

## HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

**BILL #:** HB 1581 Jackson County Sheriff's Office

**SPONSOR(S):** Drake

**TIED BILLS:**           **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local Administration & Veterans Affairs Subcommittee	16 Y, 0 N	Mwakyanjala	Miller
2) Government Operations Subcommittee	17 Y, 0 N	Skinner	Toliver
3) State Affairs Committee	22 Y, 0 N	Mwakyanjala	Williamson

### SUMMARY ANALYSIS

A civil service system for state employees is required by law and is permissible for county, district, or municipal employees.

Chapter 2008-296, Laws of Florida, provides protection for sworn and nonsworn employees of the Jackson County Sheriff's Office. An employee who has achieved permanent status employment may only be suspended or dismissed for cause. An employee suspended or dismissed for cause may appeal the action by submitting a written notice to appeal to the sheriff.

The bill repeals the special act pertaining to permanent status employees of the Jackson County Sheriff's Office, placing the employees under the protections provided by general law.

The bill does not appear to have a fiscal impact on state or local government.

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### Present Situation

##### Florida Sheriffs and Civil Service

Sixty-six of Florida's 67 counties have elected sheriffs as their chief law enforcement officer.<sup>1</sup> Sheriffs serve four-year terms.<sup>2</sup>

A civil service system for state employees is required by law and permissible for county, district, or municipal employees. A civil service system for elected officials or officials appointed by the governor is not permitted.<sup>3</sup> Current law provides that sheriffs may not be restricted in the establishment or operation of any civil service system or civil service board.<sup>4</sup>

Law enforcement officers have rights protecting them while under investigation and when subject to interrogation by members of the employing agency for any reason that could lead to disciplinary action, suspension, demotion, or dismissal.<sup>5</sup>

Public employers and the entity representing a public employee must negotiate a grievance procedure used for the settlement of disputes between the employer and employee. These disputes involve the interpretation or application of a collective bargaining agreement. All public employees are guaranteed the right to a fair and equitable grievance procedure without regard to membership or non-membership in any organization<sup>6</sup>. However, organizations are not required to process grievances for employees who are not members of the organization.<sup>7</sup>

The Public Employees Relations Commission (Commission) adopts, promulgates, amends, and rescinds rules and regulations in order to carry out the statutes securing the rights of public workers.<sup>8</sup> A local political subdivision is authorized to adopt, by ordinance, resolution, or charter amendment, its own provisions and procedures that secure public employees substantially equivalent rights and procedures as those provided for by law.<sup>9</sup> Public employers are required to submit local provisions and procedures to the Commission for review. Local provisions and procedures must be substantially equivalent to the provisions and procedures enumerated by statute.<sup>10</sup> No ordinance, resolution, charter amendment, rule, or regulation incorporating local provisions and procedures can take effect until approved by the Commission. If the Commission finds that a local procedure or provision is clearly inconsistent with the precedent of the Commission, the Commission assumes jurisdiction of the case.<sup>11</sup>

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<sup>1</sup> Florida Sheriffs Association, *Florida Sheriff Directory*, available at <https://www.flsheriffs.org/sheriffs/directory/> (last visited on February 11, 2022). Currently, Miami-Dade County has an appointed chief law enforcement officer whose title is Director of the Miami-Dade Police Department. In 2018 the voters approved an amendment to art. VIII, s. 1(d), requiring all county constitutional officers, including the sheriff, to be elected by the voters. The first election for sheriff in Miami-Dade County will be at the general election of 2024.

<sup>2</sup> Art. VIII, s. 1(d), Fla. Const.

<sup>3</sup> Art. III, s. 14, Fla. Const. The governing bodies of counties have been granted the power to create civil service systems and boards. S. 125.01(1)(u), F.S.

<sup>4</sup> S. 30.53, F.S.

<sup>5</sup> S. 112.532(1), F.S. "Law enforcement officer" is defined as any person, other than a chief of police, who is employed full time or part time by any municipality or political subdivision thereof and whose primary responsibility is the prevention and detection of crime or the enforcement of the penal, traffic, or highway laws of the state. The definition also includes any person who is appointed by the sheriff as a deputy sheriff. See s. 112.531(2), F.S.

<sup>6</sup> "Organization" in this context refers to any labor organization, union, association, fraternal order, occupational or professional society, or group which represents, or seeks to represent, any public employee or group of public employees concerning any matters relating to their employment relationship with a public employer. S. 447.203(11), F.S.

<sup>7</sup> S. 447.401, F.S.

