

## House Bill No. 495

An act relating to Baker County; providing career service status for certain employees of the Baker County Sheriff's Office; providing definitions; providing for transition between administrations; providing for appeals procedures; providing for career service appeals boards; providing proceedings and provisions with respect to disciplinary suspension and dismissal; providing severability; providing an effective date.

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

Section 1. Employees and appointees of the Baker County Sheriff's Office; applicability of act; definitions; career service status; transitions; administration.—

(1) APPLICABILITY.—The provisions of this act apply to all certified and noncertified persons appointed or employed by the Baker County Sheriff's Office, with the following exceptions:

(a) Chiefs or, in the event of a title change, the highest ranked certified law enforcement officers reporting directly to the sheriff.

(b) Special deputy sheriffs appointed under section 30.09(4), Florida Statutes.

(c) Members of a sheriff's posse or reserve unit.

(d) Part-time appointees and employees.

(e) Independent contractors, temporary employees, or contract employees.

(f) Appointees and employees employed pursuant to a grant whose continued existence or funding is subject to the expiration or withdrawal of the grant provider.

(2) APPLICATION TO COLLECTIVE BARGAINING.—This act does not grant the right of collective bargaining to employees of the sheriff's office who do not otherwise have that right pursuant to law.

(3) NONDISCIPLINARY DISMISSALS.—This act does not cover the nondisciplinary dismissal of employees or appointees. Such nondisciplinary dismissals include those arising from a reduction in force, layoff, or partial or total abolition or cessation of a program, service, operation, department, subdivision, or grant-funded position.

(4) DEFINITIONS.—

(a) "Appointee" means a person selected by the sheriff to serve in the position of deputy sheriff or correctional officer who is certified within the meaning of chapter 943, Florida Statutes.

(b) “Career appeals board” means the ad hoc board authorized under this act to hear disciplinary appeals.

(c) “Dismissal” means the discharge or withdrawal of appointment by the sheriff or his or her designee of a person employed or appointed to a position with the sheriff’s office.

(d) “Employee” means any person employed by the sheriff for a position which does not require certification under chapter 943, Florida Statutes.

(e) “Initial probationary period” means 1 year of conditional employment or appointment commencing on the initial date of actual work and continuing for 12 months in a regularly established position. This probationary period may be extended at the discretion of the sheriff for a period equal to any work absences during the 12-month period. For the purpose of determining career service status pursuant to paragraph (5)(a), all time in the employment of the sheriff’s office, while in a Criminal Justice Standards and Training Commission-approved academy or other comparable training for certification as a sworn officer or deputy sheriff, shall not be considered in any manner in determining whether the employee has attained a minimum of 1 calendar year of service.

(f) “Reemployment” means the reappointment or reemployment of a person who was previously an appointee or employee of the sheriff’s office.

For the purposes of this act, “appointee” and “employee” are synonymous and any derivative of “employ” refers to the persons to whom this act applies.

#### (5) CAREER SERVICE STATUS.—

(a) After any employee or appointee of the sheriff to whom the provisions of this act apply has completed the initial or extended probationary period, such person shall have attained career service status in the sheriff’s office. If such person is reemployed at a later date, said person shall be required to again complete the probationary period before being granted the right of appeal provided in section 2.

(b) The sheriff may dismiss an appointee or employee who has not completed the initial or extended probationary period at any time without granting the right of appeal provided in section 2.

(c) Any person who has attained career service status with the sheriff’s office may only be suspended or dismissed for cause, provided that, prior to such action, the employee must be provided with written notice of the proposed action and offered an opportunity to respond to the reasons for the suspension or dismissal. If, however, the sheriff perceives a significant hazard in keeping the employee on the job, or where delay could result in damage or injury, the employee may be immediately suspended or dismissed without notice, provided, that the employee is provided with such notice and reasons within 24 hours. Cause for suspension or dismissal includes, but is not limited to, negligence, inefficiency or inability to perform assigned duties, insubordination, violation of provisions of law or office rules, conduct unbecoming a public employee, misconduct, alcohol abuse, prescription drug

abuse, or illegal drug use. Cause for suspension or dismissal also includes, but is not limited to, adjudication of guilt by a court of competent jurisdiction, a plea of guilty or of nolo contendere, or a verdict of guilty when adjudication of guilt is withheld and the accused is placed on probation with respect to any felony, misdemeanor, or major traffic infraction charges.

