



CAPITOL REPORT

300 East Brevard Street, Tallahassee, FL 32301 • 850.222.3329 • FAX: 850.561.0192 • www.flpba.org

By Matt Puckett, Deputy Executive Director
LEGISLATIVE ACTIVITY FOR THE TWO WEEKS ENDING APRIL 3, 2009

Session's Halfway Completed with No Consensus on Major Issues

Really want to know what's happening in Tallahassee? Well right now... not much. As widely expected, the fiscal crisis gripping our state is grinding on the Legislature. Everything not related to the budget is either moving slowly, or dying on the vine.

Playing defense against attacks to pensions, benefits, positions, and salaries has been the number one challenge for our association this year. PBA lobbyists and chapter/charter presidents have fought against issues potentially adverse to you or your family. Through hardnosed lobbying and, of course a little luck, many of you will never have to know just what some of our friends in the Legislature had up their sleeve. However, it may very well come down to public pressure through phone calls and emails to prevent some the most egregious issues from succeeding, so please stay informed and be prepared to assist when we call upon you.



PBA President John Rivera puts on his game face prior to a committee meeting.

Members from **Broward County PBA, Correctional Probation Officers Chapter, Dade County PBA, FDLE Special Agents Association, Florida Highway Patrol Chapter, Palm Beach County PBA, State Correctional Officers Chapter, and State Law Enforcement Officers Chapter** have been in Tallahassee working long hours lobbying the issues. We appreciate everyone's help and look forward to seeing more of you over the next four weeks.

DROP Expansion Legislation Finished for this Year

The DROP expansion, or Eight Year DROP, will not have a completed actuarial study prior to the end of session. Since the constitution requires an economic impact study before creating a new benefit in the Florida Retirement System, this issue is not going forward. We have already made the arrangements to have the study completed after July 1st which allows us plenty of time to get a jump on next year. The state pension plan is conducting a five year experience analysis to conclude whether or not the funding assumptions currently in use for the pension are adequate. Any actuarial study completed prior to the conclusion of the five year study will be rendered void so it is important that our DROP expansion study is completed after this date. Bad news for our plans to increase the benefit, but we have been successful in efforts to protect the plan as a whole.

PBA Legislative Agenda

Law Enforcement Officers' Bill of Rights



SB 624 by Senator Mike Fasano

Referred to:

Community Affairs;
 Governmental Oversight and Accountability;
 Judiciary;
 Criminal and Civil Justice Appropriations

On the Community Affairs Committee agenda Tuesday, April 6th in 412 K.



HB 1107 by Representative Paige Kreegel

Referred to:

~~Public Safety & Domestic Security Policy Committee;~~ **PASSED 6-0 on Tuesday, March 24th.**
Governmental Affairs Policy Committee;
 Criminal & Civil Justice Policy Council;
 Government Accountability Act Council

Synopsis: Currently, an officer who is the subject of a non-criminal investigation can review the complaint and all witness statements prior to the beginning of the investigative interview. This legislation will expand the types of evidence the subject officer can review to include new technology like audio recordings, video recordings, and GPS locator information related to the incident under investigation along with all other subject officer statements. The officer's representative or counsel will also be able to review this information. Finally, the officer will be able to seek remedies from the circuit court if an agency is found to have failed to comply with disciplinary procedures.

CHANGES TO HB 1107: The legislation was amended to allow that an officer may seek to petition the circuit court if his or her rights were violated by an agency during the investigative procedure. With this amendment, a circuit judge can look at the totality of the circumstances to see if in fact the officer was subjected to an intentional, material violation of the law during the investigation. The judge is then free to fashion any remedy, including but not limited to, a reversal of the disciplinary action.

UPDATE

PBA and the Florida Sheriffs' Association have repeatedly met to reach a compromise on the details of the remedy portion of the legislation. Although nothing has been officially agreed upon, we believe both sides are close to a consensus that provides meaningful remedies to blatant violations of an officer's rights.

