

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Community Affairs

BILL: SB 782

INTRODUCER: Senator Montford

SUBJECT: County Officers

DATE: March 10, 2015

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	White	Yeatman	CA	Pre-meeting
2.	_____	_____	GO	_____
3.	_____	_____	FP	_____

I. Summary:

SB 782 provides that the salaries of county constitutional officers and school district officials will not decrease under specific circumstances related to an increase in county population. When a county's population increases, such that the county falls into a new population group, the bill would prevent a salary decrease, while still allowing the group rate associated with the new population group to be used for purposes of the salary computation.

The bill provides an effective date of July 1, 2015.

II. Present Situation:

Salaries of Elected County Constitutional Officers and School District Officials

From the time of the State Constitution of 1885 until 1973, the compensation of Florida's county constitutional officers had been determined by a host of local laws, special laws, and general laws of local application. After decades of frequent and sporadic legislative action, the Legislature deemed necessary the enactment of a uniform salary law to replace the previous local law method of determining compensation.¹ Thus, the Legislature repealed all local or special laws, or general laws of local application, that related to compensation of county officials;² provided that any such laws are prohibited;³ and authorized a salary compensation formula for determining compensation.⁴ In doing so, the Legislature created a uniform system of compensation for county officers having substantially equal duties and responsibilities, with salary schedules based on countywide populations.

¹ The original method was described as "haphazard, preferential, inequitable, and probably unconstitutional." See s. 145.011(2), F.S.

² Sections 145.131 and 145.132, F.S.

³ Section 145.16, F.S.

⁴ Chapter 73-173, Laws of Fla.

The current methodology for calculating compensation for elected county officers and school district officials, while based on population, also involves five other components. County governments and school district officials are tasked with making their own calculations of these salaries, and the Florida Legislature's Office of Economic and Demographic Research (EDR) also reports its computations.⁵ Pursuant to s. 145.19(2), F.S., elected county and school officers' salaries are adjusted annually, but no effective date of these annual changes is specified in general law. Florida's county governments operate on a fiscal year that ranges from October 1 to September 30, while Florida's school districts operate on the July 1 to June 30 state fiscal year. Florida's Attorney General opined that salary increases are effective October 1 for the elected county officers and July 1 for the elected school district officials.⁶

Supplemental compensation for elected county officials, that is not the sole and exclusive compensation provided in ch. 145, F.S., is a misdemeanor of the first degree.⁷ If, after paying office personnel and expenses, a county officer has insufficient revenue from the income of their office to pay his or her total annual salary, the board of county commissioners is obligated to pay any deficiency from the general revenue fund.⁸

Components of the Salary Formula

The current salary formula methodology specifies six components used for the salary computation:

- Population figures, based on the latest official population census counts, or intercensal estimates for the years between decennial censuses;
- Base salary and group rate components for the separate officers;⁹
- An initial factor component that is currently set in law as a constant numerical value;¹⁰ and
- The annual factor and cumulative annual factor, which are certified by The Florida Department of Management Services (DMS).¹¹

“Population” as used for the salary determination means the latest annual determination of population of local governments produced by the EDR. The EDR provides the population determination to the Governor's Office in accordance with s. 186.901, F.S.¹² For the years between decennial censuses, the University of Florida's Bureau of Economic and Business Research generates annual population estimates for local governments, in accordance with a contract administered by the EDR.

⁵ The Florida Legislature's Office of Economic and Demographic Research, *Salaries of Elected County Constitutional Officers and School District Officials for Fiscal Year 2014-15* (Sep. 2014).

⁶ Op. Att'y Gen. Fla. 79-87 (1979).

⁷ Section 145.17, F.S.

⁸ Section 145.141, F.S.

⁹ Sections 145.031, 145.051, 145.071, 145.09, 145.10, and 145.11, F.S., for elected county officers. Sections 1001.395, and 1001.47, F.S., for elected school district officials.

¹⁰ Section 145.19(1)(c), F.S.

¹¹ Section 145.19(2), F.S.

¹² Section 145.021(1), F.S.

“Salary” means the total annual compensation, payable under the schedules set forth in ch. 145, F.S., to be paid to an officer as personal income.¹³

“Initial Factor” means a factor of 1.292. This numerical value is the product, rounded to the nearest thousandth, of an earlier cost-of-living increase factor authorized by ch. 73-173, L.O.F., and intended by the Legislature to be preserved in adjustments to salaries made prior to the enactment of ch. 76-80, L.O.F., multiplied by the annual increase factor authorized by ch. 79-327, L.O.F.¹⁴

“Annual Factor” means 1 plus the lesser of either:¹⁵

- the average percentage increase in the salaries of state career service employees for the current fiscal year as determined by the DMS or as provided in the General Appropriations Act; or
- 7 percent.

