

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/CS/HB 1115 Teacher Protection

SPONSOR(S): Civil Justice Subcommittee; Brandes; Grant and others

TIED BILLS: None **IDEN./SIM. BILLS:** SB 1698

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Civil Justice Subcommittee	8 Y, 6 N, As CS	Cary	Bond
2) Justice Appropriations Subcommittee	9 Y, 5 N, As CS	McAuliffe	Jones Darity
3) Education Committee			
4) Judiciary Committee			

SUMMARY ANALYSIS

An employee organization is any labor organization, union, association, fraternal order, occupational or professional society, or group, however organized or constituted, that 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. This definition comes from the chapter of the Florida Statutes relating to labor unions. Recent decisions by the Florida Public Employees Relations Commission, however, have expanded the scope of that definition to include professional teacher associations that do not perform collective bargaining functions, allowing unions to challenge non-collective bargaining teacher associations for unfair labor practices.

The bill modifies the definition of "employee organization" within the labor organizations statute to exclude professional teacher associations that do not register as collective bargaining organizations.

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

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Employee Organizations - Present Situation

An employee organization is any labor organization, union, association, fraternal order, occupational or professional society, or group, however organized or constituted, that 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.¹ This definition comes from the chapter of the Florida Statutes relating to labor unions.² Recent decisions by the Florida Public Employees Relations Commission, however, have expanded the scope of that definition to include professional teacher associations that do not perform collective bargaining functions, allowing unions to challenge non-collective bargaining teacher associations³ for unfair labor practices.⁴

Employee Organizations - Effect of Proposed Changes

This bill amends the definition for "employee organization" in s. 447.203, F.S., to specifically exclude any "professional teacher association" as defined in s. 1001.03(4), F.S., until such organization applies for registration pursuant to the labor union statute.

B. SECTION DIRECTORY:

Section 1 amends s. 447.203, F.S., relating to definition of employee organization.

Section 2 provides an effective date of July 1, 2012.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill does not appear to have any impact on state revenues.

2. Expenditures:

The bill does not appear to have any impact on state expenditures.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

This bill does not appear to have any impact on local government revenues.

2. Expenditures:

This bill does not appear to have any impact on local government expenditures.

¹ Section 447.203(11), F.S.

² Chapter 447, F.S.

³ Professional teacher associations are defined by s. 1001.03, F.S., as not-for-profit, professional teacher associations that offer membership to all teachers and offer teacher training and staff development at no fee to the district. Such organizations are allowed equal access to voluntary teacher meetings, access to teacher mailboxes, and may collect voluntary membership fees through payroll deductions.

⁴ See, e.g., *Osceola Classroom Teachers Assoc. v. School District of Osceola County*, Case No. CA-2009-068 (PERC Final Order, Oct. 29, 2010) and *Duval Teachers United v. School District of Duval County*, Case No. CA-2010-134 (Hearing Officer's Recommended Order).

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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:

This 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 January 18, 2012, the Civil Justice Subcommittee adopted one amendment and reported the bill favorably as a committee substitute. The amendment provides that the OAG must defend the teacher unless the teacher has not been subjected to disciplinary proceedings by the school district or the Education Practices Commission. The amendment removes the OAG's discretion to decide to take a case if the teacher acted in a good faith belief that the act was within the scope of the teacher's duties in enforcing discipline policies. This analysis is drafted to the committee substitute as passed by the Civil Justice Subcommittee.

On February 14, 2012, the Justice Appropriations Subcommittee adopted one amendment and reported the bill favorably as a committee substitute. The amendment removes sections one and two of the bill that allowed a teacher to request that the Office of the Attorney General represent the teacher in a civil lawsuit arising out of disciplinary issues. This analysis is drafted to the committee substitute as passed by the Justice Appropriations Subcommittee.