

HOUSE OF REPRESENTATIVES STAFF FINAL BILL ANALYSIS

BILL #: CS/HB 1471 Public Employees
SPONSOR(S): State Affairs Committee; Black and others
TIED BILLS: IDEN./SIM. BILLS: CS/SB 1746

FINAL HOUSE FLOOR ACTION: 77 Y's 36 N's **GOVERNOR'S ACTION:** Approved

SUMMARY ANALYSIS

CS/HB 1471 passed the House on March 6, 2024, as CS/SB 1746.

Collective bargaining is a constitutional right of public employees in Florida. A public employee desiring to join an employee organization must sign and date a membership authorization form with the bargaining agent and may revoke membership upon written request.

An employee organization authorized to represent public employees in collective bargaining is known as a certified bargaining agent and to become a certified bargaining agent, the employee organization must register with and be certified by the Public Employees Relations Commission (PERC). The initial and renewal applications must include certain information, including an audited financial statement. Employee organizations are prohibited from having membership dues and assessments deducted and collected by public employers, with certain exceptions, and if the dues paying membership of a bargaining agent drops below 60 percent of the employees eligible for representation during a specified period, the employee organization must petition PERC for recertification.

The bill removes the requirement that employee organizations submit audited financial statements and, instead, requires financial statements be prepared by an independent certified public accountant. For registration renewal applications submitted during a specified period, the bill prohibits PERC from denying the registration renewal or revoking the registration of an employee organization based solely upon the employee organization's failure to submit an audited financial statement.

The bill requires a certified bargaining agent to petition PERC for recertification if less than 60 percent of the employees in the bargaining unit have not submitted membership authorization forms, without a subsequent revocation, and paid dues to the employee organization during its last registration period.

The bill specifies that the exemptions from certain requirements apply to a bargaining unit with a majority of employees eligible for representation employed as law enforcement officers, correctional officers, correctional probation officers, firefighters, 911 public safety telecommunicators, emergency medical technicians, or paramedics. For mass transit employees the dues deduction exemption may only be applied to those employees who submit a membership authorization form to their employer as part of the authorization for dues deduction.

The bill does not appear to have a fiscal impact on local governments, but may have an indeterminate, but likely insignificant, negative fiscal impact on the state.

The bill was approved by the Governor on March 22, 2024, ch. 2024-23, L.O.F., and became effective on that date.

I. SUBSTANTIVE INFORMATION

A. EFFECT OF CHANGES:

Present Situation

Right-to-Work

The State Constitution provides that the “right of persons to work shall not be denied or abridged on account of membership or non-membership in any labor union or labor organization.”¹ Accordingly, Florida is regarded as a “right-to-work” state.

Collective Bargaining

The State Constitution also guarantees that “the right of employees, by and through a labor organization, to bargain collectively shall not be denied or abridged.”² To implement this constitutional provision, the Legislature enacted ch. 447, F.S., which provides that public employees have the right to form, join, participate in, and be represented by an employee organization³ of their own choosing, or to refrain from forming, joining, participating in, or being represented by an employee organization.⁴

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.⁵ Through collective bargaining, public employees⁶ negotiate with their public employer⁷ to determine the terms and conditions of their employment.⁸ Each employee is subject to the negotiated collective bargaining agreement regardless of union membership.⁹

The Public Employees Relations Commission (PERC) is responsible for assisting in resolving disputes between public employees and public employers.¹⁰

¹ Art. I, s. 6, FLA. CONST.

² *Id.*

³ “Employee organization” means 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. S. 447.203(11), F.S.

⁴ S. 447.301(1) and (2), F.S.

⁵ S. 447.201, F.S.

⁶ 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.

⁷ 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. S. 447.203(2), F.S.

⁸ S. 447.301(2), F.S.

⁹ See s. 447.309(1), F.S.

¹⁰ S. 447.201(3), F.S.

