

Michael J. Barnes

From: Michael J. Barnes [REDACTED]
Sent: Thursday, December 16, 2010 3:41 PM
To: Marti Coley; Doug Broxson; Greg Evers
Cc: Matt Gaetz; Don Gaetz; Larry Ashley; Brad Drake; Paul A. Lux
Subject: Reconsider Not Repealing Laws of Florida 81-442 and NWFDN Article, "Local Bills to Head to Tallahassee," December 16, 2010
Attachments: 1981Florida-81-442plusAmendments.pdf; FS-30-07-30.079-DeputySheriff.pdf; SoE-20101216-Sheriff Board-Estimates.xlsx
Categories: Government

I appreciate the opportunity to have an input on your intent to repeal the Laws of Florida 81-442 of House Bill 986, which relates to Personnel Standards and Review Board for Okaloosa County Sheriff's Office (OCSO). To clarify a statement Rep. Matt Gaetz made at the Legislator Delegation meeting last night, the attached Laws of Florida 81-442 is not a duplication of Florida Statutes Chapter 30; specifically, Sections 30.07 thru 30-079. As requested after the meeting, you asked me to email you explaining why the legislation delegation should reconsider their intent to repeal the 81-442 law.

First and foremost, Section 30.071 of the Florida Statutes permits the 81-442 law to exist. Specifically, the Statutes grant special acts of the Legislature to establish rights and procedures for Deputy Sheriffs which are equivalent to or greater than those prescribed by Chapter 30 of the Florida Statutes—the 81-442 falls with this provision. The 81-442 law provides for greater protection of all OCSO employees who are Captain and below; and most importantly, stronger accountability of our Sheriff. This protection includes non-sworn personnel and not just sworn Deputies as Chapter 30 of the Florida Statutes prescribes. Unlike Chapter 30, the 81-442 law requires that no OCSO employee shall serve on the review board. This provision significantly minimizes (if not eliminate) any undue command influences by the Sheriff or his senior managers.

I strongly contend that had the review board been in full effect the former Sheriff Charles Morris' kick-back scheme would have been stopped in its tracks and not continued for as long as it did. Why? The OCSO employees who participated in the kick-back scheme may not have worried about or hid behind any potential reprisal actions if they had reported the illegal act because the review board would have protected their employment in the agency—it's a very strong built-in Whistleblower Protection Program. The intended repeal could make all sworn and non-sworn personnel vulnerable to unethical employment practices as we have witnessed over the recent years. There is well-known saying, "Those who do not remember their past are condemned to repeat their mistakes." This quote cuts to the core why the repeal should not occur on the 81-442 law. The 1981 legislature had enough insight or vision to understand the unusual culture of Okaloosa County and put into a law that holds the Sheriff's accountable while simultaneously protecting the personnel that is serving the Sheriff. Again, the 81-442 law is prescribed for in Section 30.071 of Chapter 30 and by no means diminishes the ability of the Sheriff to perform his chief law enforcement duties. It clearly provides for solid employment protection of all sworn Deputies and non-sworn personnel who are not serving in managerial or policymaking positions at a very minimum cost to the taxpayer.

Speaking of cost...in the legislative discussion on this matter, Rep. Gaetz stated that the local taxpayer would incur tens and thousands of cost to hold OCSO elections to elect OCSO review board. Attached is an estimate that I asked Mr. Paul Lux, the Supervisor or Election (SoE) of Okaloosa County, to provide me under the public records request. It appears that the SoE can assist in implementing the election process of the OCSO review board for less than a thousand dollars. Contrary to Rep. Gaetz's statement regarding staffing the review board, Section 1(4)2 of the 81-442 law does not require or mandate an attorney to serve the board. It does require at least a part-time staff person for the board. A part-time employee does not constitute being continuously employed and the cost incurred to the taxpayer would be a very, very minimum verses what the County taxpayers have experienced in recent years in OCSO e.g. kick-back scheme, out of control vehicle purchases, ghost employment, and now what appears to be a winnable employment discrimination complaint.

The Personnel Standards and Review Board law is much like the Merit System Protection Board for the Federal Civil Service employees. The review board of the 81-442 law is a superb piece of legislation that fully protects the rights of sworn Deputies and non-sworn personnel that are protecting and serving the community. This 1981 law is a power accountability tool that is in-place to be used. Why repeal it?

Finally, I was disappointed that the **Legislation Delegation did not publicly advertise their intent to vote** on repealing the 81-442 law—an issue that has generated so much public interest. In addition, I was disappointed that I was not recognized to speak publicly when I had my hand raised before the vote was taken or when I submitted my name to speak after the vote was taken. In full disclosure, I briefly had a conversation with Rep. Gaetz about his “duplication” misstatement only and clarified my points with him. It was unfortunate that I did not get the opportunity to talk to Sen. Gaetz or Rep Drake after the meeting.

