

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 275 Glades County Sheriff Career Service
SPONSOR(S): Spratt
TIED BILLS: IDEN./SIM. BILLS:

Table with 4 columns: REFERENCE, ACTION, ANALYST, STAFF DIRECTOR. Rows include: 1) Local Affairs (Sub) 9 Y, 0 N Grayson Highsmith-Smith; 2) Local Government & Veterans' Affairs 16 Y, 0 N Grayson Highsmith-Smith; 3) State Administration Brazzell Everhart; 4) and 5) are blank.

SUMMARY ANALYSIS

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

The bill provides career service status to all certified and noncertified employees and appointees with the exception of certain high-ranking positions. Such status is attained after completion of a probationary or extended probationary period and grants certain personnel action appeals rights.

The bill provides for employment status upon the election or appointment of a new Sheriff; and provides for transitional status for specific high-ranking 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 by general law.

This bill contains an exemption from general law and therefore may not appear on any special order calendar in any section reserved for expedited consideration of local bills pursuant to House Rule 5.5(b).

This bill 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.

The public meetings exemption found on lines 231-234 of HB 275 raises constitutional concerns because it is not contained in a separate bill. Additionally, the exemption does not contain a public necessity statement. Since such exemption appears to be brand new, the public meetings exemption has to be in a separate bill containing a public necessity statement justifying the need for the public meetings exemption, and will require a 2/3's vote of the Legislature. Refer to page 4, Section III C, of the analysis.

According to the Economic Impact Statement, this bill appears to have no impact on the State budget and a negligible impact on the local budget.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: h0275.sa.doc
DATE: March 24, 2003

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.

The bill:

- 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
- exempts Board actions and the Sheriff from the provisions of ch. 120, F.S.

Currently, employees of the Glades County Sheriff's Office serve at the pleasure of the Sheriff with no career service system in operation. See page 3 for additional information.

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 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.¹

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

This bill contains an exemption from general law.

Section 2(3)(f) of the bill states an exemption from the public meeting requirements of ch. 286, F.S. Chapter 286, F.S, the state's Sunshine Law, establishes a basic right of access to most meetings of boards, commissions and other governing bodies of state and local governmental agencies or authorities. The Attorney General has opined that the Sunshine Law applies to sheriff's civil service boards. Because of this exemption, according to House Rule 5.5(b), this bill may not be placed on the Special Order Calendar in any section reserved for expedited consideration of local bills. Additionally, with this exemption, this bill 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.

The basis for the Sunshine Law is in the Florida Constitution. Article I, s. 24(b), of the Florida Constitution requires all meetings of "any collegial public body of a county, municipality, school district, or special district, at which official acts are to be taken or at which public business of such body is to be transacted or discussed" to be open and noticed to the public.

Article I, s. 24(c) of the Florida Constitution, provides that the Legislature may provide "by general law" a public meetings exemption provided that such law "state with specificity the public necessity justifying the exemption" (public necessity statement). Laws enacted pursuant to subsection (c) must contain only exemptions and must relate to one subject.

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

Given this, the public meetings exemption found on lines 231-234 of HB 275 raises constitutional concerns because it is not contained in a separate bill. Additionally, the exemption does not contain a public necessity statement. Since such exemption appears to be brand new, the public meetings exemption has to be in a separate bill containing a public necessity statement justifying the need for the public meetings exemption, and will require a 2/3's vote of the Legislature. This public meetings exemption is the only exemption from general law in this bill.

If there is no exemption from general law in the bill, per House Rule 5.5(a), the committee shall not report the bill.

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.²

IV. AMENDMENT/COMMITTEE SUBSTITUTE CHANGES

None.

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

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. DOES THE BILL:

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

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

B. EFFECT OF PROPOSED CHANGES:

D. SECTION DIRECTORY:

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN?

WHERE?

B. REFERENDUM(S) REQUIRED? Yes No

IF YES, WHEN?

C. LOCAL BILL CERTIFICATION FILED? Yes, attached No

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached No

III. COMMENTS

D. CONSTITUTIONAL ISSUES:

E. RULE-MAKING AUTHORITY:

F. DRAFTING ISSUES OR OTHER COMMENTS:

IV. AMENDMENT/COMMITTEE SUBSTITUTE CHANGES