

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HB 13 Collective Bargaining

**SPONSOR(S):** Oversight, Transparency & Public Management Subcommittee, Williamson

**TIED BILLS:** **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Oversight, Transparency & Public Management Subcommittee	9 Y, 5 N, As CS	Moore	Harrington
2) Appropriations Committee			
3) State Affairs Committee			

### SUMMARY ANALYSIS

Collective bargaining is a constitutional right afforded to public employees in Florida. Through collective bargaining, public employees collectively negotiate with their public employer in the determination of the terms and conditions of their employment. The Public Employees Relations Commission is responsible for assisting in resolving disputes between public employees and public employers.

Current law specifies that public employees have the right to be represented in collective bargaining by any employee organization of their own choosing or to refrain from being represented. An employee organization that is authorized to represent public employees is known as a certified bargaining agent. After an employee organization has been certified as the bargaining agent for a group of public employees, the bargaining agent and the chief executive officer of the appropriate public employer must bargain collectively in the determination of the wages, hours, and terms and conditions of employment of the employees. Any collective bargaining agreement reached between the parties must be put in writing and signed by the chief executive officer and the bargaining agent.

Release time allows a public employee to perform work during the workday for his or her employee organization, rather than for the public employer. Release time is negotiated through collective bargaining agreements, under which public employers may release employees from their official duties to engage in activities that directly support the mission of their employee organizations.

The bill prohibits a public employee collective bargaining agreement entered into or renewed on or after July 1, 2019, from allowing a public employer to compensate a public employee or third party for employee organization activities or to provide compensated leave time specifically for employee organization activities, thereby prohibiting release time for public employees.

The bill defines "employee organization activities" to mean activities that are performed by an employee organization or its members or representatives that relate to advocating the interests of member employees in wages, benefits, terms and conditions of employment, or the enforcement, fulfillment, or advancement of the organization's organizational purposes, obligations, external relations, or internal policies and procedures.

The bill specifies that it does not prohibit a public employee from using his or her compensated leave time for any purpose.

The bill may have an indeterminate positive fiscal impact on the state and local governments. See Fiscal Comments section.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Background**

##### Collective Bargaining

Collective bargaining is a constitutional right afforded to public employees<sup>1</sup> in Florida.<sup>2</sup> To implement this constitutional provision, the Legislature enacted ch. 447, F.S., which provides that the purpose of collective bargaining is to promote cooperative relationships between the government and its employees and to protect the public by assuring the orderly and uninterrupted operations and functions of government.<sup>3</sup> Through collective bargaining, public employees collectively negotiate with their public employer in the determination of the terms and conditions of their employment.<sup>4</sup> The Public Employees Relations Commission is responsible for assisting in resolving disputes between public employees and public employers.<sup>5</sup>

Chapter 447, F.S., specifies that public employees have the right to be represented in collective bargaining by any employee organization of their own choosing or to refrain from being represented.<sup>6</sup> An employee organization is defined as a "labor organization, union, association, fraternal order, occupational or professional society, or group, however organized or constituted, which represents, or seeks to represent, any public employee or group of public employees concerning any matters relating to their employment relationship with a public employer."<sup>7</sup> An employee organization that is authorized to represent public employees in collective bargaining is known as a certified bargaining agent.<sup>8</sup>

After an employee organization has been certified as the bargaining agent for a group of public employees, the bargaining agent and the chief executive officer of the appropriate public employer must bargain collectively in the determination of the wages, hours, and terms and conditions of employment of the employees.<sup>9</sup> Any collective bargaining agreement reached between the parties must be put in writing and signed by the chief executive officer and the bargaining agent. Such agreement is

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<sup>1</sup> The term "public employee" means any person employed by a public employer except:

- (a) Persons appointed by the Governor or elected by the people, agency heads, and members of boards and commissions.
- (b) Persons holding positions by appointment or employment in the organized militia.
- (c) Individuals acting as negotiating representatives for employer authorities.
- (d) Persons who are designated by the Public Employees Relations Commission (commission) as managerial or confidential employees pursuant to specific criteria.
- (e) Persons holding positions of employment with the Florida Legislature.
- (f) Persons who have been convicted of a crime and are inmates confined to institutions within the state.
- (g) Persons appointed to inspection positions in federal/state fruit and vegetable inspection service whose conditions of appointment are affected by the following:
  - 1. Federal license requirement.
  - 2. Federal autonomy regarding investigation and disciplining of appointees.
  - 3. Frequent transfers due to harvesting conditions.
- (h) Persons employed by the commission.
- (i) Persons enrolled as undergraduate students in a state university who perform part-time work for the state university.