It is my hope that the Legislation Delegation reconsiders their position on repealing the 81-442 law and keeping this law in-place to protect the employment rights of all the men and women of Okaloosa County Sheriff’s Office who are faithfully protecting and serving us. The Sheriff can still perform his duties. Moving forward is not setting this County backward by repealing the Law of Florida 81-442.

I thank you for this time and I am available to discuss this matter further at your convenience.

Respectfully

—Michael J. Barnes—

"The meaning of our lives is always bigger than our experience."

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Local bills to head to Tallahassee

Rep. Matt Gaetz proposes changes to liquor law, sheriff’s personnel board

By TOM McLAUGHLIN

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NICEVILLE — Local legislation introduced Wednesday by state Rep. Matt Gaetz would eliminate a couple of snippets of law that have been on Okaloosa County’s books for a long time.

The first is a very specific regulation dictating that liquor serving bars be of a certain size and occupancy limit. It has been affecting small business owners since 1969.

The second, which calls for a five-member board to be formed to hear personnel grievances at the Sheriff’s Office, has, until recently, been ignored since it was enacted 1981.

Under legislation proposed by Gaetz, the law that requires bars that serve liquor to be 5,000 square feet with a minimum seating capacity of 200 would be repealed.

It would be replaced by a new requirement that bars of 2,500 square feet and a seating capacity of 150 also could serve liquor.

The 1969 legislation was specific to only Okaloosa County.

Mike Galvin, owner of Slick Mick’s restaurant and the Speakeasy saloon in Fort Walton Beach, said he believes the 1969 law was enacted to benefit influential local barkeeps with an interest in thwarting potential competitors.

Galvin and Bill Avery, owner of Fokker’s Sports Pub in Fort Walton Beach, were present at Northwest Florida State College on Wednesday to push for the changes. They were among about 40 people who attended the meeting convened by the local legislators to discuss the 2011 session.

Fort Walton Beach Mayor Mike Anderson and Councilman Bobby Nabors spoke in favor of decreasing the size and seating requirements.

Nabors said the occupancy legislation holds “Okaloosa County to a higher standard than any other county in the state.”

“This will allow us the same opportunity our neighbors are provided,” he said.

Avery claims responsibility for bringing the existing regulation to the attention of the legislators.

“This is something that will level the playing field for local businesses,” he said of Gaetz’s proposed changes. “It will give local businesses the ability to compete with the Fortune 500 companies from out of town.”

Avery said he believed about 20 local businesses stand to benefit from Gaetz’s legislation.

The Fort Walton Beach Republican’s second bill would repeal a chapter in a 1981 bill affecting the Okaloosa County Sheriff’s Office. It is an obscure item, but one that Sheriff Larry Ashley said required him to offer to rehire five deputies he had laid off recently.

Three of the deputies sought to appeal Ashley’s decision not to retain them. They said they were fired for political reasons.

An attorney for the Sheriff’s Office found the 1981 bill when researching the agency’s policy on appeals.

Gaetz said he suggested the repeal to Ashley after controversy arose over the old legislation, which had been crafted at the request of police union officials but never implemented.

“It will not impact any individual employee or specific group of employees,” Gaetz said of his repeal effort.

In announcing his effort to repeal the law chapter, Gaetz called the 1981 legislation “convoluted.” He said it could cost “tens of thousands of dollars” to do all that was required to establish a five-member hearing board mandated in the existing statute.

Two of the five members would have to be elected by Sheriff’s Office employees.

Okaloosa County Supervisor of Elections Paul Lux said he saw no way a personnel board election could cost \$10,000 or more, because only Sheriff’s Office employees would participate and the sheriff would decide how the election would be conducted.

“I don’t think the cost would be that great,” Lux said.

Gaetz said his estimates included the cost of employing attorneys and clerks.

Gaetz said if the 1981 legislation is repealed, Okaloosa County would fall back on a state statute that calls for the appointment of a three-member ad hoc committee to hear employee grievances.

The county’s legislative delegation approved both items unanimously.

State Rep. Brad Drake, the delegation’s chairman, said hearings such as the one Wednesday are needed to get local bills moving.

The bills must now be considered by the state House and Senate before heading to the governor for his signature, said Drake, R-DeFuniak Springs.

Because the bills are local, they likely will meet no resistance in Tallahassee

herein defined, participating in said special election shall vote in favor of constituting said territory into a park and recreation district. Should a majority of the qualified electors participating in said election vote "no" and unfavorable to this act, then this act shall be void.

Became a law without the Governor's approval.

