

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 4135 District Court Marshals

SPONSOR(S): McBurney

TIED BILLS: None **IDEN./SIM. BILLS:** SB 974

| REFERENCE | ACTION | ANALYST | STAFF DIRECTOR or BUDGET/POLICY CHIEF |
|-------------------------------|-----------|----------|--|
| 1) Civil Justice Subcommittee | 15 Y, 0 N | Woodburn | Bond |
| 2) Judiciary Committee | 17 Y, 0 N | Woodburn | Havlicak |

SUMMARY ANALYSIS

Florida has five district courts of appeal. Each court appoints a marshal. This bill repeals the statutory requirement that requires the salary of the marshal to be set by general law.

The bill does not appear to have a fiscal impact on state or local government.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Marshals for the District Courts of Appeal

There are currently five district courts of appeal in the state.¹ Each district court of appeal is required to appoint a marshal.² Subsections 35.26(2), (3) and (4), F.S., provide that:

- The marshal has the power to execute the process of the court throughout the state, and in any county may deputize the sheriff or a deputy sheriff for such purpose.
- The marshal is custodian of the headquarters occupied by the court and performs such other duties as directed by the court.
- The marshal is responsible for the security of the court.

Art. V s. 4(c) of the state constitution requires that a district court of appeal appoint a marshal and provides that the salary of the marshal "be fixed by general law."

Section 35.27, F.S., requires that the compensation of the marshal be provided by law.

Effect of the Bill

The bill repeals the statutory requirement that the compensation of the marshal be provided by law by repealing s. 35.27, F.S. This bill does not affect the constitutional requirement.

B. SECTION DIRECTORY:

Section 1 repeals s. 35.27, F.S., regarding salary of the marshal of a district court of appeal.

Section 2 provides an effective date of July 1, 2011.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

¹ Section 35.01, F.S.

² Section 35.26(1), F.S.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

n/a