

FPELRA



Florida Public Employer Labor Relations Association

Cash-strapped Miami goes after firefighters' compensation

MIAMI BUDGET

Miami firefighters enjoy lucrative pensions, perks and six-figure compensation. Now the cash-strapped city wants to trim those benefits to help erase a budget shortfall.

[Miami Commission may delay final vote on budget](#)

BY LARRY LEBOWITZ AND CHARLES RABIN

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He's nowhere near the top of Miami's vast fire department hierarchy, but Capt. Raul Fernandez, who leads a crew of paramedics in the Brickell area, ranks among the costliest employees city taxpayers will support this year. The 24-year veteran's estimated total compensation package of \$349,279 places him third among 3,500 city employees, trailing only City Attorney Julie Bru and Fire Chief Maurice Kemp.

Fernandez, who earned more than \$152,000 in base pay and another \$96,000 by working more than 500 hours of overtime, said he was forced to moonlight as a tile installer during the first decade of his firefighting career. "Now here's this pot of gold in front of you and you just want to stick your hand in it. Do the numbers look bad? Yeah, they look bad. But I worked the hours."

As Miami struggles through its most contentious budget fight in a decade, Mayor Manny Diaz has his sights squarely focused on the skyrocketing pay and benefits for unionized firefighters like Fernandez. More than any other department, the fire rescue payroll is responsible for pushing the city's annual pension payment past the \$100 million threshold in 2010. That's a 48 percent increase over this year's pension obligation. Next year, one of every five operating dollars the city spends will cover the pension obligations of cops, firefighters and general employees.

Consider:

- Of the approximately 630 sworn firefighters, 19 are costing taxpayers more than \$300,000 a year in compensation and benefits; another 161 are over \$200,000.
- Eight firefighters receive salaries and benefit packages worth more than the city's top boss, Pete Hernandez, who costs taxpayers \$329,447.
- But that pales in comparison to the 47 firefighters whose pay and benefits exceed the \$265,117 in annual compensation the city doles out for Mayor Manny Diaz.

"We are well compensated," said Miami firefighters union president Robert Suarez. "I'm not going to argue that we aren't."

In addition to base pay and overtime, the city's total compensation estimates include the department's share of pension, healthcare, worker's comp and specialty pay bonuses.

After years of lagging their Sunshine State counterparts, Suarez said, Miami firefighters have consistently ranked among the top 3 statewide since 2007, when the last collective-bargaining agreement bestowed huge raises and incentives. While comparisons with Miami are difficult because contracts vary widely among municipalities, Suarez said Miami Beach and Miami-Dade are the only two departments with equal or higher pay in Florida.

Like Fernandez, Capt. Jon E. Hart also works as an Advanced Life Support supervisor out of the Brickell Station. A 29-year fire rescue veteran, Hart technically retired in 2006 but continues to be one of the department's top earners under the state's deferred-compensation retirement plan. Hart collected more than \$157,000 in base salary and grossed more than \$101,000 in overtime in 2009, as part of an estimated compensation package that cost the city \$311,000. That doesn't include the \$118,000 annual pension he started collecting in 2007.

Hart did not return a request for comment left with his union leader.

Miami Commissioner Marc Sarnoff captured the growing citywide sentiment to the skyrocketing firefighter salaries: "I could kill my high school guidance counselor for not telling me to be a firefighter," said Sarnoff, who possesses a law degree from Loyola University.

Sarnoff points at national compensation data for doctors and surgeons to drive home his point about firefighters, who only need a high school equivalency degree.

According to U.S. Department of Labor statistics, dozens of Miami firefighters are grossing more than general surgeons (\$228,000), obstetricians (\$203,000) and pediatricians (\$132,000) new to their respective specialties.

As the final city budget hearing nears, Suarez said the fire union leadership is sensitive to the criticism about excessive pay, especially while others struggle to pay bills in a city where nearly a quarter of the population lives below the poverty line.

BUDGET HOLE

He is trying to sell his rank-and-file on salary and other benefit cuts that would save Miami \$15 million next year -- more than the \$10

PRESIDENT'S MESSAGE

We are rapidly approaching FPELRA's 2010 Annual Training Conference, our 36th, to be held **February 8-10, 2010**, and I wanted to let you know that the board has once again put together a **super** conference agenda. We have included plenty of the "tip-of-the-spear" information that is relevant to current situations being experienced by our membership, and we've included some things that are very educational while being "oh, so fun" at the same time! But, keep that between us.

