

**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** PCS for CS/HB 1447 Independence of Sheriffs

**SPONSOR(S):** State Affairs Committee

**TIED BILLS:** **IDEN./SIM. BILLS:** CS/CS/SB 1704

<b>REFERENCE</b>	<b>ACTION</b>	<b>ANALYST</b>	<b>STAFF DIRECTOR or BUDGET/POLICY CHIEF</b>
Orig. Comm.: State Affairs Committee		Mwakyanjala	Williamson

**SUMMARY ANALYSIS**

The Florida Constitution permits the government of a county and the government of one or more municipalities to be consolidated into a single government that may exercise any and all powers of the county and the several municipalities. A consolidation plan may be proposed only by special law, which becomes effective if approved by vote of the electors of the county, or of the county and municipalities affected, as may be provided in the plan.

There are currently 66 elected sheriffs in Florida’s 67 counties. Each sheriff must annually prepare and submit to the board of county commissioners a budget for carrying out the powers, duties, and operations of the office for the next fiscal year. The sheriff must submit a sworn certificate along with the proposed budget stating that the proposed expenditures are reasonable and necessary for the proper and efficient operation of the office for the next fiscal year. The proposed budget must contain details concerning the fund and functional categories, as well as object and subobject code levels. Once the budget is approved by the board of county commissioners or budget commission, the sheriff may move funds between those categories without the approval of the board or budget commission.

Current law preserves the independence of sheriffs as a constitutional officer concerning the purchase of supplies and equipment, selection of personnel, and the hiring, firing, and setting of salaries of such personnel.

The bill specifies that a sheriff in a consolidated government may transfer funds between the fund and functional and object and subobject code levels after the budget has been approved. It authorizes such a budget to be approved by a city council in addition to the board of county commissioners or budget commission. The bill provides that the independence of sheriffs concerning the purchase of supplies and equipment and the management of personnel applies to a sheriff in a consolidated government. It also revises the provisions concerning the independence of sheriffs to include procurement, which is applicable to all sheriffs, including sheriffs in a consolidated government.

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

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### Present Situation

##### Consolidated Governments

The Florida Constitution permits the government of a county and the government of one or more municipalities to be consolidated into a single government which may exercise any and all powers of the county and the several municipalities.<sup>1</sup> This applies to counties operating under authority as authorized by the Florida Constitution of 1885.<sup>2</sup> For example, following a consolidation referendum held in 1967, the governments of the city of Jacksonville and Duval County merged on October 1, 1968, to create the consolidated city of Jacksonville.<sup>3</sup> A consolidation plan may be proposed only by special law, which becomes effective if approved by vote of the electors of the county, or of the county and municipalities affected, as may be provided in the plan.<sup>4</sup>

##### Office of the Sheriff

There are currently 66 elected sheriffs<sup>5</sup> in Florida's 67 counties.<sup>6</sup> Sheriffs, in their respective counties, in person or by deputy must:

- Execute all process of the Supreme Court, circuit courts, county courts, and boards of county commissioners of this state, to be executed in their counties.
- Execute such other writs, processes, warrants, and other papers directed to them, as may come to their hands to be executed in their counties.
- Attend all sessions of the circuit court and county court held in their counties.
- Execute all orders of the boards of county commissioners of their counties.
- Be conservators of the peace in their counties.
- Suppress tumults, riots, and unlawful assemblies in their counties with force and strong hand when necessary.
- Apprehend, without warrant, any person disturbing the peace, and carry that person before the proper judicial officer, that further proceedings may be had against him or her according to law.
- Have authority to raise the power of the county and command any person to assist them, when necessary, in the execution of the duties of their office.
- Be ex officio timber agents for their counties.
- Perform such other duties as may be imposed upon them by law.
- Assist district school boards and charter school governing boards in complying with, or private schools in exercising options in, s. 1006.12, F.S.<sup>7</sup>

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<sup>1</sup> Art. VIII, s. 3, Fla. Const. The Florida Constitution defines counties as political subdivisions that may be created, abolished, or changed by law, with provision for payment or apportionment of the public debt. A county may operate under its own charter, which is a formal document granting powers and imposing duties on a specific government. Art. VIII, s. 1(a), Fla. Const. Section 180.01, F.S., defines the term "municipality" to mean any city, town, or village duly incorporated under the laws of the State.

