



Committee:

# **JOINT SELECT COMMITTEE ON COLLECTIVE BARGAINING**

Senator Hays, Co-Chair  
Representative Van Zant, Co-Chair

## **Meeting Packet**

Friday, December 4, 2015

1:00 p.m. —3:00 p.m.

Pat Thomas Committee Room, 412 Knott Building

Submitted by Bargaining Units



**ISSUES AT IMASSE – AMERICAN FEDERATION COUNTY  
AND MUNICIPAL EMPLOYEES  
COUNCIL (9)79 (AKA) AFSCME FLORIDA...**

AFSCME FLORIDA and the Governor – through DMS – are negotiating a successor collective bargaining agreement. The current agreement expires on June 30, 2016.

The following represents the articles and new contract language AFSCME and the State have reached impasse on.

**Article 25 – Wages**

AFSCME proposed 3.5% increase for State employees that are party to the collective agreement. AFSCME believes this is a fair and equitable proposal for the following reasons:

- The 55,000 state employees AFSCME represents have not had a cost of living adjustment increase in 8 years (to their base pay).
- Currently there are 1,000 state employees making less than a living wage. The average salary for a state worker is less than \$40,000 per year. (Florida is ranked 50<sup>th</sup> in the country as it relates to state employee pay)

AFSCME Florida presented 3 new proposals to be written into the collective bargaining agreement. They are the following:

*See attached Proposal 1) **Labor Management Language** – AFSCME Florida believes in the importance of cooperative labor management relationship. Labor management meetings afford the opportunity to discuss efficiencies and improve operations. At the end of the day we are responsible to the tax payers of the State of Florida. The attached language allows us to share in that responsibility.*

**American Federation of State, County and Municipal Employees, AFL-CIO  
Florida 979 Organizing Committee**

WEB [afscmeff.org](http://afscmeff.org) FACEBOOK [AFSCMEFlorida](https://www.facebook.com/AFSCMEFlorida) TWITTER [@AFSCMEFL](https://twitter.com/AFSCMEFL)

TEL (850) 222-0842 FAX (850) 224-2961 3064 Highland Oaks Terrace, Tallahassee, FL 32301

*See attached Proposal 2) **Healthcare Cost Containment Committee** – The State of Florida spends 2 billion dollars a year on employee health care. By forming this committee, it would present an opportunity for the State and AFSCME Florida to explore savings. This could be done by meeting on a quarterly basis and reviewing relevant data in order to make informed decisions regarding possible savings. We strongly believe there are possible savings that can be made without having to raise premiums or cut benefits.*

*See attached Proposal 3) **New Hire Orientation** – AFSCME Florida would like the opportunity to meet with new hires and educate them about their collective bargaining agreement and the responsibility they have to the citizens of Florida as State employees. *(Add to Section 6, Article 5)**



## NEW ARTICLE

### Labor Management Collaboration

#### **Section 1: Purpose**

- A. Labor-Management Collaboration (LMC) involves the design, implementation, and maintenance of a cooperative working relationship between Labor and Management. LMC functions as an integral part of the labor-management relationship in creating a conducive and supportive work environment, promoting morale, and disseminating information.
- B. Management and AFSCME are encouraged to support collaborative relationships that will renew their efforts in improving services to the public and providing a positive work environment for employees.

#### **Section 2: Scope**

- A. The scope of LMC may include issues raised by either party regarding personnel policies, practices, and working conditions.
- B. The LMC will meet on a quarterly basis at the request of either party. The party requesting such a meeting shall forward an agenda with questions or issues to be presented for discussion.
- C. The LMC shall consist of 10 members; 5 appointed by the Union and 5 appointed by Department of Management Services (DMS). Union representatives will be allowed to attend the meetings without loss of compensation.
- D. The LMC will meet at a mutually agreed upon place and time by the Union's Executive Director and DMS' Director.
- E. Management recognizes that by participating in LMC activities, AFSCME does not waive its right to request formal negotiations.

AFSCME Proposal  
October 19, 2015



## NEW ARTICLE

### Health Cost Containment Committee

The Department of Management Services and the Union will create a Health Care Cost Containment Committee. All savings generated from AFSCME bargaining unit members as a result of implementation of cost containment measures shall be used to benefit bargaining unit members.



## ARTICLE 5

### UNION ACTIVITIES AND EMPLOYEE REPRESENTATION

#### SECTION 2 - Designation of Employee Representatives

##### Add to SECTION 2 (B)

**(4) No Shop Steward will be subject to intimidation, coercion, harassment, or reprisal; nor will a shop steward be used as an example to threaten other shop stewards or employees.**

##### Add to SECTION 6 - Representative Access

C. **Local Union Representatives shall have access to new employees during the new employee's orientation period.**

AFSCME Proposal  
October 19, 2015



## ARTICLE 25 – WAGES

### SECTION 1– General Wage Increase for Fiscal Year 2016-17

Effective July 1, 2016, full-time eligible employees shall receive a Cost of Living pay adjustment (COLA) of 3.5%.

ALL OTHER SECTIONS OF THIS ARTICLE TO REMAIN UNCHANGED

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December 3, 2015

Senator Alan Hays  
Co-Chair  
Joint Select Committee

Representative Charles Van Zant  
Co-Chair  
Joint Select Committee

Re: Hearing Before the Joint Select Committee on Collective Bargaining -  
Florida Nurses Association and State of Florida

Dear Senator Hays and Representative Van Zant:

This office represents the Florida Nurses Association (FNA) which, as you are aware, is the certified collective bargaining agent for the health care professionals employed by the State.

The FNA received the November 24<sup>th</sup> notice of the statutorily-mandated impasse hearing scheduled for Friday, December 4, 2015. Said notice was issued after the FNA and the State had set the next collective bargaining session for December 16<sup>th</sup>. In that the FNA's representatives had already confirmed travel schedules to and from Tallahassee - attending your hearing is financially impossible for the Association.

Presently, the FNA is in the midst of negotiations with the Governor (through DMS), and is hopeful that the bargaining will not reach a final "impasse" (as that term is commonly understood in the field of labor relations). Therefore, the FNA does not intend to present a specific position on the open issues at this time, but reserves its statutory rights to pursue an equitable resolution to such an impasse, should that occur at a later date.

The FNA does not disagree with the representation of "open" issues set forth in Michael Mattimore's November 25<sup>th</sup> "State Collective Bargaining Impasse - Articles at Impasse" letter sent from the Department of Management Services to the Senate President and the House Speaker. Please note, however, that subsequent to Mr. Mattimore's submission, the parties have reached a tentative agreement on Article 27, "Insurance Benefits."

Of utmost importance is the compensation level of the health care professionals. It has been years since these faithful public servants have had the consideration of much-needed wage adjustments in order to be competitive with the job market and to track the cost of living. It must be recognized that these employees are human beings that must feed themselves and their families while paying for mortgages and transportation costs.

Senator Alan Hays  
Co-Chair  
Joint Select Committee  
December 3, 2015  
Page 2

Representative Charles Van Zant  
Co-Chair  
Joint Select Committee  
December 3, 2015  
Page 2

Furthermore, the FNA would implore the legislature to re-visit its prior decision that privatized the health care services within the Department of Corrections. Such "privatization" has been destructive of the State's health care capabilities within its correctional facilities - a fact which has been highlighted by the recent public revelations of poor health care services and inmate deaths. Furthermore, the estimate of supposed "savings" was based on "low-ball" bids which did not accurately portray the real cost of health care. Our plea is further supported by Corizon's recent announcement that it will end its contractual relationship with the State.

As the legislature moves towards its 2016 session, the FNA urges all members of the Senate and the House to consider carefully the needs of their state-employed health care professionals. Registered Nurses, Advanced Registered Nurse Practitioners, Pharmacists, Community Health Nurses, Psychologists, Dentists and Nutritionists are critical providers of the State's mandated services to its citizens and its wards. These professionals are in short supply and the demand for their talent is high.

While the FNA appreciates the stressful financial situation in which the State found itself in past years; it must strongly suggest that now that the State's budget has greater fiscal capacity - there are special health care issues which create a compelling case that the legislature needs to assertively address sooner rather than later.

Whether or not the Governor's budget responds to those needs; the legislature should certainly do so. The FNA thanks the Committee members for their service in such an important capacity which hopefully, in the end, will help create productive results for all concerned.

Sincerely,  
  
DONALD D. SLESNICK II

cc: Deborah Hogan, R.N., State Unit President, : [deborah.hogan@flhealth.gov](mailto:deborah.hogan@flhealth.gov)  
Jeanie Demshar, Esquire, Director of Labor Relations, FNA: [jdemshar@floridanurse.org](mailto:jdemshar@floridanurse.org)  
Joint Select Committee, Via Joe McVaney: [mcvaney.joe@flsenate.gov](mailto:mcvaney.joe@flsenate.gov)  
Michael Mattimore, Esquire, Attorney for DMS: [mmattimore@anblaw.com](mailto:mmattimore@anblaw.com)  
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Allison Rudd, Senate Committee on Gov't. Oversight and Accountability: [rudd.allison@flsenate.gov](mailto:rudd.allison@flsenate.gov)



# FLORIDA STATE FIRE SERVICE ASSOCIATION

IAFF Local S-20

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Valrico, Florida 33594

[www.iafflocals20.com](http://www.iafflocals20.com)

(863) 661-4019



December 2, 2015

## Joint Select Committee on Collective Bargaining

Sen. Alan Hayes  
Co-Chair  
Joint Select Committee

Rep. Charles Van Zant  
Co-Chair  
Joint Select Committee

### **Re: Florida State Fire Service Association (FSFSA), IAFF Local S-20 Impasse Issues**

Dear Committee Chairs and Members:

As you are aware, an impasse exists in bargaining between the Florida State Fire Service Association (“FSFSA”) and Governor Scott, acting through the Department of Management Services.

The FSFSA represents employees in five different state agencies. These employees include Wildland Firefighters from the Florida Forest Service and Department of Military Affairs, Structural Firefighters from the Department of Children and Families and the Department of Military Affairs, Fire Protections Specialist from the Agency for Healthcare Administration and the Department of Financial Services, and also Fire Training Professionals from the Florida State Fire College.

What follows is a summary of the proposals submitted during negotiations with the Governor for consideration to our contract that had one simple purpose: to *improve the morale of the existing workforce*. Morale is at an all time low among state employees.

**Article 5: Representation Rights:** FSFSA has asked to be able to conduct a short 30 minute presentation to new employees to educate them about the contract, and the role the FSFSA plays as their duly certified representative. The state’s counter proposal is for us to do it after hours on our own time which we already do. In evaluating the FSFSA’s proposal, you should know that *all other bargaining representatives with academies are allowed to make presentations to new employees*.

**Article 9 Promotions:** FSFSA proposes that, whenever possible, Firefighter supervisors be promoted from firefighter positions within the bargaining unit. FSFSA believes that it is a significant safety concern that non-firefighters with little to no wildfire experience are becoming firefighter supervisors. *The state proposal incorporates none of our suggested language protecting firefighter safety*.



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**Article 23 Hours of work and overtime:** FSFSA is asking for contractual clarification of work days and hours for employees assigned to 160 hour work periods. FSFSA proposes that employees forced to work on their scheduled days off be compensated for overtime. FSFSA further requests that Firefighters not be required to offset “extra hours” worked beyond a scheduled work day. This “offsetting” occurs when an employee works beyond their scheduled workday (8 hours) and is then forced to take those hours *off* on a subsequent scheduled work day. ***State’s article 23 makes no attempt to incorporate or negotiate any proposed changes by the FSFSA.***

**Article 24: On-call Assignment, Call Back and Residency:** FSFSA proposes that our contract mimic those of other emergency response bargaining unit contracts and allow for four (4) hour callbacks when responding after hours. ***All other state contracts with call back have a minimum of four (4) hours except FSFSA wildland firefighter contract.***

**Article 25 Wages:** FSFSA asks for a \$2000 base rate of pay increase. The state is losing good, experienced personnel to higher paying city and county positions. Currently, the state spends roughly \$90,000 to train new firefighters. Wildland Firefighter starting salary is \$24,579 before any mandatory deductions for benefits, such as FRS. New Wildland Firefighters bring home less than \$18k annually after mandatory deductions. Florida Forest Service trains approximately 60 to 70 replacement firefighters every year at a cost of over \$6 million to taxpayers. Compared to city, county, and other states’ like positions, as well as other special risk state jobs, state firefighters are grossly underpaid (attachment A).

FSFSA has requested Hazardous Duty incentive pay for those positions not classified as high/special risk for those hours when these personnel are actually engaged in hazardous duties. In that regard, FSFSA has compiled a list of those duties we contend should be compensated for these employees working in dangerous situations (attachment B).

Finally, FSFSA requests a review of existing CAD pay and that it be increased accordingly, thereby allowing CAD to remain competitive in those areas that have not been adjusted in over 15 years. ***State’s proposed article 25 fails to include anything requested by FSFSA; indeed, there has been no negotiating on the State’s part over these proposals.***

**Article 26 Step Promotions:** FSFSA proposes to establish a new system whereby employees may move up in rank and position, so not all positions are “entry level.” At present, promotional opportunities are minimal in the fire service. FSFSA contends the proposed change would improve morale and provide a ladder for employees to move up and help retain firefighters seeking more responsibility and leadership roles, instead of moving to city and county positions as is presently the case. ***The state has not proposed any language or negotiated on this article at all..***



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**Article 27 Uniforms:** FSFSA ask for a uniform maintenance allowance of \$250; this would provide uniformed and non uniformed professionals funds to maintain a professional appearance in the workplace. All other uniformed personnel bargaining units of uniformed personnel have this allotment in their contracts. ***Again, the state has not provided a proposal on this issue, or negotiated over this issue.***

### Conclusion

Thank you for your time and attention to these issues. The FSFSA was formed in 2002. All of FSFSA's Officers are active employees elected by their peers to represent them in the workplace. Not single proposal offered by the FSFSA in negotiations has ever been implemented by Governor in impasse resolution. Since establishment of the FSFSA bargaining unit, every Legislative session has produced the same outcome: adoption of the State's last proposal or maintenance of the status quo.<sup>1</sup>

FSFSA respectfully challenges this Committee to listen to the state employees and implement the modest positive changes the employees have requested.<sup>2</sup>

Respectfully Submitted,

Tommy Price  
President  
Florida State Fire Service Association, IAFF S-20

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<sup>1</sup> The State's proposals are riddled with language allowing the employer to act unilaterally with respect mandatory subjects of bargaining and/or relegate the substance of mandatory subjects to processes outside of collective bargaining. FSFSA reserves the right to pursue these issues.

<sup>2</sup> For context, the Committee may recall that FSFSA has litigated the fairness of the process in past years, and one (see attached case). Unfortunately the Court was unable to afford a remedy. FSFSA has recently filed a charge over the Governor's veto of the wage increases resolved by the Legislature in the last session (see attached charge); that litigation will likely continue for years – in the meantime, the state's firefighters continue to be grossly underpaid.



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## Attachment A

# Florida High Risk Job Wage Analysis

Forest Ranger/ Wildland Firefighter Wage Inequality

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## CONTENTS

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Overview	3
State of Florida High Risk Job Salaries	4
Starting Wage Salary Comparision	
Local City and County Firefighter Salaries	5-6
Minimum and Maximum Starting Wage Comparision	
Conclusion	
FFS Ranger vs USDA Fire Service Starting Pay	7
Comparision	
Conclusion	

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## Overview

Forest Rangers ( Wildland Firefighters) for the State of Florida, under the agency of the Department of Agriculture and Consumer Services receive a starting wage of \$24,579.62 a year (1). According to the U.S. Bureau of Labor Statistics other jobs that are equivalent with this wage in Florida include plumbers helpers, cafeteria workers, and switch board operators (2). This wage analysis was developed to demonstrate the inequality of pay for Forest Rangers compared to other high risk positions within various state of Florida agencies as well as the average starting pay for local city and county firefighters. The goal of this document is to inform the legislative branch of Florida government of the inequality. We also ask that they initiate appropriations to fairly compensate these highly trained men and woman that are fundamental to the safety of Florida's communities and residents a wage that is commensurate with other firefighting agencies and state of Florida high risk positions.

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1) "FOREST RANGER OPEN POSITION OKEECHOBEE." PEOPLE FIRST. ACCESSED MARCH 7, 2015. [HTTPS://JOBS.MYFLORIDA.COM/VIEWJOB.HTML?ERJOB=221930:EN\\_US](https://jobs.myflorida.com/viewjob.html?erjob=221930:EN_US).

(2)"EMPLOYMENT PROJECTIONS." U.S. BUREAU OF LABOR STATISTICS. ACCESSED MARCH 7, 2015. [HTTP://DATA.BLS.GOV/PROJECTIONS/OCCUPATIONPROJ](http://data.bls.gov/projections/occupationproj).

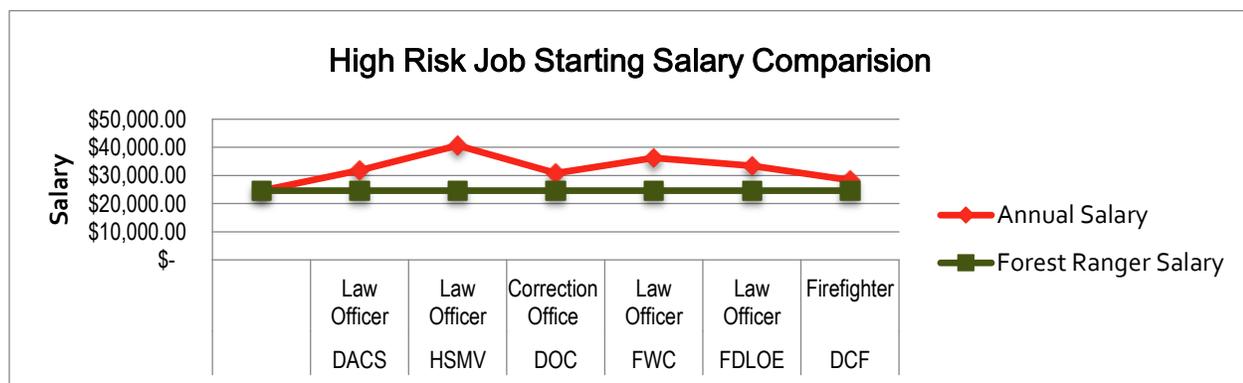
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# State of Florida High Risk Job Salaries

In March of 2011 Governor Rick Scott launched the "Florida Has the Right to Know" website. This website was created for transparency for how state tax dollars are spent for each employee. Our research used this site to compare the starting wages of new employees hired in 2014 for jobs deemed as eligible for the state of Florida's Special High Risk Retirement System.<sup>(1)</sup> The chart below shows the agency within the state the job reports to, the date of hire in 2014 for the employee, the job description and annual salary and how that compares to the starting salary of Florida Fire Service Forest Rangers.

## Starting Wage Comparison

Agency	Date of Hire	Job Description	Annual Salary	Salary Compared to Forest Ranger
Dept of Agr. & Consumer Services	1/31/2014	Forest Ranger	\$24,579.62	\$ -
Dept of Agr. & Consumer Services	12/15/2014	Law Officer	\$ 31,879.90	\$ 7,300.28
Highway Safety & Motor Vehicles	2/17/2014	Law Officer	\$ 40,675.68	\$ 16,096.06
Dept of Corrections	4/25/2014	Correction Office	\$ 30,807.92	\$ 6,228.30
FL Fish & Wildlife Conservation	10/6/2014	Law Officer	\$ 36,222.68	\$ 11,643.06
FL Dept of Law Enforcement	6/20/2014	Law Officer	\$ 33,473.96	\$ 8,894.34
Dept. of Children & Families	12/19/2014	Firefighter	\$ 28,373.28	\$ 3,793.66



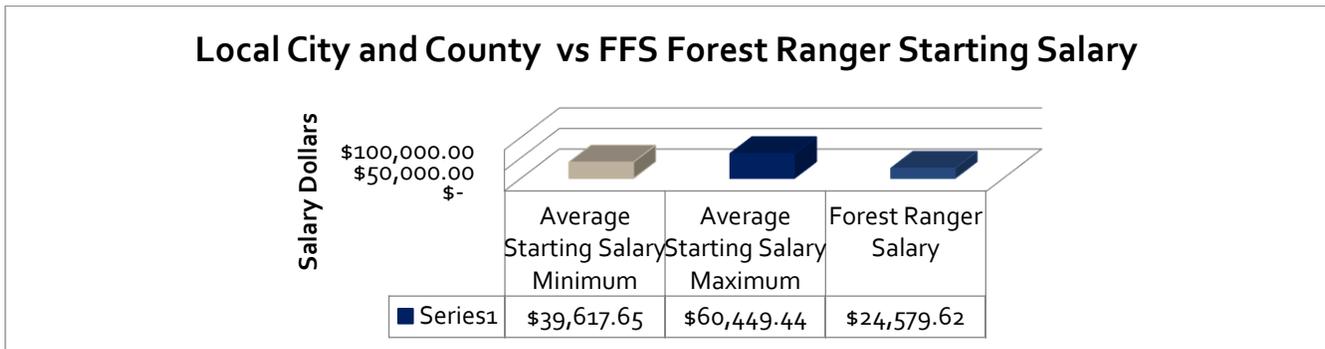
- (1) "Career Service Classes Eligible for Special Risk Retirement." Human Resources Management. April 14, 2014. Accessed March 7, 2015. [http://www.dms.myflorida.com/workforce\\_operations/human\\_resource\\_management/for\\_state\\_hr\\_practitioners/broadband\\_classification\\_and\\_compensation\\_program/classification\\_plan/classes\\_eligible\\_for\\_special\\_risk\\_retirement/career\\_service\\_classes\\_eligible\\_for\\_special\\_risk\\_retirement](http://www.dms.myflorida.com/workforce_operations/human_resource_management/for_state_hr_practitioners/broadband_classification_and_compensation_program/classification_plan/classes_eligible_for_special_risk_retirement/career_service_classes_eligible_for_special_risk_retirement)
- (2) "State of Florida Employee Salaries." My Florida. Accessed March 7, 2015. <http://dmssalaries.herokuapp.com/salaries>

## Florida Local City and County Firefighter Starting Wages

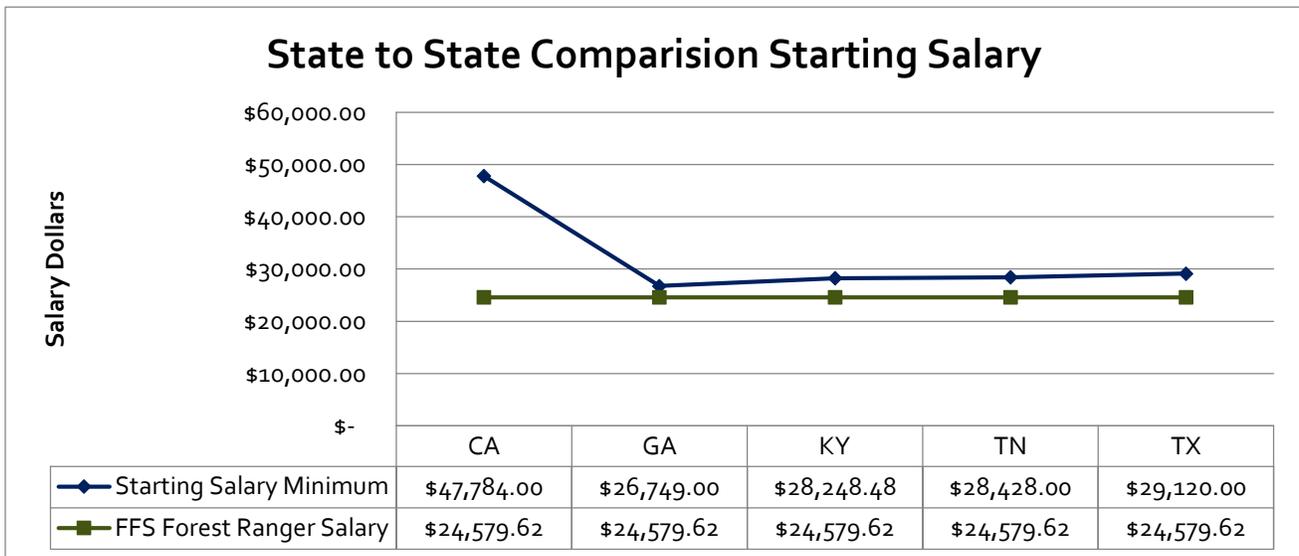
The following is list of 21 local city and county firefighter starting wages. They were received via the 2013/2014 firefighter wage survey that was compiled by the Florida Firefighter Professional IAFF A-8. The FPF sent wage surveys to their local affiliates, there were a total of 45 responses received. The table below shows the jurisdiction, the minimum and the maximum starting salary of their firefighters.

Jurisdiction	Starting Salary Minimum	Starting Salary Maximum	Forest Ranger Salary
Lake City	\$ 29,040.00	\$ 32,685.00	\$ 24,579.62
Pasco County	\$ 30,300.00	\$ 46,500.00	\$ 24,579.62
Alachua County	\$ 32,357.00	\$ 50,153.00	\$ 24,579.62
Jacksonville	\$ 33,384.00	\$ 50,712.00	\$ 24,579.62
Zephyrhills	\$ 33,500.00	\$ 45,989.00	\$ 24,579.62
Bradenton	\$ 36,717.00	\$ 56,241.00	\$ 24,579.62
Venice	\$ 37,262.00	\$ 63,762.00	\$ 24,579.62
Tampa	\$ 37,889.00	\$ 69,738.00	\$ 24,579.62
Palm Bay	\$ 37,977.00	\$ 57,462.00	\$ 24,579.62
North Ft Myers	\$ 38,589.00	\$ 60,336.00	\$ 24,579.62
Bayshore	\$ 40,094.00	\$ 50,765.00	\$ 24,579.62
Gainesville	\$ 40,170.00	\$ 57,083.00	\$ 24,579.62
Broward Fire Rescue	\$ 40,295.00	\$ 73,811.00	\$ 24,579.62
Palm Beach County	\$ 40,891.00	\$ 74,434.00	\$ 24,579.62
Manatee County	\$ 42,664.00	\$ 59,284.00	\$ 24,579.62
Miami	\$ 43,682.00	\$ 75,592.00	\$ 24,579.62
Bonita Springs	\$ 44,860.00	\$ 56,318.00	\$ 24,579.62
Davie	\$ 45,191.00	\$ 73,828.00	\$ 24,579.62
Orlando	\$ 46,242.57	\$ 73,459.29	\$ 24,579.62
Ft. Lauderdale	\$ 49,470.00	\$ 72,359.00	\$ 24,579.62
Estero	\$ 51,396.00	\$ 68,927.00	\$ 24,579.62

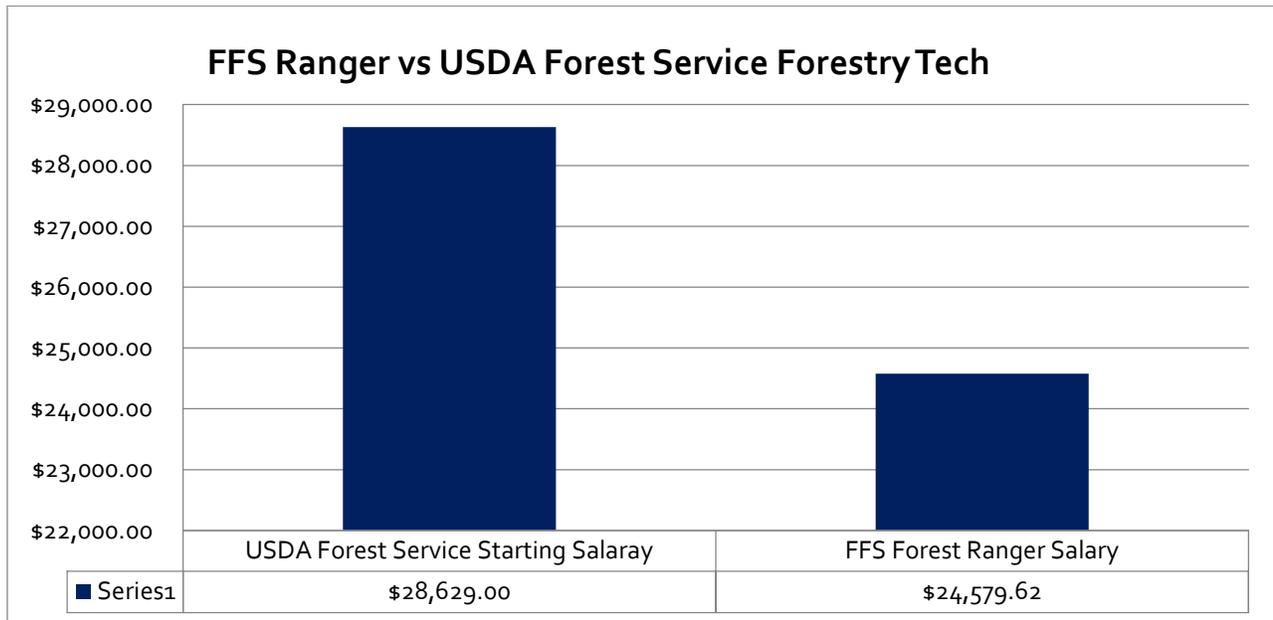
*Average Minimum Starting Wage: \$39,617.65      Average Maximum Starting Wage: \$60,449.44*



## FFS Ranger vs Other States Salary



## FFS Ranger vs USDA Fire Service Starting Pay



## Conclusion

The State of Florida Forest Ranger/ Wildland Firefighter is currently grossly underpaid a starting wage for their high risk job classification when compared to other fire departments at the state and local level, as well as other high risk jobs under the direction of various state agencies. Our Rangers are among the most rigorously trained and continuously educated wildland firefighters in the nation, yet their starting pay is so low that a family of four falls within the income eligibility for the USDA's Food and Nutrition Supplemental Nutrition Assistance Program.<sup>(1)</sup> This is repugnant and our Forest Rangers deserve to be paid for their high caliber, highly trained work they do for the people of the state of Florida.

(1) "Supplemental Nutrition Assistance Program (SNAP)." Food and Nutrition. October 3, 2014. Accessed March 7, 2015. <http://www.fns.usda.gov/snap/eligibility>.



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## Hazardous Duty Pay Justification

### Attachment B

#### **Article 25 Hazardous Duty pay increase supporting information:**

This issue requests when hazardous situations or physical hardships exist, non-Special risk bargaining unit members will receive an additional hourly pay adjustment of no less than 10% of hourly base rate per hour when performing such duties. Hazardous duty is defined as duty performed under circumstances which could result in serious injury or death. Duty involving a physical hardship is duty that may not in itself be hazardous, but could cause extreme physical discomfort or distress and is not adequately alleviated by protective or mechanical devices or procedures in place.