Our conference schedule will be published in the October 31st newsletter and I would encourage you to review it and take advantage of the early-bird member registration discounts offered by FPELRA! The board and I understand that times are tough all around and we are trying our very best to ease the burden by holding the line on our conference registration rates at the 2009 level. In addition to the registration rate being frozen, FPELRA has also negotiated a **super rate** of \$117 per night at the Renaissance Orlando Airport Hotel for conference attendees. With gas prices dropping, unprecedented airfare deals for those that fly in (by the way, the hotel offers free pickup/dropoff at the airport), the super hotel rate and the great conference registration discount, **YOU CAN AFFORD TO ATTEND!**

All you have to do is compare 2008 actual to projected 2010 attendance costs to see what a great value you get for attending next year!

million Diaz was originally seeking from the fire union to help fill a \$118 million hole in the 2010 budget.

Unlike the Miami Fraternal Order of Police chapter, which has refused to budge, the firefighters have been willing to negotiate across-the-board salary cuts: "We know if we squeeze too much, the city's going to choke," Suarez said.

Union and management experts agree that comparisons across local governments are difficult because there are so many variables that affect firefighter wages and benefits.

But the fight over lucrative public-employee salaries and pensions has become increasingly common across the U.S. as cities have been forced to tighten belts and slash budgets.

In Orlando, where firefighter salaries and pensions are similarly strangling city finances, Mayor Buddy Dyer threatened to lay off 46 of the 470 firefighters before the union struck a last-minute concession on supplemental pay that delayed the layoffs by at least five months.

Similar fights over base pay, benefits and work rules are still being waged in cities as diverse as Los Angeles and Oakland.

The fight over Miami firefighter pay and benefits is steeped in decades of bare-knuckle negotiations between the fire union and an array of ever-changing city administrators.

A well-organized political force, the firefighters have been entrenched in Miami's power circles since the mid-1980s, when city leaders were forced to admit that they had been stealing from the union's pension fund for years.

The jobs are highly coveted: In February, more than 1,000 people stood in line -- some camping overnight -- for a shot at 35 open firefighter slots in Miami.

Though desirable, they come with long hours -- one of the reasons overtime costs have soared the past few years. Suarez blames the overtime issue on the administration, saying it failed to promote and hire entry-level firefighters in a timely fashion, which forced the department to pay loads of overtime to higher-paid supervisors.

The mayor counters that staffing rules buried in the union contract for years have created a top-heavy force with too many supervisors overseeing too few firefighters.

The current union contract, ratified in 2007, is laden with more than

CONGRATULATIONS!

Michael Whelan Appointed to PERC Special Magistrate Roster

Michael Whelan, Esq., former FPELRA member and long-time supporter of FPELRA has recently been appointed to PERC's list of neutrals. Michael was an FPELRA member for many years and assisted us in many ways - most notably as the "The Force" in our long-running "The Force vs. The Dark Side" sessions. In 2007 he moved to New York State and is currently an Assistant Professor of Speech Communication at Ithaca College. Michael was recently appointed to PERC's Special Magistrates roster and is available for selection for Impasse hearings.

Congratulations, Michael!



QUOTE OF THE MONTH

"Charlie Crist came as close as he could to appointing himself to this position,"

national Democratic Senatorial Campaign Committee Communications Director Eric Schultz on Gov. Crist's decision to tap his former chief of staff for the U.S. Senate.



two dozen salary sweeteners, covering everything from anniversary and longevity bonuses to tuition and safety-shoe reimbursements. Firefighters receive annual salary supplements for earning degrees - after taxpayers help pay their tuition costs.

They also receive supplements that boost their base pay for joining the dive, hazardous materials and SWAT teams, and for earning an array of various state certifications.

Every firefighter receives \$3,429 in revenue-sharing each year from funds the city collects from insurers for delivering patients to hospitals.

They also receive more than \$2,000 a year in "fire prevention pay" -- a practice that started in 1993, when the city couldn't afford pay raises, and continues to this day.

Turnover is rare. Suarez said the average fire department tenure is 28 to 32 years. And with good reason. If a firefighter works 30 years, he or she can retire with a pension equal to 100 percent of the highest paid year of his or her career -- which includes many salary sweeteners but not overtime.

The mayor argues that when the city hires a new firefighter in his 20s, the city will wind up paying him for the rest of his life. These so-called "defined benefit" pension programs have largely disappeared from the private sector.

