

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** PCB GAC 17-02 Collective Bargaining Impasses  
**SPONSOR(S):** Government Accountability Committee  
**TIED BILLS:** **IDEN./SIM. BILLS:** SB 1020

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Government Accountability Committee		Harrington	Williamson

### SUMMARY ANALYSIS

Collective bargaining is a constitutional right afforded to public employees in Florida. Through collective bargaining, public employees collectively negotiate with their public employer in the determination of the terms and conditions of their employment.

When the public employer is the state, current law specifies that if there are unresolved issues when the Governor submits his recommended budget, an impasse is declared by law in all collective bargaining negotiations. After a declaration of impasse, the parties must proceed directly to the Legislature for resolution. The presiding officers must appoint a joint select committee to review the positions of the parties and return a report no later than 10 days before the start of the legislative session. During session, the Legislature is required to issue a final resolution pursuant to the public interest and the interest of the public employees involved.

The bill revises the timeline for the Legislature's resolution of impasse in collective bargaining negotiations between public employees and the state. Specifically, the bill requires the parties at impasse to notify the Legislature of all unresolved issues by the first day of the regular session, rather than five days after an impasse has been declared. The bill requires the presiding officers to appoint a committee to review the positions of the parties at impasse. The committee must conduct a public hearing regarding the issues at impasse no later than the 14th day of session. The bill eliminates the requirement for the committee to send a report to the presiding officers concerning a recommended resolution.

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

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Background

Collective bargaining is a constitutional right afforded to public employees<sup>1</sup> in Florida.<sup>2</sup> To implement this constitutional provision, the Legislature has enacted ch. 447, F.S., which provides that the purpose of collective bargaining is to promote cooperative relationships between the government and its employees and to protect the public by assuring the orderly and uninterrupted operations and functions of government.<sup>3</sup> Through collective bargaining, public employees collectively negotiate with their public employer in the determination of the terms and conditions of their employment.<sup>4</sup> The Public Employees Relations Commission (commission) is responsible for assisting in resolving disputes between public employees and public employers.<sup>5</sup>

Chapter 447, F.S., specifies that public employees have the right to be represented in collective bargaining by any employee organization of their own choosing or to refrain from being represented.<sup>6</sup> An employee organization is defined as a “labor organization, union, association, fraternal order, occupational or professional society, or group, however organized or constituted, 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.”<sup>7</sup> An employee organization that is authorized to represent public employees in collective bargaining is known as a certified bargaining agent.<sup>8</sup>

Collective bargaining consists of a series of negotiations between a public employer’s chief executive officer<sup>9</sup> and the selected bargaining agent for the employee organization regarding the terms and conditions of employment.<sup>10</sup> Any collective bargaining agreement that is reached must be in writing and

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<sup>1</sup> The term “public employee” means any person employed by a public employer except:

- (a) Persons appointed by the Governor or elected by the people, agency heads, and members of boards and commissions.
- (b) Persons holding positions by appointment or employment in the organized militia.
- (c) Individuals acting as negotiating representatives for employer authorities.
- (d) Persons who are designated by the Public Employees Relations Commission (commission) as managerial or confidential employees pursuant to specific criteria.
- (e) Persons holding positions of employment with the Florida Legislature.
- (f) Persons who have been convicted of a crime and are inmates confined to institutions within the state.
- (g) Persons appointed to inspection positions in federal/state fruit and vegetable inspection service whose conditions of appointment are affected by the following:
  - 1. Federal license requirement.
  - 2. Federal autonomy regarding investigation and disciplining of appointees.
  - 3. Frequent transfers due to harvesting conditions.
- (h) Persons employed by the commission.
- (i) Persons enrolled as undergraduate students in a state university who perform part-time work for the state university.

The term “public employer” means the state or any county, municipality, or special district or any subdivision or agency thereof which the commission determines has sufficient legal distinctiveness properly to carry out the functions of a public employer. Section 447.203, F.S.

<sup>2</sup> Art. I, s. 6, FLA. CONST.

<sup>3</sup> Section 447.201, F.S.

