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In the Supreme Court of Florida

Case No. SC13-1882
L.T. Case No. 1D12-2116

WALTER E. HEADLEY, JR.,
MIAMI LODGE #20, FRATERNAL
ORDER OF POLICE, INC.

Petitioner,

v.
CITY OF MIAMI, FLORIDA,

Respondent.

BRIEF OF AMICUS CURIAE FLORIDA LEAGUE OF CITIES IN SUPPORT OF RESPONDENT

Michael P. Spellman, FBN 0937975
Hetal H. Desai, FBN 050938
Jeffrey D. Slanker, FBN 100391
Sniffen and Spellman, P.A.
123 North Monroe Street
Tallahassee, Florida 32301
(850) 205-1996
(850) 205-3004 Facsimile

Harry Morrison, Jr., FBN 339695
Kraig Conn, FBN 793264
Florida League of Cities, Inc.
Post Office Box 1757
Tallahassee, Florida 32302
(850) 222-9684

Attorneys for Amicus Curiae
Florida League of Cities

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STATEMENT OF INTEREST

The Florida League of Cities is a voice for Florida's municipal governments. It serves Florida's cities and promotes local self-government in the state. The League was founded on the belief that self-government is the keystone of American democracy. The League represents more than 400 cities, towns and villages in Florida and many of these municipalities are served by a workforce that is unionized at least in part. Financial issues that place a burden on municipalities surely will arise in the future and, thus, the Florida League of Cities and its member institutions have a direct interest in the outcome of this case.

SUMMARY OF THE ARGUMENT

This case centers on the proper interpretation of Section 447.4095 of the Florida Statutes, which provides authority to a municipal employer to unilaterally modify the terms of a collective bargaining agreement due to financial urgency. The statute provides a remedial scheme to address potential improper invocations of financial urgency by public employers. These include expedited impact bargaining and the potential for an unfair labor practice charge.

At various points in time, municipalities throughout Florida have been faced with financial management issues. Periodically cities have unfortunately encountered shortfalls in revenue or sudden increased costs for services, forcing them to balance competing interests in serving the public while attempting to abide

by previous commitments to unionized workforces. Throughout these periods, cities have to determine and weigh the needs and priorities of their citizens and must be able to exercise their exclusive and fundamental legislative authority to tax, budget and appropriate funds.

ARGUMENT

This case focuses squarely on the constitutionality of Florida's Financial Urgency statute: Section 447.4095, Florida Statutes (2010) ("the Statute"). The First District Court of Appeal upheld a final order of the Public Employees Relations Commission ("PERC") holding the Respondent, City of Miami ("the City") did not commit an unfair labor practice when it modified a collective bargaining agreement ("CBA") with the Miami Lodge No. 20, Fraternal Order of Police Inc. ("the Union"), while the City was facing a financial urgency. Headley v. City of Miami, 118 So. 3d 885 (Fla. 1st DCA 2013). This Court should affirm the First District's interpretation and application of the Statute because it is consistent with its legislative intent and purpose; and PERC, not the courts, should conduct the fact-specific analysis required for a finding of "financial urgency" under the Statute.

II. COURTS MUST DEFER TO THE LEGISLATURE FOR REGULATING MODIFICATIONS OF A CBA.

This Court is well-versed in the concept of separation of powers between the three branches of government.[1] Indeed, no branch may encroach on the powers of another branch. Chiles v. Children A, B, C, D, E, & F, 589 So. 2d 260, 264 (Fla. 1991). The Florida Constitution provides that "the power to enact laws" and the power "to declare what the law shall be . . . shall be vested in a legislature of the State of Florida." Art. III, § 1, Fla. Const.; B.H. v. State, 645 So. 2d 987, 992 (Fla. 1994) (citation omitted). Along these lines, the judiciary is required to give effect to "legislative enactments despite any personal opinions as to their wisdom or efficacy" so long as such an interpretation would not lead to absurd results. Moore v. State, 343 So. 2d 601, 603-04 (Fla. 1977).

A. THE HISTORY OF THE STATUTE REVEALS THE LEGISLATURE'S INTENTION TO GIVE MUNICIPALITIES THE ABILITY TO QUICKLY ADDRESS FINANCIAL URGENCY.

