

STORAGE NAME: h1799.ca

DATE: April 17, 2000

**HOUSE OF REPRESENTATIVES
AS REVISED BY THE COMMITTEE ON
COMMUNITY AFFAIRS
ANALYSIS - LOCAL LEGISLATION**

BILL #: HB 1799

RELATING TO: Flagler Co. Deputies

SPONSOR(S): Representative Patterson and others

TIED BILL(S): None

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) GOVERNMENTAL OPERATIONS (PRC) YEAS 5 NAYS 0
 - (2) COMMUNITY AFFAIRS (PRC)
 - (3)
 - (4)
 - (5)
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I. SUMMARY:

This bill creates a career services act for the Flagler County Sheriff's Office, including provisions for applicability, permanent status, and job security provisions for employees for transitions from the administration of one Sheriff to that of the following Sheriff.

This bill provides policies and procedures for receiving, handling, investigating, resolving and disposing of complaints against employees, both criminal, and non-criminal.

This bill provides for ad hoc Career Service Appeals Boards for employees who are subject to personnel actions resulting in dismissal, suspension, demotion or reduction in pay.

This bill provides for promotions, and includes policies and procedures related to promotional eligibility testing, opportunity noticing, applications for promotion, oral review boards, and the promotions themselves.

The Police Benevolent Association provided the Economic Impact Statement in which the union found this bill resulted in no fiscal impact other than nominal expense related to the cost of administration, implementation and enforcement.

See Part V, AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES section, for the effect of the amendment traveling with the bill. The amendment modified a provision dealing with discipline for "habitual drug abuse," modifying it to read "drug abuse."

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|------------------------------|-----------------------------|---|
| 1. <u>Less Government</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

B. PRESENT SITUATION:

Current career service policies of the Flagler County Sheriff's Office are not codified. The Flagler County Sheriff has negotiated a comprehensive set of career service policies with the Police Benevolent Association (PBA), and provided them to the county delegation for ratification.

C. EFFECT OF PROPOSED CHANGES:

This bill creates a career services act for the employees of the Flagler County Sheriff's Office.

The bill establishes that the act is applicable to all employees of the Sheriff's Office with certain exceptions; the bill provides criteria for "permanent status" with certain exceptions; the bill provides for continued employment of all employees when a new Sheriff assumes office with certain exceptions.

The bill provides a grant of rulemaking authority to the Sheriff to implement this act, but does not permit anything in this act to be construed as affecting the budget-making powers of the Board of County Commissioners.

The bill provides for ad hoc Career Service Appeals Boards, their functions, membership, and procedures.

The bill provides the methodology for receiving, handling, investigating, resolving and disposing of complaints related to employee behavior.

The bill provides that before any interview is conducted with an employee, the "Garrity Rule" must be read to the employee, who confirms that it was read to him or her by signing the "Garrity Rule" form, or sheet upon which it appears.

The bill provides for promotional eligibility testing procedures to those who are qualified; for promotional opportunity noticing; procedures for applications for promotions; procedures for oral review boards; for the composition of oral review boards; that final selections for promotion are made by the Sheriff from the top three applicants recommended by the oral review board; for promotion eligibility lists, and the period applicants remain on the list; and minimum requirements for promotion.

The bill provides a “grandfather clause” for employees of the Sheriff’s Office who, on the effective date of this act, have served one calendar year with such employees to be considered permanent employee; provides that other employees will be considered permanent employees upon reaching their one calendar year service anniversary date.

The bill provides that full-time deputy sheriffs employed by the county shall be deemed public employees, enjoying all the benefits and protections of being public employees, including those afforded under part VII of ch. 112, Florida Statutes.

D. SECTION-BY-SECTION ANALYSIS:

Section 1 Provides for applicability of the act and permanent status of employees and administration.

Subsection (1) establishes applicability to all employees of the Sheriff’s Office, except: the Sheriff; special Deputy Sheriffs appointed pursuant to section 30.09(4), Florida Statutes, members of the Sheriff’s Posse or Reserve Unit, and Individuals appointed as part-time deputy sheriffs, unless such person is also employed full-time by the Sheriff’s Office.

