

STORAGE NAME: h0863s1a.lec

DATE: April 11, 2000

**HOUSE OF REPRESENTATIVES
AS REVISED BY THE COMMITTEE ON
LAW ENFORCEMENT AND CRIME PREVENTION
ANALYSIS**

BILL #: CS/HB 863

RELATING TO: Law Enforcement Dignity 2000 Act

SPONSOR(S): Committee on Governmental Operations, Representative Fasano and others

TIED BILL(S):

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

- (1) GOVERNMENTAL OPERATIONS YEAS 5 NAYS 0
 - (2) LAW ENFORCEMENT AND CRIME PREVENTION YEAS 8 NAYS 0
 - (3) GENERAL APPROPRIATIONS
 - (4)
 - (5)
-

I. SUMMARY:

This bill creates the "Law Enforcement Dignity 2000 Act".

It requires the Department of Management Services to develop a plan to invest additional resources in upgrading the salary ranges for certified law enforcement classes, consistent with the *Law Enforcement Advisory Committee Salary Recommendation Final Report*. This report was assembled for the Department of Management Services by MGT of America, Inc.

Based on this report, this bill, provides that the salary ranges and individual salaries of certified law enforcement officers, including corrections and corrections probations officers, be increased by \$5,000 in a single increment. It also provides for salaries tied to the salaries paid to law enforcement officers in the 10 most populous municipalities in the state, and for annual step increases.

This report is subject to criticism with regard to the data selected by the three-person committee to be used in it. The Department of Management Services has conducted parallel studies, using a much larger universe of data to determine comparability in "market" salaries and salary ranges. Based on the results of their extensive studies, the department disagrees with the main recommendations made in this "Final" version of the report.

MGT of America, Inc. did not have independent, or equal decision making authority to select data, including that used in the critical salary comparisons. Due to this lack of control over the content in the final report, MGT of America, Inc. makes a disclaimer in its introduction.

This bill appropriates \$25,850,000, but the initial year fiscal impact on state government will be approximately \$156.1 million due to the inclusion of qualifying law enforcement officers who are in the State University System, State Attorney Investigators, correctional officers and correctional probation officers.

This bill provides an effective date of upon becoming a law.

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 checked="" type="checkbox"/> | N/A <input 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:

Generally, increasing annual expenditures by the amount necessary to fund the provisions of this bill results in a negative fiscal impact on alternate expense items, or results in a need for additional revenues.

B. PRESENT SITUATION:

Florida Statute

Section 943.10(1), F.S., defines "law enforcement officer" as:

"any person who is elected, appointed, or employed full time by any municipality or the state or any political subdivision thereof; who is vested with authority to bear arms and make arrests; and whose primary responsibility is the prevention and detection of crime or the enforcement of the penal, criminal, traffic, or highway laws of the state. This definition includes all certified supervisory and command personnel whose duties include, in whole or in part, the supervision, training, guidance, and management responsibilities of full-time law enforcement officers, part-time law enforcement officers, or auxilliary law enforcement officers but does not include support personnel employed by the employing agency."

Section 943.10(2), F.S., defines "correctional officer" as:

"any person who is appointed or employed full time by the state or any political subdivision thereof, or by any private entity which has contracted with the state or county, and whose primary responsibility is the supervision, protection, care, custody, and control, or investigation, of inmates within a correctional institution; however, the term 'correctional officer' does not include any secretarial, clerical, or professionally trained personnel."

Section 943.10(3), F.S., defines "correctional probation officer" as:

“a person who is employed full time by the state whose primary responsibility is the supervised custody, surveillance, and control of assigned inmates, probationers, parolees, or community controllees within institutions of the Department of Corrections or within the community. The term includes supervisory personnel whose duties include, in whole or in part, the supervision, training, and guidance of correctional probation officers, but excludes management and administrative personnel above, but not including, the probational and parole regional administrator level.”

State of Florida Law Enforcement (including Corrections) Officer Classes

Florida has up to three thousand certified law enforcement officers, and approximately 20,000 correctional and correctional probation officers, in a variety of governmental entities. They can be found in high profile positions such as the Department of Corrections, the Highway Patrol and the Florida Department of Law Enforcement, and in less well-known places like University Police Forces, Department of Agriculture and Consumer Services vehicle weigh stations, Department of Environmental Protection, Marine Patrol, State Attorney Investigators, and the Capitol Police, to mention a few.

Their duties are also varied, and include everything from escorting people, to controlling traffic; arresting, interviewing, establishing custody, care and control of criminal suspects and prisoners, to participating in court proceedings, to weighing and inspecting vehicles.

Outside the Department of Corrections, the Highway Patrol has the largest group of officers, with a total of approximately 1,022 officers, followed by the State University System's, and Florida Fish and Wildlife Conservation's law enforcement officer cadres.