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[1] Article II, Section 3 of the Florida Constitution specifies the powers of the three branches of Florida government and provides that "[t]he powers of the state government shall be divided into legislative, executive and judicial branches. Florida House of Representatives v. Crist, 999 So. 2d 601, 610-11 (Fla. 2008)(holding that "[n]o person belonging to one branch shall exercise any powers appertaining to either of the other branches unless expressly provided herein."). This Court has "traditionally applied a strict separation of powers doctrine" in construing constitutional provisions. Bush v. Schiavo, 885 So.2d 321, 329 (Fla. 2004) (quoting State v. Cotton, 769 So.2d 345, 353 (Fla.2000)).

Before addressing its current posture, a brief history leading up to the Statute's enactment is vital to understanding the legislature's purpose. Prior to the Statute's enactment, a public employment CBA could be modified due to a shortfall in funding pursuant to Section 447.309(2), Florida Statutes. That statute, appropriately termed "the Underfunding Statute," provided, in pertinent part:

> Upon execution of the collective bargaining agreement, the chief executive shall, in his annual budget request or by other appropriate means, request the legislative body to appropriate such amounts as shall be sufficient to fund the provisions of the collective bargaining agreement. If less than the requested amount is appropriated by the legislative body, the collective bargaining agreement shall be administered by the chief executive officer on the basis of the amounts appropriated by the legislative body.

§ 447.309(2), Fla. Stat. (1975).

In 1993, two District Courts of Appeal applied the Underfunding Statute to local governments. First, in School Bd. of Martin Cnty. v. Martin Cnty. Educ. Ass'n., 613 So. 2d 521 (Fla. 4th DCA 1993), rev. denied, 632 So. 2d 1027 (Fla. 1994), the Fourth DCA held that the Underfunding Statute immunized the school board from an unfair labor practice claim when the board failed to appropriate sufficient funding for its CBA. Then, the Second District opined in Sarasota Cnty. Sch. Dist. v. Sarasota Classified/Teachers Ass'n., 614 So. 2d 1143, 1148-49 (Fla. 2nd DCA 1993), rev. dismissed, 630 So. 2d 1095 (Fla. 1994), that the Underfunding Statute did not violate the constitutional right to bargain and,

therefore, the school board did not commit an unfair labor practice when it underfunded a previously negotiated CBA.

While the Martin and Sarasota County cases were evolving, this Court issued two opinions on the subject of underfunding CBAs. In State v. Florida Police Benevolent Ass'n., Inc., 613 So. 2d 415 (Fla. 1992), during the course of a multi-year CBA, the legislature changed the state appropriations act, which affected provisions of that contract. This Court held the legislature had the power and discretion to appropriate funds as it saw fit, even if it meant underfunding the negotiated contract. Id. at 418-19. Citing the separation of powers doctrine, this Court held the executive branch of government cannot invade the legislature's exclusive right to appropriate funds. Id. at 419.

Three months later, this Court decided Chiles v. United Faculty of Florida, 615 So. 2d 671 (Fla. 1993). In that case, the legislature reduced and then eliminated an appropriation it had previously approved to fund a CBA. This Court noted, in pertinent part:

> We recognize that in the sensitive area of a continuing appropriation obligation for salaries . . . the legislature must be given some leeway to deal with bona fide emergencies. Accordingly, we agree with the trial court that the legislature has authority to reduce previously approved appropriations to pay public workers' salaries made pursuant to a collective bargaining agreement, but only where it can demonstrate a compelling state interest.

Id. at 673 (citations omitted). Three justices went further, "Before that authority can be exercised, . . . the legislature must demonstrate that the funds are available from no other possible reasonable source." Id.

Two years after Chiles, the legislature overhauled the Underfunding Statute in two significant ways. First, it amended Section 407.309(2) to apply only to the state government. See Act effective July 1, 1995, ch. 95-218, § 1(2)(b), 1995 Fla. Laws 1943, 1943 (codified as amended at §447.309(2)(b) Fla. Stat. (1995)). Second, it created a new statute – the Financial Urgency statute – which granted local governments leeway in maintaining labor contracts during times of financial distress. Id. § 2 at 1943-44 (codified as amended at §447.4095 Fla. Stat. (1995)). The Financial Urgency statute currently reads the way it was originally enacted:

> In the event of a financial urgency requiring modification of an agreement, the chief executive officer or his or her representative and the bargaining agent or its representative shall meet as soon as possible to negotiate the impact of the financial urgency. If after a reasonable period of negotiation which shall not exceed 14 days, a dispute exists between the public employer and the bargaining agent, an impasse shall be deemed to have occurred, and one of the parties shall so declare in writing to the other party and to the commission. The parties shall then proceed pursuant to the provisions of s. 447.403.

