

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCS for HB 1595 Law Enforcement Operations
SPONSOR(S): Local Administration, Federal Affairs & Special Districts Subcommittee
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Local Administration, Federal Affairs & Special Districts Subcommittee		Mwakyanjala	Darden

SUMMARY ANALYSIS

The Florida Constitution provides that each county shall have a sheriff elected by the electors of the county to a four-year term. As of January 5, 2021, for all counties except Broward and Miami-Dade, a county charter may not abolish the office of sheriff or provide an alternative method for selecting the sheriff. This provision applies to all counties effective January 7, 2025. Sheriffs are given an extensive list of duties by statute, but currently the jurisdictional powers of the sheriff are not codified.

Current law provides a budget appeal process to challenge funding reductions in a municipal law enforcement agency's budget. If a municipality's tentative budget contains a funding reduction to the operating budget of the municipal law enforcement agency, the state attorney for the judicial circuit in which the municipality is located or a member of the governing body of the municipality who objects to the funding reduction may appeal by petition to the Administration Commission within 30 days after the day the tentative budget is posted on the municipality's website. The Administration Commission conducts a hearing on the reduction and may approve the budget adopted by the governing body of the municipality, or may amend or modify each separate item within the operating budget of the municipal law enforcement agency.

The bill codifies the jurisdictional powers to the sheriff to clarify that the sheriff has exclusive policing jurisdiction in the unincorporated areas of each county and concurrent jurisdiction with municipal or special district law enforcement agencies in the jurisdictions of those agencies.

The bill revises the budget appeal process to challenge funding reductions in a municipal law enforcement agency's budget to only allow a challenge if the reduction is more than five percent of the prior year's budget, transfer the appeals process from the Administration Commission to the Division of Administrative Hearings, and require that a copy of petition be given to the affected municipality. The bill provides guidance for administrative law judges in considering petitions and specifies required elements of the recommended order.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

County Constitutional Officers

The Florida Constitution requires the Legislature to divide the state into counties.¹ Statutes divide the state into 67 counties, establishing their boundaries by providing the exact legal description of each county.² The Florida Constitution recognizes two types of county governments: those operating under a county charter and those without a charter.³ Non-charter county governments may exercise those powers of self-government that are provided by general or special law.⁴ Counties operating under a county charter have all powers of self-government not inconsistent with general law or special law approved by the vote of the electors.⁵

The electors of each county elect county constitutional officers (the sheriff, tax collector, property appraiser, supervisor of elections, and clerk of the circuit court) to a four-year term.⁶ Before 2018, a county charter could provide an alternative method of selecting county constitutional officers or abolish those offices, as long as the duties of the office prescribed by general law were transferred to another office.⁷ During the 2018 general election, voters approved Amendment 10, requiring all county constitutional officers to be elected to a four-term year and prohibiting the transfer of those duties to another office.⁸ Most counties were required to comply with this requirement by January 5, 2021, while Broward and Miami-Dade Counties were given until January 7, 2025.⁹

Office of the Sheriff

There are currently 66 elected sheriffs in Florida's 67 counties.¹⁰ Sheriffs are given an extensive list of duties by statute, including:

- Executing all process of the Supreme Court, circuit courts, county courts, and boards of county commissioners of this state, to be executed in their counties;
- Executing such other writs, processes, warrants, and other papers directed to them, as may come to their hands to be executed in their counties;
- Attending all sessions of the circuit court and county court held in their counties;
- Executing all orders of the boards of county commissioners of their counties;
- Being conservators of the peace in their counties; and
- Suppressing tumults, riots, and unlawful assemblies in their counties with force and strong hand when necessary.¹¹

Current law does not provide an explicit statement of the sheriff's jurisdictional powers.

¹ Art. VIII, s. 1(a), Fla. Const.

² See ch. 7, F.S.

³ Art. VIII, ss. 1(f), (g), Fla. Const.

⁴ Art. VIII, s. 1(f), Fla. Const.

⁵ Art. VIII, s. 1(g), Fla. Const.

⁶ Art. VIII, s. 1(d), Fla. Const.

⁷ Art. VIII, s. 1(d), Fla. Const. (2018).

⁸ See art. VIII, s. 1(d), Fla. Const.

⁹ Art. VIII, s. 6(g), Fla. Const.

¹⁰ 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. Currently, Miami-Dade Police Department Director Alfredo Ramirez III serves in the appointed position. Additionally, the Miami-Dade Police Department currently "provides basic police services throughout the unincorporated area of Miami-Dade County, Miami Lakes, Palmetto Bay and Cutler Bay," and its "specialized patrol teams include the airport, seaport, marine, motorcycle, bomb disposal and SWAT." Miami-Dade County, *Miami-Dade Police Department*, <https://www.miamidade.gov/global/police/home.page> (last visited Mar. 25, 2023).

¹¹ S. 30.15(1), F.S.

Municipal Law Enforcement Budget Appeal Procedure

A municipality is required to adopt a budget each fiscal year.¹² As part of the budget process, a municipality is required to post a tentative budget to the municipality's official website prior to a formal hearing adopting the final budget.¹³ Typically, the municipal police chief is appointed or hired by a city official or officials (mayor, city manager, city commission) and law enforcement funding is determined by the municipal governing body.

