

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 267 Budgets of County Constitutional Officers
SPONSOR(S): Local, Federal & Veterans Affairs Subcommittee, Sabatini and others
TIED BILLS: IDEN./SIM. **BILLS:** SB 696

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local, Federal & Veterans Affairs Subcommittee	12 Y, 0 N, As CS	Miller	Miller
2) Ways & Means Committee	16 Y, 0 N	Engelbrecht	Langston
3) State Affairs Committee		Miller	Williamson

SUMMARY ANALYSIS

Chapter 129, F.S., establishes a budget system that controls the finances of each board of county commissioners (county commission). Each county is required to prepare, approve, adopt, and execute an annual budget each fiscal year. At a minimum, the budget must show for each fund budgeted revenues and expenditures by organizational unit which are at least at the level of detail required for the county's annual audited financial report to the Department of Financial Services.

On or before June 1 of each year, the sheriff, the clerk of the circuit court and county comptroller, and the supervisor of elections each must submit a tentative budget for their respective offices for the ensuing year to the county commission. The annual budget of the clerk of the circuit court for court operations each year is filed with the Florida Clerks of Court Operations Corporation, which entity reviews and approves the budget. If the clerk of the court also serves as the county clerk and comptroller that portion of the clerk's budget is reviewed and approved by the county commission.

The proposed budgets for the property appraiser and tax collector must be filed with the Department of Revenue (DOR) for review and final approval. At the same time, the property appraiser and tax collector must provide a copy of their proposed budgets to the county commission. The county commission reviews and approves the budget of the tax collector only if the county adopted a resolution guaranteeing the annual income of the tax collector under ch. 145, F.S. If there is a county resolution under ch. 145, F.S., either abolishing the office of tax collector and allocating the duties to different offices, or amending the county charter to provide a different method for reviewing and approving the tax collector budget, the tax collector is exempt from filing with DOR.

The bill revises the criteria for the tentative and final budgets of the county constitutional officers. Each officer's budget must include separate lines for proposed expenditures for each program, division, or unit within the office, identify existing and proposed reserves, and provide a narrative summarizing the officer's budget priorities and changes from the prior year's budget. The tentative budget must be separately identified from the tentative budget of the county as a whole when posted on the county's website. The criteria applicable to the budgets of the sheriff, clerk of the circuit court and county comptroller, and supervisor of elections are the same as for those budgets of the property appraiser and tax collector submitted for review to DOR.

The bill may have an insignificant negative fiscal impact on local governments requiring additional detail in the budgets of the county constitutional officers. See FISCAL COMMENTS.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Florida Constitutional County Officers

The Florida Constitution creates five specific county officers: sheriff, tax collector, property appraiser, supervisor of elections, and clerk of the circuit court (collectively, the Five Constitutional Offices/Officers).¹ Unless provided otherwise, the clerk of the circuit court also serves as the ex officio clerk of the board of county commissioners, auditor, recorder, and custodian of county funds.² Each officer is elected separately by the voters of the county for terms of four years. These officers have duties prescribed in general law.³

County Budget Requirements

Chapter 129, F.S., establishes a budget system that controls the finances of each board of county commissioners (county commission) in the state. Each county is required to prepare, approve, adopt, and execute an annual budget each fiscal year. At a minimum, the budget must show, for each fund budgeted, revenues and expenditures by organizational unit which are at least sufficiently detailed as required for the county's annual financial report.⁴ The budget must be prepared, summarized, and approved by the county commission and also must be balanced so that the total of the estimated receipts, including balances brought forward, equals the total of the appropriations and reserves.⁵

County Officer Annual Budgets

On or before June 1 of each year, the sheriff, the clerk of the circuit court and county comptroller, and the supervisor of elections each must submit a tentative budget for their respective offices for the ensuing year to the county commission.⁶ The proposed budgets for the property appraiser and tax collector must be filed with the Department of Revenue (DOR) for review and final approval.⁷ Currently, the property appraiser must provide the county commission with a copy of the budget filed with DOR but is not required separately to submit a tentative budget for county commission review and approval under s. 129.03, F.S. However, if the tax collector is subject to a county resolution guaranteeing and

¹ Art. VIII, s. 1(d), Fla. Const.

