Sheriff -- Budget -- County

Number: INFORMAL

Date: June 08, 2015

Ms. Michele L. Lieberman
Alachua County Attorney
Post Office Box 5547
Gainesville, Florida 32627

Dear Ms. Lieberman:

On behalf of the Alachua County Commission, you have asked for assistance in determining whether the sheriff has the authority to transfer funds in his or her budget between object codes within each function without the approval of the board of county commissioners and, if not, whether the board may delegate its authority to approve budget amendments to all constitutional officers in the county. You also ask whether section 30.49(4), Florida Statutes, establishes a minimum funding level for the sheriff's budget which would require the board of county commissioners to fund the sheriff's budget at a minimum of the same level as the previous fiscal year.

Regrettably, a response to your first two questions would necessarily involve comment upon the authority and duties of the sheriff (as well as other constitutional officers in regard to your second question) which will not be addressed by this office absent a request from the individual officer whose powers and duties are questioned.[1] The following general comments regarding the county's role in approval and amendment of the sheriff's budgetary items, however, are offered to be of assistance.

Section 30.49 (1), Florida Statutes, requires the sheriff to annually prepare and submit to the board of county commissioners a proposed budget for carrying out the powers, duties, and operations of the office for the next fiscal year. The proposed budget must show the estimated amounts of all proposed expenditures, categorized at the appropriate fund level within the following functional categories:

"1. General law enforcement.
2. Corrections and detention alternative facilities.
3. Court services, excluding service of process."[2]

Within these fund and functional categories, expenditures must be itemized in accordance with the uniform accounting system prescribed by the Department of Financial services as:

"1. Personnel services.
2. Operating expenses.
3. Capital outlay
4. Debt service.
5. Grants and aids.

6. Other uses."[3]

The sheriff is required by the statute to furnish to the board of county commissioners or the budget commission information concerning previous fiscal years and proposed expenditures which the board or commission deems necessary.[4] This information may include expenditures “at the subobject code level in accordance with the uniform accounting system prescribed by the Department of Financial Services.[5] The statute states that the board of county commissioners or the budget commission “may not amend, modify, increase, or reduce any expenditure at the subobject code level.”[6] At hearings to fix millage pursuant to section 200.065, Florida Statutes, the board or budget commission, “may amend, modify, increase, or reduce any or all items of expenditure in the proposed budget, as certified by the sheriff pursuant to paragraphs (2)(a)-(c), and shall approve such budget, as amended, modified, increased, or reduced.”[7] Thereafter, the board or budget commission must give written notice of its action to the sheriff and specify in such notice those items amended, modified, increased, or reduced.[8]

Section 30.49(4), Florida Statutes, also provides:

"The budget must include the salaries and expenses of the sheriff’s office, cost of operation of the county jail, purchase, maintenance and operation of equipment, including patrol cars, radio systems, transporting prisoners, court duties, and *all other salaries, expenses, equipment, and investigation expenditures of the entire sheriff’s office for the previous year*."[9] (e.s.)

Thereafter, the sheriff may by petition file an appeal with the administration commission.[10] The board or commission has five days following delivery of a copy of the petition to file a reply with the Executive Office of the Governor and provide a copy of such reply to the sheriff.[11]

You note that the emphasized language in section 30.49(4), Florida Statutes, noted above could be interpreted to create a base-line minimum funding which must be carried forward to future budgetary years. Such an interpretation, however, would lead to the unreasonable result of ignoring the clear and unambiguous language granting the county the authority to modify the sheriff’s proposed budget.

Where the language of a statute is clear and unambiguous, the Legislature’s intent must be given effect.[12]

Moreover, when the overall language in section 30.49, Florida Statutes, is considered, the statute appears to operate as a directive of what items and their potential costs must be included in a proposed budget and does not specify amounts that must be approved by the county commission. The inclusion of information on expenditures for the previous budgetary year would logically serve as a comparison and not as a base-line which could only be increased.

As the plain language of the statute provides, the county commission or the budget commission must approve the sheriff’s proposed budget, as it has been amended, modified, increased, or reduced by the county commission or the budget commission.

I trust that these informal comments will be of assistance in your resolution of this matter.

Sincerely,

Lagran Saunders
Assistant Attorney General

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[1] *See* Section 16.01, Fla. Stat., and Frequently Asked Questions, accessible at http://myfloridalegal.com/pages.nsf/Main/dd177569f8fb0f1a85256cc6007b70ad.

[2] Section 30.49(2)(a), Fla. Stat.

[3] Section 30.49(2)(c), Fla. Stat.

[4] Section 30.49(3), Fla. Stat.

[5] *Id.*

[6] Section 30.49(3), Fla. Stat.

[7] Section 30.49(4), Fla. Stat.

[8] *Id.*

[9] *And see* s. 30.50, Fla. Stat., relating to the payment of salaries and expenses in the sheriff's office, as well as recognizing that with the approval of the board of county commissioners or the budget commission the sheriff's budget may be amended as provided in s. 129.06(2), Fla. Stat.

[10] Section 30.49(4)(a), Fla. Stat.

[11] Section 30.49(4)(b), Fla. Stat.

[12] *See, e.g., M.W. v. Davis*, 756 So. 2d 90 (Fla. 2000) (when language of statute is clear and unambiguous and conveys a clear and definite meaning, there is no occasion for resorting to rules of statutory interpretation and construction as statute must be given its plain and obvious meaning); *McLaughlin v. State*, 721 So. 2d 1170 (Fla. 1998); *Holly v. Auld*, 450 So. 2d 217, 219 (Fla. 1984); *Osborne v. Simpson*, 114 So. 543 (Fla. 1927) (where statute's language is plain, without ambiguity, it fixes legislative intention and interpretation and construction are not needed).