

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 947 Dues and Uniform Assessments

SPONSOR(S): Plakon

TIED BILLS: **IDEN./SIM. BILLS:** CS/SB 78

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Government Operations Subcommittee	12 Y, 6 N	Villa	Smith
2) State Affairs Committee			

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 or abridged 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 commence 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 the employee to provide a reason for membership revocation.

The bill provides that the deduction of dues and uniform assessments from an employee's salary must begin when the employer receives a signed deduction authorization form from the bargaining agent and confirms with the employee, electronically or otherwise, that he or she authorized such deductions. The bill requires the employer to make such confirmation within 30 days after receiving the signed deduction authorization form. Unless revoked, the authorization for dues deductions remains in effect for three years or until the members of the bargaining unit approve 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 or abridged 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 (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 bargaining unit.^{11,12}

¹ Article 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 university.

³ Section 447.301(1) and (2), F.S.

⁴ Article I, s. 6, FLA. CONST.

⁵ Section 447.201, F.S.

⁶ Section 447.203(2), F.S., defines the term “public employer” to mean 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.

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.

¹² Section 447.203(8), F.S., defines the term “bargaining unit” to mean either that unit determined by the commission, that unit determined through local regulations, or that unit determined by the public employer and the public employee organization and

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.¹³ Any collective bargaining agreement reached between the parties must be put in writing and signed by the chief executive officer and the bargaining agent.¹⁴ Such agreement is not binding on the employer until the agreement has been ratified by the employer and the employees in the bargaining unit.¹⁵ 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.¹⁶

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.¹⁷ Such authorization is revocable by the employee upon 30 days' written notice to the employer and employee organization.¹⁸ The deductions commence upon the bargaining agent's written request to the employer.¹⁹ The right to deductions remains in force for as long as the employee organization remains the certified bargaining agent for that group of employees.²⁰

According to the Department of Management Services, 72,356 state employees (excluding state university system employees) were represented by unions during Fiscal Year 2018-2019. Of these employees, 8,998 paid union dues and assessments.²¹ Local government union membership levels are unknown.

Effect of the Bill

The bill requires a public employee who wants 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 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 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 the employee to provide a reason for membership revocation.

The bill revises the process to authorize the deduction of dues and uniform assessments from an employee's salary. The bill provides that deductions must commence when the employer receives a signed deduction authorization form from the bargaining agent and confirms with the employee,

approved by the commission to be appropriate for the purposes of collective bargaining. However, no bargaining unit may be defined as appropriate that includes employees of two employers that are not departments or divisions of the state, a county, a municipality, or other political entity.

¹³ Section 447.309(1), F.S.

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ Section 447.309(5), F.S.

¹⁷ Section 447.303, F.S.

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ *Id.*

²¹ 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 February 1, 2021).

electronically or otherwise, that he or she authorized such deductions. The bill requires the employer to make such confirmation within 30 days after receiving the signed deduction authorization form.

The bill provides that, unless revoked, the authorization for dues deductions remains in effect for three years or until the members of the bargaining unit approve 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.

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 membership authorization forms and dues deduction authorization 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 deductions. Public employers are not currently required to undertake such verification. This new process 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 uniform assessments from

an employee's paycheck, that the employee authorized the deductions; however, an exemption may apply because the fiscal impact is likely insignificant.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill does not require rulemaking nor confer rulemaking authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.