<sup>2</sup> See ss. 9, 10, 11, and 24, Art. VIII of the State Constitution of 1885, as preserved by Art. VIII, s. (6)(e), Fla. Const. Sections 9, 10, 11, and 24, Art. VIII of the State Constitution of 1885 provide for consolidation and establish home rule authority for Duval County, Monroe County, Miami-Dade County, and Hillsborough County, respectively.

<sup>3</sup> Ch. 67-1320, Laws of Fla.; The Jacksonville History Center, *Consolidation*, <https://www.jaxhistory.org/consolidation-2/#:~:text=A%20consolidation%20referendum%20was%20held,the%20consolidated%20City%20of%20Jacksonville> (last visited Feb. 2, 2024).

<sup>4</sup> Art. VIII, s. 3, Fla. Const.

<sup>5</sup> See s. 30.15, F.S., for the powers, duties, and obligations of sheriffs.

<sup>6</sup> The Miami-Dade County Charter abolishes the office of sheriff, transfers its duties and responsibilities to the mayor of Miami-Dade County, and authorizes the mayor to delegate the functions of the sheriff to a "suitable person or persons." Miami-Dade County Charter, s. 9.01. However, Miami-Dade County will have an elected sheriff beginning with the 2024 general election. See Art. VIII, ss. 1(d) and 6(g)(2), Fla. Const. (prohibiting a county charter from abolishing the offices of county constitutional officers and providing an effective date of January 7, 2025, with elections held during the 2024 primary and general election, for county officers in Miami-Dade County).

<sup>7</sup> S. 30.15(1), F.S. Section 1006.12, F.S., provides that for the protection and safety of school personnel, property, students, and visitors, each district school board and school district superintendent must partner with law enforcement agencies or security agencies to establish or assign one or more safe-school officers at each school facility within the district, including charter schools.

Current law preserves the independence of sheriffs as a constitutional officer concerning the purchase of supplies and equipment, selection of personnel, and the hiring, firing, and setting of salaries of such personnel.<sup>8</sup>

### Sheriff Budgets

Each sheriff must annually prepare and submit to the board of county commissioners a budget for carrying out the powers, duties, and operations of the office for the next fiscal year.<sup>9</sup> The sheriff must submit a sworn certificate along with the proposed budget stating that the proposed expenditures are reasonable and necessary for the proper and efficient operation of the office for the next fiscal year.<sup>10</sup> The proposed budget must show the estimated amounts of all proposed expenditures for operating and equipping the sheriff's office and jail, excluding the cost of construction, repair, or capital improvement of county buildings during the fiscal year.<sup>11</sup> The expenditures must be categorized at the appropriate fund level in accordance with the following functional categories:

- General law enforcement.
- Corrections and detention alternative facilities.
- Court services, excluding service of process.<sup>12</sup>

Within the appropriate fund and functional category, expenditures must be itemized into subobject code levels in accordance with the uniform accounting system prescribed by the Department of Financial Services (DFS) as follows:

- Personnel services.
- Operating expenses.
- Capital outlay.
- Debt service.
- Grants and aids.
- Other uses.<sup>13</sup>

The sheriff must submit to the board of county commissioners for consideration and inclusion in the county budget, as deemed appropriate by the county, requests for construction, repair, or capital improvement of county buildings operated or occupied by the sheriff.<sup>14</sup> The sheriff must also submit to the board of county commissioners or the budget commission, if there is a budget commission in the county, all relevant and pertinent information concerning expenditures made in previous fiscal years and proposed expenditures which the board or commission deems necessary, including expenditures at the subobject code level in accordance with the uniform accounting system prescribed by DFS.<sup>15</sup> The board or commission may not amend, modify, increase, or reduce any expenditure at the subobject code level.<sup>16</sup>

The board of county commissioners or the budget commission, as appropriate, may require the sheriff to correct mathematical, mechanical, factual, and clerical errors and errors as to form in the proposed budget.<sup>17</sup> The board or commission may amend, modify, increase, or reduce any or all items of expenditure in the proposed budget as certified by the sheriff at hearings held under s. 200.065, F.S., and must approve such budget as amended, modified, increased, or reduced.<sup>18</sup>

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<sup>8</sup> S. 30.53, F.S.

<sup>9</sup> S. 30.49(1), F.S.

<sup>10</sup> S. 30.49(2)(b), F.S.

<sup>11</sup> S. 30.49(2)(a), F.S.

