

A Thirty-Year Journey in Southern Public Labor and Employment Law

By: Stephen A. Meck, PERC General Counsel

In 1974 the Florida Legislature enacted the Public Employees Relations Act (PERA) effective January 1, 1975, in response to two decisions of the Florida Supreme Court holding that Article 1, Section 6 of the Florida Constitution provides a constitutional right for public employees to collectively bargain that must be implemented. It is now the 30th anniversary of PERA and the Public Employees Relations Commission. PERA was, and still is, the only state-wide collective bargaining act in what is traditionally considered the “Old South.” As originally enacted, PERA was patterned after the National Labor Relation Act, making PERC a regulatory entity that certified bargaining units throughout all levels of government and investigated and prosecuted unfair labor practices. The litigation of these cases was originally performed in the Division of Administrative Hearings (DOAH). The process proved to be cumbersome, with significant delays.

Notwithstanding slow case processing, PERC was striving to develop case law so that the parties would have notice of the evolving policies. Notably, PERC was the first state agency to comply with the statutory requirement that all agency decisions be

published and indexed. Other agencies did not comply with this requirement until a 1993 decision of the Fourth District Court of Appeal, later affirmed by the Florida Supreme Court, held that the failure to comply with this requirement constitutes reversible error of agency action.

In 1977, Chairman Leonard Carson initiated legislative reforms based upon PERC’s brief experience and evaluation of sister agencies throughout the United States. As a result, the commissioners were changed from part-time to full-time, with a prohibition from other employment. The regulatory scheme was changed, such that PERC was designated to be quasi-judicial, with the parties advancing their cases to a neutral body. The Commissioners themselves started conducting hearings in unfair labor practice cases and, in 1977, PERC was given statutory authority for its staff to conduct hearings in representation cases. By policy developed through Commission decisions, discovery was generally not allowed, absent compelling reasons. This model proved to be efficient and, in 1979, PERC was also given statutory authority to conduct hearings in ULPs. With five years of existence PERC was organized in the

structure which it maintains today ... twenty-five years later.

Another significant development at PERC was the addition of employment law jurisdiction to PERC’s existing authority over public sector labor law. The combination of these jurisdictions is unique in the continental United States. For years the legislature had entertained complaints about the operations of the Career Service Commission (CSC), which conducted civil service appeals of state career service employees. The CSC was a part-time per diem board that traveled throughout the state, hearing multiple cases and ruling from the bench, in a manner comparable to a territorial judge riding circuit. The complaints about the CSC centered on delays in case resolution, inconsistency in results, and reversals on appeal. After an extensive study, the legislature abolished the CSC in 1986 and transferred its jurisdiction to PERC. PERC acquired a case backlog of 230 cases and a statutory requirement that the hearings be held within thirty days of filing.

Through an efficient organization and strategic marshalling of its resources, PERC eliminated the huge

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CSC backlog within one year. It also met the imposed thirty-day deadline. This accomplishment was rewarded when the legislature conferred other jurisdictions upon PERC between 1987 and 1992, including drug testing cases, veterans' preference appeals, and state whistle-blowers' appeals. PERC's case filings increase from approximately 700 to more than 1700 filings per year. At the same time, due to attrition and an inability to replace staff due to legislative elimination of vacant positions, PERC's staff was reduced from its original number of forty-two positions to the current staff of thirty-three.

The two most significant legislative actions in the third and most recent decade of PERC's history have been the repeated inquiries into the possibility of merging PERC with DOAH, and the passage of the Service First legislation. The merger proposition apparently emanated from budget reviews and organizational changes necessitated by the abolishment of the Department of Labor and Employment Security in which PERC had been organizationally housed since its inception. In the late 1990's, the legislature determined that PERC would be moved into the Department of Management Services, which already had attached to it several other quasi-judicial commissions, including DOAH. A series of studies conducted to evaluate the possibility and correctness of merging quasi-judicial entities, culminated in a report by the Office of Program Policy Analysis and Governmental Accountability (OPPAGA) to the legislature in June 2004. OPPAGA found that merging PERC and DOAH would not result in savings or increased efficiencies.

