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LEGISLATIVE ACTION

| Senate | . | House |
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| Comm: RCS | . | |
| 04/20/2023 | . | |
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The Committee on Rules (Burgess) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Subsection (5) is added to section 30.15,
Florida Statutes, to read:

30.15 Powers, duties, and obligations.—

(5) As required by s. 1(d), Art. VIII of the State
Constitution, there shall be an elected sheriff in each county,
and the transfer of the sheriff's duties to another officer or
office is prohibited.



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12 (a) Unless otherwise authorized under state law, the
13 sheriff shall have exclusive policing jurisdiction in the
14 unincorporated areas of each county. The sheriff's jurisdiction
15 and powers must run throughout the entire county regardless of
16 whether there are incorporated cities or other independent
17 districts or governmental entities in the county. The sheriff's
18 jurisdiction is concurrent with any city, district, or other law
19 enforcement agency that has jurisdiction in a city or district.

20 (b) A police department or other policing entity may not be
21 maintained or established by the county's board of county
22 commissioners, or any other county legislative body, to provide
23 any policing in the unincorporated areas of any county. Unless
24 otherwise authorized under state law, only the duly elected
25 sheriff may provide such policing and police functions in the
26 unincorporated areas of any county. A county may not contract
27 with or engage in any manner with an incorporated city's or
28 district's police department to provide any services provided by
29 the sheriff, including policing or police functions in the
30 unincorporated areas of any county. Nothing in this paragraph
31 affects the jurisdiction or powers of any agency of this state
32 or the United States or prohibits mutual aid agreements between
33 the sheriff and any other police department.

34 Section 2. Section 125.01015, Florida Statutes, is created
35 to read:

36 125.01015 Office of sheriff.—

37 (1) As required by s. 1(d), Art. VIII of the State
38 Constitution, there shall be an elected sheriff in each county.
39 Notwithstanding anything in this section to the contrary, a
40 county as defined in s. 125.011(1) shall, as required by s.



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41 6(g), Art. VIII of the State Constitution, elect a sheriff, and
42 the board of county commissioners of any such county shall
43 ensure a successful transfer of the exclusive policing
44 responsibility and authority to the sheriff in areas of such
45 county for which the sheriff has responsibility.

46 (2) To ensure successful transfer of exclusive policing
47 responsibility to the sheriff in a county as defined in s.
48 125.011(1), the board of county commissioners of such county
49 shall:

50 (a) Before the election of the sheriff, do all of the
51 following:

52 1. Develop and approve a budget for the office of the
53 sheriff for the county fiscal year in which the election will
54 occur and the sheriff will take office which adequately funds
55 the office of the sheriff so that the sheriff may properly
56 perform all of his or her duties upon taking office. The budget
57 must be consistent with the requirements of s. 30.49. The budget
58 for the fiscal year in which the sheriff-elect will take office
59 must consider the sheriff's initial budget requirements as
60 mitigated by the transfer of assets from existing county
61 departments to the office of the sheriff.

62 2. To mitigate initial funding requirements and eliminate
63 duplicate funding, conduct an inventory and audit of all assets,
64 and their associated liabilities, of any county department that
65 now performs any function that will be performed or administered
66 by the elected sheriff. Based on the inventory and audit, the
67 county shall determine which of those assets, and their
68 associated liabilities, must be transferred to the office of the
69 sheriff upon the sheriff-elect taking office. The inventory and



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70 audit must be completed before the county adopts its budget for
71 the budget year in which the sheriff will take office. The
72 inventory and audit must be published on the county's website at
73 least 60 days prior to the county adopting its budget for the
74 fiscal year in which the sheriff will take office. The budget
75 approved by the county for the fiscal year in which the sheriff
76 will take office must provide funding to purchase all basic
77 necessary operating equipment, including, but not limited to,
78 furniture, fixtures and equipment, and information technology
79 hardware and software, which is not specifically designated for
80 transfer from the county to the office of the sheriff based on
81 the inventory required in this subparagraph or otherwise
82 provided to the new office of the sheriff by the county through
83 an interlocal agreement as described in sub-subparagraph (b)6.d.