Filed in Office Secretary of State July 6, 1981.

CHAPTER 81-442

House Bill No. 986

An act relating to Okaloosa County; establishing a Personnel Standards and Review Board for the Okaloosa County Sheriff's Department; providing purpose; creating the board and providing for appointment and organization thereof; providing qualifications; providing for meetings, staff, duties, criteria, records, and annual reports of the board; providing for establishment of a personnel manual; providing for freedom of political activity; providing for suspension and dismissal; providing for investigations and hearings; providing for subpoena and witness fees; prohibiting certain activities; providing for future repeal under specified conditions; providing an effective date.

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

Section 1. Purpose, scope, and composition of Personnel Standards and Review Board.--

(1) PURPOSE OF ACT.--The general purpose of this act is to establish for the Sheriff's Department of Okaloosa County a Personnel Standards and Review Board to apply principles of fairness and equity to the employees of the Okaloosa County Sheriff's Department in matters of employee dismissal.

(a) All appointments to positions within the Okaloosa County Sheriff's Department and all measures for the control and regulation of employment in such positions, and separations therefrom, shall be made by the sheriff without regard to age, sex, race, religion, political affiliation, or physical disability, except where specific age, sex, or physical requirements constitute a bona fide occupational qualification, necessary to proper and efficient administration of the department. Any employee who has reason to believe that he or she has been dismissed from the department because of religious or political opinions or affiliations, race, national origin, sex, age, or physical disability may appeal to the board. The appellant and the person responsible for the alleged discriminatory dismissal shall have the right to be heard and to present evidence. If the board finds that there was discrimination based on any of the foregoing factors, it shall order the sheriff to take appropriate corrective action to reinstate the individual. Such reinstatement shall be to the same pay grade and position. Upon a finding of discrimination by the board, its decisions shall be binding on the sheriff.

(b) Employees covered by this act shall be limited to all full-time employees of the Okaloosa County Sheriff's Department who are employed at the rank of sergeant or below.

(2) CREATION OF PERSONNEL STANDARDS AND REVIEW BOARD.--There is hereby created a Personnel Standards and Review Board for the Okaloosa County Sheriff's Department. The Personnel Standards and Review Board, hereinafter referred to as "board," shall consist of five members. Two members shall be elected by the employees of the sheriff's department, two members shall be chosen by the sheriff, and the fifth member shall be selected by agreement of the other four members. Initially, one of the members elected by the employees, one of the members selected by the sheriff, and the member selected by the other four members shall serve terms of 4 years, while the other two members shall serve terms of 2 years. Subsequent appointments shall be for terms of 4 years.

(3) QUALIFICATIONS OF BOARD.--The members of the board shall be persons in sympathy with the application of fair and equitable principles in matters of dismissal from public employment. No member of the board shall hold, or be a candidate for, any paid public office. In addition, no member of the board shall be currently employed with the Okaloosa County Sheriff's Department, nor shall any member be in the immediate family of any person who is currently employed with the Okaloosa County Sheriff's Department. The members of the board shall qualify by filing with the supervisor of elections an oath to support and defend the Constitution of the United States and of the State of Florida and to faithfully perform the duties of office.

(4) OFFICERS AND MEETINGS.--The board shall elect one of its members as chairman and another member as vice-chairman, and shall meet at such times and places as shall be specified by call of the chairman, with advance notice to each member in writing. In addition, the chairman shall cause written notice of each meeting to be placed in the sheriff's office at the Crestview Courthouse, the sheriff's office at the Shalimar Courthouse Annex, and at the county jail. All meetings shall be open to the public. Three members of the board shall constitute a quorum for the transaction of business, provided that, of the three members present, one shall be an employee representative and one shall be a representative of the sheriff.

Section 2. Staff.--The sheriff is hereby directed to provide at least one part-time staff person for the board. Such staff person shall be clerical/secretarial in nature and shall have a thorough working knowledge of the procedures of the board and the published personnel policies of the Okaloosa County Sheriff's Department.

Section 3. Compensation.--The members of the board shall receive no salary for their service on the board, nor shall they receive any reimbursement for any expenses incurred as a result of their service on the board.

Section 4. Operating expenses of board.--The sheriff shall provide in his annual budget sufficient funds for the operation and activities of the board. Prior to including the funds in the budget, the sheriff shall consult with the board and receive the board's recommendations as to funding.

Section 5. Duty to furnish facilities.--It shall be the duty of the authorities having charge of the public buildings of Okaloosa

County to allow the reasonable use of public buildings and rooms for the holding of any hearings or investigations provided for by this act.

