

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Governmental Oversight and Accountability

BILL: CS/CS/SB 782

INTRODUCER: Governmental Oversight and Accountability Committee; Community Affairs Committee; and Senator Montford

SUBJECT: County Officials

DATE: April 1, 2015

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>White</u>	<u>Yeatman</u>	<u>CA</u>	<u>Fav/CS</u>
2.	<u>McVaney</u>	<u>McVaney</u>	<u>GO</u>	<u>Fav/CS</u>
3.	_____	_____	<u>FP</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 782 provides that the salaries of county constitutional officers and school district officials will not decrease in certain instances based solely upon the county moving from one population group to a higher population group used for the calculation of official annual salaries. If a county's population increases and that increase causes a county to move into a new population group for officer annual salary calculations, the bill prevents the officers' salaries for the next four fiscal years from being reduced below the salary applicable for the prior year. In subsequent years, the salary adjustment will be calculated under the current methodology and may increase or decrease the official salary.

The bill provides an effective date of July 1, 2015.

II. Present Situation:

Salaries of Elected County Constitutional Officers and School District Officials

From the time of the State Constitution of 1885 until 1973, the compensation of Florida's county constitutional officers were determined by a host of local laws, special laws, and general laws of local application. After decades of frequent and sporadic legislative action, the Legislature deemed necessary the enactment of a uniform salary law to replace the previous local law

method of determining compensation.¹ Thus, the Legislature repealed all local or special laws, or general laws of local application that related to compensation of county officials;² provided that any such laws are prohibited;³ and authorized a salary compensation formula for determining compensation.⁴ In doing so, the Legislature created a uniform system of compensation for county officers having substantially equal duties and responsibilities with salary schedules based on countywide populations.

The current methodology for calculating compensation for elected county officers and school district officials, while based on population, also involves five other components. County governments and school district officials are tasked with making their own calculations of these salaries, and the Florida Legislature's Office of Economic and Demographic Research (EDR) also reports its computations.⁵ Pursuant to s. 145.19(2), F.S., elected county and school officers' salaries are adjusted annually, but no effective date of these annual changes is specified in general law. Florida's county governments operate on a fiscal year that ranges from October 1 to September 30, while Florida's school districts operate on the July 1 to June 30 state fiscal year. Florida's Attorney General opined that salary increases are effective October 1 for the elected county officers and July 1 for the elected school district officials.⁶

Compensation calculated pursuant to ch. 145, F.S., is the sole and exclusive compensation for elected county officials. The acceptance of any other compensation for official duties is a misdemeanor of the first degree.⁷ If, after paying office personnel and expenses, a county officer has insufficient revenue from the income of his or her office to pay his or her total annual salary, the board of county commissioners is obligated to pay any deficiency from the county's general fund.⁸

Components of the Salary Formula

The current salary formula methodology specifies six components used for the salary computation:

- Population figures, based on the latest official population census counts, or intercensal estimates for the years between decennial censuses;
- Base salary and group rate components for the separate officers;⁹
- An initial factor component that is currently set in law as a constant numerical value;¹⁰ and

¹ The original method was described as "haphazard, preferential, inequitable, and probably unconstitutional." See s. 145.011(2), F.S.

² Sections 145.131 and 145.132, F.S.

³ Section 145.16, F.S.

⁴ Ch. 73-173, Laws of Fla.

⁵ The Florida Legislature's Office of Economic and Demographic Research, *Salaries of Elected County Constitutional Officers and School District Officials for Fiscal Year 2014-15* (Sep. 2014).

⁶ Op. Att'y Gen. Fla. 79-87 (1979).

⁷ Section 145.17, F.S.

⁸ Section 145.141, F.S.

⁹ Sections 145.031, 145.051, 145.071, 145.09, 145.10, and 145.11, F.S., for elected county officers. Sections 1001.395, and 1001.47, F.S., for elected school district officials.

¹⁰ Section 145.19(1)(c), F.S.

- The annual factor and cumulative annual factor, which are certified by The Florida Department of Management Services (DMS).¹¹

“Population” as used for the salary determination means the latest annual determination of population of local governments produced by the EDR. The EDR provides the population determination to the Governor’s Office in accordance with s. 186.901, F.S.¹² For the years between decennial censuses, the University of Florida’s Bureau of Economic and Business Research generates annual population estimates for local governments, in accordance with a contract administered by the EDR.

“Salary” means the total annual compensation, payable under the schedules set forth in ch. 145, F.S., to be paid to an officer as personal income.¹³

“Initial Factor” means a factor of 1.292. This numerical value is the product, rounded to the nearest thousandth, of an earlier cost-of-living increase factor authorized by ch. 73-173, Laws of Florida, and intended by the Legislature to be preserved in adjustments to salaries made prior to the enactment of ch. 76-80, Laws of Florida, multiplied by the annual increase factor authorized by ch. 79-327, Laws of Florida.¹⁴

“Annual Factor” means 1 plus the lesser of either:¹⁵

- the average percentage increase in the salaries of state career service employees for the current fiscal year as determined by the DMS or as provided in the General Appropriations Act; or
- 7 percent.