84 (b) After the election of the sheriff is certified, do all
85 of the following:

86 1. Provide funding for all of the necessary staff and
87 office space for the sheriff-elect to establish an independent
88 office of the sheriff, to allow the office to effectively
89 operate and perform all of the functions required by general law
90 on the date he or she takes office.

91 2. Provide funding for the sheriff-elect to purchase any
92 necessary insurance not provided by the county through the
93 interlocal agreement required under sub-subparagraph 6.d., to
94 allow the sheriff to effectively operate and perform all of the
95 functions required by general law on the date that he or she
96 takes office.

97 3. Provide funding for the sheriff-elect to establish bank
98 and other accounts, as necessary, in his or her official



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99 capacity as sheriff, so that such accounts may become
100 operational upon his or her taking office.

101 4. Unless otherwise transferable based on existing surety
102 bonds for the sheriff's deputies, provide funding for and
103 facilitate procurement of the required surety bonds for deputy
104 sheriffs pursuant to s. 30.09, so that such bonds are in place
105 upon the sheriff-elect taking office.

106 5. Prepare and deliver to the office of the sheriff all
107 documents, property, or other items listed in subsection (4).

108 6. Notwithstanding anything in this section to the
109 contrary, for a term commencing January 7, 2025, and ending no
110 sooner than September 30, 2028, provide that a sheriff taking
111 office, and the sheriff of such county shall use, at least
112 substantially and materially the same support services,
113 facilities, office space, and information technology
114 infrastructure that such county, during the 1-year period
115 immediately preceding the sheriff taking office, provided to any
116 of its offices or county departments that performed duties to be
117 performed by the sheriff upon taking office.

118 a. As used in this subparagraph, the term "support
119 services" includes:

120 (I) Property and facilities and the management and
121 maintenance of such property and facilities;

122 (II) Communications infrastructure, including telephone and
123 Internet connectivity;

124 (III) Risk management, to include processing, adjusting,
125 and payment of all claims and demands, including those made
126 under s. 768.28. The board of county commissioners shall provide
127 the sheriff with all required general liability, property, and



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128 other insurance coverage either through its self-insurance
129 program, a self-insurance risk pool, or commercial insurance. If
130 the county provides insurance through a self-insurance program,
131 it must also provide the sheriff with commercial stop-loss
132 coverage at an amount and with a self-insured retention agreed
133 upon by the sheriff and the county;

134 (IV) Legal representation and advice through the county
135 attorney's office for all claims, demands, and causes of action
136 brought against the sheriff, his or her deputies, or other
137 personnel in their official and individual capacities, while
138 acting in their official capacities, including any required
139 outside counsel due to representation conflicts. This section
140 does not prohibit the sheriff from employing or retaining his or
141 her own legal representation as the sheriff deems necessary;

142 (V) Purchasing and procurement services using procedures
143 under the laws and ordinances applicable to the county for
144 purchases requiring competitive procurement;

145 (VI) Budget and fiscal software and budget development
146 services;

147 (VII) Human resource services, including, but not limited
148 to, employee applicant screening, applicant background checks,
149 facilitation of the hiring process, and employee benefit
150 administration. The county provides human resources services to
151 the sheriff, but the sheriff is the employer of his or her
152 employees and the sheriff retains full and complete control over
153 his or her employees' hiring and terms and conditions of
154 employment, including employee discipline and termination of
155 employment. The provision of human resource services by the
156 county to the sheriff does not create a joint-employer



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157 relationship. The sheriff's employees remain members of the
158 county's health insurance and workers' compensation plans for at
159 least the term set forth in this subparagraph; and

160 (VIII) Fleet management, including procurement of all
161 vehicles and other mobile assets, such as boats and aircraft,
162 and all vehicle repair and maintenance.

163 b. At a minimum, the information technology infrastructure
164 provided by the county to the sheriff under this subsection must
165 include all hardware, including computers; budget and fiscal
166 software, including payroll and purchasing software; and
167 computer-aided dispatch.

168 c. Under a cost allocation plan agreed to by the county and
169 the sheriff, the sheriff shall pay the county for such support
170 services and information technology infrastructure from his or
171 her general fund budget, except for any support services and
172 information technology infrastructure costs that state law
173 otherwise and expressly requires the county to fund outside the
174 sheriff's budget.