² Under the present text of the Constitution, these county government duties of the clerk of the circuit court may be transferred to other officials by special law approved by vote of the county electors. Alternatively, under art. V, s. 16 of the State Constitution, the Legislature, by special or general law, may divide the clerk's duties between two officers—one serving as clerk of the court and one serving as ex officio clerk of the board of county commissioners, auditor, recorder, and custodian of all county funds. *See* art. VIII, s. 1(d), Fla. Const. Voters adopted this provision in 2018, but takes effect in different counties at different times. *See* art. VIII, s. 6(g), Fla. Const. The prior text of the Constitution permitted the abolishment of a county constitutional office and the transfer of all its powers, along with the transfer of the clerk of court's county duties, via a county charter or special act approved by the voters. Although twenty counties have adopted charters, only eight transferred the clerk of court's county duties to different officials: Brevard, Broward, Clay, Duval, Miami-Dade, Orange, Osceola, and Volusia Counties.

³ *See* ch. 30, F.S. (setting forth certain duties of the sheriff as a constitutional officer); ch. 197, F.S. (setting forth certain duties of the tax collector as a constitutional officer); ch. 193, Part I, F.S. (setting forth certain duties of the property appraiser as a constitutional officer); ch. 102, F.S. (setting forth certain duties of the supervisor of elections as a constitutional officer); and ch. 28, F.S. (setting forth certain duties of the clerk of the circuit court as a constitutional officer).

⁴ S. 129.01(1), F.S. Each county must have a financial audit of its accounts prepared annually. S. 218.39(1)(a), F.S. This financial audit must be reported to the Department of Financial Services. S. 218.32(1)(d), F.S.

⁵ S. 129.01(2), F.S.

⁶ S. 129.03(2), F.S.

⁷ S. 195.087, F.S.

appropriating a salary to the tax collector in the amount specified by law⁸, the tax collector must submit only a tentative annual budget to the county commission.⁹ Alternatively, a county charter may require the tax collector to submit a proposed budget in a different manner.¹⁰

Basic Level of Information for the Five County Constitutional Officers

The budgets of all county officers submitted to the board of county commissioners must provide such detail and information as the county commission may require.¹¹ The information must be sufficient to enable the county to prepare and file its annual audited financial statement with the Department of Financial Services (DFS)¹² and the Auditor General.¹³ The county commission may require every county official to submit a copy of the official's proposed operating budget for the next fiscal year.¹⁴

Sheriff's Budget

Each sheriff must prepare and submit an annual budget for consideration by the county commission.¹⁵ The budget must show estimated amounts for all expenditures proposed for law enforcement operations and equipment, separate from estimates for operating the county jail. These budget items exclude the costs of construction, repair, or capital improvement county buildings occupied by the sheriff's office.¹⁶ The budget must include the sheriff's sworn statement that the proposed budget is reasonable and necessary for the proper and efficient operation of the sheriff's office.¹⁷ The budget must itemize expenditures within each fund and functional category according to the uniform accounting system required by DFS, organized as follows:

1. Personnel services
2. Operating expenses
3. Capital outlay
4. Debt service
5. Grants and aids
6. Other uses¹⁸

Requests for construction, repair, or capital improvements to county buildings operated or occupied by the sheriff's office are submitted separately.¹⁹

While the sheriff must provide all relevant and pertinent information about prior and proposed expenditures required by the board of county commissioners, the authority of the commission to amend, modify, increase, or reduce any proposed expenditure is limited.²⁰ The sheriff may appeal to the Administration Commission²¹ any changes to the proposed budget made by the county commission. The budget for the sheriff approved by the Administration Commission is final.²²

⁸ Such a resolution must guarantee the amount specified in s. 145.11, F.S.

⁹ S. 129.03(2), F.S. See s. 145.022(1), F.S.

¹⁰ S. 195.087(2), F.S.

¹¹ S. 129.021, F.S.

¹² S. 218.32, F.S.

¹³ S. 218.39(1)(a), F.S. The county audit must include not only an audit of the county as a whole but also audits of each specific county agency. See s. 218.39(2), F.S., and Rules of the Auditor General, ch. 10.550, *Local Governmental Entity Audits (9/30/2018)*.

¹⁴ S. 125.01(1)(v), F.S.

¹⁵ S. 30.49(1), F.S.

¹⁶ S. 30.49(2)(a), F.S.

¹⁷ S. 30.49(2)(b), F.S.

¹⁸ S. 30.49(2)(c)1.-6., F.S.

