



# CAPITOL REPORT

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By Matt Puckett, Deputy Executive Director  
LEGISLATIVE ACTIVITY FOR THE TWO WEEKS ENDING APRIL 24, 2009

## ***Budget Negotiations Going Nowhere So Far Senate and House Leaders Cannot Reach Agreement***

Two weeks ago the Florida PBA asked all of you to contact your local Legislator to express concern and opposition to the budget proposals. At this time, we are proud to report that many of you have answered our challenge by writing or calling a Legislator. The pressure is being applied to the Speaker of the House of Representatives Larry Cretul who is presiding over the budget proposal with the 4% pay cut. Still, we need to keep the calls rolling in. Even if you are not a state employee, we need you to call.



**Florida PBA President John Rivera** held a press conference in front of the Florida House of Representatives on Thursday, April 23 to protest the cuts to public safety. He was joined by Presidents from every statewide PBA chapter along with PBA lobbyists. **Representatives Maria Sachs, Julio Robaina, JC Planas, Juan Zapata and Janet Adkins** stood with us to address these dire circumstances.

**"It's a great time to be a criminal in Florida. Our officers are being asked to do more and more with less and less." President John Rivera**

The Florida Legislature is heading into the final week of session without a single public conference committee meeting on the budget... a very unusual situation. The sticking points in the budget are increasing the taxes on cigarettes, finalizing a deal for expanded gambling, cuts to education and the cuts to state employee salaries. We ask again that you help us keep the pressure on the Legislature by continuing to write and call. Thank you!

### **What's Next?**

The last week will determine the outcome of state employees pay and benefits for the upcoming 2009-2010 Fiscal Year. Conference Committees *may* negotiate a compromise budget between the two chambers... or not. Negotiations between the top leadership are taking place behind closed doors and, as stated above, state employee pay is a major sticking point. Speaker Cretul has indicated that the House will accept the Senate's increases to revenues if the Senate accepts the House's proposed cuts. So far no one has conceded.

## **“PBA Opposes 4 Percent Pay Cut”**

We need your help to drive this point home to the Legislature. Please take the time to call and email the Legislators on the list below and express your opposition with this budget proposal.

As always, be professional, but make your point clear:

**DO NOT CUT THE SALARIES AND POSITIONS OF PUBLIC SAFETY!**

### **Please call the following Legislators:**

**Speaker Larry Cretul**

352-873-6564

Everyone needs to call

[larry.cretul@myfloridahouse.gov](mailto:larry.cretul@myfloridahouse.gov)

**Representative Ellyn Bogdanoff**

954-762-3757

Broward, Palm Beach

[ellyn.bogdanoff@myfloridahouse.gov](mailto:ellyn.bogdanoff@myfloridahouse.gov)

**Representative Marcelo Llorente**

305-273-3200

Miami-Dade

[marcelo.llorente@myfloridahouse.gov](mailto:marcelo.llorente@myfloridahouse.gov)

**Representative Adam Hasner**

561-279-1616

Broward, Palm Beach

[adam.hasner@myfloridahouse.gov](mailto:adam.hasner@myfloridahouse.gov)

**Representative David Rivera**

305-227-7630

Broward, Collier, Miami-Dade

[david.rivera@myfloridahouse.gov](mailto:david.rivera@myfloridahouse.gov)

**Representative Dean Cannon**

407-623-5740

Orange

[dean.cannon@myfloridahouse.gov](mailto:dean.cannon@myfloridahouse.gov)

**Representative Will Weatherford**

813-558-5115

Hillsborough, Pasco

[will.weatherford@myfloridahouse.gov](mailto:will.weatherford@myfloridahouse.gov)

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## Representatives of state police and correctional officers speak out against possible cuts

*By Bill Cotterell  
Florida Capital Bureau*

The labor organization representing state police and correctional officers loudly protested possible cuts in law enforcement and prison spending in Florida's pending budget proposals.

"It's a great time to be a criminal in Florida," said John Rivera, president of the Florida Police Benevolent Association. "Our officers are being asked to do more and more with less and less."

State Reps. Julio Robaina, R-Miami, Juan Carlos Planas, R-Miami, Maria Sachs, D-Delray Beach, and Juan Zapata, R-Miami, were among legislators joining PBA lobbyists at a news conference in front of the House chamber. House and Senate budget differences are still being negotiated, so Rivera said it is not yet known how deep the spending cuts will be.

But he said there are proposals in one or both budgets that would eliminate 531 correctional officers by privatizing the Suwannee Correctional Facility, 14 regional Florida Department of Law Enforcement offices and 69 probation officers. Rivera said staffing levels would be left "dangerously low" in the prisons and among first-responders.

"If the Legislature doesn't do something to stop the hemorrhaging in law enforcement, the criminal element will continue to take over our streets and neighborhoods," said Rivera.