DROP Expansion



SB 1072 by Senator Carey Baker

Referred to:

~~Criminal Justice~~; PASSED 6-0 on Wednesday, March 11th

Community Affairs;

Governmental Oversight and Accountability;

Policy & Steering Committee on Ways and Means



HB 605 by Representative Will Snyder

Referred to:

Governmental Affairs Policy Committee;

Economic Development & Community Affairs Policy Council;

Government Operations Appropriations Committee;

Full Appropriations Council on General Government & Health Care

Synopsis: This legislation will allow an officer to extend his or her DROP date by up to an additional 36 months. It also prohibits an officer who terminates following DROP participation from being reemployed by the same employer from which the officer retired. There are two exceptions to the reemployment provision: 1) a retiree can be elected, or appointed by the Governor or cabinet to an office; 2) a retiree may be retained by the same employing agency in a part-time or auxiliary position if the retiree receives no more than \$ 1 per calendar year for services rendered directly for the employing agency.

Changes to the SB 1072: During the Senate Criminal Justice Committee, Senator Ted Deutch offered an amendment on behalf of Senator Carey Baker, which changed the reemployment prohibition to only apply to officers who extend beyond the original 60 month period.

UPDATE

The legislation is stalled until next year pending the completion of an actuarial study.

Firefighters and Municipal Police Officers Retirement Plans



SB 538 by Senator Carey Baker

Referred to:

~~Community Affairs~~; PASSED 10-0 on Tuesday, March 10th

Governmental Oversight and Accountability;

General Government Appropriations;

Policy & Steering Committee on Ways and Means

On the Governmental Oversight and Accountability agenda Tuesday, April 7 in 110 S



HB 5 by Representative Ed Hooper

Referred to:

~~Governmental Affairs Policy Committee~~; PASSED 11-0 on Wednesday, March 11th

~~Economic Development & Community Affairs Policy Council~~; PASSED 14-0 on Wednesday, March 25th

~~Finance & Tax Council~~; **PASSED 12-0 on Tuesday, March 31st**

Government Operations Appropriations Committee;

Full Appropriations Council on General Government & Healthcare

Synopsis: This legislation is a joint effort with the Florida Professional Firefighters with assistance from the Division of Retirement. It seeks to clarify and make a number of changes to local pension plans. Here are the changes pertaining to municipal police:

Revises definitions for purposes of determining prior service credit to include credit for past federal, state and other county service as long as the service is recognized by the Criminal Justice Standards & Training Commission.

Authorizes terms of office for boards of trustees of pension & retirement trust funds to be revised under certain circumstances to extend from two to four year terms.

Increases to 25 percentage of trust fund assets that board of trustees may invest in foreign securities.

Provides that specified municipalities are eligible to receive premium taxes

Authorizes a municipality receiving police protection services to enact ordinance levying premium tax.

Authorizes retirees to change designation of joint annuitant or beneficiary up to two times without approval of board or prior joint annuitant or beneficiary.

Revises fund distribution procedures with respect to plan termination. This section will allow retirees to receive the assets from a terminated plan without having to sue the municipality.

Changes:

SB 538 was amended to prevent investments with companies and countries that have been linked to terrorists organizations. It also was amended to place a two year moratorium on the use of extra premium tax monies for extra benefits in local underfunded pension plans.

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State Officers Trust Fund



SB 2238 by Senator Dave Aronberg

Referred to:

Community Affairs;

Criminal Justice;

Government Oversight & Accountability;

Policy & Steering Committee on Ways & Means



HB 1195 by Representative Julio Robaina

Referred to:

~~Public Safety & Domestic Security Policy Committee~~; PASSED 6-0 on Friday, March 27th

Criminal & Civil Justice Policy Council;

Finance & Tax Council;

Full Appropriations Council on General Government & Health Care

On the Criminal & Civil Justice Policy Council agenda Monday, April 6th in 404 HOB.

Synopsis: This legislation will create revenue by increasing certain fees to be used as supplemental salary increases for state law enforcement, correctional and correctional probation officers. The funds raised will be deposited into the Criminal Justice Standards & Training Trust Fund for the exclusive purpose of salary supplements.

