

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 1705

Lake County

SPONSOR(S): Gibson

TIED BILLS:

IDEN./SIM. BILLS: SB 2670

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Local Government Council</u>	<u>7 Y, 0 N</u>	<u>Nelson</u>	<u>Hamby</u>
2) <u>Governmental Operations Committee</u>	<u></u>	<u>Luppert</u>	<u>Everhart</u>
3) <u></u>	<u></u>	<u></u>	<u></u>
4) <u></u>	<u></u>	<u></u>	<u></u>
5) <u></u>	<u></u>	<u></u>	<u></u>

SUMMARY ANALYSIS

This bill amends provisions governing career service employment with the Lake County Sheriff's Office. The bill revises definitions, deletes provisions relating to the establishment of divisions within the office, provides for the effect of voluntary and involuntary termination of employment on career service status, and authorizes the demotion of certain employees without cause.

According to the Economic Impact Statement, the bill will have no fiscal impact.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

This bill does not appear to implicate any of the House Principles.

B. EFFECT OF PROPOSED CHANGES:

Present Situation

Background

Article III, section 14 of the State Constitution provides, in pertinent part, that:

By law ...there may be created civil service systems and boards for county... employees and for such offices thereof as are not elected or appointed by the governor, and there may be authorized such boards as are necessary to prescribe the qualifications, method of selection and tenure of such employees and officers.

Under s. 125.01(1)(u), F.S., the legislative and governing body of a county has the power to “[c]reate civil service systems and boards.”

Section 30.07, F.S., gives a sheriff authority to appoint deputies, and s. 951.061, F.S., similarly provides a sheriff with the authority to appoint correctional officers. As a result of this statutory framework, deputy sheriffs in Florida are not employees of the sheriff, but rather, appointees who serve at the pleasure of the sheriff.

In 1990, the Legislature passed a local bill (ch. 90-386, L.O.F.) providing career service status for certain employees of the Lake County Sheriff. This bill required the Board of County Commissioners of Lake County to enact the provisions of the bill as a county ordinance pursuant to s.125.01 (l)(u), F.S. Employees who did not have career service status could be terminated at any time and without cause. Employees with career service status could be terminated only for “cause”.¹ A new sheriff could demote without cause any career service employee who held the rank of undersheriff, chief deputy, major, captain, administrative assistant or legal advisor, or any equivalent rank, at the time the newly elected or appointed sheriff took office. The sheriff was empowered to adopt rules and regulations for the administration and implementation of the act.

The 1993 Legislature again considered legislation regarding career service employment with the Lake County Sheriff’s Office and passed ch. 93-358, L.O.F. This bill provides additional provisions including the following:

- clarified the definition of “career service employee” to exclude those who were on extended probation, or a part-time, temporary or contractual employee;
- specified that an extended probation could not exceed six months; and, with regard to the “termination for cause” definition, deleted the “substantial shortcoming” language.

¹ “Termination for cause” means termination for misfeasance, malfeasance or nonfeasance and included “any substantial shortcoming” which rendered the continuance of the employee in his position detrimental to the discipline or efficiency of the department.

While ch. 94-143, L.O.F., provides certain protections for deputy sheriffs with regard to probation, and terminations for discriminatory or off-duty political activity, it does not provide a comprehensive civil service protection system for these employees. No similar provisions exist which apply to correctional officers.

Effect of Bill

This bill amends the Laws of Florida to revise the definition of a "career service employee." It also extends the definition of "division" to include all divisions of the Lake County Sheriff's Office, and deletes previous references to an Enforcement Division and a Support Division. The definition of "employee" is expanded to include a "detention deputy," i.e., a correctional officer.

The bill deletes a provision allowing employees who voluntarily terminate their employment with the sheriff's office to regain their career service status if reemployed within 90 days. A provision which allows a new sheriff to demote employees without cause to the rank of lieutenant is specifically applied to employees who hold the titles of "chief" and "general counsel." The bill provides that demotion to a civilian position with applicable pay is a possibility for members of the Senior Management Service class.²

C. SECTION DIRECTORY:

Section 1: Revises provisions of ch. 93-358, L.O.F., to govern career service employment with the Lake County Sheriff's Office.

Section 2: Provides an effective date of July 1, 2005.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN? February 9, 2005

WHERE? *The Daily Commercial*, a newspaper published in Lake County.

B. REFERENDUM(S) REQUIRED? Yes No

IF YES, WHEN?

C. LOCAL BILL CERTIFICATION FILED? Yes, attached No

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached No

² The language in the bill which provides that members of the Senior Management Service class may be demoted raises two issues: First of all, senior management service positions are exempt positions; that is, such positions are not part of a career service system. This bill relates to career service employment with the Lake County Sheriff's Office, and constitutional notice was provided as such. Secondly, because senior management service positions are not included in the career service system, they are accorded no career service protections. To articulate that such positions may be demoted could be interpreted to afford those positions unintended rights.

According to the Economic Impact Statement, the bill has no fiscal impact.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

See, Drafting Issues or Other Comments, below.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The language in the bill which provides that members of the Senior Management Service class may be demoted raises two issues: First of all, senior management service positions are exempt positions; that is, such positions are not part of a career service system. This bill relates to career service employment with the Lake County Sheriff's Office, and constitutional notice was provided as such. Secondly, because senior management service positions are not included in the career service system, they are accorded no career service protections. To articulate that such positions may be demoted could be interpreted to afford those positions unintended rights.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

None.