



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 WEEK ENDING APRIL 10, 2009

BAD Things Happening in the Legislature ***House and Senate Proposing to Cut Salaries***

Well, the wait is finally over. House and Senate Budget writers have officially released their products to the general public and things DO NOT look good for the average state worker. This time around, unlike January’s Special Session, Legislators are focusing on your salaries and not necessarily on your jobs. Each chamber has proposed some type of salary reduction to state employees. They are using words like graduated reduction to soften their approach, but make no mistake this is a PAY CUT!

<p style="text-align: center;"><u>House of Representatives</u> Full Appropriations Council on General Government & Health Care</p> <p>Proposal: A Graduated Salary Reduction</p> <p>Annual Salary Reductions Schedule Up to \$ 26,400 – No reduction \$26,401 - \$80,000 – 4% reduction 80,001 and Above – 5% reduction</p> <p>BILLS HB 5101 -- GENERAL APPROPRIATIONS ACT HB 5103 -- IMPLEMENTING THE 2009-2010 GENERAL APPROPRIATIONS ACT</p>	<p style="text-align: center;"><u>Senate</u> Policy & Steering Committee on Ways and Means</p> <p>Proposal: A Salary Reduction for High Earners</p> <p>Annual Salary Reduction \$100,000 and Above – 1% reduction</p> <p>BILLS SB 7072 -- GENERAL APPROPRIATIONS ACT SB 7074 -- IMPLEMENTING THE 2009-2010 GENERAL APPROPRIATIONS ACT</p>
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The **Florida Police Benevolent Association** and **AFSCME Florida Council 79** were the **ONLY** associations to testify before the *House Full Appropriations Council on General Government & Health Care* **AGAINST** the state employees’ salary reductions. Council members **Representatives Sandy Adams, Mary Brandenburg, Oscar Braynon, Luis Garcia, Ed Hooper, Julio Robaina, Yolly Roberson, and Priscilla Taylor** spoke against the cuts during debate on the bill.

What Happens Now?

The next three weeks will determine the outcome of state employees pay and benefits for the upcoming 2009-2010 Fiscal Year. Each chamber will vote to approve a budget and typically these budgets will not match up. The next step is conference committees to negotiate a compromise budget between the two chambers. Currently, the House and Senate budgets are vastly different, although both spend about \$65 Billion. After a compromise budget is reached, both chambers vote to approve it and then it is sent to **Governor Charlie Crist** for final approval. **Governor Crist** has *line item veto power*, which he has wielded in the regular and special sessions. **Bottomline:** There is still a lot of time left before anything officially happens. This is *Passover/Easter Break* for the Legislature, but we believe certain leaders in the House of Representatives should hear from you. Please read the next page for instructions.

“PBA Opposes 4 Percent Pay Cut”

We need your help to drive this point home to the Legislature. Starting now, Legislators will be back in their home districts for the Passover/Easter Break. 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

Representative Ellyn Bogdanoff

954-762-3757

Broward, Palm Beach

ellyn.bogdanoff@myfloridahouse.gov

Representative Marcelo Llorente

305-273-3200

Miami-Dade

marcelo.llorente@myfloridahouse.gov

Representative Adam Hasner

561-279-1616

Broward, Palm Beach

adam.hasner@myfloridahouse.gov

Representative David Rivera

305-227-7630

Broward, Collier, Miami-Dade

david.rivera@myfloridahouse.gov

Representative Dean Cannon

407-623-5740

Orange

dean.cannon@myfloridahouse.gov

Representative Will Weatherford

813-558-5115

Hillsborough, Pasco

will.weatherford@myfloridahouse.gov

A Message from Florida PBA President John Rivera
A letter to Governor Charlie Crist, the Cabinet and All Legislators

On behalf of the Florida PBA, I am voicing law enforcement's outrage and staunch opposition to the proposed pay cuts contained in the House budget proposal. The cuts will result in a 4% reduction in the salaries of state law enforcement, correctional, and correctional probation officers.

What the legislature is proposing is a slap in the face to every officer who pins on the badge and risks his or her own life to ensure that their fellow Floridians are safe. These proposed cuts come during a time when the reality of law enforcement's inherent dangers is vivid and all too real. Criminals are more brazen and have an increased lack of respect for life as we have all seen with recent shootings and violence against not only citizens, but also the men and women who are sworn to protect our residents. For the past two years, Florida has ranked in the top three states throughout the nation for law enforcement officers killed in the line of duty.

As you know, crime is the number one issue with Floridians; therefore, public safety should be treated as the top priority during the budgetary process. Florida's law enforcement officers are working during a time when they need more from their leaders, certainly not less. Currently, these dedicated public servants are already underpaid, and severely under staffed. As leaders of this State, you have the responsibility to give law enforcement the resources and manpower that are needed to provide our citizens with the best public safety. Additionally, Florida's growth and economic recovery hinge on Florida's status as a safe place not only for tourists to visit, but also for families to relocate and call home. Any further cuts will jeopardize officer safety and deeply impact the quality of public safety provided to Floridians.

Time and time again, law enforcement is asked to do more with less all the while they are the ones held to higher standards, they are the ones encountering society's most dangerous criminals, and they are the ones running towards danger when everyone else is running away. Florida's state law enforcement officers, correctional officers, and correctional probation officers have gone without raises for two years and that is flat out unacceptable. To even propose the outlandish cuts that the legislature is considering only adds insult to injury and demeans the most heroic group of men and women in this State.

