

House Bill No. 1617

An act relating to Lee County; amending chapter 74-522, Laws of Florida, as amended; redesignating the Lee County Sheriff's Department as the Lee County Sheriff's Office; revising qualifications for membership on the civil service board; revising the date for electing board members; deleting certain limitations for classification as members of the civil service; revising requirements for demotions in rank following the election of a new sheriff; deleting provisions authorizing a specified amount of annual leave for certain employees; deleting certain restrictions on the age at which an applicant may be employed as a deputy sheriff; deleting certain restrictions on the employment of persons with a medical discharge; revising requirements for the posting of notices of employment; clarifying provisions authorizing political activities during off-duty hours; providing an effective date.

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

Section 1. Chapter 74-522, Laws of Florida, as amended by chapters 99-434 and 2003-329, Laws of Florida, is amended to read:

Section 1. Composition and purpose of board.—There is hereby created a civil service board, hereafter referred to as the “board”, composed of five ~~(5)~~ members whose duty it is to administer the terms of this act which shall apply to all classified ~~appointees deputy sheriffs~~ and employees of the Lee County Sheriff's Office. For purposes of this act, the term “employee” shall be synonymous and interchangeable with the term “appointee.”

(1) The board shall consist of five ~~(5)~~ members who shall be elected by a majority of persons voting or appointed as follows:

(a) One ~~(1)~~ member of the board will be the sheriff or his or her designate.

(b) One ~~(1)~~ member of the board will to be elected by a majority of the employees with the rank of lieutenant or above. An alternate member shall be elected at the same time and in the same manner for this position.

(c) One ~~(1)~~ member of the board to be elected by a majority of the employees below with the rank of lieutenant deputy or sergeant. An alternate member shall be elected at the same time and in the same manner for this position.

(d) One ~~(1)~~ member to be an upstanding resident of Lee County to be selected and appointed ~~elected~~ by the board at the first organizational meeting held on the first business day of October after taking office.

(e) One ~~(1)~~ member of the board to be the lead department chaplain or his or her designee, as determined by the Sheriff.

(f) Election for board members and their alternates ~~of the three (3) members~~ shall be held on the second Tuesday of ~~at the first staff meeting in~~

September, and the newly elected member shall take with the members taking office on the 1st day of October.

(g) Civilian employees not assigned a rank may vote for the position identified in paragraph (b) or (c), but not both. If for any reason, a member of the board cannot serve, an alternate member will be elected in the same manner as provided in this section.

(h) Alternate members shall serve if, for any reason, a member of the board cannot serve.

(i)(h) All vacancies on the board will be filled by the procedure established in this section.

(2) No board member shall be subject to any adverse action in retaliation for his or her service on the board, decisions of the board, or performance of his or her official duties in transacting business of the board.

(3) The term of office for elected board members shall be 2 years.

Section 2. Qualifications for board members.—Members of the board shall be 18 twenty-one (21) years of age or over, of good moral character, a citizen of the United States of America, a permanent resident of Florida, and must have resided in Lee County for at least 1 one (1) year prior to his or her appointment.

Section 3. Affected employees.—The civil service act, as set forth, will encompass all classified employees members of the Lee County Sheriff's Office. The term "classified employees" shall include all full-time deputy sheriffs, correctional officers, and civilian employees who have completed their original or reemployment probationary period. "Classified employees" shall not include: any contractual employees, appointees, volunteers, or other persons who do not serve in a regularly budgeted position in the Sheriff's office on a full-time basis; and the Sheriff or his or her second in command, whether designated as chief deputy, undersheriff, or otherwise, except as to the Sheriff's obligations set forth under sections 1, 2, and 15. All members of the sheriff's office under the rank of chief deputy shall be classified members of the civil service act.

Section 4. Board positions.—The board shall, upon its organization, elect one (1) member as chairperson chairman and one (1) member as secretary and they shall perform their duties in accordance with the rules and regulations to be adopted by the board from time to time as necessary to carry out the purpose of this act.

