

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Judiciary

BILL: SB 78

INTRODUCER: Senator Rodrigues

SUBJECT: Dues and Uniform Assessments

DATE: January 29, 2021

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>McVaney</u>	<u>McVaney</u>	<u>GO</u>	<u>Favorable</u>
2.	<u>Bond</u>	<u>Cibula</u>	<u>JU</u>	<u>Pre-meeting</u>
3.	_____	_____	<u>RC</u>	_____

I. Summary:

SB 78 requires a public employee wanting to join a union to submit a signed membership authorization form that includes a specific statutory notice. The union must revoke the membership if the employee submits a signed request for revocation. The union may not require a reason for the employee's decision to revoke membership in the union.

The bill also requires a public employee to submit a signed dues deduction form before an employer may deduct union dues from an employee's pay. The employer must confirm with the employee that the employee authorized the deduction. Such authorization to deduct ends automatically when the members of the employee organization ratify a new collective bargaining agreement or after three years, whichever occurs earlier.

Public employers may experience an indeterminate, but likely insignificant, increase in workload and costs associated with the administration of the authorization and revocation of dues deductions.

The bill takes effect upon becoming a law.

II. Present Situation:

Collective Bargaining

Article 1, section 6 of the State Constitution guarantees that "the right of employees, by and through a labor organization, to bargain collectively shall not be denied or abridged." To implement this constitutional provision, the Legislature enacted ch. 447, F.S. Part II of the chapter, which part is solely applicable to public employees and public employee unions, 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.¹ Through collective bargaining, public employees² may collectively negotiate with their public employer³ in the determination of the terms and conditions of their employment.⁴ The Public Employees Relations Commission is responsible for assisting in resolving disputes between public employees and public employers.⁵

An “employee organization” is any “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.”⁶ When an employee organization is approved by the employees, recognized by the employer, and authorized to conduct collective bargaining, it is referred to as a certified bargaining agent, and becomes the exclusive representative of all employees in that unit.⁷

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 wages, hours, and terms and conditions of employment of the employees.⁸ Any collective bargaining agreement reached between the parties must be put in writing and signed by the chief executive officer and the bargaining agent.⁹ Such agreement is not binding on the employer until the agreement has been ratified by the employer and the employees in the bargaining unit.¹⁰ 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.¹¹

¹ Section 447.201, F.S.

² Section 447.203(3), F.S., defines the term “public employee” to mean 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 commission as managerial or confidential employees pursuant to criteria contained herein.
- (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 Public Employees Relations Commission.
- (i) Persons enrolled as undergraduate students in a state university who perform part-time work for the state university.

³ The term “public employer” means the state or any county, municipality, or special district or any subdivision or agency thereof that the commission determines has sufficient legal distinctiveness properly to carry out the functions of a public employer. Section 447.203(2), F.S.

⁴ Section 447.301(2), F.S.

⁵ Section 447.201(3), F.S.

⁶ Section 447.203(11), F.S.

⁷ Sections 447.203(12), 447.307(1), F.S.

⁸ Section 447.309(1), F.S.

⁹ *Id.*

¹⁰ *Id.*

¹¹ Section 447.309(5), F.S.

Right-to-Work

The State Constitution forbids an employer from denying citizens the right to work based on membership or non-membership in any employee organization.¹² As such, public employees have the right to form, join, participate in, and be represented by an employee organization of their own choosing, or to refrain from forming, joining, participating in, or being represented by an employee organization.¹³

Union Dues and Deductions in Florida

Section 447.303, F.S., authorizes a certified bargaining agent, a union, to have its dues and uniform assessments collected by a public employer by deducting such payments from the salaries of those employees who choose to authorize the practice. The employee's authorization is revocable with 30 days written notice to the employer and union, but otherwise continues for the length of the union's duration as certified bargaining agent. The deductions commence upon the bargaining agent's written request to the employer. While employers may make salary deductions for dues and uniform assessments, employers are expressly prohibited from any involvement in collecting fines, penalties, or special assessments.

Section 110.114, F.S., governs all employee wage deductions for state employment. The state, its departments, bureaus, commissions, and officers are permitted to make deductions from employees' salaries when authorized and requested by the employee.¹⁴ All records of employee requests and employer authorizations for deductions from an employee's wage or salary, or the legal authority for the deduction, shall be maintained by each employing entity.¹⁵

According to the Department of Management Services, 72,356 state employees (excluding state university system employees) were represented by unions during Fiscal Year 2018-19. Of these employees, 8,998 paid union dues and assessments.¹⁶

III. Effect of Proposed Changes:

Section 1 amends s. 447.301, F.S., to require a public employee wanting to join a union to sign a membership authorization form. The form must include the following acknowledgement:

I acknowledge and understand that Florida is a right-to-work state and that union membership is not required as a condition of employment. I understand that union membership and payment of union dues and assessments is voluntary and that I may not be discriminated against in any manner if I refuse to join or financially support a union.

¹² FLA. CONST. art. 1, s. 6.

¹³ Section 447.301(1) and (2), F.S.

¹⁴ *Id.*

¹⁵ Section 110.114(4), F.S.

¹⁶ State Personnel System, *Annual Workforce Report for Fiscal Year 2018-2019*, page 26,

[https://www.dms.myflorida.com/content/download/149462/996706/FY_2018-19_Annual_Workforce_Report_\(FINAL\).pdf](https://www.dms.myflorida.com/content/download/149462/996706/FY_2018-19_Annual_Workforce_Report_(FINAL).pdf)
(last visited January 27, 2021).

Furthermore, the section requires an employee organization to revoke an employee's membership upon receipt of written request. Any form required to fulfill this request may not require the employee to disclose a reason for membership revocation.

Section 2 amends s. 447.303, F.S., to require that before an employer begins deducting union dues from an employee's pay, the employer must receive a signed authorization form from the bargaining agent and confirm such authorization with the employee. The section further provides that such authorization will end automatically when the employee organization ratifies a new collective bargaining agreement or after three years, whichever occurs first.

Section 3 reenacts s. 110.114(3), F.S., in order to incorporate the changes made in section 1 of the bill.

Section 4 provides that the bill takes effect upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Not applicable. This bill does not 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.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

The bill does not impose, authorize, or raise a state tax or fee.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

To the extent to which the new requirements depress union membership or salary deductions for union dues or increase costs associated with the creation and use of membership authorization and dues deduction forms, public sector unions may experience a negative fiscal impact.

C. Government Sector Impact:

Public agencies may experience additional workload relating to administering the authorization and revocation of dues deductions for public employees.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 447.301 and 447.303.

This bill reenacts section 110.114, Florida Statutes.

IX. Additional Information:**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.