

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Committee on Appropriations

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BILL: SB 1020

INTRODUCER: Senator Powell

SUBJECT: Collective Bargaining Impasses

DATE: March 15, 2017

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Ferrin</u>	<u>Ferrin</u>	<u>GO</u>	<b>Favorable</b>
2.	<u>McVaney</u>	<u>Hansen</u>	<u>AP</u>	<b>Pre-meeting</b>

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**I. Summary:**

SB 1020 changes the timeline for portions of the Legislature’s process to resolve impasses in collective bargaining negotiations between public employees and the state. The bill requires the parties at impasse to notify the presiding officers of the legislature of all unresolved issues by the first day of the regular session rather than five days after an impasse is declared.

The bill also changes the date by which a committee of the legislature must meet to conduct a public hearing and take testimony regarding the issues at impasse from no later than ten days prior to the start of the Regular Session to no later than the 14<sup>th</sup> day of the Regular Session.

The bill does not impact state revenues or expenditures.

The bill has an effective date of July 1, 2017.

**II. Present Situation:**

**Collective Bargaining**

Public employees in Florida may not strike but have a constitutional right to collectively bargain.<sup>1</sup> Statewide regulations for collective bargaining amongst public employees are addressed in part II of ch. 447, F.S.<sup>2</sup> The purpose of collective bargaining is to encourage “cooperative relationships between the government and its employees,” and provide public employees with a means to participate in the establishment of their employment conditions.<sup>3</sup>

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<sup>1</sup> FLA. CONST. Art. I, s. 6.

<sup>2</sup> See s. 447.201, F.S., The Public Employees Relations Act provides statutory implementation of the 1968 amendment to Art. I, s. 6 of the State Constitution.

<sup>3</sup> Section 447.201, F.S., See also, Public Employees Relations Commission, A Practical Handbook on Florida’s Public Employment Collective Bargaining Law, at 3 (2d ed. 2004).

Section 447.309, F.S., requires any matter addressing a public employee's "wages, hours, and terms and conditions of employment" to be collectively bargained in good faith. Collective bargaining pursuant to ch. 447, F.S., consists of a series of negotiations between a public employer's chief executive officer<sup>4</sup> and the selected bargaining agent<sup>5</sup> for an employee organization regarding the terms and conditions of employment.<sup>6</sup>

Any collective bargaining agreement that is reached must be placed in writing and signed by both the chief executive officer and the bargaining agent. The agreement is effective for a period of not more than three years, at which point the contract must be renegotiated.<sup>7</sup>

### **Impasse**

If the parties cannot reach a collective bargaining agreement after a reasonable period of negotiation, an impasse is declared. The procedural guidelines to resolve a collective bargaining impasse between the parties are outlined in s. 447.403, F.S.

When the public employer is not the state, either party can declare a written impasse to the Public Employees Relations Commission (PERC)<sup>8</sup>. The PERC is an independent agency created to assist in resolving disputes between public employers and their employees.<sup>9</sup> The impasse may be resolved through mediation or the use of a special magistrate<sup>10</sup>. Should mediation fail to achieve resolution, and either party rejects all or part of the special magistrate's recommendations, the employer's chief executive officer is required to direct the dispute to the appropriate legislative body<sup>11</sup> for a final disposition.<sup>12</sup> The legislative body must hold a public hearing where each party has an opportunity to present its argument before the legislative body issues a final resolution pursuant to "the public interest [and] the interest of the public employees involved."<sup>13</sup>

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<sup>4</sup> Section 447.203(9), F.S., defines "chief executive officer" as the Governor for the state and for all other public employees, the person selected or appointed that is "responsible to the legislative body of the public employer for the administration of the governmental affairs of the public employer."

<sup>5</sup> The term "bargaining agent" is defined in s. 447.203(12), F.S., as the employee organization certified by the Public Employees Relations Commission (PERC) to represent the employees in the bargaining unit, as provided in s. 447.307, F.S., or its representative. Section 447.203(8), F.S., defines "bargaining unit" as a unit determined by either the PERC, through local regulations promulgated pursuant to s. 447.603, F.S., or by the public employer and the public employee organization; that is approved by the PERC to be appropriate for the purposes of collective bargaining.

<sup>6</sup> Section 447.203(14), F.S.

<sup>7</sup> Section 447.309(5), F.S.

<sup>8</sup> Section 447.403(1), F.S.

<sup>9</sup> Section 447.201(3), F.S.

<sup>10</sup> Sections 447.403(1)-(3), F.S.