§ 447.4095 Fla. Stat.

The legislature is presumed to have acted deliberately and with knowledge of this Court's decision in Chiles when it enacted the Statute two years later. See Seagrave v. State, 802 So. 2d 281, 290 (Fla. 2001)("Florida's well-settled rule of

statutory construction [is] that the legislature is presumed to know the existing law when a statute is enacted, including 'judicial decisions on the subject concerning which it subsequently enacts a statute.'"). Indeed, the legislature could have passed legislation overturning or at least significantly limiting Chiles, as Congress has done on many occasions.[2] Such is the "check" given to the legislative branch over the judiciary.

This is especially so in matters dealing with the financial matters, or matters of the "public purse." As explained recently by this Court in Graham v. Haridopolos, 108 So. 3d 597 (Fla. 2013), "[T]he Florida Constitution gives the Legislature "the exclusive power of deciding how, when, and for what purpose the public funds shall be applied in carrying on the government." Id. at 603 (citation omitted). In Children A et. al., 589 So. 2d 260, this Court explained the legislature's authority over "the public purse" as follows:

> The constitution specifically provides for the legislature alone to have the power to appropriate state funds. More importantly, only the legislature, as the voice of the people, may determine and weigh the multitude of needs and fiscal priorities of the State of Florida. The legislature must carry out its

[2] Some notable instances include: the enactment of the Lilly Ledbetter Fair Pay Act of 2009, Pub.L. 111-2, 123 Stat. 5, to address the United States Supreme Court's decision in Ledbetter v. Goodyear Tire & Rubber Co., 550 U.S. 618 (2007)(holding statute of limitations for presenting equal pay lawsuit began on the date that the employer made the initial discriminatory wage decision); the passage of the ADA Amendments Act of 2008, Pub.L. 110-325, 122 Stat. 3553, which amended the Americans with Disabilities Act of 1990 to overturn two specific Supreme Court decisions: Sutton v. United Air Lines, Inc., 527 U.S. 471 (1999), and Toyota Motor Mfg., Kentucky, Inc. v. Williams, 534 U.S. 184 (2002).

> constitutional duty to establish fiscal priorities in light of the financial resources it has provided.

Id. at 267.

Whether the language in Chiles related to other sources of revenue is dicta, as suggested by the City, or was eliminated by the legislature's sweeping changes in response to Chiles, the First District correctly declined to extend the unrealistic and unreasonable standard of first finding "no other reasonable source" onto local governments who are forced to modify a CBA under the Statute.

B. THE FINANCIAL URGENCY STATUTE IS CONSTITUTIONAL.

Alternatively the judiciary has the responsibility of assuring the legislature does not act arbitrarily or in violation of the Constitution.[3] Two fundamental Florida constitutional rights are implicated by a public employer's reliance on the Statute to unilaterally modify a term of a CBA — the right to collectively bargain

[3] Courts "are obligated to accord legislative acts a presumption of constitutionality and to construe challenged legislation to affect a constitutional outcome whenever possible." Florida Dep't of Revenue v. Howard, 916 So. 2d 640, 642 (Fla. 2005). Statutes are "clothed with a presumption of constitutionality and must be construed whenever possible to effect a constitutional outcome." Crist v. Florida Ass'n of Criminal Def. Lawyers, Inc., 978 So. 2d 134, 139 (Fla. 2008). "Absent a constitutional limitation, the Legislature's 'discretion reasonably exercised is the sole brake on the enactment of legislation.'" Id. at 141 (quotations omitted). "[E]very reasonable doubt should be resolved in favor of a law's constitutionality." Franklin v. State, 887 So. 2d 1063, 1080 (Fla. 2004). "The wisdom, policy, or motives which prompt a legislative enactment, so far as they do not contravene some portion of the express or implied limitation upon legislative power found in the Constitution, are not subject to judicial control." Scott v. Williams, 107 So. 3d 379, 384-85 (Fla. 2013). (quotation omitted).

under Article I, Section 6 and the freedom from impairment to contract under Article 1, Section 10. Strict scrutiny applies to the determination of whether a statute implicating a fundamental right is constitutional. Florida Police Benevolent Ass'n, 613 So.2d at 423. Under that standard the government must show a challenged statute serves a compelling state interest and accomplishes the intended interest through the least intrusive means. Governmental Emps. Ass'n v. Hillsborough Cnty. Aviation Auth., 522 So. 2d 358, 362 (Fla. 1988).