**AHCA Members Justification:** The Agency for Health Care Administration (AHCA) currently employs a total of 20 Fire Protection Specialists (FPS) covering the State of Florida from (11) eleven Area Offices.

Currently, these employees do not receive hazardous duty pay, nor special risk coverage under Florida Statute (F.S.) Chapter 121.0515(2).

AHCA/FPS staffs are certified Fire Safety Inspectors in accordance with F.S. Chapter 633.216(2), and in many cases are certified firefighters under F.S. Chapter 633.408(4). These staff perform inspections of these highly specialized facilities which are also inspected by some local fire inspectors which are covered and receive special risk coverage granted by F.S. Chapter 121.0515(2).

The AHCA/FPS conduct fire and life safety inspections of all State owned health care facilities, licensed health care facilities, to include testing labs and medical testing facilities, throughout the state, and certified health care facilities under the Centers for Medicare and Medicaid pursuant to Chapter 633, Florida Statute, 42 Code Federal Regulations 416, 42 Code Federal Regulations 418, 42 Code Federal Regulations 482, and 42 Code Federal Regulations 483.

A list of but not inclusive of facilities inspected by AHCA/FPS;

Hospitals  
Nursing Homes  
Birthing Centers  
Intermediate Care Facilities for Individuals with Intellectual Disabilities  
Ambulatory Surgery Centers  
Home Health Care Agencies  
Rural Health Care Clinics  
Medical Testing Labs  
Hospice Care Facilities



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AHCA/FPS staff are part of Disaster Response Teams required to respond to assist health care facilities throughout the state in the event of an emergency situation to facilitate proper response and corrective actions are taken to safeguard the facilities occupants and help the facility recover as soon as possible back to an operational state. AHCA/FPS staff are also required to respond and investigate any reports of fires in all facilities. Complaints of improper actions or failure to provide required protection to the facilities residents or patients are conducted to ensure corrective action or impose required corrective measures to be taken.

When inspecting the medical facilities AHCA/FPS staff are routinely exposed to various hazardous conditions including; when inspecting the medical testing labs, the potential is exposure to explosive vapors from those utilized to conduct testing of cancer and biological tissues.

Exposure to these chemicals themselves are hazardous as many in use for medical procedures are proven to be cancer causing. Also during surveys of these areas the exposure can be to biological and highly contagious matter.

Surveys of facilities can entail the response to verify the probability of biological growth inside of a facility endangering the occupants. AHCA/FPS staff are certified in Mold & Mildew recognition and response. Upon notification of a suspected outbreak of biological growth in a facility the AHCA/FPS staff will respond to gather evidence and verify the potential harm to occupants and spread. This exposure can include toxic exposure to biological growths which can include black mold and other highly invasive toxic breeds which can impair staff if exposed or include death if highly viral.

Staff perform routine surveys of Hospitals and Nursing Facilities regularly and are in constant contact with spaces which can harbor viral strains to include but not be limited to;

Methicillin-resistant Staphylococcus aureus – MRSA

Severe acute respiratory syndrome – SARS

Clostridium difficile – C-Diff

Ebola

AIDS

Cancer

These exposures can result in possible infections which are highly unlikely to respond to any current treatments if available and result in loss of quality of life to include loss of life. Many forms of these viruses are currently present in many of the hospital and nursing homes currently throughout this state. And are constantly in study in the many medical testing labs.

Regular surveys are performed to verify proper construction of facilities PRIOR to occupancy or during which the building is occupied for a renovation which are conducted during various stages of construction. This exposes the AHCA/FPS staff to many hazards to include unstable areas, hanging or loose temporary installations, and enclosed confined space areas.



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Exposures are also encountered during survey activities with exposure to combustible and flammable materials to verify proper storage and disposal areas are maintained. Exposure to medical gas storage and use areas utilizing extremely cold or dangerous gases which can cause severe frost burns or skin irritants which can cause blistering or skin burns.

AHCA/FPS staff may be called upon to give testimony in legal proceedings regarding corrections of hazardous conditions or facility failures to provide proper protection to the occupants. Staff routinely are exposed to areas of these facilities within which high pressure boilers, chiller plants, and large electrical emergency power supply systems are kept and run. These devices are capable or major explosions and or destructive failures when in operation, to include production of high carbon monoxide levels, and can result in loss of life.

During surveys by AHCA/FPS staff especially in Hospitals and Nursing Facilities staff must inspect the roof areas to include the enclosed attic spaces to verify proper fire stopping and protection of ceiling assemblies are maintained to prevent spread of fire and smoke gases throughout the facility. These spaces can be extremely small and are unconditioned spaces which expose the staff to high heat spaces and also areas which are conducive to biological and hazardous growths and may harbor pests which can attack and expose staff.

Point of importance is the inspection of these facilities are performed by highly trained and certified personnel which specialize in the protection and operation of health care facilities. Local inspectors are trained in inspection procedures but are versed in so many different occupancy's they are not specialized in the health care field to include the requirements of the Code of Federal Regulations which are mandated by the Centers for Medicare and Medicaid.

Due to the many years of experience and dedication to the protection of Health Care facilities, our staff is the first line of defense in firefighting in the State of Florida. Fire Prevention is the very first and most important step in the firefighting world. Given that in the Health Care realm, these people are incapable of self preservation, they must depend on the protective measures of construction, operations, and staff. For their survival, we AHCA/FPS staff must be ever vigilant and straight forward to preserve their quality of life.

### **DFS members Justification:**

Bureau of Fire Prevention. This includes 31 Fire Protection Specialists (FPS); 4 Fire Protection Specialists Supervisors; and 4 Deputy Boiler Inspectors. Currently, these employees do not receive the hazardous duty pay additive, nor special risk retirement benefits, as many state employees with similar responsibilities receive.

The Division of State Fire Marshal employs Fire Protection Specialists (FPS) and FPS Supervisors who conduct fire and life safety inspections of all state owned facilities, pursuant to Chapter 633, F.S. They conduct inspections of all explosives magazines in the state of Florida, as mandated by Chapter 552, F.S., and conduct inspections and investigations of five regulated industries and their places of business.



# FLORIDA STATE FIRE SERVICE ASSOCIATION

## IAFF Local S-20

3433 Lithia Pinecrest Rd #347

Valrico, Florida 33594

[www.iafflocals20.com](http://www.iafflocals20.com)

(863) 661-4019



The FPS and their supervisors are members of the Department of Financial Services Disaster Response Team who assist in supporting disaster relief efforts when called upon.

In order to conduct these statutory duties, all FPS and FPS Supervisors must obtain and maintain certification as a Fire Safety Inspector, pursuant to s. 633.081, F.S. FPS and FPS Supervisors are routinely exposed to various hazardous conditions including: exposure to hazardous chemicals when inspecting explosives magazines and laboratories; possible exposure to unstable explosives; conducting inspections of correctional institutions, thus exposing them to the same conditions and biological hazards correctional officers are exposed to; conducting building inspections in unstable conditions; conducting building inspections of medical facilities and laboratories that may expose them to biological or medical hazards; and inspections inside high hazard occupancies which are buildings that may contain combustible or explosive matter. On a daily basis, inspectors may be called upon to follow through with legal proceedings to correct hazardous conditions liable to endanger life or property in the event of fire or explosion. Inspectors are exposed to these conditions because they are the individuals charged with identifying hazardous conditions and identifying the corrective action needed.

FPS and FPS Supervisors enforce all fire safety laws relating to the storage, sale, use, manufacturing, and handling of combustibles, flammables, and carbide and crude petroleum. Inspectors and investigators are exposed to risk from fire and explosive debris while conducting investigations to determine the cause of explosions or fires, especially when fire protection or suppression systems fail to initiate.

Deputy Boiler Inspectors are mandated by Chapter 554, F.S., to conduct inspections of uninsured boilers located in public assembly locations. Boilers are pressure vessels and their inspection exposes deputy boiler inspectors to hazards such as exposure to harmful carbon monoxide gases and explosion of the vessels due to incorrect pressure.

**Article 5**  
**REPRESENTATION RIGHTS**

- SECTION 1** – *Status Quo*
- SECTION 2**-- *Status Quo*
- SECTION 3** – *Status Quo*
- SECTION 4**-- *Status Quo*
- SECTION 5** – *Status Quo*
- SECTION 6**-- *Status Quo*
- SECTION 7** – *Status Quo*
- SECTION 8**-- *Status Quo*
- SECTION 9** – *Status Quo*

**SECTION 10— ACADEMY ACCESS**

Where the agencies operates their own academies and conducts entry level firefighter training, the FSFSA will be notified and the parties will determine the date and time the FSFSA will be granted Academy access. A representative of the FSFSA, accompanied by a representative of the agency, will be permitted to address each entry-level firefighter class during class time, to make available to each recruit a copy of the current FSFSA agreement, to discuss the provisions of that agreement, and to describe the organization and benefits. The presentations will not last longer than 30 minutes, unless a longer period is agreed to by the FSFSA and the Agency, and may be made only once per class at a time selected in advance by the FSFSA, the Representative of the Agency, and the Agency head or designee.

State \_\_\_\_\_  
Date \_\_\_\_\_

Union \_\_\_\_\_  
Date \_\_\_\_\_

**Article 9**  
**VOLUNTARY REASSIGNMENT, TRANSFER, CHANGE IN DUTY**  
**STATION, AND PROMOTIONS**

- SECTION 1** – *Status Quo*
- SECTION 2--** *Status Quo*
- SECTION 3** – *Status Quo*
- SECTION 4--** *Status Quo*
- SECTION 5** – *Status Quo*
- SECTION 6--** *Status Quo*

**SECTION 7— Promotions Outside the Unit**

The State will make a good faith effort to fill vacant supervisory positions in the rank immediately above the bargaining unit with employees of the bargaining unit. This provision is not subject to the Article 6 grievance procedure.

State \_\_\_\_\_  
Date \_\_\_\_\_

Union \_\_\_\_\_  
Date \_\_\_\_\_

**Article 23**  
**HOURS OF WORK AND OVERTIME**

**SECTION 4 – Work Day**

(A) *Status Quo*

(B) *Status Quo*

(C) Any hours of work performed on scheduled days off shall be deemed pre-approved overtime hours, except in the event these hours do not exceed contracted hours due to employee leave usage.

(D) Where an employee works hours in excess of their regular scheduled work day, the state shall not adjust the employee's schedule to avoid payment of overtime required under the FLSA.

State \_\_\_\_\_  
Date \_\_\_\_\_

Union \_\_\_\_\_  
Date \_\_\_\_\_

**Article 23**  
**HOURS OF WORK AND OVERTIME**

**SECTION 4 – Work Day**

(A) The normal work period for full-time employees, except as noted below, shall be 40 hours consisting of five eight hour days, or four ten- hour days, or a 28-day, 160-hour period (20 days at 8 hours per day). The normal work period for Department of Children and Families’ employees shall be a 28-day, 192-hour period, consisting of 24 hours on-duty and 48 hours off-duty. The normal work period for Department of Military Affairs’ employees shall be a 28-day, 212-hour period consisting of 24 hours on-duty and 48 hours off-duty.

(B) *Status Quo*

(C) Any hours of work performed on previously scheduled days off shall be deemed pre-approved overtime hours, except in the event these hours do not exceed contracted hours due to employee leave usage.

(D) Where an employee works hours in excess of their regular scheduled work day, the state shall not adjust the employee’s schedule to avoid payment of overtime required under the FLSA until contracted hours are met in accordance with Section 4(A).

~~(E) No employee shall be required to work “extra hours” over the scheduled work day for non emergency response duties. “Extra hours” shall only be required for emergency response situation. Bargaining unit supervisors should plan the scheduled workday accordingly to avoid “extra hours” and offsetting of the employee.~~

**Emergency Situation:** Any situation that is temporary in nature and poses sudden, immediate, or unforeseen work requirements as a result of natural phenomena or other circumstances beyond Management’s reasonable control or ability to anticipate.

State \_\_\_\_\_  
Date \_\_\_\_\_

Union \_\_\_\_\_  
Date \_\_\_\_\_

**Article 24**  
**WAGES**

**SECTION 1** *Status Quo*

**SECTION 2** *Status Quo*

**SECTION 3**

(A) When an employee who has been placed on-call in accordance with Section 1 above is called back to the work location to perform assigned duties, the employee shall be credited for actual time worked, or a minimum of (4) hours whichever is greater.

(B) *Status Quo*

**SECTION 4** *(Agency policy has changed to 30 miles)*

State \_\_\_\_\_  
Date \_\_\_\_\_

Union \_\_\_\_\_  
Date \_\_\_\_\_

**Article 25**  
**WAGES**

**SECTION 1 – General Wage Increase for Fiscal Year 2016-2017**

(A) Based on funding in the Fiscal Year 2016-2017 General Appropriations Act all employees in the unit shall receive a general wage increase in the amount specified by the legislature.

SECTION 2 Status Quo with Fiscal year changes

SECTION 3 Status Quo with Fiscal year changes

SECTION 4 Status Quo with Fiscal year changes

SECTION 5 Status Quo with Fiscal year changes

**SECTION 6 – Special Pay Issues**

To reduce increasing new employee turnover and agency training expenses to new employees unit members shall receive a competitive pay adjustment of \$2000 to each employee's June 30, 2016 base rate of pay.

**SECTION 7 – Hazard/ Physical Hardship Duty pay additive**

(A) When hazardous situations or physical hardships exist, non high risk bargaining unit members will receive an additional hourly pay adjustment of no less than 10% of hourly base rate per hour when performing such duties.

(B) Hazardous duty is defined as duty performed under circumstances which could result in serious injury or death. Duty involving a physical hardship is duty that may not in itself be hazardous, but could causes extreme physical discomfort or distress and is not adequately alleviated by protective or mechanical devices or procedures in place.

**SECTION 8 – Competitive Area Differential (CAD)**

(A) FSFSA request existing competitive area differentials be reviewed and increased accordingly to adjust for competitive “like” positions.

State \_\_\_\_\_  
Date \_\_\_\_\_

Union \_\_\_\_\_  
Date \_\_\_\_\_

**Article 26**  
**PROMOTIONS**

**SECTION 1 – Promotional step plan System**

(A) All Agencies employing unit personnel will establish a promotional step system for each classification consisting of a minimum of (4) four promotional step opportunities.

(B) Promotional steps requirements will be based on but not limited to; time in service, training certifications, performance evaluations, and employee qualifications.

(C) Promotional steps shall be attainable, achievable, and clearly defined steps on what employee requirements are needed to promote within the organizations.

State \_\_\_\_\_  
Date \_\_\_\_\_

Union \_\_\_\_\_  
Date \_\_\_\_\_

**Article 27**  
**UNIFORMS**

**SECTION 1 – Status Quo (Add the Department of Military Affairs)**

**SECTION 2-- Status Quo**

**SECTION 3-** To maintain a high level of professional appearance, the state will provide employees who are required to wear uniforms and employees who are required to wear personal attire conducting official state business a maintenance allowance in the amount of \$250 annually.

State \_\_\_\_\_  
Date \_\_\_\_\_

Union \_\_\_\_\_  
Date \_\_\_\_\_

STATE OF FLORIDA  
PUBLIC EMPLOYEES RELATIONS COMMISSION  
4708 Capital Circle, N.W., Suite 300  
Tallahassee, Florida 32303  
(850) 488-8641

CASE NUMBER
DATE FILED

CHARGE AGAINST EMPLOYER

INSTRUCTIONS:

Submit an original and one (1) copy of this charge to the Public Employees Relations Commission along with proof of simultaneous service upon the other parties. (NOTE: Pursuant to Florida Administrative Code Rule 60CC-5.001(5), the charge must be accompanied by sworn statements(s) setting forth facts of which the affiant has personal knowledge, and where applicable, documentary evidence sufficient to support a prima facie violation of the applicable unfair labor practice provision(s). Such supporting evidence is not to be attached to the charge and is to be furnished only to the Commission.)

The Charging Party alleges that the public employer or its agents named below have engaged in (an) unfair labor practice(s). Charging Party requests the Public Employees Relations Commission to process this charge under its proper authority.

1. NAME OF CHARGING PARTY: Florida State Fire Service Association, IAFF Local S-20  
 Phone No. (863) 661-4019 Facsimile (Fax) No. \_\_\_\_\_  
 Address: 3433 Lithia Pinecrest Road, #347  
Valrico, Florida 33594  
 Zip Code

2. CHARGING PARTY REPRESENTATIVE: Tobe M. Lev  
 Title: Attorney  
 Phone No. 407-422-1400 Facsimile (Fax) No. 407-422-3658  
 Address: Post Office Box 2231  
Orlando, FL 32802  
 Zip Code

3. NAME OF EMPLOYER: State of Florida  
 Address: 4050 Esplanade Way  
Tallahassee, FL 32399  
 Zip Code

4. EMPLOYER REPRESENTATIVE: Michael Mattimore  
 Title: Attorney  
 Phone No. (850)561-3503 Facsimile (Fax) No. (850) 561-0332  
 Address: 906 N. Monroe Street  
Tallahassee, FL 32303  
 Zip Code

5. The above-named employer or its agents have engaged in (an) unfair labor practice(s) within the meaning of Section 447.501(1)(a) and (c), Florida Statutes.  
 (list sections)

6. BASIS OF CHARGE: (Specify facts, names, places, dates, etc. If more space is needed, attach additional pages.)

1. The Florida State Fire Service Association ("FSFSA") is the duly certified collective bargaining representative of firefighting personnel employed by the State of Florida.
2. The FSFSA charges that the Governor violated Section 447.403, Fla. Stat. (2015) and Section 447.501 (1) (a) and (c), Section 447.403 (4) (d) and Section 403 (5) (a) and (b) when he vetoed a \$1.57 million special pay adjustment to bargaining unit members that had been a disputed issue at impasse presented to the Joint Legislative Committee, and then included in the General Appropriations Act, prior to the Governor's veto.
3. The parties last executed a collective bargaining agreement on July 1, 2009, covering the period from July 1, 2009 through June 30, 2012, which is attached as Exhibit "A."
4. The parties collectively bargained over wages, hours and terms and conditions of employment for fiscal year 2015-2016. The State made a wage proposal, which is attached as Exhibit "B." Section 1 of its proposal provided that

Agencies' authority to provide increases to employees' base rate of pay and salary additives for available agency funds shall be in accordance with this Agreement, state law, and the Fiscal Year 2015-2016 General Appropriations Act.

5. The Union made a wage proposal which is attached as Exhibit "C." Section 6 of the Union's wage proposal, entitled "Special Pay Issues," provided that,

To reduce increasing new employee turnover and agency training expenses to new employees unit members shall receive a competitive pay adjustment of \$1500 to each employee's June 30, 2015 base rate of pay.

**\*\*\*CONTINUED ON ATTACHED PAGES\*\*\***

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**I have read the charge. The statements contained therein are true to the best of my knowledge and belief. A copy of this fully executed form has been mailed or delivered to the representative(s) of the employer and any other party.**

---

11/25/15  
Date

Tobe Lew  
Signature of Charging Party or Charging Party's Representative

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**FALSE STATEMENTS MAY RESULT IN FINE AND IMPRISONMENT  
PURSUANT TO CHAPTER 837, FLORIDA STATUTES**

ATTACHMENT TO ULP

6. Pursuant to Sections 216.163(6) and 447.403(5)(a), the parties went to impasse over the wage proposals described in paragraphs 4 and 5 above, among other articles. On February 16, 2015, the parties submitted their positions to the Florida Legislature via presentations to the Joint Select Committee on Collective Bargaining pursuant to Section 447.403(5).
7. The Union's written presentation to the Joint Select Committee on Collective Bargaining is attached as Exhibit "D."
8. Thereafter, the Legislature, acting in its capacity as the Sections 447. 203 (10) and 447.403 "legislative body," resolved disputed issues at impasse as follows:

(4) Collective bargaining issues at impasse between the State of Florida and the Florida State Fire Service Association regarding Article 13 "Health and Welfare" shall be resolved by maintaining the status quo under the current collective bargaining agreement and Article 23 "Hours of Work and Overtime" shall be resolved pursuant to the state's proposal dated March 6, 2015. The bargaining unit's proposed new article titled "Promotional Step Pay Plan System," dated October 13, 2014, is not adopted, and the status quo under the current collective bargaining is unchanged.

The Legislature resolved the disputed wage issues with the following language that pertained to all of the State's bargaining units, including the FSFSA:

All other mandatory collective bargaining issues at impasse for the 2015-2016 fiscal year which are not addressed by this act *or the General Appropriations Act for the 2015-2016 fiscal year* shall be resolved in accordance with the personnel rules in effect on May 1, 2015, and by otherwise maintaining the status quo under the language of the applicable current bargaining agreement. (Emphasis supplied)

See Exhibit "E(1)" attached.

9. The Legislature – via Senate Bills 2504A and 2500A (attached Exhibits "E(1)" and "E(2)") – resolved the issues at impasse, including the FSFSA wage issue, in *the General Appropriations Act for the 2015-2016 fiscal year* as follows:

Effective July 1, 2015, recurring funds are appropriated in specific appropriation 1985A to:

(a) The Department of Agriculture and Consumer Services in the amount of \$1,557,684 from the General Revenue Fund to provide competitive pay adjustments of \$2,000 for each unit member of the Florida State Fire Service bargaining unit and employees in the following job classes: Forest Area Supervisor (7622); Forestry Operations Administrator (7634); employed by the Florida Forest Service.

See Exhibit "E(2)" attached.

10. However, on June 23, 2015, Governor Scott slashed \$427 million from the General Appropriations Act, including the appropriation for "pay adjustment of \$2,000 for each unit member," with the following explanation:

The following is vetoed because this issue should be addressed at a statewide level for all employees.

See last page of Exhibit "F" attached. The *General Appropriations Act for the 2015-2016 fiscal year*, after the Governor's veto, showing removal of the pay adjustment of \$2,000 for each FSFSA unit member, is attached as Exhibit "G" (page 404).

11. On or about July 10, 2015, the Governor, acting through the Florida Department of Management Services - advised FSFSA President Tommy Price that, "Senate Bills 2504A and 2500A, resolving issues at impasse in negotiations between the Florida State Fire Service Association and the State of Florida - presented a proposed collective bargaining agreement to the FSFSA for ratification *that did not include* the "pay adjustment of \$2,000 for each unit member". See page 37 of Exhibit "H" attached.
12. Section 447.403 (4) (d) and Section 403 (5) (a) and (b) provide that the Florida legislature shall take action to resolve a bargaining impasse which shall bind the parties in accordance with paragraph (4) (c) The Governor violated these statutory provisions when he vetoed the legislature's appropriation of money for the competitive pay adjustment and, further, by presenting a proposed agreement to the FSFSA that did not include the wage increases resolved by the Legislature acting in its capacity of the legislative body.
13. The charging party prays that the Commission declare that the State has violated Sections 447.501 (1) (a) and (c) and 447.403 (5) (a), (b) and (d), direct the Governor to restore the competitive pay adjustment that he previously vetoed, make all affected employees whole with compound interest, reimburse all affected employees for the tax consequences of any backpay relief, require pension adjustments, direct the Governor to post a notice, award the Charging Party its reasonable costs and attorney's fees, and grant such other relief as it deems just.

*Fla. State Fire Serv. Ass'n, IAFF, Local S-20 v. State*

Court of Appeal of Florida, First District

November 12, 2013, Opinion Filed

CASE NO. 1D13-0117

**Reporter**

128 So. 3d 160; 2013 Fla. App. LEXIS 17970; 38 Fla. L. Weekly D 2346; 2013 WL 5988613

FLORIDA STATE FIRE SERVICE ASSOCIATION, IAFF, LOCAL S-20, Appellant, v. STATE OF FLORIDA, Appellee.

**Subsequent History:** Released for Publication January 7, 2014.

Rehearing denied by *Fla. State Fire Serv. Ass'n v. State*, 2013 Fla. App. LEXIS 20850 (Fla. Dist. Ct. App. 1st Dist., Dec. 20, 2013)

**Prior History:** [\*\*1] An appeal from an order of the Public Employees Relations Commission.

**Core Terms**

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bargaining, collective bargaining, negotiate, unmistakable, retirement, employees, public employee, pensions, association's, unilateral, bargaining unit, Statutes, terms and conditions, bargaining agent, public employer, labor practice, impasse, unfair, retirement benefits, pension benefits, guaranteed, budget, wages

**Case Summary**

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**Overview**

**HOLDINGS:** [1]-A firefighters' association's collective bargaining agreement provided that the employees were not required to make financial contributions to the state retirement fund; the Governor's action in delegating the issue of pension benefits to the *legislature*, although it did not directly change this provision in the agreement, made it impossible for the association to negotiate the issue, denying the association's right to collective bargaining in violation of § 447.501(1)(a) and (c), Fla. Stat., and *Fla. Const. art. I, § 6*; [2]-The Commission erred in concluding that the Governor's proposal did not constitute a clear and unmistakable waiver of the association's rights; the question was not whether the employer had imposed a contract condition involuntarily, but whether there was clear evidence to show that the association gave up the right to argue about the condition.

**Outcome**

The court reversed the order of the Public Employees Relations Commission and directed it to enter an order finding that the State had violated the association's right to bargain.

**LexisNexis® Headnotes**

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Governments > State & Territorial Governments > Employees & Officials

Labor & Employment Law > Collective Bargaining & Labor Relations > Impasse Resolution

**HN1** By operation of law, the Governor's submission of the budget to the *legislature* creates an impasse in state employees' collective bargaining contract negotiations on all matters that have not been resolved by that point.

Administrative Law > Judicial Review > Standards of Review > De Novo Standard of Review

**HN2** If a legal issue turns on the plain meaning of the applicable statutes, an appellate court reviews the decision by the de novo standard. § 120.68(7)(d), *Fla. Stat.* (2010).

Governments > State & Territorial Governments > Employees & Officials

Business & Corporate Compliance > ... > Labor & Employment Law > Collective Bargaining & Labor Relations > Duty to Bargain

**HN3** The right to collective bargaining is a fundamental right guaranteed by the Florida Constitution. As stated in *Fla. Const. art. I, § 6*, the right of employees, by and through a labor organization, to bargain collectively shall not be denied or abridged. This section prohibits not only an explicit denial of the right to collective bargaining, but also an action by a public employer that results in a denial of the right. The constitution guarantees public employees the right of effective collective bargaining.

Governments > State & Territorial Governments > Employees & Officials

Business & Corporate Compliance > ... > Labor & Employment Law > Collective Bargaining & Labor Relations > Duty to Bargain

*HN4* See § 447.501(1)(a) and (c), Fla. Stat. (2010).

Business & Corporate Compliance > ... > Labor & Employment Law > Collective Bargaining & Labor Relations > Duty to Bargain

*HN5* In addition to § 447.501(1)(a) and (c), Fla. Stat. (2010), the *Legislature* further defined a public employer's duty to engage in collective bargaining in § 447.309(1), Fla. Stat. (2010). This section requires the public employer and certified bargaining agent to bargain jointly and collectively in the determination of the wages, hours, and terms and conditions of employment of the public employees within the bargaining unit.

Governments > State & Territorial Governments > Employees & Officials

Business & Corporate Compliance > ... > Labor & Employment Law > Collective Bargaining & Labor Relations > Duty to Bargain

Business & Corporate Compliance > ... > Labor & Employment Law > Collective Bargaining & Labor Relations > Bargaining Subjects

Pensions & Benefits Law > Governmental Employees > State Pensions

*HN6* The right of public employees to collective bargaining includes a right to bargain on the subject of retirement benefits. This is said to be a mandatory subject of the bargaining process. Consequently, the right to bargain for retirement benefits may not be denied by the state. The *Legislature* may not remove the subject of pensions from the bargaining process, nor may the State reserve to the *Legislature* the exclusive authority to determine retirement benefits for public employees.

Governments > State & Territorial Governments > Employees & Officials

Labor & Employment Law > ... > Unfair Labor Practices > Union Violations > Union Refusal to Bargain

*HN7* It is axiomatic that a public employer may not violate a union's right to collectively bargain on behalf of the employees by unilaterally imposing terms and conditions of employment.

Governments > State & Territorial Governments > Employees & Officials

Labor & Employment Law > ... > Unfair Labor Practices > Union Violations > Union Refusal to Bargain

*HN8* Courts that have applied the "clear and unmistakable waiver" rule uniformly use the term "waiver" in its true sense to mean that a party has given up a right. Absent a clear and unmistakable waiver by the certified bargaining representative, exigent circumstances requiring immediate action, or legislative action imposed as a result of impasse, a public employer's unilateral alteration of wages, hours or other terms and conditions of employment of employees represented by a certified bargaining agent constitutes a per se violation of § 447.501(1)(a) and (c), Fla. Stat. (2010). For inaction to ripen into a "clear and unmistakable waiver," consideration of all the circumstances must reveal that the bargaining agent's conduct is such that the only reasonable inference is that it has abandoned its right to negotiate over the noticed change.

Governments > State & Territorial Governments > Employees & Officials

Labor & Employment Law > ... > Unfair Labor Practices > Union Violations > Union Refusal to Bargain

*HN9* Absent a clear and unmistakable waiver by the certified bargaining representative, a public employer's unilateral alteration of wages, hours or other terms and conditions of employment constitutes a per se violation of the right to collective bargaining.

Business & Corporate Compliance > ... > Labor & Employment Law > Collective Bargaining & Labor Relations > Duty to Bargain

Labor & Employment Law > ... > Unfair Labor Practices > Union Violations > Union Refusal to Bargain

*HN10* Federal courts apply the "clear and unmistakable waiver" rule to mean that there must be evidence that the union clearly and unmistakably relinquished its right to bargain over the mandatory subject at issue.

Business & Corporate Compliance > ... > Labor & Employment Law > Collective Bargaining & Labor Relations > Duty to Bargain

Labor & Employment Law > ... > Unfair Labor Practices > Union Violations > Union Refusal to Bargain

*HN11* The court must look beyond the language of a proposal and consider its impact and effect in deciding whether it amounts to a unilateral change to a condition of a collective bargaining contract.

Governments > State & Territorial Governments > Employees & Officials

Labor & Employment Law > Collective Bargaining & Labor Relations > Impasse Resolution

*HN12* By operation of law, the Governor's submission of the budget results in an impasse in negotiations between the state and its organized employees. §§ 447.403(5)(a) and 216.163(6), *Fla. Stat.* (2010).

