



# THE FLORIDA SENATE

## SENATE DEMOCRATIC OFFICE

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**ALFRED "AL" LAWSON, JR.**  
*Democratic Leader*

**CHARLIE JUSTICE**  
*Democratic Leader Pro Tempore*

May 5, 2009

The Honorable Jeff Atwater  
President  
The Florida Senate  
312 Senate Office Building  
404 South Monroe Street  
Tallahassee, FL 32399-1100

Dear President Atwater:

As you are aware, last Friday I raised concerns about a little known practice we fear may be pervasive throughout certain areas of state government costing taxpayers perhaps millions of dollars with little to no oversight.

We recently discovered that the Department of Transportation – and we suspect other agencies like them – have negotiated contracts with so-called “escalation clauses” built into the provisions. These clauses provide for annual increases in the contract amounts, subject to legislative appropriations. The amount that the State of Florida pays the contractors increases annually in accordance with the escalation provisions. Some contracts are based on the Federal model, that is they use unloaded or base salary rates plus multiplier rates. Based on Federal law the multiplier rates are not available for public examination. So we do not know what the total cost is for a specific employee after application of the multipliers.

Mr. President, I don't need to tell you how patently unfair it is that we're readying to cut by 2 percent the salaries of state employees earning \$45,000 and above while we continue to bless raises to private contractors and their employees enjoying significantly higher salaries. For example, unloaded salary rates in one contract with the engineering firm of Post, Buckley, Schuh & Jernigan were increased 3 percent beginning January 1, 2009. So while the state employee making \$46,000 is watching his or her salary drop to \$45,080, the position of Party Chief on the contract mentioned above with an unloaded salary rate of \$44,012 as of December 31, 2008, was increased to \$45,323 as of January 1, 2009. So too was the salary of the Chief Engineer, rising from \$127,441 to \$131,269.

Mr. President, if we were to examine Florida's state government 40 years ago we would find that state services were provided predominantly by state employees housed in state buildings under

**JEFF ATWATER**  
President of the Senate

**MIKE FASANO**  
President Pro Tempore

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full state oversight. Today, private contractors have taken over many of these services, with little to no oversight. A comparison of the Florida Department of Transportation Budgets for the 1977-78 Fiscal Year and the 2008-09 Fiscal Year provides an excellent example of the increased role of contractors. FDOT budgets for the Fiscal Years 1977-78 and 2008-09 were \$681.8 million and \$8.2 billion respectively and authorized positions were 9,830 and 7,448 respectively. The budget increased over 11 times. Authorized positions decreased 24 percent. This example shows the decline in the number of FDOT employees while there were substantial increases in the budget. Yet state employees were and continue to be the ones forced to shoulder the budget reductions.

State employees provide an easy target during the budget process because their salaries are segregated in the budget. It is easy to calculate the cost of a percentage increase in state salaries. Conversely it is easy to calculate the total amount of a 2 percent reduction in state salaries. In recent years the Legislature has not expressed an interest in comparing the pay scales of state employees with the amounts that the state pays to consultants for contractual salary costs. Rather, cuts to state workers have been the preferred weapon of choice.

The responsibility of the Legislature is much greater than just looking at the budget and deciding where or what to cut. Our obligation is to provide the most economical, efficient and effective government to the citizens and visitors to the State of Florida. Decisions on the mix of state employees and contractors should be based on careful and thorough analysis not the latest opinion du-jour or political witch hunts.

Indeed, a critical safety net that is often overlooked is the need for accountability. The tax payers of the State of Florida depend on the state employees to hold contractors accountable and to ensure they're getting their money's worth. How can we the people expect state employees to hold contractors accountable when we treat them as expendable, second class citizens? Given the recent decisions and the hands-off approach on privatization, one does not need to be a mental giant to see that contractors are valued much more than state employees.

Shortly after discovering the existence of these escalation clauses, we drafted an amendment dealing with this issue on the final day of the 2009 regular session. The amendment not only called for halting the automatic raises to the private contractors and diverting those funds to offset state employee salary cuts, but required the Office of Program Policy Analysis and Government Accountability, as well as the state Auditor General to launch an immediate study of how widely the escalation clauses are used throughout state government and the amount annually committed.

Sadly, the language was offered on Monday by the Senate Appropriations Chair and immediately rejected by the House negotiators, ostensibly because of fears of possible litigation.

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While it may be too late to re-insert this amendment into the budget and accompanying proviso language, it is certainly not too late to commission the study we have requested.

The examination by the Office of Program Policy Analysis and Government Accountability and the Auditor General will provide critical information needed for the Legislature to fulfill its responsibility to taxpayers to provide the most economical, efficient and effective government.

I would also suggest that the substantive committee chairs be instructed to vigorously exercise their oversight responsibilities in order to address this situation in the next session.

I believe that the State of Florida is at a crossroads. Do we want a capable, dedicated and highly professional civil service corps? Or do we continue to allow private contractors, with the blessings of the Legislature, unhindered access to dwindling tax dollars while we furlough the state watchdogs or worse, cut their salaries?

While the 2009 legislative session may soon be over, there are no guarantees we may not return for additional budget fixes later this year as the revenue forecasts continue to roll in. The examinations by OPPAGA and the Auditor General are essential to addressing our economic crisis in the most responsible and least political manner possible.

I look forward to your response as quickly as possible.

Sincerely,

Senator Al Lawson  
District 6  
Senate Democratic Leader

Cc: Senator J.D. Alexander  
House Minority Leader Franklin Sands  
House Speaker Larry Cretul  
Rep. David Rivera  
Rep. Marcelo Llorente  
Governor Charlie Crist