

By Senator Holzendorf

2-1312-98

See HB

1 A bill to be entitled
2 An act relating to collective bargaining;
3 amending s. 447.403, F.S.; revising procedures
4 for resolving certain impasses; providing
5 duties of parties; requiring a special master
6 to hold public hearings under certain
7 circumstances; requiring a legislative body to
8 hold a public hearing under certain
9 circumstances; providing duties of the Public
10 Employees Relations Commission; providing an
11 effective date.

12
13 Be It Enacted by the Legislature of the State of Florida:

14
15 Section 1. Section 447.403, Florida Statutes, is
16 amended to read:

17 447.403 Resolution of impasses.--

18 (1) If, after a reasonable period of negotiation
19 concerning the terms and conditions of employment to be
20 incorporated in a collective bargaining agreement, a dispute
21 exists between a public employer and a bargaining agent, an
22 impasse shall be deemed to have occurred when one of the
23 parties so declares in writing to the other party and to the
24 commission. Upon receipt of the formal declaration of an
25 impasse, the commission shall require both parties to submit
26 to the commission, in writing, immediately, the last, best
27 offers made during collective bargaining with regard to each
28 unresolved issue. Upon receipt of such offers, the commission
29 shall transmit such offers to the respective opposing parties.
30 ~~When an impasse occurs, the public employer or the bargaining~~
31 ~~agent, or both parties acting jointly, may appoint, or secure~~

1 ~~the appointment of, a mediator to assist in the resolution of~~
2 ~~the impasse.~~

3 (2) ~~If no mediator is appointed, or upon the request~~
4 ~~of either party, The commission shall appoint, and submit all~~
5 ~~unresolved issues to, a special master acceptable to both~~
6 ~~parties, within 30 calendar days after receipt of both~~
7 ~~parties' last and best offers.~~ If the parties are unable to
8 agree on the appointment of a special master, the commission
9 shall immediately appoint, in its discretion, a qualified
10 special master. The commission shall submit such last and best
11 offers to the special master. ~~However, if the parties agree in~~
12 ~~writing to waive the appointment of a special master, the~~
13 ~~parties may proceed directly to resolution of the impasse by~~
14 ~~the legislative body pursuant to paragraph (4)(d).~~

15 (3) Nothing in this section precludes the parties from
16 using the services of a mediator at any time during the
17 conduct of collective bargaining.

18 (4)~~(3)~~ The special master shall set the hearings
19 within 30 calendar days after receiving such last and best
20 offers, and such hold hearings must be held in order to define
21 ~~the area or areas of dispute,~~ to determine facts relating to
22 each unresolved issue. The special master shall the dispute,
23 ~~and to~~ render a decision on each unresolved issue by selecting
24 the last and best offer of the employer or the certified
25 bargaining agent on each issue ~~any and all unresolved contract~~
26 ~~issues.~~ The hearings must ~~shall~~ be held at times, dates, and
27 places to be established by the special master in accordance
28 with rules promulgated by the commission. The special master
29 shall be empowered to administer oaths and issue subpoenas on
30 behalf of the parties to the dispute or on his or her own
31 behalf. Within 15 calendar days after the close of the final

1 hearing, the special master shall transmit his or her
2 recommended decision to the commission and to the
3 representatives of both parties by registered mail, return
4 receipt requested. ~~Such recommended decision shall be~~
5 ~~discussed by the parties, and each recommendation of the~~
6 ~~special master shall be deemed approved by both parties unless~~
7 ~~specifically rejected by either party by written notice filed~~
8 ~~with the commission within 20 calendar days after the date the~~
9 ~~party received the special master's recommended decision. The~~
10 ~~written notice shall include a statement of the cause for each~~
11 ~~rejection and shall be served upon the other party.~~

12 (5)(a) Within 15 days after transmittal of the special
13 master's decision to the parties, issues resolved by the
14 special master, together with issues agreed to during
15 collective bargaining, shall be stated in writing and signed
16 by the chief executive officer and the representative for the
17 certified bargaining agent and submitted to the public
18 employer and to the public employees who are members of the
19 bargaining unit for ratification. If the agreement is not
20 ratified by all parties, issues resolved by the special master
21 and issues agreed to during collective bargaining shall be
22 imposed, effective the date of the special master's decision,
23 for the remainder of the fiscal year which was the subject of
24 negotiations. No effect shall be given to any impasse issues
25 which establish the language of contractual provisions which
26 could have no effect in the absence of a ratified agreement,
27 including, but not limited to, preambles, recognition clauses,
28 and duration clauses. During such time, the parties shall
29 continue to bargain until an agreement is reached and
30 ratified.

