

2018 ADDENDUM TO
COLLECTIVE BARGAINING
CHAPTER 447, FLORIDA STATUTES

2018 Legislative Changes to Employee Organization Certification
Re: S. 447.305, .307, .308, and S. 1012.2315(4), FS.

FEN TRAINING
May 2018 a

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COLLECTIVE BARGAINING
EMPLOYEE ORGANIZATION CERTIFICATION ADDENDUM
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§447.305, FS – Registration of Employee Organization

(1) **Every employee organization seeking to become a certified bargaining agent for public employees shall register with the commission pursuant to the procedures set forth in s. 120.60 prior to requesting recognition by a public employer for purposes of collective bargaining and prior to submitting a petition to the commission requesting certification as an exclusive bargaining agent.** Further, if such employee organization is not registered, it may not participate in a representation hearing, participate in a representation election, or be certified as an exclusive bargaining agent. The application for registration required by this section shall be under oath and in such form as the commission may prescribe and shall include:

(a) The name and address of the organization and of any parent organization or organization with which it is affiliated.

(b) The names and addresses of the principal officers and all representatives of the organization.

(c) The amount of the initiation fee and of the monthly dues which members must pay.

(d) The current annual financial statement of the organization.

(e) 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.

(f) 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.

(g) A copy of the current constitution and bylaws of the employee organization.

(h) 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 registering labor organization may annually submit a copy of its current constitution and bylaws.

(2) **A registration granted to an employee organization pursuant to the provisions of this section shall run for 1 year from the date of issuance. A registration shall be renewed annually by filing application for renewal under oath with the commission, which application shall reflect any changes in the information provided to the**

commission in conjunction with the employee organization's preceding application for registration or previous renewal, whichever is applicable. Each application for renewal of registration shall include a current annual financial report, signed by its president and treasurer or corresponding principal officers, containing the following information in such detail as may be necessary accurately to disclose its financial condition and operations for its preceding fiscal year and in such categories as the commission may prescribe:

- (a) Assets and liabilities at the beginning and end of the fiscal year;
 - (b) Receipts of any kind and the sources thereof;
 - (c) Salary, allowances, and other direct or indirect disbursements, including reimbursed expenses, to each officer and also to each employee who, during such fiscal year, received more than \$10,000 in the aggregate from such employee organization and any other employee organization affiliated with it or with which it is affiliated or which is affiliated with the same national or international employee organization;
 - (d) Direct and indirect loans made to any officer, employee, or member which aggregated more than \$250 during the fiscal year, together with a statement of the purpose, security, if any, and arrangements for repayment; and
 - (e) Direct and indirect loans to any business enterprise, together with a statement of the purpose, security, if any, and arrangements for repayment.
- (3) A registration fee shall accompany each application filed with the commission. The amount charged for an application for registration or renewal of registration shall not exceed \$15. All such money collected by the commission shall be deposited in the General Revenue Fund.
- (4) Notification of registrations and renewals of registration shall be furnished at regular intervals by the commission to the Department of Business and Professional Regulation.
- (5) Every employee organization shall keep accurate accounts of its income and expenses, which accounts shall be open for inspection at all reasonable times by any member of the organization or by the commission.

History.—s. 3, ch. 74-100; s. 11, ch. 77-343; s. 2, ch. 79-89; s. 34, ch. 83-174; s. 24, ch. 95-345; s. 134, ch. 2000-165; s. 60, ch. 2002-194.

§447.307, FS – Certification of Employee Organization

(1)(a) **Any employee organization which is designated or selected by a majority of public employees in an appropriate unit as their representative for purposes of collective bargaining shall request recognition by the public employer.** The public employer shall, if satisfied as to the majority status of the employee organization and the appropriateness of the proposed unit, recognize the employee organization as the collective bargaining representative of employees in the designated unit. Upon recognition by a public employer, the employee organization shall immediately petition the commission for certification. The commission shall review only the appropriateness of the unit proposed by the employee organization. If the unit is appropriate according to the criteria used in this part, the commission shall immediately certify the employee organization as the exclusive representative of all employees in the unit. If the unit is inappropriate according to the criteria used in this part, the commission may dismiss the petition.

