

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 Governmental Oversight and Accountability

BILL: SB 1014

INTRODUCER: Senator Baxley

SUBJECT: Employee Organizations

DATE: March 16, 2021

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Candelaria	McVaney	GO	Pre-meeting
2.			JU	
3.			RC	

I. Summary:

SB 1014 includes educational support employees within the requirements for the collective bargaining annual registration renewal application. The bill requires employee organizations that have been certified as the bargaining agent for a unit of educational support employees¹ to disclose in its application for registration renewal the number of employees who are eligible for representation and the number of employees who are represented by the employee organization as of December 31 of that renewal period.

The bill requires an employee organization whose full-dues paying membership as of December 31 is less than 50 percent of the employees eligible for representation to petition the Public Employees Relation Commission (Commission) for recertification. The bill authorizes the Commission to conduct an investigation to confirm the validity of any information submitted in the application for renewal.

The bill requires previous and prospective educational personnel and educational support employees who are represented by an employee organization and have union dues and uniform assessments deducted from their salary to sign and submit a form to the school board district acknowledging Florida as a right-to-work state. The bill specifies the required language and font size for such acknowledgement. A district school board is prohibited from deducting union dues or uniform assessments from the salary of those employees who have not timely signed and submitted the acknowledgment.

A school district must: (1) confirm directly with a signatory providing an acknowledgement that he or she has authorized such deductions from his or her salary; and (2) must wait for confirmation before making any deduction. The bill provides that, subject to the rules of the

¹-Section 1012.01(6), F.S., defines “educational support employees” to mean K-12 employees whose job functions are neither administrative nor instructional, yet whose work supports the educational process.

State Board of Education, each school district must adopt policies aimed to carry out the acknowledgment process.

The bill grants rulemaking authority to the Commission to implement the provisions associated with instructional personnel and educational support employees acknowledging Florida as a right-to-work state.

The bill may increase the workloads of, and the associated costs incurred by, the Commission and local school districts.

The bill takes effect July 1, 2021.

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., 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.² Through collective bargaining, public employees³ collectively negotiate with their public employer⁴ in the determination of the terms and conditions of their employment.⁵ The Public Employees Relations Commission (Commission) is responsible for assisting in resolving disputes between public employees and public employers.⁶

An “employee organization” is any “labor organization, union, association, fraternal order, occupational or professional society, or group, however organized or constituted, which

² Section 447.201, F.S.

³ 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.

⁴ 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.

⁵ Section 447.301(2), F.S.

⁶ Section 447.201(3), F.S.

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.”⁷ 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.⁸

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.⁹ Any collective bargaining agreement reached between the parties must be put in writing and signed by the chief executive officer and the bargaining agent.¹⁰ Such agreement is not binding on the employer until the agreement has been ratified by the employer and the employees in the bargaining unit.¹¹ 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.¹²

Registration of Employee Organization

An employee organization seeking to become a certified bargaining agent for public employees has to register with the Commission prior to requesting recognition by a public employer for purposes of collective bargaining and before submitting a petition to the Commission requesting certification as an exclusive bargaining agent.¹³ The application for registration with the commission must include:

- The name and address of the organization and of any parents 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 financial statement of the organization;
- The name of its business agent, if any; if different from the business agent, the name of its local agent for service of process; and the addresses where such person or persons can be reached;
- A pledge, in a form prescribed by the commission, 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; and
- A copy of the current constitution and bylaws of the state and national groups with which the employee organization is affiliated or associated. In lieu of this provision, and upon adoption of a rule by the commission, a state or national affiliate or parent organization of any

⁷ Section 447.203(11), F.S.

⁸ Sections 447.203(12), 447.307(1), F.S.

⁹ Section 447.309(1), F.S.

¹⁰ *Id.*

¹¹ *Id.*

¹² Section 447.309(5), F.S.

¹³ Section 447.305(1), F.S.

registering labor organization may annually submit a copy of its current constitution and bylaws.¹⁴

A registration granted to an employee organization is valid for one year from the date of assurance. A registration must be renewed annually by filing an application for renewal under oath with the commission. An application for renewal must reflect any changes in the information provided to the commission in conjunction with the employee organization's preceding application for registration or previous renewal.¹⁵ Each application for renewal of registration is required to include a current annual financial report containing detailed information outlined in s. 447.305(2)(a-e), F.S.

Certification of Employee Organization

Any employee organization which is selected by a majority of public employees in a designated unit as their representative for collective bargaining purposes can request recognition by the public employer. In return the employer, if satisfied as to the majority status of the employee organization, recognizes the employee organization as the collective bargaining representative of employees in the designated unit. Following recognition by the employer, the employee organization must immediately petition the commission for certification.¹⁶ The Commission will review only the appropriateness of the unit proposed by the employee organization. Appropriateness is defined as the history of employee relations within the organization of the public employer concerning organization and negotiation and the interest of the employees and the employer.¹⁷ If the unit is appropriate, the commission will immediately certify the employee organization as the exclusive representative of all employees in the unit. If the unit is inappropriate, the commission may dismiss the petition.

