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CS/CS/HB 887, Engrossed 1

2008 Legislature

1 A bill to be entitled

2 An act relating to the Career Service System; amending s.
3 110.227, F.S.; revising criteria for certain rules and
4 procedures for the suspension, reduction in pay, transfer,
5 layoff, demotion, and dismissal of employees in the career
6 service; increasing the amounts of time in which to submit
7 grievances and respond to grievances; revising notice
8 requirements; increasing the amount of time in which the
9 employee must file an appeal to the Public Employees
10 Relations Commission; revising procedures applicable to
11 appeals filed with the commission; providing for the
12 removal and placement of certain career service employees
13 serving a probationary period; providing an effective
14 date.

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

17
18 Section 1. Subsections (2), (4), (5), and (6) of section
19 110.227, Florida Statutes, are amended, and subsection (8) is
20 added to that section, to read:

21 110.227 Suspensions, dismissals, reductions in pay,
22 demotions, layoffs, transfers, and grievances.--

23 (2) (a) The department shall establish rules and procedures
24 for the suspension, reduction in pay, transfer, layoff,
25 demotion, and dismissal of employees in the career service.
26 Except with regard to law enforcement or correctional officers,
27 firefighters, or professional health care providers, rules
28 regarding layoff procedures shall not include any system whereby

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29 a career service employee with greater seniority has the option
 30 of selecting a different position not being eliminated, but
 31 either vacant or already occupied by an employee of less
 32 seniority, and taking that position, commonly referred to as
 33 "bumping."

34 (b) For the implementation of layoffs as defined in s.
 35 110.107, the department shall develop rules requiring retention
 36 of the agency's employees based upon objective measures that
 37 give consideration to ~~be given to~~ comparative merit,
 38 demonstrated skills, ~~and~~ the employee's experience, and the
 39 employee's length of service. Such rules shall be approved by
 40 the Administration Commission before ~~prior to~~ their adoption by
 41 the department.

42 (4) A grievance process shall be available to career
 43 service employees who have satisfactorily completed at least a
 44 1-year probationary period in their current positions. A
 45 grievance is defined as the dissatisfaction that occurs when an
 46 employee believes that any condition affecting the employee is
 47 unjust, inequitable, or a hindrance to effective operation.
 48 Claims of discrimination and sexual harassment or claims related
 49 to suspensions, reductions in pay, demotions, and dismissals are
 50 not subject to the career service grievance process. The
 51 following procedures shall apply to any grievance filed pursuant
 52 to this subsection, except that all timeframes may be extended
 53 in writing by mutual agreement:

54 (a) Step One.--The employee may submit a signed, written
 55 grievance on a form provided by the agency to his or her
 56 supervisor within 14 ~~7~~ calendar days following the occurrence of

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57 | the event giving rise to the grievance. The supervisor must meet
58 | with the employee to discuss the grievance ~~within~~ and provide a
59 | written response to the employee within 7 5 business days
60 | following receipt of the grievance.

61 | (b) Step Two.--If the employee is dissatisfied with the
62 | response of his or her supervisor, the employee may submit the
63 | written grievance to the agency head or his or her designee
64 | within 7 2 business days following receipt of the supervisor's
65 | written response. The agency head or his or her designee must
66 | meet with the employee to discuss the grievance within 5
67 | business days following receipt of the grievance. The agency
68 | head or his or her designee must respond in writing to the
69 | employee within 5 business days following the meeting. The
70 | written decision of the agency head shall be the final authority
71 | for all grievances filed pursuant to this subsection. Such
72 | grievances may not be appealed beyond Step Two.

73 | (5) (a) A career service employee who has satisfactorily
74 | completed at least a 1-year probationary period in his or her
75 | current position and who is subject to a suspension, reduction
76 | in pay, demotion, involuntary transfer of more than 50 miles by
77 | highway, or dismissal shall receive written notice of such
78 | action at least 10 days prior to the date such action is to be
79 | taken. Subsequent to such notice, and prior to the date the
80 | action is to be taken, the affected employee shall be given an
81 | opportunity to appear before the agency or official taking the
82 | action to answer orally and in writing the charges against him
83 | or her. The notice to the employee required by this paragraph
84 | may be delivered to the employee personally or may be sent by

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85 certified mail with return receipt requested. Such actions shall
86 be appealable to the Public Employees Relations Commission as
87 provided in subsection (6). Written notice of any such appeal
88 shall be filed by the employee with the commission within 21 ~~14~~
89 calendar days after the date on which the notice of suspension,
90 reduction in pay, demotion, involuntary transfer of more than 50
91 miles by highway, or dismissal is received by the employee.

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

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

116 (a) The commission must conduct a hearing within 60 ~~30~~
117 calendar days following the filing of a notice of appeal. No
118 extension of time for the hearing may exceed 30 calendar days,
119 absent exceptional circumstances, and no extension of time may
120 be granted without the consent of all parties. Discovery may be
121 granted only upon the showing of extraordinary circumstances. A
122 party requesting discovery shall demonstrate a substantial need
123 for the information requested and an inability to obtain
124 relevant information by other means. Except where inconsistent
125 with the requirements of this subsection, the provisions of s.
126 447.503(4) and (5) and chapter 120 apply to proceedings held
127 pursuant to this subsection.

128 (b) A person may represent himself or herself in
129 proceedings before the commission or may be represented by legal
130 counsel or by any individual who qualifies as a representative
131 pursuant to rules adopted by the commission.

132 (c) If the commission finds that cause did not exist for
133 the agency action, the commission shall reverse the decision of
134 the agency head and the employee shall be reinstated with or
135 without back pay. If the commission finds that cause existed for
136 the agency action, the commission shall affirm the decision of
137 the agency head. The commission may not reduce the penalty
138 imposed by the agency head, except in the case of law
139 enforcement or correctional officers, firefighters, and

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140 professional health care providers, if the commission makes
141 specific written findings of mitigation.

142 (d) A recommended order shall be issued by the hearing
143 officer within 30 days following the hearing. Exceptions to the
144 recommended order shall be filed within 15 ~~5~~ business days after
145 the recommended order is issued. The final order shall be filed
146 by the commission no later than 45 ~~30~~ calendar days after the
147 hearing or after the filing of exceptions or oral arguments if
148 granted.

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

151 (8) A career service employee who is serving a
152 probationary period in a position to which he or she has been
153 promoted may be removed from that promotional position at any
154 time during the probationary period but must be returned to his
155 or her former position, or comparable position, if such a
156 position is vacant. If such a position is not available, before
157 dismissal, the agency shall make a reasonable effort to retain
158 the employee in another vacant position. This subsection does
159 not apply to terminations for cause as described in subsection
160 (1), nor does it create a right to "bump" an employee from an
161 occupied position as described in paragraph (2) (a).

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