1. THE STATE HAS A COMPELLING INTEREST IN ALLOWING MUNCIPALITIES FLEXIBILITY IN ADDRESSING FINANCIAL CRISIS.

As noted by the First District, the financial health of a local government is a compelling state interest that justifies the infringement of even a fundamental constitutional right. Headley, 118 So. 3d at 892; see also Commc'ns Workers of Am. v. Indian River Cnty. Sch. Bd., 888 So. 2d 96, 101 (Fla. 4th DCA 2004). Similarly, this Court noted in Chiles that public employers must be able to respond to certain financial issues and recognized a public employer's right to unilaterally modify the terms of a CBA. Chiles, 615 So. 2d at 673. This language portends this Court contemplated instances where such a modification was warranted due to a compelling state interest.

Major distinctions exist between public and private sector bargaining. See generally Florida Police Benevolent Ass'n, 613 So. 2d at 417-18. Public

employers must always ensure that its citizens are served, while private employers can merely liquidate assets if they can no longer operate due to financial issues. To the contrary, if a municipality folds, garbage is left on the street and no one is present to patrol the streets or respond to natural and man-made disasters.

The legislature clearly weighed these competing factors and struck a balance among the unionized public employer, its workforce, and its citizens. To be sure, the legislative purpose of Florida's labor statutes is "to promote harmonious and cooperative relationships between government and its employees, both collectively and individually; **and to protect the public by assuring, at all times, the orderly and uninterrupted operations and functions of government.** § 447.201, Fla. Stat. (emphasis added). This statement of purpose reiterates that it is the public welfare, not union interest, which is paramount. This is evidenced by the provision that bans union strikes for any reason, including disputes with management. Id.

2. THE FINANCIAL URGENCY STATUTE AND ITS APPLICATION ENSURES LEAST INTRUSIVE MEANS.

While the Statute allows for a local government to unilaterally modify the terms and conditions of a CBA to address immediate and significant financial concerns, it is narrowly tailored to achieve this interest. The Statute's provisions provide employees with a host of procedural safeguards to ensure that the public employer's right to modify a term of a CBA is not abused. In fact, the legislature included protections to union members in the Statute that were not in existence

when this Court decided Chiles. These provisions include expedited impact bargaining over the modification and a forum to challenge the employer's actions. Fraternal Order of Police v. City of Miami, 38 FPER ¶ 330 (2012). In the event an agreement cannot be reached during impact bargaining, the union and the government's employees are provided with all the procedural safeguards of the impasse procedures of § 447.403 Fla. Stat. Finally, employee's collective bargaining rights are safeguarded by the fact that the improper invocation of the Statute can lead to unfair labor practice charges brought before PERC. See Manatee Educ. Ass'n, FEA AFT (Local 3821), AFL-CIO v. School Bd. Of Manatee Cnty., 62 So. 3d 1176, 1183 (Fla. 1st DCA 2011).

The Union amici's argument that the **only** way to render the Statute constitutional is to apply the "no other reasonable source" test in Chiles misses the mark – regardless of whether a major portion of that supposed "test" is dicta or because Chiles predated Section 447.4095. The legislature introduced safeguards in the Statute designed to effectuate the compelling governmental interest of addressing immediate financial urgency issues in the least intrusive way possible. Those protections, not in existence when Chiles was decided, act to narrowly tailor the infringement on any fundamental right to the furtherance of a compelling governmental interest.

II. COURTS SHOULD DEFER TO PERC TO CONDUCT THE FACT SPECIFIC ANALYSIS FOR DETERMINING FINANCIAL URGENCY.

Ignoring these safeguards as well as Justice Grimes' concurring opinion, Petitioners' amici urge municipal employers should have to show that there are no available funds from other reasonable sources to carry out the terms of a CBA before altering it. This contention, however, not only ignores the purpose of the Statute — to provide public employers with **immediate relief** from financial urgency — it begs the questions: who should analyze and make decisions regarding the availability of funds; whether these sources are reasonable; and whether there are demands for such funds elsewhere in the local government.