Section 6. Records of the board.--All official records of the board shall be placed in the custody of the Clerk of the Circuit Court who shall provide appropriate storage for such records. The records of the board shall be open to public inspection, under reasonable supervision, and in conformance with the privacy provisions of the Florida Constitution.

Section 7. Personnel Procedures Manual.--

(1) Within 90 days from the effective date of this act, the sheriff shall prepare, publish, and distribute a Personnel Procedures Manual to each employee covered by this act.

(2) If at any time the sheriff makes any changes in the provisions of the procedures manual, he shall publish and distribute such changes.

(3) No change in the procedures manual shall take effect until 30 days after it is published and distributed by the sheriff.

(4) The sheriff, with the approval of the board in each case, may make changes in the procedures manual, which changes shall be effective immediately, provided that such approval is by the board in an open meeting.

Section 8. Duties of the board.--The duties of the board shall be as follows:

(1) INVESTIGATIONS.--To make investigations concerning the enforcement and effect of this act and concerning any violations of this act and to require and enforce observance of the provisions of this act and of the rules and regulations adopted hereunder.

(2) APPEALS.--To hear and determine appeals or complaints arising under this act.

(3) RECORDS.--To keep and place in the custody of the Clerk of the Circuit Court such records as may be necessary for the proper administration of this act.

(4) ANNUAL REPORT.--The board, by December 31 of each year except 1981, shall publish a report to the sheriff and the legislative delegation concerning the activities of the board. The report shall also include any and all requests for changes in this act. No such request that is not included in the annual report will be entertained by the legislative delegation, or introduced into the Legislature.

Section 9. Legal counsel.--The board is hereby authorized to retain competent legal counsel. The sheriff shall include sufficient funds for this purpose in his annual budget.

Section 10. Labor-management relations.--In the event that the employees of the Okaloosa County Sheriff's Department choose to exercise their right to form, join, and participate in activities of employee organizations of their own choosing pursuant to s. 447.301, Florida Statutes, for the purpose of representation on matters of

employee relations, this act shall stand repealed upon the establishment and certification of such a bargaining unit.

Section 11. Political activity.--Every employee shall have the right to express freely his or her views as a citizen and to cast his or her vote. Coercion of and by employees for political purposes and use of employee positions for political purposes is prohibited.

Section 12. Suspensions, dismissals, investigations, and hearings.--

(1) SUSPENSION AND DISMISSAL.--With regard to those persons holding positions covered by this act who are no longer in the probationary period, the sheriff may suspend or dismiss any such person for any cause which will promote the efficiency of the service, upon filing with the board written reasons for such action and upon giving the person whose removal is sought both reasonable notice of the dismissal and of the charges preferred against him or her and an opportunity to answer such charges in writing and to file with the board affidavits in support of such answer. Such charges may be filed by the sheriff and shall, within 30 days, be publicly heard and investigated and determined by the board upon filing of a written request therefor by the employee affected. Pursuant thereto:

(a) The sheriff may suspend any such person, with or without pay, for a reasonable period, not exceeding 30 days, pending hearing and decision.

(b)1. Notice of a dismissal may be in the form of a 30-day suspension without pay, the dismissal to take effect at the expiration of the suspension period.

2. During the 30-day period of such notice, the employee shall, upon written request, be given an opportunity for a hearing before the board.

(c) Any person in a position covered by this act shall be immediately suspended upon being charged or indicted for any criminal or civil offense involving moral turpitude under Florida or federal law until satisfactory resolution of the case.

(d) Subject to the provisions of paragraphs (a), (b), and (c), no person holding a position covered under this act shall be discharged, except for cause, upon written charges, and after an opportunity to be heard in his or her own defense.

(e) The board may reinstate a person so removed only in the event that it appears, after a proper public hearing, that the removal was made for reasons other than just cause. However, neither the sheriff nor the board shall be required to reinstate any person who was suspended subsequent to being charged or indicted for any criminal or civil offense involving moral turpitude under Florida or federal law.

(2) INVESTIGATIONS.--The practice and procedure of the board with respect to the conduct of any investigation by the board authorized by this act shall be in accordance with rules adopted by the board which shall provide for a reasonable notice to all persons affected by orders to be made by the board after such investigation and shall provide opportunity to such persons to be heard, either in person or by counsel, and to introduce testimony on their behalf at a public hearing to be held for that purpose.

(3) PROCESS AND PENALTY FOR DISOBEDIENCE.--

(a) For the purpose of any investigation or hearing which the board is authorized or required to conduct, the board, or any member thereof, shall have power to conduct such hearing, administer oaths, and take depositions. The board shall also have the power, upon the approval of a county judge in each instance, to issue subpoenas and compel the attendance of witnesses and the production of books, accounts, papers, records, documents, and testimony.