Subsection (2) provides criteria for “permanent status” after serving for one calendar year, except:

- If an employee is terminated, then rehired, said employee must serve one calendar year after being rehired (when said employee shall be granted the right of appeal);
- If an employee is required to serve a probationary period attendant to a promotion, shall retain permanent status, but may be demoted to his or her prior rank during the probationary period; and
- If an employee has attained permanent status, said employee may only be suspended or dismissed for just cause (with conditions). *This bill enumerates the types of “cause” and includes habitual drug abuse.*

NOTE: This particular cause may conflict with law enforcement certification provisions. An amendment is expected to modify this language.

Subsection (3) Provides for continued employment of all employees when a new Sheriff assumes office, except:

- If cause for dismissal exists;
- The incoming Sheriff has the option of keeping personnel in the positions of Administrative Assistant, Chief Deputy, Legal Advisor, and Director, or not;
- If the incoming Sheriff replaces personnel in the positions of Administrative Assistant, Chief Deputy, Legal Advisor, and Director, those personnel (if certified law enforcement officers) shall be reduced to the permanent rank of Captain, with attendant salary reductions;
- If the Administrative Assistant is replaced, another position the person is qualified for must be found within the Sheriff’s Office; and

Subsection (4) provides a grant of rulemaking authority to the Sheriff to implement this act, but nothing in this act shall be construed as affecting the budget-making powers of the Board of County Commissioners.

- Section 2** Provides for ad hoc Career Service Appeals Boards (Board); their functions; membership; and procedures with respect to appeals arising out of personnel actions brought under office rules or policies which result in dismissal, suspension, demotion, or reduction in pay. Decisions of the Board are final, and binding on appealing employees and the Sheriff, alike.
- Section 3** Provides the methodology for receiving, handling, investigating, resolving and disposing complaints related to employee behavior. Provisions include complaints of criminal activity, non-criminal activity, and internal investigations; provides that before any interview is conducted with an employee, the "Garrity Rule" must be read to the employee, who confirms that it was read to him or her by signing the "Garrity Rule" form, or sheet upon which it appears. The "Garrity Rule" is a statement which discusses responsibilities and rights of employees with respect to interviews, and is based on *Garrity v. New Jersey*, 385 U.S. 493 (1967), and *Gardner v. Broderick*, 392 U.S. 273 (1968).
- Section 4** Provides for promotional eligibility testing procedures to those who are qualified.
- Section 5** Provides for promotional opportunity noticing.
- Section 6** Provides procedures for applications for promotions.
- Section 7** Provides procedures for oral review boards.
- Section 8** Provides for the composition of oral review boards.
- Section 9** Provides that final selections for promotion are made by the Sheriff from the top three applicants recommended by the oral review board.
- Section 10** Provides for promotion eligibility lists, and the period applicants remain on the list.
- Section 11** Provides minimum requirements for promotion.
- Section 12** Provides a "grandfather clause" for employees of the Sheriff's Office who, on the effective date of this act, have served one calendar year. Such employees will be considered permanent employees. Others will be considered permanent employees upon reaching their one calendar year service anniversary date.
- Section 13** Provides that full-time deputy sheriffs employed by the county shall be deemed public employees, enjoying all the benefits and protections of being public employees, including those afforded under part VII of ch. 112, Florida Statutes.
- Section 14** Provides an effective date of upon becoming a law.

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III. NOTICE/REFERENDUM AND OTHER REQUIREMENTS:

A. NOTICE PUBLISHED? Yes [X] No []

IF YES, WHEN? February 6, 2000

WHERE? The News-Journal, Daytona Beach, Volusia County, Florida

B. REFERENDUM(S) REQUIRED? Yes [] No [X]

IF YES, WHEN?

C. LOCAL BILL CERTIFICATION FILED? Yes, attached [X] No []

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached [X] No []

IV. COMMENTS:

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

This bill provides a grant of rule-making authority to the Sheriff.

C. OTHER COMMENTS:

None.

V. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

One amendment was adopted by the Committee on Governmental Operations on April 12, 2000. The amendment modified a provision dealing with discipline for "habitual drug abuse," modifying it to read "drug abuse."

VI. SIGNATURES:

COMMITTEE ON GOVERNMENTAL OPERATIONS:

Prepared by:

Russell J. Cyphers, Jr.

Staff Director:

Russell J. Cyphers, Jr.

AS REVISED BY THE COMMITTEE ON COMMUNITY AFFAIRS:

Prepared by:

Kyle V. Mitchell

Staff Director:

Joan Highsmith-Smith