<sup>11</sup> Section 447.203(10), F.S., defines "legislative body" as the State Legislature, the board of county commissioners, the district school board, the governing body of a municipality, or the governing body of an instrumentality or unit of government having authority to appropriate funds and establish policy governing the terms and conditions of employment and, which as the case may be, is the appropriate legislative body for the bargaining unit. For purposes of s. 447.403, F.S., the Board of Governors of the State University System, or the board's designee, shall be deemed to be the legislative body with respect to all employees of each constituent state university. For purposes of s. 447.403, F.S., the board of trustees of a community college shall be deemed to be the legislative body with respect to all employees of a community college.

<sup>12</sup> Section 447.403(4), F.S.

<sup>13</sup> Section 447.403(4)(c)-(e), F.S.

When the Governor is the public employer, either party may declare impasse. However, if there are unresolved issues at the time the Governor is required to submit the recommended budget, a “statutory” impasse is declared in all collective bargaining negotiations.<sup>14</sup> Absent written approval from the President of the Senate and the Speaker of the House of Representatives, the Governor must submit a recommended budget to the Legislature at least 30 days before the start of the scheduled annual legislative session.<sup>15</sup> After a declaration of impasse, the parties proceed directly to the Legislature for resolution.<sup>16</sup> Section 447.403(5)(a), F.S., requires parties at impasse to send unresolved issues to the President of the Senate and the Speaker of the House of Representatives within five days of the declaration of impasse. The presiding officers then appoint a joint select committee to review the parties’ positions and return a report no later than ten days before the start of the legislative session.<sup>17</sup> During the Session, the Legislature is required to issue a final resolution pursuant to “the public interest [and] the interest of the public employees involved.”<sup>18</sup>

### Sessions of the Legislature

The time to convene the 60-day Regular Session<sup>19</sup> of the Legislature is prescribed by the State Constitution. Specifically, Article III, s. 3(b) of the Florida Constitution provides:

A regular session of the legislature shall convene on the first Tuesday after the first Monday in March of each odd-numbered year, and on the first Tuesday after the first Monday in March, or such other date as may be fixed by law, of each even-numbered year.<sup>20</sup>

Chapter 2016-218, L.O.F., set January 9, 2018, as the date to convene the 2018 Regular Session. That law applies only to the 2018 Regular Session. However, the legislature historically convenes in January during reapportionment years<sup>21</sup> and elected to begin its regular session in January in 2016 as well.<sup>22</sup>

### III. Effect of Proposed Changes:

**Section 1** amends 447.403(a), F.S., to require the parties at impasse to notify the presiding officers of the legislature of all unresolved issues by the first day of the regular session instead of five days after the Governor is required to produce a recommended budget. The bill also changes the date by which a committee of the legislature must meet to conduct a public hearing and take testimony regarding the issues at impasse to no later than the 14<sup>th</sup> day of the regular session.

**Section 2** provides an effective date of July 1, 2017.

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<sup>14</sup> Section 216.163(6), F.S.

<sup>15</sup> Section 216.162(1).

<sup>16</sup> Section 447.403(2)(b), F.S.

<sup>17</sup> Section 447.403(5)(a), F.S.

<sup>18</sup> Section 447.403(4)(c)-(e), F.S.

<sup>19</sup> The length of the regular session is prescribed in Article III, s. 3(d), Florida Constitution.

<sup>20</sup> FLA. CONST Art. III, s. 3(b).

<sup>21</sup> Chapter 2010-91, Laws of Fla.

<sup>22</sup> Chapter 2014-106, Laws of Fla.

**IV. Constitutional Issues:**

## A. Municipality/County Mandates Restrictions:

None.

## B. Public Records/Open Meetings Issues:

None.

## C. Trust Funds Restrictions:

None.

**V. Fiscal Impact Statement:**

## A. Tax/Fee Issues:

None.

## B. Private Sector Impact:

None.

## C. Government Sector Impact:

Changes in SB 1020 provide impacted parties with 30 days to continue negotiating issues at impasse before sending those issues to the legislature for resolution, which may result in additional agreements being reached prior to legislative resolution. However, it is likely that economic issues like salaries, overtime compensation, retirement benefits, health insurance benefits, deferred compensation benefits, leave policies, and other compensation issues will still require legislative resolution.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

The bill allows the legislative committee to meet during the first two weeks of regular session instead of ten days before the start of session. When the legislature opts to convene itself in January, this will prevent the jointly appointed committee from having to conduct a public hearing the week between the Christmas and New Year's holidays.

**VIII. Statutes Affected:**

This bill substantially amends section 447.403 of the Florida Statutes.

**IX. Additional Information:**

- A. **Committee Substitute – Statement of Changes:**  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

- B. **Amendments:**

None.

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This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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