(b) In the event of the failure of any person to comply with an order of the board or a subpoena issued by the board, or any of its members, or in the event of the refusal of a witness to testify to any matter regarding which he may be lawfully interrogated, upon the application of any member of the board, a judge of a court of competent jurisdiction in the county in which person or witness resides shall compel obedience by attachment proceedings for contempt, as in the case of disobedience of the requirements of a subpoena issued from such court or a refusal to testify therein.

(4) SUBPOENA AND WITNESS FEES.--Each officer who serves a subpoena as provided in subsection (3) shall receive the same fees as a sheriff and each witness who appears in obedience to a subpoena before the board, or a member of the board, shall receive, for his or her attendance, the fees and mileage provided for witnesses in civil cases in the civil courts of this state. Said expenses shall be borne by the party requesting that the witness be subpoenaed, except that, in the case where a person is reinstated by the board, the sheriff's department shall pay all witness and subpoena expenses.

Section 13. Deceit, obstruction, or influence.--No person shall attempt to deceive, obstruct, or influence any person in respect to his rights granted by this act. Nor shall any person attempt to deceive, obstruct, or influence any member of the board as to the facts in any case or in any decision before the board.

Section 14. Severability.--The provisions of this act shall be severable, and if any of the provisions of this act are held unconstitutional, the decision of the court shall not affect the validity of the remaining provisions of this act. It is hereby declared to be the legislative intent that this act would have been adopted by the Legislature had such unconstitutional provision not been included.

Section 15. Unless reenacted by the Legislature, this act shall stand repealed on the 1st of July immediately following any election for sheriff in Okaloosa County, provided that there is a regular session of the Legislature between the election and the 1st of July immediately following.

Section 16. This act shall take effect October 1, 1981.

Became a law without the Governor's approval.

Filed in Office Secretary of State June 18, 1981.

became effective shall be credited toward the fulfillment of the permanent employee status requirement. Sections 2 through 17 of this act shall stand repealed on October 1, 1990.

Became a law without the Governor's approval July 7, 1990.

Filed in Office Secretary of State July 8, 1990.

CHAPTER 90-492

House Bill No. 3649

An act relating to Okaloosa County; amending s. 1, ch. 81-442, Laws of Florida; expanding jurisdiction of the Personnel Standards and Review Board of the Sheriff's Department to include employees of the department at the rank of captain or below; providing an effective date.

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

Section 1. Paragraph (b) of subsection (1) of section 1 of chapter 81-442, Laws of Florida, is amended to read:

Section 1. Purpose, scope, and composition of Personnel Standards and Review Board.—

(1) PURPOSE OF ACT.—The general purpose of this act is to establish for the Sheriff's Department of Okaloosa County a Personnel Standards and Review Board to apply principles of fairness and equity to the employees of the Okaloosa County Sheriff's Department in matters of employee dismissal.

(b) Employees covered by this act shall be limited to all full-time employees of the Okaloosa County Sheriff's Department who are employed at the rank of captain or below.

Section 2. This act shall take effect October 1, 1990.

Became a law without the Governor's approval June 23, 1990.

Filed in Office Secretary of State June 25, 1990.

CHAPTER 90-493

House Bill No. 3667

An act relating to the Town of Worthington Springs; amending chapter 61-3012, Laws of Florida; increasing the amount of money the town can obligate without a public bid; granting the town the authority to levy ad valorem taxes; providing an effective date.

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

Begin at the intersection of the east boundary of the Indian Bayou Subdivision and the mean high water line of Indian Bayou; thence meander southerly along the east boundary of the Indian Bayou Subdivision; thence proceed westerly along the southerly border of said subdivision to the east right-of-way of Airport Road; thence proceed south along said east right-of-way to a point of intersection with the north right-of-way of U.S. Highway 98; thence meander easterly along said north right-of-way to a point of intersection with the northerly right-of-way of U.S. Highway 98A; thence proceed easterly along said northerly right-of-way of U.S. Highway 98A to a point of intersection with the eastern Okaloosa County Border; thence proceed northerly along the east border of Okaloosa County to a point of intersection with the mean high water line of Choctawhatchee Bay; thence meander westerly along said mean high water line to a point of intersection with the easterly mean high water line of Indian Bayou; thence meander southerly along said mean high water line to the point of beginning.

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

Became a law without the Governor's approval.

Filed in Office Secretary of State June 19, 1985.

→ CHAPTER 85-472

House Bill No. 1407

An act relating to Okaloosa County; repealing section 15 of chapter 81-442, Laws of Florida, eliminating the future conditional repeal of the act which established the Personnel Standards and Review Board for the Okaloosa County Sheriff's Department; providing an effective date.