Current law provides a budget appeal process to challenge funding reductions in a municipal law enforcement agency's budget.¹⁴ If a municipality's tentative budget contains a funding reduction to the operating budget of the municipal law enforcement agency, the state attorney for the judicial circuit in which the municipality is located or a member of the governing body of the municipality who objects to the funding reduction may appeal by petition to the Administration Commission within 30 days after the day the tentative budget is posted on the municipality's website.¹⁵

The petition is filed with the Executive Office of the Governor (EOG), with copies served upon the governing body of the municipality or to the clerk of the circuit court of the county in which the municipality is located.¹⁶ Upon receipt of a copy of the petition, the governing body of the municipality has five working days to file a reply with EOG and serve the petitioner with a copy.

The EOG conducts for a budget hearing upon receipt of the petition and submits a report of its findings and recommendations to the Administration Commission.¹⁷ Within 30 days of receipt of the report, the Administration Commission may approve the budget adopted by the governing body of the municipality, or may amend or modify each separate item within the operating budget of the municipal law enforcement agency. The budget, as approved, amended, or modified by the Administrative Commission is final.

Effect of Proposed Changes

The bill revises the statutory duties of the sheriff to:

- Clarify that each county must have an elected sheriff and prohibit the transfer of the sheriff's duties to another officer of office;
- Specify that the sheriff has exclusive policing jurisdiction in the unincorporated areas of each county and concurrent jurisdiction with municipal or special district law enforcement agencies in the jurisdictions of those agencies;
- Prohibit a county board of county commissioners, or other county legislative body, from maintaining or establishing a police department or other policing entity in unincorporated areas of the county;
- Provide that only the duly elected sheriff may provide such policing and police functions in the unincorporated areas of any county; and
- Prohibit a county from contracting with or engaging in any manner with a municipal or special district law enforcement agency to provide any services provided by the sheriff, including policing or police functions, in the unincorporated areas of any county.

The bill provides that these duties do not inhibit the jurisdiction of any state or federal law enforcement agency and do not prohibit a sheriff from entering mutual aid agreements with other law enforcement agencies.

The bill also revises the process for appealing a reduction in a municipal law enforcement budget by:

- Limiting appeals to reductions of more than five percent compared to the prior fiscal year's approved budget;

¹² S. 166.241(1) and (2), F.S.

¹³ S. 166.241(3), F.S.

¹⁴ S. 166.241(4), F.S.

¹⁵ S. 166.241(4)(a), F.S. The Administration Commission consists of the Governor and Cabinet. S. 14.202, F.S.

¹⁶ S. 166.241(4)(a), F.S.

¹⁷ S. 166.241(5), F.S.

- Replacing the role of the Administration Commission in the appeal process with the Division of Administrative Hearings; and
- Requiring the petition to serve a copy of the petition to affected local government.

The bill provides that the parties may present the following information to the administrative law judge (ALJ) for consideration:

- The grounds for the petition;
- The grounds for opposing the petition;
- The municipality's reasons for proposing a reduction in funding in the current fiscal year's operating budget;
- The operating budget approved by the municipality;
- A comparison of the municipal law enforcement agency's operating budget to the operating budgets of other entities within the municipality;
- A comparison of the municipal law enforcement agency's operating budget to operating budgets of law enforcement agencies in nearby municipalities that are of comparable size;
- Data and all other information describing the municipal law enforcement agency's staffing needs and budgetary requirements from the current fiscal year and the two previous fiscal years;
- The draft municipal law enforcement agency operating budgets, budget amendments, or budget meeting minutes from the current fiscal year and the two previous fiscal years;
- The revenue and projected revenue available to the municipality and the change in the amount of revenue collected over the last three fiscal years; and
- Any other information provided by the parties relevant to the municipal law enforcement agency's operating budget.

In making a determination, the ALJ may consider whether:

- The law enforcement agency can fully perform its duties despite the budget reduction;
- The proposed level of funding will endanger the safety of the municipality's residents; and
- The proposed operating budget for the municipal law enforcement agency will have a substantially negative effect on the effectiveness of the law enforcement agency.

The ALJ must issue a recommended order approving or rejecting the proposed operating budget with 30 days after the hearing. The recommended order must contain finding and explain its decision with referenced to the information presented or discussed during the hearing. The recommended order is subject to appear in accordance with ch. 120, F.S.

The recommended order becomes a final order 90 days after its issuance unless the parties voluntarily enter into an agreement resolving the issues raising in the hearing. Before executing an agreement, the municipality must conduct a public hearing.

If the final order approves the tentative budget of a municipality which contains a funding reduction to the operating budget of the municipal law enforcement agency, that portion of the operating budget is valid. If the final order rejects the tentative budget of a municipality which contains a funding reduction, the municipality must approve a budget that does not reduce funding to the municipal law enforcement agency as prescribed in the bill.

B. SECTION DIRECTORY:

- Section 1: Amends s. 30.15, F.S., concerning the powers, duties, and obligations of sheriffs.
- Section 2: Amends s. 166.241, concerning municipal law enforcement budgeting.
- Section 3: Provides an effective date of upon becoming a law.

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. This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditures 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

Not applicable.