The Service First reforms in 2001 were the first revision of the career service rights of state employees in

decades. These reforms were introduced by the Governor the preceding year as one of his top priorities. The legislation that was ultimately enacted effected a number of significant statutory changes, including the transfer of thousands of career service employees into the selected exempt service class which has limited appeal rights. It reduced the time for filing a career service appeal from twenty to fourteen days and strictly limited the time for conducting hearings and issuing final orders. Service First also eliminated the Commission's ability to mitigate discipline for any employees other than police, firefighters, correctional officers, and health care employees. Finally, it eliminated the Commission's authority to award attorney's fees in career service cases. Although there has not been a sufficient track record for accurate long-term prediction, these changes have resulted in a significant reduction in career service appeals during the three years since passage of Service First.

Notwithstanding the reduction of cases in the career service arena, the Commission's caseload has remained constant, if not grown, due to increases in its labor jurisdiction. This growth is a consequence of an effective expansion in PERC's jurisdiction by a Florida Supreme Court ruling holding for the first time that deputies of constitutional officers are public employees. Deputies had not enjoyed public employee status since 1978, when the court ruled that they were not "public employees" for the purpose of PERA because they are appointed personnel. Recognition of deputies as public employees has resulted in numerous filings of representation cases affecting thousands of employees of sheriffs and other constitutional officers. Additionally, a change in the public employer of the eleven state institutions of higher learning, from one statewide Board of Governors to eleven boards of trustees responsible for individual institutions

has generated massive labor representation activity.

Year after year, PERC has met its legislatively set performance standards between 96% and 99% of the time. This includes strict time limits, percentage of cases appealed, and percentage of appealed cases that are affirmed. The effectiveness of PERC's processes is further validated by the fact that there have been no legally established strikes in Florida since 1982. This efficiency and the predictability of PERC's decisions minimizes workplace strife and results in huge savings of taxpayer dollars. I am proud to be an employee of this agency and have the greatest respect for the Commission and its dedicated staff.

PERC NEWS

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Career Service Cases

Battles v. Department of Corrections, 19 FCSR 205 (2004).

Dismissal of co sergeant for conduct unbecoming a public employee, using abusive language, providing false testimony, failing to report an agency rule violation, and negligence affirmed. Mitigation not warranted.

Williams v. Department of Veterans' Affairs, 19 FCSR 208 (2004).

Dismissal of certified nursing assistant for negligence and making a threatening statement affirmed. Employee treated two elderly women roughly.

Hayes v. Department of Children and Families, 19 FCSR 210 (2004).

Dismissal of administrative assistant I for insubordination affirmed. Employee failed to timely submit meeting minutes.

Dennis v. Department of Corrections, 19 FCSR 214 (2004).

Dismissal of co sergeant for intentionally submitting a materially false disciplinary report about an inmate affirmed. Mitigation not warranted.

Sterling v. Department of Health, 19 FCSR 217 (2004).

Commission lacks jurisdiction of voluntary resignation. Employee was not forced to resign under duress.

McCormick v. Department of Juvenile Justice, 19 FCSR 219 (2004).

Suspension of senior juvenile detention officer for negligence by failing to submit the five-minute check sheets on two occasions affirmed.

McGahee v. Department of Juvenile Justice, 19 FCSR 222 (2004).

Dismissal of senior juvenile probation officer for sending a vulgar email affirmed.

Wilson v. Department of Corrections, 19 FCSR 224 (2004).

Suspension of co sergeant for leaving work station without authorization, threatening inmate, and making false statements to agency inspector affirmed. Mitigation not warranted.

Hanson v. Department of Corrections, 19 FCSR 229 (2004).

Dismissal of co sergeant for being arrested for DUI and resisting arrest affirmed. Mitigation not warranted.

Parrish v. Department of Corrections, 19 FCSR 232 (2004).

Dismissal of co sergeant for failing to follow instructions regarding count procedures affirmed. Mitigation not warranted.

Khalil v. Department of Children and Families, 19 FCSR 235 (2004).

Layoff of human services program analyst affirmed. Agency demonstrated a legitimate, non-discriminatory reason for laying off employee and employee did not demonstrate that he was laid off due to age discrimination.

Granson v. Department of Children and Families, 19 FCSR 239 (2004).

Back pay case closed where neither party petitioned the Commission for back pay.

Russell v. Department of Corrections, 19 FCSR 240a (2004).

Appeal dismissed because Commission lacks jurisdiction to consider appeals from probationary employees or appeals alleging discriminatory racial practices.