¹⁹ S. 30.49(2)(d), F.S.

²⁰ S. 30.49(3), (4), F.S.

²¹ Comprised of the Governor and Cabinet. See s. 14.202, F.S.

²² S. 30.49(5), F.S.

Clerk of the Circuit Court – Budget for Court Functions

Constitutionally, the clerk of the circuit court serves two general functions: as clerk of the court in each county of the circuit²³ and as county clerk and comptroller if those county functions have not been transferred to another office.²⁴ The clerk's annual budget for court operations must be submitted by June 1 each year to the Florida Clerks of Court Operations Corporation (Corporation).²⁵ The Corporation is responsible for verifying that the submitted budget proposal is limited to performing specified court-related functions²⁶ and is responsible for approving the clerk's budget.²⁷

Where the clerk of the circuit court also acts as the county clerk and comptroller, a proposed budget for those functions must be submitted for review and approval by the county commission.²⁸

Supervisor of Elections' Budget

The supervisor of elections (SOE) must submit an annual budget proposal for review and approval by the county commission.²⁹ The budget must be itemized according to the uniform accounting system required by DFS, organized as follows:

1. Personnel services
2. Operating expenses
3. Capital outlay
4. Debt service
5. Grants and aids
6. Other uses³⁰

The county commission (or county budget commission, if so provided by law) approves the final budget to be included in the general county budget.³¹ The statute expressly preserves the independence of the SOE in purchasing supplies and equipment and the selection and compensation of personnel.³²

Property Appraiser's Budget

DOR has general supervision over the valuation and assessment of real property and the administration and collection of ad valorem taxes.³³ This statewide supervisory authority implements the legislative intent to provide just valuation and uniform assessment of ad valorem taxes.³⁴ To this end, DOR reviews and approves the budgets of each property appraiser.

The property appraiser must submit a proposed budget for operating the office to DOR on or before June 1 of each year and must provide the county commission with a copy at the same time.³⁵ DOR reviews the budget request, may amend the budgeted amount, and has final authority to approve the budget. The property appraiser may appeal DOR's final decision to the Administration Commission.

²³ See art. V, s. 16 and art. VIII, s. 1(d), Fla. Const.; ch. 28, F.S.

²⁴ See art. V, s. 16 and art. VIII, s. 1(d), Fla. Const.; ss. 28.12, 125.17, F.S. See also *supra*, note 2.

²⁵ S. 28.36(2)(a), F.S. The Corporation is created expressly to perform certain statutory responsibilities and each clerk is a member. S. 28.35(1)(a), F.S.

²⁶ S. 28.36(3), F.S.

²⁷ S. 28.35(2)(f), F.S.

²⁸ S. 129.03(2), F.S.

²⁹ S. 129.201(1), F.S., referencing ss. 129.01 and 129.03(2), F.S.

³⁰ S. 129.201(2), F.S.

³¹ S. 129.201(7), F.S.

³² S. 129.202(2), F.S.

³³ S. 195.002(1), F.S.

³⁴ S. 195.0021, F.S.

³⁵ S. 195.087(1)(a), F.S.

While such an appeal is pending, the county must fund the DOR-approved budget for the property appraiser.³⁶

DOR requires property appraisers to complete and submit a detailed Budget Form for Property Appraisers, comprised of 17 separate spreadsheets. Exhibit A to the form requires a summary of the proposed budget and expenditures for personnel services, operating expenses, operating capital outlay, and non-operating expenditures, as well as a total number of positions. Subsequent schedules require detailed information about these categories.³⁷

Tax Collector's Budget

Because of DOR's supervision of the administration and collection of ad valorem taxes, most tax collectors must submit their proposed annual budgets for DOR review and approval. As with property appraisers, the budget of the tax collector must be submitted in the form required by DOR and a copy furnished to the county commission.³⁸ DOR requires each tax collector to complete and submit the "Budget Form for Tax Collectors,"³⁹ comprised of 16 separate spreadsheets. The form requires the tax collector provide summary information for categories such as personnel services, operating expenses, and operating capital outlay. The tax collector is required to provide detailed information about the expense categories on additional required schedules and exhibits.

