

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 19 Compensation of County Officials

**SPONSOR(S):** Mayfield and others

**TIED BILLS:** **IDEN./SIM. BILLS:** SB 870

| REFERENCE                             | ACTION    | ANALYST  | STAFF DIRECTOR or<br>BUDGET/POLICY CHIEF |
|---------------------------------------|-----------|----------|--|
| 1) Government Operations Subcommittee | 14 Y, 0 N | McDonald | Williamson                               |
| 2) State Affairs Committee            | 17 Y, 0 N | McDonald | Hamby                                    |

### SUMMARY ANALYSIS

Determining the compensation of Florida's county constitutional officers by state law was sanctioned by the State Constitution of 1885 and has been maintained in the State Constitution since the 1968 constitutional revision. The Legislature, however, did not authorize a salary compensation formula until 1973. Prior to that time, the authorization for changes in compensation for county constitutional officers required frequent legislative action.

The Legislature enacted chapter 145, F.S., to govern compensation of county officials. The intent for the legislative action was expressed as the need for a uniform salary law to replace the previous local law method of paying elected county officials, which was "haphazard, preferential, inequitable, and probably unconstitutional."

Current law does not permit a county commissioner, clerk of the circuit court, county comptroller, property appraiser, tax collector, sheriff, or supervisor of elections to reduce his or her salary or salary rate. In 2009, the law was amended to allow local school board members to reduce their salary rate on a voluntary basis.

The bill amends chapter 145, F.S., to authorize each member of a board of county commissioners, clerk of the circuit court, county comptroller, sheriff, supervisor of elections, property appraiser, and tax collector to voluntarily reduce his or her salary rate.

The fiscal impact is indeterminate. See "Fiscal Comments."

The bill takes effect July 1, 2011.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Background**

Determining the compensation of Florida's county constitutional officers by state law was sanctioned by the State Constitution of 1885 and has been maintained in the State Constitution since the 1968 constitutional revision.<sup>1</sup> The Legislature, however, did not authorize a salary compensation formula until 1973. Prior to that time, the authorization for changes in compensation for county constitutional officers required frequent legislative action.

##### Persons Covered by Compensation Requirements

The Legislature enacted chapter 145, F.S., to govern compensation of county officials.<sup>2</sup> The intent for the legislative action was expressed as the need for a uniform salary law to replace the previous local law method of paying elected county officials, which was "haphazard, preferential, inequitable, and probably unconstitutional."<sup>3</sup> Additionally, the Legislature specifically prohibited local special laws or general laws of local application pertaining to the compensation of members of boards of county commissioners, clerks of the circuit court, sheriffs, superintendents of schools, supervisors of elections, property appraisers, tax collectors, and district school board members.<sup>4</sup>

The law assumed that like offices would have similar duties and responsibilities and, therefore, based salary schedules, in large part, on differences in the population size of the respective county being served.<sup>5</sup> The current salary compensation formula specifies that the latest official population estimates for each county serve as a major component of the salary computation. In addition to the population estimates, the salary compensation formula contains five other components:

- Base salary and group rate components for the separate officers specified in various parts of the statute.<sup>6</sup>
- Initial factor component is currently set in law as a constant numerical value.<sup>7</sup>
- Annual factor and cumulative annual factor, used in the salary formula calculations, which are certified by the Department of Management Services.<sup>8</sup>

##### Exceptions to Compensation Requirements

The compensation requirements apply to all designated officers in all counties of the state, except those officials:

- Whose salaries are not subject to being set by the Legislature because of the provisions of a county home rule charter; or
- In a county with a consolidated form of government as provided in chapter 67-1320, L.O.F.

No member of a governing body of a chartered county or a county with a consolidated form of government is to be considered the equivalent of a county commissioner for determining the compensation of the member under his or her respective county charter.<sup>9,10</sup>

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<sup>1</sup> Art. II, s. 5, Fla. Const.

<sup>2</sup> Officials specifically governed by chapter 145, F.S., are boards of county commissioners, clerks of the circuit court, county comptrollers, sheriffs, supervisors of elections, property appraisers, and tax collectors.

<sup>3</sup> Section 145.011(2), F.S.

<sup>4</sup> Section 145.16(2), F.S.

<sup>5</sup> Section 145.011(4), F.S.

<sup>6</sup> Sections 145.031, 145.051, 145.071, 145.09, 145.10, 145.11, 1001.395, and 1001.47, F.S.

<sup>7</sup> Section 145.19(1)(c), F.S.

<sup>8</sup> Section 145.19(2), F.S. Certification from the Department of Management Services is received by September of each year.

<sup>9</sup> Sections 145.012 and 145.031(2), F.S.

