

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 507 Bradford County

SPONSOR(S): Bean

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>Nelson</u>	<u>Kruse</u>
2) <u>Government Efficiency & Accountability Council</u>	<u>13 Y, 0 N</u>	<u>Nelson</u>	<u>Cooper</u>
3) _____	_____	_____	_____
4) _____	_____	_____	_____
5) _____	_____	_____	_____

SUMMARY ANALYSIS

This local bill creates a career service system for the Bradford County Sheriff's Office. The provisions of the bill apply to all full-time certified and noncertified employees or appointees of the sheriff with specified exemptions. The bill also provides for probationary periods, the transition of employees during a new administration, the creation of ad hoc career service appeals boards, and a procedure for appeals of disciplinary suspensions or dismissals which allows the sheriff to retain the right of final determination.

The bill 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 Bradford County Board of County Commissioners.

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

The bill has an effective date of upon becoming law.

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 the act. The bill also creates career service appeals boards to hear employee disciplinary cases.

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,¹ and have county-wide jurisdiction that includes incorporated as well as unincorporated areas.

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." Section 30.53, F.S., provides, in pertinent part, that "[t]he independence of the sheriffs shall be preserved concerning the...selection of personnel, and the hiring, firing, and setting of salaries of such personnel...."

A number of sheriffs have civil service systems established by the Legislature through special act, including: Alachua,² Baker,³ Bay,⁴ Brevard,⁵ Broward,⁶ Charlotte,⁷ Citrus,⁸ Clay,⁹ Columbia,¹⁰ Escambia,¹¹ Flagler,¹² Glades,¹³ Hernando,¹⁴ Indian River,¹⁵ Lake,¹⁶ Lee,¹⁷ Leon,¹⁸ Levy,¹⁹ Madison,²⁰

¹ Section 1(d), Art. VIII of the State Constitution.

² Chs. 84-388 and 86-342, L.O.F.

³ Ch. 2006-318, L.O.F.

⁴ Ch. 84-309, L.O.F.

⁵ Ch. 83-373, L.O.F.

⁶ Ch. 93-370, L.O.F.

⁷ Chs. 79-436, 86-349, and 89-508, L.O.F.

⁸ Ch. 2001-296, L.O.F.

⁹ Chs. 89-522 and 93-397, L.O.F.

¹⁰ Ch. 2004-413, L.O.F.

¹¹ Ch. 89-492, L.O.F.

¹² Chs. 90-450 and 2000-482, L.O.F.

¹³ Ch. 2003-311, L.O.F.

¹⁴ Ch. 2000-414, L.O.F.

¹⁵ Ch. 2002-355, L.O.F.

¹⁶ Chs. 90-386, 93-358 and 2005-349, L.O.F.

¹⁷ Chs. 74-522, 87-547, 95-514, and 2007-320, L.O.F.

¹⁸ Ch. 83-456, L.O.F.

¹⁹ Ch. 2007-290, L.O.F.

²⁰ Ch. 95-470, L.O.F.

Manatee,²¹ Marion,²² Martin,²³ Monroe,²⁴ Okaloosa,²⁵ Okeechobee,²⁶ Orange,²⁷ Osceola,²⁸ Palm Beach,²⁹ Pasco,³⁰ Pinellas,³¹ Polk,³² St. Lucie,³³ Santa Rosa,³⁴ Sarasota,³⁵ Seminole,³⁶ and Walton³⁷ counties. The Bradford County Sheriff's Office currently does not have a career service system for its employees.

Effect of Proposed Changes

HB 507 provides a career service system³⁸ for the Bradford County Sheriff's Office. The act applies to all certified³⁹ and noncertified persons appointed or employed by the Baker County Sheriff, with the following exceptions:

- majors, or in the event of a title change, the highest ranked certified law enforcement officers reporting directly to the sheriff;
- special deputy sheriffs appointed under s. 30.09(4), F.S.;⁴⁰
- members of a sheriff's posse or reserve unit;
- part-time appointees and employees, whether compensated or not, who are scheduled to work less than 40 hours per week;
- independent contractors, temporary employees or contract employees; and
- persons who are appointed or employed pursuant to a grant whose continued existence or funding is subject to the expiration or withdrawal of the grant provider.

The bill provides that an employee or appointee of the sheriff to whom the act applies will be considered to have attained career service status once he or she has completed the initial or extended probationary period. "Initial probationary period" is defined to mean one year of conditional employment or appointment commencing on the date of actual work in a regularly established position. Employment with the sheriff's office while in a Criminal Justice Standards and Training Commission-approved academy or other comparable training for certification as a sworn officer or deputy sheriff is not considered in determining whether an employee has attained one calendar year of minimal service. If a person leaves the sheriff's office and is reemployed at a later date, he or she is required to complete the probationary period before becoming eligible for any rights under the act. During the probationary period, the sheriff may dismiss an employee at any time without granting any appeal rights.

²¹ Ch. 89-472, L.O.F.

²² Ch. 87-457, L.O.F.

²³ Ch. 93-388, L.O.F.

²⁴ Chs. 78-567, 89-410, 89-461, 97-345, and 98-507, L.O.F.