Governments > State & Territorial Governments > Employees & Officials

Business & Corporate Compliance > ... > Labor & Employment Law > Collective Bargaining & Labor Relations > Duty to Bargain

Labor & Employment Law > ... > Unfair Labor Practices > Union Violations > Union Refusal to Bargain

*HN13* Section 447.309(1), *Fla. Stat.*, states that the bargaining agent for the organization and the chief executive officer of the appropriate public employer or employers, jointly, shall bargain collectively in the determination of the wages, hours, and terms and conditions of employment of the public employees within the bargaining unit. This statute plainly requires that the bargaining be done by the chief executive officer of the public employer, and not by a third party to whom the process has been delegated.

**Counsel:** Tobe M. Lev and Richard *Siwica* of Egan, Lev & *Siwica*, P.A., Orlando, for Appellant.

Gregg Riley Morton of the Public Employees Relations Commission, Tallahassee; Michael Mattimore and Jason E. Vail of Allen, Norton & Blue, P.A., Tallahassee, for Appellee.

Thomas W. Brooks of Meyer, Brooks, Demma & Blohm, P.A., Tallahassee, for Amicus Curiae Florida Education Association, NEA, AFT, AFL-CIO and Federation of Physicians and Dentists/Alliance of Healthcare and Professional Employees, NUHHCE, AFSCME, AFL-CIO; Pamela L. Cooper of the Florida Education Association, Tallahassee, for Amicus Curiae Florida Education Association, NEA, AFT, AFL-CIO; Donald D. Slesnick, II of the Law Offices of Slesnick & Casey, LLP, Coral Gables, for Amicus Curiae Florida Nurses Association; Paul A. Donnelly of Donnelly and Gross, P.A., Gainesville, for Amicus Curiae Communications Workers of America, AFL-CIO, CLC; Alma R. Gonzalez of AFSCME Florida Council 79, Tallahassee, for Amicus Curiae AFSCME Council 79, AFL-CIO; Richard A. Sicking, Coral Gables, for Amicus Curiae Florida Professional Firefighters, Inc., International Association of Firefighters, [\*2] AFL-CIO.

**Judges:** PADOVANO, J. BENTON, J., and SENTERFITT, ELIZABETH, ASSOCIATE JUDGE, CONCUR.

**Opinion by:** PADOVANO

## Opinion

[\*161] PADOVANO, J.

This is an appeal by the Florida State Fire Service Association, IAFF Local S-20, from a final order by the Florida Public Employee Relations Commission dismissing an unfair labor practice charge. The [\*162] charge was based on a claim that the state had violated the association's right to collective bargaining by failing to negotiate a condition in the agreement pertaining to retirement benefits. We conclude that the state was required to negotiate the provision at issue and that the Governor's action in referring the matter to the Florida *Legislature* without further negotiations with the association amounted to a denial of the right to collective bargaining. Accordingly, we reverse the Commission's order with directions to sustain the unfair labor practice charge.

The association is the certified bargaining agent for employees within the bargaining unit and has been engaged for the last ten years in collective bargaining with the Governor in his capacity as the employer. The condition of the contract at issue here provides that the employees in the bargaining unit are not required to make [\*3] financial contributions to the state retirement fund. This provision is contained in Article 16 of the contract, which states, "All bargaining unit members shall continue to participate in the Florida Retirement System (FRS) at no cost to the employee."

The contract was in effect for a period of three years from July 1, 2009 until June 30, 2012, but it included a provision that would enable the parties to negotiate a change in the article pertaining to wages and to propose changes to a limited number of other articles during the second and third years. On September 10, 2010, a representative of the Department of Management Services wrote to the association to request the submission of proposals to reopen negotiations for the coming fiscal year. The association responded on January 31, 2011, by proposing a request for a wage increase and a competitive pay adjustment. The association did not propose any change to the parties' agreement as it pertained to the issue of pension benefits.

The Department replied with an email on behalf of the Governor expressing the state's willingness to consider its

requests and also informing the association that the state wished to reopen negotiations on [\*\*4] two other matters, a provision relating to the health and welfare of the employees in the bargaining unit and a provision relating to a dues checkoff. At the bottom of the letter, the Department informed the association of the state's intent to reopen negotiations on yet another matter that had been previously settled by the contract: the subject of retirement contributions. The letter states,

In addition to the above articles, we propose to open Article 16 Retirement, to address retirement as follows:

"The State agrees to administer the Florida Retirement System (FRS) in accordance with any statutory provision, or Act affecting the plan or its operation."

This email was sent on Friday, February 4, 2011, and it was the first point in the bargaining process for that year in which either party had suggested a possible change in Article 16. The following Monday, the Governor submitted his proposed budget to the Florida Legislature. *HN1* By operation of law, the submission of the budget creates an impasse in contract negotiations on all matters that have not been resolved by that point.

The Legislature resolved the impasse by passing a General Appropriations Act that required public employees, [\*\*5] including association employees, to contribute 3% of their salaries to the Florida Retirement System, beginning on July 1, 2011. The association refused to ratify this change and filed an unfair labor practice charge against the State. It alleged that the manner in which the Governor had effected [\*\*163] this change violated the association's right to collective bargaining over pensions, under sections 447.501(1)(a) and (c), Florida Statutes (2010) and Article I, section 6 of the Florida Constitution.

The hearing officer assigned by the Commission issued a recommended order concluding that the Governor's proposed substitute for Article 16 impermissibly deprived the association of any right to future bargaining over the terms of employee pensions. He accepted the association's argument that, by substituting the proposed language for the extant language of Article 16, the Governor had allowed the Legislature to change the pension plan without any bargaining with the association. Based on this reasoning, the hearing officer concluded, "The state violated section 447.501(1)(a) and (c), Florida Statutes, by obtaining through impasse resolution a waiver of future bargaining over pensions (Article [\*\*6] 16) at the conclusion of the

re-opener bargaining." As a remedy, he recommended that "[t]he state should compensate the association for its necessary attorney's fees and litigation costs for that portion of its original charge on which it prevailed."

On December 10, 2012, the Commission issued a final order rejecting the hearing officer's ultimate conclusion that the State had violated the law, as well as his recommendation that the State be ordered to pay the association's attorney fees. It ruled instead that the substituted pension language could not be construed as a waiver of the right to bargain, nor could it operate as such. The Commission found that a plain reading of the language does not provide a basis for the State to refuse to bargain, either now or in the future, over the subject of pensions. The association then appealed the Commission's order to this court.

Whether the Governor effectively circumvented the collective bargaining process by opening a provision of the contract to a potential change by the Legislature without first negotiating that issue with the association is an issue of law. *HN2* It is the kind of legal issue that turns on the plain meaning of the applicable [\*\*7] statutes. Accordingly, we review the decision in this case by the de novo standard. *See Fla. Pub. Emps. Council 79, AFSCME, AFL-CIO v. State*, 921 So. 2d 676, 681 (Fla. 1st DCA 2006); *Miami-Dade County v. Government Supervisors Ass'n of Florida, OPEIU AFL-CIO, Local 100*, 907 So. 2d 591, 593-94 (Fla. 3d DCA 2005); *Colbert v. Dep't of Health*, 890 So. 2d 1165, 1166 (Fla. 1st DCA 2004); § 120.68(7)(d) *Fla. Stat.* (2010).

*HN3* The right to collective bargaining is a fundamental right guaranteed by the Florida Constitution. As stated in Article I, section 6, "The right of employees, by and through a labor organization, to bargain collectively shall not be denied or abridged." This section prohibits not only an explicit denial of the right to collective bargaining, but also an action by a public employer that results in a denial of the right. As the court explained in *Hillsborough County Governmental Employees Assoc., Inc. v. Hillsborough County Aviation Authority*, 522 So. 2d 358, 363 (Fla. 1988), the constitution guarantees public employees the right of "effective" collective bargaining.

The constitutional right created by Article I, section 6 is implemented in Chapter 447, Florida Statutes. Section 447.501(1) [\*\*8] provides in pertinent part:

*HN4* (1) Public employers or their agents or representatives are prohibited from:

(a) Interfering with, restraining, or coercing public employees in the exercise of any rights guaranteed them under this part.

[\*164] . . .

(c) Refusing to bargain collectively, failing to bargain collectively in good faith, or refusing to sign a final agreement agreed upon with the certified bargaining agent for the public employees in the bargaining unit.

§447.501(1)(a) and (c), Fla. Stat. (2010). *HN5* The *Legislature* further defined the duty to engage in collective bargaining in section 447.309(1), Florida Statutes (2010). This section requires the public employer and certified bargaining agent to bargain jointly and collectively in the determination of the wages, hours, and terms and conditions of employment of the public employees within the bargaining unit.

*HN6* The right of public employees to collective bargaining includes a right to bargain on the subject of retirement benefits. This is said to be a mandatory subject of the bargaining process. See Scott v. Williams, 107 So. 3d 379, 389 (Fla. 2013) (stating that “retirement pensions and benefits are mandatory subjects of public collective bargaining”). [\*\*9] Consequently, the right to bargain for retirement benefits may not be denied by the state. The *Legislature* may not remove the subject of pensions from the bargaining process, nor may the State reserve to the *Legislature* the exclusive authority to determine retirement benefits for public employees. See City of Tallahassee v. PERC, 393 So. 2d 1147 (Fla. 1st DCA), *aff’d*, 410 So. 2d 487 (Fla. 1981).

*HN7* It is axiomatic that a public employer may not violate a union’s right to collectively bargain on behalf of the employees by unilaterally imposing terms and conditions of employment. See Palm Beach Junior Coll. Bd. of Tr. v. United Faculty of Palm Beach Junior Coll., 475 So. 2d 1221, 1224 (Fla. 1985); Hillsborough County Governmental Employees Assoc., Inc. v. Hillsborough County Aviation Authority, 522 So. 2d 358 (Fla. 1988). The parties, the hearing officer and the Commission referred to a violation such as this as a “waiver” of the union’s rights. In this context, they are using the term “waiver” not in its ordinary sense to mean a voluntary relinquishment of a known right, but rather to mean a unilateral deprivation of the right to negotiate a term of the contract.

The Commission concluded [\*\*10] that the state had not committed an unfair labor practice by the manner in which it resolved the impasse, because the Governor’s proposal did not constitute a “clear and unmistakable waiver” of the association’s rights. On this point, the Commission appears to have reversed the standard that should be applied in resolving an issue such as this. The question is not whether

there was clear evidence to show that the employer had imposed a contract condition involuntarily, but whether there was clear evidence to show that the association gave up the right to argue about the condition. The absence of clear and unmistakable evidence of a waiver works in favor of the association, not the employer.

*HN8* Courts that have applied the “clear and unmistakable waiver” rule uniformly use the term “waiver” in its true sense to mean that a party has given up a right. For example, in School District of Polk County v. Polk Education Association, 100 So. 3d 11 (Fla. 2d DCA 2011), the court stated the rule as follows:

Absent a clear and unmistakable waiver by the certified bargaining representative, exigent circumstances requiring immediate action, or legislative action imposed as a result of impasse, a public [\*\*11] employer’s unilateral alteration of wages, hours or other terms and conditions of employment of employees represented by a certified bargaining agent [\*165] constitutes a per se violation of [s]ection 447.501(1)(a) and (c).

\* \* \*

[F]or inaction to ripen into a “clear and unmistakable waiver,” consideration of all the circumstances must reveal that the [bargaining agent’s] conduct is such that the only reasonable inference is that it has abandoned its right to negotiate over the noticed change.

Polk Education, 100 So. 3d at 15 (quotations omitted).

Likewise, in Florida School for the Deaf and Blind v. Florida School for the Deaf and Blind, Teachers United, FTP-NEA, 483 So. 2d 58, 59 (Fla. 1st DCA 1986), this court held that *HN9* “absent a clear and unmistakable waiver by the certified bargaining representative, a public employer’s unilateral alteration of wages, hours or other terms and conditions of employment . . . constitutes a per se violation” of the right to collective bargaining (emphasis added); see also Leon County Police Benevolent Ass’n v. City of Tallahassee, 8 FPER ¶ 13400 (1982), *aff’d*, City of Tallahassee v. Leon County Police Benevolent Ass’n, Inc., 445 So. 2d 604 (Fla. 1st DCA 1984). [\*\*12] The rule established in all of these cases is that it must be clear and unmistakable that the bargaining agent intended to give up a term or

condition.<sup>1</sup> Yet the Commission has applied the rule to mean that there must be clear and unmistakable evidence that the employer intended to make a unilateral change in the contract.

The Commission concluded that the state had not committed an unfair labor practice, because there was nothing in the Governor's proposal that would give him a right to unilaterally change the terms and conditions of employment relating to pensions. This argument focuses on the language of the proposal and fails to take into account its effect. As the supreme court explained in *United Teachers of Dade, FEA/United AFT, Local 1974, AFL-CIO v. Dade County School Board*, 500 So. 2d 508, 511 (Fla. 1986), [\*\*13] *HN11* the court must look beyond the language of a proposal and consider its impact and effect in deciding whether it amounts to a unilateral condition of the contract.

In *United Teachers*, the lower court had held that a program mandated by the *Legislature* did not violate the right of collective bargaining because the *Legislature* was not a party to the employment contract. While affirming the lower court's ultimate conclusion, the supreme court rejected the lower court's reasoning that the *Legislature* was a "stranger to the employment relationship." The supreme court found that this narrow focus was an "exercise in semantics" that "ignores the real impact or practical effect legislation may have on the rights guaranteed by *article I, section 6*." The court emphasized that a correct analysis must "focus on the impact such decisions have on public employees' constitutionally guaranteed collective bargaining rights." *Id.* at 511; see also *City of Tallahassee v. PERC*, 410 So. 2d at 489.

Applying these principles, we conclude that the actions by the Governor amount to a violation of the association's right to collective bargaining. The Governor proposed to replace the rights established in Article [\*\*14] 16 with an open-ended provision [\*\*166] that would enable the state to administer the retirement system "in accordance with any statutory provision" that might be enacted into law. It is true that the proposal did not itself change the existing provision in Article 16; however, it did effectively open the subject of retirement benefits to a potential change by a third party, in this case the Florida *Legislature*. The practical effect of the Governor's action in delegating the issue of pension benefits to the *Legislature* was to make it impossible for the

association to negotiate the issue at all. Thus, we conclude that the action is one that amounts to a denial of the association's right to collective bargaining.

One might argue that the association should have objected to the Governor's proposal to leave the matter up to the *Legislature*, but the timing of the proposal would have made this difficult, if not impossible. The Governor made his proposal on a Friday and submitted his budget the following Monday. *HN12* By operation of law, the submission of the budget results in an impasse in the negotiations. See §§ 447.403(5)(a) and 216.163(6), *Fla. Stat.* (2010). The sequence of events left the association [\*\*15] with little else to do but make its case to the *Legislature*. That, of course, does not satisfy the Governor's obligation to engage in collective bargaining.

The Governor's proposal appears to be passive, in the sense that it left the issue of pension benefits up to the *Legislature*. However, the budget the Governor submitted to the *Legislature* included a provision that would require all state employees to contribute a portion of their pay to the retirement fund. Thus, while it is correct to say that the Governor did not directly remove the existing provision regarding the pension benefits in his dealings with the association, that was precisely the result he was advocating in the *Legislature*. The net effect of the proposal was to shift the issue of pension benefits from the process of negotiating a contract to the process of enacting legislation.

Our conclusion that the last-minute proposal amounted to a denial of the right to collective bargaining is supported not only by a practical assessment of the facts, but also by the applicable statutes. *HN13 Section 447.309(1), Florida Statutes* states that the "bargaining agent for the organization and the chief executive officer of the appropriate [\*\*16] public employer or employers, jointly, shall bargain collectively in the determination of the wages, hours, and terms and conditions of employment of the public employees within the bargaining unit." This statute plainly requires that the bargaining be done by the "chief executive officer of the public employer," in this case the Governor, and not by a third party to whom the process has been delegated. Here, the Governor's proposal granted a third party a unilateral right to impose a new condition in the agreement, and, in that respect, it was contrary to the requirements of *section 447.309(1)*.

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<sup>1</sup> *HN10* Federal courts apply the "clear and unmistakable waiver" rule in the same way to mean that there must be evidence that the union clearly and unmistakably relinquished its right to bargain over the mandatory subject at issue. See, e.g., *Bath Marine Draftsmen's Association v. National Labor Relations Board*, 475 F.3d 14, 22 (1st Cir. 2007); *Local Union 36, International Brotherhood of Electrical Workers, AFL-CIO v. National Labor Relations Board*, 706 F.3d 73, 82-84 (2d Cir. 2013).

For these reasons, we conclude that the Commission erred in rejecting the hearing officer's conclusion that the state had violated the association's right to collective bargaining. The association sought several remedies in its unfair labor practice charge, but, in the present posture of the case, the only one that can be enforced is an award of costs and attorney fees. Accordingly, we reverse the final order by the Commission and direct that it enter a final order accepting

the recommended order by the hearing officer and awarding costs and fees to the association.

Reversed.

BENTON, J., and SENTERFITT, ELIZABETH [\*\*17] ,  
ASSOCIATE JUDGE, CONCUR.

**Article 9**  
**VOLUNTARY REASSIGNMENT, LATERAL ACTION, TRANSFER, CHANGE IN**  
**DUTY STATION, AND PROMOTIONS**

Employees who have attained permanent status in their current position and who meet all eligibility requirements shall have the opportunity to request reassignment, lateral action, transfer, or change in duty station to vacant positions within their respective agencies and promotions to vacant positions within the bargaining unit in accordance with the provisions of this Article.

**SECTION 1 – Definitions**

As used in this Article:

(A) “Change in Duty Station” shall mean the moving of an employee to a duty station located within 50 miles, by highway, of his current duty station.

(B) “Duty station” shall mean the place which is designated as an employee’s official headquarters.

(C) “Broadband level” shall mean all positions which are sufficiently similar in knowledge, skills, and abilities, and sufficiently similar as to kind or subject matter of work, level of difficulty or responsibilities, and qualification requirements of the work, to warrant the same treatment as to title, pay band, and other personnel transactions.

(D) “Reassignment” shall mean the moving of an employee: ~~from a position in one broadband level to a different position in the same broadband level or to a different broadband level having the same maximum salary~~

(1) to a position in the same broadband level and same maximum salary but with different duties;

(2) to a position in the same broadband level and same maximum salary, regardless of the duties, but to a different agency; or

(3) to a position in a different broadband level having the same maximum salary.

Upon a reassignment appointment, the employee shall be given probationary status. If the reassignment appointment is in conjunction with a legislatively mandated transfer of the position, the employee retains the status held in the position unless the legislature directs otherwise.

(E) “Lateral action” shall mean the moving of an employee to another position in the same agency that is in the same occupation, same broadband level with the same maximum salary; and has substantially the same duties and responsibilities.

Upon a lateral action appointment, the employee shall retain the status they held in their previous position. If probationary, time spent in the previous position shall count toward completion of the required probationary period for the new position.

(~~E~~ F) “Transfer” shall mean the moving of an employee from one geographic location of the state to a different geographic location in excess of 50 highway miles from the employee’s current duty station.

(~~F~~ G) “Promotion” shall mean the changing of the classification of an employee to a broadband level having a higher maximum salary, or the changing of the classification of an employee to a broadband level having the same or a lower maximum salary but a higher level of responsibility.

(~~G~~ H) “Demotion” shall mean the changing of the classification of an employee to a broadband level having a lower maximum salary, or the changing of the classification of an employee to a broadband level having the same or a higher maximum salary but a lower level of responsibility.

## **SECTION 2 – Procedures**

(A) An employee who has ~~satisfactorily completed at least a one year probationary period~~ attained permanent status in his current position may ~~apply for~~ request a reassignment, lateral action, transfer, change in duty station, or promotion on a the appropriate Request for Reassignment, Transfer, Change in Duty Station, and Promotion Form (supplied by the agency). Such requests shall indicate the broadband level(s), county(ies), duty station(s), and/or shift(s) to which the employee would like to be ~~reassigned, transferred, or promoted~~ assigned. When the employee requests a reassignment to a different position in a different broadband level, or a promotion, a State of Florida Employment Application Form must be completed and sent with the request form.

(B) An employee may submit a Request ~~for Reassignment, Transfer, Change in Duty Station, and Promotion~~ Form at any time; however, all such requests shall expire on May 31 of each calendar year. Requests can be filed in May to become effective on June 1.

(C) All Request ~~for Reassignment, Transfer, Change in Duty Station, and Promotion~~ Forms shall be submitted to the agency head or designee who shall be responsible for furnishing a copy of each request to the management representatives who have the authority to make employee hiring decisions in the work unit to which the employee has requested reassignment, lateral action, transfer, change in duty station, or promotion.

(D) Except where a vacancy position is filled by demotion, or where ~~reassignment, lateral action, transfer, or change in duty station, or promotion~~ is not in the best interests of the agency, the management representative having hiring authority for ~~that vacancy~~ the position

shall give first consideration to those employees who have submitted a Request ~~for Reassignment, Transfer, Change in Duty Station, and Promotion~~ Form; provided, however, that employees whose requests ~~for reassignment~~ is are not submitted by the first day of the month shall not be considered for vacancies which occur during that month.

(E) The hiring authority shall normally fill a ~~permanent vacancy~~ position with the ~~applicant employee~~ who has the greatest length of service in the broadband level and who has a Request Form on file for the vacancy. The parties agree, however, that other factors, such as the employee's<sup>2</sup> work history and agency needs, will be taken into consideration in making the decision as to whether the ~~applicant employee~~ with the greatest length of service in the broadband level will be placed in the vacant position.

(F) If the ~~applicant employee~~ with the greatest length of service in the broadband level is not selected for the vacant position, all ~~applicants employees~~ who have greater length of service in the broadband level than the employee selected shall be notified in writing of the agency's decision.

(G) When an employee has ~~been reassigned, transferred, or promoted, or had his duty station changed~~ accepted a reassignment, lateral action, transfer, change in duty station, or promotion pursuant to a Request filed under this Article, all other pending Requests ~~for Reassignment, Transfer, Change in Duty Station, and Promotion~~ Forms from that employee shall be canceled, and the employee will not be eligible to file another request for a period of 12 months following the appointment. No other Request may be filed by the employee under this Article for a period of twelve (12) months following the employee's reassignment, transfer, change in duty station, or promotion. If an employee declines an offer of reassignment, lateral action, transfer, change in duty station, or promotion pursuant to a request filed under this Article, the employee's request shall be canceled, and the employee will not be eligible to ~~resubmit that~~ file another request for a period of ~~twelve (12)~~ months from the date the employee declined the offer.

(H) If a Florida Forest Service position is not filled by demotion or by an employee with a Request Form on file, the hiring authority for the position shall give first consideration to Florida Forest Service employees who apply for the position in response to a Job Opportunity Announcement. The parties agree, however, that the employee's work history and agency needs will be taken into consideration when making the hiring decision for the position.

### **SECTION 3 – Involuntary Reassignment, Lateral Action, Transfer, or Change in Duty Station**

Nothing contained in this Agreement shall be construed to prevent an agency, at its discretion, from effecting the involuntary reassignment, lateral action, transfer, or change in duty station of any employee according to the needs of the agency; however, the agency will make a good faith effort to take such action only when dictated by the needs of the agency, and in each case will take into consideration the needs and circumstances of the employee prior to taking such action.

**SECTION 4 – Notice**

An employee shall be given a minimum of 14 calendar days’ notice prior to the agency effecting any reassignment, lateral action, or transfer of the employee. In the case of a transfer, the agency will make a good faith effort to give a minimum of 30 calendar days’ notice. The parties agree, however, that these notice requirements shall not be required during an emergency, or other extraordinary conditions.

**SECTION 5 – Relocation Allowance**

An employee who is involuntarily reassigned and required to relocate his residence shall be granted time off with pay for one (1) work day for purposes of relocating his residence. No employee will be credited with more than the number of hours in the employee’s regular workday and such time shall not be counted as hours worked for the purpose of computing compensatory time or overtime. In addition, the employee shall be granted travel ~~time~~ reimbursement for travel from the old residence to the new ~~location~~ residence based on the most direct route.

**SECTION 6 – Promotions Outside the Unit**

The hiring authority shall carefully consider employee applicants when filling vacant supervisory positions at the level immediately above bargaining unit positions. However, the most qualified applicant will always be recommended by the hiring authority.

**SECTION ~~6~~7 – Grievability**

The provisions of this Article regarding voluntary reassignment, lateral action, transfer, change in duty station, ~~or promotion, and promotions outside the unit~~, shall not be subject to the grievance procedures of Article 6 of this Agreement; however, an employee complaint concerning improper application of the provisions of Section 2(E), and Section 3 may be grieved in accordance with Article 6, up to and including Step 2 of the Grievance Procedure. In considering such complaints, weight shall be given to the specific procedures followed and decisions made, along with the needs of the agency.

**For the State**

\_\_\_\_\_  
Michael Mattimore  
State’s Chief Labor Negotiator

\_\_\_\_\_  
Date

**For the FSFSA**

\_\_\_\_\_  
Tommy Price  
President and Chief Negotiator

\_\_\_\_\_  
Date



**Article 5**  
**REPRESENTATION RIGHTS AND FSFSA ACTIVITIES**

**SECTION 10 – Access to Basic Fire Control Training Class (NEW)**

When the Florida Forest Service conducts a Basic Fire Control Training course, the FSFSA will be permitted a 15-minute presentation to address participants. Attendance by the participants shall be voluntary. The FSFSA may issue each participant a copy of the current Florida State Fire Service Association collective bargaining Agreement and discuss its provisions and programs available through the FSFSA. Such presentation shall be held after the conclusion of training activities on one day during the first three weeks of the days of the course and at a date and time specified by the Florida Forest Service. The Florida Forest Service will notify the FSFSA at least 14 days in advance of the date on which the presentation is scheduled.

**For the State**

\_\_\_\_\_  
Michael Mattimore  
State's Chief Labor Negotiator

\_\_\_\_\_  
Date

**For the FSFSA**

\_\_\_\_\_  
Tommy Price  
President and Chief Negotiator

\_\_\_\_\_  
Date

**Article 6**  
**GRIEVANCE PROCEDURE**

It is the policy of the state and the FSFSA to encourage informal discussions of complaints between management and supervisors covered by this Agreement, as well as between those supervisors and employees. Such discussions should be held with a view to reaching an understanding which will resolve the matter in a manner satisfactory to the employee and the state, without need for recourse to the formal grievance procedure prescribed by this Article.

**SECTION 1 – Definitions**

As used in this Article:

(A) “Grievance” shall mean a dispute involving the interpretation or application of the specific provisions of this Agreement, except as exclusions are noted in this Agreement, filed on the appropriate form as contained in Appendix B of the Agreement.

(B) “Grievant” shall mean an employee, or a group of employees having the same grievance, or the FSFSA. In the case of a group of employees, one shall be designated by the group to act as spokesperson and to be responsible for processing the grievance.

(C) “Days” shall mean business days “Business days” refers to the ordinary business hours, i.e., 8:00 a.m. until 5:00 p.m., Monday through Friday, in the time zone in which the recipient is located. Furthermore, “business days” do not include any day observed as a holiday pursuant to section 110.117, Florida Statutes, holiday observed by the FSFSA pursuant to a list furnished to the state in writing, as of the effective date of this Agreement or day during a suspension of grievance processing as agreed in writing by the parties. “Business days” also do not include a day(s) on which the offices of DMS or any agency employing bargaining unit members are closed under an Executive Order of the Governor or otherwise for an emergency condition or disaster under the provisions of Rule 60L-34.0071(3)(e).

**SECTION 2 – Election of Remedy and Representation**

(A) If a grievant or the FSFSA has a grievance which may be processed under this Article which may also be appealed to the Florida Public Employees Relations Commission, the grievant or the FSFSA shall elect at the outset which procedure is to be used and such election shall be binding on the grievant or the FSFSA. In the case of any duplicate filing, the action first filed will be the one processed.

**For the State**

**For the FSFSA**

\_\_\_\_\_  
Michael Mattimore  
State’s Chief Labor Negotiator

\_\_\_\_\_  
Tommy Price  
President and Chief Negotiator

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

(B) A grievant who decides to use this Grievance Procedure shall indicate at Step 1 (or the initial written step if authorized by the provisions of this Article) whether he shall be represented by the FSFSA. When the grievant has elected FSFSA representation, the grievant and the FSFSA Grievance Representative shall be notified of any Step 1 meeting. Further, any written communication concerning the grievance or its resolution shall be sent to both the grievant and the FSFSA Grievance Representative, and any decision agreed to by the state and the FSFSA shall be binding on the grievant.

(C) If the grievant is not represented by the FSFSA, any adjustment of the grievance shall be consistent with the terms of this Agreement. The FSFSA shall be given reasonable opportunity to be present at any meeting called for the resolution of such grievance. A grievant using this procedure in the processing of a grievance will be bound by the procedure established by the parties to the Agreement. The FSFSA shall not be bound by the decision of any grievance or arbitration in which the grievant was not represented by the FSFSA.

### **SECTION 3 – Procedures**

(A) Employee grievances filed in accordance with this Article should be presented and handled promptly at the lowest level of management having the authority to adjust the grievances. Nothing in this procedure shall preclude an employee from presenting concerns through informal discussions with management representative(s).

(B) There shall be no reprisals against any of the participants in the procedures contained herein by reason of such participation.

(C) The filing or pendency of any grievance under the provisions of this Article shall in no way operate to impede, delay or interfere with the right of the state to take the action complained of; subject, however, to the final disposition of the grievance.

(D) Once a grievance is presented, no new violation or issue can be raised. When an issue is unchanged, but it is determined that an article, section, or paragraph of the Agreement has been cited imprecisely or erroneously by the grievant, the grievant shall have the right to amend that part of his grievance.

(E) The resolution of a grievance prior to its submission in writing at arbitration shall not establish a precedent binding on either FSFSA or the state in other cases.

**For the State**

**For the FSFSA**

\_\_\_\_\_  
Michael Mattimore  
State's Chief Labor Negotiator

\_\_\_\_\_  
Tommy Price  
President and Chief Negotiator

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

(F) If a grievance meeting, mediation, or arbitration hearing is held or requires reasonable travel time during the regular work hours of a grievant, a representative of the grievant or any required witnesses, such hours shall be deemed time worked. Attendance at grievance meetings, mediations, or arbitrations outside of a participant's regular work hours shall not be deemed time worked. The state will not pay the expenses of participants attending such meetings on behalf of the FSFSA. All grievance meetings shall be held at times and locations agreed to by the parties. Unless agreed otherwise, all meetings shall be held within 50 miles of the grievant's place of work.

