

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 Governmental Oversight and Accountability

BILL: CS/SB 696

INTRODUCER: Community Affairs Committee and Senator Ingoglia

SUBJECT: Local Officials

DATE: April 4, 2023

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Hackett</u>	<u>Ryon</u>	<u>CA</u>	Fav/CS
2.	<u>Harmsen</u>	<u>McVaney</u>	<u>GO</u>	Favorable
3.	_____	_____	<u>RC</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 696 provides that certain local government employee contracts shall not be renewed, extended, or renegotiated within 8 months of a general election for members of the applicable governing body. This applies to:

- County administrators;
- County general counsels;
- Municipal chief executive officers;
- Municipal general counsels;
- School superintendents; and
- School board general counsels.

The bill provides an exception when the employee produces a competing employment offer from another governmental entity.

The bill takes effect July 1, 2023.

II. Present Situation:

Local Government Employees

Local governments have broad authority to contract with or employ personnel for the wide variety of tasks they accomplish. This authority is limited only narrowly by statute, which

generally forbids the payment of extra compensation and sets limits on severance pay for all employees of a governmental unit.¹ Severance pay may not exceed 20 weeks' compensation, and must not be granted when the employee has been fired for misconduct.²

County Administrator

Counties are required to employ a county administrator, who acts as the administrative head of the county and is responsible for the administration of all departments of the county government.³ The county administrator is appointed by a majority of the board of county commissioners, and must reside within the county during their tenure. The board of county commissioners fixes the county administrator's compensation.

School Superintendents

A school superintendent, the administrative head of a district school board, may be either appointed by the district school board or elected for four-year terms.⁴ A district school board must enter into an employment contract with an appointed district school superintendent which provides a reasonable salary not exceeding \$225,000 in total remuneration.⁵ These contracts are subject to the provisions of law limiting bonuses and severance pay.⁶ An elected superintendent is not an employee, and receives a statutory salary similarly to other elected officials.⁷

Local Government Attorneys and Municipal Chief Executive Officers

While local governments are not required by law to employ an attorney, and municipalities are not required to employ a chief executive officer,⁸ the practice of hiring such personnel is common, such that these roles are referred to by various statutes.⁹ These roles may be full time employees, fulfilled through contract work as needed, or divided into several smaller roles, as needed by the local government.

The term "general counsel" is not defined in statute but is commonly understood to mean the chief legal advisor to the body.¹⁰ A general counsel of a county usually serves under the title "County Attorney,"¹¹ and may employ assistant county attorneys or staff attorneys. Similarly, a

¹ Section 215.425, F.S.

² Section 215.425(4), F.S.

³ Section 125.73, F.S.

⁴ FLA. CONST. Art. IX, s. 5. Districts may decide which system to use, changing from one to the other by referendum.

⁵ Section 1001.50(3) and (5), F.S.

⁶ Section 1001.50(2), F.S.

⁷ Section 1001.47, F.S.

⁸ Often referred to as a city or town manager.

⁹ See, e.g. ss 193.116, F.S. (referring to "the chief executive officer of each municipality"), 194.035, F.S. (referring to a school board attorney), and 409.2554, F.S. (referring to county and city attorneys).

¹⁰ Merriam-Webster, *Merriam-Webster.com Legal Dictionary*, <https://www.merriam-webster.com/legal/general%20counsel> (last visited Apr. 4, 2023).

¹¹ See, e.g., Alachua County, *County Attorney*, <https://alachuacounty.us/depts/attorney/Pages/CountyAttorney.aspx> (last visited Apr. 4, 2023); Miami-Dade County, *County Attorney*, <https://www.miamidade.gov/attorney/> (last visited Apr. 4, 2023); Lake County, *Lake County Attorney*, <https://www.lakecountyfl.gov/county-attorney> (last visited Apr. 4, 2023).

city or municipality tends to employ a “city attorney” who may have subordinate assistant city attorneys.¹² School districts tend to employ a “general counsel.”¹³

Local Government Elections

General elections are held each November, with a corresponding primary in the preceding August.¹⁴ County commissioners and school board members are elected at general elections in staggered terms,¹⁵ while the governing body of a municipality may be elected on a different schedule if altered by ordinance.¹⁶

III. Effect of Proposed Changes:

The bill amends and creates various statutes to provide that certain local government employee contracts shall not be renewed, extended, or renegotiated within 8 months of a general election for members of the applicable governing body. The bill applies this provision to:

- County administrators;
- County general counsels;
- Municipal chief executive officers;
- Municipal general counsels;
- School superintendents; and
- School board district general counsels.

The bill provides for an exception to this provision when the employee produces a bona fide, written, competing employment offer from another governmental entity.¹⁷

The bill takes effect July 1, 2023.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Not applicable. The mandate restrictions do not apply because the bill does not require counties and municipalities to spend funds, reduce counties’ or municipalities’ ability to

¹² See, e.g., Ft. Lauderdale, *City Attorney’s Office*, <https://www.fortlauderdale.gov/government/departments-a-h/city-attorney-s-office> (last visited Apr. 4, 2023); Ft. Pierce, *City Attorney*, <https://www.cityoffortpierce.com/139/City-Attorney> (last visited Apr. 4, 2023); and City of Boca Raton, *City Attorney*, <https://www.myboca.us/648/City-Attorney> (last visited Apr. 4, 2023).

¹³ See, e.g., Palm Beach County School District, *General Counsel’s Office*, <https://www.palmbeachschools.org/domain/467> (last visited Apr. 4, 2023); Escambia County School District, *General Counsel Staff*, https://ecsd-fl.schoolloop.com/gen_counsel/staff (last visited Apr. 4, 2023); and The School District of Lee County, *Office of Legal Services*, https://www.leeschools.net/our_district/departments/legal_services (last visited Apr. 4, 2023).

¹⁴ Sections 100.031 and 100.061, F.S.

¹⁵ Section 100.041, F.S.

¹⁶ Section 100.3605, F.S.

¹⁷ “Government entity” as defined by 287.012(14), F.S., to mean a political subdivision or agency of this state or of any state of the United States, including, but not limited to, state government, county, municipality, school district, nonprofit public university or college, single-purpose or multipurpose special district, single-purpose or multipurpose public authority, metropolitan or consolidated government, separate legal entity or administrative entity, or any agency of the Federal Government.

raise revenue, or reduce the percentage of state tax shared with counties and municipalities.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

Local government attorneys and municipal chief executive officers are not positions defined by law, and as such the provisions of the bill may apply unevenly among the wide variety of local governments depending on positions employed and duties those positions hold. Additionally, as not all employees have an employment contract, the provisions of the bill may not apply clearly in some situations.

VIII. Statutes Affected:

This bill substantially amends sections 125.73, 166.021, 1001.50, and 112.061 of the Florida Statutes.

This bill creates sections 125.75 and 1012.336 of the Florida Statutes.

IX. Additional Information:

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

CS by Community Affairs on March 22, 2023:

The CS, respectively for each provision of the bill, reduces the timeframe during which a local government cannot alter contracts with certain employees from 12 months prior to a primary election to 8 months prior to a general election, and introduces an exemption for situations when the employee produces a competing employment offer from another governmental entity.

- B. **Amendments:**

None.