Section 5. Certification of the act.—This act shall become operative upon the certification to the board by the sheriff that the office of the Sheriff of Lee County is functioning under the civil service rules as established in this document. When the certification of organization and capability has been filed by the sheriff, the board shall forthwith acknowledge such certification. Thereafter, the certification shall be irrevocable except by subsequent act of Legislature. The act shall carry over from Sheriff to Sheriff and it shall not be necessary for subsequent Sheriffs to recertify the act.

Section 6. Powers of the board.—The board, as a body, shall have the power, ~~subject to minimum requirements, to act to:~~

(1) Investigate and enforce compliance by the Sheriff and any and all classified and unclassified employees of the Sheriff's office with regards to the terms and conditions of the act and implement investigations and determinations ~~Make investigations concerning the enforcement and effect of this act, and to require observance of its provisions and the rules and regulations made thereunder.~~

(2) Hear and determine appeals of complaints respecting the administration of this act.

(3) Establish and maintain a roster of all employees in the classified service of the office of the sheriff showing their position, rank, compensation, benefits and place of residence.

(4) Ascertain and record the duties and responsibilities ~~of appertaining to all positions of the Sheriff's office in a manner approved by the board~~ in the classified service and classify such positions in the manner hereafter provided.

(5) Keep any other records as may be necessary for the proper administration of this act.

(6) Issue subpoenas for the appearance of witnesses and production of documents and things in connection with investigations and hearings conducted pursuant to this act.

Section 7. Positions after adoption of the act and election of a new Sheriff.—~~All classified employees persons~~ in the employ of the office of the Sheriff ~~shall be retained in the same capacity, at the time this act becomes operative, who have served for a period longer than one (1) year in a position and rank shall now be under this act, retained as same,~~ without preliminary or performance tests but shall thereafter be subject in all other respects to the provisions of this act. In the event a new sheriff is elected to office in Lee County, all classified employees of the Sheriff's office shall remain in the same position with the exception of those serving in a rank or grade immediately below the chief deputy. These persons who comprise the Sheriff's executive and administrative staff and who command a major component, subdivision, or bureau of the Sheriff's office personnel who are ranked at captain or above, who may be subject to a one (1) grade demotion in rank to lieutenant or above in order to allow the Sheriff to establish his or her new administration. The salary of all persons so demoted may be reduced to no less than the top of the grade to which they are demoted. If transferred, the transfer shall be to a position equal in terms of rank, pay, and benefits to those in which other persons of the same rank serve. The elimination by a new Sheriff of a position or grade under a previous administration constitutes a demotion for purposes of this section.

Section 8. Leaves of absence and military service.—The Sheriff shall formulate reasonable rules governing the granting of leaves of absence to members of the Sheriff's office ~~sheriff's office~~ in good standing. Except as

hereinafter provided, no leave of absence shall be approved given for more than ~~one~~ (1) year, however, such leaves may be extended with the approval of the Sheriff upon the showing of good cause, so long as the leave period does not exceed the Sheriff's current term of office.

(1) All classified employees of persons employed by the Lee County Sheriff's office who shall be inducted in the armed forces of the United States of America or who shall voluntarily by enlistment enter into such forces in time of war or national emergency shall, upon application to the Sheriff, receive a military leave of absence for the duration of the period of service required. During the period of service, all persons serving shall be entitled to all the benefits and privileges of this act and shall retain all rights of seniority. All persons shall be entitled to reemployment in the same capacity and position they held at the time of entering said military service, provided, however, that application for reinstatement to in such position must be made by or on behalf of such employee within 3 ~~three~~ (3) months after termination of military service. Provided Further that to be entitled to the benefits of this subsection, any discharge from such military service must have been honorable.

(2) This section shall not apply to persons who engage themselves as private contractors for any security or peacekeeping force or any service provider not directly under the supervision and control of the Armed Forces of the United States of America and the Commander In Chief of those forces.

Section 9. Qualifications for employment.—The minimum standards and qualifications for ~~an original applicant for employment or reemployment as a classified employee of deputy sheriff, or in any other capacity in the office of the Sheriff of Lee County, shall be as follows:~~

(1) All applicants for any position in the classified service of the Sheriff's office must submit a complete, written application for employment.

