

# **Public Employees Relations Commission**

## **Trends and Conditions Statement**

Pursuant to Article I, § 6, and Article III, § 14, of the Florida Constitution, Chapter 120, Sections 110.227, 112.0455, 295.07-.11, and, principally, Chapter 447, Part II, Florida Statutes, the Public Employees Relations Commission (PERC) handles all cases involving public sector employment and labor law including certification and registration of unions, unfair labor practices, career service matters, drug-free workplace issues and veterans preference cases. Florida Statutes, § 187.201(21), provides that it is a state goal that government economically and effectively provide the amount and quantity of services required by the public. PERC helps the state achieve its goal by promoting harmonious management/employee relations. This is achieved by expeditiously resolving local and state government employment and labor law controversies in a fair and economical manner and by preventing work stoppages.

PERC is a quasi-judicial tribunal with the primary function of mediating and resolving labor/employment disputes among hundreds of thousands of state and local government employees, job applicants, and their public employers. The authority for quasi-judicial tribunals is contained in Article V, § 1, Fla. Const.

Specifically, in regulating collective bargaining, PERC acts as the impartial to mediate impasses and disputes, monitors those disputes possessing the potential to become strikes, prevents strikes and imposes punishment on strikers, if necessary. PERC ensures that public sector unions provide pertinent financial and officer disclosure through its licensing desk. It decides disputes concerning bargaining unit configuration/modification and alleged unfair labor practices involving state and local governments pursuant to legislative instructions and case precedent. PERC also issues declaratory statements to avoid future labor disputes and conducts elections throughout Florida for state and local government employees voting for establishing or maintaining union representation. These functions are constitutionally required. Art. I, § 6, Fla. Const.: Dade County CTA v. Legislature, 269 So.2d 684 (Fla. 1972).

PERC also acts as the neutral to mediate and, if necessary, decide career service disputes between state employees covered by civil service, and their employers. This function is constitutionally required. Art. III, § 14, Florida Constitution. In 1997, a blue-ribbon Legislative committee that would be recognized by this Administration determined that the Commission was a cost efficient means of providing this required due-process function. Also, in 2001 the Legislature thoroughly reviewed PERC and its various jurisdictions and made significant changes. (SB 466 – “Service First”)

PERC also mediates and, if necessary, decides employment disputes regarding drug testing, whistle-blower and forced retirement for state employees. It also decides veterans’ employment disputes for both state and local governments. Federal and state constitutional due process of law requires that a neutral adjudicate these disputes.

As with any quasi-judicial agency, it is difficult to predict with any degree of certainty the future demand for PERC’s services, since the advocates practicing before it control demand. For the three-year period between 1996 and 1999, PERC had 1,334, 1,341, and 1,307 filings, respectively. Case filings were reduced in FY 1999-00 to 1,210 filings. This trend was repeated

in FY 2000-01, and FY 2001-02, during which 1,229 cases and 1,150 cases were filed, respectively. In the first 11 months of FY 2003-04 case filings have increased to 1,363.

While career service case filings decreased over the previous 3-year period, they appear to be stabilizing when compared to last year's data. The reduction in career service cases may be largely attributable to the major reforms in this area that were made through the Service First legislation in 2001. Significantly, this legislation removed attorney's fees and costs from being assessed when an employee is wrongfully disciplined, thereby eliminating the possibility for legal representation based upon a contingency fee arrangement. Some of the historical decrease is also a consequence of changes in what is considered to be inputs (filings) as defined in 1999 for performance based program budgeting.<sup>1</sup>

The significant 2001 legislative revisions of Chapter 447, Part II, and Section 110.227, Florida Statutes, and the reorganization of State agencies occurring between 2000 and 2002, makes precise forecasting for the FY 2004-05 virtually impossible. It is very likely the past years will not provide a reliable base line due to the aforementioned legislative actions. Also, it should be recognized that labor activity has been affected by a number of factors, including the abolishment of the State Board of Regents, which had a number of certified bargaining agents throughout the statewide university system. Upon the implementation of the eleven separate boards of trustees as independent public employers on January 7, 2003, significant labor activity occurred at those institutions and will continue to do so over the next several years. Specifically, in this fiscal year there have been 34 labor cases involving the 11 boards of trustees and affecting thousands of public employees. Furthermore, recent decisions of the Florida Supreme Court have expanded PERC's jurisdiction to cover deputized personnel, including deputy sheriffs, and attorneys employed by the State. To date, this has resulted in the filing of 30 representation cases and PERC conducting 44 elections involving thousands of deputy sheriffs. Given these factors, we would generally predict an increase in labor cases over the next five years. The labor cases are publicly visible and thoroughly litigated. Thus, the actual amount of work performed by the diminished PERC staff has actually increased.

Although data for the FY 2003-04 has not been completed at the present time, it appears that case filings during this fiscal year will be around 1,457, which is an increase of approximately 273 cases.<sup>2</sup> This is an increase in case filings of approximately 23%. This may or may not be statistically significant and, thus, it is assumed that filings will remain essentially the same, if no other factors were to be considered. However, due to the factors addressed above, it is anticipated that there will be an increase in labor filings of approximately 3% for each of the next 5 years. This 3% increase in case filings (inputs) will be reflected in a 3% increase in outputs (disposition of cases) over this 5-year period. Thus, case outputs are projected as follows.

2004-2005 = 1,240  
2005-2006 = 1,277  
2006-2007 = 1,315  
2007-2008 = 1,354  
2008-2009 = 1,395

---

<sup>1</sup> In creating the measures and standards for performance based program budgeting, PERC eliminated the counting of special master cases, as these cases are largely privatized. Thus, we have corrected this document to delete these cases from the FY 1996-97, FY 1997-98, and FY 1998-99 totals.

<sup>2</sup> This projection is based upon case filings in June 2004 to predict filings for June 2005.