(G) Grievances and grievance responses may be filed by hand-delivery, mail (including e-mail), courier, or electronic facsimile. If sent via electronic facsimile, the burden shall be on the sending party to confirm the correct electronic facsimile number before transmission. Documents shall be deemed filed upon receipt during regular business hours (8:00 a.m. to 5:00 p.m., Monday through Friday, in the time zone in which the recipient is located). Documents received after business hours shall be considered received the next business day.

(H) Grievances shall be presented and adjusted in the following manner, and no individual may respond to a grievance at more than one written step.

**(1) Step 1**

(a) Within 15 days following actual knowledge of the occurrence of the event giving rise to the grievance, the grievant or his designated representative shall submit to the Step 1 Management Representative a grievance form, as contained in Appendix B, setting forth specifically the known facts on which the grievance is based, the specific provision or provisions of the Agreement allegedly violated, and the relief requested.

(b) The Step 1 Management Representative or designee may meet with the grievant and/or the FSFSA Grievance Representative, or the grievant or representative if not represented by the union and shall communicate a decision in writing to the grievant and his designated representative if any, within 10 days following receipt of the written grievance. If the Step 1 Management Representative fails to respond within the time limit, it shall be deemed a denial.

**For the State**

\_\_\_\_\_  
Michael Mattimore  
State's Chief Labor Negotiator

\_\_\_\_\_  
Date

**For the FSFSA**

\_\_\_\_\_  
Tommy Price  
President and Chief Negotiator

\_\_\_\_\_  
Date

**(2) Step 2**

(a) If the grievance is not resolved at Step 1, the grievant may appeal the grievance in writing on a grievance form as contained in Appendix B of this Agreement, to the Agency Head or designee within 10 days following receipt of the decision at Step 1. The grievance form must contain the same information as the grievance filed at Step 1. The grievance shall include a copy of the grievance form submitted at Step 1, together with the written Step 1 response and documents in support of the grievance.

(b) The Agency Head or designee may meet with the grievant and/or his designated representative, and shall communicate a decision in writing to the grievant and his designated representative if any, within 15 days following receipt of the written grievance. If the Agency Head or designee fails to respond within the time limits, it shall be deemed a denial.

**(3) Step 3 – Contract Language Disputes**

(a) If a grievance concerning the interpretation or application of this Agreement, other than a grievance alleging that a disciplinary action (reduction in base pay, demotion, involuntary transfer of more than 50 miles by highway, suspension or dismissal) was taken without cause, is not resolved at Step 2, the grievant or the FSFSA Grievance Representative may submit the grievance in writing on the appropriate form as contained in Appendix B of this Agreement to the Department of Management Services within 15 days following receipt of the decision at Step 2. The grievance form must contain the same information as the grievance filed at Steps 1 and 2. The grievance shall include a copy of the grievance form submitted at Steps 1 and 2, together with all written responses and documents in support of the grievance.

(b) The Department of Management Services shall meet with the grievant and/or the FSFSA Grievance Representative, if any, or the grievant or representative if not represented by the union, to discuss the grievance, and shall communicate a decision in writing to the grievant or his designated representative, if any, within 15 days following receipt of the written grievance.

**(4) Grievance Mediation**

The parties may, by written agreement, submit a grievance to mediation to be conducted by the Federal Mediation and Conciliation Service (FMCS) after it has been submitted to arbitration, but before the arbitration a hearing. When the parties agree to mediate a grievance, the scheduled date for the arbitration hearing provided in section (5)(c) below may be

**For the State**

\_\_\_\_\_  
Michael Mattimore  
State’s Chief Labor Negotiator

\_\_\_\_\_  
Date

**For the FSFSA**

\_\_\_\_\_  
Tommy Price  
President and Chief Negotiator

\_\_\_\_\_  
Date

extended by mutual agreement beyond five months. Either party may withdraw from the mediation process with written notice no later than five days before a scheduled mediation.

**(5) Arbitration**

(a) If a grievance alleging that a disciplinary action (reduction in base pay, demotion, involuntary transfer of more than 50 miles by highway, suspension, or dismissal) was taken without cause is not resolved at Step 2, the FSFSA may appeal the grievance to arbitration on the appropriate form as contained in Appendix C of this Agreement within 10 days following receipt of the decision at Step 2. If a contract language dispute as described in (3) above, is not resolved at Step 3, the FSFSA may appeal the grievance to arbitration on the appropriate form as contained in Appendix C of this Agreement within 10 days following receipt of the decision at Step 3. If, at the initial written step, the FSFSA declined to represent the grievant because he was not a member of the FSFSA, the grievant may appeal the grievance to arbitration. The appeal to arbitration shall be filed with the Department of Management Services on the appropriate form contained in Appendix C and shall include a copy of the grievance forms submitted at Steps 1, 2, and 3 (if applicable), together with all written responses and documents in support of the grievance.

(b) The arbitrator shall be chosen from a panel of at least four arbitrators selected by the parties. The Department of Management Services' Arbitration Coordinator shall schedule the arbitration hearing with the state and FSFSA representatives and the arbitrator listed next on the panel in rotation, and coordinate the arbitration hearing time, date and location.

(c) The parties may, by agreement in writing, submit related grievances for hearing before the same arbitrator. Arbitration hearings shall be scheduled as soon as feasible, but not more than five months following the receipt of the Request for Arbitration Form. If the arbitrator initially selected is not available to schedule within this period, the Arbitration Coordinator shall contact succeeding arbitrators on the panel until an arbitrator is identified who can schedule within the prescribed period. A party may request of the arbitrator, with notice to the other party and the Arbitration Coordinator, an extension of time/continuance based on documented unusual and compelling circumstances.

(d) The Arbitration Coordinator shall schedule arbitration hearings at times and locations agreed to by the parties, taking into consideration the availability of

**For the State**

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Michael Mattimore  
State's Chief Labor Negotiator

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**For the FSFSA**

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President and Chief Negotiator

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Date

evidence, location of witnesses, existence of appropriate facilities, and other relevant factors; however, unless agreed otherwise, all hearings shall be held within 50 miles of the grievant(s) place of work.

(e) At least fifteen days before the scheduled date of the arbitration hearing, the parties shall file with the arbitrator, and provide to each other, a list of witnesses to be called at the hearing, except rebuttal witnesses, and a brief statement of the material facts or matters relevant to the grievance about which each witness will testify. A party may file a written request with the arbitrator, with a concurrent copy to the other party, for an exception to the filing time limits for good cause. If such exception is granted, the other party may request that the hearing be rescheduled if necessary for the party to respond to the late filed witness information.

(f) Where there is a threshold issue regarding arbitrability, including timeliness, of a grievance raised by either party, an expedited arbitration hearing shall be conducted to address only the arbitrability issue. In such cases, the parties shall choose an arbitrator from the panel of arbitrators (see (5)(b), above), who is available to schedule a hearing and render a decision within 15 days of an arbitrator being chosen for this limited purpose. The hearing on this issue shall be limited to one day, and the arbitrator shall be required to decide the issue within five business days of the hearing. The hearing shall be conducted by telephone upon the agreement of the parties and the arbitrator. The fees and expenses of the expedited arbitration shall be shared equally by the parties. If the arbitrator determines that the issue is arbitrable, another arbitrator shall be chosen from the parties' regular arbitration panel in accordance with the provisions of 5(b) of this Article to conduct a hearing on the substantive issue(s).

(g) The arbitrator may fashion an appropriate remedy to resolve the grievance and, provided the decision is in accordance with his jurisdiction and authority under this Agreement, shall be final and binding on the state, the FSFSA, the grievant(s), and the employees in the bargaining unit. In considering a grievance, the arbitrator shall be governed by the following provisions and limitations:

1) The arbitrator shall issue his decision not later than 22 days from the date of the closing of the hearing or the submission of briefs, whichever is later.

**For the State**

\_\_\_\_\_  
Michael Mattimore  
State's Chief Labor Negotiator

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**For the FSFSA**

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President and Chief Negotiator

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Date

2) The arbitrator's decision shall be in writing, shall be determined by applying a preponderance of the evidence standard and shall set forth the arbitrator's opinion and conclusions on the issue(s) submitted.

3) The arbitrator shall have no authority to determine any other issue, and shall refrain from issuing any statement of opinion or conclusion not essential to the determination of the issues submitted.

4) The arbitrator shall limit his decision strictly to the application and interpretation of the specific provisions of this Agreement.

5) The arbitrator shall be without power or authority to make any decisions that are:

a) Contrary to or inconsistent with, adding to, subtracting from, or modifying, altering or ignoring in any way, the terms of this Agreement, or of applicable law or rules or regulations having the force and effect of law.

b) Limiting or interfering in any way with the power, duties and responsibilities of the state under its Constitution, applicable law, and rules and regulations having the force and effect of law, except as such powers, duties and responsibilities have been abridged, delegated or modified by the express provisions of this Agreement.

(h) The arbitrator's award may include back pay to the grievant(s); however, the following limitations shall apply to such monetary awards:

1) An award of back pay shall not exceed the amount of pay the grievant would otherwise have earned at his regular rate of pay, shall be reduced by the amount of wages earned from other sources or monies received as reemployment assistance benefits during the back pay period, shall not include punitive damages and shall not be retroactive to a date earlier than 15 days prior to the date the grievance was initially filed.

2) If the FSFSA is granted a continuance to reschedule an arbitration hearing over the objection of the agency, the agency will not be responsible for back pay for the period between the original hearing date or the end of the five month period described in (6)(c), above, whichever is later, and the rescheduled date.

**For the State**

\_\_\_\_\_  
Michael Mattimore  
State's Chief Labor Negotiator

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Date

**For the FSFSA**

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Tommy Price  
President and Chief Negotiator

\_\_\_\_\_  
Date

(i) The fees and expenses of the arbitrator shall be borne equally by the parties for the first five matters submitted for arbitration in the respective contract year and thereafter the loser pays the fees and expenses of the arbitration. Each party shall be responsible for compensating and paying the expenses of its own representatives, attorneys and witnesses. The arbitrator shall submit his fee statement to the Arbitration Coordinator for processing in accordance with the arbitrator's contract.

(j) A party may schedule a stenotype reporter to record the proceedings. Such party is responsible for paying the appearance fee of the reporter. If either party orders a transcript of the proceedings, the party shall pay for the cost of the transcript and provide a photocopy to the arbitrator. The party shall also provide a photocopy of the transcript to the other party upon written request and payment of copying expenses (\$.15 per page).

(k) The FSFSA will not be responsible for costs of an arbitration to which it was not a party.

#### **SECTION 4 – Time Limits**

(A) Failure at any step of this procedure to communicate the decision on a grievance within the specified time limits shall permit the grievant or the FSFSA, where appropriate, to proceed to the next step. The state will make a good faith effort to timely communicate decisions at each step.

(B) The number of days indicated at each step should be considered as a maximum, and every effort should be made to expedite the process. However, the time limits specified in any step of this procedure may be extended, in any specific instance, by written agreement.

(C) Claims of either an untimely filing or untimely appeal shall be made at the step in question.

#### **SECTION 5 – Exceptions**

(A) Nothing in this Article or elsewhere in this Agreement shall be construed to permit the FSFSA or an employee to process a grievance (1) in behalf of any employee without his consent, or (2) with respect to any matter which is the subject of a grievance, appeal, administrative action before a government board or agency, or court proceeding, brought by the FSFSA.

**For the State**

**For the FSFSA**

\_\_\_\_\_  
Michael Mattimore  
State's Chief Labor Negotiator

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Tommy Price  
President and Chief Negotiator

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Date

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Date

(B) All grievances will be presented at the initial step with the following exceptions:

(1) If a grievance arises from the action of an official higher than the Step 1 Management Representative, the grievance shall be initiated at Step 2 or 3, as appropriate, by submitting a grievance form as set forth in Step 1 within 15 days following the actual knowledge of the occurrence giving rise to the grievance.

(2) The FSFSA shall have the right to bring a class action grievance on behalf of employees in its own name, concerning disputes relating to the interpretation or application of this Agreement. Such grievance shall not include disciplinary actions taken against an employee. The FSFSA's election to proceed under this Article shall preclude it from proceeding in another forum on the same issue. Such grievance shall be initiated at Step 2 of this procedure, in accordance with the provisions set forth herein, within 15 days of the knowledge or reasonable knowledge of the occurrence of the event giving rise to the grievance.

**For the State**

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Michael Mattimore  
State's Chief Labor Negotiator

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Date

**For the FSFSA**

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Tommy Price  
President and Chief Negotiator

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Date

**Article 13**  
**HEALTH AND WELFARE**

**SECTION 1 – Insurance Benefits**

The benefits and the employee share of premiums for the State Employees Group Health Self-Insurance Plan shall remain unchanged for Fiscal Year 2015-2016.

**SECTION 2 – Employee Assistance Program**

(A) Where a state agency has adopted an employee assistance program pursuant to section 110.1091, Florida Statutes, the state will make psychological and substance abuse counseling services available.

(B) Any complaint or claim by an employee concerning this section shall not be subject to the grievance procedure of this Agreement.

**SECTION 3 – Death In-Line-Of Duty Benefits**

(A) Funeral and burial expenses will be as provided in section 112.191, Florida Statutes.

(B) Education benefits will be as provided in section 112.191, Florida Statutes.

(C) Health insurance benefits will be as provided in section 110.123, Florida Statutes.

(D) Any complaint or claim by an employee concerning this Article shall not be subject to the grievance procedure of this Agreement.

**SECTION 4 – Florida Forest Service Fire Fighter Health and Physical Fitness Standards Program**

The Florida Forest Service (FFS) and FSFSA agree to a fire fighter health and physical fitness standards program, which shall include appropriate screening and vaccination of all bargaining unit members.

(A) The FFS shall provide Fitness Technician(s) in each Field Unit.

(1) Fitness Technicians must maintain a current AED CPR card or higher.

**For the State**

**For the FSFSA**

\_\_\_\_\_  
Michael Mattimore  
State's Chief Labor Negotiator

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Tommy Price  
President and Chief Negotiator

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Date

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Date

(2) Fitness technicians will provide fitness, health, nutrition, and wellness information to all bargaining unit employees, and the Fitness Technicians will be given opportunities to receive information and training in such areas as nutrition, exercise physiology, etc.

(B) Employees will be permitted to exercise a maximum of three times per week for 30 minutes per session.

(1) This is an employee optional activity and may be permitted if fire conditions, emergency activities or other priority work projects, (that have been approved by the Field Unit Manager), do not preclude such activities.

(2) Individual aerobic and/or strength exercises are authorized.

(3) Team sports are prohibited.

(4) If it is not possible for the employee to conduct aerobic exercises at the work site, then the employee must start and finish his exercise session from their work site and be able to respond back to the site within 15 minutes of notification.

(5) The acquisition of all exercise equipment is a local decision. However, state funds may not be used to purchase this equipment.

(6) The FFS will not provide reduced memberships with any gyms or health clubs. This is a personal decision on the part of employees.

(C) FFS Employee *Health Exam & Fitness Test*

(1) The FFS employee *Health Exam & Fitness Test* is required for Special Risk employees hired or rehired after January 1, 1993, and includes the Initial or Annual Medical Examination and the Fitness Test. The Initial Medical Exam shall be in accordance with the FFS approved edition of the National Fire Protection Association (NFPA 1582) Medical Requirements for Firefighters. The Initial and Annual Medical Exams standards for the pulmonary function test and the resting blood pressure limits are established by FFS. The Annual Medical Examination consists of specific components of the Initial Medical Examination, (Pulmonary Function Test & Resting Blood Pressure). For the *Annual Medical Exam*, employees are required to utilize the FFS *Annual Medical Exam* standard. The employee has the option of utilizing the FFS facility for the *Annual Medical Exam*, or obtaining certification to take the *Annual Fitness Test*, utilizing the FFS *Annual Medical Exam* standard,

**For the State**

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Michael Mattimore  
State's Chief Labor Negotiator

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Date

**For the FSFSA**

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Tommy Price  
President and Chief Negotiator

\_\_\_\_\_  
Date

from their personal physician (at personal cost). The Fitness Test currently is the United States Forestry Service (USFS) Work Capacity Test (WCT), also called the Pack Test. The employee must successfully complete the Medical Examination within 12 months ~~30 days~~ prior to taking the Fitness Test.

(2) Employees who fail the *Annual Fitness Test* due to fitness reasons will not be allowed to perform wildfire suppression duties until they retake and pass the *Annual Fitness Test*. The employee will be mandated to perform physical fitness training as described in (B) and will be permitted up to 12 months and a minimum of four attempts, at three month intervals or less, to retake the *Annual Fitness Test*.

(3) Employees who fail the *Annual Medical Exam* will be placed on sick leave until they provide a personal physician's statement allowing them to work in a modified duty capacity. If the employee provides a personal physician's statement releasing him to full duty status and successfully completes the *Annual Medical Exam* at a FFS medical examination facility, or is certified to take the *Annual Fitness Test* utilizing the FFS *Annual Medical Exam* standard, by his personal physician (at personal cost), he will be required to take the Annual Fitness Test within 30 days of medical release to full duty status. Should the employee fail the Annual Fitness Test after release to full duty status, he will be provided the opportunity to take the *Annual Fitness Test* in accordance with paragraph (C)(2) above.

(4) Employees who have exhausted all attempts to pass the *Annual Medical Exam and/or Fitness Test*, may be offered a vacant position that does not include firefighting duties in the Department of Agriculture and Consumer Services. If another position cannot be identified and agreed upon, termination may result.

(5) The FFS employee *Annual Fitness Test* and the "National Fitness Test" will be conducted during the months of November, December and January. These two tests may be combined and taken as one test, with the National Fitness Test (three mile walk with 45 pound pack in 45 minutes) substituting for the FFS employee *Annual Fitness Test* (two mile walk with 25 pound pack in 30 minutes).

(6) If a candidate for hire is required to take the FFS *Initial Fitness Test*, or an employee is currently scheduled to take the FFS employee *Annual Fitness Test* **after** January 31<sup>st</sup> and **before** September 1<sup>st</sup>, the candidate or employee will take these tests as scheduled, and will take the FFS employee *Annual Fitness Test* the upcoming November, December or January (this means two tests in 12 months). When the test is completed in November, December or January, the employee will be synchronized for future November, December or January testing.

**For the State**

\_\_\_\_\_  
Michael Mattimore  
State's Chief Labor Negotiator

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Date

**For the FSFSA**

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Tommy Price  
President and Chief Negotiator

\_\_\_\_\_  
Date

(7) If a candidate for hire is required to take the FFS *Initial Fitness Test*, **after** August 31<sup>st</sup> and **before** November 1<sup>st</sup>, the candidate will take the test as scheduled, and be required to take the FFS employee *Annual Fitness Test* in November, December or January of the following year (this means more than 12 months between tests). (Example: candidate takes the FFS *Initial Fitness Test* on October 15, 2006, and will be required to take the FFS employee *Annual Fitness Test* in November or December of 2007 or January of 2008.) When the test is completed in November, December or January, the employee will be synchronized for future November, December or January testing.

(8) If an employee is scheduled to take the FFS employee *Annual Fitness Test* **after** August 31<sup>st</sup> and **before** November 1<sup>st</sup>, the employee will wait until November, December or January to take the FFS employee *Annual Fitness Test* (this means more than 12 months between tests). When the test is completed in November, December or January, the employee will be synchronized for future November, December or January testing.

**For the State**

\_\_\_\_\_  
Michael Mattimore  
State's Chief Labor Negotiator

\_\_\_\_\_  
Date

**For the FSFSA**

\_\_\_\_\_  
Tommy Price  
President and Chief Negotiator

\_\_\_\_\_  
Date

**Article 23**  
**HOURS OF WORK AND OVERTIME**

**SECTION 1 – Hours of Work and Overtime**

(A) The normal work period for full-time employees, except as noted below, shall be 40 hours consisting of five eight hour days, or four ten- hour days, or a 28-day, 160-hour period. The normal work period for Department of Children and Families’ employees shall be a 28-day, 192-hour period, consisting of 24 hours on-duty and 48 hours off-duty. The normal work period for Department of Military Affairs’ employees shall be a 28-day, 212-hour period.

(B) Management retains the right to schedule its employees; however, the state will make a good faith effort, whenever practical, to provide employees with consecutive hours in the workday and consecutive days in the workweek.

(C) Work beyond the normal workweek shall be administered in accordance with the provisions of Rule 60L-34, Florida Administrative Code.

(D) Management retains the right to approve time off for its employees. However, the state will make a good faith effort, whenever practical, to allow employees to use accrued leave credits as requested by the employee. Failure to approve an employee’s specific request shall not be grievable under the provisions of Article 6 of this Agreement.

(E) The state agrees that the assignment of overtime is not to be made on the basis of favoritism. Where an employee has reason to believe that overtime is being assigned on the basis of favoritism, the employee shall have the right to the grievance procedure under Article 6 up to Step 2 of the procedure.

**SECTION 2 – Work Schedules, Vacation and Holiday Schedules**

(A) When regular work schedules are changed, employees’ normal work schedules, showing each employee’s shift, workdays, and hours, will be posted no less than 14 calendar days in advance, and will reflect at least a two workweek schedule; however, the state will make a good faith effort to reflect a one month schedule. In the event an employee’s shift, workdays, or hours are changed while the employee is on approved leave, the agency will notify the employee of the change at his home. With prior written notification of at least three workdays to the employee’s immediate supervisor, employees may agree to exchange days or shifts on a temporary basis. If the immediate supervisor objects to the exchange of workdays or shifts, the employee initiating the notification shall be advised that the exchange is disapproved.

(B) Where practical, shifts, shift transfers, and regular days off shall be scheduled with due regard for the needs of the agency, seniority, and employee preference. The state and the FSFSA understand that there may be times when the needs of the agency will not permit such scheduling; however, when an employee’s shift and/or regular days off are changed, the agency

will make a good faith effort to keep the employee on the new shift or regular days off for a minimum of 12 months unless otherwise requested by the employee.

(C) When an employee is not assigned to a rotating shift and the employee's regular shift assignment is being changed, the state will schedule the employee to be off work for a minimum of two shifts between the end of the previous shift assignment and the beginning of the new shift assignment.

(D) Where practical, vacation and holiday leave shall be scheduled in advance of such leave. Time off for vacations and holidays, when the holiday is a regularly scheduled workday for the employee, will be scheduled with due regard for the needs of the agency, seniority, and employee preference. In implementing this provision, nothing shall preclude an agency from making reasonable accommodations for extraordinary leave requests as determined by the agency, or ensuring the fair distribution of leave during the holidays.

(E) The state will continue to observe the scheduling structures currently in place at each agency and agrees to bargain any change in the overall practice of how schedules are established. Scheduling structures shall mean the normal work period as set forth in Section 1(A) of this article.

### **SECTION 3 – Rest Periods**

(A) No supervisor shall unreasonably deny an employee a 15 minute rest period during each four hour work shift. Whenever possible, such rest periods shall be scheduled at the middle of the work shift. However, it is recognized that many positions have a post of duty assignment that requires coverage for a full eight hour shift, which would not permit the employee to actually leave his post. In those cases, it is recognized that the employee can “rest” while the employee physically remains in the geographic location of his duty post.

(B) An employee may not accumulate unused rest periods, nor shall rest periods be authorized for covering an employee's late arrival on duty or early departure from duty.

### **SECTION 4 – Work Day – Work Period**

(A) The state will make a good faith effort not to require an employee to split a workday into two or more segments without the agreement of the employee and the employer. The state will also make a good faith effort to schedule the work of an employee in a manner to minimize the extension of the employee's workday beyond its scheduled hours, recognizing that such extensions may be necessary to address emergencies or to conserve staffing or other resources, as determined by the state.

(B) Where employees are required to work extra hours during an approved extended work period, the state will make a good faith effort to offset such extra hours in eight hour increments, provided this can be done prior to the end of the extended work period.

## **SECTION 5 – Special Compensatory Leave**

(A) Earning of Special Compensatory Leave Credits. Special compensatory leave credits may be earned only in the following instances:

(1) By an employee in the career service for work performed on a holiday as defined in section 110.117, Florida Statutes, or for work performed during a work period that includes a holiday, as provided by the Rules of the State Personnel System.

(2) By an employee in the career service for work performed in the employee's assigned office, facility, or region which is closed pursuant to an Executive Order of the Governor or any other disaster or emergency condition.

(B) Special Compensatory Leave Earned Prior to July 1, 2012

An employee may be required to reduce special compensatory leave credit balances.

(C) Special Compensatory Leave Earned On or After July 1, 2012

(1) Special compensatory leave credits earned, as described in subsection (A)(1), on or after July 1, 2012, which are not used each year by the April 30 or October 31 that immediately succeeds the work period in which the leave is credited, whichever date occurs earlier, shall be forfeited.

(2) Special compensatory leave credits earned, as described in subsection (A)(2), on or after July 1, 2012, which are not used within 120 calendar days from the end of the work period in which the leave is credited shall be forfeited.

(3) Each agency shall schedule employees earning special compensatory leave credits in a manner that allows all such leave credits earned on or after July 1, 2012, to be used within the time limits specified in subsections 1 and 2. However, if scheduling such leave within such time limits would prevent the agency from meeting minimum staffing requirements needed to ensure public safety, the agency head may extend the time limits specified in subsections 1 and 2 for up to an additional 180 calendar days. Extensions will not be allowed for any other reason.

(4) No agency may make a payout of unused special compensatory leave credits earned on or after July 1, 2012.

(D) ~~Unless otherwise prohibited by law or rule, all requests for use of approved leave, other than administrative leave, shall first be charged to any special compensatory leave credits the employee has accrued. General Provisions for Using Special Compensatory Leave Credits in Accordance with Rule 60L-34.0044, F.A.C.~~

(1) Employee Leave Requests. An employee shall be required to use available special compensatory leave credits prior to the agency approving the following leave types:

(a) Regular compensatory leave credits.

(b) Annual leave credits, unless such annual leave credits are being substituted for an employee's unpaid individual medical leave granted in accordance with the federal Family and Medical Leave Act (FMLA), or family medical leave or parental leave granted in accordance with section 110.221, F.S., the FMLA, or both.



# FLORIDA POLICE BENEVOLENT ASSOCIATION, INC.

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*The Voice of Florida's Law Enforcement Officers*

December 1, 2015

**VIA ELECTRONIC MAIL**

Senator Alan Hays, Co-Chair  
Representative Charles Van Zant, Co-Chair  
Joint Select Committee on Collective Bargaining  
Governmental Oversight and Accountability Committee  
404 South Monroe Street  
Tallahassee, Florida 32399

**Re: Collective Bargaining Proposals of PBA for Law Enforcement Units: Florida Highway Patrol, Law Enforcement Officer and Special Agent**

Dear Senator Hays and Representative Van Zant:

Attached you will find the collective bargaining proposals submitted by the Florida Police Benevolent Association, Inc., to Governor Scott and the Department of Management Services covering the three law enforcement bargaining units represented by the Florida PBA. The bargaining units are (1) the Florida Highway Patrol unit, (2) the Law Enforcement Officer unit and (3) the Special Agent [FDLE] unit, a total of approximately 3150 personnel. The proposals are submitted in a mixed format due to the fact that some proposals were drawn specific to a contractual provision while others are conceptual in nature.

As an examination of the impasse letter from DMS' chief negotiator indicates, Governor Scott and the PBA are at impasse on several issues with the three bargaining units. Obviously, the most significant of these impasse items is wages.

In order to assist you in resolving the impasse, the Florida PBA offers the following information and comments:

## **CONTACT PERSONS**

Information relating to the PBA proposals and the reasons for such proposals available from two primary contact persons: (a) PBA Executive Director, Matt Puckett, [matt@flpba.org](mailto:matt@flpba.org), and (b) PBA General Counsel, Hal Johnson, [hal@flpba.org](mailto:hal@flpba.org).

## WAGES

**Wages (All Units - Article 25)** – The Florida PBA's wage proposal is a refinement of its previous proposals which were adopted, in part, by the Florida Legislature over the last few years. **The overall intent of the proposal continues to be to establish a cohesive pay system which ensures the wages are competitive and fair, and further provides an equitable pay differentiation in salaries for qualified officers who participate in a program of career development and enhancement of professional skills.**

The proposal has two important components: (a) a special base salary adjustment of five percent (5%) for all state law enforcement personnel designed to enhance the competitiveness of such salaries, and (b) establishment of a career development program for the State's law enforcement personnel and educational/professional training criteria designed to provide the state with more highly qualified officers.

The proposed program and its costs (for law enforcement) are explained in an attachment to this correspondence. The program, which will require legislative approval for implementation, has been pre-filed as House Bill 621.

## HEALTH INSURANCE

**Insurance Benefits (All Units - Article 27)** – The Florida PBA's insurance article is essentially a "status quo" proposal. The Association recognizes the group health self-insurance plan is a significant benefit. No modifications are sought in the plan. The Florida PBA seeks to continue to maintain the employee's share of premiums for the health insurance plan at the current levels for fiscal year 2016-2017.

## EMPLOYEE REPRESENTATION

**Negotiations (All Units - Article 9)** – This proposal permits members of the Florida PBA negotiations committee to attend negotiating sessions and preparatory meetings as work time. This provision is consistent with the practice observed for many law enforcement agencies.

## REST PERIODS/LUNCH

**Rest Periods (FHP/LEO - Article 18; SA – Article 23)** – This proposal (Subsections A and B) is consistent with the language of other State bargaining agreements. Subsection (c) is consistent with the practice in the field for most plain-clothes State law enforcement agencies.



### DURATION

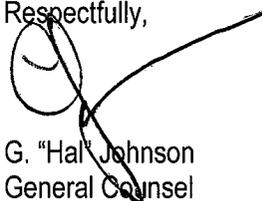
**Term (All Units - Article 35)** – This proposal by the Florida PBA is self-explanatory, it extends the term of the one (1) year agreement to three (3) years with each party able to open three articles and wages annually.

Thank you for your consideration of the Florida PBA's bargaining proposals. We ask again that you please give serious consideration to granting your law enforcement personnel a wage adjustment that reflects their dedication and service to the citizens of Florida. The Florida PBA believes all its proposals have merit and are fully justified. It will continue to work with DMS and its representatives in an effort to achieve agreement on those proposals.

**Finally, the Florida PBA is fully prepared to address any questions either the Florida Legislators, members of the Joint Select Committee or legislative staff may have regarding its contract proposals and its law enforcement career development plan. It believes this is best accomplished on a face-to-face basis. Thus, it waives its appearance before the Joint Select Committee on December 4, 2015.**

Thank you.