Planas, a former prosecutor, said, "If we cut law enforcement any further, public safety is in danger." Robaina said legislators "have to get our priorities right" in the budget.

"It's about time we take care of those who take care of us," said Robaina.

Tallahassee Democrat April 24, 2009

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## ***PBA Legislative Agenda***

### **Law Enforcement Officers' Bill of Rights**



**SB 624 by Senator Mike Fasano**  
On Special Order Calendar for April 24, 2009



**HB 1107 by Representative Paige Kreegel**  
Available for House Floor Action

**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 if an agency is found to have failed to comply with disciplinary procedures.

#### **New Language for the Review process:**

112.534 Failure to comply; official misconduct.—

(1) If any law enforcement agency or correctional agency, including investigators in its internal affairs or professional standards division, or an assigned investigating supervisor, intentionally fails to comply with the requirements of this part, the following procedures apply. For purposes of this section, the term “law enforcement officer” or “correctional officer” includes the officer’s representative or legal counsel, except in application of s 112.534(1) (d).

(a) The law enforcement officer or correctional officer shall advise the investigator of the intentional violation of the requirements of this part which is alleged to have occurred. The officer’s notice of violation is sufficient to notify the investigator of the requirements of this part which are alleged to have been violated and the factual basis of each violation.

(b) If the investigator fails to cure the violation or continues the violation after being notified by the law enforcement officer or correctional officer, the officer shall request the agency head or his designee be informed of the alleged intentional

violation. If the alleged violation occurs during the interview of the officer, the interview shall cease and the officer's refusal to respond to further investigative questions does not constitute insubordination, or any similar type policy violation.

(c) Within three working days a written notice of violation and request for a compliance review hearing shall be filed with the agency head or his designee which must contain sufficient information to identify the requirements of this part which are alleged to have been violated and the factual basis of each violation. All evidence related to the investigation must be preserved for review and presentation at the compliance review hearing. For purposes of confidentiality, the compliance review panel hearing shall be considered part of the original IA investigation.

(d) Unless otherwise remedied by the agency prior to the hearing, a compliance review hearing must be conducted within 10 working days after the request for a compliance review hearing is filed, unless, by mutual agreement of the officer and agency or for extraordinary reasons, an alternate date is chosen. The compliance review panel shall be made up of three members: one member selected by the agency head, one member selected by the officer filing the request, and a third member to be selected by the other two members. The review panel members shall be law enforcement officers or correctional officers who are active from the same law enforcement discipline as the officer requesting the hearing. Panel members may be selected from any state, county or municipal agency within the county in which the officer works. The compliance review hearing shall be conducted in the county in which the officer works.

(e) It is the responsibility of the compliance review panel to determine whether or not the investigator or agency intentionally violated the requirements provided under this part. It may hear evidence, review relevant documents and hear argument before making such a determination; however, all evidence received shall be strictly limited to the allegation under consideration and may not be related to the disciplinary charges pending against the officer. The investigative materials are considered confidential for purposes of the compliance review hearing and determination.

(f) The officer bears the burden of proof to establish that the violation of this part was intentional. The standard of proof for such a determination is by a preponderance of the evidence. The determination of the panel shall be made at the conclusion of the hearing in writing and filed with the agency head and the officer.

(g) If the alleged violation is sustained as intentional by the compliance review panel, the agency head shall immediately remove the investigator from any further involvement with the investigation of the officer. Additionally, the agency head shall direct an investigation be initiated against the investigator determined to have intentionally violated the requirements provided under this part for purposes of agency disciplinary action. If that investigation is sustained, the sustained allegations against the investigator shall be forwarded to the Criminal Justice Standards and Training Commission for review as an act of official misconduct or misuse of position.

(2) All the provisions of s. 838.022 shall apply to this part. The provisions of Chapter 120 shall not apply to this part.

#### **UPDATE:**

Both bills (**HB 1107 and SB 624**) have completed the committee meeting process. Now it is simply a matter of getting both heard on the House and Senate Floors.

**SB 624** is on the Special Order Calendar in the Senate available for a floor vote today, April 24<sup>th</sup>. The plan is to send it over to the House in what is called "messages." The House will begin to take up Senate Messages starting next Tuesday through Friday. If everything goes according to plan, we should have the legislation fully completed by no later than Friday afternoon.

#### **Sheriffs' Association and PBA Reach Agreement, but Opposition Remains from Some Sheriffs.**

In direct opposition to the **Florida Sheriffs' Association, Hillsborough County Sheriff David Gee** and others have wastefully spent local county taxpayer dollars and manpower fighting against this legislation. During a time when the citizens of every county are facing extreme financial hardships, we are puzzled why any Sheriff would spend precious funds on lobbying efforts over and above those performed by the **Florida Sheriffs' Association** especially considering that these efforts were in direct opposition to the **FSA's** stated position. Isn't this the same group of people who fiercely oppose county commission oversight into their respective budgets? Don't they typically spout out for more belt-tightening by their Deputies even during strong economic times? More amazing, **Sheriff Gee** actually sends TWO members of his top brass to the Capitol to perform this type of superfluous lobbying. **Bottomline: Sheriff David Gee** is the prime example of why we fight every year to increase protection for our officers.