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

Section 1. Section 15 of chapter 81-442, Laws of Florida, is hereby repealed.

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

Became a law without the Governor's approval.

Filed in Office Secretary of State June 19, 1985.

CHAPTER 85-473

House Bill No. 509

An act relating to the Valencia Drainage District, Orange County; prescribing a quorum to be present at all landowners' meetings; requiring a majority vote for certain elections and passage of motions; providing an effective date.

Select Year:

The 2010 Florida Statutes

[Title V](#)
JUDICIAL BRANCH

[Chapter 30](#)
SHERIFFS

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30.07 Deputy sheriffs.—Sheriffs may appoint deputies to act under them who shall have the same power as the sheriff appointing them, and for the neglect and default of whom in the execution of their office the sheriff shall be responsible.

History.—s. 4, ch. 1659, 1868; RS 1247; GS 1675; RGS 2881; CGL 4578.

The 2010 Florida Statutes

[Title V](#)
JUDICIAL BRANCH

[Chapter 30](#)
SHERIFFS

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30.071 Applicability and scope of act.—

(1) This **act applies to all deputy sheriffs**, with the following exceptions:

(a) Deputy sheriffs in a county that, by special act of the Legislature, local charter, ordinance, or otherwise, has established rights and procedures for deputy sheriffs which are equivalent to or greater than those prescribed by this act.

(b) Deputy sheriffs in a county that, by special act of the Legislature, local charter, ordinance, or otherwise, has established a civil or career service system which grants collective bargaining rights for deputy sheriffs, including, but not limited to, deputy sheriffs in the following counties: Broward, Miami-Dade, Duval, Escambia, and Volusia.

(c) Special deputy sheriffs appointed under s. [30.09\(4\)](#).

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

(e) Part-time deputy sheriffs.

(2) **This act does not grant to deputy sheriffs the right of collective bargaining.**

(3) This act does not change the alter ego relationship which exists between a deputy sheriff and the appointing sheriff.

History.—s. 2, ch. 94-143; s. 10, ch. 2008-4.

The 2010 Florida Statutes

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30.072 Definitions.—As used in this act, the term:

(1) “Actual, continuous service” means the time during which a deputy sheriff performs the duties and responsibilities of the position to which she or he is appointed.

(2) “Deputy sheriff” means a law enforcement officer appointed by the sheriff and certified under chapter 943. The term **does not include a person who performs managerial, confidential, or policymaking duties. Managerial, confidential, and policymaking appointees who are not covered by this act include the undersheriff, chief deputy, director, legal advisor, sheriff’s personal secretary or administrative assistant, or members of the sheriff’s personal staff who report to or work under the direct supervision of the sheriff or who assist the sheriff in the formulation of general or special orders or in the preparation of the fiscal year budget, or appointees whose duties primarily involve the management or operation of the sheriff’s office or a department or subdivision of that office.**

(3) “Probation” means a period of actual, continuous service following initial employment or following a promotion from a regular appointment.

(4) “Regular appointment” means the employment status of a deputy sheriff who has satisfactorily completed probation.

(5) “Sheriff” means the constitutional officer elected in accordance with this chapter.

History.—s. 3, ch. 94-143; s. 1325, ch. 95-147.

The 2010 Florida Statutes

[Title V](#)
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30.073 Appointment; probation; regular appointment.—

(1) A sheriff has exclusive power to appoint a deputy sheriff. However, a person may not be appointed as a deputy sheriff unless the person meets all qualifications set out in the Florida Statutes.

(2)(a) A person's appointment as a deputy sheriff is not a regular appointment until the person has satisfactorily completed 12 consecutive months of probation.

(b) A deputy sheriff's promotion to a higher rank within the agency is not a regular appointment to that rank until the deputy sheriff has satisfactorily completed 6 consecutive months of probation.

(c) If a deputy sheriff is unable to perform the duties and responsibilities of the position to which he or she is appointed or promoted due to a nonservice-connected disability or other justifiable cause, the period of probation may be extended by the amount of time the deputy sheriff is unable to perform his or her duties.

(3) At any time, the sheriff may terminate, with or without cause, the appointment or promotion of a deputy sheriff who has not completed probation.

(a) An appointment is terminated upon the receipt by the deputy sheriff of written notice, signed by the sheriff, advising the deputy sheriff of his or her termination from appointment.

(b) A promotion is terminated upon the receipt by the deputy sheriff of a written notice, signed by the sheriff, advising the deputy sheriff of his or her return to his or her previous regular appointment.

(4) A deputy sheriff who satisfactorily completes probation is considered regularly appointed to his or her position and is entitled to all the rights and privileges set forth in this act.