Registration of an Employee Organization

An employee organization seeking to become a certified bargaining agent¹¹ for a unit¹² of public employees must register with and be certified by PERC. To register, the employee organization must submit an application, under oath, to PERC that includes the following information:

- The name and address of the organization and of any parent organization or organization with which it is affiliated.
- The names and addresses of the principal officers and all representatives of the organization.
- The amount of the initiation fee and of the monthly dues which members must pay.
- The current annual audited financial statement of the organization.
- The name of its business agent, if any; the name of its local agent for service of process, if different from the business agent; 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, race, sex, religion, or national origin.
- A copy of the current constitution and bylaws of the employee organization.
- A copy of the current constitution and bylaws of the state and national groups with which the employee organization is affiliated or associated.¹³

A registration granted to an employee organization is valid for one year and must be renewed annually by filing an application under oath with PERC. The renewal application must reflect any changes in the information provided to PERC in conjunction with the employee organization's preceding application for registration or previous renewal, whichever is applicable. Each application for renewal of registration must include a current annual audited financial statement, certified by an independent certified public accountant (CPA), containing the following information:

- Assets and liabilities at the beginning and end of the fiscal year.
- Receipts of any kind and the sources thereof.
- Salary, allowances, and other direct or indirect disbursements, including reimbursed expenses, to each officer and employee who, during the fiscal year, received more than \$10,000 in the aggregate from the employee organization and any affiliated employee organization.
- Direct and indirect loans made to any officer, employee, or member which aggregated more than \$250 during the fiscal year.
- Direct and indirect loans to any business enterprise.¹⁴

In addition, on or after October 1, 2023, certain employee organizations¹⁵ certified as bargaining agents for public employees must submit the following information and documentation, as of the 30th day immediately preceding the date of renewal, in their registration renewal applications:

- The number of employees in the bargaining unit who are eligible for representation by the employee organization.
- The number of employees in the bargaining unit who have submitted signed membership authorization forms without a subsequent revocation of such membership.
- The number of employees in the bargaining unit who paid dues to the employee organization.
- The number of employees in the bargaining unit who did not pay dues to the employee organization.

¹¹ "Bargaining agent" means the employee organization which has been certified by PERC as representing the employees in the bargaining unit, as provided in s. 447.307, F.S., or its representative. S. 447.203(12), F.S.

¹² "Bargaining unit" means either that unit determined by PERC, that unit 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 PERC to be appropriate for the purposes of collective bargaining. However, no bargaining unit shall be defined as appropriate which includes employees of two employers that are not departments or divisions of the state, a county, a municipality, or other political entity. S. 447.203(8), F.S.

¹³ S. 447.305(1), F.S.

¹⁴ S. 447.305(2), F.S.

¹⁵ Employee organizations that have been certified as the bargaining agent to represent law enforcement officers, correctional officers, correctional probation officers, or firefighters are exempt from providing this information. S. 447.305(9), F.S.

- Documentation provided by an independent CPA retained by the employee organization that verifies the information provided.¹⁶

Certification of an Employee Organization

After registering with PERC, an employee organization may begin the certification process. In order to be certified, an employee organization selected by a majority of public employees in a unit as their representative must request recognition by the public employer. If satisfied as to the majority status of the employee organization and the appropriateness of the proposed unit, the employer will recognize the employee organization as the collective bargaining representative for that unit. Following recognition by the employer, the employee organization must immediately petition PERC for certification. If the unit proposed by the employee organization is deemed appropriate, PERC will immediately certify the employee organization as the exclusive representative of all employees in the unit. If the unit is inappropriate, PERC may dismiss the petition.¹⁷

If the employer refuses to recognize the employee organization, the employee organization may file a petition with PERC for certification as the bargaining agent. The petition must be accompanied by dated statements signed by at least 30 percent of the employees in the proposed unit.¹⁸ Upon finding the petition to be sufficient, PERC must order an election by secret ballot to determine whether the employee organization will be certified.¹⁹ The petitioning employee organization is placed on the ballot along with any other registered employee organization that submits dated statements signed by at least 10 percent of the employees in the proposed unit.²⁰ When an employee organization is selected by a majority of the employees voting in an election, PERC must certify that employee organization as the exclusive collective bargaining representative of all employees in the unit.²¹ PERC may pass on the cost of the election to the public employer and employee organization.²²