Kennedy v. Department of Corrections, 19 FCSR 240b (2004); Nyland v. Department of Corrections, 19 FCSR 261 (2004).

Appeals of employees who failed to appear at hearings dismissed.

Nelson v. Department of Juvenile Justice, 19 FCSR 247 (2004).

Suspension of juvenile probation officer for failing to comply with the agency's policy concerning documentation affirmed.

Pittman v. Department of Health, 19 FCSR 243 (2004).

Appeal dismissed for lack of jurisdiction because the employee had not attained permanent status in her promotional position at time of dismissal. The effective date of promotion, for purposes of calculating one-year probationary period, was date personnel action was signed and dated by person with delegated authority to approve the promotion.

Potter v. Department of Corrections, 19 FCSR 247a (2004).

Appeal dismissed for lack of jurisdiction because the employee was on probation at the time of dismissal.

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Griffin v. Department of Corrections, 19 FCSR 247b (2004).

Suspension of correctional officer vacated where Agency failed to prove charges by preponderance of evidence. Back pay awarded.

Percy v. Department of Revenue, 19 FCSR 250 (2004).

Dismissal of systems programs administrator for unbecoming conduct and poor performance affirmed. Issues of equitable tolling of appeal filing period, voluntariness of resignation tendered by employee mistakenly classified in selected exempt service, and specification of charges in belated appeal of employee dismissed as SES employee whose SES classification is subsequently determined to be erroneous are addressed.

Thompson v. Palm Beach Sheriff's Office, 19 FCSR 262a (2004).

Appeal filed by deputy sheriff dismissed for lack of jurisdiction.

Dawkins v. Department of Corrections, 19 FCSR 262b (2004).

Order awarding back pay upon vacation of five-day suspension.

O'Neill v. Department of Juvenile Justice, 19 FCSR 264 (2004); Portillo v. Department of Children and Families, Case No. CS-2004-174 (Sept. 17, 2004); Santos v. Department of Health, Case No. CS-2004-200 (Sept. 23, 2004).

Appeals filed more than fourteen days after receipt of final action letter dismissed as untimely filed.

Washington v. Department of Children and Families, 19 FCSR 265 (2004).

Dismissal of senior motor vehicle operator for inability to perform essential duties of his position after reaching MMI affirmed.

Vaughn v. Department of Children and Families, 19 FCSR 268 (2004).

Dismissal of child protective investigator for inability to perform assigned duties due to visual impairment affirmed.

Thompson v. Palm Beach Sheriff's Office, Case No. CS-2004-171 (Sept. 1, 2004).

Motion for reconsideration of a final order is denied. The Commission does not have statutory authority to entertain a motion for reconsideration.

Gentry v. Department of Children and Families, Case No. CS-2004-161 (Sept. 10, 2004).

Dismissal of human services worker I for inefficiency or inability to perform assigned duties is affirmed where employee refused to work a double shift when oncoming night shift at mental hospital was short-staffed.

Allen v. Department of Transportation, Case No. CS-2003-298 (Sept. 13, 2004).

Stay lifted and appeal dismissed in case stayed pending resolution of dismissed employee's petition for DOAH to determine whether her position was lawfully reclassified from career service to selected exempt service when employee withdrew her petition to DOAH.

Jones v. Department of Corrections, Case No. CS-2004-155 (Sept. 21, 2004).

Dismissal of correctional officer for failure to follow instructions not to discuss an investigation of alleged unprofessional conduct by other employees and failing to truthfully answer questions about those discussions affirmed. Mitigation not warranted.

Chism v. Department of Juvenile Justice, Case No. CS-2004-164 (Sept. 21, 2004).

Dismissal of juvenile probation officer for inability to work due to mental health condition affirmed.

Wilkinson v. Department of Corrections, Case No. CS-2004-177 (Sept. 21, 2004).

Dismissal of correctional officer for negligence by leaving key rings, identification card, and radio on unattended desk affirmed. Condonation of negligent conduct was not proven and mitigation was not warranted.

Stone v. Department of Education, Case No. CS-2004-194 (Sept. 21, 2004).

Appeal of employee dismissed during probationary period dismissed for lack of jurisdiction. Although, employee had attained permanent career service status during prior employment with another state agency, she was required to complete new probationary period.

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Unfair Labor Practice Cases

Amero, et al. v. City of Tampa, 30 FPER ¶ 178 (2004); Ambraz, et al. v. City of Tampa, 30 FPER ¶ 179 (2004).