<sup>12</sup> *Id.*

<sup>13</sup> S. 30.49(2)(c), F.S.

<sup>14</sup> S. 30.49(2)(d), F.S.

<sup>15</sup> S. 30.49(3), F.S.

<sup>16</sup> *Id.*

<sup>17</sup> S. 30.49(4), F.S.

<sup>18</sup> *Id.*; Section 200.065, F.S., specifies the procedures by which a taxing authority must prepare and consider tentative and final budgets.

The sheriff may file an appeal by petition to the Administration Commission.<sup>19</sup> Upon receipt of the petition, the Executive Office of the Governor must provide for a budget hearing to consider the matters presented in the petition.<sup>20</sup> The budget as approved, amended, or modified by the Administration Commission is final.<sup>21</sup> Once the budget is approved by the board of county commissioners or budget commission, a sheriff may transfer funds between fund and functional categories and object and subobject code levels without approval by the board of county commissioners or budget commission.<sup>22</sup>

### Sheriffs in Consolidated Governments

Florida law defines the sheriff as the constitutional officer elected in accordance with ch. 30, F.S., and specifies that, as required by Art. VIII, s. 1(d) of the Florida Constitution, there must be an elected sheriff in each Florida county and the transfer of the sheriff's duties to another officer or office is prohibited.<sup>23</sup>

In the consolidated government of the city of Jacksonville and Duval County, the sheriff is elected pursuant to its charter, which essentially codifies the requirements specified in Art. VIII, s. 1(d) of the Florida Constitution.<sup>24</sup> The charter further requires the sheriff to perform "the duties imposed upon the sheriff of Duval County by the Constitution or by the general or special laws of Florida."<sup>25</sup> The sheriff of Duval County is therefore subject to the duties prescribed by Florida law but not its "non-duty" provisions. Future consolidations of local governments may affect a sheriff's legally authorized duties.

Currently, a sheriff may transfer funds between the fund and functional and object and subobject code levels after the budget has been approved by the board of county commissioners or budget commission; however, this provision does not expressly apply to sheriffs in a consolidated government, nor does it expressly include budget approval from a city council.<sup>26</sup>

### **Effect of Proposed Changes**

The bill specifies that a sheriff in a consolidated government<sup>27</sup> may transfer funds between the fund and functional and object and subobject code levels after the budget has been approved. It authorizes such a budget to be approved by a city council, in addition to the board of county commissioners or the budget commission.

The bill provides that the independence of sheriffs concerning the purchase of supplies and equipment and the management of personnel applies to a sheriff in a consolidated government. It also revises provisions concerning the independence of sheriffs to include procurement, , which is applicable to all sheriffs, including sheriffs in a consolidated government.

#### **B. SECTION DIRECTORY:**

Section 1: Amends s. 30.49, F.S., relating to budgets.

Section 2: Amends s. 30.53, F.S., relating to independence of constitutional officials.

Section 3: Provides an effective date of July 1, 2024.

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<sup>19</sup> S. 30.49(5), F.S.

<sup>20</sup> *Id.*

<sup>21</sup> *Id.*

<sup>22</sup> S. 30.49(12), F.S.

<sup>23</sup> Ss. 30.072(5) and 30.15(5), F.S.

<sup>24</sup> S. 8.02, Charter Laws, Charter of the City of Jacksonville, Fla.

<sup>25</sup> *Id.* at s. 8.01.

<sup>26</sup> *See* s. 30.49, F.S.

<sup>27</sup> The bill references that it applies to a sheriff in a government that was consolidated pursuant to s. 3, Art. VIII of the State Constitution or ss. 9, 10, 11, and 24, Art. VIII of the State Constitution of 1885, as preserved by s. (6)(e), Art. VIII of the State Constitution.

## 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.

### C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

### D. FISCAL COMMENTS:

None.

## III. COMMENTS

### A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditure of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

### B. RULE-MAKING AUTHORITY:

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

### C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

## IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

On January 25, 2024, the Local Administration, Federal Affairs & Special Districts Subcommittee adopted an amendment and reported the bill favorably as a committee substitute. The amendment clarified that the provisions of the bill apply to a sheriff in a government consolidated under both ss. 3 and 6(e) of Art. VIII of the Florida Constitution.

This analysis is drafted to the committee substitute as passed by the Local Administration, Federal Affairs & Special Districts Subcommittee.