

STORAGE NAME: h1129.sa.doc
DATE: February 1, 2002

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
STATE ADMINISTRATION
ANALYSIS**

BILL #: HB 1129
RELATING TO: Public Employees Relations Commission
SPONSOR(S): Representative(s) Betancourt

TIED BILL(S):

ORIGINATING COMMITTEE(S)/COUNCIL(S)/COMMITTEE(S) OF REFERENCE:

- (1) STATE ADMINISTRATION
 - (2)
 - (3)
 - (4)
 - (5)
-

I. SUMMARY:

The Public Employees Relations Commission (PERC) assists in resolving disputes between public employees and public employers. Current law requires any employee organization seeking to become a certified bargaining agent for public employees to register with PERC prior to requesting recognition by a public employer and prior to submitting a petition to PERC requesting certification.

Employee organizations seeking to become certified as collective bargaining agents must complete a registration for application on a form created by PERC. The form must include certain information such as the name and address of the organization and of any parent organization with which the employee organization is affiliated, and the amount of monthly dues members must pay. Any registration granted to any employee organization runs for one year from the date of issuance, and any renewal for registration must be filed annually. Current law specifies that the registration fee for employee organizations is not to exceed \$15.

This bill requires PERC to file an annual report with the President of the Senate and the Speaker of the House of Representatives identifying the employee organizations registered or certified by PERC, and any employee organization whose registration or certification has been revoked by PERC. This bill also requires employee organizations to provide additional information on its registration forms and on its renewal for registration forms, and specifies a date by which such forms must be completed. HB 1129 additionally provides for penalties if required information is not provided on registration or renewal for registration forms, revocation of registration or fines not to exceed certain amounts. Lastly, HB 1129 changes the current registration fee from \$15 to \$1 per each member of the employee organization, based upon the number of members as of June 30 immediately preceding the filing; the fee may never exceed \$1,000. This bill provides that any monies collected for fines imposed or registration fees are retained by PERC for commission activities.

This bill does not appear to have a fiscal impact on local governments, but it does have a positive fiscal impact on the Public Employees Relations Commission. Please see the "Fiscal Analysis and Economic Impact Statement."

Please see the "Other Comments" section for the purposes for this bill as well as concerns regarding this bill.

THIS DOCUMENT IS NOT INTENDED TO BE USED FOR THE PURPOSE OF CONSTRUING STATUTES, OR TO BE CONSTRUED AS AFFECTING, DEFINING, LIMITING, CONTROLLING, SPECIFYING, CLARIFYING, OR MODIFYING ANY LEGISLATION OR STATUTE.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|------------------------------|--|---|
| 1. <u>Less Government</u> | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

This bill increases the amount of information submitted to PERC by requiring employee organizations to provide detailed information on state, national, and international affiliates when registering or seeking renewal of registration as a collective bargaining unit.

B. PRESENT SITUATION:

Chapter 447, F.S., pertains to labor organizations.¹ Section 447.03, F.S., establishes that state employees have the right to self-organization; that is state employees have the right to form, join, or assist labor unions or labor organizations or to refrain from such activity. State employees have the right to bargain collectively through representatives of their own choosing, and to engage in concerted activities for the purpose of collective bargaining or other mutual aid or protection. Section 447.06, F.S., requires every labor organization operating in the state to make a report under oath, in writing, to the Department of Labor and Employment Security which includes the name of the labor organization, the location of its office, and the name and address of its president, secretary, treasurer, and business agent.²

Part II of Chapter 447, F.S., relates specifically to public employees and implements Article I, Section 6 of the Florida Constitution, which is the right of public employees to collectively bargain. Chapter 447, F.S., among other things, creates a Public Employees Relations Commission (PERC) to assist in resolving disputes between public employees and public employers.³ PERC is composed of a chair and two full-time members who are appointed by the Governor and subject to confirmation by the Senate. The property, personnel, and appropriations related to PERC's specified authority, powers, duties, and responsibilities are provided to PERC by the Department of Management Services (DMS). However, PERC is not subject to control, supervision, or direction by DMS.⁴

PERC is responsible for resolving questions and controversies concerning claims for recognition as the bargaining agent for a bargaining unit, determining or approving units appropriate for purposes

¹ A "labor organization" is defined as "any organization of employees or local or subdivision thereof, having within its membership residents of the state, whether incorporated or not, organized for the purpose of dealing with employers concerning hours of employment, rate of pay, working conditions, or grievances of any kind relating to employment and recognized as a unit of bargaining by one or more employers doing business in this state." Section 447.02(1), F.S.

² Section 447.06(1), F.S.

³ Section 447.201, F.S.

⁴ Section 447.205, F.S.

of collective bargaining, processing charges of unfair labor practices, and resolving other questions and controversies that relate to employee and employer disputes.