(b) Whenever a public employer recognizes an employee organization on the basis of majority status and on the basis of appropriateness in accordance with subparagraph (4)(f)5. of this section, the commission shall, in the absence of inclusion of a prohibited category of employees or violation of s. 447.501, certify the proposed unit.

(2) **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 for a proposed bargaining unit. The petition shall be accompanied by dated statements signed by at least 30 percent of the employees in the proposed unit,** indicating that such employees desire to be represented for purposes of collective bargaining by the petitioning employee organization. Once a petition for certification has been filed by an employee organization, any registered employee organization desiring placement on the ballot in any election to be conducted pursuant to this section may be permitted by the commission to intervene in the proceeding upon motion accompanied by dated statements signed by at least 10 percent of the employees in the proposed unit, indicating that such employees desire to be represented for the purposes of collective bargaining by the moving employee organization. The petitions and dated statements signed by the employees are confidential and exempt from the provisions of s. 119.07(1), except that any employee, employer, or employee organization having sufficient reason to believe any of the employee signatures were obtained by collusion, coercion, intimidation, or misrepresentation or are otherwise invalid shall be given a reasonable opportunity to verify and challenge the signatures appearing on the petition.

(3)(a) The commission or one of its designated agents shall investigate the petition to determine its sufficiency; if it has reasonable cause to believe that the petition is sufficient, the commission shall provide for an appropriate hearing upon due notice. Such a hearing may be conducted by an agent of the commission. If the commission finds the petition to be insufficient, it may dismiss the petition. If the commission finds upon the record of the hearing that the petition is sufficient, it shall immediately:

1. Define the proposed bargaining unit and determine which public employees shall be qualified and entitled to vote at any election held by the commission.
2. Identify the public employer or employers for purposes of collective bargaining with the bargaining agent.
3. Order an election by secret ballot, the cost of said election and any required runoff election to be borne equally by the parties, except as the commission may provide by rule. The commission's order assessing costs of an election may be enforced pursuant to the provisions of this part.

(b) **When an employee organization is selected by a majority of the employees voting in an election, the commission shall certify the employee organization as the exclusive collective bargaining representative of all employees in the unit.** Certification is effective upon the issuance of the final order by the commission or, if the final order is appealed, at the time the appeal is exhausted or any stay is vacated by the commission or the court.

(c) In any election in which none of the choices on the ballot receives the vote of a majority of the employees voting, a runoff election shall be held according to rules promulgated by the commission.

(d) **No petition may be filed seeking an election in any proposed or existing appropriate bargaining unit to determine the exclusive bargaining agent within 12 months after the date of a commission order verifying a representation election or, if an employee organization prevails, within 12 months after the date of an effective certification covering any of the employees in the proposed or existing bargaining unit. Furthermore, if a valid collective bargaining agreement covering any of the employees in a proposed unit is in effect, a petition for certification may be filed with the commission only during the period extending from 150 days to 90 days immediately preceding the expiration date of that agreement, or at any time subsequent to its expiration date but prior to the effective date of any new agreement.** The effective date of a collective bargaining agreement means the date of ratification by both parties, if the agreement becomes effective immediately or retroactively; or its actual effective date, if the agreement becomes effective after its ratification date.

(4) In defining a proposed bargaining unit, the commission shall take into consideration:

(a) The principles of efficient administration of government.

(b) The number of employee organizations with which the employer might have to negotiate.

(c) The compatibility of the unit with the joint responsibilities of the public employer and public employees to represent the public.

(d) The power of the officials of government at the level of the unit to agree, or make effective recommendations to another administrative authority or to a legislative body, with respect to matters of employment upon which the employee desires to negotiate.

(e) The organizational structure of the public employer.

