

CHAPTER 2023-156

Committee Substitute for Committee Substitute for Committee Substitute for House Bill No. 1595

An act relating to law enforcement operations; amending s. 30.15, F.S.; revising the powers, duties, and obligations of a sheriff; creating s. 125.01015, F.S.; requiring that there be an elected sheriff in each county; requiring the board of county commissioners of any such county to ensure the successful transfer of the exclusive policing responsibility and authority to the sheriff; providing requirements for the board of county commissioners to ensure such transfer; providing requirements for the sheriff-elect after the election is certified but before he or she takes office; requiring the sheriff to take receipt or possession of certain documents, property, and other items when he or she takes office; requiring the sheriff to provide contracted police services for certain municipalities for a specified timeframe; providing construction; providing severability; amending s. 166.241, F.S.; authorizing certain persons to file a petition with the Division of Administrative Hearings, rather than an appeal by petition to the Administration Commission, if the tentative budget of a municipality contains a certain reduction; providing requirements for such petition and petitioner; requiring the governing body of the municipality to file an answer with the division and serve a copy of such answer on the petitioner within a certain timeframe; requiring the division to assign an administrative law judge to conduct a hearing on such petition within a certain timeframe; providing procedures for such hearings; requiring the administrative law judge to make a specified determination and issue a final order within a certain timeframe; providing requirements for making such determination; providing that such final order is appealable; providing requirements for such appeal; conforming cross references; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

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

30.15 Powers, duties, and obligations.—

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

(a) Unless otherwise authorized by state law, the sheriff shall have exclusive policing jurisdiction in the unincorporated areas of each county. The sheriff's jurisdiction and powers must run throughout the entire county regardless of whether there are incorporated cities or other independent districts or governmental entities in the county. The sheriff's jurisdiction is

concurrent with any city, district, or other law enforcement agency that has jurisdiction in a city or district.

(b) A police department or other policing entity may not be maintained or established by the county's board of county commissioners, or any other county legislative body, to provide any policing in the unincorporated area of any county. Unless otherwise authorized by state law, only the duly elected sheriff may provide such policing and police functions in the unincorporated area of any county. A county may not contract with or engage in any manner with an incorporated city's or district's police department to provide any services provided by the sheriff, including policing or police functions in the unincorporated area of any county. Nothing in this paragraph affects the jurisdiction or powers of any agency of the State of Florida or the United States or prohibits mutual aid agreements between the sheriff and any other police department.

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

125.01015 Office of the sheriff.—

(1) As required by s. 1(d), Art. VIII of the State Constitution, there shall be an elected sheriff in each county in this state. Unless otherwise provided in this section, a county, as defined in s. 125.011(1), shall, as required by s. 6(g), Art. VIII of the State Constitution, elect a sheriff. The board of county commissioners of any such county must ensure the successful transfer of the exclusive policing responsibility and authority to the sheriff in areas of the county for which the sheriff has responsibility.

(2) To ensure the successful transfer of the exclusive policing responsibility and authority to the sheriff in a county, as defined in s. 125.011(1), the board of county commissioners shall:

(a) Before the election of the sheriff:

1. Develop and approve a budget for the office of the sheriff for the county fiscal year in which the election will be held and the sheriff will take office. The budget must adequately fund the office so that the sheriff may properly perform all of his or her duties upon taking office. The budget must be consistent with the requirements of s. 30.49. The budget for the fiscal year in which the sheriff-elect will take office must take into consideration the sheriff's initial budget requirements, as mitigated by the transfer of assets from existing county departments to the office of the sheriff.

2. Conduct an inventory and audit of all assets, and any associated liabilities, of a county department that presently performs any function that will be performed or administered by the elected sheriff in order to mitigate initial funding requirements and eliminate duplicate funding. Based on the inventory and audit, the county must determine which of those assets, and any associated liabilities, shall be transferred to the office of the sheriff upon the sheriff-elect taking office. The inventory and audit must be completed

before the county adopts its budget for the county fiscal year in which the sheriff will take office. The inventory and audit must be published on the county's website at least 60 days before the county adopts its budget for the county fiscal year in which the sheriff will take office.