Respectfully,



G. "Hal" Johnson  
General Counsel

GHJ/dlt

Encl(s)

- c: Michael Mattimore, DMS Chief Negotiator  
James Parry, DMS Counsel  
Matt Puckett, PBA Executive Director  
Michael Roddy, FDLEEA Chapter President  
William Smith, FHP Chapter President  
Scott Hoffman, LEO Chapter President



## Florida PBA State Bargaining Proposals

### Law Enforcement, Florida Highway Patrol and Special Agent Units

September 24, 2015

#### Proposal for Fiscal Year 2016 – 2017

Set out below are a series of specific or conceptual proposals. These proposals cover the Law Enforcement Officer, Florida Highway Patrol and Special Agents bargaining units. The Florida PBA reserves the right to amend these proposals and advance additional proposals upon appropriate notification to the State.

#### ARTICLE 5 EMPLOYEE REPRESENTATION:

Section 9:

##### **Negotiations**

(A) The Association agrees that all collective bargaining is to be conducted with state representatives designated for that purpose by the Governor, as chief executive officer. While negotiating meetings shall normally be held in Tallahassee, the state and the Association may agree to meet elsewhere at a state facility or other location which involves no rental cost to the state. There shall be no negotiation by the Association at any other level of state government.

(B) The Association may designate certain employees to serve as its Negotiation Committee, and such employees will be granted administrative leave permitted to attend negotiating sessions with the state as work time. An employee serving on the Negotiation Committee shall also be granted a maximum of eight hours administrative leave of work to attend a negotiation preparatory meeting to be held the calendar day immediately preceding each scheduled negotiation session, ~~provided that the negotiation preparatory meeting is held on what would otherwise be the employee's normal workday.~~ No employee shall be credited for more than the number of hours in the employee's regular workday for any day the employee is in negotiations. No more than three employees that may attend a preparatory meeting or negotiating session. The time in attendance at such preparatory meetings and negotiating sessions shall not be counted as hours worked for the purpose of computing compensatory time or overtime. The agency

shall not reimburse the employee for travel, meals, lodging, or any expense incurred in connection with attendance at preparatory meetings or negotiating sessions.

(C) The selection of an employee shall not unduly hamper the operations of the work unit.

## ARTICLE 18 (SA ARTICLE 23) HOURS OF WORK AND LEAVE:

### **New Section**

#### **Rest Periods**

(A) No supervisor shall unreasonably deny an employee a 15 minute rest period during each four hour work shift. Whenever possible, such rest periods shall be scheduled at the middle of the work shift. However, it is recognized that many positions have a post of duty assignment that requires coverage for a full eight-hour shift, which would not permit the employees to actually leave his post. In those cases, it is recognized that the employee can “rest” while the employee physically remains in the geographic location of his duty post.

(B) An employee may not accumulate unused rest periods, nor shall rest periods be authorized for covering an employee’s late arrival on duty or early departure from duty.

(C) An employee shall not be required to take a lunch period except at the employee’s discretion.

## ARTICLE 25 WAGES:

Section 1:

### **General Pay Provisions**

The PBA proposes a general increase in each bargaining unit employee's base rate of pay in the amount of five percent (5%) effective July 1, 2016.

**New Section:**

### **Career Path Pay Plan**

Effective July 1, 2016, the State and PBA agree to create and implement a career path pay plan designed to establish a career development program providing participating bargaining unit employees with a tiered financial goals. The program will reward employees for their continuing professional development beyond minimum training requirements.

The components of the career path pay plan include establishment of a four level pay plan based upon seniority, job performance and achievement of professional skills and development.

A sample deputy sheriff career path pay plan is attached. The career path is normally built on: (a) length of service, the individual is eligible for advancement after a certain years of service, e.g. five years; (b) professional development, the individual is eligible for advancement only after completing a certain number of training courses, CJSTC-recognized classes or college courses, such as 50 hours of training courses approved by the agency or CJSTC; and (c) satisfactory work performance, the individual must meet performance standards during the time period under consideration.

**It is anticipated that the career path pay plan would have to be established through legislative action so as to ensure its continued application during the course of an individual's career with an agency(ies).**

## **ARTICLE 27 INSURANCE BENEFITS**

### Section 1

#### **State Employees Group Insurance Program**

The PBA proposes the benefits and employee share of premiums for the health self-insurance plan of bargaining unit employees remain unchanged for Fiscal Year ~~2015-2016~~2016-2017.

#### **New Section**

#### **Funding of Individual-owned Health Savings Account**

The PBA proposes that after a bargaining unit employee becomes vested in the Florida Retirement System the employee shall be permitted to convert a certain number of hours of sick leave for payment into a individually-owned health savings account. The terms of the conversion as well as the maximum hours of sick leave that can be converted over an employee's career are subject to negotiation.

## **ARTICLE 35 DURATION**

### Section 1

#### **Term**

The PBA proposes a three-year agreement with each party able to open three articles and wages annually.

C. Deputy Sheriff 1st Class: DBM B23A

Officers rated as Deputy Sheriff will advance to Deputy Sheriff 1st Class upon reaching seven (7) years service/seniority and must have successfully completed two hundred (200) hours of approved training. An officer may substitute up to one hundred (100) classroom hours of law enforcement college level classes for the two hundred (200) training hours required. An officer will receive five percent (5%) proficiency pay upon meeting the requirements to become a Deputy Sheriff 1st Class.

D. Senior Deputy: DBM B23B

Officers rated Deputy Sheriff 1st Class will advance to Senior Deputy upon reaching twelve (12) years of service/seniority and the successful completion of an additional two hundred (200) hours of approved training. The two hundred (200) hours of approved training must have been completed while the officer was in the rate of Deputy Sheriff 1st Class. An officer may substitute up to one hundred (100) classroom hours of law enforcement college level classes for the two hundred (200) training hours required. An officer will receive five percent (5%) proficiency pay upon meeting the requirements to become a Senior Deputy.

E. Master Deputy: DBM B23C

Officers rated Senior Deputy will advance to Master Deputy upon reaching seventeen (17) years of service/seniority and successfully completing an additional two hundred (200) hours of approved training while in the rate of Senior Deputy. An officer may substitute up to one hundred (100) classroom hours of college level courses for the two hundred (200) hours of training required. An officer will receive five percent (5%) proficiency pay upon meeting the requirements to become a Master Deputy.

F. Officers transferring Bargaining Units

The parties acknowledge that there are occasions when a detention officer transfers his or her employment from the detention bargaining unit to the law enforcement bargaining unit. While it is not as common, a law enforcement deputy may also transfer his or her employment from the law enforcement bargaining unit to the detention bargaining unit, upon appropriate training and certification. Because these transfers could otherwise involve the loss of substantial hourly or annual compensation, the parties agree that no such transferring employee shall lose more than ten percent (10%) of his or her former hourly rate of pay upon transfer.

A maximum of three (3) years credit will be awarded towards achieving Deputy 1st Class status for any deputy changing his or her bargaining unit during the first seven (7) years of employment with the Escambia County Sheriff's Office.

**22.03 Implementation**

CJSTC advanced/specialty courses completed or in which the officer is actively enrolled as of the date of ratification may be used to satis-

## Hal Johnson

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**From:** Hal Johnson <hal@flpba.org>  
**Sent:** Tuesday, November 24, 2015 11:20 AM  
**To:** Mike Mattimore (MMATTIMORE@anblaw.com); Parry, Jim; 'Hunter, Angela'; Matt Puckett (matt@flpba.org)  
**Cc:** Stephanie (stephanie@flpba.org); 'Scott Hoffman'; 'Roddy, Michael'; 'instruc777@aol.com'  
**Subject:** RE: Costing of PBA Proposals Received 9/24/15  
**Attachments:** pba state bargaining unit costs.pdf

As you are aware, the Florida PBA has submitted to DMS and the Florida Legislature a proposed law enforcement career develop plan. The plan, now House Bill 621, provides a career development plan for the state's law enforcement officers and other special risk employees. A copy has been attached for your review.

The Florida PBA has also prepared an estimated cost for the initial implementation of the plan for law enforcement personnel in the four bargaining units represented by the Florida PBA. This estimate includes Florida Highway Patrol, State Law Enforcement Officers, Florida Department of Law Enforcement and the Lottery bargaining units. The Florida PBA has estimated the costs at three levels of funding: 2.5%, 5% and 7.5%. It is the proposal of the PBA that the State fund the plan at the 5% level. The fact sheets explaining the plan, its costs and specifically providing information relating to the 5% proposal is also attached.

Should DMS, the Florida Legislature or the Office of Policy and Budget need clarification as to the implementation of the plan or its costs, the contact person for the Florida PBA is Matt Puckett, Executive Director of the Florida PBA. His telephone number is 222-3329, ext. 425 and his email address is [matt@flpba.org](mailto:matt@flpba.org).

Thank you for requesting our costs estimates relating the law enforcement career development plan.

**Hal Johnson | [hal@flpba.org](mailto:hal@flpba.org)**  
**General Counsel**  
Florida Police Benevolent Association  
**Phone - (800) 733-3722, Ext. 406 | Fax - (850) 561-8898**  
**Representing Florida's Finest**

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**From:** Hunter, Angela [mailto:Angela.Hunter@dms.myflorida.com]  
**Sent:** Tuesday, November 24, 2015 9:15 AM

**To:** 'Hal Johnson' <hal@flpba.org>  
**Cc:** Parry, Jim <Jim.Parry@dms.myflorida.com>  
**Subject:** Costing of PBA Proposals Received 9/24/15

Good Morning Hal,

The Office of Policy and Budget has requested clarification on a PBA proposal for costing purposes. With regard to the PBA proposal on Career Path Pay Plans (pg. 3 of the attached), would you prefer OPB use the values set forth in the sample pay plan provided by the PBA (pg. 5 of the attached), or will you provide other values for costing?

We look forward to hearing from you soon.

Sincerely,

Angela K. Hunter  
Human Resource Consultant  
**Office of Human Resource Management**  
Florida Department of Management Services  
4050 Esplanade Way, Suite 160, Tallahassee, FL 32399  
Direct: 850-487-9460  
Fax: 850-922-6312  
[Angela.Hunter@dms.myflorida.com](mailto:Angela.Hunter@dms.myflorida.com)  
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[facebook.com/FLDMS](https://www.facebook.com/FLDMS)

***"We Serve Those Who Serve Florida"***  
**Maintain Process-Oriented Mindset**  
**Challenge the Status Quo**  
**Create Efficiencies**  
**Respect State Employees**



# FLORIDA POLICE BENEVOLENT ASSOCIATION, INC.

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*The Voice of Florida's Law Enforcement Officers*

## Law Enforcement Officer Career Development Plan

**Statement of Purpose:** It is the intent of this legislation to create the Law Enforcement Career Development Plan to be utilized to strengthen the ability of state law enforcement agencies to provide career development for sworn career service positions in order to retain well-qualified and experienced officers.

**Included Groups:** All sworn Law Enforcement Officers in the FDLE Special Agents, Law Enforcement, Highway Patrol and Lottery bargaining units (a total **3,146** sworn law enforcement officers).

**Costs of the Plan:** Three options are proposed.

- 1) A **2.5%** enhancement at each of the four career steps will provide increases for 89% of the officers at a cost of **\$9 million** for during the 2016 – 2017 fiscal year. After first year, 30% of officers will be topped out and not eligible for increases within the plan. The costs to provide increases for the remaining 70% of eligible officers over a *five year period* is \$2.5 million (averaging \$500,000 per year, or less than 0.8% of total salaries per year).
- 2) A **5%** enhancement at each of the four career steps will provide increases for 89% of the officers at a cost of **\$18 million** for during the 2016 – 2017 fiscal year. After first year, 30% of officers will be topped out and not eligible for increases within the plan. The costs to provide increases for the remaining 70% of eligible officers over a *five year period* is \$5 million (averaging \$1 million per year, or less than 1.6% of total salaries per year).
- 3) A **7.5%** enhancement at each of the four career steps will provide increases for 89% of the officers at a cost of **\$27 million** for during the 2016 – 2017 fiscal year. After first year, 30% of officers will be topped out and not eligible for increases within the plan. The costs to provide increases for the remaining 70% of eligible officers over a five year period is \$7.5 million (averaging \$1.5 million per year, or less than 2.4% of total salaries per year).

**LAW ENFORCEMENT CAREER DEVELOPMENT PLAN**  
**(5 percent steps/Cost)**

Years w/State	Annual Salary	Year 1 *	Year 2	Year 3	Year 4	Year 5
15 +	\$ 49,591,391.18	\$ 9,918,278.24				
14	\$ 5,398,575.98		\$ 269,928.80			
13	\$ 5,779,861.64			\$ 288,993.08		
12	\$ 5,184,523.98				\$ 259,226.20	
11	\$ 6,351,140.18					\$ 317,557.01
10	\$ 5,549,400.76	\$ 4,239,525.38				
9	\$ 5,158,367.82		\$ 257,918.39			
8	\$ 4,591,397.84			\$ 229,569.89		
7	\$ 5,721,444.94				\$ 286,072.25	
6	\$ 4,938,718.52					\$ 246,935.93
5	\$ 4,136,552.02	\$ 2,454,648.11				
4	\$ 6,340,446.22		\$ 317,022.31			
3	\$ 10,449,624.72			\$ 522,481.24		
2	\$ 11,266,259.70	\$ 1,402,816.53			\$ 563,312.99	
1	\$ 10,904,816.78		\$ 545,240.84			\$ 572,502.88
< 1	\$ 1,986,304.44			\$ 99,315.22		
<b>TOTAL COST</b>	<b>\$ 18,015,268.26</b>	<b>\$ 1,390,110.34</b>	<b>\$ 1,140,359.43</b>	<b>\$ 1,108,611.43</b>	<b>\$ 1,136,995.82</b>	

\* The first year all officers with 15 years or more receive a 20 percent increase, officers with 10 to 14 years receive a 15 percent increase, etc. In the second year and thereafter officers receive 5 percent at each step.

**LAW ENFORCEMENT OFFICER CAREER DEVELOPMENT PLAN**  
**(5 percent step/Number of Officers)**

<b>YEARS WITH STATE</b>	<b>YEAR 1*</b>	<b>YEAR 2</b>	<b>YEAR 3</b>	<b>YEAR 4</b>	<b>YEAR 5</b>
15 +	944				
10 - 14	605	117	123	111	142
5 - 9	565	99	104	246	120
2 - 4	675	281	250	281	
1		294			294
< 1			59		
<b>TOTAL OFFICERS</b>	<b>2789</b>	<b>791</b>	<b>536</b>	<b>638</b>	<b>556</b>

\* The first year all officers with 15 years or more receive a 20 percent increase, officers with 10 to 14 years receive a 15 percent, etc. In the second year and thereafter officers receive 5 percent at each step.

1                   A bill to be entitled  
 2           An act relating to first responders; amending s.  
 3           110.2035, F.S.; requiring state agencies to establish  
 4           a first responder career development plan for certain  
 5           purposes; providing duties of the agencies relating to  
 6           the implementation of the plan; providing an effective  
 7           date.

8  
 9   Be It Enacted by the Legislature of the State of Florida:

10  
 11           Section 1. Subsection (9) is added to section 110.2035,  
 12   Florida Statutes, to read:

13           110.2035 Classification and compensation program.—  
 14           (9) (a) In order to strengthen the ability of state  
 15           agencies to provide career development for law enforcement  
 16           officers, correctional officers, correctional probation  
 17           officers, and firefighters and retain well-qualified and  
 18           experienced officers and firefighters, all state agencies  
 19           employing law enforcement officers, correctional officers,  
 20           correctional probation officers, and firefighters shall  
 21           establish a first responder career development plan. The plan  
 22           shall be voluntary for law enforcement officers, correctional  
 23           officers, correctional probation officers, and firefighters and  
 24           shall provide salary increases for officer and firefighter  
 25           achievements that exceed the minimum requirements for  
 26           employment.

HB 621

2016

27 (b) Salary increases shall be awarded to an officer or  
28 firefighter in good standing who achieves and maintains  
29 specified levels of achievement as determined by the agency.

30 (c)1. Each state agency shall provide levels of  
31 achievement for law enforcement officers, correctional officers,  
32 correctional probation officers, and firefighters and develop  
33 standards, through collective bargaining, if applicable, that  
34 provide approved activities recognized for attaining the levels.  
35 The achievement of each level must be documented by the  
36 attainment of specific achievements and the completion of a  
37 specified number of years of service.

38 2. Achievements may include the earning of postsecondary  
39 education credits and the completion of leadership or advanced  
40 training. Officers and firefighters may attain specified levels  
41 by participating in approved activities that advance the  
42 officer's or firefighter's professional interests as specified  
43 in the officer's or firefighter's job description.

44 (d) The plan shall be made available to law enforcement  
45 officers as defined in s. 943.10, correctional officers as  
46 defined in s. 943.10, correctional probation officers as defined  
47 in s. 943.10, and firefighters as defined in s. 633.102 in all  
48 career service positions. The number of officers or firefighters  
49 who may qualify for each level may not exceed the number of  
50 officers or firefighters covered by the bargaining unit covering  
51 such classes of employees in the agency.

52 Section 2. This act shall take effect July 1, 2016.

December 2, 2015

**VIA EMAIL AND U.S. MAIL**

Senator Alan Hays, Co-Chair  
Representative Charles Van Zant, Co-Chair  
Joint Select Committee on Collective Bargaining  
402 S. Monroe St.  
Tallahassee, FL 32399

**Re: Security Services Bargaining Unit - Articles at Impasse – Fiscal Year  
2016-2017**

Dear Senator Hays and Representative Van Zant:

This firm represents the Teamsters Local Union No. 2011 (“Teamsters”) for the purpose of collective bargaining agreement (“CBA”) negotiations with the State of Florida (“State”). This letter is submitted in response to your letter of November 24, 2015 requesting certain documentation.

The following articles are presently at impasse between the parties: Article 5 -- Union Activities and Employee Representation, Article 6 -- Grievance Procedure, Article 7 -- Discipline and Discharge, Article 8 -- Workforce Reduction, Article 9 -- Reassignment, Transfer, Change in Duty Station, Article 10 -- Promotions, Article 13 -- Safety, Article 22 – Job-Connected Disability, Article 23 -- Hours of Work and Overtime, Article 24 -- On-Call Assignment and Call-Back, Article 25 – Wages and Article 32 – Entire Agreement. Thus, a total of twelve (12) out of thirty-four (34) Articles in the CBA remain at impasse.

Please see the enclosed documents, which include copies of the most recent proposals on the articles referenced above, a summary overview of the proposals, and a summary overview of the rationale behind the proposals.

The date at which the parties are declared to be at “impasse” is driven by statute, as opposed to natural termination of the parties’ negotiations. Accordingly, the Teamsters continue to discuss proposals on the remaining articles with the State in an attempt to resolve all outstanding issues. The Teamsters have reserved the right to amend any existing proposal enclosed herewith, and remain hopeful that additional articles will be removed from the legislature’s consideration prior to the final resolution of impasse.

Sincerely,

/s/ Holly E. Van Horsten, Esq.

Enclosures

Holly E. Van Horsten, Esq.

<b>Article</b>	<b>Summary of Most Recent Union Proposal</b>	<b>Rationale</b>
Article 5 – Union Activities and Employee Representation	<p>1. Hours of Administrative Leave for employees on the Negotiation Team shall equal the hours in their normal work day.</p> <p>2. Section 11 - Agency Policy and Procedure: Agencies shall provide advance notice to the Union of proposed changes to Agency Policy and Procedure.</p>	<p>1. Section 9 currently indicates that employees on the Negotiation Committee will be granted administrative leave to attend negotiation sessions; employees on the committee currently receive up to 8 hours of administrative leave to attend a predatory meeting the calendar day before. The Union is simply proposing that the amount of leave for a day of negotiations equal the number of hours in the employee’s normal work day – for both the day of negotiations and the day of preparation for negotiations. The current language is outdated because many employees in DOC &amp; DCF now work 12 hour shifts.</p> <p>2. Advance notice to review any proposed changes to Agency Policy and Procedure to provide input on how such a change would impact their Institution, and to help enable a more smooth transition from the old policy to the new policy.</p>
Article 6 – Grievance Procedure	<p>1. Employees who are serving a probationary period due to a promotion to a different classification in the bargaining unit can file a grievance to determine whether or not there was just cause for the discipline.</p> <p>2. If awarded by the arbitrator, an employee can receive back pay from his date of termination to the date of reinstatement.</p>	<p>1. Employees who have excelled with the Department and have received a promotion should not be punished by having the right to contest the legitimacy of discipline taken away from them.</p> <p>Removing the ability for a recently-promoted Officer to grieve improper discipline discourages qualified Officers from applying for promotions. It is a disincentive for an Officer, who is successful in his current position, to take a promotion if he loses his rights to grieve unfair discipline and can be dismissed without due process.</p>

		<p>2. When an arbitrator finds that a suspension/termination was not just, and that the Officer is entitled to back pay, the Officer should not be punished by having to take a reduction in back pay for a short, and infrequently requested/granted continuance of the hearing.</p>
<p>Article 7 – Discipline and Discharge</p>	<p>1. If an Officer is in a probationary status due to a promotion within the bargaining unit, and he attained permanent status in his prior bargaining unit position, he can file a grievance as to whether or not he was disciplined with just cause.</p> <p>2. Written reprimands can be used as a basis for subsequent discipline for up to three (3) years after the date the reprimand was issued. Disciplinary suspensions can be used as a basis for subsequent discipline for up to five (5) years after the date the suspension was issued.</p>	<p>1. Removing the ability for a recently-promoted Officer to grieve improper discipline discourages qualified Officers from applying for promotions. It is a disincentive for an Officer, who is successful in his current position, to take a promotion if he loses his rights to grieve unfair discipline and can be dismissed without due process.</p> <p>2. This provides a level of fairness to the Officer because he cannot dispute the propriety of a written reprimand before an impartial neutral. It also provides a clear incentive for behavior rehabilitation and modification.</p>
<p>Article 8 – Workforce Reduction</p>	<p>1. An Officer who is currently serving a probationary period as the result of taking a promotion within the bargaining unit can participate in the layoff procedure.</p> <p>2. If the Department of Corrections contracts out a portion of its operations that involves bargaining unit members, those employees shall be provided with an opportunity to work for the subcontractor. The subcontractor is bound by the terms of the Collective Bargaining Agreement for the remainder of its duration.</p>	<p>1. A hard-working Officer who receives a promotion should not be punished by being excluded from the layoff procedure simply because he has not yet reached permanent status in his current position.</p> <p>2. For the sake of continuity in DOC operations, community safety, and employing experienced Officers, any contractor should be required to offer employment to the Officers working in the institution prior to subcontracting.</p>
<p>Article 9 – Reassignment, Transfer,</p>	<p>1. Officers must not be restricted in requesting a reassignment, transfer or change in duty</p>	<p>1. Officers should not be restricted from moving within a major</p>

<p>Change in Duty Station</p>	<p>station only from one major institution to another major institution.</p> <p>2. When the DOC needs to reassign a probation officer to another office because the case load at that other office requires another officer, the DOC shall first seek volunteers and if there are no volunteers, the reassignment will be on the basis of seniority.</p>	<p>institution, including but not limited to a shift change.</p> <p>2. Reassignment to another office can constitute a major hardship, thus; reassignment based on excessive caseload should be based first on volunteers, and then by reverse seniority.</p>
<p>Article 10 - Promotions</p>	<p>No waiver of the right of a recently-promoted employee to have a dispute about the propriety of a discipline/termination resolved by way of a grievance process with “its terminal step a final and binding disposition by an impartial neutral.” F.S. § 447.401. “All public employees shall have the right to a fair and equitable grievance procedure....” F.S. § 447.401.</p>	<p>Removing the ability for a recently-promoted Officer to grieve improper discipline discourages qualified Officers from applying for promotions. It is a disincentive for an Officer, who is successful in his current position, to take a promotion if he loses his rights to grieve unfair discipline and can be dismissed without due process.</p>
<p>Article 13 - Safety</p>	<p>1. The State will abide by applicable statute and regulations with regard to state-owned vehicles.</p> <p>2. The agencies shall maintain proper staffing levels, including but not limited to maintaining critical levels. The agencies shall not engage in ghosting.</p> <p>3. The parties acknowledge and agree that all safety equipment, including but not limited to bulletproof vests and radios, provided to the bargaining unit members by the state must be properly maintained and in good working order.</p> <p>4. Remove language in regard to a waiver of the right to grievance and arbitration – a permissive subject of bargaining.</p>	<p>1. The <u>majority</u> of DOC vehicles are not in acceptable condition according to the DMS criteria.</p> <ul style="list-style-type: none"> <li>• Officer received carbon monoxide poisoning from sitting in a vehicle with over 200,000 miles on it</li> <li>• Vehicles, transporting prisoners, break-down on the side of the road</li> </ul> <p>Functional and properly maintained vehicles are necessary to ensure officer safety.</p> <p>2. Proper staffing levels ensure the safety of the public, the officers, and the prisoners. A recent study of Department of Corrections, called for by the Governor, by the National Institute of Corrections, indicates that the Department is understaffed.</p> <p>3. The Officers put their lives at risk for the safety of the community. Thus, they should be provided with safety equipment that meets manufacturer standards.</p>

		4. A permissive subject of bargaining cannot be insisted to impasse. The State must remove the waiver from its proposal or obtain agreement from the Union on including the waiver, before the legislature decides which proposal will be operative for at least the next fiscal year.
Article 22 – Job-Connected Disability	Union is proposing Status Quo	No change in contract language necessary.
Article 23 – Hours of Work and Overtime	Union is proposing Status Quo	No change in contract language necessary.
Article 24 – On-Call Assignment and Call-Back Pay	On-call assignments in Community Corrections shall be assigned first on a voluntary basis.	When there is a qualified Officer that wants to volunteer for after-hours GPS monitoring, he should be assigned to be on-call, as opposed to the Officer who does not want to be on-call.
Article 25 - Wages	<ol style="list-style-type: none"> <li>1. Pay Parity</li> <li>2. A fair and equitable wage increase.</li> <li>3. Correct the apparent oversight that left corrections officers out of FY 2013-2014 &amp; 2014-2015 law enforcement officer wage increases in the General Appropriations Act.</li> <li>4. Provide necessary pay additives such as a competitive area differential, critical market pay, hazardous duties, and temporary special duties.</li> </ol>	The Department cannot retain quality personnel if its wages for Officer, Sergeant, Lieutenant and Captain are so far below wages of other law enforcement officers. The Department ends up training and certifying officers and can leave the DOC and sometimes <u>double</u> their hourly wage! The attrition (turn-over) rate is incredibly high and the institutions are already, as even the DOC admits, understaffed as it is.
Article 32 – Entire Agreement	The state and the Union can agree to effective dates for Memorandums of Understanding that clarify terms and conditions of the collective bargaining agreement.	The state and the Union currently have the ability to enter into Memorandums of Understanding, but there is no language in the agreement addressing the effective dates of such Memorandums. The proposed language provides the parties with a greater level of flexibility, certainty and clear timeframes as to how long a particular Memorandum of Understanding will be in effect.

**Article 5  
UNION ACTIVITIES AND EMPLOYEE REPRESENTATION**

**SECTION 1 - Definitions**

(A) The term "employee" as used in this Agreement, shall mean an employee included in the bargaining unit represented by the Union.

(B) The term "Grievance Representative," as used in this Agreement, shall mean an employee designated by the President of the Union to investigate grievances at the Oral Step and to represent a grievant at the Oral Step and Step 1 meetings on grievances which have been properly filed under Article 6 of this Agreement, when the Union has been selected as the employee's representative.

**SECTION 2 - Designation of Employee Representatives**

(A) The President of the Union shall furnish to the state and keep up-to-date a list of Union Business Agents. The state will not recognize any person as a Business Agent whose name does not appear on the list.

(B) The Union shall select a reasonable number of employees to be Union Stewards. The Union shall furnish the state the name, official class title, name of employing agency, and specific work location of each employee designated to act as a Union Steward. The state shall not recognize an employee as an authorized Union Steward until such information has been received from the Union.

(C) Union Business Agents and Stewards may represent employees as Grievance Representatives.

**SECTION 3 - Bulletin Boards**

(A) Where requested in writing, the state agrees to furnish in state-controlled facilities to which employees are assigned, wall space not to exceed 4'x4' for Union-purchased bulletin boards of an equal size. Such bulletin boards will be placed at a state facility in an area normally accessible to, and frequented by, employees. Once a location has been established, it shall not be moved without notice. Where the Union currently maintains bulletin boards or bulletin board space, that practice shall continue.

(B) The use of Union bulletin board space is limited to the following notices:

- (1) Recreational and social affairs of the Union
- (2) Union meetings
- (3) Union elections
- (4) Reports of Union committees
- (5) Union benefit programs
- (6) Current Union Agreement
- (7) Training and educational opportunities
- (8) Decisions reached through consultation meetings, as approved by the Department of Management Services

(9) Notices of wage increases for covered employees

(C) Materials posted on these bulletin boards shall not contain anything, which violates or has the effect of violating any law, rule, or regulation, nor shall any posted material contain anything reflecting adversely on the state or any of its officers or employees.

(D) Postings must be dated and bear the signature of an authorized Union representative.

(E) A violation of these provisions by a Union Business Agent, Steward or an authorized representative shall be a basis for removal of bulletin board privileges for that representative by the Department of Management Services.

#### **SECTION 4 - Information**

(A) Upon request of the Union on no more than on a quarterly basis, the state will provide it with personnel data from the state personnel database (People First). These data will include employees' names, home addresses, work locations, classification titles, and other data elements as identified by the Union that are not confidential under state law. This information will be prepared on the basis of the latest information available in the database at the time of the request.

(B) It is the state's policy to protect employee data exempt from public access under the provisions of Florida Statute 119.071(4) from inadvertent or improper disclosure. Such data include home addresses, telephone numbers and dates of birth. The Union agrees, therefore, that these exempt data are provided for the sole and exclusive use of the Union in carrying out its role as certified bargaining agent. This information may not be relayed, sold, or transferred to a third party and may not be used by an entity or individual for any purpose other than Union business.

(C) Upon request and receipt of payment, the state shall provide accredited representatives information, documents, or other public records for the investigation of an employee's grievance.

#### **SECTION 5 - Occupation Profiles and Rules**

(A) The state will maintain on the Department of Management Services' website the occupation profiles and the Rules of the State Personnel System.