General Counsel's summary dismissals affirmed. Retirees lack standing to file ulp charges because, as former employees, they are not "employees" as defined by Chapter 447, Part II. Furthermore, only collective bargaining agents have standing to bring a ulp charge alleging a violation of Section 447.501(1)(c).

Hamilton County Education Association v. Hamilton County School District, 30 FPER ¶ 180 (2004).

School District committed ulp by unilaterally allotting wage bonuses to newly-hired teachers without bargaining with union.

PACE v. City of Jacksonville, 30 FPER ¶ 182 (2004).

Petition for injunctive relief denied. Union failed to establish it will suffer irreparable injury that cannot be remedied upon final adjudication of charge.

Ambraz, et al. v. West Central Florida PBA, 30 FPER ¶ 186 (2004); Amero, et al. v. IAFF, Tampa Fire Fighters #754, 30 FPER ¶ 187 (2004).

General Counsel's summary dismissals affirmed. Retirees lacked standing to file ulp charges because they were not public employees when alleged ulp occurred. The employees failed to make a prima facie showing that the union's decision not to negotiate an enhanced pension multiplier for the retired employees was made in bad faith.

Palm Beach CTA, Flah, Greydanus, Hertz, Morris, and Millirons v. Palm Beach County School Board, 30 FPER ¶ 200 (2004).

School Board did not commit ulp by transferring several employees. No attorney's fees awarded.

JEA Professional Employees Association v. JEA, 30 FPER ¶ 226 (2004).

General Counsel's summary dismissal affirmed. The employer did not commit ulp by refusing to pay performance increases after expiration of the collective bargaining agreement where the contract specifically limited such awards to the life of the contract.

UFF v. UCF Board of Trustees, Case Nos. CA-2004-009 and CA-2004-020 (Aug. 16, 2004).

Employer committed ulp by unilaterally altering wages of bargaining unit members. Six weeks was insufficient time to constitute a past practice for purposes of establishing the status quo regarding out-of-cycle pay increases.

Rabassa v. Public Health Trust/Jackson Memorial Hospital, Case No. CA-2004-038 and Rabassa v. AFSCME, Local 1363, Case No. CB-2004-034 (Aug. 23, 2004).

General Counsel's summary dismissals affirmed. The amended

charges were untimely filed and failed to identify points of fact or law sufficient to establish prima facie violations.

Bieluch, Sheriff of Palm Beach County v. Palm Beach County PBA, CB-2004-154 (Sept. 14, 2004).

General Counsel's summary dismissal affirmed. The Sheriff alleged that the union failed to bargain in good faith and engaged in fraudulent misrepresentation when, during bargaining and without notice to the Sheriff, the union sought and obtained amendments to the Florida Statutes which affected certain terms in the collective bargaining agreement. The Commission determined that the union has the free speech right to seek legislative action that may impact a collective bargaining agreement without notification to the public employer.



Veterans' Preference Case

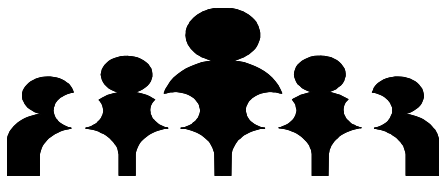
Salem v. Lee County Tax Collector, Case No. VP-2004-009 (July 19, 2004); Moore v. Village of Tequesta, 30 FPER ¶ 212 (2004).

Complaints dismissed where employers hired more qualified applicants.

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Representation Cases



***Palm Beach County PBA v. Town of Jupiter v. IUPA*, 30 FPER ¶ 181 (2004).**

Consent election agreement seeking to represent a unit of lieutenants approved.

***IUPA v. Village of Pinecrest v. Dade County PBA*, 30 FPER ¶ 183 (2004).**

Unit of police officers approved.

***Florida PBA v. Sheriff of Gilchrist County*, 30 FPER ¶ 184 (2004).**

Consent election agreement seeking to represent a unit of rank-and-file sworn law enforcement personnel approved.

***Palm Beach County PBA v. Palm Beach County Sheriff's Office*, 30 FPER ¶ 199 (2004).**

Consent election agreement seeking to represent a unit of certified internal affairs officers approved.