Florida classifies most of its law enforcement officers into a single class. Whether a law enforcement officer works for the Highway Patrol, the Department of Education, or at the Florida School for the Deaf and Blind, the employee is classified in the same manner. Regardless of the nature or rigors of the duties, each is compensated using the same state step pay plan.

Advisory Committee Recommendation & the Department of Management Services

Pursuant to Specific Line Item 1933A of the Fiscal Year 1999-2000 General Appropriations Act, the Department of Management Services:

“shall review the pay grade and classification structure of those personnel employed by state agencies as sworn law enforcement officers, including personnel of the Florida Highway Patrol. The department shall review the salary and benefits available in the public sector and the private sector and shall make recommendations regarding implementation of a salary and benefit structure consistent statewide to recruit and retain high quality officers. The Governor shall appoint an advisory committee to the department for the purpose of this study. The committee shall consist of a member of FAST, a member of the PBA, and a representative of non-unit law enforcement personnel. These recommendations shall be available to the Executive Office of the Governor by November 1, 1999.”

The version of the study eventually accepted by the committee, styled as the “Law Enforcement Advisory Committee Salary Recommendation” “Final” [version], does not address all “law enforcement” officers on the state payroll, as defined in s. 943.10(1), F.S.,

nor does the "Final" version of the study include a representative universe of public and private sector salaries and benefits. The study does not include data relative to correctional or correctional probation officers.

The final version of the report uses only a part of the originally defined universe of peer groups from counties and municipalities. Even the original universe was limited to Florida municipalities and counties with populations of 100,000 people or more.

The draft version used all 12 cities in Florida with populations of 100,000 or more, and all 29 counties with similar populations. The final version of the study uses only 4 selected cities, and 7 selected counties. The larger group used in the draft version produces significantly different salary and benefit comparisons than the final version.

In the draft version, 8 of the cities had higher average hiring rates than the state, when including a \$5,000 cost of living adjustment paid to state law enforcement officers. However, only nine of 25 counties had higher average hiring rates.

The final version does not appear to review the salary and benefits available in the private sector at all (such as those for corporate plant or other physical security officers, private investigators, corporate counter-intelligence personnel, personal security personnel, corporate in-house or agricultural inspectors, and others).

In its conclusions in the original (draft) report, when market-based comparisons were made to regional peers, the Department of Management Services found that Florida's law enforcement officer class is well placed within the market. The department found that the state is currently a market leader in the southeastern United States, and places within the middle of the distribution for national peer states (which included population-based peers).

Based on the intra-state data, the state's law enforcement officer class is slightly below the market defined by the law enforcement study team.

There does not appear to be pertinent ancillary data such as turnover rates, either. For example, the Department of Management Services reports that recently conducted studies indicate the employment turnover rate for state "law enforcement officers" has been approximately 2 percent per year for at least 5 years.

By comparison, the overall turnover rate for state employees has been over 8 percent for years. This last year, the turnover rate broke the 8 percent barrier, and is now under 8 percent.

The Department of Management Services policy regarding benefits and salaries is that all Career Service classes should have a market-based benefit and salary structure. The Law Enforcement step pay plan is currently funded by the legislature as are all state step pay plans, and all other Career Service classes.

The Legislature generally appropriates funds for state employee increases based on the Governor's recommendations and after negotiating sessions have been held with all employee associations having agreements with the State. The Governor's recommendations are based on a Department of Management Services analysis of survey and market data.

The consulting firm engaged to conduct this study, did not have the authority to select the data appearing in the final report. Believing the "Final" version of the seminal report did not

provide all the pertinent data necessary for the Legislature and Governor to formulate an appropriate remedy to the salary issue, MGT of America, Inc. was careful to make a disclaimer in the introduction to the final version of the report. Further, the Department of Management Services added a response disagreeing with several recommendations reached by the three-person committee, which had sole ultimate decision-making authority in the selection of data to be presented in the report.

C. EFFECT OF PROPOSED CHANGES:

Section 1 - This bill creates an unnumbered section of the Florida Statutes to be cited as the "Law Enforcement Dignity 2000 Act."

Section 2 - This bill codifies certain existing compensation policy relative to law enforcement officers, corrections officers, and corrections probation officers employed by the state, and defined in s. 943.10(1), (2), and (3), F.S. It declares the state's policy to provide a market-based, continuously competitive salary for the defined officers.

Section 3 - This bill requires the Department of Management Services to develop a plan to invest additional resources to upgrade the minimum and maximum of the salary ranges for all law enforcement classes for the Fiscal Year 2000-2001, in an amount consistent with the recommendations contained in the Law Enforcement Advisory Committee Salary Recommendation Final Report (or final version) discussed above. See V. C., OTHER COMMENTS, 1.)