<sup>10</sup> According to the Florida Association of Counties, there are 20 counties falling under this exception: Alachua, Brevard, Broward, Charlotte, Clay, Columbia, Duval Hillsborough, Lee, Leon, Miami-Dade, Orange, Osceola, Palm Beach, Pinellas, Polk, Sarasota,

The law, however, provides that, regardless of charter county status, the property appraiser, clerk of the circuit court, superintendent of schools, sheriff, supervisor of elections, and tax collector who, if qualified, must receive a special qualification salary in addition to their salaries, are covered by chapter 145, F.S.<sup>11</sup> The requirement for special qualification salary would appear to exclude a comptroller since there is no provision for such in chapter 145, F.S.<sup>12</sup>

#### Ability to Reduce Salary Rate

Current law does not permit a county commissioner, clerk of the circuit court, county comptroller, property appraiser, tax collector, sheriff, or supervisor of elections covered under chapter 145, F.S., to reduce his or her salary or salary rate.

In 2008, the general counsel for the St. Lucie County Sheriff's Department, on behalf of the sheriff, sought an Attorney General's opinion to determine if the sheriff could voluntarily reduce his salary below that established in chapter 145, F.S. The Attorney General ruling stated:

The Legislature has prescribed the salary for the sheriff as a county officer and the sheriff does not have the authority to alter such compensation. Nothing, however, precludes a sheriff from donating his or her salary, or a portion thereof, to the county once the sheriff has received the statutorily prescribed salary pursuant to section 145.071, Florida Statutes.

Accordingly, I am of the opinion that a sheriff may not voluntarily reduce his salary below that established by Chapter 145, Florida Statutes.<sup>13</sup>

#### 2009 and 2010 Amendments Affecting School Board Member Compensation

In 2009, s. 1001.395, F.S.,<sup>14</sup> was amended to provide that, notwithstanding that section and s. 145.19, F.S., school board members may reduce their salary rate on a voluntary basis. For the 2010-2011 fiscal year, the section was further amended to provide that, notwithstanding that section and s. 145.19, F.S., the salary of each school board member shall be the amount calculated according to s. 1001.395(1), F.S., or the district's beginning salary for teachers who hold baccalaureate degrees, whichever is less.

#### **Proposed Changes**

Effective July 1, 2011, the bill authorizes each member of a board of county commissioners, clerk of the circuit court, county comptroller, sheriff, supervisor of elections, property appraiser, and tax collector covered by chapter 145, F.S., to voluntarily reduce his or her salary rate.

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

**Section 1.** Amends s. 145.031, F.S., to authorize each member of a board of county commissioners to voluntarily reduce his or her salary rate.

**Section 2.** Amends s. 145.051, F.S., to authorize each clerk of the circuit court and each county comptroller to voluntarily reduce his or her salary rate.

**Section 3.** Amends s. 145.071, F.S., to authorize each sheriff to voluntarily reduce his or her salary rate.

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Seminole, Volusia, and Wakulla. See [www.fl-counties.com/Pages/About-Floridas-Counties/Charter-County-Information.aspx](http://www.fl-counties.com/Pages/About-Floridas-Counties/Charter-County-Information.aspx). Last visited February 26, 2011.

<sup>11</sup> Section 145.012, F.S.

<sup>12</sup> Sections 145.012 and 145.051, F.S.

<sup>13</sup> Florida Attorney General Opinion 2008-28.

<sup>14</sup> Section 1001.395, F.S., relates to district school board members and compensation.

**Section 4.** Amends s. 145.09, F.S., to authorize each supervisor of elections to voluntarily reduce his or her salary rate.

**Section 5.** Amends s. 145.10, F.S., to authorize each property appraiser to voluntarily reduce his or her salary rate.

**Section 6.** Amends s. 145.11, F.S., to authorize each tax collector to voluntarily reduce his or her salary rate.

**Section 7.** Provides an effective date of July 1, 2011.

## **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:

Indeterminate. See "Fiscal Comments."

2. Expenditures:

Indeterminate. See "Fiscal Comments."

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

None.

### **D. FISCAL COMMENTS:**

The number of persons who will voluntarily participate in a salary rate reduction, the amount of the rate reduction, and the dollar associated with the reduction is difficult to estimate. The Office of Economic and Demographic Research (EDR) provided a range of salaries of elected county constitutional officers for fiscal year 2010-2011.

According to EDR, the salary figures for consolidated and charter counties might not be accurate due to the salary methodologies used by those counties. The salary figures do not include any special qualification salary available for certification persons available under chapter 145, F.S., and EDR urges counties to review the figures. The range of salaries for informational purposes is as follows:

- Clerk of the Court \$89,618 to \$173,405
- Property Appraiser \$89,618 to \$173,405
- Tax Collector \$89,618 to \$173,405
- Sheriff \$98,214 to \$182,001
- Supervisor of Elections \$73,029 to \$153,975<sup>15</sup>

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<sup>15</sup> The Florida Legislature's Office of Economic and Demographic Research, *Salaries of Elected County Constitutional Officers and School District Officials for Fiscal Year 2010-2011 (September 2010)*, at 11-13.

### **III. COMMENTS**

#### **A. CONSTITUTIONAL ISSUES:**

##### **1. Applicability of Municipality/County Mandates Provision:**

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

##### **2. Other:**

None.

#### **B. RULE-MAKING AUTHORITY:**

None.

#### **C. DRAFTING ISSUES OR OTHER COMMENTS:**

None.

### **IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

None.