Enough is enough. This is the time to prove that campaign speeches are not empty promises. Therefore, just as Florida's law enforcement community continues to remain committed to serving and protecting the public, we are asking for the same unwavering support from you, our elected official, and asking that you vote against all budget cuts, including reductions to salaries or to positions that will impact Florida's law enforcement officers and jeopardize the safety of our great State.

Sincerely,



John Rivera
Florida PBA President

Please join your PBA President by contacting your local Legislators

PBA Legislative Agenda

Law Enforcement Officers' Bill of Rights



SB 624 by Senator Mike Fasano
 Referred to:
~~Community Affairs~~; **PASSED 10-0 on Monday, April 6th.**
Governmental Oversight and Accountability;
 Judiciary;
 Criminal and Civil Justice Appropriations



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 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.

CHANGES TO SB 624: **Senator Mike Fasano** amended the legislation to create a Compliance Review Board procedure process. Under the new legislation, an officer can inform the investigator of the alleged violation. If the investigator fails to cure, the officer can stop the investigation without punishment and appeal to the agency head. The agency head will then have an opportunity to cure the violation. If the agency head does not, the officer can request a three member panel to review the violation to determine whether it was intentional. If the panel rules the violation was intentional, the investigator is removed from further investigating the subject officer and an investigation is started by the agency to determine if the violation was intentional. If this investigation sustains the

allegation, those sustained allegations are forwarded to the Criminal Justice Standards and Training Commission for review as an act of official misconduct or misuse of position.

The **Florida Sheriffs' Association** and the **Florida Police Chiefs' Association** offered support for the new amendment. A special thanks to **Sheriffs Bill Cameron, Deryl Loar, and John Rutherford** for working with us to finally and fully resolve this issue.

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.

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 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~~; **PASSED 8-0 on Tuesday, April 7th.**

General Government Appropriations;

Policy & Steering Committee on Ways and Means



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 percent 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 to SB 538: Legislation 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. **MORE CHANGES:** The bill was amended to prevent **PEORP** investments with companies and countries that have been linked to terrorists' organizations.

HB 5 was amended to prevent investments with companies and countries that have been linked to terrorists organizations.

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~~; **PASSED 10-0 on Monday, April 6th.**

Finance & Tax Council;

Full Appropriations Council on General Government & Health Care

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.

DOUBLE DIPPERS LEGISLATION

Senator Mike Fasano (SB 1182) and **Representative Rob Schenck (HB 479)** have crafted legislation to deal with what many in the public view as a horrendous practice in the *Florida Retirement System*. The legislative proposals would curtail double dipping in its various forms. The controversial bills have garnered a lot of media attention and, after reading articles on the topic, a number of our members have asked why the PBA is supporting the legislation.

The **Florida Police Benevolent Association** has been pursuing this change to the system for a number of years now. We originally did a stand alone bill exclusively for law enforcement and correctional officers because we were concerned by the rampant revolving door of retirement and reemployment by officers in the upper echelons of agencies and departments. In fact, **Representative Pat Patterson** passed our version of the legislation in 2007, which was amended to include everyone in the state system. It failed to receive Senate support that year.

Enter **Senator Mike Fasano, Representative Rob Schenck, St. Petersburg Times Reporter Lucy Morgan** and a ton of public outrage. Soon the code would be broken on this practice happening in our schools, sheriff's offices, courts etc... The public is simmering with anger and demanding a stop to it.

From the beginning, the PBA believed double dipping was placing the DROP in jeopardy. The blatant greed by "high rolling" elected officials and administrators turned DROP into four letter word. The public's perception of DROP is that it is a license to let "fat cat" public employees double dip for hundreds of thousands of dollars. Attitudes and actions by some of our sheriffs, judges, school administrators and state attorneys have only thrown fuel on the fire. The end result is DROP is no longer seen as a helpful benefit to middle income employees.

Now we learn of a memo to the **State Board of Administration's Senior Program Officer, Ron Poppell** questioning the tax exempt status of the entire pension plan because it is against *IRS regulations* for employees who are not of retirement age; to retire, receive a pay out and then reemploy with the same employer. Worse yet, the employees in question may be required to repay the money if it is found that they are in violation of the *IRS regulation*.

This legislation only serves as a way to break the cycle and, it is our opinion, that it must be broken before it is too late. Imagine the ramifications if the system loses its tax exempt status or, worse, employees are forced to pay back this money.

Then imagine losing DROP altogether... the possibility is real. On Tuesday, a powerful chairman of the Senate publicly stated, "I am someone who believes DROP must end." The chairman's not alone in his thinking.

The legislation in its current form is not perfect, but it is also not a finished product. Nothing has passed yet. The Florida PBA is completely committed to saving the DROP for its intended purpose and we will continue to work with the bill sponsors on this important legislation.

Photos by Ken Kopczynski



Senator Fasano defending SB 624 against pointed questions regarding what an officer should be entitled to view prior to an interview.



Representative Yolly Roberson is shown the depth of the pay cut to state employees by Presidents Matt Tyre (center) and Jim Baiardi (right). Rep. Roberson was a vocal critic of pay reductions during the budget meeting.



PBA Executive Director David Murrell testified in support of SB 624 during the Senate Community Affairs Committee.



Representative Julio Robaina testifies in support of the State Officers' Trust Fund legislation HB 1195 in the House Criminal and Civil Justice Policy Council meeting on Monday.