While Petitioners' amici suggest to this Court various means to derive funds that should be exhausted before attempting to modify a CBA, nothing in the Statute requires that modification be a "last resort." As noted by the First District, whether modification is reasonable should be analyzed by PERC, the agency designated by the legislature to provide safeguards to unionized workers from arbitrary actions by public employers. See Headley 118 So. 3d at 890 ("[I]t is not our province to displace PERC's choice between two conflicting views simply because we would have been justified in deciding the issue differently were it before us in the first instance.") (citations omitted).

The proposed solutions (raising taxes, laying off or furloughing staff, and increasing user fees) do not allow employers to address immediate problems of financial urgency, these solutions disregard the financial restrictions local governments must contend with on a daily basis. Unfortunately, other American cities provide case studies in how these disingenuous proposals can lead to bankruptcy. Alana Semuels, For Scranton, Residents Bankruptcy is an Inviting Offer, Los Angeles Times, Jan. 10, 2014, http://articles.latimes.com/2014/jan/10/nation/la-na-scranton-bankruptcy-0140111. For example, Detroit was pushed to bankruptcy, at least in part by its inability to restructure its obligations under CBAs. See Scott Cohn, Detroit bankruptcy deal would limit pension cuts, CNBC, June. 15, 2014, http://www.cnbc.com/id/101760478#. Perhaps prophetically, the Florida legislature envisioned such circumstances occurring in Florida, since this state relies heavily on municipal services funded primarily through ad valorem property taxes and state sales tax. The lack of an income tax additionally makes this state's revenue particularly sensitive to economic fluctuations.

For the Union amici to simplify the availability of limited resources to a shell game represents a fundamental misunderstanding of the constraints of municipal government. As a practical matter, these proposed solutions are not

easily implemented, and do not further the Statute's purpose of immediate relief. See Manatee Educ. Ass'n, FEA, 62 So. 3d at 1181.

It is axiomatic that in many instances where cities are facing a financial urgency, raising taxes does more harm than good. Petitioners' side woefully fails to account for the dynamic affects of municipal taxation. Indeed, the primary source of funds for a municipality are ad valorem taxes which is assuredly due to the fact that municipalities must be authorized by general law, or a state law, to impose other taxes. City of Tampa v. Birdsong Motors, Inc., 261 So.2d 1, 3 (Fla. 1972).[4] Raising taxes in a poor financial climate, especially taxes tied to property value, is a recipe for exacerbating the budgeting and funding problems. The Union amici's argument that all of us should bear the burden of the provision of government services through increased taxes is a false choice. Arguably, increases in income tax, increases in sales and ad valorem taxes disproportionally affect the poor. Steve Gillman, How to Secretly Tax the Poor (Part 2), Huffington Post, Dec. 11, 2012, http://www.huffingtonpost.com/steve-gillman/property-tax-renters_b_2271684.html. Further, not only is this truism misplaced, it is more

[4] The Union also ignores the fact that the legislature can, and has, stripped municipalities of its right to impose taxes for certain items. For example, in 2001 the state removed the ability of cities to negotiate franchise fees for telecommunications services provided within their communities. The Florida Department of Revenue now has that authority, which used to be encompassed in the municipal utility tax. See Ken Small & John T. Wark, A Short Look at the Long View on Municipal Revenues, Fla. League of Cities, Quality Cities, at p. 16 (May/June 2011), http://www.floridaleagueofcities.com/Assets/Files/shortlook.pdf.

accurately read to mean the union should escape the burden of the City and its residents.

As a practical matter, there is certainly a tipping point for the imposition of any type of taxes as expressed by the Laffer curve of supply side economics; at a certain point, taxes yield less money the more they are raised. Jude Wanniski, Taxes, revenues, and the "Laffer curve", The Public Interest (1978). Further, studies suggest that high property taxes can cause emigration. See Douglas S. Massey Charles Varner & Cristobal Young, Trends in New Jersey Migration: Housing, Employment, and Taxation, Princeton Univ., Woodrow Wilson Sch. of Public and International Affairs, Policy Research Institute for the Region, at p. 3 (2008),http://www.leg.state.vt.us/jfo/Tax%20Commission/Trends%20in%20NJ%20Migration%20Study%20-%20Princeton.pdf. The risk of raising taxes and encouraging emigration is particularly risky in Florida given that if residents leave, ad valorem revenue declines.