(2)~~(1)~~ All applicants must be graduates of ~~An applicant shall have graduated from a duly accredited high school or possess shall have the equivalent of a high school diploma from a school recognized by the state.~~

(3)~~(2)~~ All applicants must ~~An applicant shall~~ be physically capable of performing all functions and duties of the position that they are seeking and must submit to a physical exam conducted by a physician licensed in this state of a deputy sheriff as established by the board, and this physical capacity shall be certified by a physician licensed in this state and selected by the board.

(4)~~(3)~~ All applicants are required to submit to a background investigation, drug screen, polygraph, or CVSA examination and oral interview ~~No person is eligible to receive public funds as a salary or for services rendered as a deputy sheriff of Lee County until such person has submitted to the sheriff, a written application for employment and has passed an oral examination.~~

(5)~~(4)~~ All applicants ~~An applicant~~ shall not have been convicted of a felony of any kind, a crime involving moral turpitude, or of a misdemeanor

for which the penalty is greater ~~be more than a \$300~~ three hundred dollar (\$300) fine and/or 90 ~~ninety (90)~~ days confinement.

(6)(5) All applicants having military service must submit a DD 214 indicating that their military service and discharge were under honorable conditions. Persons discharged for medical conditions or reasons must be able to perform all functions of the position for which they are applying. An applicant with military service shall have an honorable discharge.

(7) In addition to the requirements in subsections (1)-(6), all persons applying for certified law enforcement or corrections positions must comply with the requirements of the Florida Department of Law Enforcement and be eligible for state certification.

Section 10. Appointments, promotions, and transfers.—Promotional procedures with respect to all classified employees shall conform to Sheriff's office policies based on CALEA standards as adopted by the Sheriff's office for so long as the Sheriff's office remains an accredited agency. In the event that the Sheriff's office is no longer an accredited agency, promotions will be made on a merit basis considering work performance, knowledge of job, and other similar qualifications. All promotions will be made by the Sheriff Promotions will be made on a merit basis such as work performance, knowledge of job and other qualifications. All promotions will be made by the sheriff.

(1) Open positions will be publicly posted throughout the Sheriff's office on department bulletin boards and websites for a period of 7 days to allow for application by qualified Sheriff's office employees who shall be entitled to a preference for any position of higher grade or rank than an entry level position. Whenever there is an opening in any division, this opening will be publicly posted throughout the sheriff's office for a period of five (5) days to allow all persons eligible to apply for transfer from their division to the division where the opening exists. Those interested should apply in writing to the Sheriff requesting a such transfer.

(2) The Sheriff reserves the right to transfer any employee for the betterment of the service; provided, however, the employees shall not be reduced in rank or compensation and such transfer shall not be considered disciplinary in nature.

(3)(2) Employment or reemployment to No appointment or promotion in any position in the Sheriff's office shall not be deemed complete until after the expiration of a period of 1 ~~one~~ (1) year's probationary service, during which time the sheriff may terminate without cause the employment of any person certified and/or appointed.

(4) No promotion shall be deemed complete until after the expiration of a period of 6 months of service during which time the Sheriff may return the promoted person to his or her former rank and pay for failure or inability to perform the duties of the position to which he or she had been promoted.

(5)(3) Employment and reemployment Appointments shall be regarded as taking effect upon the date the employee is scheduled to report person

appointed reports for duty. A person offered employment certified by the Sheriff who does not report for duty at the time so designated, and who does not explain his or her said failure to report, in writing, within 5 five (5) days, may be rejected by the Sheriff.

Section 11. Practice and procedures of the board.—The practice and procedure of the board with respect to any investigation by the board authorized by this act shall be in accordance with rules and regulations to be adopted by the board which shall provide for a reasonable notice to all persons affected by recommendations to be made by the board after such investigation, with the opportunity to be heard either in person or by counsel.

Section 12. Misconduct and misuse of professional influence.—

(1) No person covered by this act shall use his or her official position or influence to solicit orally or in writing by letter, and no public officer or employee shall receive or be in any manner concerned in receiving or soliciting any money or valuable things from any employee of the Sheriff's office department or political party or private individual for any purpose whatsoever.

(2) No person shall use or promise to use his or her influence or official position authority to secure any appointment or prospect of appointment to any position classified under this act as a reward or return for personal or partisan political service.

