | pursuant to rules adopted by the commission.

119 | (c) If the commission finds that cause did not exist for
120 | the agency action, the commission shall reverse the decision of
121 | the agency head and the employee shall be reinstated with or
122 | without back pay. If the commission finds that cause existed for
123 | the agency action, the commission shall affirm the decision of
124 | the agency head. The commission may not reduce the penalty
125 | imposed by the agency head, except in the case of law enforcement
126 | or correctional officers, firefighters, and professional health
127 | care providers, if the commission makes specific written findings
128 | of mitigation.

129 | (d) A recommended order shall be issued by the hearing
130 | officer within 30 days following the hearing. Exceptions to the
131 | recommended order shall be filed within 15 ~~5-business~~ days after
132 | the recommended order is issued. The final order shall be filed
133 | by the commission no later than 45 ~~30~~ calendar days after the
134 | hearing or after the filing of exceptions or oral arguments if
135 | granted.



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136 (e) Final orders issued by the commission pursuant to
137 paragraph (d) shall be reviewable as provided in s. 447.504.

138 (8) A career service employee who is serving a probationary
139 period in a position to which he or she has been promoted may be
140 removed from that promotional position at any time during the
141 probationary period but must be returned to his or her former
142 position, or comparable position, if such a position is vacant.
143 If such a position is not available, before dismissal, the agency
144 shall make a reasonable effort to retain the employee in another
145 vacant position. This subsection does not apply to terminations
146 for cause as described in subsection (1), nor does it create a
147 right to "bump" an employee from an occupied position as
148 described in paragraph (2) (a).

149 Section 2. This act shall take effect January 1, 2009.

150
151 ===== T I T L E A M E N D M E N T =====

152 And the title is amended as follows:

153 Delete everything before the enacting clause
154 and insert:

155 A bill to be entitled
156 An act relating to the Career Service System; amending s.
157 110.227, F.S.; revising criteria for certain rules and
158 procedures for the suspension, reduction in pay, transfer,
159 layoff, demotion, and dismissal of employees in the career
160 service; increasing the amounts of time in which to submit
161 grievances and respond to grievances; revising notice
162 requirements; increasing the amount of time in which the
163 employee must file an appeal to the Public Employees
164 Relations Commission; revising procedures applicable to
165 appeals filed with the commission; providing for the



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166 | removal and placement of certain career service employees
167 | serving a probationary period; providing an effective
168 | date.