

### HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 1437                      Public Employers/Successor Public Employer/Collective Bargaining  
**SPONSOR(S):** Allen  
**TIED BILLS:** None                      **IDEN./SIM. BILLS:** SB 2112

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REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) State Administration		Williamson	Everhart
2) Education K-20			
3) Appropriations			
4)			
5)			

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### SUMMARY ANALYSIS

This bill amends the definition of “public employer” to require that each university board of trustees be designated as the successor public employer to the Florida Board of Education.

This bill also amends the collective bargaining laws. It provides that if there is a change in the identity or structure of the public employer, then the successor public employer must maintain the current collective bargaining agreement until a new agreement can be reached. In essence, the successor public employer is bound to the previously negotiated agreement during the negotiation process.

Finally, this bill requires the successor employer to continue to bargain with the certified bargaining agent until the Public Employees Relations Commission determines that the new entity is not a successor employer.

This bill does not appear to have a fiscal impact on state or local governments.

**On March 31, 2003, this bill was temporarily deferred in the Committee on State Administration.**

**This document does not reflect the intent or official position of the bill sponsor or House of Representatives.**

**STORAGE NAME:** h1437a.sa.doc  
**DATE:** April 3, 2003

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. DOES THE BILL:

- |                                      |                              |  |   |
|--------------------------------------|------------------------------|--|---|
| 1. Reduce government?                | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | N/A <input type="checkbox"/>            |
| 2. Lower taxes?                      | Yes <input type="checkbox"/> | No <input type="checkbox"/>            | N/A <input checked="" type="checkbox"/> |
| 3. Expand individual freedom?        | Yes <input type="checkbox"/> | No <input type="checkbox"/>            | N/A <input checked="" type="checkbox"/> |
| 4. Increase personal responsibility? | Yes <input type="checkbox"/> | No <input type="checkbox"/>            | N/A <input checked="" type="checkbox"/> |
| 5. Empower families?                 | 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 binds each university’s board of trustees to the certified bargaining agreement, which expired in January, until a new agreement is negotiated.

#### B. EFFECT OF PROPOSED CHANGES:

##### **Background**

##### State University System

The State Constitution requires a single state university system comprised of all public universities. It also establishes the board of governors and requires such board to govern the state university system. Each local constituent university must be administered by a board of trustees whose powers and duties will be established by the board of governors.<sup>1</sup>

##### Collective Bargaining Union Certification Process

In attempting to establish a bargaining unit on a campus, a union submits to the employees it wishes to represent (e.g., faculty members unit, police unit) a union authorization card. The authorization card allows an employee a confidential opportunity to indicate whether he or she wants to be represented by a union. If the union receives cards signed by 30% of the employees, the union can petition the Public Employees Relations Commission (PERC) for an election. If a union gets cards signed by 50%+1 (a simple majority) of employees, it may send a letter to the employing entity, in this case a university, asking that the university voluntarily consent to recognize that union as the bargaining agent for employees. PERC is responsible for verifying and validating the cards against the list of employees whom the union wishes to represent.

If a university voluntarily recognizes a union, the union and the university complete a Recognition-Acknowledgment Petition and submit that petition to PERC. If approved by PERC, the petition will result in the union being certified as the exclusive bargaining agent for all employees in the unit (e.g., faculty members). No election need be conducted. Only after PERC issues a favorable order on the petition may negotiations commence between the employer and the union on a new collective bargaining agreement.

If an election is held and a union gets a majority of votes of employees, PERC verifies the election results and a Recognition-Acknowledgment petition is then completed by the union and the university. Again, only after PERC issues a favorable order on the petition may negotiations on a new collective bargaining agreement commence.

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<sup>1</sup> Article IX, s. 7 of the Florida Constitution, adopted November 5, 2002.

## Current Collective Bargaining Agreements

The current collective bargaining agreement for each statewide employee unit (e.g., the faculty from every university would make up one statewide employee unit) has expired. Those agreements were originally negotiated between the Board of Regents,<sup>2</sup> acting as the public employer, and the certified bargaining agents for each statewide employee unit. As such, the new agreements will be negotiated between the board of trustees of each university and such agents.

### **Effect of Bill**

This bill amends the definition of “public employer” to require that each university board of trustees be designated as the “successor” public employer to the Florida Board of Education.

This bill also amends the section of law relating to the collective bargaining process. It provides that if the public employer changes, then the successor public employer must “maintain the existing wages, hours, and terms . . . in a collective bargaining agreement” (the Florida Statutes currently designate each university board of trustees as the public employer). In essence, the successor public employer is bound to the previously negotiated agreement (in this case, the agreement negotiated by the Board of Regents) during the new negotiation process.

Examples of the effects of this bill:

- The original agreement, which is a single system contract from a system wide perspective (applied to all universities), was negotiated between the Board of Regents and the bargaining agents that were certified to negotiate on behalf of each statewide employee unit (e.g., all of the university police units make up one statewide employee unit). Some of those certified bargaining agents might not be recertified either because they were not elected or because they choose not to represent a particular university’s employees. This means that if a new union were to be certified as a bargaining agent, then that union would have to begin the negotiation process with an agreement for which they were not a part of the negotiation process.
- A university’s employees may opt not to unionize. As such, those employees would be subject to the Board of Regents agreement that has since expired.
- Under the Board of Regents agreement, the Board of Regents had an office that handled employee grievances prior to the grievance reaching PERC. This was the second step in the grievance process. This office no longer exists and instead, campuses now have offices for this process. Because the board of trustees at each university and certified bargaining agents would be bound to the Board of Regents agreement until a new agreement is reached, an employee would not have an office to report his or her grievance since the office no longer exists.

Finally, this bill requires each university board of trustees to continue to bargain with the certified bargaining agent until PERC determines that it is not a successor employer. This language appears inconsistent with section one of the bill, which specifically designates the board of trustees as the successor employer.

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<sup>2</sup> The Board of Regents was abolished pursuant to s. 3 of chapter 2001-170, L.O.F., which is the Florida Education Governance Reorganization Implementation Act. That Act created the Florida Board of Education (s. 3) and the board of trustees of each university (s. 13). The Act also transferred all of the Board of Regent’s powers, duties, functions, records, personnel, property, funds, administrative authority, administrative rules, pending issues, and existing contracts, including the duty to serve as the public employer, to the Florida Board of Education by a type two transfer (s. 3). In 2002, s. 1006 of chapter 2002-387, which is the School Code Rewrite, designated the board of trustees of each university as the public employer with respect to all public employees of the respective state universities, and deleted reference to the Board of Regents.

C. SECTION DIRECTORY:

Section 1. Amends s. 447.203(2), F.S., designating each university board of trustees as the successor public employer to the Florida Board of Education.

Section 2. Amends s. 447.309, F.S., binding each university board of trustees to the current agreement while participating in the collective bargaining process once that contract expires.

Section 3. Provides an effective date of July 1, 2003.

**II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

A. FISCAL IMPACT ON STATE GOVERNMENT:

- 1. Revenues: None.
- 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: None.

**III. COMMENTS**

A. CONSTITUTIONAL ISSUES:

- 1. Applicability of Municipality/County Mandates Provision: Not applicable. This bill does not affect municipal or county government.
- 2. Other:

B. RULE-MAKING AUTHORITY: None.

C. DRAFTING ISSUES OR OTHER COMMENTS: None.

**IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES**

Not applicable.