(3) No public officer or employee of the Sheriff's office shall by means of threats or coercion induce or attempt to induce any person holding a position in the Sheriff's office to resign his or her position, or to take a leave of absence from duty or to waive any rights under this act.

Section 13. Discipline; suspensions; dismissal; appeals.—

(1) The sheriff may discipline, suspend up to 30 days without pay, terminate, or withdraw the appointment of or dismiss an employee only for just cause. An employee subject to substantial discipline, which includes a loss of pay, accrued time, benefits, rank, or position; disciplinary transfer; suspension; or termination may, within 15 days of the discipline, suspension, termination, or withdrawal of appointment, file a notice of appeal with the board's secretary. The board shall schedule a hearing within 30 days of receipt of notice of appeal. Continuation of a hearing may be granted by the board upon a showing of good cause by either party or upon agreement of the parties. The employee so dismissed or suspended will have fifteen (15) days to file an appeal with the board. Officers with the rank of lieutenant and above will have the authority to take immediate disciplinary action including relieving an employee of duty, thereafter securing the approval of the sheriff. The sheriff may summarily suspend an employee for a reasonable period not exceeding thirty (30) days. Every such suspension shall be without pay; provided, however, that the board shall have the authority to investigate every such suspension and if it is found that the sheriff acted in bad faith, it shall have the power to restore pay to the employee for such suspended time.

~~(1) Subject to the foregoing provisions of this section, any person holding a position in the sheriff's office who has been removed or discharged, has the opportunity to be heard in his own defense upon filing a written request to the board within fifteen (15) days following the action. The appeal shall, within thirty (30) days after the filing be heard, investigated and determined by the board as provided by section 13 of this act.~~

(2) At the hearing the employee has the burden of proving that the Sheriff lacked just cause supported by competent and substantial evidence for the disciplinary action under appeal.

(3) The board shall have the authority to investigate any such discipline, suspension, termination, or withdrawal of appointment and, should the board determine following a hearing that the action taken by the Sheriff was without just cause, the board has the authority to:

(a) Vacate the discipline, restore the employee's pay and benefits as outlined in subsection (1), and, in the event the suspension is not completed, void the remaining suspension time and restore the employee to duty.

(b) Reinstate the employee's employment and pay without loss of rank or seniority.

In no case shall back pay exceed 30 days.

(4) Should the board determine following the hearing that the action taken by the Sheriff was with just cause it shall uphold the disciplinary decision of the Sheriff. The board may not substitute its judgment for that of the Sheriff regarding the severity of the disciplinary action imposed, provided the disciplinary action is authorized by law.

(5) Each party may make a timely appeal to the circuit court upon receipt of the board's written order. In the event a timely appeal is not taken and the Sheriff was found to not have just cause for the discipline, the employee's record shall have the board's final order attached to and included in the employee's personnel file.

~~(6)(2) The board's decision is~~ The decision of the board will be final and absolute.

(7) Classified employees are free from retaliatory action based on the exercise of rights provided under this act.

Section 14. Public meetings.—It shall be the duty of the authorities having charge of the public buildings of Lee County to allow the reasonable use of public buildings and rooms for the holding of meetings of the board and any examinations or investigations provided for by this act. The term "public building" shall include any building under the lawful control of the Lee County Government or Lee County Sheriff's Office which provides for free public access under minimal restrictions, as necessary, to provide for the safety and security of its occupants.

Section 15. Retirement health insurance benefits.—

(1) It shall be and is hereby made the duty of the Sheriff of Lee County to provide annually in his or her budget, a sufficient sum of money to enable the board to properly carry out the purposes of this act.

(2) Effective October 1, 1986, and thereafter, it is the duty of the Sheriff of Lee County to provide annually in his or her budget a sufficient sum of money to pay a percentage of the cost of the health insurance of members of the Lee County Sheriff's Office who retire from active service after having accumulated at least 15 years of creditable service under the Florida Retirement System. The health insurance costs payable pursuant to this section include premiums for major medical and hospitalization insurance, but do not include premiums for dental insurance. When a retiree receiving this health insurance benefit becomes eligible for Medicare, his or her health coverage will convert to the Medicare Supplement health insurance.