“Cumulative Annual Factor” means the product of all annual factors certified under this act prior to the fiscal year for which salaries are being calculated.¹⁶

Salary Computation Methodology

The salary computation to obtain “the adjusted salary rate” involves three steps.¹⁷ In step one, county government and school district officials determine the relevant population group number for the elected officer based on the countywide population.¹⁸ Two sets of countywide population ranges are used to determine the salaries of the elected officers. One set applies to the clerk of circuit court, county comptroller, tax collector, property appraiser, supervisor of elections, sheriff, and school superintendent. The second set applies only to county commissioners and school board members. Each population range has an assigned population group number. In step two, the salary computation involves the determination of the relevant base salary and group rate that corresponds to the population group number determined in the first step. In step three,

¹¹ Section 145.19(2), F.S.

¹² Section 145.021(1), F.S.

¹³ Section 145.021(2), F.S.

¹⁴ See section 145.19(1)(c), F.S.

¹⁵ Section 145.19(1)(a), F.S.

¹⁶ Section 145.19(1)(b), F.S.

¹⁷ EDR, *Salaries of Elected County Constitutional Officers and School District Officials for Fiscal Year 2014-15* (Sep. 2014).

¹⁸ *Id.* at 8.

county government and school district officials calculate the salaries of elected county officers using the following formula:

$$\text{Salary} = [\text{Base Salary} + (\text{Population Above Group Minimum} \times \text{Group Rate})] \times \text{Initial Factor} \times \text{Certified Annual Factor} \times \text{Certified Cumulative Annual Factor}.$$

Relationship Between County Population, Group Rate, and Adjusted Salary Rate

As indicated in the table below, when a county grows in population such that it would enter into a higher population group number, the base salary number increases and the group rate multiplier decreases. The use of the new, smaller group rate creates the peculiar possibility for a county officer of a county that has just barely crossed the threshold of a new population group to receive a smaller salary than if the population of the county had not grown. For example, in 2013, the population of Jackson County was estimated at 50,166, just over the 50,000 threshold, placing it within population Group II.¹⁹ As a result, for fiscal year 2014-2015, the salaries of the Clerk of Circuit Court, the Property Appraiser, and the Tax Collector declined by \$2,966 to \$103,915, a change of -2.8 percent.²⁰ For that same year, the salary of the Supervisor of Elections declined by \$2,860 to \$86,152; the salary of the Sheriff declined by \$2,942 to \$112,854; and the salary of the School Superintendent declined by \$2,966 to \$103,915. If the population of a county decreases, such that the county falls into a new smaller population group with a higher group rate, the salaries of county officers and school district officials might still increase significantly, as happened in Jackson County for fiscal year 2011-2012.

Population Groups for Clerks of Court, Property Appraisers, and Tax Collectors²¹

Pop. Group	Min. Pop.	Max. Pop.	Base Salary	Group Rate
I	0	49,999	\$21,250	0.07875
II	50,000	99,999	\$24,400	0.06300
III	100,000	199,999	\$27,550	0.02625
IV	200,000	399,999	\$30,175	0.01575
V	400,000	999,999	\$33,325	0.00525
VI	1,000,000	-	\$36,475	0.00400

Additional Compensation Tied to Completion of Certificate Programs

Upon successful completion of a certification program, certain county constitutional officers are eligible to receive a special qualification salary of up to \$2,000 added to their formula-based salary.²² Relevant state agencies offer certification programs for clerks of circuit court, sheriffs, supervisors of elections, property appraisers, tax collectors, and elected school superintendents.²³ The officer is required to complete a course of continuing education to remain certified.²⁴ An

¹⁹ *Id.* at 7.

²⁰ EDR, *Salaries of Elected County Constitutional Officers and School District Officials by County*, available at <http://edr.state.fl.us/Content/local-government/data/data-a-to-z/countysalaryhistory.pdf> (last visited Mar. 3, 2015).

²¹ Reproduced from ss. 145.051(1), 145.10(1), and 145.11(1), F.S.

²² Section 145.19(2), F.S.

²³ Sections 145.051(2), 145.071(2), 145.09(3), 145.10(2), 145.11(2), and 1001.47(4), F.S.

²⁴ *Id.* The following state agencies prescribe the courses of continuing education: the Supreme Court for clerks of circuit court; the Department of Law Enforcement for sheriffs; the Department of State’s Division of Elections for supervisors of

officer who becomes certified receives a pro rata share of the special qualification salary based on the remaining period of the year. Any special qualification salary is added after the calculation of the formula-based salary.