CHANGES to HB 1195: This legislation was amended to increase certain fees for the purpose of retaining officers in state agencies. The fee increases are as follows:

- Driver license reinstatement fee: increases the fee by \$12.50; from \$47.50 to \$60.00
- Late fee for failure to pay traffic fines: increases the fee by \$8; from \$16 to \$24
- Driver license reinstatement following suspension: increases the fee by \$10; from \$35 to \$45
- Driver license reinstatement fee following a DUI suspension/revocation: increases the fee by \$15; from \$115 to \$130
- Driver license reinstatement fee following revocation/disqualification: increases the fee by \$15; from \$60 to \$75
- Expunction: increases FDLE certificate of eligibility processing fee by \$75; from \$75 to \$150
- Sealing Records: increases FDLE processing fee by \$75; from \$75 to \$150
- Adds a 4% surcharge to items for sale at inmate canteens and vending machines in correctional facilities

The funds raised will be deposited into the Criminal Justice Standards & Training Trust Fund to retain officers employed by the state. Any funds provided from the trust for retention of state officers are subject to Legislative appropriation and approval.

Special Risk Upgrade



SB 1572 by Senator Ted Deutch

Referred to:

~~Community Affairs~~; PASSED 7-3 on Tuesday, March 10th

Governmental Oversight and Accountability;

Policy & Steering Committee on Ways and Means



HB 673 by Representative Carl Domino

Referred to:

Governmental Affairs Policy Committee;

Military & Local Affairs Policy Committee;

Economic Development & Community Affairs Policy Council; Finance &

Tax Council

Synopsis: Currently, when an officer purchases a Special Risk accrual rate credit upgrade for past service, the accrual credit is capped at 2% instead of 3%. This legislation will change the statute to reflect the 3% accrual rate for Special Risk service. We are working closely with the Florida Professional Firefighters on this issue.

With reference to other legislation, the Board of Directors gives authorization to the Director of Legislative Services to support legislation favorable to the membership or oppose legislation harmful to the membership.

Quick Hits and Articles on Other Legislation

Worker's Compensation

Mar 31

Fla. House passes disputed workers' comp bill By BRENT KALLESTAD Associated Press Writer

TALLAHASSEE, Fla. (AP) -- A bill that would trump a Florida Supreme Court ruling and restore a cap on attorneys' fees in workers' compensation cases passed the Florida House on Tuesday after some mild debate.

Following a second round of discourse on the issue in just five days, the Republican-dominated chamber passed the business-backed bill (HB 903) on an 84-35 vote - a wider margin than the 69-45 vote that stopped an amended version Thursday.

"We need to do everything we can to enable employers to hire more workers and get our citizens and Florida working again," said Rep. Anitere Flores, R-Miami, the bill's sponsor.

Tampa Republican Rep. Ed Homan, a physician, opposed the measure and described it as "ill-conceived." Darryl Rouson, D-St. Petersburg, said lawmakers were doing little more than pushing the issue back to the Supreme Court.

But first, it must win approval in the Senate and from Gov. Charlie Crist before it could take effect, although a 6.4 percent workers' compensation rate hike takes effect Wednesday on all new and renewal business. The increase was approved earlier this year by Insurance Commissioner Kevin McCarty.

A similar proposal (SB 2072) sponsored by freshman Sen. Garrett Richter, R-Naples, is scheduled Wednesday for a hearing in the Senate Judiciary Committee, which could reveal whether the bill faces tougher opposition in that chamber.

If passed, the legislation would negate - at least temporarily - a Supreme Court decision last October that said attorneys should be paid reasonably for representing injured workers.

Business groups were quick to applaud the House vote Tuesday.

"We must restore the balance to the workers' compensation system that makes coverage available and affordable for all employers and employees," said Barney Bishop III, president of Associated Industries of Florida.

Trial lawyers, though, said capping attorneys' fees prevents injured workers from getting the legal representation needed to fight insurance companies that refuse to pay doctor bills and other legitimate claims.