***In Re South Miami, Florida City, Employees Local 3294 of AFSCME*, 30 FPER ¶ 202 (2004).**

Petition to amend certification 12 by substitution of bargaining agents approved.

***Key Biscayne Professional Fire Fighters Association, Local 3638 v. Village of Key Biscayne*, 30 FPER 203 (2004).**

Recognition-acknowledgment petition seeking certification of a unit of firefighter/paramedics and fire lieutenants granted.

***Federation of Public Employees v. Town of Lake Park, Florida v. Service and Business Workers of America, Local 125*, 30 FPER ¶ 204 (2004).**

Unit of operational services personnel approved.

***Teamsters Local Union No. 769 v. City of Fort Lauderdale v. Florida State Lodge, FOP*, 30 FPER 205 (2004).**

Consent election agreement seeking to represent a unit of nonprofessional employees approved.

***Florida PBA v. Sheriff of Gilchrist County*, 30 FPER 206 (2004).**

Employer's unopposed motion for on-site election denied.

***Farnsworth v. Teamsters Local 385 v. Volusia County*, 30 FPER 207 (2004).**

Employer's motion for absentee ballot for employee unable to vote due to attendance at military reserve training granted.

***Local Union 555 of the United Service Workers v. City of Casselberry v. Service and Business Workers of America, Local 125*, 30 FPER ¶ 209 (2004).**

Consent election agreement seeking to represent unit of blue-collar employees approved.

***IUPA v. City of Clermont*, 30 FPER ¶ 210 (2004).**

Consent election agreement seeking to represent a supervisory unit of law enforcement sergeants approved.

***Pinellas Lodge No. 43, FOP v. City of Pinellas Park v. Pinellas County PBA*, 30 FPER ¶ 211 (2004).**

Consent election agreement seeking to represent a unit of sworn police officers and community compliance specialists approved.

***GSA of Florida/Office and Professional Employees International Union, Local 100 v. City of Naples v. FPEC 79, AFSCME*, 30 FPER ¶ 214 (2004).**

Representation-certification petition dismissed where petitioner failed to indicate that some of the employees sought for inclusion in the proposed unit were currently represented by AFSCME, and the timeliness of the petition could not be ascertained in absence of any indication of whether a collective bargaining agreement was in effect. Further, the petition sought to sever white collar employees from a wall-to-wall unit without asserting that the current unit was unworkable or otherwise inappropriate.

***In Re SEIU Local 8*, 30 FPER ¶ 215 (2004).**

Certification 1255 amended to substitute Local 8 in place of Local 1220 of the SEIU as bargaining agent.

***North Naples Professional Fire Fighters, IAFF, Local 2297 v. North Naples Fire Control & Rescue District*, 30 FPER ¶ 216 (2004).**

Unit clarification petition seeking

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to include the newly created position of logistics officer in rank-and-file unit of firefighters granted.

Northeast Florida Public Employees' Local 630, LIUNA v. Duval County School Board, 30 FPER ¶ 219 (2004).

Petition seeking to represent unit of professional employees granted. An employee's objection contesting confidential designation is denied due to her performance of job duties which satisfy labor nexus test.

IUPA v. City of Gainesville v. Florida State Lodge, FOP, 30 FPER ¶ 220 (2004).

Consent election agreement seeking to represent unit of rank-and-file law enforcement personnel approved.

SEIU v. City of Orlando, 30 FPER ¶ 222 (2004).

Recognition-acknowledgment petition seeking to represent unit of professional employees granted.

SEIU v. City of Orlando, 30 FPER ¶ 223 (2004).

Recognition-acknowledgment petition seeking to represent unit of supervisory personnel granted.

SEIU v. City of Orlando, 30 FPER ¶ 224 (2004).

Recognition-acknowledgment petition seeking to represent unit of non-supervisory administrative, clerical, and technical personnel (white collar) granted.

Coastal Florida PBA v. City of Casselberry v. IUPA, Case No. RC-2004-014 (Aug. 16, 2004).

Representation-certification petition seeking to represent unit of police lieutenants granted. The professional standards lieutenant who possessed authority to investigate and effectively recommend discipline was excluded from the unit even though the employer may never hire another employee with investigatory duties with whom the lieutenant may join in exercising his collective bargaining rights.

Palm Beach County PBA v. Town of Jupiter v. IUPA, Case No. EL-2004-034 (Relates to RC-2004-029) (Aug. 20, 2004).