<sup>4</sup> Section 447.301(2), F.S.

<sup>5</sup> Section 447.201(3), F.S.

<sup>6</sup> Section 447.301(2), F.S.

<sup>7</sup> Section 447.203(11), F.S.

<sup>8</sup> Section 447.203(12), F.S.

<sup>9</sup> Section 447.203(9), F.S., defines the term “chief executive officer” as the Governor for the state and for all other public employees, the person selected or appointed that is responsible to the legislative body of the public employer for the administration of the governmental affairs of the public employer.

<sup>10</sup> Section 447.203(14), F.S.

signed by both parties. The agreement is effective for a period of not more than three years, at which point the contract must be renegotiated.<sup>11</sup>

### Impasse

If the parties cannot reach a collective bargaining agreement after a reasonable period of negotiation, an impasse is declared. When the public employer is the state, either party may declare impasse. However, if there are unresolved issues when the Governor submits the recommended budget, an impasse is declared by law in all collective bargaining negotiations. Absent written approval from the President of the Senate and the Speaker of the House of Representatives, the Governor must submit a recommended budget at least 30 days before the start of the scheduled legislative session.<sup>12</sup>

After a declaration of impasse, the parties must proceed directly to the Legislature for resolution. Section 447.403(5)(a), F.S., requires parties at impasse to send unresolved issues to the presiding officers within five days of the declaration of impasse. The presiding officers must appoint a joint select committee to review the positions of the parties and return a report no later than 10 days before the start of the legislative session. During session, the Legislature is required to issue a final resolution pursuant to the public interest and the interest of the public employees involved.<sup>13</sup>

### 2018 Impasse Timelines

Chapter 2016-218, L.O.F., set January 9, 2018, as the date to convene the 2018 Regular Session. As such, the joint select committee on collective bargaining must meet during the last two weeks of December 2017, depending on when the Governor submits his recommended budget. The report from the committee must be submitted no later than December 30, 2017.

### **Effect of Proposed Changes**

The bill revises the timeline for the Legislature's resolution of impasses in collective bargaining negotiations between public employees and the state. The bill requires the parties at impasse to notify the Legislature as to unresolved issues by the first day of session, rather than five days after an impasse has been declared. The bill requires the presiding officers to appoint a committee, rather than requiring the appointment of a joint select committee, to review the positions of the parties at impasse. The committee must conduct a public hearing regarding the issues at impasse no later than the 14th day of session. The bill eliminates the requirement for the committee to send a report to the presiding officers concerning a recommended resolution.

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

Section 1. amends s. 447.403, F.S., to revise notice requirements for issues at impasse.

Section 2. provides an effective date of July 1, 2017.

## **II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

#### **A. FISCAL IMPACT ON STATE GOVERNMENT:**

##### **1. Revenues:**

The bill does not appear to have an impact on state government revenues.

##### **2. Expenditures:**

The bill does not appear to have an impact on state government expenditures.

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<sup>11</sup> Section 447.309(5), F.S.

<sup>12</sup> Section 216.162(1), F.S.

<sup>13</sup> Section 447.403(4)(c)-(e), F.S.

**B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

The bill does not appear to have an impact on local government revenues.

2. Expenditures:

The bill does not appear to have an impact on local government expenditures.

**C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

None.

**D. FISCAL COMMENTS:**

None.

**III. COMMENTS**

**A. CONSTITUTIONAL ISSUES:**

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to affect county or municipal governments.

2. Other:

Constitutional Right to Collective Bargaining

Article I, s. 6 of the Florida Constitution provides that “[t]he right of employees, by and through a labor organization, to bargain collectively shall not be denied or abridged.” Chapter 447, F.S., provides the procedural guidelines to resolve collective bargaining impasse between the state and the bargaining agent for the employee organization. The bill amends the timelines for resolving impasses between public employees and the state.

**B. RULE-MAKING AUTHORITY:**

The bill does not appear to create a need for rulemaking or rulemaking authority.

**C. DRAFTING ISSUES OR OTHER COMMENTS:**

None.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

Not applicable.