Using data presented in the final version, rather than all collected data, the amount of the recommended increase in the minimum and maximum of the salary ranges is \$5,000, and the amount of increase for each member of the law enforcement classes would also be \$5,000.

This bill provides that the Department of Management Services shall develop a compensation package providing a grant which would be the cash equivalent of a one-step pay increase to the covered classes. See V. C., OTHER COMMENTS, 2.).

This bill also provides that calculations of amounts required to fund this act shall continuously require that the salaries and benefits of officers employed by the state be equal to the average salaries of the equivalent positions in the ten most populous municipalities in this state.

State law enforcement officers, including correctional and correctional probation officers, are employed, and serve in virtually every municipality, and rural area of the state. Different areas in the state have significant differences in demographics, and costs of living. Tying state employed officers' salaries to the average salaries of the ten most populous municipalities is tying state officers' salaries to the highest paid in the state. The effect of such a connection in an across-the-board, general increase, may result in unforeseen, and problematic salary disparities in most of the other geographic areas of Florida.

Funds to implement this bill are supplemental to additional salary otherwise provided to state employees in the General Appropriations Act, or implementing legislation.

Section 4 - This bill provides an appropriation from the General Revenue Fund of \$25,850,000 to provide a \$5,000 increase in the salaries of state certified law enforcement

officers, and associated benefits, beginning July 1, 2000. See III. FISCAL ANALYSIS & IMPACT STATEMENT.

Section 5 - This bill provides an effective date of upon becoming a law.

D. SECTION-BY-SECTION ANALYSIS:

See C. EFFECT OF PROPOSED CHANGES.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

The Department of Management Services estimates the fiscal impact associated with the agencies it monitors to be approximately \$25,850,000. Appropriations staff of the House of Representatives secured additional information from the State University System and the State Attorneys which would increase the number of qualified state employee law enforcement officer positions by approximately 751. The attendant fiscal impact the first year for these positions is approximately \$4,100,000.

Including correctional officers and correctional probation officers to those receiving a \$5,000 pay increase would raise the impact at least an additional \$125,650,000, raising the total initial year fiscal impact to approximately \$156,100,000 for approximately 23,000 officers.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

This bill results in no evident immediate fiscal impact on local governments, but associations representing local law enforcement indicate that they believe the pay differentials created by this bill will be significant enough that they will lead to similarly significant increases in the salaries of most sheriff and municipal police departments' employees.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The final version of the Law Enforcement Advisory Committee Salary Recommendation did not provide private sector salary and benefit information for positions, such as corporate plant or other physical security officers, private investigators, corporate counter-intelligence personnel, personal security personnel, corporate and plant factory or agricultural

inspectors, and others. This information was not secured by staff from other sources, either.

Without such information, it is not possible to determine what impact state law enforcement officer salary and benefit increases will have on private sector entities with related personnel.

D. FISCAL COMMENTS:

None.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to spend funds, or to take an action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that counties or municipalities have to raise revenues in the aggregate.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the percentage of a state tax shared with counties or municipalities.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

The Department of Management Services notes in its analysis of this bill that there might be a Separation of Powers issue if the Chief Negotiator for the state initiates negotiations on the compensation provisions prior to implementation of the provisions.

B. RULE-MAKING AUTHORITY:

None.

C. OTHER COMMENTS:

1.) Section 3 of the bill provides that the "Department of Management Services shall develop a plan to invest additional resources in upgrading the *minimum and maximum salary ranges* for all certified law enforcement classes beginning July 1, 2000, as follows:" This section may appear to be referring to a minimum salary range and a maximum salary range. Perhaps a phrase such as "*upgrading the minimums and maximums of applicable salary ranges*" could be substituted.

2.) Section 3. (2), of the bill refers to the cash equivalent of a one-step increase to the covered classes. It is unclear what the basis for a one-step increase is.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

At its meeting on March 8, 2000, the Committee on Governmental Operations adopted four amendments to this bill.

The first three amendments clarified that the provisions of this bill are applicable only to employees of the state, who are described in s. 943.10(1), (2), and (3).

The fourth amendment adds correctional officers and correctional probation officers to the state-employed officers to whom the provisions of this bill apply.

On April 11, 2000, the Committee on Law Enforcement & Crime Prevention adopted one amendment to this bill.

The amendment deletes correctional officers and correctional probation officers from the state employed officers to whom the provisions of this bill apply.

This amendment will significantly reduce the amount of money (\$125,650,000 for corrections, and correctional probation officers) required to fund the provisions of this bill.

VII. SIGNATURES:

COMMITTEE ON GOVERNMENTAL OPERATIONS:

Prepared by:

Staff Director:

Russell J. Cyphers, Jr.

Jimmy O. Helms

AS REVISED BY THE COMMITTEE ON LAW ENFORCEMENT AND CRIME PREVENTION:

Prepared by:

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