(5) A deputy sheriff covered by ss. [30.071-30.079](#), other than the undersheriff or chief deputy, who is regularly appointed to his or her position may not be terminated for lawful off-duty political activity or for a discriminatory reason.

History.—s. 4, ch. 94-143; s. 1326, ch. 95-147; s. 1, ch. 95-155.

Select Year:

The 2010 Florida Statutes

[Title V](#)
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30.074 Regular appointee status.—When a deputy sheriff to whom the provisions of this act apply has served for a period of 1 calendar year, such deputy sheriff shall have attained regular deputy status in the office of the sheriff. Any deputy who is required to serve a probationary period attendant to a promotion shall retain regular status in the office of the sheriff, but may be returned to his or her prior rank during such probationary period without the right of appeal.

History.—s. 5, ch. 94-143; s. 1327, ch. 95-147.

The 2010 Florida Statutes

[Title V](#)
JUDICIAL BRANCH

[Chapter 30](#)
SHERIFFS

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30.075 Review boards.—

(1) Each sheriff shall establish a review board to review, pursuant to appeals taken under ss. [30.071-30.079](#), terminations taken by the sheriff against regularly appointed deputy sheriffs for lawful off-duty political activity or for discriminatory reasons.

(2) Each member of a review board shall be selected on the basis of fairness, objectivity, and impartiality. The board shall have no investigative powers and shall function in the capacity of a fact finder in an effort to arrive at a fair and equitable recommendation in all matters brought before it. A member shall not be involved in the issue under consideration. Membership on the board is voluntary and without remuneration. Members may not discuss matters to be heard before the board until the board convenes.

(3) A review board may receive verbal or written testimony concerning any matter considered relevant by the board and may receive any records, including, but not limited to, performance evaluations and disciplinary files.

(4)(a) **The review board of an agency having 150 or more deputy sheriffs shall be comprised of:**

1. **Two members** selected by the sheriff from among the certified law enforcement officers within the sheriff's jurisdiction.
2. **Two members** selected by the deputy sheriff who is appealing the termination action from among the certified law enforcement officers within the sheriff's jurisdiction.
3. **One member** selected by the other members of the board and acting as the chairperson of the board.
4. If an impartial local chairperson cannot be agreed upon within 10 working days after the appeal is submitted, then the parties shall jointly request the American Arbitration Association to furnish a panel of seven names from which each party shall have the option, within 5 days of receipt, of striking three names in alternating fashion. The seventh or remaining name shall be the chairperson. The parties shall jointly notify the arbitrator of his or her selection. Either party may object to all names on the list, provided the objection is made prior to the commencement of the striking process. If this occurs, the objecting party may request the American Arbitration Association to furnish another list of arbitrators. No more than two lists may be requested. The costs of the arbitrator shall be shared by both parties.

(b) The review board of an agency having fewer than 150 deputy sheriffs shall be comprised of:

1. One member selected by the sheriff from among the certified law enforcement officers within the sheriff's jurisdiction.

2. One member selected by the deputy sheriff who is appealing the termination from among the certified law enforcement officers within the sheriff's jurisdiction.

3. One member selected by the other members of the board and acting as the chairperson of the board.

(5) The chairperson of a review board shall:

- (a) Conduct each meeting using parliamentary rules of order.
- (b) Request that the deputy sheriff who is appealing provide the names of his or her witnesses, if any.
- (c) Schedule and provide written notice of each meeting to the Internal Affairs Bureau, witnesses, board members, and deputies.
- (d) Provide copies of all charges to the board members.
- (6) The scope of the review board is limited to terminations.

History.—s. 6, ch. 94-143; s. 1328, ch. 95-147; s. 2, ch. 95-155.

