

By Senator Burgess

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1 A bill to be entitled
2 An act relating to law enforcement operations;
3 amending s. 30.15, F.S.; revising the powers, duties,
4 and obligations of a sheriff; creating s. 125.01015,
5 F.S.; creating an office of the sheriff in each
6 county; providing requirements for the board of county
7 commissioners; requiring the board to provide a
8 specified certification to the Governor and
9 Legislature within a specified timeframe; providing a
10 penalty; providing requirements for a sheriff-elect
11 before, and a sheriff upon, taking office; amending s.
12 166.241, F.S.; authorizing certain persons to file a
13 petition with the Division of Administrative Hearings,
14 rather than an appeal to the Administration
15 Commission, if the tentative budget of a municipality
16 contains a certain reduction; providing requirements
17 for such petition and a reply to such petition;
18 providing procedures for hearings on such petitions;
19 specifying the administrative law judge's
20 considerations during the hearing; requiring the
21 administrative law judge to issue a specified
22 recommended order within a certain timeframe;
23 providing that the recommended order is subject to
24 appeal; specifying that the recommended order becomes
25 final under certain circumstances; providing that the
26 division must close the case under certain
27 circumstances; providing the effects of the final
28 order; providing an effective date.
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30 Be It Enacted by the Legislature of the State of Florida:

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32 Section 1. Subsection (5) is added to section 30.15,
33 Florida Statutes, to read:

34 30.15 Powers, duties, and obligations.—

35 (5) As required by s. 1(d), Art. VIII of the State
36 Constitution, there shall be an elected sheriff in each Florida
37 county and the transfer of the sheriff's duties to another
38 officer or office is prohibited.

39 (a) The sheriff shall have exclusive policing jurisdiction
40 in the unincorporated areas of each county. The sheriff's
41 jurisdiction and powers must run throughout the entire county
42 regardless of whether there are incorporated cities or other
43 independent districts or governmental entities in the county.
44 The sheriff's jurisdiction is concurrent with any city,
45 district, or other law enforcement agency that has jurisdiction
46 in a city or district.

47 (b) A police department or other policing entity may not be
48 maintained or established by the county's board of county
49 commissioners, or any other county legislative body, to provide
50 any policing in the unincorporated areas of any county. Only the
51 duly elected sheriff may provide such policing and police
52 functions in the unincorporated areas of any county. A county
53 may not contract with or engage in any manner with an
54 incorporated city's or district's police department to provide
55 any services provided by the sheriff, including policing or
56 police functions in the unincorporated areas of any county.
57 Nothing in this paragraph affects the jurisdiction or powers of
58 any agency of the State of Florida or the United States or

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59 prohibits mutual aid agreements between the sheriff and any
60 other police department.

61 Section 2. Section 125.01015, Florida Statutes, is created
62 to read:

63 125.01015 Office of sheriff.-

64 (1) As required by s. 1(d), Art. VIII of the State
65 Constitution, there shall be an elected sheriff in each Florida
66 county. If a county does not have an elected sheriff, one must
67 be elected pursuant to the State Constitution, and the board of
68 county commissioners must ensure a successful transfer of the
69 exclusive policing jurisdiction in the unincorporated areas of
70 each county.

71 (2) To ensure successful transfer of exclusive policing
72 jurisdiction in the unincorporated areas of the county, the
73 board of county commissioners shall:

74 (a) Before the election of the sheriff:

75 1. Develop and approve a budget for the office of the
76 sheriff in the county fiscal year in which the election will
77 occur. The budget must be consistent with the requirements of s.
78 30.49. The board of county commissioners shall consult with the
79 Florida Sheriffs Association for technical advice and assistance
80 on establishing an operating budget for the office of the
81 sheriff's initial fiscal year. The budget for the fiscal year
82 that the sheriff-elect will take office must address the
83 election of a sheriff and the necessary transfer of assets.

84 2. Conduct an inventory and audit of all assets of any
85 county police department and any other law enforcement agency
86 that the elected sheriff shall administer. The inventory and
87 audit must determine which of those assets must be transferred

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88 to the office of the sheriff upon the sheriff-elect taking
89 office. The board of county commissioners shall consult with the
90 Florida Sheriffs Association to determine the basic necessary
91 operating equipment, including, but not limited to, information
92 technology, hardware, or software, that the sheriff-elect will
93 need upon taking office.

94 a. The board must meet and consult with the association at
95 least 18 months before the sheriff-elect takes office.

96 b. The inventory and audit must be completed at least 1
97 year before the sheriff-elect takes office.

98 3. Provide funding to purchase any basic necessary
99 operating equipment, including, but not limited to, information
100 technology, hardware, or software, that is not specifically
101 designated for transfer to the new office of the sheriff.

102 (b) After the election of the sheriff:

103 1. Provide funding for all of the staff and office space
104 necessary to establish an independent office of the sheriff so
105 that the office may effectively operate and perform all of the
106 functions required by general law on the date the sheriff-elect
107 takes office.

108 2. Provide funding to purchase any basic necessary
109 operating equipment, including, but not limited to, information
110 technology, hardware, or software, that is not specifically
111 designated for transfer to the new office of the sheriff.