(B) In instances where the state determines that a revision to an occupation profile or occupational level for positions covered by this Agreement is needed, the Department of Management Services shall notify the Union in writing of the proposed changes. This procedure shall not constitute a waiver of the Union's right to bargain over such matters in accordance with Chapter 447, Part II, Florida Statutes and applicable law. The Union shall notify the Department of Management Services, in writing within ten calendar days of its receipt of written notification from the Department, of its comments concerning the proposed changes, or of its desire to discuss the proposed change(s). Failure of the Union to notify the Department of Management Services within this specified period shall constitute a waiver of the right to discuss the change(s).

#### **SECTION 6 - Representative Access**

(A) The state agrees that accredited representatives of the Union shall have access to the premises of the state which are available to the public.

(B) If any area of the state's premises is restricted to the public, permission must be requested to enter such areas and such permission will not be unreasonably denied. Such access shall be during the regular working hours of the employee and shall be to investigate an employee's grievance.

## **SECTION 7 – New Employee Orientation and Training Academies**

The Union will be permitted a 15-minute presentation to address new employees at orientation and training academies. The Union may issue each new recruit a copy of the current Security Services Agreement, discuss the provisions of the Agreement, and programs available through the Union. A presentation may be made only once per academy class. The Union President or designee will be notified 14 days in advance of new employee training whenever practicable.

## **SECTION 8 - Consultation**

(A) In order to provide a means for continuing communication between the parties and upon request of the President of the Union, the Secretary of the Department of Management Services and/or his designated representative(s) and not more than three representatives of the Union shall make a good faith effort to meet and consult quarterly. Such meetings shall be held at a time and place designated by the Department of Management Services.

(B) Upon request by the designated Union Staff Representative, the Agency Head and/or designee(s) and the Staff Representative, with not more than three Union representatives from the agency, shall make a good faith effort to meet and consult quarterly. Such meetings shall be held at a time and place to be designated by the Agency Head or his designee after consulting with the Union Staff Representative.

(C) Upon request by the designated Union Staff Representative, the Step 1 Management Representative and/or designee(s) and the designated Union Staff Representative, with not more than two Union representatives from the agency, shall make a good faith effort to meet and consult. Such meetings shall be held at a time and place to be designated by the Step 1 Management Representative after consulting with the Union Staff Representative. A copy of all requests shall be served on both the agency and the Union at their principal offices.

(D) All consultation meetings will be scheduled after giving due consideration to the availability and work location of all parties. If a consultation meeting is held or requires reasonable travel time during the regular work hours of any participant, such hours shall be deemed time worked. Attendance at a consultation meeting outside of a participant's regular work hours shall not be deemed time worked.

(E) The purpose of all consultation meetings shall be to discuss matters relating to the administration of this Agreement and agency activities affecting employees. It is understood that these meetings shall not be used for the purpose of discussing pending grievances or for negotiation purposes. The parties shall exchange agenda indicating the matters they wish to discuss no later than seven calendar days prior to the scheduled meeting date.

(F) An agency shall prepare a written response to issues raised during a consultation meeting within 30 days after the date of the meeting.

## **SECTION 9 – Negotiations**

(A) The Union agrees that all collective bargaining is to be conducted with state representatives designated for that purpose by the Governor, as Chief Executive Officer. While negotiating meetings shall normally be held in Tallahassee, the state and the Union may agree to meet elsewhere at a state facility or other location which involves no rental cost to the state. There shall be no negotiation by the Union at any other level of state government.

(B) The Union may designate certain employees within this unit to serve as its Negotiation Committee, and such employees will be granted administrative leave, equal to the duration of the hours in the employee's regular work day, to attend negotiating sessions with the state. An employee serving on the Negotiation Committee shall also be granted ~~a maximum of eight hours~~ administrative leave, equal to the duration of the hours in the employee's regular work day, to attend a negotiation preparatory meeting to be held the calendar day immediately preceding each scheduled negotiation session, provided that the negotiation preparatory meeting is held on what would otherwise be the employee's normal workday. No employee shall be credited with more than the number of hours in the employee's regular workday for any day the employee is in negotiations. The total number of hours, including the hours spent in negotiation preparatory meetings, paid all employees on the Union's Negotiation Committee shall not exceed 1000 hours. The time in attendance at such preparatory meetings and negotiating sessions shall not be counted as hours worked for the purpose of computing compensatory time or overtime. The agency shall not reimburse the employee for travel, meals, lodging, or any expense incurred in connection with attendance at preparatory meetings or negotiating sessions.

(C) No more than two employees shall be selected from the same work unit at any one time, nor shall the selection of any employee unduly hamper the operations of the work unit.

#### **SECTION 10 – Union Activities**

Employees shall have the right to request leave without pay, annual, or compensatory leave for the purpose of attending Union conventions, conferences, and meetings. When such requests cannot be granted, the supervisor shall provide such denial in writing.

#### **SECTION 11 - Agency Policy and Procedure**

(A) An agency shall provide the Union with no less than four (4) weeks advance notice when it decides to change an existing agency policy or procedure.

(B) An agency is prohibited from creating a new policy or procedure, or making changes to an existing policy or procedure, that alters and/or conflicts with the terms of this Agreement.

## **Article 6 GRIEVANCE PROCEDURE**

It is the policy of the state and Union to encourage informal discussions between supervisors and employees of employee complaints. Such discussions should be held with a view to reaching an understanding which will resolve the matter in a manner satisfactory to the employee and the state, without need for recourse to the formal grievance procedure prescribed by this Article.

### **SECTION 1 – Definitions**

As used in this Article:

(A) “Grievance” shall mean a dispute involving the interpretation or application of the specific provisions of this Agreement, except as exclusions are noted in this Agreement, filed on the appropriate form as contained in Appendix B of this Agreement.

(B) “Grievant” shall mean an employee or a group of employees having the same grievance. In the case of a group of employees one employee shall be designated by the group to act as spokesperson and to be responsible for processing the grievance.

(C) “Days” shall mean business days. “Business days” refers to the ordinary business hours, i.e., 8:00 a.m. until 5:00 p.m., Monday through Friday, in the time zone in which the recipient is located. Furthermore, “business days” do not include any day observed as a holiday pursuant to section 110.117, Florida Statutes, holiday observed by the Union pursuant to a list furnished to the state in writing, as of the effective date of this Agreement, or day during a suspension of grievance processing as agreed in writing by the parties. “Business days” also do not include a day(s) on which the offices of DMS or any agency employing bargaining unit members are closed under an Executive Order of the Governor or otherwise for an emergency condition or disaster under the provisions of Rule 60L-34.0071(3)(e).

### **SECTION 2 – Election of Remedy and Representation**

(A) If a grievant or the Union has a grievance which may be processed under this Article and which may also be appealed to the Public Employees Relations Commission, the grievant or the Union shall indicate at the time the grievance is reduced to writing which procedure is to be used and such decision shall be binding on the grievant or the Union. In the case of any duplicate filing, the action first filed will be the one processed.

(B) A grievant who decides to use this grievance procedure shall indicate at the Oral Step or initial written step (if authorized by the provisions of this Article) whether he shall be represented by the Union. If the grievant is represented by the Union, any decision agreed to by the state and Union shall be binding on the grievant.

(C) Where Union representation is requested by a grievant, the grievant’s representative shall be selected from the list of Union Grievance Representatives or Union Business Agents which has been provided to the state by the Union. When an employee has been

appropriately designated to serve as a Grievance Representative and the state has been notified in accordance with Article 5, Section 2 (B), the Grievance Representative shall be authorized to investigate grievances and represent grievants in accordance with this Article, subject to the following limitations:

(1) A Grievance Representative will not be allowed time off with pay to investigate his own grievance.

(2) Time spent by a Grievance Representative in investigating a grievance shall be the minimum amount of time necessary to perform the specific investigation involved.

(a) If a grievant selects a Grievance Representative to represent him in a grievance which has been properly filed in accordance with this Article, the Grievance Representative may be allowed a reasonable amount of annual or compensatory leave to investigate the grievance. Such annual or compensatory leave shall be subject to prior approval by the Grievance Representative's immediate supervisor; however, approval of such leave will not be withheld if the Grievance Representative can be allowed such time off without interfering with, or unduly hampering the operations of the unit to which the Grievance Representative is regularly assigned. The Grievance Representative's immediate supervisor will notify the grievant's supervisor prior to allowing the Grievance Representative time off to investigate the grievance.

(b) Investigations will be conducted in a way that does not interfere with state operations.

(c) The Grievance Representative must be selected from Grievance Representatives within the same work unit as the grievant's work unit. If no Grievance Representative is located in the grievant's work unit, the Grievance Representative must be selected from the work unit located closest to the grievant's work location. In no case shall a Grievance Representative who is on duty be allowed to travel more than 50 miles from his official work location in order to investigate a grievance. Such travel limitation shall not apply when the Grievance Representative is not on duty.

(d) A Grievance Representative selected to represent a grievant as provided in this Article will be considered a required participant at the Step 1 grievance meeting.

(D) The grievant and the grievant's representative, if any, shall be notified of the Step 1 meeting. Further, all communication concerning written grievances or their resolution shall be in writing, with a copy sent to the grievant and the grievant's representative.

(E) If the grievant is not represented by the Union, any adjustment of the grievance shall be consistent with the terms of this Agreement. The Union shall be given reasonable opportunity to be present at any meeting called for the resolution of the grievance, and processing of the grievance will be in accordance with the procedures established in this Agreement. The Union shall not be bound by the decision of any grievance in which the grievant

chose not to be represented by the Union.

(F) The resolution of a grievance prior to its submission in writing at arbitration shall not establish a precedent binding on either the state or the Union in other cases.

### **SECTION 3 – Procedures**

(A) Employee grievances filed in accordance with this Article are to be presented and handled promptly at the lowest level of supervision having the authority to adjust the grievances. Grievances may be filed and responded to by facsimile, electronic mail, mail, or personal delivery.

(B) After a grievance is presented, no new violation or issue can be raised.

(C) There shall be no reprisals against any of the participants in the procedures contained herein by reason of such participation.

(D) If a grievance meeting, mediation, or arbitration hearing is held or requires reasonable travel time during the regular work hours of a grievant, a representative of the grievant, or any required witnesses, such hours shall be deemed time worked. Attendance at grievance meetings, mediation, or arbitration hearings outside of a participant's regular work hours shall not be deemed time worked. The state will not pay the expenses of any participants attending such meetings on behalf of the union.

(E) Grievances shall be presented and adjusted in the following manner, and no individual may respond to a grievance at more than one written step.

#### **(1) Oral Discussion**

(a) An employee having a grievance may, within 15 days following the occurrence of the event giving rise to the grievance, initiate the grievance by presenting it orally to the Oral Step representative or by filing a written grievance at Step 1. The Oral Step representative shall make every effort to resolve the grievance at the Oral Step, including meeting to discuss the grievance if such meeting is requested by the grievant or the grievant's representative if a meeting is deemed necessary by the Oral Step representative. The Oral Step representative shall communicate a decision to the grievant and the grievant's representative, if any, within 10 days following the date the grievance is received at the Oral Step.

(b) Failure to communicate the decision within the specified time limit shall permit the grievant, or the Union where appropriate, to proceed to the next step.

(c) The number of days indicated at this step shall be considered as the maximum, and every effort will be made to expedite the process. However, the time limits specified in any step of this procedure may be extended in writing in any specific instance as long as necessary provided there is agreement by both sides.

(d) The Oral Step representative for correctional institutions shall be the Chief Correctional Officer or designee. The Oral Step representative for community corrections shall be the Circuit Administrator, or designee. The Oral Step representative for employees in the institutional security specialist series shall be the Security Chief or designee.

(2) Step 1

(a) If the grievant elects to utilize the oral discussion step and the grievance is not resolved, the grievant or the designated grievance representative may submit it in writing to the Step 1 management representative within 10 days following the receipt of the oral step decision. If the grievant elects not to utilize the oral discussion provision of this section he may file a written grievance at Step 1, provided such written grievance is filed within 15 days following the occurrence of the event giving rise to the grievance. In filing a grievance at Step 1, the grievant or the designated grievance representative shall submit to the Step 1 Management Representative a grievance form as contained in Appendix B, setting forth specifically the complete facts on which the grievance is based, the specific provision or provisions of the Agreement allegedly violated, and the relief requested. All written documents to be considered by the Step 1 Management Representative shall be submitted with the grievance form; however, if additional written documentation is obtained after the grievance is filed, such documentation may be presented at the Step 1 meeting.

(b) The Step 1 Management Representative or designated representative shall meet to discuss the grievance and shall communicate a decision in writing to the grievant and the grievant's representative, if any, within 15 days following the date the grievance is received at Step 1.

(c) Failure to communicate the decision within the specified time limit shall permit the grievant, or the Union where appropriate, to proceed to the next step.

(d) The number of days indicated at this step shall be considered as the maximum, and every effort will be made to expedite the process. However, the time limits specified in any step of this procedure may be extended in writing in any specific instance as long as necessary provided there is agreement by both sides.

(3) Step 2

(a) If the grievance is not resolved at Step 1, the grievant or the grievant's representative may submit it in writing to the Agency Head or designated representative within 10 days after receipt of the decision at Step 1. The grievance shall include a copy of the grievance form submitted at Step 1 and a copy of the Step 1 response, together with all written documents in support of the grievance. When the grievance is eligible for initiation at Step 2, the grievance form must contain the same information as a grievance filed at Step 1 above.

(b) The Agency Head or designated representative may meet with the grievant and/or the grievant's representative to discuss the grievance. If the grievance is initiated

at Step 2, the parties shall meet to discuss the grievance. The Agency Head or designated representative shall communicate a decision in writing to the grievant and the grievant's representative, if any, within 15 days following receipt of the written grievance.

(c) Failure to communicate the decision within the specified time limit shall permit the grievant, or the Union where appropriate, to proceed to the next step.

(d) The number of days indicated at this step shall be considered as the maximum, and every effort will be made to expedite the process. However, the time limits specified in any step of this procedure may be extended in writing in any specific instance as long as necessary provided there is agreement by both sides.

(4) Step 3 – Contract Language Disputes

(a) If a grievance concerning the interpretation or application of this Agreement, other than a grievance alleging that a disciplinary action (reduction in base pay, demotion, involuntary transfer of more than 50 miles by highway, suspension, or dismissal) was taken without cause, is not resolved at Step 2, the designated Union representative, or the grievant or his representative, if not represented by the Union, may appeal the grievance, in writing, to the Department of Management Services within 15 days after receipt of the decision at Step 2. The grievance shall include a copy of the grievance form submitted at Steps 1 and 2, together with all written responses and documents in support of the grievance. The Department of Management Services shall discuss the grievance with the Union representative, or the grievant or representative if not represented by the Union. When the grievance is eligible for initiation at Step 3, the grievance form must contain the same information as the grievance filed at Step 1 above.

(b) The Department of Management Services shall communicate a decision in writing to the grievant and his representative within 15 days following receipt of the written grievance.

(c) Failure to communicate the decision within the specified time limit shall permit the grievant, or the Union where appropriate, to proceed to the next step.

(d) The number of days indicated at this step shall be considered as the maximum, and every effort will be made to expedite the process. However, the time limits specified in any step of this procedure may be extended in writing in any specific instance as long as necessary provided there is agreement by both sides.

(5) Grievance Mediation

The parties may, by written agreement, submit a grievance to mediation to be conducted by the Federal Mediation and Conciliation Service (FMCS) after it has been submitted to arbitration but before the arbitration hearing. When the parties agree to mediate a grievance, the scheduled date for the arbitration hearing provided in section (6)(d) below may be

extended by mutual agreement beyond five months. Either party may withdraw from the mediation process with written notice no later than five days before a scheduled mediation.

(6) Arbitration

(a) If a grievance alleging that a disciplinary action (reduction in base pay, demotion, involuntary transfer of more than 50 miles by highway, suspension, or dismissal) was taken without cause, is not resolved at Step 2, the President of the Union or a designated member of his staff may appeal the grievance to arbitration on a Request for Arbitration Form as contained in Appendix C within 10 days after receipt of the decision at Step 2. If a contract language dispute as described in (4) above is not resolved at Step 3, the President of the Union or a designated member of his staff may appeal the grievance to arbitration on a Request for Arbitration Form as contained in Appendix C of this Agreement within 10 days following receipt of the decision at Step 3. If, at the initial step, the Union refused to represent the grievant because he was not a dues-paying member of the Union, the grievant may appeal the grievance to arbitration.

(b) The parties may, by agreement in writing, submit related grievances for hearing before the same arbitrator.

(c) The arbitrator shall be one person from a panel of five arbitrators, selected by the state and the Union to serve in rotation for any case or cases submitted. The Department of Management Services' Arbitration Coordinator shall schedule the arbitration hearing with the state and the Union representatives and the arbitrator listed next on the panel in rotation, and shall coordinate the arbitration hearing time, date, and location.

(d) Arbitration hearings shall be scheduled as soon as feasible but not more than five months following the receipt of the Request for Arbitration Form. If the arbitrator initially selected is not available to schedule within this period, the Arbitration Coordinator shall contact succeeding arbitrators on the panel until an arbitrator is identified who can schedule within the prescribed period. A party may request of the arbitrator, with notice to the other party and the Arbitration Coordinator, an extension of time/continuance based on documented unusual and compelling circumstances. The Arbitration Coordinator shall schedule arbitration hearings at times and locations agreed to by the parties, taking into consideration the availability of evidence, location of witnesses, existence of appropriate facilities, and other relevant factors. If agreement cannot be reached, the arbitration hearing shall be held in the City of Tallahassee.

(e) At least fifteen days before the scheduled date of the arbitration hearing, the parties shall file with the arbitrator, and provide to each other, a list of witnesses to be called at the hearing, except rebuttal witnesses, and a brief statement of the material facts or matters relevant to the grievance about which each witness will testify. A party may file a written request with the arbitrator, with a concurrent copy to the other party, for an exception to the filing time limits for good cause. If such exception is granted, the other party may request that the hearing be rescheduled if necessary for the party to respond to the late filed witness information.

(f) Where there is a threshold issue regarding arbitrability, including timeliness, of a grievance raised by either party, an expedited arbitration hearing shall be conducted to address only the arbitrability issue. In such cases, the parties shall choose an arbitrator from the panel of arbitrators (see (6)(c) above), who is available to schedule a hearing and render a decision within 15 days of an arbitrator being chosen for this limited purpose. The hearing on this issue shall be limited to one day, and the arbitrator shall be required to decide the issue within five business days of the hearing. The hearing shall be conducted by telephone upon the agreement of the parties and the arbitrator. The party losing the arbitrability issue shall pay the fees and expenses of the expedited arbitration. If the arbitrator determines that the issue is arbitrable, another arbitrator shall be chosen from the parties' regular arbitration panel in accordance with the provisions of (6)(c) of this Article to conduct a hearing on the substantive issue(s).

(g) The arbitrator may fashion an appropriate remedy to resolve the grievance and, provided the decision is in accordance with his jurisdiction and authority under this Agreement, shall be final and binding on the state, the Union, the grievant(s), and the employees in the bargaining unit. In considering a grievance, the arbitrator shall be governed by the following provisions and limitations:

1. The arbitrator shall issue a decision not later than 22 days from the date of the closing of the hearing or the submission of briefs, whichever is later.

2. The arbitrator's decision shall be in writing, shall be determined by applying a preponderance of the evidence standard, and shall set forth the arbitrator's opinion and conclusions on the precise issue(s) submitted.

3. The arbitrator shall have no authority to determine any other issue, and the arbitrator shall refrain from issuing any statement of opinion or conclusion not essential to the determination of the issues submitted.

4. The arbitrator shall limit the decision strictly to the application and interpretation of the specific provisions of this Agreement.

5. The arbitrator shall be without power or authority to make any decisions:

a. Contrary to or inconsistent with, adding to, subtracting from, or modifying, altering or ignoring in any way, the terms of this Agreement, or of applicable law or rules or regulations having the force and effect of law; or

b. Limiting or interfering in any way with the powers, duties, and responsibilities of the state under its Constitution, applicable law, and rules and regulations having the force and effect of law, except as such powers, duties, and responsibilities have been abridged, delegated, or modified by the expressed provisions of this Agreement; or

c. Which has the effect of restricting the discretion of an Agency Head as otherwise granted by law or the Rules of the State Personnel System unless such authority is modified by this Agreement; or

d. That is based solely upon an agency past practice or policy unless such agency practice or policy is contrary to law, the Rules of the State Personnel System, or this Agreement.

6. The arbitrator's award may include back pay to the grievant(s); however, the following limitations shall apply to such monetary awards.

a. An award for back pay shall not exceed the amount of pay the grievant would otherwise have earned at his regular rate of pay, shall be reduced by the amount of wages earned from other sources or monies received as reemployment assistance benefits during the back pay period, shall not include punitive damages, and shall not be retroactive to a date earlier than 15 days prior to the date the grievance was initially filed.

~~b. If the Union is granted a continuance to reschedule an arbitration hearing over the objection of the agency, the agency will not be responsible for back pay for the period between the original hearing date or the end of the five month period described in (6)(d), above, and the rescheduled date.~~

(h) The fees and expenses of the arbitrator shall be borne solely by the party who fails to prevail in the hearing; however, each party shall be responsible for compensating and paying the expenses of its own representatives, attorneys and witnesses. Should the arbitrator fashion an award in such a manner that the grievance is sustained in part and denied in part, the state and Union will evenly split the arbitrator's fee and expenses. The arbitrator shall submit his fee statement to the Arbitration Coordinator for processing in accordance with the arbitrator's contract.

(i) A party may schedule a stenotype reporter to record the proceedings. Such party is responsible for paying the appearance fee of the reporter. If either party orders a transcript of the proceedings, the party shall pay for the cost of the transcript and provide a photocopy to the arbitrator. The party shall also provide a photocopy of the transcript to the other party upon written request and payment of copying expenses (\$.15 per page).

(j) The Union will not be responsible for costs of an arbitration to which it was not a party.

#### **SECTION 4 – Time Limits**

(A) Failure to initiate or appeal a grievance within the time limits specified shall be deemed a waiver of the grievance.

(B) Failure at any step of this procedure to communicate the decision on a grievance within the specified time limit shall permit the employee, or the Union where appropriate, to

proceed to the next step. A Step 2 or Step 3 answer that is not received by the Union by the written, agreed-to deadline does not alter the time limits for appealing a grievance to the next step.

(C) Claims of either an untimely filing or untimely appeal shall be made at the step in question.

### **SECTION 5 – Exceptions**

(A) Nothing in this Article or elsewhere in this Agreement shall be construed to permit the Union or an employee to process a grievance: (1) on behalf of any employee without his consent, or (2) when the subject of such (employee's) grievance is, at the same time, the subject of an administrative action, an appeal before a governmental board or agency, or a court proceeding.

(B) All grievances will be presented at the Oral Step or Step 1, with the following exceptions:

(1) If a grievance arises from the action of an official higher than the Step 1 Management Representative, the grievance shall be initiated at Step 2 or 3 as appropriate, by submitting a grievance form as set forth in Step 1 within 15 days following the occurrence of the event giving rise to the grievance.

(2) The Union shall have the right to bring a class action grievance on behalf of employees in its own name concerning disputes relating to the interpretation or application of this Agreement. Such grievance shall not include disciplinary actions taken against any employee. The Union's election to proceed under this Article shall preclude it from proceeding in another forum on the same issue. The class action grievance form shall the specific group (i.e., employees' job classification(s), work unit(s), institution(s), etc.) adversely impacted by the dispute relating to the interpretation or application of the Agreement. Such grievance shall be initiated at Step 2 of this procedure, in accordance with the provisions set forth herein, within 15 days of the occurrence of the event giving rise to the grievance.

(C) An employee who has not attained permanent status in his current position, except for those officers who are presently serving a probationary period after having received promotion to a classification in within the bargaining unit, and therefore may be disciplined without a showing of cause, may only file non-discipline grievances, unless the processing of such grievances is further limited by specific provisions of this Agreement.

Article 7  
DISCIPLINE AND DISCHARGE

**SECTION 1 – Disciplinary Action Discipline of Permanent Status Employees**

(A) An employee who has attained permanent status in his current position, or had attained permanent status in his immediately prior position if he was recently promoted and is currently in probationary status in the position to which he was promoted, may be disciplined only for cause as provided in section 110.227, Florida Statutes. Reductions in base pay, demotions, involuntary transfers of more than 50 miles by highway, suspensions, and dismissals may be effected by the state at any time against any employee. Demotion will not be used as a form of disciplinary action for employees in the classes of Correctional Officer, Correctional Probation Officer, Correctional Probation Officer-Institution, or Institutional Security Specialist I.

(1) Such actions against employees with permanent status in their current, or immediately prior position, if the employee was recently promoted and is currently in probationary status in the position to which he was promoted, for disciplinary reasons may be grieved at Step 2 and processed through the Arbitration Step, in accordance with the grievance procedure in Article 6 of this Agreement, if the employee alleges that the action was not for just cause. However, any reduction in base pay required by the Rules of the State Personnel System shall not be grievable.

(2) Written reprimands may be grieved by employees with permanent status in their current, or immediately prior position, if the employee was recently promoted and is currently in probationary status in the position to which he was promoted, up to Step 3; the decision at that level shall be final and binding.

(B) As an alternative to the grievance procedure, an employee with permanent status in his current, or immediately prior position, if the employee was recently promoted and is currently in probationary status in the position to which he was promoted, may file an appeal of a reduction in base pay, demotion, involuntary transfer of over 50 miles by highway, suspension, or dismissal with the Public Employees Relations Commission (PERC) within 21 calendar days after the date of receipt of notice of such action from the agency, by personal delivery or by certified mail, return receipt requested, under the provisions of section 110.227(5) and (6), Florida Statutes.

(C) Where a disciplinary action may be appealed to PERC and is also grievable under this Agreement, the employee shall indicate at the time the grievance is reduced to writing which procedure is to be used and such decision shall be binding on the employee. In the case of any duplicate filing, the action first filed will be the one processed.

(D) For disciplinary suspensions, the following shall apply:

(1) If the agency issues a disciplinary suspension to an employee and the employee files an appeal to PERC in the required 21 calendar days from the date the employee receives the letter, or files a collective bargaining grievance within the time limits set forth in Article 6 of this Agreement, the agency shall have the option to stay the suspension for up to 90 calendar days pending a Recommended or Final Order by PERC, or a decision/award from an arbitrator. If the agency stays the suspension, and PERC has not issued a Recommended or Final Order, or an arbitrator has not rendered a decision/award by the end of the period for which the suspension was stayed, the agency may proceed with the disciplinary suspension.

(2) The agency may have special compensatory leave equal to the length of a disciplinary suspension deducted from an employee's leave balance in lieu of the employee serving the suspension. In making such determination, the agency shall take into consideration the preference of the employee as to serving the suspension or having leave deducted. If the employee does not have sufficient special compensatory leave, annual leave may be deducted. If there is not sufficient special compensatory or annual leave, the remainder of the period will be leave without pay. Employees from whom leave is deducted will continue to report for duty. The employee's personnel file will reflect a disciplinary suspension regardless of whether the employee serves the suspension or has leave deducted.

(E) After a period of three (3) years from the date on which a written reprimand was assessed against an employee, the written reprimand shall no longer be valid and cannot be cited as a basis for subsequent discipline. After a period of five (5) years from the date on which a disciplinary suspension was assessed against an employee, the disciplinary suspension shall no longer be valid and cannot be cited as a basis for subsequent discipline.

## **SECTION 2 — Discipline of Probationary Employees**

~~Pursuant to Section 110.217(2), Florida Statutes, an employee who has not attained permanent status in his current position serves at the pleasure of the agency head in a probationary status and may be dismissed at the discretion of the agency head or designee. Pursuant to Section 110.227(1), Florida Statutes, an agency may discipline or dismiss a probationary employee without a showing of cause.~~

## **SECTION 3 2 – Counseling**

An agency may issue Memoranda of Record, Memoranda of Counseling, or Supervisory Counseling Memoranda which are documentation of minor work deficiencies or conduct concerns that are maintained by a supervisor in a working file. Such documents are not discipline, are not grievable, and shall not become part of the employee's official personnel file; however, such documentation may be used by the state at an administrative hearing involving an employee's discipline to demonstrate the employee was on notice of the performance deficiencies or conduct concerns.

## **SECTION 43 — Interrogation during Internal Investigations**

In the course of any internal investigation, the interrogation methods employed will be

consistent with sections 112.532 and section 112.533, Florida Statutes.

(A) Definitions

For the purpose of this section the following definitions of terms as used in section 112.532, Florida Statutes, shall apply:

(1) "Interrogation" refers to a disciplinary investigation meeting with respect to an incident or complaint between a member of management or supervision, including an investigator, and an employee covered by this Agreement in which the information to be obtained at the investigation meeting will be the basis for the decision as to whether to suspend or dismiss the employee. It does not include counseling sessions, or investigations, which may result in lesser forms of disciplinary action or meetings at which the employee is solely being advised of intended disciplinary action, and offered an opportunity to explain why he should not be disciplined.

(2) "Complainants" refers to the complaining or charging party relative to an incident, complaint, or reason.

(B) Procedures

Whenever an employee covered by this Agreement is under investigation and subject to interrogation by members of his agency for any reason, which could lead to disciplinary action, suspension, demotion, or dismissal, such interrogation shall be conducted under the following conditions:

(1) The interrogation shall be conducted at a reasonable hour, preferably at a time when the employee is on duty, unless the seriousness of the investigation is of such a degree that immediate action is required.

(2) The interrogation shall take place either at the office of the command of the investigating officer or correctional unit in which the incident allegedly occurred, as designated by the investigating officer or agency.

(3) The employee under investigation shall be informed of the rank, name, and command of the officer in charge of the investigation, the interrogating officer, and all persons present during the interrogation. All questions directed to the officer under interrogation shall be asked by and through one interrogator at any one time.

(4) The employee under investigation shall be informed of the nature of the investigation prior to any interrogation, and he shall be informed of the name of all complainants.

(5) Interrogating sessions shall be for reasonable periods and shall be timed to allow for such personal necessities and rest periods as are reasonably necessary for both the employee and the representative.

(6) The employee under interrogation shall not be subjected to offensive

language or be threatened with transfer, dismissal, or disciplinary action. No promise or reward shall be made as an inducement to answer any questions.

(7) The formal interrogation of an employee, including all recess periods, shall be recorded, and there shall be no unrecorded questions or statements. Upon the request of the interrogated officer, a copy of any such recording of the interrogation session must be made available to the interrogated officer no later than 72 hours, excluding holidays and weekends, following said interrogation.

(8) If the employee under interrogation is under arrest, or is likely to be placed under arrest as a result of the interrogation, he shall be completely informed of all his rights prior to the commencement of the interrogation.

(9) At the request of any employee under investigation, he shall have the right to be represented by counsel or any other representative of his choice, who shall be present at all times during such interrogation whenever the interrogation relates to the officer's continued fitness for correctional service.