Any employee organization seeking to become a certified bargaining agent for public employees must register with PERC prior to requesting recognition by a public employer for purposes of collective bargaining, and also prior to submitting a petition to PERC requesting certification as an exclusive bargaining agent. If the employee organization is not registered, it may not participate in a representation hearing or a representation election, and it may not be certified as an exclusive bargaining agent. The application for registration must be under oath and in a specific format designated by PERC. The application must include

- The name and address of the organization and or any parent organization or organization with which it is affiliated;
- The names and addresses of the principal officer and all representatives of the organization;
- The amount of the initiation fee and of the monthly dues which members must pay;
- The current annual financial statement of the organization;
- The name of its business agent, if any, or the name of its local agent for service of process, and the addresses where such person or persons can be reached;
- A pledge, in a form prescribed by PERC, that the employee organization will conform to the laws of the state and that it will accept members without regard to age, sex, religion, or national origin;
- A copy of the current constitution and bylaws of the employee organization; and
- A copy of the current constitution and bylaws of the state and national groups with which the employee organization is affiliated or associated.⁵

A registration granted to an employee organization runs for one year from the date of issuance. The registration must be renewed annually. The application for renewal of registration must include a current annual financial report containing the following information:

- Assets and liabilities at the beginning and end of the fiscal year;
- Receipts of any kind and sources of such receipts;
- Salary, allowances, and other direct or indirect disbursements, including reimbursed expenses, to each officer and also to each employee who, during the particular fiscal year, received more than \$10,000 in the aggregate from the employee organization and any other employee organization affiliated with it, with which it is affiliated, or which is affiliated with the same national or international employee organization; and
- Direct and indirect loans to any business enterprise, together with a statement of the purpose, security, if any, and arrangement for repayments.⁶

A registration fee accompanies every application filed with PERC, and such fee is not to exceed \$15. The money collected by PERC is deposited in the General Revenue Fund. Notification of registrations and renewals of registration are furnished at regular intervals by PERC to the Department of Labor and Employment Security. Every employee organization is expected to keep accurate account of its income and expenses, and such accounts are open for inspection to members of the organization itself and members of PERC.⁷

⁵ Section 447.305(1), F.S.

⁶ Section 447.305(2), F.S.

⁷ Section 447.305, F.S.

Any employee organization which is designated or selected by a majority of public employees in an appropriate unit⁸ as their representative for purposes of collective bargaining must request recognition by the public employer. If the public employer is satisfied as to the majority status of the employee organization and its appropriateness, the public employer recognizes the organization as the collective bargaining representative of employees in the designated unit. After being recognized, the employee organization must immediately petition PERC for certification. PERC then either certifies the employee organization as the exclusive representative of all employees in the unit, or dismisses the petition for certification.⁹

C. EFFECT OF PROPOSED CHANGES:

HB 1129 requires PERC to file a report with the President of the Senate and the Speaker of the House of Representatives, by January 1 of each year, which identifies the employee organizations registered or certified by PERC, and any employee organization whose registration or certification has been revoked by PERC.

Current law requires employee organizations to complete an application for registration, which PERC is responsible for creating. The form must include the name and address of the organization and of any parent organization with which the employee organization is affiliated, as well as the names and addresses of the principal officers and all representatives of the organization. The registration form must include the amount of the initiation fee and the amount of the *monthly dues* which members or the organization must pay. This bill changes that to the reporting of annual dues to conform to the requirement that employee organizations submit annually a renewal of registration. HB 1129 requires the form to also include the name and address of any *state, national, or international organization* with which the employee organization is affiliated. In addition, HB 1129 requires that the form include the *titles and telephone numbers* of the principal officer and all representatives of the organization, as well as the names, titles, and telephone numbers of the officers of any state, national, or international organization with which the organization is affiliated.

Currently registration granted to any employee organization runs for one year from the date of issuance, and any renewal for registration must be filed annually. However, current law does not require a specific date by which any renewal must occur. HB 1129 specifies that any registration granted to any employee organization runs until July 1 following the date of issuance, and the renewal of registration must be filed by the same date.

The application for renewal of registration must presently include certain financial information. HB 1129 requires the following additional information on the renewal for registration form for each employee organization seeking to be named the bargaining agent for employees of a bargaining unit:

- The annual salaries of each of the principal officers of all state, national and international affiliates;
- The annual dollar amount of the following benefit packages paid to each of the principal officers of the organization, and the amount of the same benefit packages paid to the principal officers of each of the organization's state and national affiliates:
 - Health, major medical, vision, or dental insurance;

⁸ "Bargaining unit" means either "that unit determined by the commission, that unite determined through local regulations promulgated pursuant to s. 447.603, F.S., or that unit determined by the public employer and the public employee organization and approved by the commission to be appropriate for the purposes of collective bargaining." Section 447.203(8), F.S.

⁹ Section 447.307, F.S.

- Life insurance;
 - Retirement plans; and
 - Automobile allowances;
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- The amount of the salary of any officers of the organization that may be paid by the public employer but whose salary is all or partially reimbursed to the public employer from the employee organization seeking to become the bargaining agent for public employees;
 - Separately, each of the different bargaining units and the number of dues-paying members of each bargaining unit to be represented by the employee organization as of June 30 immediately preceding the filing; and
 - Separately, the per-member amount of annual dues sent from the employee organization to each state, national, or international affiliate.

