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Session Law 89-050

Florida Senate & House of Representatives

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H 931  GENERAL BILL by Employee & Management Relations; Ascherl (Similar S 978)
Public Employees Relations Comm.; authorizes Public Employees Relations Commission to assume jurisdiction over local commissions under certain circumstances; provides for hearing. Amends 447.603. Effective Date: 06/15/89.

03/17/89 HOUSE Prefiled
03/22/89 HOUSE Referred to Appropriations
04/03/89 HOUSE Subreferred to Subcommittee on Government Administration and Personnel
04/04/89 HOUSE Introduced, referred to Appropriations –HJ 89; Subreferred to Subcommittee on Government Administration and Personnel
04/11/89 HOUSE Withdrawn from Appropriations –HJ 192; Placed on Calendar
04/13/89 HOUSE Placed on Special Order Calendar; Read second time –HJ 221
04/19/89 HOUSE Read third time; Passed; YEAS 97 NAYS 20 –HJ 240
04/25/89 SENATE In Messages
05/02/89 SENATE Received, referred to Personnel, Retirement and Collective Bargaining; Community Affairs –SJ 247
05/12/89 SENATE Extension of time granted Committee Personnel, Retirement and Collective Bargaining
05/26/89 SENATE Extension of time granted Committee Personnel, Retirement and Collective Bargaining
05/30/89 SENATE Withdrawn from Personnel, Retirement and Collective Bargaining; Community Affairs; Substituted for SB 978; Passed; YEAS 34 NAYS 0 –SJ 572
05/30/89 Ordered enrolled
06/13/89 Signed by Officers and presented to Governor
06/15/89 Approved by Governor; Chapter No. 89-50.

NOTES: Above bill history from Division of Legislative Information's FINAL LEGISLATIVE BILL INFORMATION, 1989 SESSIONS. Staff Analyses for bills amended beyond final committee action may not be in accordance with the enacted law. Journal page numbers (HJ & SJ) refer to daily Journals and may not be the same as final bound Journals.
I. SUMMARY:

A. PRESENT SITUATION:

Florida's Public Employees Relations Act originally permitted school boards and local governments to opt out from the jurisdiction of the statewide Public Employees Relations Commission (PERC) by establishing local or mini-PERCs under Section 447.603, F.S. The local groups were intended to provide substantially equivalent rights and procedures to their public employees as the statewide PERC provides. In 1977, Section 447.603, was amended. No new mini-PERCs could be formed, but PERC could approve boards for government which had filed applications prior to June 1, 1977. Today there are eight local option labor boards: City of Sanford, City of Naples, Pinellas County, City of Delray Beach, City of Lakeland, City of Pensacola, City of Panama City, and Town of Palm Beach. In its early days the statewide PERC was a part-time commission without staff. PERC has changed. It now has full-time commissioners and a large staff. It has developed a considerable body of procedures, and a body of law which has been accepted by the state's appeals court. Through litigation, PERC has established its right to review mini-PERC ordinances, and the courts have agreed with PERC that no ordinance can take effect without PERC approval.

But as the statewide PERC has grown more professional, complaints have been heard that the mini-PERCs do not provide a substantially equivalent opportunity to public employees.
B. EFFECT OF PROPOSED CHANGES:

HB 931 seeks to create greater conformity between PERC and the local option boards. It gives PERC the authority to review mini-PERC activity and to assume jurisdiction of cases where an investigation reveals that a local board (a) has not acted or responded in a reasonable time, or (B) has acted in a manner clearly inconsistent with PERC precedents. The bill would require hearings by PERC prior to its determination, but would exempt these proceedings from Chapter 120.57(1)(a).

PERC now has the power to police the paper structure of local option boards by reviewing their rules. This proposal would provide PERC with clearer oversight authority over the actual operation of the local option boards under those rules.

This provision will not apply to cases where the district court of appeals has jurisdiction. This would prohibit the party from conducting two appeals of mini-PERC action.

C. SECTION-BY-SECTION ANALYSIS:

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring or First Year Start-Up Effects:
   None.

2. Recurring or Annualized Continuation Effects:
   None.

3. Long Run Effects Other Than Normal Growth:
   None.

4. Appropriations Consequences:
   Statewide, PERC expects that any additional cases generated by this provision would be within its current capacity to review without additional staff or funds.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring or First Year Start-Up Effects:
   Indeterminable.

2. Recurring or Annualized Continuation Effects:
   Indeterminable.
3. Long Run Effects Other Than Normal Growth:
   Indeterminable.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:
   None.

2. Direct Private Sector Benefits:
   None.

3. Effects on Competition, Private Enterprise, and Employment Markets:
   None.

D. FISCAL COMMENTS:

III. LONG RANGE CONSEQUENCES:

This bill will help achieve a more harmonious relationship between employees and the employer of those cities with local option boards which are having problems.

IV. COMMENTS:

A similar bill, HB 1397, was adopted by the full Committee on Retirement, Personnel & Collective Bargaining in 1986, but died when laid on the table by the House of Representatives. PCB 3 was adopted by the Personnel & Collective Bargaining subcommittee on April 9, 1987. The bill was adopted by the full committee on April 9, 1987.

After being reported favorably from the Committee on Personnel, Retirement, and Collective Bargaining, the bill was withdrawn from the Committee on Appropriations and passed the House. In the Senate it was referred to the Committee on Personnel, Retirement and Collective Bargaining, where it died.

In 1988, HB 1509 passed the full committee and died on the calendar.

This bill passed out of full committee on March 7, 1989.

V. SIGNATURES:

SUBSTANTIVE COMMITTEE:
Prepared by:

[Signatures]

Randy Tomchton

[Signatures]

Ron Poppell
I. SUMMARY:

A. Present Situation:

Part II, Chapter 447, F.S. governs public sector collective bargaining in Florida. Section 447.205, F.S., creates the Public Employees Relations Commission (PERC), and s. 447.207, F.S., gives PERC the powers and duties to be the regulatory body for public sector collective bargaining in Florida.

Section 447.603, F.S., provides that any district school board or political subdivision, other than the state or a state public authority may elect to adopt, by ordinance, resolution, or charter amendment, its own local option ("mini PERC") in lieu of the provisions of Part II, Chapter 447, F.S., as long as such provisions and procedures thereby adopted effectively secure equivalent rights and procedures to affected public employees as are granted to other public employees subject to the provisions of Part II, Chapter 447, F.S. The law further provides that only those "mini PERC's" in existence (or having an application on file) as of June 1, 1977, would be permitted to establish a local option or "mini PERC".

There are eight "mini PERC's" in existence; all of whom claim to be active and operational. The following entities have established "mini PERC's": Pinellas County, City of Delray Beach, City of Lakeland, City of Pensacola, City of Panama City, Town of Palm Beach, City of Sanford, and City of Naples.

B. Effect of Proposed Changes:

The bill provides that under certain circumstances, collective bargaining matters coming before "mini PERC's" may be transferred to PERC for resolution. Specifically, the bill provides that if a "mini PERC" is not properly constituted, fails to act or respond to a filing of an employee organization, a public employee, or a public employer within a reasonable and timely period or acts in a manner clearly inconsistent with PERC precedents, the employee organization, public employee, or public employer may file a petition with PERC setting forth such circumstances. The Commission or one of its designated agents shall investigate the petition to determine its sufficiency, and shall hold a hearing if there is reasonable cause to believe the petition is sufficient. Such hearing shall be exempt from the s. 120.57(1)(a) requirement that a hearing officer from the Division of Administration Hearings hold the hearing. Further, the hearing shall be held in accordance with the provisions of s. 447.503(5) which specifies the procedures to be utilized by PERC in resolving unfair labor practice cases. If the Commission finds that the local commission is not properly constituted, has not acted or responded to a filing of the employer organization, public employee or public employer within a reasonable and timely period, or has acted in a manner clearly inconsistent with the
precedent of the Commission, the Commission shall assume
jurisdiction of the case, and shall resolve the case. Such
resolution by the Commission shall be final and binding on all
parties.

The bill further provides that these provisions pertaining to
assumption of jurisdiction by the State Commission do not apply
to final orders of a local commission which are reviewable by a
district court of appeal pursuant to Ch. 120.

II. ECONOMIC IMPACT AND FISCAL NOTE:

A. Public:
None.

B. Government:

It is not anticipated that the bill's provisions would be
exercised very often, therefore, no significant fiscal impact
is anticipated.

III. COMMENTS:

None.

IV. AMENDMENTS:

None.