3. Provide funding in the budget approved by the county for the county fiscal year in which the sheriff will take office to purchase all basic necessary operating equipment, including, but not limited to, furniture, fixtures, and equipment, as well as information technology hardware and software that is not specifically designated for transfer from the county to the office of the sheriff, based on the inventory and audit required under subparagraph 2., or otherwise provided to the new office of the sheriff by the county through an interlocal agreement as described in sub-subparagraph (b)6.d.

(b) After the election of the sheriff is certified:

1. Provide funding for all of the necessary staff and office space for the sheriff-elect to establish an independent office of the sheriff, so that the office may effectively operate and perform all of the functions required by general law when the sheriff-elect takes office.

2. Provide funding for the sheriff-elect to select any necessary insurances not provided by the county through the interlocal agreement required under sub-subparagraph 6.d. to allow the sheriff to effectively operate and perform all of the functions required by general law when he or she takes office.

3. Provide funding for the sheriff-elect to establish bank and other accounts, as necessary, in his or her official capacity as sheriff, so that such accounts become operational when he or she takes office.

4. Unless otherwise transferable based on existing surety bonds for the sheriff's deputies, provide funding for and facilitate procurement of the required surety bonds for deputy sheriffs pursuant to s. 30.09, so that such bonds are in place when the sheriff-elect takes office.

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

6. Notwithstanding any provision to the contrary, for a term commencing on January 7, 2025, and ending on or after September 30, 2028, provide the sheriff-elect taking office with, and require the sheriff-elect taking office to use, not less than the substantially and materially same support services, facilities, office space, and information technology infrastructure provided to county offices or departments performing the duties to be performed by the sheriff-elect upon taking office in the 1-year period before he or she takes office.

a. As used in this subparagraph, the term "support services" includes:

(I) Property and facilities, and the management and maintenance for such property and facilities.

(II) Communications infrastructure, including telephone and Internet connectivity.

(III) Risk management, including processing, adjusting, and payment of all claims and demands, including those made under s. 768.28. The county shall provide the sheriff with all required general liability, property, and other insurance coverage through its self-insurance program, a self-insurance risk pool, or commercial insurance. If the county provides insurance through a self-insurance program, the county must also provide the sheriff with commercial stop-loss coverage in an amount and with a self-insured retention agreed upon by the sheriff and the county.

(IV) Legal representation and advice through the office of the county attorney for all claims, demands, and causes of action brought against the sheriff, his or her deputies, or other personnel in their official and individual capacities, while acting in their official and individual capacities, including any required outside counsel due to conflicts of interest. This sub-subparagraph does not prohibit the sheriff from employing or retaining his or her own legal representation as he or she deems necessary.

(V) Purchasing and procurement services using procedures under the laws and ordinances applicable to the county for purchases requiring competitive procurement.

(VI) Budget and fiscal software and budget development services.

(VII) Human resource services, including, but not limited to, facilitation of the hiring process, including employee applicant screening and employee applicant background checks, and employee benefit administration. The county may provide human resource services to the sheriff. However, the sheriff is the employer of his or her employees and the sheriff retains full and complete control and authority over the hiring of his or her employees and the terms and conditions of employment, including employee discipline and termination of employment. The provision of human resource services by the county to the sheriff does not create a joint-employer relationship. The sheriff's employees shall remain members of the county's health insurance and workers' compensation plans for at least the term set forth in this subparagraph.

(VIII) Fleet management, including procurement of all vehicles and other mobile assets such as boats and aircraft, and all vehicle repair and maintenance.

b. As used in this subparagraph, the term "information technology infrastructure" includes:

(I) All hardware, including computers.

(II) Budget and fiscal software, including payroll and purchasing software.