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30.076 Appeal.—

- (1) The sheriff may not terminate a regularly appointed deputy sheriff for exercising lawful off-duty political rights.
- (2) The review board shall be utilized to make the determination as to whether or not the termination of a deputy sheriff was politically or discriminatorily motivated.
- (3)(a) A deputy sheriff must make a request for a hearing in writing to the deputy sheriff's immediate supervisor within 10 working days after the deputy sheriff receives notice of termination for off-duty political activity. The request must contain a brief statement of the matters to be considered by the review board and the names of the two law enforcement officers selected to serve on the board.
- (b) The immediate supervisor shall forward the request for hearing to the sheriff and the appropriate division commander without delay. The review board shall be empaneled and a hearing date scheduled within 10 working days of receipt. The rules of evidence applicable to administrative hearings under chapter 120 apply to the hearing.
- (c) The sheriff has the burden of proving the appropriateness of the termination by the preponderance of evidence. The sheriff or the sheriff's appointed representative must present evidence in support of the termination.
- (d) The deputy sheriff has the right to be present, to present his or her case, to explain or defend his or her position, and to cross-examine each witness or complainant.
- (e) The deputy sheriff has the right to be represented during the hearing by counsel or other representative of choice.
- (f) The deputy sheriff shall not discuss the matter before the review board except through its chairperson.
- (g) The sheriff may offer rebuttal evidence, and the review board may hear argument from both parties in support of the evidence presented.
- (h) The chairperson of the review board shall, through the appropriate chain of command, give written notice to each witness of the date, time, and place of the hearing.
- (i) The review board shall confine its deliberation to the evidence presented. The board shall have 10 working days within which to make its findings. The findings of the board are binding on the parties. If the board finds that action on appeal is justified, it may recommend an alternative action.
- (j) A decision of the review board must be made by a majority vote of its members.
- (k) Each complaint shall receive a separate finding and recommendation by a majority of the review board. Each finding shall take into consideration the seriousness of the complaint, any extenuating circumstances, and the tenure and past conduct record of the deputy sheriff. The board shall submit to the sheriff its written findings of fact and recommendations within 10 working days after the hearing.
- (l) The sheriff shall notify the deputy sheriff of the final recommendations of the review board and the reasons therefor.
- (m) If the sheriff's action on appeal is not sustained, the deputy sheriff shall be reinstated without prejudice or penalty.
- (n) All proceedings of the review board shall be recorded and retained by the Internal Affairs Bureau. Rest periods shall be duly noted and there shall be no unrecorded questions or statements by a party or witness. Recordings shall be properly marked and identified before filing.

History.—s. 7, ch. 94-143; s. 1329, ch. 95-147; s. 3, ch. 95-155.

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30.077 Conduct of hearing.—A review board shall determine the truth while maintaining an atmosphere of fundamental fairness.

History.—s. 8, ch. 94-143.

Select Year:

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30.078 Continuation of appointment after a change in sheriff.—When a newly elected or appointed sheriff assumes office, the incoming sheriff may not terminate the employment of any deputy sheriff covered by ss. [30.071-30.079](#) for lawful off-duty political activity or for a discriminatory reason. The incoming sheriff may replace deputy sheriffs assigned to managerial, confidential, or policymaking positions or part-time deputy sheriffs.

History.—s. 9, ch. 94-143; s. 4, ch. 95-155.

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30.079 Effects of act; no property interest or expectancy in office; sheriff's authority.—The provisions of this act shall not be construed to provide deputy sheriffs with a property interest or expectancy of continued appointment as a deputy sheriff, nor shall these provisions serve as a limitation of the sheriff's authority as a constitutional officer to determine unilaterally the purpose of the office or department, to such standards of service to be offered to the public, and to exercise control and discretion over the organization and operations of the sheriff's office or department.

History.—s. 10, ch. 94-143.

Okaloosa County Supervisor of Elections

ESTIMATE

ESTIMATE for Election Services

302 Wilson Street N, Suite 102
Crestview, FL 32536
Phone 850.689.5600 Fax 850.689.5644

DATE: December 16, 2010
INVOICE # N/A
FOR: Okaloosa Co.
Sheriff's Office

Bill To:
Okaloosa County Sheriff's Office

DESCRIPTION	AMOUNT
<u>BALLOTS</u>	
Accu-Vote Precinct Ballot Cards (500 cards @ 10 cents/card - printed in house)	50.00
Accu-Vote Absentee Ballot Cards	-
Shipping Ballot Cards	-
<u>LEGAL ADVERTISING</u>	
Notice of L&A test for early voting - NWF Daily News	-
Notice of Public Test and Canv Bd - NWF Daily News	-
Notice of Election - Daily News	650.00
<u>POLL WORKERS</u>	
Clerk, Bailiff, and Inspectors	-
<u>POSTAGE</u>	
Notice of Elections to Absentee Voters	-
Absentee Ballots	-
Poll Worker Notification	-
Sample Ballots	-
<u>PERSONNEL</u>	
Supervisor of Elections Staff Overtime/Travel	-
<u>PRINTING</u>	
Notice of Elections for Absentee Voters	-
Sample Ballots	-
Absentee Ballot Envelope Printing	-
<u>ELECTION SUPPLIES</u>	
Necessary supplies including precinct register/poll lists and polling place supplies	100.00
<u>OTHER ELECTION SERVICES</u>	
Training poll workers and other staff	-
Verifying petition signatures	-
Polling place rental	-
Delivery of equipment (partial truck rental)	-
TOTAL	\$ 800.00

Make all checks payable to:
Paul Lux, Supervisor of Elections
302 Wilson Street N., Suite 102
Crestview, FL 32536

If you have any questions concerning this estimate, contact Shirley Young, 850-689-5600