

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 1 Dues and Uniform Assessments

SPONSOR(S): State Affairs Committee, Grant, J.

TIED BILLS: **IDEN./SIM. BILLS:** SB 804

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Oversight, Transparency & Public Management Subcommittee	9 Y, 5 N	Villa	Smith
2) State Affairs Committee	12 Y, 7 N, As CS	Villa	Williamson

SUMMARY ANALYSIS

Collective bargaining is a constitutional right afforded to public employees in Florida. The State Constitution also provides that Florida is a right to work state; therefore, the right of an individual to work cannot be denied based on membership or non-membership in any employee organization. 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.

Through collective bargaining, public employees collectively negotiate with their public employer in the determination of the terms and conditions of their employment. An employee organization that is authorized to represent public employees is known as a certified bargaining agent. A certified bargaining agent may deduct dues and uniform assessments from the salaries of employees who authorize such a deduction. The authorization is revocable by the employee upon 30 days' written notice to the employer and employee organization. The deductions start upon the bargaining agent's written request to the employer. The right to deductions will remain in effect as long as the employee organization remains the certified bargaining agent.

The bill requires a public employee who desires to join an employee organization to sign a membership authorization form. The form must contain an acknowledgement that Florida is a right to work state and union membership is not required as a condition of employment. The authorization form must also provide that union membership and payment of union dues and assessments is voluntary and the employee may not be discriminated against in any manner if he or she refuses to join or financially support a union.

The bill requires an employee organization to revoke an employee's membership upon the employee's written request. If the employee must complete a form to request revocation, the form may not require a reason for the employee's decision.

The bill states that dues and uniform assessments may not be deducted from an employee's salary until the employer receives a signed authorization form from the bargaining agent and is able to confirm with the employee, electronically or otherwise, that he or she authorized such deductions. The bill provides that, unless revoked, the authorization for dues deductions is in force for three years or until the certified bargaining agent ratifies a new collective bargaining agreement, whichever is earlier.

The bill may have an indeterminate, but likely insignificant, fiscal impact on public employers. See Fiscal Comments.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Right-to-Work

The State Constitution provides that Florida is a right to work state; therefore, the right of an individual to work cannot be denied based on membership or non-membership in any employee organization.¹ As such, public employees² 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.³

Collective Bargaining

Collective bargaining is a constitutional right afforded to public employees in Florida.⁴ 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.⁵ Through collective bargaining, public employees collectively negotiate with their public employer⁶ in the determination of the terms and conditions of their employment.⁷ The Public Employees Relations Commission is responsible for assisting in resolving disputes between public employees and public employers.⁸

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.”⁹ An employee organization that is authorized to represent public employees in collective bargaining is known as a certified bargaining agent.¹⁰ A certified bargaining agent is the exclusive representative of all employees in that unit.¹¹

¹ Art. I, s. 6, FLA. CONST.

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 Section 447.301(1) and (2), F.S.

⁴ Art. I, s. 6, FLA. CONST.

⁵ Section 447.201, F.S.

⁶ 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.

⁷ Section 447.301(2), F.S.

⁸ Section 447.201(3), F.S.

⁹ Section 447.203(11), F.S.

¹⁰ Section 447.203(12), F.S.

¹¹ Section 447.307(1), F.S.

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.¹² Any collective bargaining agreement reached between the parties must be put in writing and signed by the chief executive officer and the bargaining agent.¹³ Such agreement is not binding on the employer until the agreement has been ratified by the employer and the employees in the bargaining unit.¹⁴ 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.¹⁵

Employee Dues

The certified bargaining agent may have its dues and uniform assessments deducted and collected by the public employer from the salaries of those employees who authorize the deductions.¹⁶ Such authorization is revocable by the employee upon 30 days' written notice to the employer and employee organization.¹⁷ The deductions start upon the bargaining agent's written request to the employer.¹⁸ The right to deductions remains in force for as long as the employee organization remains the certified bargaining agent for that group of employees.¹⁹

Effect of the Bill

The bill requires a public employee who desires to join an employee organization to sign a membership authorization form that contains the following acknowledgement:

I acknowledge and understand that Florida is a right to work state and 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.

The bill requires an employee organization to revoke an employee's membership upon receipt of the employee's written request. If the employee must complete a form to request revocation, the form may not require a reason for the employee's decision.

The bill revises the requirements for the deduction of dues and requires the employer to verify that the employee authorized the deduction. Specifically, the bill states that dues and uniform assessments may not be deducted from an employee's salary until the employer receives a signed authorization form from the bargaining agent and is able to confirm with the employee, electronically or otherwise, that he or she authorized the deduction of dues and uniform assessments.

The bill provides that, unless revoked, the authorization for dues deductions is in force for three years or until the certified bargaining agent ratifies a new collective bargaining agreement, whichever is earlier.

B. SECTION DIRECTORY:

Section 1 amends s. 447.301, F.S., relating to public employees' rights to join or refrain from joining an employee organization.

Section 2 amends s. 447.303, F.S., relating to dues and uniform assessments.

¹² Section 447.309(1), F.S.

¹³ *Id.*

¹⁴ *Id.*

¹⁵ Section 447.309(5), F.S.

¹⁶ Section 447.303, F.S.

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ *Id.*

Section 3 reenacts s. 110.114, F.S., relating to employee wage deductions.

Section 4 provides an effective date of upon becoming a law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

See Fiscal Comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

See Fiscal Comments.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill may have an indeterminate negative fiscal impact on employee organizations related to creating authorization and membership forms.

D. FISCAL COMMENTS:

The bill requires a public employer to confirm with the employee that he or she authorized the deduction of dues and uniform assessments prior to commencing the deduction of said dues and assessments from the employee's salary. Currently, employers are not required to verify the dues deduction authorization before beginning the deduction. As such, the verification may result in an indeterminate, but likely insignificant, fiscal impact on public employers.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The county/municipality mandates provision of Art. VII, s. 18, of the State Constitution may apply because the bill requires employers to verify, prior to deducting dues and assessments from an employees paycheck, that the employee authorized the deduction of said dues and assessments; however, an exemption may apply because the fiscal impact is likely insignificant.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill does not grant rulemaking authority, nor does it appear to require a grant of rulemaking authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On February 13, 2020, the State Affairs Committee adopted an amendment and reported the bill favorably as a committee substitute. The amendment:

- Removed a provision prohibiting an employer or employee organization from asking an employee to provide a reason for his or her decision to revoke membership in an employee organization; and
- Extended the period the dues deduction authorization is valid from one year to three years or until the certified bargaining agent ratifies a new collective bargaining agreement, whichever is earlier.

This analysis is drafted to the committee substitute as approved by the State Affairs Committee.