The term "public employer" means the state or any county, municipality, or special district or any subdivision or agency thereof which the commission determines has sufficient legal distinctiveness properly to carry out the functions of a public employer. Section 447.203, F.S.

<sup>2</sup> Art. I, s. 6, FLA. CONST.

<sup>3</sup> Section 447.201, F.S.

<sup>4</sup> Section 447.301(2), F.S.

<sup>5</sup> Section 447.201(3), F.S.

<sup>6</sup> Section 447.301(2), F.S.

<sup>7</sup> Section 447.203(11), F.S.

<sup>8</sup> Section 447.203(12), F.S.

<sup>9</sup> Section 447.309(1), F.S.

not binding on the employer until the agreement has been ratified by the employer and the employees in the bargaining unit.<sup>10</sup> Current law prohibits a collective bargaining agreement from providing for a term of existence of more than three years and requires the agreement to contain all of the terms and conditions of employment of the employees during such term.<sup>11</sup>

### Release Time

Release time allows a public employee to perform work during the workday for his or her employee organization, rather than for the public employer. Release time is negotiated through collective bargaining agreements, under which public employers may release employees from their official duties to engage in activities that directly support the mission of their employee organizations. These activities include allowing public employees to negotiate higher wages and benefits, solicit new union members, attend union conferences and meetings, and file grievances against employers.

On May 25, 2018, President Trump issued an executive order that prohibits federal employees from spending more than 25 percent of their work hours on release time.<sup>12</sup>

### **Effect of the Bill**

The bill prohibits a public employee collective bargaining agreement entered into or renewed on or after July 1, 2019, from allowing a public employer to compensate a public employee or third party for employee organization activities or to provide compensated leave time specifically for employee organization activities, thereby prohibiting release time for public employees.

The bill defines “employee organization activities” to mean activities that are performed by an employee organization or its members or representatives that relate to advocating the interests of member employees in wages, benefits, terms and conditions of employment, or the enforcement, fulfillment, or advancement of the organization’s organizational purposes, obligations, external relations, or internal policies and procedures.

The bill specifies that it does not prohibit a public employee from using his or her compensated leave time for any purpose.

#### **B. SECTION DIRECTORY:**

Section 1. amends s. 447.203, F.S., relating to definitions.

Section 2. amends s. 447.309, F.S., relating to collective bargaining; approval or rejection.

Section 3. provides an effective date of July 1, 2019.

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

#### **A. FISCAL IMPACT ON STATE GOVERNMENT:**

##### **1. Revenues:**

The bill does not appear to impact state government revenues.

##### **2. Expenditures:**

See Fiscal Comments.

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<sup>10</sup> *Id.*

<sup>11</sup> Section 447.309(5), F.S.

<sup>12</sup> Exec. Order No. 13,837, 83 Fed. Reg. 25,335 (June 1, 2018).

**B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

The bill does not appear to impact local government revenues.

2. Expenditures:

See Fiscal Comments.

**C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

The bill may have an indeterminate negative fiscal impact on public employee organizations, which may have to use their own funds to compensate employees for time spent on employee organization activities.

**D. FISCAL COMMENTS:**

The bill may have an indeterminate positive fiscal impact on the state and local governments because public employers will be prohibited from compensating employees for time spent on employee organization activities.

**III. COMMENTS**

**A. CONSTITUTIONAL ISSUES:**

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

**B. RULE-MAKING AUTHORITY:**

The bill does not appear to create a need for rulemaking or rulemaking authority.

**C. DRAFTING ISSUES OR OTHER COMMENTS:**

None.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

On March 6, 2019, the Oversight, Transparency & Public Management Subcommittee adopted an amendment and reported the bill favorably as a committee substitute. The amendment clarifies that a public employee is not prohibited from using his or her compensated leave time for any purpose. However, it prohibits an employer from providing compensated leave time specifically for employee organization activities.

This analysis is drafted to the committee substitute as approved by the Oversight, Transparency & Public Management Subcommittee.