Moreover, legislative and other constraints on municipalities on modifying ad valorem taxes render a tax increase an insufficient mechanism to immediately address fiscal emergencies. In fact, municipalities are severely limited in their ability to change ad valorem taxes. If a municipality wants to raise ad valorem taxes, it must advertise the increase to all property owners pursuant to the Truth in Millage Act of 1980, after which it must hold a series of public hearings for open

discussion of budget millage rates including discussions of the amount and necessity of the increase. See §§200.065, 200.069, Fla. Stat. (2014).

Florida law also imposes certain limits on such increases. By statute, the maximum levy allowed by a majority vote of the municipality's governing body is tied to the rate of growth of per capita personal income in Florida. See §200.065, Fla. Stat. (2014). Increases of a greater rate are only appropriate by a supermajority or unanimous vote of the governing body of the municipality. See id.

Finally, the legislature has imposed overall limits and exemptions to the imposition of ad valorem taxes, thus restricting municipalities on the amount of tax they can collect. Importantly, ad valorem taxes levied by municipalities are capped at 10 mills by state constitution and statute. Art. VII, Sec. 9, Fla. Const. § 200.081, Fla. Stat. (2014). Numerous exemptions are also at play, including: the homestead exemption (which has been increased several times); religious, educational and governmental exemptions; exemptions for widows and widowers; and exemptions for senior citizens earning below a certain threshold income. See Chapter 196, Fla. Stat. (2014). Given the lengthy procedures for raising taxes and the limitations on any such increases, the suggestion of tax increases are not as simple as Petitioners' amici would have this Court believe.

The Union amici's suggestions of layoff or furlough for workers are also insincere; the suggestion is presumably meant for non-unionized workers.

Nevertheless, such action does not allow a public employer to immediately resolve issues of financial urgency because implementing a layoff takes time and money. Administrative (as well as legal) resources, funds and time must be expended to ensure layoffs are conducted as required by law with the softest impact on workers. Additionally, if union members are subject to layoff, the employer must meet and engage in impact bargaining with the union to discuss how the layoff will be implemented. This is hardly the immediate relief the Statute contemplates.

Decreasing services is admittedly a source of potential money for a municipality, but as discussed, financial circumstances may place the employer in a position where they are already struggling to meet the demands of their constituents. Nor does it take into account that many municipalities are required to implement certain services by the state legislature in the form of unfunded mandates or cannot decrease services due to band covenants. Increasing service fees also may raise funds, but may decrease demand.

At least one of the Union's amicus seems to think user fees or related fees are magic pots of money at the ends of rainbows. To the contrary, such fees are paid in exchange for services; services that may be difficult to provide if the municipality is facing financial urgency. Indeed, municipalities are authorized to implement such fees but, the manner and means of that implementation is limited. See Cooksey v. Utilities Commission, 261 So. 2d 129, 130 (Fla. 1972). Fees are

not taxes so long as they have some rational relationship to the service, regulation, or benefit derived from the payment of the fee. Taxes do not come with the same quid pro quo that fees do, meaning that taxpayers do not always derive the same type of direct benefit that those that pay fees do. See State v. City of Port Orange, 650 So. 2d 1, 3 (Fla. 1994). Finally, municipalities cannot use fees for a certain service to fund other services or pay for other obligations because this constitutes an unlawful tax as the amount of the fee is not tied to the provision of a service or receipt of a benefit and is thus unconstitutionally unauthorized. See, e.g., Alachua Cnty. v. State, 737 So. 2d 1065, 1067-68 (Fla. 1999). For example, a city couold not place a surcharge on utility fees and use such proceeds to fund a CBA.

There is one common underlying theme to all of these proposed suggestions: the determination of whether these methods are reasonable is made on a case-by-case basis. It depends on a number of factors including the size of the municipality, the CBA, the makeup of its workforce, and the services required by its citizens. A city with extremely low property taxes, a glut of workers, poorly managed finances and sources of untapped revenue would likely be met with suspicion if it attempted to claim a financial urgency. Under these circumstances it is unlikely, under the test set out in Headley, that PERC would allow a city to modify negotiated terms of a CBA. On the other hand, a municipality with declining population, high

property taxes, and constraints on its ability to provide services to residents might have a valid claim to a financial urgency necessitating modification of a CBA.