²⁵ Chs. 81-442, 85-472, and 90-492, L.O.F.

²⁶ Ch. 2006-338, L.O.F.

²⁷ Ch. 89-507, L.O.F.

²⁸ Chs. 89-516 and 2000-388, L.O.F.

²⁹ Chs. 93-367, 99-437 and 2004-404, L.O.F.

³⁰ Ch. 90-491, L.O.F.

³¹ Chs. 89-404 and 90-395, L.O.F.

³² Chs. 88-443, 98-516 and 2006-320, L.O.F.

³³ Ch. 89-475, L.O.F.

³⁴ Ch. 2002-385, L.O.F.

³⁵ Ch. 86-344, L.O.F.

³⁶ Ch. 77-653, 80-612, 88-451, and 97-376, L.O.F.

³⁷ Ch. 2007-319, L.O.F.

³⁸ The terms "career service system" and "civil service system" generally are used interchangeably.

³⁹ The Criminal Justice Standards and Training commission certifies persons for employment or appointment as officers pursuant to ch. 943, F.S.

⁴⁰ This section designates special deputy sheriffs appointed by the sheriff: (a) to attend elections on election days; (b) to perform undercover investigative work; (c) for specific guard or police duties in connection with public sporting or entertainment events, not to exceed 30 days; or for watch or guard duties, when serving in such capacity at specified locations or areas only; (d) for special and temporary duties, without power of arrest, in connection with guarding or transporting prisoners; (e) to aid in preserving law and order, or to give necessary assistance in the event of any threatened or actual hurricane, fire, flood or other natural disaster, or in the event of any major tragedy such as an act of local terrorism or a national terrorism alert, an airplane crash, a train or automobile wreck, or a similar accident; (f) to raise the power of the county, by calling bystanders or others, to assist in quelling a riot or any breach of the peace, when ordered by the sheriff or an authorized general deputy; (g) to serve as a parking enforcement specialist pursuant to s. 316.640(2), F.S.

A person who has attained career service status may only be suspended or dismissed for cause. Such persons must be provided with written notice, offered an opportunity to respond, and may appeal the suspension or dismissal to a career service appeals board. If, however, the sheriff perceives a significant hazard in keeping the employee on the job, or where delay could result in damage or injury, the employee may be immediately suspended or dismissed without notice, provided, that the employee is provided with such notice and reasons within 24 hours. Cause for suspension or dismissal includes, but is not limited to, negligence, inefficiency or inability to perform assigned duties, insubordination, violation of provisions of law or office rules, conduct unbecoming a public employee, misconduct, alcohol abuse, prescription drug abuse, illegal drug use, adjudication of guilt by a court of competent jurisdiction, a plea of guilty or of nolo contendere, or a verdict of guilty when adjudication of guilt is withheld and the accused is placed on probation with respect to any felony, misdemeanor or major traffic infraction charges.

The bill provides that when a newly elected or appointed sheriff assumes office, all career service status employees and appointees will remain employees of the new administration unless cause for dismissal exists. The new sheriff may demote employees holding the rank of captain or lieutenant to one rank below the rank held on the day before he or she assumes office, and adjust their regular base salaries accordingly. The bill also provides that a new sheriff may assign the personnel/budget director and the former sheriff's secretary to the next lowest position classification, with an adjustment to their regular base salaries.

The bill provides that the membership of the career service appeals boards consists of four employees of the sheriff's office, and one citizen who is not an employee of the sheriff's office. Two employee members are to be selected by the employee filing the appeal, two employee members selected by the sheriff, and the fifth member, who serves as the chair, is selected by the other four members. Hearings are to be conducted during the sheriff's office hours, and employees selected to serve on the board do not receive additional compensation.

The bill provides a procedure with respect to appeals, and the issuance of written recommendations by the board. A person who has achieved career service status may submit a written request for a hearing to the sheriff within seven calendar days after receiving a notice of suspension or dismissal. A career appeals board is selected and must meet for the purpose of hearing the appeal within 30 calendar days after receipt of the request. The chair may grant an extension of time for good cause or upon agreement of the parties. The person filing the appeal has the right to a public hearing, to be represented by a person of his or her choice, to present relevant evidence, and to cross-examine witnesses. The rules of evidence and civil procedure are not applicable in the hearing. The bill also provides that the sheriff retains the right of final determination in these matters.

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

The act does not cover the nondisciplinary dismissal of employees or appointees such as actions arising from a reduction in force, layoff, or partial or total abolition or cessation of a program, service, operation, department, subdivision or grant-funded position.

The bill has an effective date of upon becoming law.

C. SECTION DIRECTORY:

Section 1: Provides certain Bradford County Sheriff employees and appointees with career service status; provides transition provisions; and provides for implementation and administration of the act.

Section 2: Provides for career service appeals boards.

Section 3: Provides for severability.

Section 4: Provides an effective date.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN? December 6 and 13, 2007

WHERE? The *Bradford County Telegraph*, a weekly paper of general circulation published in Bradford County.

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

According to the Economic Impact Statement, the bill will have no fiscal impact

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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 Baker County.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

D. STATEMENT OF THE SPONSOR

No statement submitted.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES