



# Fraternal Order of Police FLORIDA STATE LODGE



January 13, 2010

Florida Senate  
Florida House

Re: Senate Bill 610 - "Legislative Body"

Open letter to all Florida Legislators:

Honorable Senators and Representatives:

The Florida State Lodge Fraternal Order of Police is very disappointed in the language and proposal of SB610. This is a very unfriendly bill to all Deputy Sheriffs in the State of Florida. Our Legislative Staff worked extremely hard last year to defeat a similar bill in both the House and Senate and will continue to strongly oppose any effort to bring this bill forward.

The FOP represents deputy sheriffs for collective bargaining purposes in many counties across the state. SB610 creates a new and unnecessary level of government which in our opinion is simply a tactic by the county sheriffs, the Florida Sheriff's Association to deny these deputy sheriffs their guaranteed right to collective bargain in good faith. Deputy Sheriffs have earned the Law Enforcement Officer's Bill of Rights through their service and which we fought for and had to have their rights affirmed by the Florida Supreme Court when county sheriffs would oppose the implementation of these rights.

In light of the inability to reach an agreement acceptable to both parties, an "Impasse" is declared, the next step is for the Sheriff and the F.O.P. to go before the appropriate "Legislative Body" at which point that Legislative Body resolves the Impasse and implements a Contract over any disputed articles. Unfortunately, the Sheriffs in Pasco County and Clay County have arbitrarily decided they are the "Legislative Body" and, as such, they feel they can both negotiate and implement a Contract over any unresolved article unilaterally. We believe this to be flawed logic and provide an unfair advantage to the sheriff. An analogy of this faulty reasoning from our perspective is simple. Suppose a Deputy Sheriff writes you a traffic ticket for speeding and you decide to contest the ticket before a magistrate and when you appear to make your case, the magistrate is the same Deputy Sheriff who wrote the ticket in the first place. Hardly a fair and impartial scenario, yet this is exactly what SB610 would impose.

Now comes the FSA attempting to erode all of our gains by creating a newly designated “legislative body” language in SB610. Thus giving the county sheriff the ability to both declare a contract impasse and then rule upon their own decision that created the impasse. Two bites of the same apple. In our view this additional level of “government” also adds another burden to the public at a time of economic hardship and serves no other legitimate purpose.

The FOP has brought action against sheriffs in Pasco and Clay Counties before the Public Employees Relations Commission to stop these sheriffs from imposing one sided contracts and then declaring impasse and now in Okeechobee County we are faced with a similar situation as this tactic spreads.

In each of these counties, the FOP has prevailed before the Public Employee Relations Commission (P.E.R.C.). The P.E.R.C. decision was clear that county sheriff’s are not and do not meet the legal definition of “legislative body”. The full P.E.R.C. Commission recognized the fundamental unfairness of the county sheriff being both the person negotiating a contract and then ruling on any impasse when the parties do not agree. It is our belief that by bringing this bill to the Florida Legislature that the Florida Sheriff’s Association concedes the fact that Sheriffs are not a “legislative body”. There is no provision in the Florida Constitution for this designation being created. There exists a current remedy in Section 447.403(4), Florida Statutes upon declaration of an impasse an evidentiary hearing before a special magistrate.

Section 447.403 (4) provides in pertinent part:

If either the public employer or the employee organization does not accept, in whole or in part, the recommended decision of the special magistrate:

(a) The chief executive officer of the governmental entity involved, shall within 10 days after rejection of a recommendation of the special magistrate, submit to the legislative body of the government entity involved a copy of the findings of fact and recommended decision of the special magistrate, together with the chief executive officer’s recommendation for settling the disputed impasse issues. The chief executive officer shall also transmit his or her recommendations to the employee organization;

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

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

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

Section 447.204(10), Florida Statutes, provides:

“Legislative body”, means the State Legislature, the board of county commissioners, the district school board, the governing body of a municipality, or the governing body of a instrumentality or unit of government having authority to appropriate funds and establish policy governing the terms and conditions of employment and which as the case may be, is the appropriate legislative body for the bargaining unit.

These Florida Statutes are very clear that the chief executive officer is not a “legislative body” and that the appropriate legislative body to render a decision in impasse issues would be the county commission.

This has been a three year battle for the FOP and our members. It is unfortunate that this issue continues to be brought forth. As President of the Florida State Lodge Fraternal Order of Police, I ask that you do not consider support of this fundamentally unfair bill. We have enjoyed and recognized your great legislative efforts but in this case we strongly disagree with support of SB610. This is a very controversial and divisive issue that would have great negative impact on each and every deputy sheriff in the state of Florida.

I would be glad to discuss the matter with you at your convenience.

Sincerely,



James W. Preston, President  
Florida State Lodge  
Fraternal Order of Police