(a) In order to receive this benefit, the retiree must have served with the Lee County Sheriff's Office for the 10 years immediately preceding his or her retirement. The retiree may claim up to 5 years of creditable service earned while in the employ of another member agency within the Florida Retirement System. The Lee County Sheriff's Office shall verify all years of creditable service claimed through the Division of Retirement of the Department of Administration.

(b) If an employee retires from the Lee County Sheriff's Office after at least 10 years of service with the department, but before reaching retirement age, and has participated in the Florida Retirement System for at least 15 years, he or she may pay his and her or his and her dependent's health insurance costs until he or she begins to receive retirement benefits under the Florida Retirement System. The Lee County Sheriff's Office shall begin to pay a percentage of the employee's health insurance costs when he or she begins to receive such retirement benefits. The retiree shall give the sheriff's office written notice of the date of payment of his or her initial retirement benefit. The Lee County Sheriff's Office shall verify this date through the Division of Retirement of the Department of Administration.

(c) The Lee County Sheriff's Office shall base the percentage of a retiree's health insurance costs it will pay upon the number of years of creditable service that the retiree has accumulated in the Florida Retirement System. Fifteen years of creditable service entitles the retiree to have 75 percent of his or her health insurance premiums paid by the sheriff's office. The sheriff's office shall pay an additional 5 percent of the insurance premiums for each year of service in excess of 15 years until reaching a maximum of 100 percent of the premium at 20 years of service. The Lee County Sheriff's Office shall pay an additional one-twelfth of 1 percent of the premium for each month served until the full 100 percent is paid.

(d) If an employee has health insurance coverage through a previous employer, the Lee County Sheriff's Office will be the secondary payor.

(e) If an employee receives a retiree health insurance subsidy from the state, the Lee County Sheriff's Office shall reduce the amount it pays of the employee's health insurance premiums by the amount of the subsidy.

(f) The Lee County Sheriff's Office shall pay for the health insurance coverage of the retiree and 50 percent of his or her dependents' health insurance coverage only if the retiree's health insurance is paid at 100 percent of the premium at 20 years of service. A retiree who obtains benefits without attaining 20 years of service may pay for the health insurance of his or her dependents. Upon a retiree's death, his or her spouse may continue the health insurance coverage previously provided by the retiree. Premiums must be paid to the Lee County Sheriff's Office.

(g) This retiree health insurance benefit is only available to an employee when he or she retires. If the employee does not elect to receive the insurance benefit upon retiring, he or she does not have the option of receiving the benefit at a later date.

Section 16. Political activity.—No ~~employee person~~ holding a classified position in the sheriff's office shall take an active part in any political campaign while on duty or while off duty and wearing any uniform or part thereof identifying the Sheriff's office. Nothing in this act shall be construed to prohibit or prevent any such person from exercising lawful political rights while off duty, from becoming or continuing to be a member of a political club or organization, or from attending any political meetings, or from enjoying entire freedom from all interferences in casting his or her vote. Any person violating the provisions of this section may be dismissed from the service of the office of the sheriff of Lee County.

Section 17. Legal construction and amendment of the act.—The provisions of this act shall be severable and if any of the provisions shall be held to be unconstitutional, the decision of the court shall not affect the validity of the remaining provisions. It is hereby declared the legislative intent of this act that it would have been adopted by the legislature had such unconstitutional provision not have been included therein.

(1) This act shall not be held or construed to create any property rights or any vested interests in any position in the ~~Sheriff's office beyond those specifically enumerated in the act~~ sheriff's office and the right is hereby reserved to repeal, alter or amend this act, or any provision thereof at any time.

(2) All requests for changes or amendments to this act proposed by a board member or an alternate board member shall come before the five-member board in a public meeting and be approved by a majority vote of the board. The board as a whole has the authority to request the Legislature to amend the act on behalf of the classified employees of the Sheriff's office whose effect on all classified employees shall be immediate upon becoming law.

Section 18. All laws and parts of laws, insofar as they are inconsistent with this act, or any provision thereof, are, to the extent of such conflict, hereby repealed.

Section 2. This act shall take effect upon becoming a law.

Approved by the Governor June 27, 2007.

Filed in Office Secretary of State June 27, 2007.