112 3. Make available to the sheriff-elect the county's fiscal
113 and budget software for the office of the sheriff's budget. The
114 software must be sufficient to allow the sheriff-elect to
115 operate a budget office upon taking office. The sheriff may
116 obtain and implement his or her own independent fiscal and

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117 budget software after taking office.

118 4. Provide funding for the sheriff-elect to select all
119 necessary insurances, including, but not limited to, liability
120 insurance, workers' compensation insurance, health insurance,
121 and self-insurance.

122 5. Provide funding for the sheriff-elect to open bank and
123 other accounts, as necessary, in his or her official capacity as
124 sheriff so that such accounts may become operational upon the
125 sheriff-elect taking office.

126 6. Provide funding for and facilitate procurement of the
127 required surety bonds for the deputy sheriffs pursuant to s.
128 30.09 so that such bonds may be obtained and finalized upon the
129 sheriff-elect taking office.

130 7. Prepare and deliver to the office of the sheriff all
131 documents, property, or other items listed in subsection (4).

132 (c) The board of county commissioners shall provide a
133 written certification to the Governor, the President of the
134 Senate, and the Speaker of the House of Representatives that the
135 requirements of this subsection have been met. The written
136 certification is due within 30 days after each of the dates
137 prescribed in sub-subparagraphs (a)2.a. and b.

138 (d) If a written certification is not provided pursuant to
139 paragraph (c), the Governor may remove or suspend county
140 commissioners as provided in s. 7, Art. IV of the State
141 Constitution.

142 (3) After the election is certified and before taking
143 office, the sheriff-elect shall:

144 (a) Select staff to assist the sheriff-elect in
145 establishing an independent office of the sheriff. As provided

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146 in s. 30.53, the sheriff shall preserve his or her independence
147 concerning the purchase of supplies and equipment, the selection
148 of personnel, and procedures regarding employment, setting of
149 salaries, and termination of such personnel.

150 (b) Establish and open bank and other accounts, as
151 necessary, in his or her official capacity as sheriff so that
152 such accounts may become operational upon the sheriff taking
153 office.

154 (c) Obtain all necessary insurances, including, but not
155 limited to, liability insurance, workers' compensation
156 insurance, health insurance, and self-insurance, to take effect
157 upon the sheriff taking office.

158 (d) Evaluate the budget and transfer of equipment as
159 described in this section to determine whether the operating,
160 capital, and personnel services budget is sufficient for the
161 sheriff to operate and fulfill his or her constitutional and
162 statutory responsibilities.

163 (e) Provide written notice of any funding deficiencies to
164 the board of county commissioners, which shall have 30 days to
165 respond and reach an agreement with the sheriff-elect on funding
166 requirements. If, after expiration of the 30-day period, an
167 agreement has not been reached, the sheriff-elect may file an
168 appeal by petition to the Administration Commission pursuant to
169 s. 30.49(4)(a) and (b), (5), and (10). The Administration
170 Commission shall expedite its review and determination of such
171 petition and render a decision within 90 days.

172 (4) The sheriff, upon taking office, shall take receipt or
173 possession of any of the following:

174 (a) Unexecuted writs and court processes and shall comply

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175 with s. 30.14(3) as to any levy made before taking receipt of
176 such unexecuted writs and court processes.

177 (b) Property confiscated under the Florida Contraband
178 Forfeiture Act established in s. 932.701 and shall determine
179 whether to pursue the forfeiture proceedings pursuant to s.
180 932.704.

181 (c) Records, papers, documents, or other writings,
182 including those concerning open investigations, necessary for
183 the sheriff to perform his or her required duties.

184 (d) Property held in evidence relating to a case that is
185 under the jurisdiction of the office of the sheriff.

186 Section 3. Present subsections (6), (7), and (8) of section
187 166.241, Florida Statutes, are redesignated as subsections (8),
188 (9), and (10), respectively, new subsections (6) and (7) are
189 added to that section, and subsections (4) and (5) and present
190 subsection (8) of that section are amended, to read:

191 166.241 Fiscal years, budgets, appeal of municipal law
192 enforcement agency budget, and budget amendments.—

193 (4) (a) If the tentative budget of a municipality contains a
194 funding reduction to the operating budget of the municipal law
195 enforcement agency of more than 5 percent compared to the
196 current fiscal year's approved budget, the state attorney for
197 the judicial circuit in which the municipality is located, ~~or a~~
198 member of the governing body ~~who objects to the funding~~
199 ~~reduction~~, may file a petition with an appeal by petition to the
200 Division of Administrative Hearings pursuant to ss. 120.569 and
201 120.57, with a copy served on the affected local government, to
202 request a formal hearing to challenge the reduction in the
203 municipal law enforcement agency's operating budget. The