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Dart Firing Stun Immunity

SB 1322 and **HB 1077** are two pieces of pro-law enforcement legislation making the way through the Legislature this session. **Sponsors Senator Ted Deutch** and **Representative Maria Sachs** aim to change the statute covering use of deadly force by including a dart-firing stun gun as a "less - lethal munition." This change will prevent an officer from criminal or civil legal action if a stun gun was used during the course of his or her duties in good faith. Unfortunately, despite widespread evidence to the contrary, there are still cases where an officer is sued for wrongful use of deadly force when a subject dies (typically from excited delirium) following a stun gun encounter. This legislation would provide immunity to an officer under most circumstances where a death occurs. **PBA Lobbyist Gary Bradford** offered our support for this good legislation.

Double Dipping

Florida bill aims to ban 'double-dipping' by state workers

BY LUCY MORGAN

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A bill that would stop "double-dipping" public officials from collecting a paycheck and a pension was approved Tuesday by members of the Senate Community Affairs Committee.

But the fight appears far from over as some officials want to keep options open for public employees who retire and want to run for public office.

A bill filed by Sens. Mike Fasano, R-Port Richey, and Don Gaetz, R-Fort Walton Beach, would force anyone who retires after Jan. 1, 2010, to temporarily forgo a pension if he returns to work and begins collecting a salary. The provision would apply to all state employees, elected officials and the 900 local governmental agencies that are members of the Florida State Retirement System.

Elected officials would no longer be able to win reelection, "retire" and take 30 days off before returning to the same job and a new term in office.

More than 9,000 members of the retirement system, including more than 220 elected officials, are collecting pensions and paychecks. Some are collecting two pensions and a paycheck while earning credit toward a third pension. The bill will not affect those who already are double-dipping.

Fasano said the growing number of public employees threatens the security of the popular Deferred Retirement Option Program, called DROP, as well as the state pension fund. Many of the double dippers collect not only a salary and a pension but collected a one-time DROP payment that for highly paid employees can run into hundreds of thousands of dollars.

HIGH UNEMPLOYMENT

Lawmakers created DROP to encourage senior employees to retire, making way for younger, lower-paid employees to move up. But a number of agencies have allowed DROP participants to retire and return to their old jobs, blocking the way for others to be promoted.

With Florida's unemployment at 10 percent and virtually all governmental agencies facing layoffs, Fasano said he believes enough qualified workers are available to fill jobs without allowing double dippers.

"It's costing taxpayers a fortune," Fasano told the Senate. "As we address our budget this year, we find we are laying off people and yet we are keeping double dippers."

The bill drew support from Police Benevolent Association lobbyists who denounced double-dipping as "outrageous" and "morally and ethically wrong."

Duval County Sheriff John Rutherford said the Florida Sheriffs Association would favor a bill that stops employees from retiring and returning to the same job, but the association believes the bill "casts too broad a net" because it would keep people from retiring from one job and returning to work in another public-service job.

Marshall Ogletree, lobbyist for the Florida Education Association, said he is concerned about the potential impact on teachers who retire from regular jobs and want to return as substitutes.

NO EXCEPTIONS

Fasano said he has looked at such issues and believes the best way is a law that makes no exceptions. He acknowledges it will be difficult to gain approval in a Legislature where more than a dozen members currently draw retirement checks from past public service and their legislative salaries. Unlike other elected officials who retired and returned to the same jobs, lawmakers ran for office after long careers in public service.

Some have proposed limiting the amount of income a public employee can earn after they begin drawing a pension; others have suggested a law that would allow workers to return in part-time jobs. But Fasano said exceptions would just make it difficult to pass a law that is fair to everyone.

Only one member of the Senate committee voted against the bill Tuesday, but several said they will oppose it on the Senate floor if Fasano doesn't find a way to allow some public employees to return to work at different jobs and collect a pension and salary.

A similar bill sponsored by Rep. Robert Schenck, R-Spring Hill, has been approved in two House committees and is awaiting action in a third.