(10) Where the agency determines that a complaint is unsupported by the facts or is otherwise without merit, or determines that the facts are insufficient to charge or otherwise discipline the employee under investigation, such conclusion will be so noted as part of the investigative record. Written documents relative to the investigation are subject to the provisions of Article 12, Personnel Records.

(11) Where the employee is the subject of the investigation, the employee shall be provided the opportunity to review all written statements made by the complainant and witnesses immediately prior to the beginning of the investigation interview.

(C) Unless required by statute, no employee shall be required to submit to a polygraph test or any device designed to measure the truthfulness of his response during an investigation of a complaint or allegation. If an employee is offered an opportunity to submit to a polygraph test, the employee's refusal will not be referred to in any final action taken by the agency.

(D) Alleged violations of the investigative rights provided for in this section by an employee or the Union shall be investigated by the agency. The agency shall provide the employee and the Union with an explanation concerning the alleged violation and corrective action taken, if any.

(E) The state will make a good faith effort to complete all internal investigations within 60 calendar days from the date the investigation is assigned to the investigator. Except in the case of a criminal investigation, the employee shall be notified in writing of any investigation that exceeds 120 calendar days. The employee under investigation shall be advised of the results of the investigation at its conclusion.

(F) The provisions of this section may be grieved in accordance with Article 6, up to Step 3 of the Grievance Procedure; the decision at that step shall be final and binding.

(G) In cases where the agency determines that the employee's absence from the work location is essential to the investigation and the employee cannot be reassigned to other duties pending completion of the investigation, the employee shall be placed on administrative leave in accordance with Rule 60L-34, Florida Administrative Code. In cases where an employee has been reassigned by the Department of Corrections pending the outcome of an investigation and the charges or allegations against the employee are not sustained, the reassigned employee shall be offered the option to return to the original work location and, if requested, the previously held shift and days off as soon as they become available. As an exception, the Department may retain the employee in the reassigned work location if it determines that information has been produced in the course of its investigation of the charges that evidences a substantial likelihood of interference with the operations of the work unit if the employee is returned to the original work location.

#### **SECTION 5 4 – Employee Copy**

Each employee shall be furnished a copy of all disciplinary entries placed in his official personnel file and shall be permitted to respond thereto, and a copy of the employee's response shall be placed in the employee's personnel file.

#### **SECTION 6 5 – Notice**

Notice of reduction in base pay, demotion, involuntary transfer of more than 50 miles by highway, suspension, or dismissal affecting an employee who has satisfactorily completed at least a one-year probationary period in his current position shall be in accordance with section 110.227(5), Florida Statutes.

#### **SECTION 7 6 – Representation**

Where union representation is requested by an employee during an investigation by the agency Inspector General's Office, or during a predetermination conference, a union steward will be allowed a reasonable amount of accrued leave, other than sick leave, to attend such meetings, subject to prior approval by the steward's immediate supervisor. Such leave will be approved if the steward can be allowed leave without interfering with, or unduly hampering, the operations of the unit to which the steward is regularly assigned. Where an employee is represented by a Union Representative in a predetermination conference, the Union Representative shall be notified of the disposition of the predetermination conference.

**Article 8**  
**WORKFORCE REDUCTION**

**SECTION 1 – Layoffs**

(A) When employees are to be laid off as defined in the Florida Statutes, the state shall implement such layoff in the following manner:

(1) The competitive area for the bargaining unit shall be statewide unless the Department and Union agree otherwise.

(2) Layoff shall be by class or occupational level within the Security Services Bargaining Unit.

(3) An employee who has not attained permanent status in his current position may be laid off without applying the provision for retention rights, unless the employee is serving a probationary period in a position to which he has been newly promoted.

(4) No employee with permanent status in his current position shall be laid off while an employee who does not hold permanent status in his current position is serving in that class or level unless the permanent employee does not elect to exercise his retention rights or does not meet the selective competition criteria.

(5) All employees who have permanent status in their current positions, as well as those employees serving a probationary period in positions to which they have been newly promoted, shall be ranked on a layoff list for the affected class or level based on the total retention points derived as follows:

(a) Length of service retention points shall be based on one point for each month of continuous service in a Career Service position.

1. An employee who resigns from one Career Service position to accept employment in another Career Service position is not considered to have a break in service.

2. An employee who has been laid off and is reemployed within one year from the date of the layoff shall not be considered to have a break in service.

3. Moving from Career Service to Selected Exempt Service or Senior Management Service and back to Career Service does not constitute a break in service unless the employee's break in service is more than 31 calendar days. Only time spent in the Career Service is counted in calculating retention points.

(b) Retention points deducted for performance not meeting performance standards or work expectations defined for the position shall be based on the five

**Teamsters Local Union No. 2011**  
**FY 2016-2017 Proposal**  
**Article 8**  
**11.17.15**

years immediately prior to the agency's established cutoff date. Five points shall be deducted for each month an employee has a rating below performance expectations.

(6) The layoff list shall be prepared by totaling retention points. Employees eligible for veterans' preference pursuant to section 295.07(1)(a) or (b), Florida Statutes, shall have ten percent added to their total retention points, and those eligible pursuant to section 295.07(1)(c) or (d), Florida Statutes, shall have five percent added.

(7) The employee with the highest total retention points is placed at the top of the list, and the employee with the lowest retention points is placed at the bottom of the list.

(8) The employee at the top of the list shall bump the employee at the bottom of the list. The next highest employee on the list and the remaining employees shall be handled in the same manner until the total number of filled positions in the class to be abolished is complete.

(9) Should two or more employees have the same combined total of retention points, the order of layoff shall be determined by giving preference for retention in the following sequence:

(a) The employee with the longest service in the affected class.

(b) The employee with the longest continuous service in the Career Service.

(c) The employee who is entitled to veterans' preference pursuant to section 295.07(1), Florida Statutes.

(10) An employee who has permanent status in his current position, as well as an employee serving a probationary period in position to which he has been newly promoted, ~~and that~~ is to be laid off shall be given at least 14 calendar days' notice of such layoff or two weeks' pay, or a combination of days of notice and pay. Any payment will be made at the employee's current hourly base rate of pay. The notice of layoff shall be in writing and sent to the employee by certified mail, return receipt requested. Within seven calendar days after receiving the notice of layoff, the employee shall have the right to request, in writing, a lateral action, reassignment, or demotion within the competitive area in lieu of layoff to a position in a class within the bargaining unit in which the employee held permanent status, or to a position in a class at the level of or below the class in the bargaining unit in which the employee held permanent status.

(11) An employee's request for lateral action, reassignment, or demotion shall be granted unless it would cause the layoff of another employee who possesses a greater total of retention points.

(12) An employee adversely affected as a result of another employee having a greater number of retention points shall have the same right of lateral action, reassignment or demotion under the same procedure as provided in this section.

(13) If an employee requests a lateral action, reassignment, or demotion in lieu of layoff, the same formula and criteria for establishing retention points for that class shall be used as prescribed in this section.

(B) If there is to be a layoff of employees, the state shall take all reasonable steps to place any adversely affected employees in existing vacancies for which they are qualified.

(C) If work performed by employees in this unit is to be performed by non-state employees, the state agrees to encourage the employing entity to consider any adversely affected unit employees for employment in its organization if the state has been unable to place the employees in other positions within the State Personnel System.

## **SECTION 2 – Job Security**

~~The state shall make a reasonable effort to notify the Union at least 30 days in advance of classes within the bargaining unit that will be involved in a layoff, and of the scheduled closing of a correctional facility or specific unit thereof. Prior to the actual layoff or scheduled closing, the state will meet with the Union to discuss the effect of the lay off on the employees involved.~~

(A) In no event shall any bargaining unit employee who customarily performs the work in question be laid off as a direct and immediate result of the work being performed by any outside contractor on premises of any major institution or probation and parole office.

(B) If the state sells, leases, transfers or assigns any of its functions, the state shall inform the purchaser, lessee or successor of the exact terms of this Agreement and shall make the sale, lease, transfer or assignment conditional on the successor assuming all the conditions and obligations of this agreement, including but not limited to the retention of all employees. Any sale, lease, transfer or assignment shall include a provision requiring the successor to be bound by all the provisions of this agreement until its next expiration date, at which time the successor organization will recognize and negotiate with this union and no other employee organization.

## **SECTION 3 – Recall**

When a vacancy occurs, or a new position is established, laid off employees shall be-recalled in the following manner:

(A) For one year following layoff, when a position is to be filled or a new position is established in the same agency and in the same class within the affected competitive area, a laid off employee with the highest number of retention points shall be offered reemployment; subsequent offers shall be made in the order of an employee's total retention points.

Reemployment of such employees shall be with permanent status in their position. An employee who refuses such offer of reemployment shall forfeit any rights to subsequent placement offers as provided in this subsection.

(B) An employee who ~~has attained permanent status in his current position and~~ accepts a voluntary demotion in lieu of layoff and is subsequently promoted ~~within one year following demotion~~ to a position in the same class in the same agency from which the employee was demoted in lieu of layoff, shall be promoted with permanent status in the position.

#### **SECTION 4 – Grievability**

Under no circumstances is a layoff to be considered a disciplinary action, and in the event an employee elects to grieve the action taken, such grievance must be based upon whether the layoff was in accordance with the provisions of this Article.

**Article 9**

**LATERAL ACTION, REASSIGNMENT, TRANSFER, CHANGE IN DUTY STATION**

Employees who have attained permanent status in their current position and who meet all eligibility requirements shall have the opportunity to request lateral action, reassignment, transfer, or change in duty station to vacant positions within their respective agencies in accordance with the provisions of this Article.

**SECTION 1 – Definitions as used in this Article:**

(A) “Duty station” shall mean the place which is designated as an employee’s official headquarters.

(B) “Change in duty station” shall mean the moving of an employee to a duty station located within 50 miles, by highway, of his current duty station.

(C) “Broadband level” shall mean all positions sufficiently similar in knowledge, skills, and abilities, and sufficiently similar as to kind or subject matter of work, level of difficulty or responsibilities, and qualification requirements of the work, to warrant the same treatment as to title, pay band, and other personnel transactions.

(D) “Lateral action” shall mean the moving of an employee to another position in the same agency that is in the same occupation, same broadband level with the same maximum salary, and has substantially the same duties and responsibilities.

Upon a lateral action appointment, the employee shall retain the status they held in their previous position. If probationary, time spent in the previous position shall count toward completion of the required probationary period for the new position.

(E) “Reassignment” shall mean moving an employee;

(1) to a position in the same broadband level and same maximum salary but with different duties;

(2) to a position in the same broadband level and same maximum salary, regardless of the duties, but to a different agency; or

(3) to a position in a different broadband level having the same maximum salary.

Upon a reassignment appointment, the employee shall be given probationary status. If the reassignment appointment is in conjunction with a legislatively mandated transfer of the position, the employee retains the status held in the position unless the legislature directs otherwise.

(F) “Transfer” shall mean moving an employee from one geographic area of the state to a different geographic location in excess of 50 miles, by highway, from the employee’s current duty station.

(G) “Agency needs” are those actions taken by an agency in order to meet its mission of protecting the public, providing a safe and humane environment for staff and offenders, working in partnership with the community to provide programs and services to offenders, and supervising offenders at a level of security commensurate with the danger they present.

(H) “Major institution” shall mean the main facility under the control of one warden or administrator, and will include the annexes, work camps, release centers, and other satellite/sister facilities under the authority of that main facility.

## **SECTION 2 – Procedures**

(A) An employee who has attained permanent status in his current position may apply for a lateral action, reassignment, transfer, or change in duty station, including shift change, on the appropriate Request Form. Such requests shall indicate county(ies), institution(s), and/or other work location(s) or shift(s) to which the employee would like to be assigned. ~~An employee may only request lateral action, reassignment, transfer, or change in duty station from one major institution to another major institution in his agency.~~ A State of Florida Employment Application Form must be completed and sent with the Request Form, except when requesting a shift change.

(B) An employee may submit a Request Form at any time; however, all such requests shall expire on May 31 of each calendar year. Requests can be filed in May to become effective on June 1.

(C) All Request Forms shall be submitted to the Agency Head or designee who shall be responsible for furnishing a copy of each such request to the manager(s) or supervisor(s) who have the authority to make employee hiring decisions in the work unit to which the employee has requested assignment.

(D) Except where a vacancy is filled by demotion, the manager or supervisor having hiring authority for that vacancy shall give first consideration to employees who have submitted a Request Form; provided, however, that employees whose request is not submitted by the first day of the month shall not be considered for vacancies which occur during that month.

(E) The hiring authority shall normally fill a vacancy with the employee who has the greatest length of service in the broadband level and who has a Request Form on file for the vacancy. The parties agree, however, that other factors, such as employees’ work history and agency needs, will be taken into consideration in making the decision as to whether the employee with the greatest length of service in the broadband level will be placed in the vacant position.

(F) If the employee with the greatest length of service in the broadband level is not selected for the vacant position, all employees who have greater length of service in the broadband level than the employee selected shall be notified in writing of the agency’s decision.

(G) When an employee has been appointed pursuant to a Request filed under this Article, all other pending Requests from that employee shall be canceled. No other request may be filed by the employee under this Article for a period of 12 months following the employee's appointment. If an employee declines an offer pursuant to a Request filed under this Article, the employee's request shall be canceled and the employee will not be eligible to resubmit that request for a period of 12 months from the date the employee declined the offer.

### **SECTION 3 – Involuntary Lateral Action, Reassignment, Transfer, or Change in Duty Station**

(A) Nothing contained in this Agreement shall be construed to prevent an agency, at its discretion, from effecting the involuntary lateral action, reassignment, transfer, or change in duty station of an employee according to the needs of the agency; however, the agency will make a good faith effort to take such actions only when agency needs dictate. The agency will take into consideration the needs and circumstances of the employee prior to taking such action.

(B) In those instances where the Department of Corrections determines that an excessive caseload at a probation office requires the lateral action of an officer, ~~the Department will consider requests from volunteers, employee seniority, and the needs of the agency in making such reassignment.~~ such reassignment shall first be made on a volunteer basis, and next, on the basis of seniority with the least senior officer subject to reassignment.

### **SECTION 4 – Notice**

An employee shall be given a minimum of 14 calendar days' notice prior to the agency effecting any lateral action, reassignment or transfer of the employee. In the case of a transfer, the agency will make a good faith effort to give a minimum of 30 calendar days' notice. The parties agree, however, that these notice requirements shall not be required during an emergency or other extraordinary condition.

### **SECTION 5 – Relocation Allowance**

An employee who is reassigned, transferred, or receives a lateral action and is required by agency policy to relocate his residence shall be granted time off with pay for one workday for this purpose. In addition, the employee shall be granted travel time to the new location based on the most direct route. No employee will be credited with more than the number of hours in the employee's regular workday and such time shall not be counted as hours worked for the purpose of computing compensatory time or overtime.

### **SECTION 6 – Grievability**

The provisions of this Article shall not be subject to the grievance procedures of Article 6 of this Agreement; however, an employee complaint concerning improper application of the provisions of Section 2(D) and (E), Section 3, Section 4, and Section 5 may be grieved in accordance with Article 6, up to and including Step 3 of the grievance procedure. In considering such complaints, weight shall be given to the specific procedures followed and decisions made,

along with the needs of the agency.

**Article 10  
PROMOTIONS**

(A) The state and the Union agree that promotions should be used to provide career mobility within the State Personnel System and should be based on the relative merit and fitness of applicants.

(B) Toward the goals of selecting the most qualified applicant for each promotional vacancy, the parties agree that the provisions of this Article, along with all provisions of the Rules of the State Personnel System, will be followed when making such appointments.

**SECTION 1 – Definitions**

As used in this Article:

(A) “Broadband level” shall mean all positions sufficiently similar in knowledge, skills, and abilities, and sufficiently similar as to kind or subject matter of work, level of difficulty or responsibilities, and qualification requirements of the work, to warrant the same treatment as to title, pay band, and other personnel transactions.

(B) “Promotion” shall mean changing the classification of an employee to a broadband level having a higher maximum salary; or the changing of the classification of an employee to a broadband level having the same or a lower maximum salary but a higher level of responsibility.

(C) “Demotion” shall mean changing the classification of an employee to a broadband level having a lower maximum salary; or the changing of the classification of an employee to a broadband level having the same or a higher maximum salary but a lower level of responsibility.

**SECTION 2 – Procedures**

(A) An employee who has attained permanent status in his current position may apply for a promotion by submitting a Request for Promotion Form furnished by the agency in which the promotional position is located, to be considered for promotional vacancies. Such requests shall indicate the class(es)/broadband level(s), county(ies), institution(s), and/or other work locations to which the employee would like to be promoted. A State of Florida Employment Application Form must be completed and sent with the employee’s request for promotion.

(B) An employee may submit a request for promotion at any time; however, all such requests shall expire on May 31 of each calendar year.

(C) When an employee has been promoted pursuant to a request filed under this Article all other pending requests for promotion from that employee shall be canceled. No other requests for promotion may be filed by that employee under this Article for a period of 12 months following the employee’s promotion.

### **SECTION 3 – Method of Filling Vacancies**

(A) Except where a vacancy is filled by demotion, lateral action, or reassignment as defined in Article 9 of this Agreement, employees who have applied for promotion in accordance with Section 2 of this Article shall be given first consideration for promotional vacancies in accordance with the agencies' standard selection process.

(B) Each employee who applies in accordance with Section 2 of this Article will be notified in writing by the appointing authority when the position has been filled.

(C) The standard selection process for filling Correctional Officer and Correctional Probation Officer promotional vacancies shall be as provided for in Department of Corrections Procedure Number 208.005. The standard selection process for filling institutional security specialist promotional vacancies covered by this Agreement shall ~~continue in effect during the term of this Agreement.~~ shall mirror Department of Corrections Procedure Number 208.005.

### **SECTION 4 – Status**

(A) An employee appointed to a position, including a position to which the employee has been promoted, must successfully complete at least a one-year probationary period before attaining permanent status in the position. Except for an employee who is serving a probationary period based in conjunction with an internal agency promotion, an employee who has not attained permanent status in his current position serves at the pleasure of the agency head and may be dismissed at the discretion of the agency head.

(B) If an employee who has received an internal agency promotion from a position in which the employee held permanent status is to be dismissed from the promotional position for failure to meet the established performance standards of the promotional position while in probationary status, the agency, before dismissal, shall return the employee to his or her former position, or to a position with substantially similar duties and responsibilities as the former position, if such a position is vacant. ~~An agency's actions in removing or dismissing an employee from a probationary position to which the employee has been promoted from a position in which the employee held permanent status are governed by the provisions of Section 110.217(3), Florida Statutes, and, pursuant to this statutory provision, are not grievable.~~

### **SECTION 5 – Relocation Allowance**

An employee who is promoted and required by agency policy to relocate his residence shall be granted time off with pay for one workday for this purpose. In addition, the employee shall be granted travel time to the new location based on the most direct route. No employee will be credited with more than the number of hours in the employee's regular workday and such time shall not be counted as hours worked for the purpose of computing compensatory time or overtime.

### **SECTION 6 – Grievability**

(A) The provisions of this Article may be grieved in accordance with Article 6, up to and including Step 3 of the Grievance Procedure, which decision shall be final and binding.

(B) If the Step 3 authority in the Department of Management Services determines that the standard selection process was not followed in filling a promotional vacancy, he shall have the authority,

among other remedies, to order that the promotion be rescinded and direct that the promotion be conducted in accordance with the standard selection process.

**Article 13**  
**SAFETY**

**SECTION 1 – Safety Committee**

(A) It shall be the policy of the state to make every reasonable effort to provide employees a safe and healthy working environment.

(B) Where management has created a safety committee in a state-controlled facility, the employees shall select at least one person at the facility to serve on such committee.

(C) Where management has not established a safety committee both the state and Union shall work toward the establishment of one in each state-controlled facility.

**SECTION 2 – Employee Safety**

(A) An employee who becomes aware of a work-related accident shall immediately notify the supervisor of the area where the incident occurred.

(B) When an employee believes that an unsafe working condition exists in the work area, the employee shall immediately report the condition to the supervisor. The supervisor shall investigate the report and make a reasonable effort to take action deemed appropriate.

(C) The state expressly agrees to abide by the terms of Chapter 287, Part II, Florida Statutes and Chapter 60B-1, Florida Administrative Code, with regard state-owned vehicles.

(D) The Department of Corrections agrees to abide by the terms of Procedure Number 604.201, including Specific Procedures 604.201(1)(c), under “Procurement of Vehicles,” 604.201(4), “Use and Control of Vehicles,” and 604.201(5), “General, Emergency, Major Repairs, and Preventative and Essential Maintenance,” which are fully incorporated herein by reference.

(E) Maintaining adequate security staffing levels is critically important to the safety of officers working in the Department’s correctional institutions and satellites. Under no circumstances will any shift, defined for use in this Paragraph as an employee’s regular daily work period, begin below Level I staffing or be allowed to go below this level except in rare cases of extreme emergency.

1. The Union has the right to raise and discuss issues of security staffing levels and/or the applicable region’s (or regions’) current DC6-292, but only with regard to impact of staffing levels on employee safety.

2. No employee in the bargaining unit covered by this Agreement shall be retaliated against or disciplined for reporting a concern about the adequacy of security staffing levels and his institution.

(F) The parties acknowledge and agree that all safety equipment, including but not limited to bulletproof vests and radios, provided to the bargaining unit members by the state must be properly maintained and in good working order.

### **SECTION 3 – Grievability**

Complaints which arise under the application or interpretation of this Article shall be grievable, but only up to Step 3 of the grievance procedure of the Agreement, with the exception of complaints arising under the application or interpretation of Section 2(C)-(F) of this Article. Those complaints which arise in regard to the application or interpretation of Section 2(C)-(F) of this Article shall be subject to the entirety of the grievance and arbitration procedure in Article 6 of this Agreement.

### **SECTION 4 – Communicable Diseases**

(A) In institutions, centers, and units in which inmates and/or patients with AIDS or other communicable diseases are isolated due to their condition, employees entering such areas shall have such protective wear and equipment made available to them as is made available to health care employees working in that area.

(B) Employees shall not be required to handle, examine, or test materials from the human body of inmates, offenders, or clients under their supervision except in accordance with the rules and regulations of the agency regarding the handling and testing of such materials.

(C) The agencies shall make available to employees a procedure to screen for tuberculosis (PPD SKIN TEST). Alternatively, the employee may at his own cost, have such test performed by a private physician and provide the results of the test to the agency.

### **SECTION 5 – Correctional Probation Officer Safety**

Correctional probation officers, upon the approval of their immediate supervisor, shall be provided with the following safety equipment: bulletproof vest, hand-held radio, or a cellular telephone. An officer who is certified to carry a firearm, and chooses to carry, may be authorized to carry a firearm his department approved weapon while on duty. When carrying inside the probation and parole office the firearm shall, at all times, be concealed on the officer's person or secured in the official office lock-box immediately upon entering the probation and parole office.

## **SECTION 6 – Personal Weapons**

(A) The Department of Corrections may, upon written request, provide weapons lockers to employees who are also employed outside the Department as an auxiliary police officer or deputy and are required to carry these weapons to perform their duties.

(B) The Department of Corrections authorizes employees to carry one handgun to work in private vehicles and park such vehicles on the department grounds provided the handgun is secured in the vehicle and maintained in a standard handgun lockbox in accordance with the following:

(1) Only one handgun per vehicle/per lockbox.

(2) The handgun must be stored in a lockbox that is designed to hold a handgun and can be locked; an empty ammunition box or metal coin box, or a glove compartment are not lockboxes for this purpose.

(3) The doors and windows of the vehicle must lock if the lockbox is kept in the cab of the vehicle. If the cab of the vehicle can be accessed from the trunk, the trunk must lock. The trunk must be locked at all times.

(4) The lockbox cannot be placed in a metal toolbox on a truck.

(5) For convertibles, the lockbox must be placed in the trunk. If the vehicle is a Jeep or similar vehicle, with no top and no trunk, the officer cannot carry a handgun.

(C) Only the ammunition necessary to load the handgun to capacity will be allowed in the lockbox. It is the officer's choice whether the handgun is loaded or the ammunition is separate, but both must be in the lockbox and locked.

(D) At no time will the employee leave the vehicle unlocked while the handgun is in the vehicle and parked on state grounds.

## **Article 22**

### **JOB-CONNECTED DISABILITY**

#### **SECTION 1 -Section 440.15, Florida Statutes, Full-Pay Status**

(A) An employee who sustains a job-connected disability and meets the eligibility requirements, as provided for in section 440.15, Florida Statutes, may be carried in full-pay status.

(B) Any claim by an employee or the Union concerning this section shall not be subject to the grievance procedure of this Agreement.

#### **SECTION 2 -Rule 60L-34, Florida Administrative Code, Disability Leave with Pay**

(A) An employee who sustains a job-connected disability which is not covered by Section 1 above, is eligible for disability leave with pay under the provisions of Rule 60L-34, Florida Administrative Code. The Agency Head or designee shall not unreasonably refuse to submit a request to carry an employee in full-pay status under the provisions of Rule 60L-34, Florida Administrative Code provided, however, the Secretary of the Department of Management Services or designee shall have the right to determine whether an employee should be carried in full-pay status for more than 26 weeks.

(B) An employee shall not be required to use accrued compensatory or annual leave in order to be eligible to be carried in full-pay status under Rule 60L-34, Florida Administrative Code. However, no employee shall be carried in full-pay status until he has utilized 100 hours of accumulated sick leave, annual leave, compensatory leave, or leave without pay.

#### **SECTION 3 -Alternate Duty**

(A) Where an employee is eligible for disability leave with pay under the Rules of the State Personnel System as a result of an injury in the line of duty, and is temporarily unable to perform his normal work duties, the Agency Head or designee shall give due consideration to any request by the employee to be temporarily assigned duties within the employee's medical restrictions. This assignment shall have no effect on the agency's ability to make a different assignment based upon current medical opinion.

(B) Where an employee suffers an injury in the line of duty, and is permanently unable to perform his normal work duties, the Agency Head or designee shall attempt to reasonably accommodate any written request by the employee to be assigned duties in a different vacant classification within the employee's medical restrictions.

(C) A complaint concerning this Section may be grieved in accordance with Article 6 of this Agreement up to and including Step 3. The decision of the Department of Management Services shall be final and binding on all parties.

**Article 23  
HOURS OF WORK/OVERTIME**

**SECTION 1 – Hours of Work and Overtime**

(A) The normal workweek for each full-time employee shall be 40 hours unless the employee is on an agency-established extended work period. Except for emergency circumstances, the normal work day is eight hours or 12 hours; the normal workday for Department of Corrections' employees assigned to public or Department of Transportation work squads is ten hours. The parties agree that the issue of the hours in a normal work day may be a subject of negotiation at any time during the term of this agreement.

(B) Management retains the right to schedule its employees; however, the state will make a good faith effort, whenever practical, to provide employees with consecutive hours in the workday and consecutive days in the workweek.

(C) Work beyond the normal workweek shall be recognized in accordance with provisions of Rule 60L-34, Florida Administrative Code.

(D) Management retains the right to approve time off for its employees. However, the state will make a good faith effort, whenever practical, to approve an employee's specific request for time off. Failure to approve such requests shall not be grievable under the provisions of Article 6 of this Agreement.

(E) The state agrees that the assignment of overtime is not to be made on the basis of favoritism. In any case where an employee has reason to believe that overtime is being assigned on the basis of favoritism, the employee shall have the right to the grievance procedure under Article 6 herein, to Step 3 of the procedure.

(F) Absent a compelling need, an employee who is regularly scheduled to work 12 hour shifts shall not be required to work an extended workday of more than 16 continuous hours. Upon working an extended workday, the employee shall be given a minimum of eight hours between shifts before returning for his next shift (whether scheduled or unscheduled).

**SECTION 2 – Work Schedules, Vacation and Holiday Schedules**

(A) When regular work schedules are changed, employees' normal work schedules, showing each employee's shift, workdays, and hours, will be posted no less than 14 calendar days in advance, and will reflect at least a two workweek schedule; however, the state will make a good faith effort to reflect a one month schedule. In the event an employee's shift, workdays or

hours are changed while the employee is on approved leave, the agency will make a good faith effort to notify the employee of the change at his home. With prior written notification of at least three workdays to the employee's immediate supervisor, employees may agree to exchange days or shifts on a temporary basis. If the immediate supervisor objects to the exchange of workdays or shifts, the employee initiating the notification shall be advised that the exchange is disapproved.

(B) For shifts, and shift changes the following shall apply:

(1) In the Department of Children and Families where practical, shifts, shift changes, and regular days off shall be scheduled with due regard for the needs of the agency, seniority, and employee preference. The state and the Union understand that there may be times when the needs of the agency will not permit such scheduling; however, when an employee's shift and/or regular days off are changed, the agency will make a good faith effort to keep the employee on the new shift or regular days off for a minimum of 12 months unless otherwise requested by the employee.

(2) For the Department of Corrections, shifts, shift changes, and regular days off shall be scheduled primarily to meet the needs of the agency, with due regard for employee seniority, work history, and preference. Management is responsible for the assignment to and from administrative shift positions. The Department of Corrections, whenever practical, will try to offset an officer's additional work hours in conjunction with his regular days off.

(C) When an employee is not assigned to a rotating shift and the employee's regular shift assignment is being changed, the state will schedule the employee to be off work for a minimum of two shifts between the end of the previous shift assignment and the beginning of the new shift assignment.

(D) Where practical, vacation and holiday leave shall be scheduled at least 60 days in advance of such leave. Time off for vacations and holidays, when the holiday is a regularly scheduled workday for the employee, will be scheduled with due regard for the needs of the agency, seniority, and employee preference. In implementing this provision, nothing shall preclude an agency from making reasonable accommodations for extraordinary leave requests as determined by the agency, or ensuring the fair distribution of leave during holidays. For the Department of Corrections, annual leave requests and approvals for correctional officers shall be in accordance with procedure 602.030.

(E) Correctional probation officers (excluding community control officers) who carry a regular caseload may be required to work a maximum of 16 hours per month outside the normal 8 a.m. to 5 p.m., Monday through Friday schedule. The 16 hours may be broken down into no less than two-hour or more than eight-hour segments. Officers may schedule their field time in the morning, evening, Saturday or Sunday, or in any combination thereof. Officers may also volunteer to schedule more than 16 hours of field work in a month. Officers must receive prior approval from their supervisor before implementing their work schedule.