“Cumulative Annual Factor” means the product of all annual factors certified under this act prior to the fiscal year for which salaries are being calculated.¹⁶

Salary Computation Methodology

The salary computation to obtain “the adjusted salary rate” involves three steps.¹⁷ First, county government and school district officials determine the relevant population group number for the elected officer based on the countywide population.¹⁸ Two sets of countywide population ranges are used to determine the salaries of the elected officers. One set applies to the clerk of circuit court, county comptroller, tax collector, property appraiser, supervisor of elections, sheriff, and school superintendent. The second set applies only to county commissioners and school board members. Each population range has an assigned population group number. Step 2 of the salary computation involves the determination of the relevant base salary and group rate that corresponds to the population group number determined in the first step. In step 3, county government and school district officials calculate the salaries of elected county officers using the following formula:

$$\text{Salary} = [\text{Base Salary} + (\text{Population Above Group Minimum} \times \text{Group Rate})] \times \text{Initial Factor} \times \text{Certified Annual Factor} \times \text{Certified Cumulative Annual Factor}.$$

Relationship Between County Population, Group Rate, and Adjusted Salary Rate

As indicated by Table 1 below, when a county grows in population such that it would enter into a higher population group number, the base salary number goes up, while the group rate multiplier goes down. The use of the new, smaller group rate creates the peculiar possibility for a county officer of a county that has just barely crossed the threshold of a new population group to receive

¹³ Section 145.021(2), F.S.

¹⁴ See, Section 145.19(1)(c), F.S.

¹⁵ Section 145.19(1)(a), F.S.

¹⁶ Section 145.19(1)(b), F.S.

¹⁷ EDR, *Salaries of Elected County Constitutional Officers and School District Officials for Fiscal Year 2014-15* (Sep. 2014).

¹⁸ *Id.* at 8.

a smaller salary than if the population of the county had not grown. For example, in 2013, the population of Jackson County was estimated at 50,166, just over the 50,000 threshold, placing it within population group II.¹⁹ As a result, for fiscal year 2014-2015, the salaries of the Clerk of Circuit Court, the Property Appraiser, and the Tax Collector declined by \$2,966 to \$103,915, a change of -2.8 percent.²⁰ For that same year, the salary of the Supervisor of Elections declined by \$2,860 to \$86,152; the salary of the Sheriff declined by \$2,942 to \$112,854; and the salary of the School Superintendent declined by \$2,966 to \$103,915. If the population of a county decreases, such that the county falls into a new smaller population group with a higher group rate, the salaries of county officers and school district officials might still increase significantly, as happened in Jackson County for fiscal year 2011-2012.

Table 1. Population Groups for Clerks of Court, Property Appraisers, and Tax Collectors²¹

Pop. Group	Min. Pop.	Max. Pop.	Base Salary	Group Rate
I	0	49,999	\$21,250	0.07875
II	50,000	99,999	\$24,400	0.06300
III	100,000	199,999	\$27,550	0.02625
IV	200,000	399,999	\$30,175	0.01575
V	400,000	999,999	\$33,325	0.00525
VI	1,000,000	-	\$36,475	0.00400

Additional Compensation Tied to Completion of Certificate Programs

Upon successful completion of a certification program, certain county constitutional officers are eligible to receive a special qualification salary of up to \$2,000 added to their formula-based salary.²² Relevant state agencies offer certification programs for clerks of circuit court, sheriffs, supervisors of elections, property appraisers, tax collectors, and elected school superintendents.²³ The officer is required to complete a course of continuing education to remain certified.²⁴ An officer who becomes certified receives a pro rata share of the special qualification salary based on the remaining period of the year. Any special qualification salary is added after the calculation of the formula-based salary.

In addition to the special qualification salary for elected school superintendents, the Department of Education (DOE) provides a leadership development and performance compensation program, which consists of two phases.²⁵ Upon successful completion of both phases and demonstrated successful performance, the DOE issues the school superintendent a Chief Executive Officer Leadership Development Certificate and pays an annual performance salary incentive in an

¹⁹ *Id.* at 7.

²⁰ EDR, *Salaries of Elected County Constitutional Officers and School District Officials by County*, available at <http://edr.state.fl.us/Content/local-government/data/data-a-to-z/countysalaryhistory.pdf> (last visited Mar. 3, 2015).