Lucy Morgan can be reached at lmorgan@sptimes.com

Budget Work

Article published Apr 2, 2009

2,000 state jobs on chopping block

By Bill Cotterell

Florida Capital Bureau Political Editor

Nearly 2,000 state jobs are on the bargaining block in the Senate version of Florida's pared-down state spending plan, but the numbers tell only part of the story.

About 800 of those jobs are now filled, the remainder vacant.

Senate appropriations panels finished work on their five separate areas of the budget this week, as the 60-day session hit halftime Wednesday. The House is expected to come up with its plans today and, after the Easter-Passover break next week, both chambers will get down to negotiation to get the final product on Gov. Charlie Crist's desk in time for the scheduled May Day adjournment.

Part of the Senate plan calls for sending about 2,000 prisoners to other states to avoid building a new prison. The Senate is also moving to stamp out "double dipping" by retirees who collect their pensions and return to work for the state.

"We cut no actual positions, that I'm aware of" in the Department of Corrections, said Sen. Victor Crist, R-Tampa, who heads the civil and criminal justice budget committee. He said the prison system will have to absorb a \$50 million budget cut, but that job eliminations were handled by abolishing vacancies and not starting a new prison.

Crist said there would be staff cuts in the Florida Department of Law Enforcement, with regional offices closed, in the plan his committee passed. Sen. Mike Fasano, R-New Port Richey, said his transportation budget committee shed about 74 positions by closing some driver licensing offices and a few early-learning positions in the Agency for Workforce Innovation.

But Fasano's biggest project was not part of the budget. His bill that cleared the Community Affairs Committee forbids retirees from collecting both their pensions and paychecks. Anyone who retires after Jan. 1 will have to choose one or the other, Fasano said.

"We have a lot of people working in agencies now who can fill those positions," he said. "They don't have an opportunity to move up the ladder in their agencies because people are 'retiring' and coming right back to work."

The bill has two more committee stops, a steep climb in the second half of a session. But Fasano said his bill is a high priority of Senate President Jeff Atwater, R-North Palm Beach.

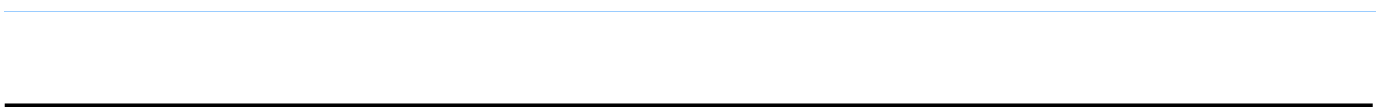
Charts provided by the Senate indicated that overall, the budget committees proposed 1,992.5 "fulltime equivalent" budget cuts, of which 795.5 are occupied positions and 1,197 are vacant. Negotiations with the House may raise or lower the numbers significantly.

Agriculture Commissioner Charles Bronson said his agencies would lose 52 positions in the Senate budget.

"Our people are going to have to cover a lot more territory, hopefully without reducing safety for the public," said Bronson, whose duties include food inspection.

Melissa Jaacks, acting deputy secretary of the Department of Children and Families, said DCF would lose 60.5 fulltime equivalent positions in administration — all currently vacant — but there's a bigger cut looming after the fiscal year starts.

She said both chambers propose to privatize Northeast Florida State Hospital in Maclenny, which would mean axing 1,207 jobs. But since that would happen in 2010, those jobs would still be carried on the state payroll when the budget takes effect July 1 and don't show in the current budget blueprint.



Photos by Ken Kopczynski



PBA Treasurer Ernie George testifies in support of the Law Enforcement Officers' Bill of Rights.



Sheriff John Rutherford of Jacksonville discussing the Bill of Rights legislation with PBA Executive Director David Murrell.



Representative Paige Kreegel presenting HB 1107 to the Public Safety & Domestic Security Policy Committee.



Representative Julio Robaina presenting HB 1195 to the Public Safety & Domestic Security Policy Committee.



PBA Executive Director David Murrell testifying in support of Senator Mike Fasano's double dipping legislation.



Representative Paige Kreegel with PBA Officials following passage of HB 1107 in Public Safety & Domestic Security Policy Committee.