Commission denied request for an absentee ballot where employee would be on vacation during the voting period. Absentee ballot requests are granted only when the employee is on a military leave of absence, or when the absence is due to the performance of duties within the normal scope of the employee's employment.

Teamsters Local Union No. 385 v. City of Edgewater v. Florida State Lodge, FOP, Case No. RC-2004-038 (Aug. 20, 2004).

Consent election agreement seeking to represent unit of non-supervisory, non-professional sworn and non-sworn police personnel approved.

Clermont Professional Firefighters, IAFF, Local 4350 v. City of Clermont, Case No. RC-2004-055 (Aug. 20, 2004).

Consent election agreement seeking to represent unit of fire lieutenants approved.

Northeast Florida Public Employees Local 630, LIUNA v. JEA v. JEA Supervisors Association, Case No. UC-2004-005 (Aug. 20, 2004).

Unit clarification petition seeking to include newly created classifications into, and delete abolished classifications from, unit of blue-collar employees granted.

Clermont Professional Firefighters, IAFF, Local 4350 v. City of Clermont, Case No. RC-2004-027 (Aug. 23, 2004).

Consent election agreement seeking to represent unit of firefighters approved.

West Central Florida PBA v. City of Bartow v. Teamsters, Chauffeurs and Helpers, Local Union No. 79, Case No. RC-2004-053 (Aug. 23, 2004).

Consent election agreement seeking to represent unit of sworn personnel approved.

Local 1991, of the SEIU v. FIU, Case No. RA-2004-012 (Aug. 24, 2004).

Recognition-acknowledgment petition seeking to represent unit of non-supervisory health care professionals granted.

International Union of Operating Engineers, Local 487 v. Okeechobee County, Case No. RC-2004-045 (Aug. 25, 2004).

Consent election agreement seeking to represent unit of blue-collar employees approved.

Florida State Lodge, FOP v. City of Indian Harbour Beach v. Coastal Florida PBA, Case No. RC-2004-050 (Aug. 27, 2004).

Consent election agreement seek-

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ing to represent unit of police employees approved. The PBA's disclaimer of interest was granted prospectively upon the expiration of the collective bargaining agreement in two months.

GSA of Florida/Office & Professional Employees International Union, Local 100 v. Miami-Dade County, Case No. UC-2004-004 (Sept. 1, 2004).

Unit clarification petition seeking to clarify supervisory unit of employees granted.

GSA of Florida/Office & Professional Employees International Union, Local 100 v. Miami-Dade County, Case No. UC-2004-003 (Sept. 8, 2004).

Unit clarification petition seeking to clarify unit of non-supervisory professional employees granted.

In Re Professional Firefighters/Paramedics of Palm Beach County, Local 2928, IAFF, Case No. AC-2004-008 (Sept. 13, 2004).

Petition to amend certification by substitution of bargaining agents approved.

Federation of Public Employees v. City of Fort Lauderdale, Case No. RC-2004-015 (Sept. 13, 2004).

Consent election agreement seeking to represent unit of professional employees approved.

Teamsters Local Union No. 385 v. City of Maitland, Case No. RC-2004-057 (Sept. 13, 2004).

Consent election agreement seeking to represent unit of non-supervisory sworn law enforcement officers approved.

Federation of Public Employees v. City of Fort Lauderdale, Case No. RC-2004-016 (Sept. 14, 2004).

Consent election agreement seeking to represent unit of supervisory employees approved.

CWA v. City of Jacksonville v. PACE, Case No. RC-2004-065 (Sept. 14, 2004).

Representation-certification petition dismissed because petitioner failed to file requisite 30% showing of interest.

FPEC 79, AFSCME v. New College of Florida Board of Trustees, Case No. RC-2004-049 (Sept. 24, 2004).

Representation-certification petition seeking to represent unit of non-professional employees granted.

Pinellas County PBA v. City of Largo v. Pinellas Lodge No. 43, FOP, Case No. RC-2004-051 (Sept. 24, 2004).

Consent election agreement seeking to represent unit of supervisory police lieutenants approved.

United Food & Commercial Workers International v. City of Mulberry, Case No. RC-2004-067 (Sept. 24, 2004).

Representation-certification petition seeking to represent unit of firefighters dismissed because the union's registration had lapsed and requisite showing of interest was not satisfied.