<sup>8</sup> S. 447.207(1), F.S. Part II of ch. 447, F.S., ss. 447.201-447.609, F.S. represents the statutory implementation of the right of workers to join labor unions and organizations and the right of workers to collectively bargain as transcribed in Art. 1, s. 6, of the Florida Constitution.

<sup>9</sup> S. 447.603(1), F.S.

<sup>10</sup> Ss. 447.201-447.609, F.S.

<sup>11</sup> S. 447.603(2), F.S.

## Jackson County

The Florida Constitution grants local governments broad home rule authority. Specifically, non-charter county governments may exercise those powers of self-government that are provided by general or special law.<sup>12</sup> Jackson County is a non-charter county.<sup>13</sup> The county provides that officers and employees of the county are not liable for any fine or penalty provided for in the Jackson County, Florida – Code of Ordinances. The Board of County Commissioners of Jackson County is permitted to impose a fine or penalty only if the intent to do so is specifically and clearly expressed in the section creating the duty.<sup>14</sup> The county administrator has the power to select, employ, and supervise all personnel under the jurisdiction of the board of county commissioners except for the county attorney.<sup>15</sup> The county administrator has the power to suspend, discharge or remove any employee under the jurisdiction of the board of county commissioners.<sup>16</sup>

Chapter 2008-296, Laws of Florida (Act), provides protection for sworn and nonsworn persons employed by the Office of the Jackson County Sheriff. Persons not protected by the Act are the Sheriff of Jackson County; special deputy sheriffs appointed pursuant to s. 30.09(4), F.S.,<sup>17</sup> to the Sheriff's Posse or Reserve Unit; and individuals appointed as part-time deputy sheriffs.<sup>18</sup> The Act provides that all employees of the Sheriff who have been employed for a period of one calendar year attain permanent status.<sup>19</sup> An employee who has achieved permanent status may only be suspended or dismissed for cause.<sup>20</sup>

An employee suspended or dismissed for cause may appeal the action by submitting in writing a notice to appeal to the Sheriff.<sup>21</sup> After receipt of an appeal by the Sheriff, a Career Service Appeals Board is selected and it meets for purposes of hearing the appeal.<sup>22</sup> During the hearing, the employee filing the appeal has the right to be heard publicly, to be represented by a person of his or her choice, and to present any evidence on his or her behalf. Technical rules of evidence do not apply during the hearing.<sup>23</sup>

### **Effect of the Bill**

The bill repeals ch. 2008-296, Laws of Florida, removing the employee protections in the special act and placing the employees of the Jackson County Sheriff's Office under the employee protections provided by general law.

#### **B. SECTION DIRECTORY:**

Section 1: Repeals ch. 2008-296, Laws of Florida.

Section 2: Provides an effective date of upon becoming a law.

## **II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS**

A. NOTICE PUBLISHED? Yes [] No []

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<sup>12</sup> Art. VIII, s. 1(f), Fla. Const.

<sup>13</sup> Florida Association of Counties, *Charter County Information*, available at <https://www.fl-counties.com/charter-county-information> (last visited on February 21, 2022).

<sup>14</sup> S. 1-8, Ch. 1, Jackson County, Florida – Code of Ordinances.

<sup>15</sup> S. 2-51(11), Div. 2., Art. II, Ch. 2, Jackson County, Florida – Code of Ordinances.

<sup>16</sup> S. 2-51(12), Div. 2., Art. II, Ch. 2, Jackson County, Florida – Code of Ordinances.

<sup>17</sup> This section provides specific situations in which the sheriff may appoint special deputy sheriffs.

<sup>18</sup> Ch. 2008-296, s. 1(1), Laws of Fla.

<sup>19</sup> Ch. 2008-296, s. 1(2)(a), Laws of Fla.

<sup>20</sup> Ch. 2008-296, s. 1(2)(b), Laws of Fla.

<sup>21</sup> Ch. 2008-296, s. 2(3)(a), Laws of Fla.

<sup>22</sup> Ch. 2008-296, s. 2(3)(b), Laws of Fla.

<sup>23</sup> Ch. 2008-296, s. 2(3)(c), Laws of Fla.

IF YES, WHEN?      October 27, 2021

WHERE?              The *Jackson County Floridan*, a daily newspaper of general circulation in Jackson County, Florida.

B. REFERENDUM(S) REQUIRED?    Yes     No

IF YES, WHEN?

C. LOCAL BILL CERTIFICATION FILED?    Yes     No

D. ECONOMIC IMPACT STATEMENT FILED?    Yes     No

### **III. COMMENTS**

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

The bill neither requires nor provides authority for administrative agency rulemaking.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

### **IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES**

None.