Certified Bargaining Agent

The certified bargaining agent and the chief executive of the public employer must bargain collectively and in good faith to determine the wages, hours, and terms and conditions of employment of the employees in the unit.²³ 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 not binding on the employer until the agreement has been ratified by the employer and the employees in the unit.²⁴ A collective bargaining agreement may not provide for a term of existence of more than three years and must contain all of the terms and conditions of employment.²⁵ The bargaining agent also has the authority to process grievances to settle disputes between the employer and the employees in the unit.²⁶ In addition, bargaining agents are required to provide their members with an annual audited financial report that includes a detailed breakdown of revenues and expenditures and an accounting of membership dues and assessments.²⁷

Revocation of Certification

An employee or group of employees who no longer desires to be represented by the certified bargaining agent may file a petition to revoke certification with PERC. The petition must be accompanied by dated statements signed by at least 30 percent of the employees in the unit, indicating that such employees no longer desire to be represented by the certified bargaining agent. PERC may dismiss a petition it finds to be insufficient. If PERC finds the petition to be sufficient, it must

¹⁶ S. 447.305(3), F.S.

¹⁷ S. 447.307(1)(a), F.S.

¹⁸ S. 447.307(2), F.S.

¹⁹ S. 447.307(3)(a), F.S.

²⁰ S. 447.307(2), F.S.

²¹ S. 447.307(3)(b), F.S.

²² See s. 447.307(3)(a), F.S.; see also R. 60CC-2.006, F.A.C.

²³ S. 447.309(1), F.S.

²⁴ *Id.*

²⁵ S. 447.309(5), F.S.

²⁶ See s. 447.401, F.S.

²⁷ S. 447.305(11), F.S.

immediately order an election by secret ballot.²⁸ If a majority of employees voting in the election vote against the certified bargaining agent, the employee organization's certification is revoked; otherwise, the employee organization's certification is retained.²⁹

An employee organization that applies for a registration renewal must petition for recertification as a bargaining agent if less than 60 percent of its unit members paid dues during its last registration period. If the employee organization fails to petition PERC for recertification within one month of its registration renewal application, the certification is revoked.³⁰

PERC may initiate an investigation to confirm the validity of the information submitted in an initial or renewal registration application. PERC may revoke or deny an employee organization's registration or certification if it finds that the employee organization failed to cooperate with the investigation or intentionally misrepresented the information submitted on the application.³¹

Membership in an Employee Organization

A public employee who desires to be a member of an employee organization must sign and date a membership authorization form with the bargaining agent. The form must be prescribed by PERC and contain certain information and statements. A member of an employee organization may revoke membership at any time upon the organization receiving the employee's written revocation. Employee organizations are required to retain submitted membership authorization forms and revocation requests for inspection by PERC.³² However, the requirement for a signed membership form and the provisions relating to the revocation of a membership do not apply to members of an employee organization certified as a bargaining agent to represent law enforcement officers,³³ correctional officers,³⁴ correctional probation officers,³⁵ or firefighters.^{36, 37}

Membership Dues and Assessments

Generally, an employee organization may not have its dues and uniform assessments deducted from the salaries of employees in the unit and collected by the public employer. However, an employee organization certified as a bargaining agent to represent law enforcement officers, correctional officers, correctional probation officers, or firefighters may have its dues and uniform assessments deducted and collected by the public employer from the salaries of those employees who authorize the

²⁸ S. 447.308(1), F.S. However, no petition may be filed within 12 months after PERC verifies an election, or where a collective bargaining agreement is in effect, only during the period extending from 150 days to 90 days immediately preceding the expiration date. S. 447.307(3)(d), F.S.

²⁹ S. 447.308(2) and (3), F.S.

³⁰ S. 447.305(6), F.S. This provision does not apply to an employee organization certified as a bargaining agent to represent law enforcement officers, correctional officers, correctional probation officers, or firefighters.

³¹ S. 447.305(8), F.S. This provision does not apply to an employee organization certified as a bargaining agent to represent law enforcement officers, correctional officers, correctional probation officers, or firefighters.

³² S. 447.301(1), F.S.