(d) An employee or appointee who has achieved career service status is entitled to appeal a disciplinary suspension or dismissal to a career service appeals board.

(6) TRANSITION.—When a newly elected or appointed sheriff assumes office, all career service status appointees and employees shall remain employees of the new administration, unless cause for dismissal exists.

(a) The new sheriff may demote employees holding the rank of chief and lieutenant one rank below that held on the day before the new sheriff assumes office. The regular base salaries of these employees may be adjusted accordingly.

(b) The new sheriff may assign the personnel/budget director and the sheriff's secretary to the next lowest position classification within the pay and classification system, and adjust their regular base salaries accordingly.

(7) ADMINISTRATION.—The sheriff shall have the authority to adopt such rules and regulations as are necessary for the implementation and administration of this act; however, nothing in this act shall be construed as affecting the budget-making powers of the Board of County Commissioners of Baker County.

Section 2. Career service appeals boards; creation; membership; duties.—

(1) FUNCTION OF BOARDS.—Ad hoc career service appeals boards shall be appointed for the purpose of hearing appeals of employees having career service status arising from their disciplinary suspension or dismissal. A career service appeals board shall be utilized to make a nonbinding recommendation to the sheriff as to whether the suspension or dismissal was for a violation of sheriff's office policy, rule, regulation, procedure, or practice. Any such board may also provide assistance and advice to the sheriff in matters concerning disciplinary suspension or dismissal and may take any other actions authorized by the sheriff.

(2) MEMBERSHIP OF BOARD.—Upon the call of the sheriff or upon the filing of an appeal, an ad hoc career service appeals board shall be appointed. The membership of each board shall consist of five appointees or employees of the sheriff's office. Two members shall be selected by the employee or appointee filing the appeal, two members shall be selected by the sheriff, and the fifth member, who shall serve as the chair of the board, shall be selected by the other four members. Any employee may decline to serve as a member of the board.

(a) The hearing shall be conducted during the sheriff's office administrative office hours; therefore, employees selected to serve on the board shall

serve without additional compensation. Once selected, the members of the board shall serve until the board issues its recommendations to the sheriff's office, and, unless reconvened, the board shall be dissolved.

(b) The personnel/budget director or his or her designee shall serve as an ex officio member of the board for the purpose of providing procedural guidance to the board concerning the application of this act and any rules or regulations adopted by the sheriff relating thereto, but such ex officio member shall have no vote.

(3) PROCEDURE WITH RESPECT TO APPEALS.—An employee or appointee who has achieved career service status may submit a written request for a hearing to the sheriff or his or her designee within 7 calendar days after receiving a notice of suspension or dismissal which shall be hand-delivered or sent certified mail, return receipt requested. The appeal must contain a brief statement of the matters to be considered by the career service appeals board and the names of the employees selected to serve on the board.

(a) A career appeals board shall be selected and shall meet for the purpose of hearing the appeal within 30 calendar days after receipt of the notice of appeal. However, an extension of time may be granted by the chair for good cause or upon agreement of the parties.

(b) The person filing the appeal has the right to a public hearing; to be represented by a person of his or her choice; to present relevant evidence; and to cross examine witnesses.

(c) The rules of evidence and civil procedure are not applicable to hearings conducted under this act.

(d) The board, in conducting such hearings, shall have the power to issue subpoenas, upon the request of any party or upon its own motion.

(e) The board shall, by majority vote, dispose of the appeal for which it was appointed by making findings of fact and issuing its written recommendations to the sheriff for consideration. The sheriff shall retain the right of final determination and no person may be reinstated with or without back pay or benefits without the concurrence of the sheriff.

Section 3. Severability.—The provisions of this act shall be severable, and if any provision is held invalid by a court of competent jurisdiction, the decision of the court shall not affect the validity of the remaining provisions except to the extent that an entire section or part of a section may be inseparably connected in meaning and effect with the section or part of a section to which such holding directly applies.

Section 4. This act shall take effect upon becoming a law.

Approved by the Governor June 23, 2006.

Filed in Office Secretary of State June 23, 2006.