31

1 (b) If the special master selects the bargaining
2 agent's last and best offer regarding an issue and if funding
3 for selection would create a financial emergency such that the
4 public employer would have to raise ad valorem taxes or fees,
5 then, within 15 days after transmittal of the special master's
6 decision, the chief executive officer must certify in writing
7 to the representative for the certified bargaining agent and
8 the special master that enforcement of that selection would
9 create a financial emergency. The chief executive officer
10 must set forth his or her reasons supporting that conclusion.
11 The legislative body shall, within 30 days after the date of
12 the financial emergency certification, conduct a public
13 hearing. At that public hearing the parties shall explain
14 their respective positions regarding the financial emergency
15 certification and the issue triggering such certification.
16 Thereafter, the legislative body shall take such action as it
17 deems to be in the public interest, including the interest of
18 the public employees involved, to resolve the issue certified
19 as creating a financial emergency. The financial emergency
20 issue resolved by the legislative body shall be stated in
21 writing and signed by the chief executive officer and the
22 representative for the certified bargaining agent and
23 submitted for ratification to the public employer and to the
24 public employees who are members of the bargaining unit. If
25 that agreement is not ratified by all parties pursuant to the
26 provisions of s. 447.309, the legislative body's action shall
27 take effect as of the date of such legislative body's action
28 for the remainder of the first fiscal year which was the
29 subject of negotiations.

30
31

1 ~~(4) In the event that either the public employer or~~
2 ~~the employee organization does not accept, in whole or in~~
3 ~~part, the recommended decision of the special master;~~

4 ~~(a) The chief executive officer of the governmental~~
5 ~~entity involved shall, within 10 days after rejection of a~~
6 ~~recommendation of the special master, submit to the~~
7 ~~legislative body of the governmental entity involved a copy of~~
8 ~~the findings of fact and recommended decision of the special~~
9 ~~master, together with the chief executive officer's~~
10 ~~recommendations for settling the disputed impasse issues. The~~
11 ~~chief executive officer shall also transmit his or her~~
12 ~~recommendations to the employee organization. If the dispute~~
13 ~~involves employees for whom the Board of Regents is the public~~
14 ~~employer, the Governor may also submit recommendations to the~~
15 ~~legislative body for settling the disputed impasse issues;~~

16 ~~(b) The employee organization shall submit its~~
17 ~~recommendations for settling the disputed impasse issues to~~
18 ~~such legislative body and to the chief executive officer;~~

19 ~~(c) The legislative body or a duly authorized~~
20 ~~committee thereof shall forthwith conduct a public hearing at~~
21 ~~which the parties shall be required to explain their positions~~
22 ~~with respect to the rejected recommendations of the special~~
23 ~~master;~~

24 ~~(d) Thereafter, the legislative body shall take such~~
25 ~~action as it deems to be in the public interest, including the~~
26 ~~interest of the public employees involved, to resolve all~~
27 ~~disputed impasse issues; and~~

28 ~~(e) Following the resolution of the disputed impasse~~
29 ~~issues by the legislative body, the parties shall reduce to~~
30 ~~writing an agreement which includes those issues agreed to by~~
31 ~~the parties and those disputed impasse issues resolved by the~~

1 ~~legislative body's action taken pursuant to paragraph (d).~~
2 ~~The agreement shall be signed by the chief executive officer~~
3 ~~and the bargaining agent and shall be submitted to the public~~
4 ~~employer and to the public employees who are members of the~~
5 ~~bargaining unit for ratification. If such agreement is not~~
6 ~~ratified by all parties, pursuant to the provisions of s.~~
7 ~~447.309, the legislative body's action taken pursuant to the~~
8 ~~provisions of paragraph (d) shall take effect as of the date~~
9 ~~of such legislative body's action for the remainder of the~~
10 ~~first fiscal year which was the subject of negotiations;~~
11 ~~however, the legislative body's action shall not take effect~~
12 ~~with respect to those disputed impasse issues which establish~~
13 ~~the language of contractual provisions which could have no~~
14 ~~effect in the absence of a ratified agreement, including, but~~
15 ~~not limited to, preambles, recognition clauses, and duration~~
16 ~~clauses.~~

17 Section 2. This act shall take effect October 1, 1998.

18
19
20
21
22
23
24
25
26
27
28
29
30
31

LEGISLATIVE SUMMARY

Revises procedures and duties of parties with respect to resolution of impasses in collective bargaining. See bill for details.