

By Senator Garcia

39-1031-02

See HB 641

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31

A bill to be entitled
An act relating to the resolution of impasse;
amending s. 447.403, F.S.; eliminating certain
requirements of the Legislature regarding
resolution of impasse with respect to
collective bargaining; providing a statement of
the Legislature's discretionary authority to
address disputed impasse issues; providing an
effective date.

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

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

447.403 Resolution of impasses.--

(1) If, after a reasonable period of negotiation
concerning the terms and conditions of employment to be
incorporated in a collective bargaining agreement, a dispute
exists between a public employer and a bargaining agent, an
impasse shall be deemed to have occurred when one of the
parties so declares in writing to the other party and to the
commission. When an impasse occurs, the public employer or the
bargaining agent, or both parties acting jointly, may appoint,
or secure the appointment of, a mediator to assist in the
resolution of the impasse. Nothing in this section precludes
the parties from using the services of a mediator at any time
during the conduct of collective bargaining. However, if the
Governor is the public employer, no mediator shall be
appointed.

(2)~~(a)~~ If no mediator is appointed, or upon the
request of either party, the commission shall appoint, and

1 submit all unresolved issues to, a special master acceptable
2 to both parties. If the parties are unable to agree on the
3 appointment of a special master, the commission shall appoint,
4 in its discretion, a qualified special master. However, if the
5 parties agree in writing to waive the appointment of a special
6 master, the parties may proceed directly to resolution of the
7 impasse by the legislative body pursuant to paragraph (4)(d).
8 ~~Nothing in this section precludes the parties from using the~~
9 ~~services of a mediator at any time during the conduct of~~
10 ~~collective bargaining.~~

11 (b) If the Governor is the public employer, no special
12 master shall be appointed. The parties may submit written
13 explanation of their positions on disputed impasse issues to
14 the Legislature, addressed to the President of the Senate and
15 the Speaker of the House of Representatives. The Legislature
16 retains full discretion to investigate or otherwise address
17 such issues.~~The parties may proceed directly to the~~
18 ~~Legislature for resolution of the impasse pursuant to~~
19 ~~paragraph (4)(d).~~

20 (3) The special master shall hold hearings in order to
21 define the area or areas of dispute, to determine facts
22 relating to the dispute, and to render a decision on any and
23 all unresolved contract issues. The hearings shall be held at
24 times, dates, and places to be established by the special
25 master in accordance with rules promulgated by the commission.
26 The special master shall be empowered to administer oaths and
27 issue subpoenas on behalf of the parties to the dispute or on
28 his or her own behalf. Within 15 calendar days after the close
29 of the final hearing, the special master shall transmit his or
30 her recommended decision to the commission and to the
31 representatives of both parties by registered mail, return

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

9 (4) In the event that either the public employer or
10 the employee organization does not accept, in whole or in
11 part, the recommended decision of the special master:

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

24 (b) The employee organization shall submit its
25 recommendations for settling the disputed impasse issues to
26 such legislative body and to the chief executive officer;

27 (c) The legislative body or a duly authorized
28 committee thereof shall forthwith conduct a public hearing at
29 which the parties shall be required to explain their positions
30 with respect to the rejected recommendations of the special
31 master;

1 (d) Thereafter, the legislative body shall take such
2 action as it deems to be in the public interest, including the
3 interest of the public employees involved, to resolve all
4 disputed impasse issues; and

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

25 (5)~~(a)~~ If the Governor is the public employer and an
26 impasse is declared within 5 days after the beginning of the
27 impasse period in accordance with s. 216.163(6), any disputed
28 impasse issues may be addressed by the Legislature through
29 legislation it deems to be in the public interest. Nothing in
30 this section shall be interpreted as divesting the Legislature
31 of its authority to set conditions of employment by law each

1 ~~party shall notify the President of the Senate and the Speaker~~
2 ~~of the House of Representatives as to all unresolved issues.~~
3 ~~Upon receipt of the notification, the presiding officers shall~~
4 ~~appoint a joint select committee to review the position of the~~
5 ~~parties and render a recommended resolution of all issues~~
6 ~~remaining at impasse. The recommended resolution shall be~~
7 ~~returned by the joint select committee to the presiding~~
8 ~~officers not later than 10 days prior to the date upon which~~
9 ~~the legislative session is scheduled to commence. During the~~
10 ~~legislative session, the Legislature shall take action in~~
11 ~~accordance with this section.~~

12 (b) If the Legislature chooses to resolve disputed
13 impasse issues, any such action ~~Any actions~~ taken by the
14 Legislature shall be binding on ~~bind~~ the parties in accordance
15 with paragraph ~~(4)(c)~~.

16 Section 2. This act shall take effect upon becoming a
17 law.

18 *****

19 HOUSE SUMMARY

20
21 Revises a provision of law governing collective
22 bargaining to eliminate described requirements of the
23 Legislature regarding the resolution of impasse. Provides
24 a statement of the Legislature's discretionary authority
25 to address disputed impasse issues. See bill for details.
26
27
28
29
30
31