



## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. DOES THE BILL:

- |                                      |   |  |   |
|--------------------------------------|---|--|---|
| 1. Reduce government?                | Yes <input type="checkbox"/>            | No <input checked="" type="checkbox"/> | N/A <input type="checkbox"/>            |
| 2. Lower taxes?                      | Yes <input type="checkbox"/>            | No <input type="checkbox"/>            | N/A <input checked="" type="checkbox"/> |
| 3. Expand individual freedom?        | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/>            | N/A <input type="checkbox"/>            |
| 4. Increase personal responsibility? | Yes <input type="checkbox"/>            | No <input type="checkbox"/>            | N/A <input checked="" type="checkbox"/> |
| 5. Empower families?                 | Yes <input type="checkbox"/>            | No <input type="checkbox"/>            | N/A <input checked="" type="checkbox"/> |

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

1. This bill does not reduce government. It establishes a career service system and an ad hoc board to hear certain personnel matters. However, the Economic Impact Statement indicates that the bill will require minimal administrative expenditures estimated at \$1,000 per year.

#### B. EFFECT OF PROPOSED CHANGES:

This bill establishes a required career service system for employees of the Glades County Sheriff's Office.

The bill provides career service status to all certified and noncertified employees and appointees of the Sheriff's Office with the exception of certain high-ranking positions.

The bill provides that employees and appointees attain career service status after completing a probationary or extended probationary period; and once attained, such employee or appointee is granted certain personnel action appeal rights.

The bill provides that upon a change in the position of Sheriff, career service positions remain employed and that certain high-ranking positions may be filled with new personnel, but provides for the retained employment of the incumbents of those positions.

The bill provides for an ad hoc Career Appeals Board that will hear certain personnel action appeals and assist with other matters as assigned by the Sheriff.

The bill retains the Sheriff's employment-related discretion as provided for in s. 30.53, F.S. Section 30.53, F.S, preserves the independence of sheriffs concerning the purchase of supplies and equipment, selection of personnel, and the hiring, firing and setting of salaries.

The bill provides the Sheriff with authority to adopt rules and regulations for the implementation and administration of this bill.

Currently, employees of the Glades County Sheriff's Office serve at the pleasure of the Sheriff with no career service system in operation.

#### C. SECTION DIRECTORY:

Section 1: Creates a career service system for the Glades County Sheriff's Office.

(1) Applicability – describes to whom the act is applicable.

(2) Application to Certain Dismissed Persons.

- (3) Independent Maintenance – retains the final authority of the sheriff to dismiss and appoint pursuant to s. 30.53, F.S.
- (4) Application to Collective Bargaining – does not grant collective bargaining rights other than those provided by law.
- (5) Nondisciplinary Dismissals – provides that the act does not cover nondisciplinary dismissal or appointments.
- (6) Definitions.
- (7) Career Status – Provides career services rights to specified employees.
- (8) Transition – Provides for the retention of employees during the transition between a newly elected sheriff and the incumbent.
- (9) Administration – provides rulemaking authority for the Sheriff.

Section 2: Creates a Career Appeals Board and provides for membership and duties.

- (1) Function of Boards – provides the functional purpose of the board.
- (2) Membership of Board – provides for board makeup, authority of Chair of the Board, time of hearings.
- (3) Procedure with Respect to Appeals – provides the procedural requirements regarding appeals to the Career Appeals Board; exempts Board deliberations from the public meeting requirements of ch. 286, F.S., and Board actions and the Sheriff from the provisions of ch. 120, F.S.

Section 3: Severability – provides for severability if any provisions are found unconstitutional.

Section 4: Provides an effective date.

## II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED?    Yes     No

IF YES, WHEN?

November 17, 2002

WHERE?

Hendry-Glades Sunday News, a weekly publication newspaper of general circulation in Hendry and Glades Counties.

B. REFERENDUM(S) REQUIRED?    Yes     No

IF YES, WHEN?

C. LOCAL BILL CERTIFICATION FILED?    Yes, attached     No

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

### III. COMMENTS

#### A. CONSTITUTIONAL ISSUES:

The Florida Supreme Court recently held that Florida sheriff's deputies are entitled to the same collective bargaining rights as all other employees. A narrowly divided court ruled 4-3 that deputies are not excluded from the collective bargaining rights granted to all employees by the Florida Constitution. The case arose out of a union's effort to be certified as the bargaining agent for deputies in the Brevard County Sheriff's Office.<sup>1</sup>

#### B. RULE-MAKING AUTHORITY:

Section 1(9) of the bill confers rulemaking authority on the Sheriff as are necessary for the implementation and administration of the act.

#### C. DRAFTING ISSUES OR OTHER COMMENTS:

##### Drafting Issues

The bill does not appear to contain any drafting issues.

##### Other Comments

A similar bill, HB 1005, died in the Committee on Local Government & Veterans' Affairs during the 2002 Legislative Session while the issue of whether or not sheriff's deputies are considered "public employees" entitled to collective bargaining rights was still pending before the Florida Supreme Court.

According to Sheriff Rider, the current Glades County Sheriff, the Policies and Procedures that he has established to implement a career service system as described in this bill are not binding on future elected or appointed sheriffs. Sheriff Rider indicated further that this bill follows similar legislation enacted for Citrus County; that he supports this bill; that his employees support this bill; and that the Glades County Board of County Commissioners supported this bill in a 4-1 vote.<sup>2</sup>

**This bill does contain two exemptions from general law.**

**Section 2(3)(f) of the bill provides an exemption from the public meeting requirements of ch. 286, F.S. Chapter 286, F.S., contains the state's Sunshine Law which establishes a basic right of access to most meetings of boards, commissions and other governing bodies of state and local governmental agencies or authorities.**

**Section 2(3)(g) of the bill provides an exemption from the provisions of ch. 120, F.S. (the Administrative Procedures Act), stating that the actions of the Sheriff are executory and not subject to certiorari appeal.**

**Therefore, according to House Rule 5.5(b), this bill may not be place on the Special Order Calendar in any section reserved for expedited consideration of local bills.**

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<sup>1</sup> *Coastal Florida Police Benevolent Association, Inc., v. Williams*, SC00-1860 (Fla. 2003). Opinion issued: 1/30/03.

<sup>2</sup> Telephone conversation with Glades County Sheriff Jim Rider, 2/26/03.

**Additionally, this is not subject to House Rule 5.5(a), because the bill contains a provision which may not be enacted into law by ordinance of the local governing body.**

#### **IV. AMENDMENT/COMMITTEE SUBSTITUTE CHANGES**