

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/CS/HB 1115 Teacher Protection

**SPONSOR(S):** Justice Appropriations Subcommittee; Civil Justice Subcommittee; Brandes 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		Muller	Klebacha
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. Employee organizations seeking to become a certified bargaining agent for public employees must register with the Public Employees Relation Commission.

Recent decisions by the Florida Public Employees Relations Commission, however, have expanded the scope of the definition of employee organization 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" for purposes of collective bargaining to exclude professional teacher associations that do not seek registration as a collective bargaining agent.

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

The bill provides an effective date of July 1, 1012.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **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."<sup>1</sup>

Employee organizations seeking to become a certified bargaining agent for public employees must register with the Public Employees Relation Commission (PERC).<sup>2</sup> If an employee organization is not registered, they may not be certified as an exclusive bargaining agent.<sup>3</sup> Generally, when an employee's organization is certified as the bargaining agent for a unit of an employer's employees, the employer is prohibited from deducting dues from employees in the bargaining unit for another employee organization.<sup>4</sup> Public employers are prohibited from interfering with, restraining, or coercing public employees in the exercise of any rights guaranteed to those employees by law.<sup>5</sup>

A professional teacher association is a not-for-profit teacher association that offers membership to all teachers, noninstructional personnel, and administrators, and offers teacher training and staff development at no fee to the district.<sup>6</sup> The State Board of Education must ensure that these associations are given equal access to voluntary teacher meetings, are provided access to teacher mailboxes for distribution of professional literature, and are authorized to collect voluntary membership fees through payroll deduction.<sup>7</sup>

Recent decisions by PERC have expanded the definition of employee organization 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.<sup>8</sup> In *Duval Teachers United*, PERC explained that there was no authority that prohibited PERC from defining a group as both a professional teacher association and an employee organization.<sup>9</sup>

##### **Effect of Proposed Changes**

This bill amends the definition of "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 seeks registration as a collective bargaining agent.

This language clarifies the definition of professional teacher associations, so that there is no allegation of unfair labor practices when a professional teacher association engages in activities for which it is statutorily authorized.

#### B. SECTION DIRECTORY:

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<sup>1</sup> Section 447.203(11), F.S.

<sup>2</sup> Section 447.305(1), F.S.

<sup>3</sup> *Id.*

<sup>4</sup> *Osceola Classroom Teachers Assoc. v. School District of Osceola County*, Case No. CA-2009-068 (PERC Final Order, Oct. 29, 2010)

<sup>5</sup> Section 447.501(1), F.S.

<sup>6</sup> Section 1001.03(4), F.S.

<sup>7</sup> Section 1001.03(4), F.S.

<sup>8</sup> *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 (PERC Final Order, May 23, 2011).

<sup>9</sup> *Duval Teachers United v. School District of Duval County*, Case No. CA-2010-134 (PERC Final Order, May 23, 2011).

**Section 1.** Amends s. 447.203, F.S., relating to definition of employee organization, to exclude professional teachers associations from the definition of an 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.

### **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 provided 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 removed 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.

On February 14, 2012, the Justice Appropriations Subcommittee adopted one amendment and reported the bill favorably as a committee substitute. The amendment removed 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.