(f) Community of interest among the employees to be included in the unit, considering:

1. The manner in which wages and other terms of employment are determined.

2. The method by which jobs and salary classifications are determined.

3. The interdependence of jobs and interchange of employees.

4. The desires of the employees.

5. 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 in the continuation of a traditional, workable, and accepted negotiation relationship.

(g) The statutory authority of the public employer to administer a classification and pay plan.

(h) Such other factors and policies as the commission may deem appropriate.

However, no unit shall be established or approved for purposes of collective bargaining which includes both professional and nonprofessional employees unless a majority of each group votes for inclusion in such unit.

History.—s. 3, ch. 74-100; s. 12, ch. 77-343; s. 2, ch. 79-100; s. 16, ch. 91-269; s. 1, ch. 92-17; s. 300, ch. 96-406.

§447.308, FS – Revocation of Certification of Employee Organization

(1) **Any employee or group of employees which no longer desires to be represented by the certified bargaining agent may file with the commission a petition to revoke certification. The petition shall be accompanied by dated statements signed by at least 30 percent of the employees in the unit, indicating that such employees no longer desire to be represented for purposes of collective bargaining by the certified bargaining agent.** The time of filing said petition shall be governed by the provisions of s. 447.307(3)(d) relating to petitions for certification. Any employee or employee organization having sufficient reason to believe any of the employee signatures were obtained by collusion, coercion, intimidation, or misrepresentation or are otherwise invalid shall be given a reasonable opportunity to verify and challenge the signatures appearing on the petition. The commission or one of its designated agents shall investigate the petition to determine its sufficiency. If the commission finds the petition to be insufficient, it may dismiss the petition. If the commission finds that the petition is sufficient, it shall immediately:

(a) Identify the bargaining unit and determine which public employees shall be qualified and entitled to vote in the election held by the commission.

(b) Identify the public employer or employers.

(c) Order an election by secret ballot, the cost of said election to be borne equally by the parties, except as the commission may provide by rule. The commission's order assessing costs of an election may be enforced pursuant to the provisions of this part.

(2) **If a majority of the employees voting in such election vote against the continuation of representation by the certified bargaining agent, the certification of the employee organization as the exclusive bargaining agent for the employees in the bargaining unit shall be revoked.**

(3) If a majority of the employees voting in such election do not vote against the continuation of representation by the certified bargaining agent, the certification of the employee organization as the exclusive bargaining agent for the employees in the unit shall be retained by the organization.

History.—s. 2, ch. 79-100.

§1012.2315(4), FS – Assignment of Teachers / Collective Bargaining (as amended by 2018 Legislature)

(4) COLLECTIVE BARGAINING.—

(a) Notwithstanding provisions of chapter 447 relating to district school board collective bargaining, collective bargaining provisions may not preclude a school district from providing incentives to high-quality teachers and assigning such teachers to low-performing schools.

(b) **Before the start of the 2019-2020 school year**, each school district and the certified collective bargaining unit for instructional personnel shall **negotiate a memorandum of understanding that addresses the selection, placement, and expectations of instructional personnel and provides school principals with the autonomy** described in s. 1012.28(8).

(c)1 **In addition to the provisions under s. 447.305(2)**, an employee organization that has been certified as the bargaining agent for a unit of instructional personnel as defined in s. 1012.01(2) must include for each such certified bargaining unit the following information in its application for renewal of registration:

a. The number of employees in the bargaining unit who are eligible for representation by the employee organization.

b. The number of employees who are represented by the employee organization, specifying the number of members who pay dues and the number of members who do not pay dues.

2. **Notwithstanding the provisions of chapter 447 relating to collective bargaining, an employee organization whose dues paying membership is less than 50 percent of the employees eligible for representation in the unit, as identified in subparagraph 1., must petition the Public Employees Relations Commission pursuant to s. 447.307(2) and (3) for recertification as the exclusive representative of all employees in the unit within 1 month after the date on which the organization applies for renewal of registration pursuant to s. 447.305(2).** The certification of an employee organization that does not comply with this paragraph is revoked.