

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 1613

Walton County Sheriff's Office

SPONSOR(S): Brown

TIED BILLS:

IDEN./SIM. BILLS:

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Committee on Urban & Local Affairs</u>	<u>7 Y, 0 N</u>	<u>Ligas</u>	<u>Kruse</u>
2) <u>Government Efficiency & Accountability Council</u>	<u>13 Y, 0 N</u>	<u>Ligas</u>	<u>Cooper</u>
3) _____	_____	_____	_____
4) _____	_____	_____	_____
5) _____	_____	_____	_____

SUMMARY ANALYSIS

The Walton County Sheriff's Office does not currently operate under a Career Service program. The bill creates a career service program and specifies the rights of certain employees and appointees of the Walton County Sheriff. The act applies to all full-time sworn and civilian employees, with the exception of those who hold the position of Lieutenant and above, the financial officers, the secretary to the Sheriff, the Sheriff, and the Sheriff's Reserve and Auxiliary. The bill provides that permanent status is attained after an employee of the Sheriff's Office has served in such employment for a period of 1 calendar year. Among other things, the bill also provides that when a newly elected or appointed Sheriff assumes office, the new Sheriff will continue the employment of all currently employed permanent personnel unless there is just cause for dismissal.

According to the Economic Impact Statement, the bill has no fiscal impact.

The bill has an effective date of upon becoming law.

Pursuant to Rule 5.5(b), a local bill that provides an exemption from general law may not be placed on the Special Order Calendar in any section reserved for the expedited consideration of local bills. The provisions of House Rule 5.5(b) appear to apply to this bill.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide Limited Government – This bill authorizes the sheriff to adopt such rules as are necessary for the implementation and administration of this act.

B. EFFECT OF PROPOSED CHANGES:

Present Situation

Sixty-six of Florida's 67 counties have elected sheriffs as their chief law-enforcement officers. Miami-Dade County has an appointed chief law-enforcement officer whose title is Director of the Miami-Dade Police Department. Sheriffs serve four-year terms, and have county-wide jurisdiction that includes incorporated as well as unincorporated areas.

Pursuant to s. 14, Art. III of the State Constitution, s. 125.01(1)(u), F.S., and s. 30.53, F.S., a civil service system for sheriff's employees may be created by local governments via local ordinance. Section 14 of Art. III of the State Constitution provides:

By law there shall be created a civil service system for state employees, except those expressly exempted, and there may be created civil service systems and boards for county, district or municipal employees and for such offices thereof as are not elected or appointed by the governor, and there may be authorized such boards as are necessary to prescribe the qualifications, method of selection and tenure of such employees and officers.

The powers of the governing body of a county are set forth in s. 125.01, F.S. This power includes the authority, as provided in paragraph (u) of subsection (1) of s.125.01, F.S., to “[c]reate civil service systems and boards.” While the independence of a sheriff is preserved in s. 30.53, F.S., that section contains a further provision that it not be construed to “restrict the establishment or operation of any civil service system” or board created pursuant to s. 14, Art. III of the State Constitution. See also, City of Casselberry v. Orange County Police Benevolent Association, 482 So.2d 336 (Fla. 1986) (providing that local governments are vested with the authority to establish civil service systems via local ordinance).

A number of sheriffs have civil service systems established by the Legislature through special act, including: Alachua,¹ Bay,² Brevard,³ Broward,⁴ Charlotte,⁵ Citrus,⁶ Clay,⁷ Columbia,⁸ Escambia,⁹ Flagler,¹⁰ Glades,¹¹ Hernando,¹² Indian River,¹³ Lake,¹⁴ Lee,¹⁵ Leon,¹⁶ Madison,¹⁷ Manatee,¹⁸ Marion,¹⁹

¹ Chs. 84-388 and 86-342, L.O.F.

² Ch. 84-309, L.O.F.

³ Ch. 83-373, L.O.F.

⁴ Ch. 93-370, L.O.F.

⁵ Chs. 79-436, 86-349, and 89-508, L.O.F.

⁶ Ch. 2001-296, L.O.F.

⁷ Chs. 89-522 and 93-397, L.O.F.

⁸ Ch. 2004-413, L.O.F.

⁹ Ch. 89-492, L.O.F.

¹⁰ Chs. 90-450 and 2000-482, L.O.F.

¹¹ Ch. 2003-311, L.O.F.

¹² Ch. 2000-414, L.O.F.

¹³ Ch. 2002-355, L.O.F.

¹⁴ Chs. 90-386, 93-358 and 2005-349, L.O.F.

¹⁵ Chs. 74-522, 87-547 and 95-514, L.O.F.

Martin,²⁰ Monroe,²¹ Okaloosa,²² Okeechobee,²³ Orange,²⁴ Osceola,²⁵ Palm Beach,²⁶ Pasco,²⁷ Pinellas,²⁸ Polk,²⁹ St. Lucie,³⁰ Santa Rosa,³¹ Sarasota,³² and Seminole³³ counties.

