

STORAGE NAME: h0593.hcc.doc
DATE: March 29, 2001

HOUSE OF REPRESENTATIVES
COUNCIL FOR HEALTHY COMMUNITIES
ANALYSIS

BILL #: HB 593
RELATING TO: Law Enforcement Officers
SPONSOR(S): Representative Bowen
TIED BILL(S): None

ORIGINATING COMMITTEE(S)/COUNCIL(S)/COMMITTEE(S) OF REFERENCE:

- (1) CRIME PREVENTION, CORRECTIONS & SAFETY (HCC) YEAS 9 NAYS 0
 - (2) LOCAL GOVERNMENT & VETERANS AFFAIRS YEAS 6 NAYS 0
 - (3) COUNCIL FOR HEALTHY COMMUNITIES YEAS 12 NAYS 0
 - (4)
 - (5)
-

I. SUMMARY:

This bill authorizes municipal law enforcement officers to patrol property and facilities leased by the municipality but located outside its territorial jurisdiction.

This bill also authorizes municipal police officers to detain and take into custody, those who an officer has probable cause to believe have committed or are committing a crime on such leased properties or facilities. Municipal law enforcement may detain a person for a reasonable time until a law enforcement officer with jurisdiction over the property where the violation occurred arrives to make a lawful arrest.

Civil and criminal immunity, already provided to municipal officers who detain a person on municipally-owned property out of jurisdiction, is extended to officers who detain on municipally-leased property.

Fiscal impact is expected to be minimal.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|------------------------------|-----------------------------|---|
| 1. <u>Less Government</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a “no” above, please explain:

B. PRESENT SITUATION:

Municipal police jurisdiction is generally contained within physical municipal boundaries. The exercise of any power extraterritorially by the city must be authorized by general or special law, as provided in Article VIII, Section 2(c) of the Florida Constitution, and Section 166.021(3)(a), F.S. There are several instances where the Legislature has enabled law enforcement officers to exercise their powers out of jurisdiction.

Part I, Chapter 23, F.S., is the Florida Mutual Aid Act. The Act authorizes two or more law enforcement agencies to enter into a written agreement to provide assistance that is extra-jurisdictional. Pursuant to a mutual aid agreement, law enforcement officers may exercise their authority outside their jurisdictional boundaries. Typically, the assistance provided through a written mutual aid agreement is of a routine nature. Examples of agreements include authorizing a city-county narcotics task force, granting school safety officers jurisdictional powers within a specified perimeter around a school, or establishing a joint city-county traffic enforcement task force. In instances where operational assistance occurs following a Governor-declared state of emergency, the writing requirement is temporarily waived.

Section 901.25, F.S., authorizes law enforcement to make arrests out of jurisdiction when in fresh pursuit. Regarding felonies, for fresh pursuit to be legitimate, the officer can reasonably believe that the person has committed a felony. For misdemeanors, county, and municipal ordinances, the person must have actually committed a violation.

Under Section 901.252, F.S., a law enforcement officer may patrol property owned by a municipality even if such property is outside the officer’s territorial jurisdiction. Where the officer has probable cause to believe that a person has committed or is committing a state, county, or municipal violation, the officer may detain and take the person into custody in a reasonable time and manner. The municipal officer must then immediately call an officer with jurisdiction over the property or facility. This section exempts municipal law enforcement from civil and criminal liability where the officer acts under the authority granted in this section.

The City of Auburndale has national softball facilities located outside of the city limits, on property that the city leases. There have been instances of burglary and physical disputes during games. The City of Auburndale police are not permitted to detain for probable cause or arrest, but rather, have to wait for a response from the Sheriff’s Office.

C. EFFECT OF PROPOSED CHANGES:

This bill extends current statutory authority to municipal law enforcement officers to patrol properties and facilities that are owned outside of their territorial jurisdiction to additionally apply to leased properties outside of their territorial jurisdiction. Municipal officers are empowered to temporarily detain individuals on extra-territorial property leased by the municipality.

Officers are required to immediately call law enforcement with jurisdiction over the leased property or facility after a detainee has been held.

The same civil and criminal immunity currently provided to municipal officers who detain a person on municipally-owned property out of jurisdiction, is extended to officers who detain on municipally-leased property.

D. SECTION-BY-SECTION ANALYSIS:

Section 1. Amends Section 901.252 (1), F.S., to authorize municipal law enforcement to patrol property and facilities out of jurisdiction where the property or facilities are leased by the municipality.

Section 2. Provides that the act shall take effect upon becoming a law.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

This bill has no direct impact on state revenues.

2. Expenditures:

This bill has no direct impact on state expenditures.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

This bill has no direct impact on local government revenues.

2. Expenditures:

Local municipalities may incur additional costs related to the increased area of patrol, but this impact is expected to be minimal.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

This bill has no direct impact on the private sector.

D. FISCAL COMMENTS:

Fiscal impact is expected to be minimal.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

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

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the percentage of state tax shared with counties or municipalities.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

This bill does not necessitate additional rulemaking authority.

C. OTHER COMMENTS:

The General Counsel with the Florida Department of Law Enforcement expresses that they do not oppose the bill.

A spokesperson with the Florida Sheriffs Association indicates that the Association does not oppose this bill.

The City Manager with the City of Auburndale supports this bill.

The Polk County Sheriff provides the following statement:

I whole-heartedly support and encourage adoption of legislation that would provide authority to municipal law enforcement officers to patrol property and facilities leased by the municipality but located outside its territorial jurisdiction. They already have this authority for properties owned by a municipality. This is a basic common sense proposal which allows cities and police departments to better manage municipal facilities outside of their geographical boundaries.

A representative of the Florida Association of Counties expresses that the Association is not taking a position on the bill.

A representative with the Florida League of Cities indicates that the League supports this bill.

The language in this bill is identical to the language in last year's House Bill 767, which passed out of committee, but died on the calendar during the 2000 Legislative Session.

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VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

None.

VII. SIGNATURES:

COMMITTEE ON CRIME PREVENTION, CORRECTIONS & SAFETY (HCC):

Prepared by:

Staff Director:

Lynn Dodson

David De La Paz

AS REVISED BY THE COMMITTEE ON LOCAL GOVERNMENT & VETERANS AFFAIRS:

Prepared by:

Staff Director:

Cindy M. Brown

Joan Highsmith-Smith

AS FURTHER REVISED BY THE COUNCIL FOR HEALTHY COMMUNITIES:

Prepared by:

Council Director:

Lynn Dodson

Mary Pat Moore