175 d. To satisfy compliance with this subsection and to
176 establish the office of sheriff in a manner that minimizes
177 unnecessary financial expenditures, the county and the sheriff
178 shall execute an interlocal cooperation agreement addressing the
179 requirements of this subsection and other expenditures,
180 including an appropriate phase-in period for identification of
181 sheriff's assets with sheriff's markings to minimize cost to
182 taxpayers. The interlocal cooperation agreement must have a term
183 that ends no earlier than September 30, 2028, and may be
184 amended, renewed, extended, or adopted at any time following the
185 expiration or termination thereof for any additional time



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186 periods that a county and the sheriff agree upon. After the
187 initial period ending no sooner than September 30, 2028, any new
188 or continuing voluntary interlocal cooperation agreement between
189 the county and the sheriff may provide for the same or different
190 requirements than those set forth in this subsection.

191 (3) After the election is certified and before taking
192 office, the sheriff-elect shall:

193 (a) Select staff to assist the sheriff-elect in
194 establishing an independent office of the sheriff.

195 (b) Retain independence in the selection and hiring of
196 personnel. All personnel hired by the sheriff are employees of
197 the sheriff and not the county. The sheriff retains all control
198 over the terms and conditions of all his or her employees,
199 including procedures regarding employment, setting of salaries,
200 and termination of such personnel. However, the sheriff shall
201 use county human resource services for the period of time
202 established in the interlocal agreement entered into between the
203 county and the sheriff as described in sub-subparagraph

204 (2) (b) 6.d.

205 (c) Establish bank and other accounts, as necessary, in his
206 or her official capacity as sheriff, to allow such accounts to
207 become operational upon his or her taking office.

208 (d) Obtain all necessary insurance or establish self-
209 insurance, to take effect upon the sheriff taking office, unless
210 the county is providing such insurance under the interlocal
211 agreement described in sub-subparagraph (2) (b) 6.d.

212 (e) Evaluate the budget and transfer of equipment as
213 described in this section to determine whether the operating,
214 capital, and personnel services budget is sufficient for the



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215 sheriff to operate and fulfill his or her constitutional and
216 statutory responsibilities.

217 (f) Provide written notice of any funding deficiencies to
218 the board of county commissioners, which must respond and reach
219 an agreement with the sheriff-elect on funding requirements
220 within 30 days after such notice. If, after expiration of the
221 30-day period, an agreement has not been reached, the sheriff-
222 elect may file an appeal by petition to the Administration
223 Commission pursuant to s. 30.49(4) (a). The Administration
224 Commission shall expedite its review and determination of such
225 petition and render a decision within 90 days after it is filed.

226 (4) The sheriff, upon taking office, shall take receipt or
227 possession of any of the following:

228 (a) Unexecuted writs and court processes, and shall comply
229 with s. 30.14(3) as to any levy made before taking receipt of
230 such unexecuted writs and court processes.

231 (b) Property confiscated under the Florida Contraband
232 Forfeiture Act established in s. 932.701, and the sheriff shall
233 determine whether to pursue the forfeiture proceedings pursuant
234 to s. 932.704.

235 (c) Records, papers, documents, or other writings,
236 including those concerning open investigations, necessary for
237 the sheriff to perform his or her required duties.

238 (d) Property held in evidence by any county department
239 relating to a case that is under the jurisdiction of the office
240 of the sheriff.

241 (5) In any county as defined in s. 125.011(1), which is
242 required to elect a sheriff under s. 6(g), Art. VIII of the
243 State Constitution, and when the county provides contracted



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244 police services to any municipality in that county prior to the
245 elected sheriff taking office, the sheriff shall, for a minimum
246 of 3 years from the time he or she takes office, continue to
247 provide police services to that municipality by doing any of the
248 following:

249 (a) Assuming the contract in place between the county and
250 the municipality at the time the sheriff takes office.

251 (b) Negotiating a new contract with the municipality.

252 (c) Otherwise providing policing services to the
253 municipality at the same level that the municipality received
254 policing services from the county during the 1-year period prior
255 to the sheriff taking office.