³³ "Law enforcement officer" means any person who is elected, appointed, or employed full time by any municipality or the state or any political subdivision thereof; who is vested with authority to bear arms and make arrests; and whose primary responsibility is the prevention and detection of crime or the enforcement of the penal, criminal, traffic, or highway laws of the state. The term includes all certified supervisory and command personnel whose duties include, in whole or in part, the supervision, training, guidance, and management responsibilities of full-time law enforcement officers, part-time law enforcement officers, or auxiliary law enforcement officers but does not include support personnel employed by the employing agency. The term also includes a special officer employed by a Class I, Class II, or Class III railroad pursuant to s. 354.01, F.S. S. 943.10(1), F.S.

³⁴ "Correctional officer" means any person who is appointed or employed full time by the state or any political subdivision thereof, or by any private entity which has contracted with the state or county, and whose primary responsibility is the supervision, protection, care, custody, and control, or investigation, of inmates within a correctional institution; however, the term "correctional officer" does not include any secretarial, clerical, or professionally trained personnel. S. 943.10(2), F.S.

³⁵ "Correctional probation officer" means a person who is employed full time by the state whose primary responsibility is the supervised custody, surveillance, and control of assigned inmates, probationers, parolees, or community controlles within institutions of the Department of Corrections or within the community. The term includes supervisory personnel whose duties include, in whole or in part, the supervision, training, and guidance of correctional probation officers, but excludes management and administrative personnel above, but not including, the probation and parole regional administrator level. S. 943.10(3), F.S.

³⁶ "Firefighter" means an individual who holds a current and valid Firefighter Certificate of Compliance or Special Certificate of Compliance issued by the division under s. 633.408, F.S. S. 633.102, F.S.

³⁷ S. 447.301(1)(b)6., F.S.

deductions. Such authorization is revocable by the employee upon 30 days' written notice to the employer and employee organization. The deductions commence upon the bargaining agent's written request to the employer. The right to deductions remains in force for as long as the employee organization remains the certified bargaining agent for that group of employees.³⁸

Federal Transit Funds

As a precondition to a grant of federal assistance by the United States Department of Transportation's Federal Transit Administration (FTA), the Federal Transit Act³⁹ requires fair and equitable protective arrangements be made to protect the labor rights of transit employees affected by such assistance. Specifically, the statute requires the following matters be included in such protective arrangements:

- The preservation of rights, privileges, and benefits under existing collective bargaining agreements.
- The continuation of collective bargaining rights.
- The protection of employees against a worsening of their positions with respect to their employment.
- Assurances of employment to employees of acquired mass transportation systems and priority of reemployment for employees terminated or laid off.
- Paid training or retraining programs.⁴⁰

The U.S. Department of Labor must certify that protective arrangements are in place and meet the above requirements before the FTA may release grant funds. Accordingly, states and local governments that violate the provisions of this law risk losing access to federal funding for public transportation projects. In Fiscal Year 2022-2023, Florida received approximately \$529.4 million to improve public transportation options throughout the state.⁴¹

PERC may waive certain requirements upon petition by a public employer that the employer's protective arrangement covering mass transit employees does not meet federal requirements and would jeopardize the public employer's continued eligibility to receive federal funding. Specifically, PERC may waive the following statutory requirements to the extent necessary for the public employer to continue to be able to receive federal funds:

- The prohibition on dues and assessment deductions;
- The requirement to petition PERC for recertification if the bargaining unit has fewer than 60 percent of its unit members paying dues during the prior registration period; or
- The revocation of certification in certain circumstances.⁴²

Effect of the Bill

The bill specifies that membership authorization forms must be submitted by employees to the applicable bargaining agent.

The bill amends the exemptions relating to the prohibition of dues deduction and collection, requirements for membership authorization forms and revocation requests, the requirement to petition PERC for recertification, and the revocation of certification in certain circumstances. Specifically, the bill provides that those provisions do not apply to a bargaining unit that has a majority of employees eligible for representation employed as law enforcement officers, correctional officers, correctional probation

³⁸ S. 447.303, F.S.