(F) A complaint concerning this Section may be grieved in accordance with Article 6

of this Agreement up to and including Step 3. The decision of the Step 3 Management Representative shall be final and binding on all parties.

### **SECTION 3 – Rest Periods**

(A) No supervisor shall unreasonably deny an employee a 15 minute rest period during each four hour work shift. Whenever possible, such rest periods shall be scheduled at the middle of the work shift. However, it is recognized that many positions have a post of duty assignment that requires coverage for a full eight-hour shift, which would not permit the employee to actually leave his post. In those cases, it is recognized that the employee can “rest” while the employee physically remains in the geographic location of his duty post.

(B) An employee may not accumulate unused rest periods, nor shall rest periods be authorized for covering an employee’s late arrival on duty or early departure from duty.

### **SECTION 4 – Court Appearances**

If a correctional officer or institutional security specialist is subpoenaed to appear as a witness in a job-related court case, not during the employee’s regularly assigned shift, the correctional officer or institutional security specialist shall be granted a minimum of two hours pay at his straight-time hourly rate. In all other respects, such appearances shall be governed by the provisions of Rule 60L-34, Florida Administrative Code.

### **SECTION 5 – Non-Required Work Time**

Employees shall not be required to volunteer time to the state.

### **SECTION 6 – Special Compensatory Leave**

(A) Earning of Special Compensatory Leave Credits. Special compensatory leave credits may be earned only in the following instances:

(1) By an employee in the career service for work performed on a holiday as defined in section 110.117, Florida Statutes, or for work performed during a work period that includes a holiday, as provided by the Rules of the State Personnel System.

(2) For work performed in the employee’s assigned office, facility, or region which is closed pursuant to an Executive Order of the Governor or any other disaster or emergency condition in accordance with Rule 60L-34.0071, F.A.C.

(B) General Provisions for Using Special Compensatory Leave Credits in Accordance with Rule 60L-34.0044, F.A.C.

(1) Employee Leave Requests. An employee shall be required to use available special compensatory leave credits prior to the agency approving the following leave types:

(a) Regular compensatory leave credits.

(b) Annual leave credits, unless such annual leave credits are being substituted for an employee's unpaid individual medical leave granted in accordance with the federal Family and Medical Leave Act (FMLA), or family medical leave or parental leave granted in accordance with section 110.221, F.S., the FMLA, or both.

(2) Compelled Use of Special Compensatory Leave Credits. An employee may be required to reduce special compensatory leave credit balances.

(C) Special Compensatory Leave Credits Earned Prior to November 1, 2014 During the November 1, 2014 through October 31, 2015 "Pay As You Go" Pilot.

Pursuant to the provisions of the January 15, 2014 through June 30, 2015 collective bargaining agreement's Fiscal Year 2014-15 Reopener Agreement [Appendix E, Article 23, Section 6(B)], special compensatory leave credits earned on or after November 1, 2014 through April 30, 2015, and on or after May 1, 2015 through October 31, 2015, that remain unused at the end of each extension period (October 27, 2015 and April 28, 2016, respectively) shall be paid.

(D) Special Compensatory Leave Earned On or After November 1, 2015.

(1) Special compensatory leave credits earned, as described in subsection (A)(1), on or after November 1, 2015, which are not used each year by the April 30 or October 31 that immediately succeeds the work period in which the leave is credited, whichever date occurs earlier, shall be paid at the employee's current regular hourly rate of pay.

(2) Special compensatory leave credits earned, as described in subsection (A)(2), on or after November 1, 2015, which are not used within 120 calendar days from the end of the work period in which the leave is credited shall be paid at the employee's current regular hourly rate of pay.

(3) Each agency shall schedule employees earning special compensatory leave credits in a manner that allows all such leave credits earned on or after November 1, 2015, to be used within the time limits specified in subsections (D)(1) and (D)(2). However, if scheduling such leave within such time limits would prevent the agency from meeting minimum staffing requirements needed to ensure public safety, the special compensatory leave remaining at the end of each time limit shall be paid at the employee's current regular hourly rate of pay.

(E) Pay Provision for Special Compensatory Leave.

(1) Upon separation from the Career Service, an employee shall be paid only for the following unused special compensatory leave credits:

(a) Special compensatory leave credits earned prior to July 1, 2012 (Leave Type 0055);

(b) Special compensatory leave credits earned from July 1, 2012 through October 31, 2014 that were restored to the Pre 7/2012 leave balance (Leave Type 0055); and

(c) Special compensatory leave credits earned after November 1, 2015 that have not yet been paid pursuant to Section 6(D)(3) of this Article.

(2) Such credits shall be paid at the employee's current regular rate of pay.

### **SECTION 7 – Compulsory Disability Leave**

An agency may require an employee to use earned leave credits to cover the period between the agency's determination that the employee may be unable to perform assigned duties and the results of an agency-ordered medical examination. The medical examination shall be in accordance with the provisions of Rule 60L-34, Florida Administrative Code. If the medical examination confirms that the employee is able to perform assigned duties, any earned leave required to be used by the employee prior to the results of the medical examination shall be restored. If the employee is placed in non-pay status due to a lack of earned leave credits, the employee may be paid as if he had worked; however, requests for such payment shall be considered by the agency on a case-by-case basis.

**Article 24**  
**ON-CALL ASSIGNMENT AND CALL-BACK**

**SECTION 1 – On-Call**

“On-call” assignment shall be as defined in Rule 60L-32, Florida Administrative Code.

**SECTION 2 – On-Call Additive**

(A) When approved as provided herein, an employee who is required to be on-call shall be paid an on-call additive in an amount of one dollar (\$1.00) per hour for the hour(s) such employee is required to be on-call pursuant to Rule 60L-32.0012(2)(b), F.A.C.

(B) An employee who is required to be on-call on a Saturday, Sunday, or holiday as listed in section 110.117(1), Florida Statutes, shall be paid an on-call additive in an amount per hour equal to one-fourth of the statewide hourly minimum for the employee’s paygrade the hour(s) such employee is required to be on-call pursuant to Rule 60L-32.0012(2)(b), F.A.C.

(C) On-call assignments in Community Corrections shall be assigned first on a voluntary basis. If there are no volunteers for the on-call assignment, it will then be assigned based on a rotating list.

**SECTION 3 – Call-Back**

(A) When an employee who has been placed on-call in accordance with Section 1 above, is called back to the work location to perform assigned duties, the employee shall be credited for actual time worked, or a minimum of two hours whichever is greater. If the officer in charge determines the officer is no longer needed, the officer will be given the option of leaving or working up to three hours. The rate of compensation shall be in accordance with the Rules of the State Personnel System.

(B) For employees assigned GPS (Global Positioning System) monitoring duties, time spent waiting from an initial call of a GPS violation until the GPS violation has been cleared will be considered time worked, up to a maximum of 15 minutes for each separate incident. While the statewide average to clear a call is 12 minutes, occasionally a call may take longer than 15 minutes to clear. Should this situation occur, the employee may request through their chain of command that the additional waiting time be considered time worked. Such requests shall be considered on a case-by-case basis. This wait time will be counted toward any overtime calculation. During the term of the contract the parties agree to meet and discuss GPS monitoring duties if the Union has any concerns with the program.

**Article 25**  
**WAGES**

**SECTION 1 – ~~General Pay Provisions~~ Wage Increase for Fiscal Year 2016-2017**

(A) Effective October 1, 2016, each full-time employee shall receive a competitive pay adjustment of three (3) percent to the employee’s September 30, 2016 base rate of pay (exclusive of any pay additives).

(B) Effective October 1, 2016, each full-time employee, who has been employed by the Agency for at least three (3) years (as of September 30, 2016), but no more than five (5) years (as of September 30, 2016), shall receive a competitive pay adjustment of three (3) percent to the employee’s September 30, 2016 base rate of pay (exclusive of any salary additives), in addition to the three (3) percent competitive pay adjustment set forth in Section 1(A) immediately above.

(C) Effective October 1, 2016, each full-time employee, who has been employed by the Agency for more than five (5) years (as of September 30, 2016), shall receive a competitive pay adjustment of five (5) percent to the employee’s September 30, 2016 base rate of pay (exclusive of any salary additives), in addition to the three (3) percent competitive pay adjustment set forth in Section 1(A) immediately above, to address wage compression.

Agencies’ authority to provide increases to employees’ base rate of pay and salary additives from available agency funds shall be in accordance with this Agreement, state law, and the Fiscal Year 20156-20167 General Appropriations Act.

**SECTION 2 – ~~Other Pay Provisions~~ Pay Additives – Department of Corrections**

Pursuant to Florida Statute Section 110.2035, Chapter 60L-32, Florida Administrative Code, and the Fiscal Year 2016-2017 General Appropriations Act, the Department of Corrections shall provide the following career service pay additives:

(A) Competitive Area Differential and Critical Market Pay, Florida Statute Section 110.2035(7)(a)(8)-(9): a 15% increase in each employee’s base rate of pay for all employees who work in Palm Beach, Broward, Dade and Monroe Counties. A 10% increase in each employee’s base rate of pay for all employees who work in Charlotte, Orange, Hillsborough, Pasco, Martin and St. Lucie Counties.

(B) Shift Differential, Florida Statute Section 110.2035(7)(a)(1): a 5% increase in an employee’s base rate of pay applicable to all hours worked between the hours of 6:00 pm and 6:00 am.

(C) Hazardous Duties and/or Temporary Special Duties – general, Florida Statute Section 110.2035(7)(a)(3),(5): a 5% increase in each employee’s base rate of pay for all employees who members of the Canine Tracking Team, the Crisis Negotiation Team (“CNT”), and the Crisis Intervention Team (“CIT”); a 7% increase in each employee’s base rate of pay for all employees who are assigned to Mental Health Units; a 7% increase in each employee’s base

rate of pay for all employees who are assigned to Close Management; a 5% increase in each employee's base rate of pay who are assigned to work with youthful offenders. Employees who are members of the Correctional Emergency Response Team ("CERT") and the Rapid Response Team ("RRT") shall continue to receive additional pay at the amount currently received.

### **SECTION 2 3 – Other Pay Provisions – Department of Corrections**

The following provisions shall apply to all appointments of Department of Corrections' employees to positions allocated to classifications or broadband levels listed in Appendix A of the Agreement, regardless of whether the appointee is a newly-hired employee or currently employed in another class series or occupational level in the State Personnel System. The pay grades and rates of pay shall be determined in accordance with the Schedule of Salary Ranges of the Career Service Pay Plan. An employee receiving an original, promotion, reassignment, transfer, or demotion appointment shall have a base rate of pay equal to an amount within the pay range, subject to the following:

#### **(A) Initial Appointment**

The following shall apply to all employees who are appointed to a position with probationary status:

#### **(1) Persons appointed to a position prior to being certified by the Criminal**

Justice Standards and Training Commission will be employed at a biweekly base rate of pay at the established trainee rate 10% below the minimum for the class or broadband level to which the appointment is made.

(2) Upon being certified by the Criminal Justice Standards and Training Commission, the employee shall be placed at the minimum of the appropriate pay grade for the class or broadband level to which appointed, effective the date of certification. Appointments above the minimum may be approved by the Agency Head or designee.

(3) Persons holding a current Certificate of Completion for basic recruit training issued by the Criminal Justice Standards and Training Commission at the time of appointment will have their biweekly base rate of pay established at the minimum of the pay grade for the class or broadband level to which the appointment is made.

(4) The probationary period shall be 12 months for any employee appointed to a position with probationary status.

(5) Time spent as a trainee prior to receiving a Certification of Completion shall not be counted toward completion of the probationary period.

#### **(B) Pay upon Promotion Appointment**

When promoted the employee shall receive a minimum of five percent (5%) above the employee's base rate of pay in the lower class or broadband level, contingent upon funds being available, or to the minimum of the higher pay grade, whichever is greater at the time of promotion. As an exception, when the employee is demoted and subsequently promoted back to the former classification or broadband level, or to a classification assigned to the same broadband level in the Security Services Unit, within the succeeding 12 months, the employee shall receive the same rate of pay upon promotion as was received immediately prior to demotion. The Agency Head may, at his discretion, grant the employee up to an additional five percent (5%) at the time of promotion. In no case shall the employee be paid below the minimum for the class or broadband level.

(C) Pay upon Demotion Appointment

When demoted the employee's biweekly base rate of pay in the lower class or broadband level shall be determined in accordance with the following:

(1) If the employee is demoted before satisfactorily completing the probationary period for the current position and attaining permanent status, the employee's base rate of pay in the lower class/broadband level shall be determined in the same manner as an initial appointment.

(2) If the employee attained permanent status in a bargaining unit position prior to promotion, and is demoted before satisfactorily completing the probationary period for the higher class/broadband level, the employee's base rate of pay shall be reduced to the amount the employee was being paid when promoted.

(3) If the employee is demoted after satisfactorily completing the probationary period for the higher class/broadband level, the employee's base rate of pay shall be reduced to the amount the employee was being paid when promoted. The employee's pay in the lower pay grade shall be at the discretion of the Agency Head or designee. Normally, the employee's base rate of pay will be reduced to the same amount the employee was paid when promoted. However, in no case shall the employee's base rate of pay in the lower class/broadband level exceed the employee's base rate of pay in the higher class/broadband level, nor shall the employee be placed at an amount within the lower pay grade which is less than the employee was being paid at the time of the promotion.

**SECTION 3 4 – Deployment to a Facility or Area Closed due to Emergency**

In accordance with the authority provided in the Fiscal Year 2015-2016 General Appropriations Act, contingent on the availability of funds and at the Agency Head's discretion, each agency is authorized to grant a temporary special duties pay additive of up to 15 percent of the employee's base rate of pay to each employee temporarily deployed to a facility or area closed due to emergency conditions from another area of the state that is not closed.

**SECTION 4 5 – Cash Payout of Annual Leave**

Permanent Career Service employees may be given the option of receiving up to 24 hours of unused annual leave each December in the form of a cash payout subject to, and in accordance with, section 110.219(7), Florida Statutes.

**SECTION 5 – Performance Pay**

~~———— In accordance with the authority provided in the Fiscal Year 2015-2016 General Appropriations Act, and from existing agency resources, each agency is authorized to grant merit pay increases based on the employee’s exemplary performance, as evidenced by a performance evaluation conducted pursuant to Rule 60L-35, Florida Administrative Code.~~

**SECTION 6 – Savings Sharing Program**

An employee or groups of employees may be eligible for monetary awards for ideas or programs that result in a cost saving to the state, pursuant to section 110.1245(1), Florida Statutes.

**SECTION 7 – Discretionary Raises**

~~———— In accordance with the authority provided in the Fiscal Year 2015-2016 General Appropriations Act, contingent on the availability of funds and at the Agency Head’s discretion, each agency is authorized to grant competitive pay adjustments to address retention, pay inequities, or other staffing issues.~~

**Article 32**  
**ENTIRE AGREEMENT**

**SECTION 1 – Agreement**

(A) This Agreement supersedes and cancels all prior practices and agreements, whether written or oral, unless expressly stated to the contrary herein, and constitutes the complete and entire agreement between the parties, and concludes collective bargaining for its term.

(B) The parties acknowledge that during the negotiations which resulted in this Agreement, each had the unlimited right and opportunity to make demands and proposals with respect to any subject or matter not removed by law from the area of collective bargaining, and that the understandings and agreements arrived at by the parties after the exercise of that right and opportunity are set forth in this Agreement.

(C) The state and the Union, for the duration of this Agreement, each voluntarily and unqualifiedly waives the right, and each agrees that the other shall not be obligated, to bargain collectively with respect to any subject or matter referred to, or covered in this Agreement, even though such subjects or matters may not have been within the knowledge or contemplation of either or both of the parties at the time they negotiated or signed this Agreement.

**SECTION 2 – Memorandum of Understanding/Settlements**

The parties recognize that during the term of this Agreement, situations may arise which require terms and conditions not specifically and clearly set forth in the Agreement to be clarified or amended. Under such circumstances, the Union is specifically authorized by employees to enter into the settlement of grievance disputes or memorandums of understanding which clarify or amend this Agreement without having to be ratified by employees. Each memorandum of understanding shall be effective for the time period specified in the particular memorandum of understanding.



# FLORIDA POLICE BENEVOLENT ASSOCIATION, INC.

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*The Voice of Florida's Law Enforcement Officers*

December 1, 2015

VIA ELECTRONIC MAIL

Senator Alan Hays, Co-Chair  
Representative Charles Van Zant, Co-Chair  
Joint Select Committee on Collective Bargaining  
Governmental Oversight and Accountability Committee  
404 South Monroe Street  
Tallahassee, Florida 32399

**Re: Collective Bargaining Proposal of PBA for Lottery Law Enforcement Unit**

Dear Senator Hays and Representative Van Zant:

Attached you will find the wage proposal submitted by the Florida Police Benevolent Association, Inc., to the Florida Lottery covering the law enforcement bargaining unit represented by the Florida PBA. This is a new (recertified) bargaining unit.

As an examination of the impasse letter from the Lottery's chief negotiator indicates, the Lottery and the PBA are at impasse on the issue of wages and several other agency-related issues. The Florida PBA is seeking to have the Lottery special agents treated in the same manner as other state law enforcement officers in this year's wage proposal.

In order to assist you in resolving the impasse, the Florida PBA offers the following information and comments:

## CONTACT PERSONS

Information relating to the PBA proposals and the reasons for such proposals available from two primary contact persons: (a) PBA Executive Director, Matt Puckett, [matt@flpba.org](mailto:matt@flpba.org), and (b) PBA General Counsel, Hal Johnson, [hal@flpba.org](mailto:hal@flpba.org).

## WAGES (Article 22)

As previously stated, the Florida PBA's wage proposal is identical with the proposals of the Florida PBA for its other units.

**The overall intent of the proposal continues to be to establish a cohesive pay system which ensures the wages are competitive and fair, and further provides an equitable pay differentiation in salaries for qualified officers who participate in a program of career development and enhancement of professional skills.**

The proposal has two important components: (a) a special base salary adjustment of five percent (5%) for all state law enforcement personnel designed to enhance the competitiveness of such salaries, and (b) establishment of a career development program for the State's law enforcement personnel and educational/professional training criteria designed to provide the state with more highly qualified officers.

The proposed program and its costs (for law enforcement) are explained in an attachment to this correspondence. The program, which will require legislative approval for implementation, has been pre-filed as House Bill 621.

### OTHER PROPOSALS

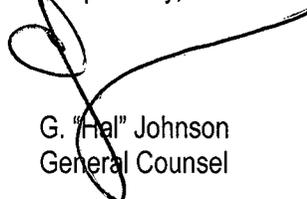
The Florida PBA has submitted several items for consideration by the Lottery that involve matters that are unique to it. These items include on-call fees, call-back and department vehicles. Under the circumstances, they need to be worked-through with the Lottery.

Thank you for your consideration of the Florida PBA's bargaining proposals. We ask again that you please give serious consideration to granting all your law enforcement personnel a wage adjustment that reflects their dedication and service to the citizens of Florida. The Florida PBA believes all its proposals have merit and are fully justified. It will continue to work with the Lottery and its representatives in an effort to achieve agreement on those proposals.

**Finally, the Florida PBA is fully prepared to address any questions either the Florida Legislators, members of the Joint Select Committee or legislative staff may have regarding its contract proposals and its law enforcement career development plan. It believes this is best accomplished on a face-to-face basis. Thus, it waives its appearance before the Joint Select Committee on December 4, 2015.**

Thank you.

Respectfully,



G. "Hal" Johnson  
General Counsel

GHJ/dlt  
Encl(s)

c: Michael Mattimore, DMS Chief Negotiator  
Matt Puckett, PBA Executive Director  
Scott Hoffman, LEO Chapter President



## **Florida Lottery**

### **PBA Proposal – Article 21**

**10-20-15**

Article 21

On-Call Assignment – Call-Back – Court Appearance

Section 2 – On-Call Fee

(A) When approved as provided herein, employees who are required to be on call shall be compensated by payment of a fee in an amount of not less than ~~two dollars (\$2.00)~~ two dollars (\$2.00) Monday through Friday for each hour such employee is required to be available ~~including~~ and four dollars (\$4.00) for each hour on Saturdays, Sundays and observed State holidays.

Section 3 – Call-Back

A law enforcement employee called out to work at a time not contiguous with the employee's scheduled hours of work shall be credited for actual time worked, or a minimum of ~~two (2)~~ four (4) hours, whichever is greater, rounded to the nearest quarter hour.

## **Florida Lottery**

### **PBA Proposal – Article 22**

**10-20-15**

Article 22

Wages

Section 1:

#### **General Pay Provisions**

The PBA proposes a general increase in each bargaining unit employee's base rate of pay in the amounts of five percent (5%) effective July 1, 2016.

#### **New Section:**

##### **Career Path Pay Plan**

Effective July 1, 2016, the State and PBA agree to create and implement a career path pay plan designed to establish a career development program providing participating bargaining unit employees with a tiered financial goals. The program will reward employees for their continuing professional development beyond minimum training requirements.

The components of the career path pay plan include establishment of a four level pay plan based upon seniority, job performance and achievement of professional skills and development.

A sample deputy sheriff career path pay plan is attached. The career path is normally built on: (a) length of service, the individual is eligible for advancement after a certain years of service, e.g. five years; (b) professional development, the individual is eligible for advancement only after completing a certain number of training courses, CJSTC-recognized classes or college courses, such as 50 hours of training courses approved by the agency or CJSTC; and (c ) satisfactory work performance, the individual must meet performance standards during the time period under consideration.

**It is anticipated that the career path pay plan would have to be established through legislative action so as to ensure its continued application during the course of an individual's career with an agency(ies).**

C. Deputy Sheriff 1st Class: DBM B23A

Officers rated as Deputy Sheriff will advance to Deputy Sheriff 1st Class upon reaching seven (7) years service/seniority and must have successfully completed two hundred (200) hours of approved training. An officer may substitute up to one hundred (100) classroom hours of law enforcement college level classes for the two hundred (200) training hours required. An officer will receive five percent (5%) proficiency pay upon meeting the requirements to become a Deputy Sheriff 1st Class.

D. Senior Deputy: DBM B23B

Officers rated Deputy Sheriff 1st Class will advance to Senior Deputy upon reaching twelve (12) years of service/seniority and the successful completion of an additional two hundred (200) hours of approved training. The two hundred (200) hours of approved training must have been completed while the officer was in the rate of Deputy Sheriff 1st Class. An officer may substitute up to one hundred (100) classroom hours of law enforcement college level classes for the two hundred (200) training hours required. An officer will receive five percent (5%) proficiency pay upon meeting the requirements to become a Senior Deputy.

E. Master Deputy: DBM B23C

Officers rated Senior Deputy will advance to Master Deputy upon reaching seventeen (17) years of service/seniority and successfully completing an additional two hundred (200) hours of approved training while in the rate of Senior Deputy. An officer may substitute up to one hundred (100) classroom hours of college level courses for the two hundred (200) hours of training required. An officer will receive five percent (5%) proficiency pay upon meeting the requirements to become a Master Deputy.

F. Officers transferring Bargaining Units

The parties acknowledge that there are occasions when a detention officer transfers his or her employment from the detention bargaining unit to the law enforcement bargaining unit. While it is not as common, a law enforcement deputy may also transfer his or her employment from the law enforcement bargaining unit to the detention bargaining unit, upon appropriate training and certification. Because these transfers could otherwise involve the loss of substantial hourly or annual compensation, the parties agree that no such transferring employee shall lose more than ten percent (10%) of his or her former hourly rate of pay upon transfer.

A maximum of three (3) years credit will be awarded towards achieving Deputy 1st Class status for any deputy changing his or her bargaining unit during the first seven (7) years of employment with the Escambia County Sheriff's Office.

**22.03 Implementation**

CJSTC advanced/specialty courses completed or in which the officer is actively enrolled as of the date of ratification may be used to satis-

**Florida Lottery**

**PBA Proposal – Article 23**

**10-20-15**

Article 23

Uniforms – Equipment and Service Awards

New Section

The Lottery shall supply the Division of Law Enforcement with a minimum of three dedicated law enforcement vehicles equipped with necessary police equipment as dictated by agency need for assignment to unit employees.



# FLORIDA POLICE BENEVOLENT ASSOCIATION, INC.

*The Voice of Florida's Law Enforcement Officers*

## Law Enforcement Officer Career Development Plan

**Statement of Purpose:** It is the intent of this legislation to create the Law Enforcement Career Development Plan to be utilized to strengthen the ability of state law enforcement agencies to provide career development for sworn career service positions in order to retain well-qualified and experienced officers.

**Included Groups:** All sworn Law Enforcement Officers in the FDLE Special Agents, Law Enforcement, Highway Patrol and Lottery bargaining units (a total **3,146** sworn law enforcement officers).

**Costs of the Plan:** Three options are proposed.

- 1) A **2.5%** enhancement at each of the four career steps will provide increases for 89% of the officers at a cost of **\$9 million** for during the 2016 – 2017 fiscal year. After first year, 30% of officers will be topped out and not eligible for increases within the plan. The costs to provide increases for the remaining 70% of eligible officers over a *five year period* is \$2.5 million (averaging \$500,000 per year, or less than 0.8% of total salaries per year).
- 2) A **5%** enhancement at each of the four career steps will provide increases for 89% of the officers at a cost of **\$18 million** for during the 2016 – 2017 fiscal year. After first year, 30% of officers will be topped out and not eligible for increases within the plan. The costs to provide increases for the remaining 70% of eligible officers over a *five year period* is \$5 million (averaging \$1 million per year, or less than 1.6% of total salaries per year).
- 3) A **7.5%** enhancement at each of the four career steps will provide increases for 89% of the officers at a cost of **\$27 million** for during the 2016 – 2017 fiscal year. After first year, 30% of officers will be topped out and not eligible for increases within the plan. The costs to provide increases for the remaining 70% of eligible officers over a five year period is \$7.5 million (averaging \$1.5 million per year, or less than 2.4% of total salaries per year).

**LAW ENFORCEMENT CAREER DEVELOPMENT PLAN**  
**(5 percent steps/Cost)**

15 +	\$ 49,591,391.18	\$ 9,918,278.24				
14	\$ 5,398,575.98		\$ 269,928.80			
13	\$ 5,779,861.64			\$ 288,993.08		
12	\$ 5,184,523.98				\$ 259,226.20	
11	\$ 6,351,140.18					\$ 317,557.01
10	\$ 5,549,400.76	\$ 4,239,525.38				
9	\$ 5,158,367.82		\$ 257,918.39			
8	\$ 4,591,397.84			\$ 229,569.89		
7	\$ 5,721,444.94				\$ 286,072.25	
6	\$ 4,938,718.52					\$ 246,935.93
5	\$ 4,136,552.02	\$ 2,454,648.11				
4	\$ 6,340,446.22		\$ 317,022.31			
3	\$ 10,449,624.72			\$ 522,481.24		
2	\$ 11,266,259.70	\$ 1,402,816.53			\$ 563,312.99	
1	\$ 10,904,816.78		\$ 545,240.84			\$ 572,502.88
< 1	\$ 1,986,304.44			\$ 99,315.22		
<b>TOTAL COST</b>	<b>\$ 18,015,268.26</b>	<b>\$ 1,390,110.34</b>	<b>\$ 1,140,359.43</b>	<b>\$ 1,108,611.43</b>	<b>\$ 1,136,995.82</b>	

\* The first year all officers with 15 years or more receive a 20 percent increase, officers with 10 to 14 years receive a 15 percent increase, etc. In the second year and thereafter officers receive 5 percent at each step.

**LAW ENFORCEMENT OFFICER CAREER DEVELOPMENT PLAN**  
**(5 percent step/Number of Officers)**

YEARS WITH STATE SERVICE	YEAR 1	YEAR 2	YEARS 3	YEAR 4	YEAR 5
15 +	944				
10 - 14	605	117	123	111	142
5 - 9	565	99	104	246	120
2 - 4	675	281	250	281	
1	1	294			294
< 1			59		
<b>TOTAL OFFICERS</b>	<b>2789</b>	<b>791</b>	<b>536</b>	<b>638</b>	<b>556</b>

\* The first year all officers with 15 years or more receive a 20 percent increase, officers with 10 to 14 years receive a 15 percent, etc. In the second year and thereafter officers receive 5 percent at each step.

HB 621

2016

1 A bill to be entitled

2 An act relating to first responders; amending s.  
3 110.2035, F.S.; requiring state agencies to establish  
4 a first responder career development plan for certain  
5 purposes; providing duties of the agencies relating to  
6 the implementation of the plan; providing an effective  
7 date.

8  
9 Be It Enacted by the Legislature of the State of Florida:

10  
11 Section 1. Subsection (9) is added to section 110.2035,  
12 Florida Statutes, to read:

13 110.2035 Classification and compensation program.—

14 (9) (a) In order to strengthen the ability of state  
15 agencies to provide career development for law enforcement  
16 officers, correctional officers, correctional probation  
17 officers, and firefighters and retain well-qualified and  
18 experienced officers and firefighters, all state agencies  
19 employing law enforcement officers, correctional officers,  
20 correctional probation officers, and firefighters shall  
21 establish a first responder career development plan. The plan  
22 shall be voluntary for law enforcement officers, correctional  
23 officers, correctional probation officers, and firefighters and  
24 shall provide salary increases for officer and firefighter  
25 achievements that exceed the minimum requirements for  
26 employment.

Page 1 of 2

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

hb0621-00

HB 621

2016

27 (b) Salary increases shall be awarded to an officer or  
28 firefighter in good standing who achieves and maintains  
29 specified levels of achievement as determined by the agency.

30 (c)1. Each state agency shall provide levels of  
31 achievement for law enforcement officers, correctional officers,  
32 correctional probation officers, and firefighters and develop  
33 standards, through collective bargaining, if applicable, that  
34 provide approved activities recognized for attaining the levels.  
35 The achievement of each level must be documented by the  
36 attainment of specific achievements and the completion of a  
37 specified number of years of service.

38 2. Achievements may include the earning of postsecondary  
39 education credits and the completion of leadership or advanced  
40 training. Officers and firefighters may attain specified levels  
41 by participating in approved activities that advance the  
42 officer's or firefighter's professional interests as specified  
43 in the officer's or firefighter's job description.

44 (d) The plan shall be made available to law enforcement  
45 officers as defined in s. 943.10, correctional officers as  
46 defined in s. 943.10, correctional probation officers as defined  
47 in s. 943.10, and firefighters as defined in s. 633.102 in all  
48 career service positions. The number of officers or firefighters  
49 who may qualify for each level may not exceed the number of  
50 officers or firefighters covered by the bargaining unit covering  
51 such classes of employees in the agency.

52 Section 2. This act shall take effect July 1, 2016.