256
257 This subsection does not prevent a municipality from
258 establishing its own police department or otherwise providing
259 for police services as allowed by law before expiration of the
260 3-year period established in this subsection.

261 (6) If any provision of this section or its application to
262 any person or circumstance is held invalid, the invalidity does
263 not affect any other provisions or applications of this section
264 which can be given effect without the invalid provision or
265 application, and to this end the provisions of this section are
266 severable.

267 Section 3. Present subsections (6), (7), and (8) of section
268 166.241, Florida Statutes, are redesignated as subsections (7),
269 (8), and (9), respectively, a new subsection (6) is added to
270 that section, and subsections (4) and (5) and present subsection
271 (8) of that section are amended, to read:

272 166.241 Fiscal years, budgets, appeal of municipal law



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273 enforcement agency budget, and budget amendments.-

274 (4) (a) If the tentative budget of a municipality contains a
275 funding reduction to the operating budget of the municipal law
276 enforcement agency of more than 5 percent compared to the
277 current fiscal year's approved operating budget, the state
278 attorney for the judicial circuit in which the municipality is
279 located, ~~or a member of the governing body who objects to the~~
280 ~~funding reduction~~, may file a petition with an appeal by
281 ~~petition to the~~ Division of Administrative Hearings pursuant to
282 s. 120.569 requesting a hearing to challenge the reduction in
283 the municipal law enforcement agency's proposed operating
284 budget. The petition must be filed with the division
285 ~~Administration Commission~~ within 10 ~~30~~ days after the day the
286 tentative budget is posted to the official website of the
287 municipality under subsection (3) and the petitioner must serve
288 a copy of the petition on the affected municipality. The
289 petition must set forth the tentative budget proposed by the
290 municipality and, ~~in the form and manner prescribed by the~~
291 ~~Executive Office of the Governor and approved by the~~
292 ~~Administration Commission~~, the operating budget of the municipal
293 law enforcement agency as approved by the municipality for the
294 previous year, ~~and~~ must state the reasons or grounds for the
295 petition appeal. The petition shall be filed with the Executive
296 ~~Office of the Governor and a copy served upon the governing body~~
297 ~~of the municipality or to the clerk of the circuit court of the~~
298 ~~county in which the municipality is located.~~

299 (b) The governing body of the municipality must file an
300 answer with the division and must serve a copy of the answer on
301 the petitioner within ~~has~~ 5 working days, excluding Saturdays,



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302 ~~Sundays, and legal holidays, after receipt of service of a copy~~
303 ~~of the petition to file a reply with the Executive Office of the~~
304 ~~Governor and shall serve a copy of such reply to the petitioner.~~

305 (5)(a) Upon receipt of the petition, the division must
306 assign an administrative law judge to conduct ~~Executive Office~~
307 ~~of the Governor shall provide for a budget hearing no later than~~
308 20 days after the petition is filed, at which the matters
309 presented in the petition and the answer must ~~reply shall be~~
310 considered. Notwithstanding s. 120.57, all proceedings under
311 this subsection shall be conducted by an administrative law
312 judge assigned by the division ~~A report of the findings and~~
313 ~~recommendations of the Executive Office of the Governor thereon~~
314 ~~shall be promptly submitted to the Administration Commission,~~
315 ~~which, within 30 days, shall approve the action of the governing~~
316 ~~body of the municipality or amend or modify the budget as to~~
317 ~~each separate item within the operating budget of the municipal~~
318 ~~law enforcement agency. The budget as approved, amended, or~~
319 ~~modified by the Administration Commission shall be final.~~

320 (b) At the hearing, the petitioner and the municipality may
321 present all information relevant to the municipal law
322 enforcement agency's budgetary needs and requirements,
323 including, but not limited to:

324 1. The proposed operating budget approved by the
325 municipality;

326 2. The municipality's grounds for proposing a reduction in
327 funding to the current fiscal year's law enforcement operating
328 budget;

329 3. The petitioner's grounds for challenging the proposed
330 reduction in funding to the law enforcement operating budget;



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331 4. The operating budgets of other public entities in the
332 municipality;

333 5. The operating budgets of other law enforcement agencies
334 in municipalities that are of comparable size;

335 6. The municipal law enforcement agency's staffing needs
336 and budgetary requirements for the current fiscal year and the 2
337 previous fiscal years;

338 7. The draft municipal law enforcement agency operating
339 budget, budget amendments, and budget meeting minutes from the
340 current fiscal year and the 2 previous fiscal years;

341 8. The revenue and projected revenue available to the
342 municipality and any change in the amount of revenue collected
343 over the previous 3 fiscal years; and

344 9. Any other information relevant to the municipal law
345 enforcement agency's operating budget.