Because they work 24 hours on/48 hours off, many firefighters -- like Fernandez moonlighting as a tile installer in the early years of his career -- can juggle second jobs or private businesses.

Others, like Hart, the "retired" Advanced Life Support captain, scoop up copious quantities of overtime because of shortages in specific supervisory jobs.

Like many public employees, firefighters are allowed to "bank" up to a year's worth of unused sick days and cash them out at career's end.

The biggest boost in salaries came after the 2007 contract was ratified. Firefighters were guaranteed 5 percent across-the-board raises each of the three years of the contract.

But that doesn't tell the whole story.

In addition to the annual raises, all union members receive at least a 2.5 percent raise every six months until they reach the top of the scale, plus salary supplements like the 14 percent increase for all

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PRE-CONFERENCE SEMINAR

Sunday, February 7, 2010

"Introduction to Collective Bargaining/Overview of Chapter 447, F.S., the Public Employees Relations Act"

Provides a complete summary of the public sector bargaining process in Florida. Includes the politics of bargaining, and how to prepare for and bargain in good faith. This module also covers Executive Sessions, Impasse Procedures and more! This module must be completed prior to enrolling in subsequent modules offered by FPELRA.

FPELRA'S 2010 SCHEDULE FOR PUBLIC SECTOR PROFESSIONAL CERTIFICATION IN LABOR RELATIONS TO BE ANNOUNCED AT THE 2010 FPELRA ANNUAL TRAINING CONFERENCE!

Only those having completed the Introduction to Collective Bargaining / Overview of Chapter 447 will be allowed to enroll in the remainder of seminars scheduled for 2010.



state certified paramedics.

Former City Manager Joe Arriola said "the main reason" he quit in 2006 was Diaz's refusal to back him in hardball negotiations with the three main unions.

Arriola said he wanted to force the unions to declare an impasse. "They would have fought," Arriola said. "It would have gone to the courts, and the courts would have seen the numbers."

THE FINAL STRAW

Arriola was on the sidelines when his successor, Pete Hernandez, and employee relations director Hector Mirabile negotiated the lucrative three-year deal that is now forcing the city to cry poor-mouth.

"It gave away the store," Arriola said of the 2007 contract, "everything I worked for. That was my last fight with Manny Diaz, I wanted to take the unions to an impasse. . . . But in the end, Manny didn't have the stomach for it."

Fire union president Suarez is stunned by the mayor's sudden change of heart that has led to what Suarez characterizes as demonizing his rank-and-file.

"It's a bitter pill for me," Suarez said. "Because [Diaz] was a champion of how we won these salaries in the first place. All of a sudden, there's a flip of the switch and he's pounding us."

Suarez took an extra swipe, calling the mayor a "hypocrite" for suddenly taking a hard line on the city's pension crisis.

In addition to demanding cuts in police and fire pension costs, Diaz is asking commissioners to end the practice of providing pensions for elected officials. If that proposal passes, Suarez noted, it won't go into effect until after Diaz leaves office -- his pension bolstered by a controversial \$53,000 raise he received in December 2005.

Diaz brushed off the attacks as a petty smoke screen intended to divert attention away from the larger financial issues the city is facing.

"You have to fundamentally change the way you do business," Diaz said. "You have to change the entire compensation scheme. We can't afford to keep doing business this way. It isn't sustainable."

Miami Herald staff writer Jennifer Lebovich contributed to this report.

FOCUS ON MEMBER BENEFITS

Networking

Connect with other professional colleagues in public sector labor relations and human resources throughout the State of Florida. This is invaluable as you connect with a mentor, tutor, sounding board, or just a listener! In any case, we'll help you carry the load.

Annual Training Conference

Nowadays, it's imperative to maintain your cutting-edge knowledge in labor relations and human resources. In an ever-changing regulatory environment, FPELRA provides you a cost-effective way to receive timely and sage information on changes that occur with sometimes blinding speed. The conference also provides you with HRCI recertification hours.

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Our four-module labor relations professional certification series provides an efficient way to glean Florida Public Sector specific knowledge that has been building since 1974. Each day-long module covers a different part of the labor relations process - the law, negotiations, impasse, grievance-handling & arbitration - all geared to the adult learner.

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FREE Job Postings in our Online Career Center

Our career center area allows any member's agency to post career opportunities in Labor Relations, general Human Resources and Executive Administration at no cost to the agency. The career opportunities reach a membership base with proven knowledge of Florida-centric issues.