³⁹ 49 U.S.C. ch. 53.

⁴⁰ 49 U.S.C. § 5333(b).

⁴¹ This figure is as of March 2023. See The White House, *Investing in America*, available at <https://www.whitehouse.gov/wp-content/uploads/2023/03/Florida-Fact-Sheet-March-Edition.pdf> (last visited January 26, 2024).

⁴² S. 447.207(12), F.S.

officers, firefighters, 911 public safety telecommunicators,⁴³ emergency medical technicians,⁴⁴ or paramedics.⁴⁵

The bill revises the information that must be included in an employee organization's initial and renewal registration applications to no longer require an audited financial statement. Instead, an application must include the current annual financial statement of the employee organization, prepared by an independent CPA. In addition, an initial application must include the amount of the initiation fee and the amount and collection frequency of the dues and uniform assessments that a member must pay. A renewal application's financial statement must include the employee organization's disbursements by category for the preceding fiscal year.

For a registration renewal application submitted between July 1, 2023, and the effective date of this act, the bill prohibits PERC from denying the registration renewal or revoking the registration of an employee organization based solely upon the employee organization's failure to submit a current annual audited financial statement certified by an independent CPA. Instead, the bill provides that an employee organization may submit a current annual financial statement prepared by an independent CPA and signed by the employee organization's president and treasurer or corresponding principal officers in lieu of an audited financial statement certified by an independent CPA.

The bill requires an employee organization certified as a bargaining agent representing a bargaining unit for which less than 60 percent of the employees in the unit have both submitted membership authorization forms, without a subsequent revocation, and paid dues to the employee organization during its last registration period, to petition PERC for recertification as the exclusive representative of all employees in the bargaining unit within 30 days after the date on which the employee organization applies for renewal of registration.

The bill specifies that an employee organization intentionally misrepresenting registration information or refusing to permit PERC to inspect membership authorization forms or revocation requests constitutes a failure to cooperate with a PERC investigation that, consequently, may result in the revocation or denial of an employee organization's registration or certification.

The bill amends the current requirement for bargaining agents to provide their members with an annual audited financial report that includes a detailed breakdown of revenue and expenditures. Instead, the bill requires bargaining agents to provide their members with an annual financial report prepared by an independent CPA that includes a detailed breakdown of revenues and expenditures in such categories as PERC may prescribe.

The bill specifies that PERC's authority to waive the prohibition on dues and assessment deductions regarding bargaining units containing mass transit employees only applies to those mass transit employees that have provided a copy of their membership authorization form to their employer as part of the authorization for dues and assessment deductions under a waiver.

The bill makes other clarifying and conforming changes.

⁴³ The bill defines "911 public safety telecommunicator" to mean a public safety dispatcher or 911 operator whose duties and responsibilities include the answering, receiving, transferring, and dispatching functions related to 911 calls; dispatching law enforcement officers, fire rescue services, emergency medical services, and other public safety services to the scene of an emergency; providing real-time information from federal, state, and local crime databases; or supervising or serving as the command officer to a person or persons having such duties and responsibilities. However, the term does not include administrative support personnel, including, but not limited to, those whose primary duties and responsibilities are in accounting, purchasing, legal, and personnel.

⁴⁴ The bill defines "emergency medical technician" to mean a person who is certified by the Department of Health to perform basic life support pursuant to part III, ch. 401, F.S.

⁴⁵ The bill defines "paramedic" to mean a person who is certified by the Department of Health to perform basic and advanced life support pursuant to part III, ch. 401, F.S.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

The bill requires certain employee organizations in which less than 60 percent of the eligible employees in the unit have submitted membership authorization forms to recertify with PERC in order to remain the bargaining agent. This fiscal impact associated with this change is indeterminate, but likely insignificant.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill will likely have an indeterminate, positive fiscal impact on employee organizations as a result of the bill only requiring financial statements be prepared by an independent CPA as opposed to a financial audit. However, the bill will have an indeterminate, negative fiscal impact on employee organizations whose membership fails to submit membership authorization forms due to costs relating to recertifying as the bargaining agent.

D. FISCAL COMMENTS:

None.