In addition to the special qualification salary for elected school superintendents, the Department of Education (DOE) provides a leadership development and performance compensation program, which consists of two phases.²⁵ Upon successful completion of both phases and demonstrated successful performance, the DOE issues the school superintendent a Chief Executive Officer Leadership Development Certificate and pays an annual performance salary incentive in an amount between \$3,000 and \$7,500, based upon the performance evaluation.²⁶ For elected school superintendents, current law also provides that a district school board may approve, by majority vote, a salary in excess of the formula-based amount.²⁷

Applicability of Salary Computation Method

Notwithstanding the Legislature's stated intent for uniformity, county officers may voluntarily reduce their salary below that established by law.²⁸ Additionally, the formula-based salaries of supervisors of elections are based upon a five-day workweek; however, if a supervisor does not keep his or her office open five days per week then the salary is prorated accordingly.²⁹

Furthermore, the adoption of a county home rule charter provides the county's electors with a mechanism to alter the status of constitutional officers, such that their salaries are not subject to being set by the Legislature. Specifically, the statutory salary provisions do not apply to officials whose salaries are not subject to being set by the Legislature due to the provisions of a county home rule charter, as well as officials of counties that have a chartered consolidated form of government as provided in ch. 67-1320, L.O.F.³⁰

III. Effect of Proposed Changes:

Section 1 amends s. 145.19, F.S., to prevent the salaries of elected county officers and school district officials from decreasing in a given year solely as a result of the county population increasing to a level that shifts the county into a new population group for the calculation of official salaries. The adjusted salary rate of county officials for the next four fiscal years will not be less than the salary paid in the fiscal year immediately preceding the county's shift into a new population group. This salary protection extends to county commissioners, school board members, clerks of the circuit court, sheriffs, supervisors of elections, property appraisers, tax collectors, and school superintendents.

elections; the Department of Revenue for property appraisers and tax collectors; and the Department of Education for elected school superintendents.

²⁵ Section 1001.47(5)(a), F.S.

²⁶ Section 1001.47(5)(b), F.S.

²⁷ Section 1001.47(1), F.S.

²⁸ See Chapters 2009-3 and 2009-59, Laws of Fla. (district school board members and elected school superintendents); Chapter 2011-158, Laws of Fla. (county commissioners, clerks of circuit court, county comptrollers, sheriffs, supervisors of elections, property appraisers, and tax collectors).

²⁹ Section 145.09(2), F.S.

³⁰ Section 145.012, F.S.

Section 2 provides an effective date of July 1, 2015.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

To the extent this bill requires a local government to expend funds to comply with its terms (higher salaries for elected officers in limited instances), the provisions of Art. VII, s. 18(a) of the Florida Constitution, may apply. If those constitutional provisions do apply, in order for the law to be binding upon the cities and counties, the Legislature must find that the law fulfills an important state interest, and one of the following relevant exceptions must be met:

- Funds estimated at the time of enactment sufficient to fund such expenditures are appropriated;
- Counties and cities are authorized to enact a funding source not available for such local government on February 1, 1989, that can be used to generate the amount of funds necessary to fund the expenditures;
- The expenditure is required to comply with a law that applies to all persons similarly situated; or
- The law must be approved by two-thirds of the membership of each house of the Legislature.

However, based on the limited fiscal impact that is likely be incurred, the bill may be exempt from those provisions based on the anticipated insignificant annual fiscal impact on counties.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. **Government Sector Impact:**

Beginning in the 2015-2016 fiscal year, elected county officers and school district officials will not experience salary decreases due to any population growth that puts a county into a new population group.

VI. **Technical Deficiencies:**

None.

VII. **Related Issues:**

It should be noted that if the population of a county decreases, such that the county falls into a new lower population group with a higher group rate, the salaries of county officers and school district officials may increase as happened in Jackson County for fiscal year 2011-2012.

It should also be noted that this modification only impacts the salary calculation in the first four fiscal years in which the county moved to a higher population group.

VIII. **Statutes Affected:**

This bill substantially amends section 145.19 of the Florida Statutes.

IX. **Additional Information:**

A. **Committee Substitute – Statement of Substantial Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS/CS by Governmental Oversight and Accountability on March 31, 2015:

Extends the application of the salary freeze to the first four fiscal years after a county shifts to a higher population group.

CS by Community Affairs on March 17, 2015:

Clarifies that, in the event that an increase to county population would cause a decrease to county officials' salaries, the county officials would receive the same salary as the previous fiscal year. This salary safeguard is extended to county commissioners and school board members, in addition to clerks of the circuit court, sheriffs, supervisors of elections, property appraisers, tax collectors, and school superintendents.

B. **Amendments:**

None.