AG: TEXT MESSAGES PUBLIC RECORD

BY BILL COTTERELL • FLORIDA CAPITAL BUREAU POLITICAL EDITOR • SEPTEMBER 16, 2009 TALLAHASSEE DEMOCRAT

Attorney General Bill McCollum said Tuesday his office will start keeping all BlackBerry messages and announced creation of a task force to bring Florida's public records laws into the text-messaging age. McCollum said recent controversy at the Public Service Commission, where some officials gave direct instant-messaging contact information — a personal identification number or PIN — to utility lobbyists, brought the issue to his attention. Unlike computer e-mail messages, which can be relayed or printed, texting between hand-held devices skirts public-record laws by leaving no paper trail or retrieval method.

But it's technologically possible to store messages that go through a state server, McCollum said at a news conference, and that's what his office will do. Although he considers the texts to be public records, McCollum emphasized that he was not issuing a legal opinion as attorney general and was only suggesting that other agencies follow his lead. "We are going, in the attorney general's office, to retain all (device-to-device) and all text messaging that goes through the agency server," said McCollum. "They will be treated by this office as public records."

McCollum is the major Republican candidate for governor. Chief Financial Officer Alex Sink, the leading Democratic contender, early this month recalled scores of BlackBerry, cellular phone and computer air-card devices that she said were not needed by aides in her Department of Financial Services. McCollum appointed his top deputy attorney general, chief of staff Joe Jacquot, to head a "Sunshine Technology Team" that will make recommendations for keeping such messages. Although his Department of Legal Affairs was able to do it by adjusting its server, McCollum said, he didn't know what kinds of equipment other agencies are using or what the law and pending litigation might require for texts, so his task force will work with the First Amendment Foundation, information-technology experts and others in the field.

Messages already deleted are "gone for good," McCollum said, but technology exists to save everything in the future. "The common misconception is that PINs travel device to device. They don't," Jacquot said. "They go through a BlackBerry server. We didn't know this, as legal staff, until the controversy occurred at the PSC and we began to ask the question and found out, sure enough, you can flip a switch on the server and begin to retain this — and today we're flipping the switch."

State Sen. Mike Fasano, R-New Port Richey, a frequent critic of the PSC, said he liked McCollum's decision.

"I totally agree," said Fasano. "Anything that deals with policy in any agency, that should be totally available to the media and the local public."



FOCUS ON MEMBER BENEFITS

Publications

FPELRA offers "How to Bargain for Management in the Public Sector: Strategies and Tactics," "Managing the Grievance Procedure," and "A Supervisor's Labor Relations Guide" at a discount to our membership. These are structured in an easy to read, logical, step-by-step format to quickly educate your newest on-boarding in Florida Labor Relations.

Contract Language Database

Our contract language database gives members access to labor contracts throughout the state. Research best language and innovative provisions in contracts covering law enforcement, fire rescue, white and blue collar, education and other career fields. Our contract database covers constitutional employers, taxing districts, municipalities, counties, and educational institutions of all levels.

Forum

Our member-only, password protected forum provides a secure area for our membership to freely post their questions, thoughts, ideas, recommendations and respond to those posed by others. Neatly organized in themed discussion threads, the forum allows our members to securely discuss day-to-day issues.

FPELRA Newsletter

A monthly roundup of interesting PERC labor cases and select media articles on labor & employee relations along with timely information on upcoming events and member news. Members are encouraged to submit arbitration decisions and media articles for inclusion. Submit arbitration decisions electronically in either Adobe PDF or MS Word format. The link to web-published media articles can be forwarded to webmaster@fpelra.org. The newsletter benefits the membership by keeping our members abreast with developing issues throughout Florida and the nation.



FURLOUGH USE ON THE RISE

8/21/2009

By Kathy Gurchiek

Furloughs are becoming increasingly viewed as a viable option for controlling labor costs while retaining talent, a new survey by global management consultancy Hay Group has found.

Among more than 100 U.S. organizations polled in May 2009, more than one-third either has a furlough policy or is using furloughs as a way to control costs. Within that group, half anticipate using furloughs to cut costs for six to 12 months. And while furlough maximums vary from four days to one year, more than half of those using them or who have a furlough policy don't have an established maximum length, the Hay Group found.

"It was really clear to us that this was becoming a bigger issue than we thought at the time, and it was more pervasive than we thought," said Marie Dufresne, a senior consultant and national benefits practice leader for the Hay Group.