346 (6) (a) Within 15 days after the hearing, the administrative
347 law judge must issue a final order either approving or rejecting
348 the proposed operating budget for the municipal law enforcement
349 agency by determining whether the proposed reduction will impair
350 the law enforcement agency's overall ability to ensure public
351 safety. In making the determination, the administrative law
352 judge must make findings regarding whether the funding reduction
353 in the proposed operating budget of the municipal law
354 enforcement agency will result in:

355 1. A reduction of the number of law enforcement officers
356 employed by the municipality;

357 2. A reduction or an elimination of public safety programs
358 or initiatives provided by the agency; or

359 3. A lack of appropriate equipment necessary to ensure



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360 officer safety.

361 (b) The administrative law judge's final order is
362 appealable pursuant to s. 120.68, and any such judicial review
363 must be sought in the First District Court of Appeal.

364 (9)~~(8)~~ If the governing body of a municipality amends the
365 budget pursuant to paragraph (8) (c) ~~(7) (e)~~, the adopted
366 amendment must be posted on the official website of the
367 municipality within 5 days after adoption and must remain on the
368 website for at least 2 years. If the municipality does not
369 operate an official website, the municipality must, within a
370 reasonable period of time as established by the county or
371 counties in which the municipality is located, transmit the
372 adopted amendment to the manager or administrator of such county
373 or counties who shall post the adopted amendment on the county's
374 website.

375 Section 4. This act shall take effect upon becoming a law.

376

377 ===== T I T L E A M E N D M E N T =====

378 And the title is amended as follows:

379 Delete everything before the enacting clause
380 and insert:

381 A bill to be entitled
382 An act relating to law enforcement operations;
383 amending s. 30.15, F.S.; revising the powers, duties,
384 and obligations of a sheriff; creating s. 125.01015,
385 F.S.; requiring that there be an elected sheriff in
386 each county; requiring that certain counties elect a
387 sheriff and that the board of commissioners of such
388 counties ensure a successful transfer of certain



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389 responsibility and authority to the sheriff in areas
390 of the county for which the sheriff has
391 responsibility; providing requirements for the board
392 of county commissioners regarding transfer of certain
393 responsibility and authority to the sheriff; defining
394 the term "support services"; providing requirements of
395 the sheriff-elect after the election is certified and
396 before he or she takes office; providing requirements
397 for a sheriff-elect before, and a sheriff upon, taking
398 office; requiring the sheriff, upon taking office, to
399 take receipt of certain items and property; requiring
400 the sheriff to provide contracted police services for
401 certain municipalities for a specified timeframe;
402 requiring the sheriff and certain municipalities to
403 enter into a new contract or to provide certain
404 policing services to the municipality; providing
405 construction; providing for severability and
406 applicability; amending s. 166.241, F.S.; authorizing
407 certain persons to file a petition with the Division
408 of Administrative Hearings, rather than an appeal by
409 petition to the Administration Commission, if the
410 tentative budget of a municipal law enforcement agency
411 contains a reduction greater than a specified
412 percentage; providing requirements for such petition
413 and petitioner; requiring the governing body of the
414 municipality to file an answer with the division and
415 serve a copy of such answer on the petitioner within a
416 certain timeframe; requiring the division to assign an
417 administrative law judge to conduct a hearing on such



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418 petition within a certain timeframe; providing
419 procedures for such hearings; requiring the
420 administrative law judge to make a specified
421 determination and issue a final order within a certain
422 timeframe; providing requirements for making such
423 determination; providing that such final order is
424 appealable; providing requirements for such appeal;
425 providing an effective date.