Effect of Proposed Changes

The bill specifies the rights of certain employees and appointees of the Walton County Sheriff. The act applies to all full-time sworn and civilian employees, with the following exceptions:

- Those who hold the position of Lieutenant and above,
- The financial officers,
- The secretary to the Sheriff,
- The Sheriff, and
- The Sheriff's Reserve and Auxiliary.

The individuals appointed as part-time Deputy Sheriffs as defined by the Criminal Justice Standards and Training Commission are also excluded unless such a person is also employed full-time by the Walton County Sheriff's Office.

Permanent status is attained after an employee of the Sheriff's Office has served in such employment for a period of 1 calendar year. If an employee is terminated and rehired at a later date, he is required to complete 1 calendar year of service from the date of rehire before being granted permanent status, regardless of the reason for termination. The beginning date of employment for sworn officers is the date the Sheriff swears the officers in as law enforcement officers. The beginning of service for civilian employees is the beginning date as indicated by personnel and payroll records. Promotions, probationary service periods, demotions, transfers, and suspensions will not and do not affect the determination of the original career service beginning date of employment for Walton County Sheriff's Office employees.

Achieving permanent status does not exempt an employee from the disciplinary provisions as defined in the Walton County Sheriff's Office Policy and Procedure Manual. Cause for suspension, demotion, or dismissal will follow the established procedures outlined in the manual as well. A reassignment from special duties or from one shift or zone assignment to another or to be transferred from one division to another is not considered a demotion under the act, even if it results in a pay reduction. The Sheriff holds the authority to promote, demote, transfer, and determine disciplinary measures, including dismissal.

¹⁶ Ch. 83-456, L.O.F.

¹⁷ Ch. 95-470, L.O.F.

¹⁸ Ch. 89-472, L.O.F.

¹⁹ Ch. 87-457, L.O.F.

²⁰ Ch. 93-388, L.O.F.

²¹ Chs. 78-567, 89-410, 89-461, 97-345, and 98-507, L.O.F.

²² Chs. 81-442, 85-472, and 90-492, L.O.F.

²³ Ch. 2006-338, L.O.F.

²⁴ Ch. 89-507, L.O.F.

²⁵ Chs. 89-526 and 2000-388, L.O.F.

²⁶ Chs. 93-367, 99-437 and 2004-404, L.O.F.

²⁷ Ch. 90-491, L.O.F.

²⁸ Chs. 89-404 and 90-395, L.O.F.

²⁹ Chs. 88-443 and 98-516, L.O.F.

³⁰ Ch. 89-475, L.O.F.

³¹ Ch. 2002-385, L.O.F.

³² Ch. 86-344, L.O.F.

³³ Ch. 77-653, 80-612, 88-451, and 97-376, L.O.F.

When a newly elected or appointed Sheriff assumes office, the new Sheriff will continue the employment of all currently employed permanent personnel with the exception of the positions in which this act is not applicable, unless there is just cause for dismissal.

The act additionally provides that the sheriff may adopt such rules as are necessary for the implementation and administration of the act, and that nothing in the act is to be construed as affecting the budget-making powers of the Board of County Commissioners of Walton County.

Notwithstanding the provisions of s.112.061(6)(b), F.S., the Walton County Board of County Commissioners may reimburse the Chief of Administration for the Walton County Sheriff's Office for Class C travel on a per diem basis or on a subsistence allowable basis.

The bill provides that the provisions of the act are severable, and if any portions are found to be unconstitutional, the decision of the court will not affect the validity of the remaining provisions. The intent of the Legislature is that the act would have been adopted had such unconstitutional provision been included.

The bill has an effective date of upon becoming law.

C. SECTION DIRECTORY:

Section 1: Provides certain Levy County Sheriff's employee and appointees with career service status; provides for applicability; provides transition provisions; and provides for implementation and administration.

Section 2: Provides requirements for career service status.

Section 3: Provides for reimbursement to the Chief of Administration for travel expenses.

Section 4: Provides for severability.

Section 5: Provides an effective date of upon becoming law.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN? February 8, 2007

WHERE?

The DeFuniak Springs, Herald Breese, a Florida newspaper published at DeFuniak Springs, in Walton County, Florida.

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

The bill does not appear to have an economic impact.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

This bill authorizes the sheriff to adopt such rules as are necessary for the implementation and administration of the act, although it is specified that nothing in the act may be construed as affecting the budget-making powers of the Board of County Commissioners of Walton County.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Exemptions from General Law.

The bill provides an exemption from s. 112.061(6)(b), F.S., to allow a particular employee of the sheriff's office to be reimbursed for travel either on a per diem or subsistence allowable basis.

D. STATEMENT OF THE SPONSOR

No statement submitted.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

None.