(III) Computer-aided dispatch.

c. Under a cost allocation plan agreed to by the county and the sheriff, the sheriff shall pay the county for such support services and information technology infrastructure from his or her general fund budget, except for any support services and information technology infrastructure costs that general law otherwise and expressly requires the county to fund outside the sheriff's budget.

d. To satisfy compliance with this subsection and to establish the office of the sheriff in a manner that minimizes unnecessary financial expenditures, the county and the sheriff shall execute an interlocal agreement addressing the requirements of this subsection and other expenditures, including an appropriate phase-in period for identification of the sheriff's assets with the sheriff's markings to minimize the cost to taxpayers. The interlocal agreement shall have a term that ends no earlier than September 30, 2028, and may be amended, renewed, extended, or newly adopted at any time following the expiration or termination of the agreement. After the initial period ending no earlier than September 30, 2028, an interlocal agreement may be entered into between the county and the sheriff which provides for the same or different requirements as set forth in this subsection.

(3) After the election of the sheriff is certified but before he or she takes office, the sheriff-elect shall:

(a) Hire personnel to assist the sheriff-elect in establishing an independent office of the sheriff. The sheriff shall retain independence in the hiring of personnel. All personnel hired by the sheriff are employees of the sheriff and not the county. The sheriff shall retain authority and control over the terms and conditions of employment, including, but not limited to, procedures regarding employment, the setting of salaries, and the termination of employment. However, the sheriff must use county human resource services for the period of time established in the interlocal agreement entered into between the sheriff and the county as described in sub-subparagraph (2)(b)6.d.

(b) Establish bank and other accounts, as necessary, in the sheriff's official capacity, so that such accounts become operational when he or she takes office.

(c) Obtain all necessary insurance, or establish self-insurance, to take effect when the sheriff-elect takes office, unless the county provides such insurance under the interlocal agreement as described in sub-subparagraph (2)(b)6.d.

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

(e) Provide written notice of any funding deficiencies to the board of county commissioners. The board of county commissioners must respond to and reach an agreement with the sheriff-elect on funding requirements within 30 days after receipt of such written notice. If, after expiration of the 30-day period, an agreement has not been reached, the sheriff-elect may file an appeal by petition to the Administration Commission pursuant to s. 30.49(4)(a). The Administration Commission shall expedite its review and determination of such petition and render a decision within 90 days after such petition is filed.

(4) When the sheriff takes office, he or she shall take receipt or possession of any:

(a) Unexecuted writs and court processes, and must comply with s. 30.14(3) as to any levy made before taking receipt of such unexecuted writs and court processes.

(b) Property confiscated under the Florida Contraband Forfeiture Act, and must determine whether to pursue forfeiture proceedings under s. 932.704.

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

(d) Property held in evidence by any county department relating to a case that is under the jurisdiction of the office of the sheriff.

(5) In any county, as defined in s. 125.011(1), required to elect a sheriff under s. 6(g), Art. VIII of the State Constitution, if the county provides contracted police services to any municipality in that county before the sheriff-elect takes office, upon taking office, the sheriff shall assume such contract. This subsection does not prevent a municipality from establishing its own police department or otherwise providing for police services as authorized by general law.

(6) If any provision of this section or its application to any person or circumstance is held invalid by a court of competent jurisdiction, the invalidity does not affect any other provisions or applications of this section which can be given effect without the invalid provision or application, and to this end the provisions of this section are severable.

Section 3. Subsections (6), (7), and (8) of section 166.241, Florida Statutes, are renumbered as subsections (7), (8), and (9), respectively, subsections (4) and (5) and present subsection (8) are amended, and a new subsection (6) is added to that section, to read:

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

(4)(a) ~~If the tentative budget of a municipality contains a funding reduction to the operating budget of the municipal law enforcement agency of more than 5 percent compared to the current fiscal year's approved operating budget, the state attorney for the judicial circuit in which the municipality is located, or a member of the governing body who objects to the funding reduction, may file a petition with an appeal by petition to the Division of Administrative Hearings pursuant to s. 120.569 requesting a hearing to challenge the reduction in the municipal law enforcement agency's proposed operating budget. The petition must be filed with the division Administration Commission within 10 30 days after the day the tentative budget is posted to the official website of the municipality under subsection (3) and the petitioner must serve a copy of the petition on the affected municipality. The petition must set forth the tentative budget proposed by the municipality and, in the form and manner prescribed by the Executive Office of the Governor and approved by the Administration Commission, the operating budget of the municipal law enforcement agency as approved by the municipality for the previous year, and must state the reasons or grounds for the petition appeal. The petition shall be filed with the Executive Office of the Governor and a copy served upon the governing body of the municipality or to the clerk of the circuit court of the county in which the municipality is located.~~

(b) ~~The governing body of the municipality must file an answer with the division and must serve a copy of the answer on the petitioner within 5 working days, excluding Saturdays, Sundays, and legal holidays, after receipt of service of a copy of the petition to file a reply with the Executive Office of the Governor and shall serve a copy of such reply to the petitioner.~~

(5)(a) ~~Upon receipt of the petition, the division must assign an administrative law judge to conduct Executive Office of the Governor shall provide for a budget hearing no later than 20 days after the petition is filed, at which the matters presented in the petition and the answer must reply shall be considered. Notwithstanding s. 120.57, all proceedings under this subsection must be conducted by an administrative law judge assigned by the division A report of the findings and recommendations of the Executive Office of the Governor thereon shall be promptly submitted to the Administration Commission, which, within 30 days, shall approve the action of the governing body of the municipality or amend or modify the budget as to each separate item within the operating budget of the municipal law enforcement agency. The budget as approved, amended, or modified by the Administration Commission shall be final.~~

(b) ~~At the hearing, the petitioner and the municipality may present all information relevant to the municipal law enforcement agency's budgetary needs and requirements, including, but not limited to:~~

- ~~1. The proposed operating budget approved by the municipality;~~
- ~~2. The municipality's grounds for proposing a reduction in funding to the current fiscal year's law enforcement operating budget;~~

3. The petitioner's grounds for challenging the proposed reduction in funding to the law enforcement operating budget;

4. The operating budgets of other public entities in the municipality;

5. The operating budgets of other law enforcement agencies in municipalities that are of comparable size;

6. The municipal law enforcement agency's staffing needs and budgetary requirements from the current fiscal year and the 2 previous fiscal years;

7. The draft municipal law enforcement agency operating budget, budget amendments, and budget meeting minutes from the current fiscal year and the 2 previous fiscal years;

8. The revenue and projected revenue available to the municipality and any change in the amount of revenue collected over the previous 3 fiscal years; and

9. Any other information relevant to the municipal law enforcement agency's operating budget.

(6)(a) Within 15 days after the hearing, the administrative law judge must issue a final order either approving or rejecting the proposed operating budget for the municipal law enforcement agency by determining whether the proposed reduction will impair the law enforcement agency's overall ability to ensure public safety. In making the determination, the administrative law judge must make findings regarding whether the funding reduction in the proposed operating budget of the municipal law enforcement agency will result in:

1. A reduction of the number of law enforcement officers employed by the municipality;

2. A reduction or an elimination of public safety programs or initiatives provided by the agency; and

3. A lack of appropriate equipment necessary to ensure officer safety.

(b) The administrative law judge's final order is appealable pursuant to s. 120.68 and any such judicial review must be sought in the First District Court of Appeal.

(9)(8) If the governing body of a municipality amends the budget pursuant to paragraph (8)(c) (7)(e), the adopted amendment must be posted on the official website of the municipality within 5 days after adoption and must remain on the website for at least 2 years. If the municipality does not operate an official website, the municipality must, within a reasonable period of time as established by the county or counties in which the municipality is located, transmit the adopted amendment to the manager or

administrator of such county or counties who shall post the adopted amendment on the county's website.

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

Approved by the Governor May 25, 2023.

Filed in Office Secretary of State May 25, 2023.