

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide Limited Government

This bill authorizes the sheriff to adopt such rules as are necessary for the implementation and administration of the act.

B. EFFECT OF PROPOSED CHANGES:

Present Situation

Sixty-six of Florida's 67 counties have elected sheriffs as their chief law-enforcement officers. Miami-Dade County has an appointed chief law-enforcement officer whose title is Director of the Miami-Dade Police Department. Sheriffs serve four-year terms, and have county-wide jurisdiction that includes incorporated as well as unincorporated areas.

Pursuant to s. 14, Art. III of the State Constitution, s. 125.01(1)(u), F.S., and s. 30.53, F.S., a civil service system for sheriff's employees may be created by local governments via local ordinance. Section 14 of Art. III of the State Constitution provides:

By law there shall be created a civil service system for state employees, except those expressly exempted, and there may be created civil service systems and boards for county, district or municipal 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.

The powers of the governing body of a county are set forth in s. 125.01, F.S. This power includes the authority, as provided in paragraph (u) of subsection (1) of s.125.01, F.S., to "[c]reate civil service systems and boards." While the independence of a sheriff is preserved in s. 30.53, F.S., that section contains a further provision that it not be construed to "restrict the establishment or operation of any civil service system" or board created pursuant to s. 14, Art. III of the State Constitution. See, also, City of Casselberry v. Orange County Police Benevolent Association, 482 So. 2d 336 (Fla. 1986) (providing that local governments are vested with the authority to establish civil service systems via local ordinance).

A number of sheriffs have civil service systems established by the Legislature through special act, including: Alachua (chs. 84-388 and 86-342, L.O.F.), Bay (ch. 84-390, L.O.F.), Brevard (ch. 83-373, L.O.F.), Broward (ch. 93-370, L.O.F.), Charlotte (chs. 79-436, 86-349 and 89-508, L.O.F.), Citrus (ch. 2001-296, L.O.F.), Clay (chs. 89-522 and 93-379, L.O.F.), Columbia (ch. 2004-413, L.O.F.), Escambia (ch. 89-492, L.O.F.), Flagler (chs. 90-450 and 2000-482, L.O.F.), Glades (ch. 2003-311, L.O.F.), Hernando (ch. 2000-414, L.O.F.), Indian River (ch. 2002-355, L.O.F.), Lake (chs. 90-386, 93-358 and 2005-349, L.O.F.), Lee (chs. 74-522, 87-547 and 95-514, L.O.F.), Leon (ch. 83-456, L.O.F.), Madison (95-470), Manatee (89-472), Marion (87-457), Martin (93-388), Monroe (78-567, 89-410, 89-461, 97-345 and 98-507, L.O.F.), Okaloosa (chs. 81-442, 85-472 and 90-492, L.O.F.), Orange (ch. 89-507, L.O.F.), Osceola (chs. 89-516 and 2000-388, L.O.F.), Palm Beach (chs. 93-367, 99-437 and 2004-404, L.O.F.), Pasco (ch. 90-491, L.O.F.), Pinellas (chs. 89-404 and 90-395, L.O.F.), Polk (chs. 88-443 and 98-516, L.O.F.), St. Lucie (ch. 89-475, L.O.F.), Santa Rosa (ch. 2002-385, L.O.F.), Sarasota (ch. 86-344, L.O.F.), and Seminole (ch. 77-653, 80-612, 88-451 and 97-376, L.O.F.) counties.

The Baker County Sheriff's Office currently does not have a civil service system.¹

¹ The terms "civil service system" and "career service system" are used interchangeably.

Proposed Changes

HB 495 specifies the rights of certain employees and appointees of the Baker County Sheriff. The act applies to all certified and noncertified persons appointed or employed by the Baker County Sheriff, with the following exceptions:

- special deputy sheriffs appointed under s. 30.09(4), F.S.²;
- members of a sheriff's posse or reserve unit;
- part-time appointees and employees, whether compensated or not, who are scheduled to work less than 40 hours per week;
- independent contractors, temporary employees or contract employees; and
- persons who are appointed or employed pursuant to a grant whose continued existence or funding is subject to the expiration or withdrawal of the grant provider.

The bill provides that an employee or appointee of the sheriff to whom the act applies will be considered to have attained career service status once he or she has completed the initial or extended probationary period. "Probationary period" is defined to mean six months of conditional employment or appointment commencing on the date of actual work in a position. If a person is reemployed at a later date, he or she is required to complete the probationary period before becoming eligible for any rights under the act. A person also is required to repeat probationary service if promoted to a higher rank or position having a greater pay rate.

The bill provides that when a newly elected or appointed sheriff assumes office, all career service status appointees and employees will remain employees of the new administration. The new sheriff may reduce appointees one rank below the rank held on the day before he or she assumes office if such rank was held continuously for the prior six months of employment. The salary of any displaced person may not be reduced more than five percent. The bill also provides that a new sheriff may assign civilian appointees and the former sheriff's secretary to the next highest position classification.

The act additionally provides that the sheriff may adopt such rules as are necessary for the implementation and administration of this act, and that nothing in the act is to be construed as affecting the budget-making powers of the Board of County Commissioners of Baker County.

The bill has an effective date of upon becoming law.

SECTION DIRECTORY:

Section 1: Provides certain Baker County Sheriff employees and appointees with career service status; provides transition provisions; and provides for implementation and administration of the act.

Section 2: Provides an effective date.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes No

² This section designates special deputy sheriffs appointed by the sheriff: (a) to attend elections on election days; (b) to perform undercover investigative work; (c) for specific guard or police duties in connection with public sporting or entertainment events, not to exceed 30 days; or for watch or guard duties, when serving in such capacity at specified locations or areas only; (d) for special and temporary duties, without power of arrest, in connection with guarding or transporting prisoners; (e) to aid in preserving law and order, or to give necessary assistance in the event of any threatened or actual hurricane, fire, flood or other natural disaster, or in the event of any major tragedy such as an act of local terrorism or a national terrorism alert, an airplane crash, a train or automobile wreck, or a similar accident; (f) to raise the power of the county, by calling bystanders or others, to assist in quelling a riot or any breach of the peace, when ordered by the sheriff or an authorized general deputy; (g) to serve as a parking enforcement specialist pursuant to s. 316.640(2), F.S.

IF YES, WHEN? January 18 and 19, 2006

WHERE? *The Baker County Press* and *The Baker County Standard*; weekly newspapers published in Baker County, Florida.

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

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

This bill authorizes the sheriff to adopt such rules as are necessary for the implementation and administration of the act, although it is specified that nothing in the act may be construed as affecting the budget-making powers of the Board of County Commissioners of Baker County.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Drafting Issues

This bill does not, in effect, provide a "career service system" for Baker County Sheriff employees. While it provides for the applicability of the act, and career service status, it does not provide an employee with any rights other than with regard to when a new sheriff takes office.

The fact that the bill unequivocally provides that "all career service status appointees and employees shall remain employees of the new administration" could provide problems for any new sheriff faced with disciplinary matters.

Also, it would seem that the drafters of the bill meant to provide for assigning employees of a former sheriff to a lower rather than higher classification re: Line 67.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

None.