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204 petition must be filed with the division ~~Administration~~
205 ~~Commission~~ within 30 days after the day the tentative budget is
206 posted to the official website of the municipality under
207 subsection (3). The petition must set forth the tentative budget
208 proposed by the municipality, in the form and manner prescribed
209 by the division ~~Executive Office of the Governor and approved by~~
210 ~~the Administration Commission, and~~ the operating budget of the
211 municipal law enforcement agency as approved by the municipality
212 for the previous year, and must state the reasons or grounds for
213 the petition appeal. ~~The petition shall be filed with the~~
214 ~~Executive Office of the Governor and a copy served upon the~~
215 ~~governing body of the municipality or to the clerk of the~~
216 ~~circuit court of the county in which the municipality is~~
217 ~~located.~~

218 (b) The governing body of the municipality shall file a
219 reply with the division and shall serve a copy of the reply on
220 the petitioner within ~~has~~ 5 working days after receipt of
221 ~~service of a copy of the petition to file a reply with the~~
222 ~~Executive Office of the Governor and shall serve a copy of such~~
223 ~~reply to the petitioner.~~

224 (5) Upon receipt of the petition, the division ~~Executive~~
225 ~~Office of the Governor~~ shall hold a ~~provide for a~~ budget hearing
226 at which the matters presented in the petition and the reply
227 shall be considered. ~~A report of the findings and~~
228 ~~recommendations of the Executive Office of the Governor thereon~~
229 ~~shall be promptly submitted to the Administration Commission,~~
230 ~~which, within 30 days, shall approve the action of the governing~~
231 ~~body of the municipality or amend or modify the budget as to~~
232 ~~each separate item within the operating budget of the municipal~~

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233 ~~law enforcement agency. The budget as approved, amended, or~~
234 ~~modified by the Administration Commission shall be final.~~

235 (a) During the hearing, the petitioner and municipality may
236 present to the administrative law judge all information relevant
237 to the municipal law enforcement agency's budgetary needs and
238 requirements, including, but not limited to:

239 1. The grounds for the petition filed by the petitioner;

240 2. The grounds for opposing the petition;

241 3. The municipality's reasons for proposing a reduction in
242 funding in the current fiscal year's operating budget;

243 4. The operating budget approved by the municipality;

244 5. A comparison of the municipal law enforcement agency's
245 operating budget to the operating budgets of other entities
246 within the municipality;

247 6. A comparison of the municipal law enforcement agency's
248 operating budget to operating budgets of law enforcement
249 agencies in nearby municipalities that are of comparable size;

250 7. Data and all other information describing the municipal
251 law enforcement agency's staffing needs and budgetary
252 requirements from the current fiscal year and the 2 previous
253 fiscal years;

254 8. The draft municipal law enforcement agency operating
255 budgets, budget amendments, or budget meeting minutes from the
256 current fiscal year and the 2 previous fiscal years;

257 9. The revenue and projected revenue available to the
258 municipality and the change in the amount of revenue collected
259 over the last 3 fiscal years; and

260 10. Any other information provided by the petitioner or
261 municipality relevant to the municipal law enforcement agency's

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262 operating budget.

263 (b) In making a determination, the administrative law judge
264 may consider whether:

265 1. The law enforcement agency can fully perform its duties
266 despite the budget reduction;

267 2. The proposed level of funding will endanger the safety
268 of the municipality's residents; and

269 3. The proposed operating budget for the municipal law
270 enforcement agency will have a substantially negative effect on
271 the effectiveness of the law enforcement agency.

272 (6) (a) The administrative law judge, within 30 days after
273 the hearing on the petition, shall issue a recommended order
274 either approving or rejecting the proposed operating budget for
275 the municipal law enforcement agency. The recommended order must
276 list the administrative law judge's findings and explain its
277 decision with reference to the information presented or
278 discussed during the hearing. The recommended order is subject
279 to appeal in accordance with chapter 120.

280 (b) The recommended order submitted under this subsection
281 becomes a final order 90 days after its issuance unless the
282 petitioner and municipality voluntarily enter into an agreement
283 resolving the issues raised in the hearing. Before the execution
284 of the agreement, the municipality must approve the agreement at
285 a public hearing noticed in accordance with this chapter. Upon
286 the filing of an executed agreement, the division must close the
287 case.

288 (7) (a) If the final order approves the tentative budget of
289 a municipality which contains a funding reduction to the
290 operating budget of the municipal law enforcement agency, that

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291 portion of the operating budget is valid.

292 (b) If the final order rejects the tentative budget of a
293 municipality which contains a funding reduction to the operating
294 budget of the municipal law enforcement agency, the municipality
295 must approve a budget that does not reduce funding to the
296 municipal law enforcement agency as prescribed in paragraph
297 (4) (a).

298 (10)~~(8)~~ If the governing body of a municipality amends the
299 budget pursuant to paragraph (9) (c) ~~(7) (e)~~, the adopted
300 amendment must be posted on the official website of the
301 municipality within 5 days after adoption and must remain on the
302 website for at least 2 years. If the municipality does not
303 operate an official website, the municipality must, within a
304 reasonable period of time as established by the county or
305 counties in which the municipality is located, transmit the
306 adopted amendment to the manager or administrator of such county
307 or counties who shall post the adopted amendment on the county's
308 website.

309 Section 4. This act shall take effect upon becoming a law.