Among those using furloughs or who have a furlough policy in place:

- About 75 percent of those on furlough are nonexempt employees; about 68 percent are exempt or equivalent.
- 65 percent do not allow employees to volunteer for full- or partial-length furloughs.
- 71 percent indicated compensation levels are being cut commensurate with time off; 52 percent indicated incentives would not be impacted due to reduced annual pay.
- 75 percent indicated accrued, allotted vacation or floater time continues to be accrued during furloughs.
- More than 60 percent continue employees' health care benefits during the furlough period but are required to pay the employee's contribution portion.
- More than 60 percent indicated employer contributions to defined contribution plans are continued based on reduced pay; nearly 10 percent said the employer match is discontinued during furloughs.
- 80 percent are continuing employee 401(k) loans, as they would when employees take leaves of absence.
- 30 percent of furloughs are intermittent, 27 percent are continuous and 43 percent are "other." One week, 60 days or a short amount of days frequently constituted "other."

"They're all struggling with it, honestly," Dufresne said. "They don't want to terminate, they don't want to layoff or [institute a] leave of absence."

Training mid-level managers is a critical component of using furloughs, Dufresne told *SHRM Online*.

Report: New NLRB Will Advance Pro-Union Labor Law Reform

Once President Barack Obama's nominees to the National Labor Relations Board (NLRB) are confirmed, the new NLRB is likely to reverse numerous NLRB decisions issued during the Bush administration and make it more difficult for subsequent boards to undo these reversals by relying more on rulemaking, predicts a Sept. 16, 2009, U.S. Chamber of Commerce report.

"It is clear that change is coming to the NLRB," according to the report, written by Ogletree Deakins attorneys Harold Coxson and Christopher Coxson. "The two newest Democratic nominees to the board—Craig Becker and Mark Pearce—are both union lawyers, as was Chairman Wilma Liebman prior to her government service."

The report predicts that "to the extent possible short of legislative change, pro-union labor law reform will come through changes in board policies." Though some of these decisions seem extremely technical, the report warns that such reversals together would "increase union leverage in every aspect of labor-management relations."

Hit List

The report reviews more than 50 Bush board decisions that the new NLRB may reverse, including:

Read the entire article at:
<http://www.shrm.org/LegalIssues/FederalResources/Pages/ReportNewNLRB.aspx>





The survey found that nearly two-thirds (65 percent) use passive enforcement—reminders, communication, the honor system—of the “no work” provisions. That can be fraught with problems.

Employers are implementing furloughs without due consideration of all the legal risks, [SHRM Online reported June 12, 2009](#). Accepting “off the clock” work from employees on furlough, for example, could result in a class-action lawsuit against the organization for violation of the Fair Labor Standards Act (FLSA).

“If you’re going to furlough half of your team for two weeks and the other half the other two weeks, you’ve got to figure out what the rules are,” Dufresne said. “It’s got to be done at the manager’s level. This is why we have to have constant education, guidelines and policies.”

Furloughs are easier to manage when an entire city government shuts down, such as when Chicago mandated a three-day furlough beginning Aug. 17, 2009. Police, fire and tow truck drivers were among the few workers allowed to remain on the job, [Chicago 7 News reported](#). And [Michigan furloughed about 37,400 state employees](#) over six intermittent Mondays and Fridays during the summer of 2009.

But in situations where a team is furloughed for two weeks, “that’s a little more difficult to do. What do I do, take their Blackberries?” Dufresne asked. “If nothing else, employers have to be able to show good faith effort in compliance,” she said, by doing such things as:

- Understanding what the guidelines for the furlough are, “because they’re very clear in the FLSA.”
- Figuring out, within your organizational structure, how to build protections for the company while educating employees as to why they cannot continue to work while on furlough.
- Communicating to employees—in a friendly, empathetic way—why they cannot work off the clock during their furlough.



EFCA Update

“I would just caution you to not take great comfort in the current eye of the storm and recognize that the Category Five is still forming.” Marriott Executive VP David Rodriguez warned American businesses not to be lulled into a [false sense of security](#) as the debate over health care reform has stolen the public stage. Rodriguez referred to the Employee Free Choice Act, and other labor mischief soon to be stirred by the various union-schooled Obama appointments. Bill or no bill – [changes are coming](#).

Read the full story at: <http://lrionline.com/ink-september-24-2009/>



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