^{21,21} Reproduced from ss. 145.051(1), 145.10(1), and 145.11(1), F.S.

²² Section 145.19(2), F.S.

²³ Sections 145.051(2), 145.071(2), 145.09(3), 145.10(2), 145.11(2), and 1001.47(4), F.S.

²⁴ *Id.* The following state agencies prescribe the courses of continuing education: the Supreme Court for clerks of circuit court; the Department of Law Enforcement for sheriffs; the Department of State’s Division of Elections for supervisors of elections; the Department of Revenue for property appraisers and tax collectors; and the Department of Education for elected school superintendents.

²⁵ Section 1001.47(5)(a), F.S.

amount between \$3,000 and \$7,500, based upon the performance evaluation.²⁶ For elected school superintendents, current law also provides that a district school board may approve, by majority vote, a salary in excess of the formula-based amount.²⁷

Applicability of Salary Computation Method

Notwithstanding the Legislature's stated intent for uniformity, county officers may voluntarily reduce their salary below that established by law.²⁸ Additionally, the formula-based salaries of supervisors of elections are based upon a five-day workweek; however, if a supervisor does not keep his or her office open five days per week then the salary is prorated accordingly.²⁹

Furthermore, the adoption of a county home rule charter provides the county's electors with a mechanism to alter the status of constitutional officers, such that their salaries are not subject to being set by the Legislature. Specifically, the statutory salary provisions do not apply to officials whose salaries are not subject to being set by the Legislature due to the provisions of a county home rule charter, as well as officials of counties that have a chartered consolidated form of government as provided in ch. 67-1320, L.O.F.³⁰

III. Effect of Proposed Changes:

The bill provides that the salaries of elected county officers and school district officials may not decrease due to a population increase that puts the county into a new population group. Once in a new population group, as the population increases, salaries are adjusted by the group rate that applies to the new population group.

Section 1 amends s. 145.051, F.S., to prevent clerks of court and county comptrollers from experiencing the type of salary decrease discussed above.

Section 2 amends s. 145.071, F.S., to prevent sheriffs from experiencing the type of salary decrease discussed above.

Section 3 amends s. 145.09, F.S., to prevent supervisors of elections from experiencing the type of salary decrease discussed above.

Section 4 amends s. 145.10, F.S., to prevent property appraisers from experiencing the type of salary decrease discussed above.

Section 5 amends s. 145.11, F.S., to prevent tax collectors from experiencing the type of salary decrease discussed above.

²⁶ Section 1001.47(5)(b), F.S.

²⁷ Section 1001.47(1), F.S.

²⁸ See Chapters 2009-3 and 2009-59, Laws of Fla. (district school board members and elected school superintendents); Chapter 2011-158, Laws of Fla. (county commissioners, clerks of circuit court, county comptrollers, sheriffs, supervisors of elections, property appraisers, and tax collectors).

²⁹ Section 145.09(2), F.S.

³⁰ Section 145.012, F.S.

Section 6 amends s. 1001.47, F.S., to prevent district school superintendents from experiencing the type of salary decrease discussed above.

Section 7 conforms a cross-reference within s. 1001.50, F.S.

Section 8 provides an effective date of July 1, 2015.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

Elected county officers and school district officials would not experience salary decreases due to any population growth that puts a county into a new population group.

VI. Technical Deficiencies:

None.

VII. Related Issues:

Since portions of the bill restate current law, specifically requiring use of the lower group rate associated with a new, larger population group, while other portions of the bill also prohibit any salary decrease, it is unclear how the computation methodology in s. 145.19(2), F.S., would be used, if at all, under the circumstances contemplated by the bill. One possible interpretation is that, if under the computation methodology the officer's salary would decrease, the computation methodology is suspended, with the officer receiving last year's same salary until either the population or the annual factors increase enough to offset the effect of the decreased group rate.

For clarification, the phrase “may not be decreased” could be qualified with the language “may not be decreased to an amount less than the adjusted salary rate from the prior year, as calculated pursuant s. 145.19(2), F.S.”

The term “current salary” used throughout could be better defined, to clarify whether reference is made to the base salary (e.g. s. 145.051(1), F.S.) or the “adjusted salary rate” pursuant to s. 145.19(2), F.S.

If the population of a county decreases, such that the county falls into a new smaller population group with a higher group rate, the salaries of county officers and school district officials might still increase significantly, as happened in Jackson County for fiscal year 2011-2012.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 145.051, 145.071, 145.09, 145.10, 145.11, 1001.47, and 1001.50.

IX. Additional Information:

- A. **Committee Substitute – Statement of Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

- B. **Amendments:**

None.