Unlike property appraisers, a tax collector may be exempted from submitting the annual budget to DOR under the following circumstances:

- If the office of tax collector was abolished and the duties moved to another office in accordance with art. VIII, s. 1(d) of the Florida Constitution;⁴⁰
- If the county is one in which the county commission adopted a resolution guaranteeing the income of the tax collector under s. 145.022, F.S.; or
- In a charter county, if the charter expressly provides a different method for submission, review, and approval of the tax collector's budget.⁴¹

DFS Uniform Reporting Requirements

Counties are required to file with DFS a copy of their annual audited financial reports prepared under the requirements of the Auditor General.⁴² For local governments required to file an annual financial report other than a financial audit, DFS has promulgated uniform reporting requirements for local government financial reporting.⁴³

Effect of Proposed Changes

The bill provides that each officer's tentative and final budget must be detailed, must provide a separate line item for proposed expenditures for each program, division, or unit within the office, and must identify any existing or proposed reserves. Each budget also must include a narrative summarizing the budget priorities of the particular county constitutional officer and the changes from the prior year's budget.

³⁶ S. 195.087(1)(b), F.S.

³⁷ DR-484, "Budget Form for Property Appraisers," indexed in Rule 12D-16.002(24), F.A.C.

³⁸ S. 195.087(2), F.S.

³⁹ DR-584, "Budget Form for Tax Collectors," indexed in Rule 12D-16.002(57)(b), F.A.C.

⁴⁰ This exception will cease to apply to most counties after January 5, 2021, and to Broward and Miami-Dade Counties after January 7, 2025. *See supra*, note 2.

⁴¹ Ss. 129.03(2), 195.087(2), F.S.

⁴² S. 218.32(1)(d), F.S. *See* s. 218.39(1)(a), F.S.

⁴³ "Uniform Accounting System Manual, 2014 Edition," created and implemented pursuant to DFS' authority under ss. 129.01, 218.32, F.S. *See* Rule 69I-51.0012, F.A.C.

The tentative budget must be posted on the county's official website at least two days before the public hearing and must be identified separately from the tentative budget of the county as a whole to clearly demarcate the constitutional officers' budgets.

These changes are made by amending two statutes. The revised criteria are added to the criteria of s. 129.021, F.S., governing the information required in the budgets submitted to the board of county commissioners by the sheriff, clerk of the circuit court and county comptroller, supervisor of elections, and certain tax collectors. The criteria are also added to s. 195.087, F.S., governing the information required in budgets submitted to DOR by property appraisers and most other tax collectors.⁴⁴

B. SECTION DIRECTORY:

Section 1 amends s. 129.021, F.S., providing criteria for submitting tentative and final budgets submitted by specified county constitutional officers; requiring the tentative budget to be separately identified from the tentative budget of the county as a whole when posted to the county's website.

Section 2 amends s. 195.087, F.S., providing criteria for submitting tentative and final budgets by the property appraiser and tax collector; requiring posting of both the tentative and final budgets on the constitutional officer's website.

Section 3 provides an effective date of July 1, 2019.

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:

Indeterminate. See Fiscal Comments.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

The bill requires the five county constitutional officers to provide greater detail and itemization of expense items in their proposed budgets. As counties are required to file audited financial statements annually, whether prepared by the Auditor General or an independent auditor, the county constitutional

⁴⁴ A county charter may provide an alternative process for submission, review, and oversight of the tax collector's budget, exempting the tax collector from DOR oversight. See s. 195.087(2), F.S. See also Rule 12D-11.001(2)(c), F.A.C., which identifies Broward, Miami-Dade, Duval, Sarasota, and Volusia counties.

officers already must provide detailed financial information for such audits. The additional detail required in the bill would appear to create an insignificant expense.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The county/municipality mandates provision of Art. VII, Section 18 of the Florida Constitution may apply because this bill may require some additional expense to provide more detailed budget information; however, an exemption may apply because any additional expense is expected to be insignificant.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill neither authorizes nor requires administrative rulemaking by executive branch agencies.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On February 13, 2019, the Local, Federal & Veterans Affairs Subcommittee adopted a strike-all amendment and reported the bill favorably as a committee substitute. The amendment removed the requirement for the property appraiser to submit a tentative budget for consideration and approval by the county commission. The amendment relocated the additional criteria for county constitutional officer budgets to the existing statute pertaining to such budgets and also included the same criteria in the statutory requirements for property appraisers and tax collectors to file their budgets with the Department of Revenue.

This analysis is drafted to the committee substitute as approved by the Local, Federal & Veterans Affairs Subcommittee.