HB 1129 provides that if any of the above items are not included on renewals for registration, such renewals are denied. However, instead of denial, HB 1129 specifies that PERC may impose a fine for late filing not to exceed \$1,000, or a \$50 fine for each item of information missing on the form. An employee organization is responsible for reporting any changes to the information outlined above at the end of each calendar quarter of the fiscal year. If the organization does not report these changes, or if these changes are only partially reported, PERC may revoke the organization's registration, fine the organization for late filing with a fee not to exceed \$500, or impose a \$50 fine for each piece of unreported or incomplete information. HB 1129 specifies that the employee organization's fiscal year is the same as the state's fiscal year for purposes of these reporting requirements, and any money collected by PERC is retained by PERC and used in furtherance of its activities.

Current law specifies that the registration fee for employee organization is not to exceed \$15. HB 1129 amends this section of law and provides that such fee is \$1 per member, calculated upon the number of members as of June 30 immediately preceding the filing, but the fee may never exceed \$1,000. HB 1129 requires any money collected under this provision be retained by PERC and used in furtherance of its activities. This is a change from the current requirement that any money collected be deposited into the General Revenue Fund.

D. SECTION-BY-SECTION ANALYSIS:

See "Effect of Proposed Changes" section.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

See "Fiscal Comments" section.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

This bill will have a positive fiscal impact on the Public Employees Relations Commission (PERC). Current law provides that employee organizations seeking to be registered as collective bargaining units or seeking a renewal of registration must pay a fee not to exceed \$15, and monies collected from these fees are deposited into the General Revenue Fund. This bill changes this current fee requirement and charges organizations \$1 per member calculated upon the number of members as of June 30 immediately preceding the filing. This bill provides that the fee may not exceed \$1,000. **In addition, this bill removes the requirement that any monies collected are deposited into the General Revenue Fund, instead requiring such funds be retained by PERC for its own activities.**

For example, the Florida Police Benevolent Association Correctional Officer Unit currently has 17,952 employees in its bargaining unit.¹⁰ Under current law, PERC receives \$15 from this association as an initial registration fee, \$15 for each year of renewal, and this money is deposited into the General Revenue Fund. Under this bill, PERC receives \$1,000 from this association as a registration fee, \$1,000 for each year of renewal, and PERC retains these funds for its own activities.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to spend funds or to take action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that counties or municipalities have to raise revenues in the aggregate.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the percentage of a state tax shared with counties or municipalities.

¹⁰ Pursuant to an e-mail received from staff of the Public Employees Relations Commission on February 4, 2002.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

None.

C. OTHER COMMENTS:

Currently, there are no penalty provisions in statute for employee organizations that either register late or fail to seek renewal of registration, and current law does not specify a time certain by which organizations must file registration forms. In addition, there are no penalty provisions for organizations that provide incomplete information on registration forms, and PERC is not required to submit any report to the Legislature on the status of registered or certified employee organizations. This bill tightens the requirements for employee organizations by providing stricter guidelines that must be followed, and by penalizing those organizations who do not comply with these guidelines. The sponsor of this legislation seeks to give "teeth" to current law by creating a more uniform and organized registration system, and by requiring PERC to update the Legislature on the status of its registered organizations.¹¹

However, there are concerns with this bill as it is currently written.

- The breadth of information required to be provided by the employee organization on both the registration form and on the renewal for registration form makes it difficult for the employee organization to comply. Bargaining units cannot always obtain detailed financial and administrative information on national or international affiliates. The amount of information required on the renewal for registration form is especially problematic. For example, bargaining units may not have access to the dollar amount of specific benefit packages paid to the principal officers of each of the organization's national affiliates.
- The fine provisions relating to the renewal of registration forms are unclear. The bill states that in lieu of denying registration to those renewals filed late, PERC may impose a fine not to exceed \$1,000. However, the bill does not provide a time certain in which any late renewals or incomplete renewals must be filed. In addition, the bill does not provide any uniformity in the imposition of fines, thereby giving PERC a great deal of discretion when deciding what organization is fined and for how much. In addition, the bill provides that a fine of \$50 may be imposed for each item of information not included on the renewal for registration. This language is ambiguous for it does not clarify what constitutes an omission; e.g., zip code number on an address, or a whole section of the form left blank.
- The bill requires that the amount charged for an application for registration or a renewal of registration must be \$1 per member calculated upon the number of members as of June 30 immediately preceding the filing. This language is problematic for when an employee organization initially registers with PERC, it has not yet been certified as the official bargaining unit. At that point the organization may or may not have a membership. However, the number of members within the organization can be obtained when the organization is filing a renewal of registration form.

¹¹ Pursuant to a conversation with the sponsor of this legislation on February 4, 2002.

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The sponsor of the bill will file a strike-everything amendment to address these issues.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

N/A

VII. SIGNATURES:

COMMITTEE ON STATE ADMINISTRATION:

Prepared by:

Staff Director:

Lauren Cyran, M.S.

J. Marleen Ahearn, Ph.D., J.D.