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## Firefighters and Municipal Police Officers Retirement Plans



**SB 538 by Senator Carey Baker**  
Available for Senate Floor Action



**HB 5 by Representative Ed Hooper**  
Available for House Floor Action

**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 percent of trust fund assets that board of trustees may invest in foreign securities.

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.

**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.**

# DOUBLE DIPPERS LEGISLATION

## A BLOW TO DOUBLE-DIPPING

By [Lucy Morgan](#), Times Senior Correspondent

Published Wednesday, April 22, 2009.

TALLAHASSEE — Pushed by angry e-mails from constituents, state lawmakers are edging closer to approval of a bill that would block elected officials from "retiring" and returning to work to collect paychecks and pension.

On Thursday, by a vote of 106 to 10, House members approved a bill (H479) that would force any member of the Florida State Retirement System to remain off of the job for at least six months before returning to work for any public agency that is part of the system. That would include all of state government as well as about 900 cities and counties and all public colleges and universities.

The bill is a watered-down version of original efforts that would have banned all public employees from collecting state pensions and paychecks at the same time, but it would stop the spread of the more egregious double-dippers in the system.

No one who is currently double-dipping would be affected by the measure, which would affect only those retiring after Dec. 31, 2009. Lawmakers say they cannot legally change the terms of existing pensions.

Supporting the bill on the House floor Thursday, Rep. Bill Heller, D-St. Petersburg, said no other issue facing lawmakers this year has drawn as many e-mails from outraged citizens.

"It is something that impacts an awful lot of individuals," Heller said. "They feel very strongly about the issue."

Similar bills died last year as lawmakers struggled to reach a compromise that would eliminate double-dipping by highly paid managers and elected officials while retaining the rights of lower-paid employees to return to work and supplement small retirement checks.

Even opponents of the bill have acknowledged that some public officials are "gaming the system" and endangering the future of a pension system that is fully funded by taxpayers.

Rep. Rob Schenck, R-Spring Hill, sponsor of the House bills this year and last, responded to complaints from several lawmakers who noted that retirees from the military, the private sector or other states would be entitled to take public jobs in Florida and qualify for a future pension.

Schenck said the bill is a "reasonable approach" to closing a loophole created in 2001, when the Legislature approved a pension fund amendment to allow a Jacksonville legislator to draw his school board pension and his \$30,000-a-year legislative salary.

Schenck's original bill would have banned state retirees from returning to the payroll for a year and banned the collection of simultaneous pensions and paychecks for two years. The compromise version reduces the time off to six months and prohibits collecting both checks for a year.

The compromise closely mirrors a Senate bill narrowly approved in committee Tuesday. Sen. Mike Fasano, R-Port Richey, also sponsored last year's bill and is trying again with help from Sens. Don Gaetz, R-Fort Walton Beach, and Paula Dockery, R-Lakeland.

Fasano said he believes the compromise bill will pass both houses this year. It may get one more committee hearing but could go to the Senate floor any time.

The union that represents state employees and the Florida Sheriff's Association oppose the bill, saying it would keep lower-paid employees from returning to work to supplement their income. On the opposite said, the Police Benevolent Association, a union that represents most of the state's law enforcement community, says the bill would give younger, lower-ranking officers more chances to win promotions.

The 10 who voted against the bill Wednesday: Reps. Dwight Bullard, D-Miami; Marti Coley, R-Marianna; Gwyn Clarke-Reed, D-Pompano Beach; Faye Culp, R-Tampa; Betty Reed, D-Tampa; Michelle Rehwinkel Vasilinda, D-Tallahassee; Elaine Schwartz, D-Hollywood; Geraldine Thompson, D-Orlando; Perry Thurston, D-Fort Lauderdale; and Charles Van Sant, R-Palatka.

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Photos by Ken Kopczynski



PBA Lobbyist Don Teems opposes Workers' Compensation legislation which caps attorney fees for the wrongfully injured.



Representative Paige Kreegel presenting HB 1107, LEO Bill of Rights, during its final committee assignment. It passed 22-0.



Senator Mike Fasano presenting SB 624, LEO Bill of Rights, at its final committee meeting.



PBA Lobbyist Gary Bradford presenting our support for legislation during a Senate Committee meeting.



PBA Lobbyist Jim Spearing and Executive Director David Murrell discussing final changes to the Double Dipping Legislation prior to a floor hearing in the House of Representatives.



PBA officials led by President John Rivera gather for a statewide press conference to oppose the proposed cuts to public safety in this year's budget.