If the public employer refuses to recognize the employee organization, the employee organization may file a petition with the Commission for certification as the bargaining agent. The petition has to be accompanied by dated statements signed by at least 30 percent of the employees in the designated unit. The commission will investigate the petition to determine its sufficiency, and provide for an appropriate hearing upon notice, and may order an election by secret ballot. Any registered employee organization desiring placement on the ballot in any election to be conducted may be permitted by the commission to intervene. If an employee organization is selected by the majority of the employees, the commission will then certify the employee organization as the exclusive collective representative.¹⁸

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.¹⁹ As such, public employees have the right to form, join, participate in, and be represented by an employee organization of

¹⁴ Section 447.305(1)(a-h), F.S.

¹⁵ Section 447.305(2)F.S.

¹⁶ Section 447.307(1)(a), F.S.

¹⁷ Section 447.307(4)(f)(5), F.S.

¹⁸ Section 447.307(3)(a-d), F.S.

¹⁹ Fla. Const. art. 1, s. 6.

their own choosing, or to refrain from forming, joining, participating in, or being represented by an employee organization.²⁰

Instructional Personnel and Educational Support Employees

Instructional personnel is defined as any K-12 staff member whose functions includes the provision of direct instructional services to students. This includes K-12 personnel whose functions provide direct support in the learning process of students.²¹ Included in the classification of instructional personnel are:

- Classroom teachers;²²
- Student personnel services;²³
- Librarians/media specialist;²⁴
- Other instructional staff such as specialists and trainers;²⁵ and
- Educational paraprofessionals.²⁶

Educational support employees are defined as any person employed by a district school system who is employed as teacher assistant, an education paraprofessional, a member of the transportation department, a member of the maintenance department, a member of food service, a secretary, or a clerical employee. Educational support employees duties require 20 or more hours in each normal working week.²⁷

III. Effect of Proposed Changes:

Section 1 amends s. 1012.2315, F.S., to require an employee organization that is certified to represent educational support employees to disclose in its annual application for registration renewal the number of employees who are eligible for representation and the number of employees who are represented by the employee organization as of December 31 of that renewal period. The bill also requires disclosure of the number of members who pay full dues and the number of members who do not pay full dues.

This section also requires an employee organization whose full dues-paying membership, as of December 31 of that renewal period, is less than 50 percent of the employees eligible for representation in the designated unit to petition the Commission for recertification as the exclusive representative of all employees in the unit within one month after the dates of the renewal registration application. If an employee organization does not comply, then its certification is revoked.

This section allows the Commission to conduct an investigation to confirm the validity of any information provided on the application for renewal of registration.

²⁰ Section 447.301(1) and (2), F.S.

²¹ Section 1012.01(2), F.S.

²² Section 1012.01(2)(a), F.S.

²³ Section 1012.01(2)(b), F.S.

²⁴ Section 1012.01(2)(c), F.S.

²⁵ Section 1012.01(2)(d), F.S.

²⁶ Section 1012.01(2)(e), F.S.

²⁷ Section 1012.40 (1)(a), F.S.

This section requires instructional personnel and educational support employees who are represented by an employee organization and have union dues and uniform assessments deducted from their salary to sign and submit a form to the school district acknowledging that Florida is a right-to-work state by August 1, 2021, and on a biennial basis thereafter. Instructional personnel and educational support employees who have union dues and uniform assessment deducted from their salaries for the first time after August 1, 2021, must sign and submit the form to the school district within 30 days after making a request and on a biennial basis thereafter. The form must contain 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.

The school district may not deduct any union dues or uniform assessment from the salary of an employee who is represented by an employee organization and who has not timely signed and submitted the acknowledgment form. The school district is required to confirm directly with a signatory of the form, and that he or she has authorized deductions for union dues or uniform assessments from his or her salary. The school district must wait for confirmation before any deduction is made.

The bill requires the Commission to adopt rules to carry out the provisions relating to the acknowledgement.

Section 2 provides the bill take effect July 1, 2021.

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:

None.

E. **Other Constitutional Issues:**

None identified.

V. Fiscal Impact Statement:

A. **Tax/Fee Issues:**

None.

B. **Private Sector Impact:**

Employee organizations representing instructional personnel and educational support employees may incur additional costs associated with having to petition for recertification if they fail to meet the threshold provided in the bill.

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:**

The Public Employees Relations Commission may experience additional workload associated with the increase in possible petitions and in conducting investigations to confirm the validity of information provided.

Local school boards may experience additional workload relating to administering the authorization and revocation of dues deductions for instructional personnel and educational support employees.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 1012.2315 of the 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.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