In re Local Union No. 500 Stage Employees of the International Alliance of Theatrical Stage Employees, Moving Picture Technicians, Artists and Allied Crafts of the United States, its Territories and Canada, Case No. AC-2004-010 (Sept. 27,

2004).

Certification 943 amended to substitute Local Union No. 500 as bargaining agent.

Teamsters Local Union No. 385 v. City of Ocoee v. Florida PBA, Case No. RC-2004-034 (Sept. 27, 2004).

Representation-certification petition seeking to represent unit of non-supervisory law enforcement officers granted.

Pinellas Lodge No. 43, FOP v. City of Pinellas Park, Case No. UC-2004-008 (Sept. 27, 2004).

Unit clarification petition seeking to add to unit of sergeants a position that was in existence and filled at the time the unit was originally defined is dismissed.



Declaratory Statement Case

In re City of Jacksonville, 30 FPER ¶ 185 (2004).

City's petition raising question of its obligations when 2 persons claimed to be president and chief negotiator of union is dismissed whereulp charge regarding city's refusal to recognize one of two persons is pending.

Recent Appellate Decisions

***Taylor v. PERC and Department of Health*, 878 So. 2d 421 (Fla. 4th DCA 2004), *aff'g* 29 FPER ¶ 169 (2003).**

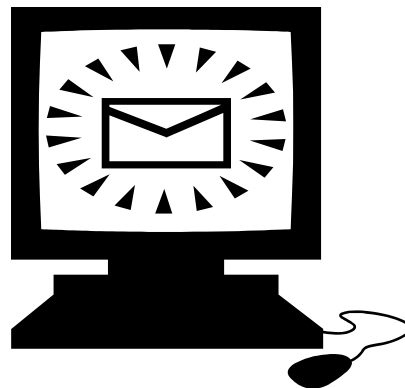
The 4th DCA affirmed the Commission's decision that a whistle-blower complaint filed by an employee who was pursuing a related grievance was barred by the employee's election of remedies, pursuant to Sections 447.401 and 112.3187(11), Florida Statutes.

***Banks v. Department of Juvenile Justice*, Case No. 1D03-818 (Fla. 1st DCA Aug. 18, 2004), *per curiam aff'g* 18 FCSR 21 (2003).**

The 1st DCA affirmed the Commission's order affirming the dismissal of a career service employee who refused to answer job-related questions posed by his employer.

***Florida Public Employees Council 79, AFSCME v. PERC and Florida Board of Governors*, Case No. SC-04-959 (Fla. Sept. 8, 2004) *denying pet. for review of* 871 So. 2d 270 (Fla. 1st DCA 2004).**

The Florida Supreme Court declined to review the 1st DCA's decision affirming the Commission's dismissal of four petitions to amend bargaining unit certifications to substitute the BOG for the abolished Board of Regents as the public employer of state universities. In its decision, the 1st DCA held that the board of trustee of each university, not the BOG, was the public employer of the employees at that university by designation of the BOG pursuant to its constitutional authority.



Coming Soon: PERC News Via Email

The Commission hopes to soon be able to publish the PERC News in an email format. To assist in this conversion, we ask that our readers send an email to suzanne.choppin@perc.state.fl.us advising of the email address at which you prefer to receive the News.

Elections Verified and Certifications Issued

Key Biscayne Professional Fire Fighters Association, Local 3638 v. Village of Key Biscayne, Case No. RA-2004-008; Cert. 1491 issued 7/20/2004.

Florida PBA v. Sheriff of Santa Rosa County v. Florida State Lodge, FOP, Case No. EL-2004-025; Election 7/6 - 7/22/2004; PBA won; Cert. 1492 issued 8/9/2004.

Farnsworth v. Teamsters Local Union 385 v. Volusia County, Case No. EL-2004-092; Election 7/27 - 7/29/2004; Cert. revoked.

SEIU v. City of Orlando, Case No. RA-2004-005; Cert. 1493 issued 8/13/2004.

SEIU v. City of Orlando, Case No. RA-2004-006; Cert. 1494 issued 8/13/2004.

SEIU v. City of Orlando, Case No. RA-2004-007; Cert. 1495 issued 8/13/2004.

Local 1991 of SEIU v. Florida International University, Case No. RA-2004-012; Cert. 1496 issued 8/24/2004.