A fact-based determination about whether financial urgency exists with consequences for those municipalities that improperly invoke the statute would resolve these questions. Such a mechanism did not exist before Chiles - it does now. PERC made that analysis in this case, and has the expertise to make that determination in future cases. The choice is not whether unions or the public should bear the burdens of supporting municipal services. Rather, the choices are whether municipalities should be able to make the important and complicated decisions about what steps must be taken when faced with changes in the economy pursuant to their fundamental right to tax and spend to provide services for the public welfare, and whether PERC is the proper entity to evaluate whether those steps are reasonable.

CONCLUSION

For the historic and practical reasons cited herein, the Florida League of Cities urges this Court to affirm the First District Court of Appeal's decision in this matter.

CERTIFICATE OF COMPLIANCE

WE HEREBY CERTIFY that this brief is in Times New Roman 14 Point Font and is in compliance with Rule 9.210, Fla. R. App. P.

/s/ Michael P. Spellman
MICHAEL P. SPELLMAN
Florida Bar No.: 0937975

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished via e-mail this 23rd day of December, 2014 to:

William D. Salmon, Esquire
Staff Counsel
Public Employees Relations Commission
4050 Esplanade Way
Tallahassee, Florida 32399-0950
Bill.Salmon@perc.myflorida.com
Ronald J. Cohen, Esquire
Rice, Pugatch, Robinson & Schiller, P.A.
101 N.E. Third Avenue, Suite 1800
Fort Lauderdale, Florida 33301
E-mail: rcohen@rprslaw.com

Richard A. Sicking, Esquire
1313 Ponce de Leon Blvd., #300
Coral Gables, Florida 33134
E-mail: sickingpa@aol.com

Michael Mattimore, Esquire
Allen, Norton & Blue, P.A.
906 North Monroe Street
Tallahassee, Florida 32303
E-mail: mmattimore@anblaw.com

Luke C. Savage, Esquire
Allen, Norton & Blue, P.A.
121 Majorca Avenue, Suite 300
Coral Gables, Florida 33134
E-mail: lsavage@anblaw.com

Thomas W. Brooks, Esquire
P. O. Box 1547
Tallahassee, Florida 32302
E-mail: tbrooks@meyerbrookslaw.com

G. Hal Johnson
Florida Police Benevolent Association
P. O. Box 11239
Tallahassee, Florida 32301
E-mail: hal-flpba.org

John A. Greco, Esquire
Julie O. Bru, Esquire
Victoria Mendez, Esquire
Diana Vizcaino, Esquire
Assistant City Attorney
City of Miami
Office of the City Attorney
444 S.W. 2nd Avenue, Suite 945
Miami, Florida 33130
E-mail: jgreco@miamigov.com
E-mail: juliebru@me.com
E-mail: victoriamendez@miamigov.com
E-mail: dvizcaino@miamigov.com

Paul A. Donnelly, Esquire
Laura A. Gross, Esquire
Donnelly and Gross, P.A.
2421 N.W. 41st Street, Suite A-1
Gainesville, Florida 32606
E-mail: pdonnelly@laborattorneys.org
E-mail: Laura@donnellygross.com
E-mail: Paul@donnellygross.com

David C. Miller, Esquire
Bryant Miller Olive, P.A.
1 S.E. 3rd Avenue, Suite 2200
Miami, FL 33131
E-mail: dmiller@bmolaw.com
E-mail: bramirez@bmolaw.com

Noah Scott Warman, Esquire
Michael Anthony Gillman, Esquire
Sugarman & Susskind, P.A.
100 Miracle Mile, Suite 300
Coral Gables, FL 33134
Email: NWarman@sugarmansusskind.com
Email: MGillman@sugarmansusskind.com

Stephen H. Cypen, Esquire
Cypen & Cypen
777 Arthur Godfrey Road, Suite 320
P. O. Box 402099
Miami Beach, FL 33140
Email: scypen@cypen.com

Mitchell W. Berger, Esquire
Daniel H. Thompson, Esquire
Berger Singerman LLP
350 East Las Olas Blvd., 10th Floor
Fort Lauderdale, FL 33301
Email: mberger@bergersingerman.com
Email: dthompson@bergersimgerman.com

/s/ Michael P. Spellman
MICHAEL P. SPELLMAN