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DATE: February 7, 2002

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

BILL #: CS/HB 1129
RELATING TO: Public Employees Relations Commission
SPONSOR(S): Committee on State Administration and Representative(s) Betancourt

TIED BILL(S):

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

- (1) STATE ADMINISTRATION YEAS 5 NAYS 0
 - (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 register as collective bargaining agents must complete an "application for registration" form created by PERC. The form requires the inclusion of 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 "application for renewal of registration" form must be filed annually. Current law specifies that both the "application for registration" and the "application for renewal of registration" fee for employee organizations is not to exceed \$15.

This committee substitute 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PERC, those who renewed registration with PERC, and any employee organization whose registration or certification has been revoked by PERC. This committee substitute also requires employee organizations to provide additional information on its "application for registration" forms and on its "application for renewal of registration" forms, and specifies a date by which such forms must be completed. CS/HB 1129 additionally provides for penalties if "application for renewal of registration" forms are filed late, or if required information is not provided on these renewals. These penalties include revocation of registration or fines not to exceed certain amounts. Lastly, CS/HB 1129 changes the current "application for registration" fee from \$15 to \$50, and changes the "application for renewal of registration" fee from \$15 to \$1 per each member of the employee organization's bargaining unit, based upon the number of members as of June 30 immediately preceding the filing; the renewal fee may not exceed \$1,000. This committee substitute provides that any money collected for fines imposed or registration fees is deposited in the Public Employees Relations Commission Trust Fund.

This committee substitute 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 as well as the concerns with this committee substitute.

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 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 committee substitute increases the amount of information submitted to PERC by requiring employee organizations to provide detailed information on state affiliates when registering or seeking a "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:

CS/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, those who renewed registration with 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" form, which PERC has created. 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 "application for registration" form must include the amount of the initiation fee and the amount of the *monthly dues* which members or the organization must pay. CS/HB 1129 changes that to the reporting of annual dues to conform to the requirement that employee organizations submit annually an "application for renewal of registration" form. CS/HB 1129 requires the form to also include the name and address of any *state organization* with which the employee organization is affiliated. In addition, CS/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 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 of registration" must be filed annually. However, current law does not require a specific date by which any renewal must occur. CS/HB 1129 specifies that any registration granted to any employee organization runs until June 30 following the date of issuance, and the "application for renewal of registration" form must be filed by the same date.

The "application for renewal of registration" form requires the inclusion of certain financial information. CS/HB 1129 requires the following additional information be included:

- The annual salaries of each of the principal officers of all state 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 affiliates:
 - Health, major medical, vision, or dental insurance;
 - Life insurance;
 - Retirement plans; and
 - Automobile allowances;

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.

- 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;
- 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.

CS/HB 1129 requires that all “applications for renewal of registration” forms be filed with PERC by June 30. Within 20 days after June 30, PERC must notify, by certified mail, any employee organization that failed to file an “application for renewal of registration” by the deadline, advising that the application is overdue and the employee organization will be fined \$50 per day until the application is received. The fine is assessed from the date the notice is sent by PERC. If the overdue application is not received within 60 days after the notice is sent, any “application for renewal of registration” received after this time period must be denied. Also, if the “application for renewal of registration” is received within this 60-day period, but the fine is not paid, the “application for renewal of registration” must be denied by PERC.

CS/HB 1129 provides that upon receipt of an “application for renewal of registration” form, PERC is responsible for examining each renewal and notifying employee organizations that either the application is complete or information is missing. If information is missing, the organization has 20 days in which to provide such information with no penalty. If the organization does not provide PERC with the information within this 20-day period, the organization is fined \$50 per day until the information is received. The fine is assessed from the day following the 20-day period in which the organization was to provide the missing information. If the missing information is not provided within 60 days and the fine is not paid, the “application for renewal of registration” must be denied by PERC.

All fines imposed under this act, either for failure to file the “application for renewal of registration” form by June 30 or for failure to provide missing information on such form, are determined based upon the earliest of the following:

- When the application is actually received by the commission;
- When the application is postmarked;
- When the certificate of mailing is dated, if sent by certified mail; or
- When the receipt for an established courier company is dated, if sent by a courier.

CS/HB 1129 provides that any employee organization may appeal or dispute a fine imposed under this act based upon unusual circumstances. The employee organization is entitled to a hearing before PERC, which has the authority to waive the fine in whole or in part. Any request for a hearing must be made within 20 days after the receipt of the notice of payment due.

Current law specifies that the “application for registration” fee and the “application for renewal of registration” fee for employee organization is not to exceed \$15. CS/HB 1129 increases the registration fee to \$50; and, the “application for renewal of registration” fee is changed to \$1 per member in the bargaining unit calculated based upon the number of members in such unit as of June 30 immediately preceding the filing. The “application for renewal of registration” fee may not exceed \$1,000. CS/HB 1129 provides that any money collected for fines or fees is deposited in the

Public Employees Relations Commission Trust Fund. 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 committee substitute 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 money collected from these fees is deposited into the General Revenue Fund. This committee substitute changes the fee requirements to \$50 for initial registration and \$1 per member calculated upon the number of members as of June 30 immediately preceding the filing of any "application for renewal of registration" form. This committee substitute provides that the fee for a "renewal of registration" may not exceed \$1,000. **In addition, this committee substitute removes the requirement that any money collected is deposited into the General Revenue Fund, instead requiring such funds be deposited into the Public Employees Relations Commission Trust Fund.**

An example of this committee substitute's new fee schedule, as applied, is as follows: 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 and \$15 for each year of renewal. This money is deposited into the General

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

Revenue Fund. Under this bill, PERC receives \$50 from this association as an initial registration fee, \$1,000 for each year of renewal, and these funds are deposited in the Public Employees Relations Commission Trust Fund.

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

A. APPLICABILITY OF THE MANDATES PROVISION:

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

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 a "renewal of registration", nor does current law specify a time certain by which organizations must file "application for registration" forms or "application for renewal of 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 setting deadlines, and by penalizing those organizations that do not comply. 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

There is a concern with CS/HB 1129 as it is currently written. The fee for an "application for renewal of registration" is \$1 per member of each bargaining unit, not to exceed \$1,000. Opponents of this provision contend that the \$1 per member of *each bargaining unit* does not accurately represent the number of dues paying members of each employee organization. In addition, a number of employee organizations have several bargaining units within the organization, and thus there would be a number of renewal fees. The sponsor of this legislation committed to

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

work on this provision of the committee substitute and to amend it on the floor of the House as necessary.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On February 7, 2002, the Committee on State Administration adopted a strike-all amendment. The bill, as amended, was reported favorably as a committee substitute.

The committee substitute addresses the following concerns with the bill:

- The breadth of information required to be provided by the employee organization on both the “application for registration” form and on the “application for renewal of 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 “application for renewal of 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 “application for 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 “application for renewal of registration” form. 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 an “application for 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 an “application for renewal of registration” form.

The committee substitute addresses these concerns by requiring employee organizations to only provide detailed financial and administrative information on any state organization with which it is affiliated; providing a time certain by which any late renewals or incomplete renewals must be filed; providing uniformity in the imposition of fines at a rate of \$50 per day not to exceed \$1,000; removing the provision regarding the \$50 fine for each item of missing information; and changing the “application for registration” fee to a flat fee of \$50 and the “application for renewal of registration” fee of \$1 per member of each bargaining unit.

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VII. SIGNATURES:

COMMITTEE ON STATE ADMINISTRATION:

Prepared by:

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