IUPA v. City of Clermont v. Florida PBA, Case No. EL-2004-032; Election 7/21 - 8/11/2004; IUPA won; Cert. 1499 issued 9/10/2004.

IUPA v. Village of Pinecrest v. Dade County PBA, Case No. EL-2004-036; Election 7/29 - 8/19/2004; IUPA won; Cert. 1498 issued 9/10/2004.

Government Supervisors Association of Florida, Office & Professional Employees International Union, Local 100 v. City of Naples, Case No. EL-2004-029; Election 8/11 - 9/1/2004; Union won; Cert. 1501 issued 9/20/2004.

Florida PBA v. Sheriff of Gilchrist County, Case No. EL-2004-037; Election 8/11 - 9/1/2004; Union won; Cert. 1502 issued 9/20/2004.

Federation of Public Employees v. Town of Lake Park v. Service and Business Workers of America, Local 125, Case No. EL-2004-039; Election 8/12 - 9/2/2004; Federation won; Cert. 1504 issued 9/20/2004.

Palm Beach County PBA v. Palm Beach County Sheriff's Office, Case No. EL-2004-038; Election 8/12 - 9/2/2004; Union won; Cert. 1503 issued 9/20/2004.

IUPA v. City of Clermont, Case No. EL-2004-042; Election 8/18 - 9/8/2004; Union won; Cert. 1505 issued 9/24/2004.

Palm Beach County PBA v. Town of Jupiter v. IUPA, Case No. EL-2004-035; Election 8/25 - 8/26/2004; IUPA won; Recertification issued.

Pinellas Lodge 43, FOP v. City of Pinellas Park v. Pinellas County PBA, Case No. EL-2004-043; Election 9/9/2004; FOP won; Cert. 1506 issued 9/27/2004.

Local Union 555 of the United Service Workers v. City of Casselberry v. Service and Business Workers of America, Local 125, Case No. EL-2004-041; Election 8/24 - 9/14/2004; USW won; Cert. 1507 issued 9/30/2004.

FPEC 79, AFSCME v. University of South Florida Board of Trustees, Case No. EL-2004-033; Election 8/18 - 9/15/2004; Union won.

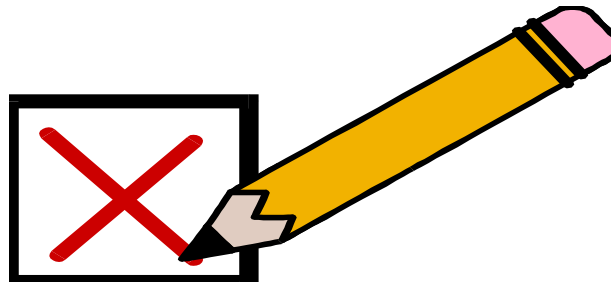
(Continued from page 10)

IUPA v. City of Gainesville v. Florida State Lodge, FOP, Case No. EL-2004-045; Election 9/16/2004; FOP won.

Teamsters Local Union No. 769 v. City of Fort Lauderdale v. Florida State Lodge, FOP, Case No. EL-2004-040; Election 9/22/2004; Runoff.

Northeast Florida Public Employees' Local 630, LIUNA v. Duval County School Board, Case No. EL-2004-044; Election 9/7 - 9/28/2004; Union won.

Coastal Florida PBA v. City of Casselberry v. IUPA, Case No. EL-2004-046; Election 9/8 - 9/28/2004; PBA won.



Staff Changes

The Commission welcomed several new faces to its staff during the past quarter:

Desmond Fields has joined the Elections Division staff as an elections specialist. He replaces Glenda “Nippi” Eubanks, who has retired. Desmond is from Quincy and has lived in Gadsden County his entire life. He graduated from Shanks High School where he was active in student government and distinguished himself as an honor student and athlete in both basketball and football. Desmond received a B.S. in Applied Economics from Florida State University in April of this year.

The Commission is pleased to have **Ebony Tucker** join the staff as a legal extern. Ebony is a third year law student at the FSU College of Law. She is a member of FSU’s Mock Trial team and plans to enter the field of labor and employment law upon graduating in the spring. As a participant in the FSU College of Law externship program Ebony receives school credit while gaining experience at PERC. She will be with the Commission until the end of November.

Heather Brewer has assumed an OPS administrative assistant position in the Commission’s Administrative Services section. Heather hails from Fort Myers and is in her junior year in the School of Communications at FSU.



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