

CHAPTER 447

LABOR ORGANIZATIONS

PART I

GENERAL PROVISIONS (ss. 447.01-447.17)

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PART I

GENERAL PROVISIONS

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447.01 Regulating labor unions; state policy.--

(1) Because of the activities of labor unions affecting the economic conditions of the country and the state, entering as they do into practically every business and industrial enterprise, it is the sense of the Legislature that such organizations affect the public interest and are charged with a public use. The working person, unionist or nonunionist, must be protected. The right to work is the right to live.

(2) It is here now declared to be the policy of the state, in the exercise of its sovereign constitutional police power, to regulate the activities and affairs of labor unions, their officers, agents, organizers and other representatives, in the manner, and to the extent hereafter set forth.

History.--s. 1, ch. 21968, 1943; s. 147, ch. 97-103.

Note.--Former s. 481.01.

447.02 Definitions.--The following terms, when used in this chapter, shall have the meanings ascribed to them in this section:

(1) The term "labor organization" means any organization of employees or local or subdivision thereof, having within its membership residents of the state, whether incorporated or not, organized for the purpose of dealing with employers concerning hours of employment, rate of pay, working conditions, or grievances of any kind relating to employment and recognized as a unit of bargaining by one or more employers doing business in this state, except that an "employee organization," as defined in s. 447.203(11), shall be included in this definition at such time as it seeks to register pursuant to s. 447.305.

(2) The term "business agent" means any person, without regard to title, who shall, for a pecuniary or financial consideration, act or attempt to act for any labor organization in:

(a) The issuance of membership or authorization cards, work permits, or any other evidence of rights granted or claimed in, or by, a labor organization; or

(b) Soliciting or receiving from any employer any right or privilege for employees.

(3) The term "department" means the Department of Business and Professional Regulation.

History.--s. 2, ch. 21968, 1943; s. 1, ch. 65-396; s. 1, ch. 77-184; s. 35, ch. 79-7; s. 1, ch. 79-89; s. 188, ch. 79-400; s. 29, ch. 83-174; s. 19, ch. 95-345; s. 127, ch. 2000-165; s. 59, ch. 2002-194.

Note.--Former s. 481.02.

447.03 Employees' right of self-organization.--Employees shall have the right to self-organization, to form, join, or assist labor unions or labor organizations or to refrain from such activity, to bargain collectively through representatives of their own choosing, and to engage in concerted activities, for the purpose of collective bargaining or other mutual aid or protection.

History.--s. 3, ch. 21968, 1943; s. 1, ch. 74-100.

Note.--Former s. 481.03.

447.04 Business agents; licenses, permits.--

(1) No person shall be granted a license or a permit to act as a business agent in the state:

(a) Who has been convicted of a felony and has not had his or her civil rights restored.

(b) Who is not a person of good moral character.

(2)(a) Every person desiring to act as a business agent in this state shall, before doing so, obtain a license or permit by filing an application under oath therefor with the department, accompanied by a fee of \$25 and a full set of fingerprints of the applicant taken by a law enforcement agency qualified to take fingerprints. There shall accompany the application a statement signed by the president and the secretary of the labor organization for which he or she proposes to act as agent, showing his or her authority to do so. The department shall hold such application on file for a period of 30 days, during which time any person may file objections to the issuing of such license or permit.

(b) The department may also conduct an independent investigation of the applicant; and, if objections are filed, it may hold, or cause to be held, a hearing in accordance with the requirements of chapter 120. The objectors and the applicant shall be permitted to attend such hearing and present evidence.

(3) After the expiration of the 30-day period, regardless of whether or not any objections have been filed, the department shall review the application, together with all information that it may have, including, but not limited to, any objections that may have been filed to such application, any information that may have been obtained pursuant to an independent investigation, and the results of any hearing on the application. If the department, from a review of the information, finds that the applicant is qualified, pursuant to the terms of this chapter, it shall issue such license or permit; and such license or permit shall run for the calendar year for which issued, unless sooner surrendered, suspended, or revoked.

(4) Licenses and permits shall expire at midnight, December 31, but may be renewed by the department on a form prescribed by it; however, if any such license or permit has been surrendered, suspended, or revoked during the year, then such applicant must go through the same formalities as a new applicant.

(5) Grounds for denial, suspension, or revocation of licenses and permits shall include false application.

History.--s. 4, ch. 21968, 1943; s. 1, ch. 26762, 1951; ss. 1, 2, ch. 61-120; ss. 1, 2, ch. 63-139; s. 2, ch. 65-396; ss. 16, 35, ch. 69-106; s. 169, ch. 71-377; s. 153, ch. 77-104; s. 1, ch. 77-116; s. 1, ch. 77-184; s. 1, ch. 77-343; s. 36, ch. 79-7; s. 30, ch. 83-174; s. 7, ch. 91-223; s. 20, ch. 95-345; s. 148, ch. 97-103; s. 128, ch. 2000-165.

Note.--Former s. 481.04.

447.041 Hearings.--

(1) Any person or labor organization denied a license, permit, or registration shall be afforded the opportunity for a hearing by the department in accordance with the requirements of chapter 120.

(2) The department may, pursuant to the requirements of chapter 120, suspend or revoke the license or permit of any business agent or the registration of any labor organization for the violation of any provision of this chapter.

History.--s. 4, ch. 77-184; s. 129, ch. 2000-165.

447.045 Information confidential.--Neither the department nor any investigator or employee of the department shall divulge in any manner the information obtained pursuant to the processing of applicant fingerprint cards, and such information is confidential and exempt from the provisions of s. 119.07(1).

History.--s. 2, ch. 77-184; s. 13, ch. 91-269; s. 298, ch. 96-406; s. 130, ch. 2000-165.

447.05 Initiation fees; limitation.--Labor unions or labor organizations shall not charge an initiation fee in excess of the sum of \$15; provided, that initiation fees in effect on January 1, 1940, may be continued.

History.--s. 5, ch. 21968, 1943.

Note.--Former s. 481.05.

447.06 Registration of labor organizations required.--

(1) Every labor organization operating in the state shall make a report under oath, in writing, to the department annually, on or before December 31. Such report shall be filed by the secretary or business agent of such labor organization, shall be in such form as the department prescribes, and shall show the following facts:

- (a) The name of the labor organization;
- (b) The location of its office; and
- (c) The name and address of the president, secretary, treasurer, and business agent.

(2) At the time of filing such report, it shall be the duty of every such labor organization to pay the department an annual fee therefor in the sum of \$1.

History.--s. 6, ch. 21968, 1943; ss. 16, 35, ch. 69-106; s. 153, ch. 77-104; s. 6, ch. 77-110; s. 3, ch. 77-184; s. 37, ch. 79-7; s. 31, ch. 83-174; s. 21, ch. 95-345; s. 131, ch. 2000-165.

Note.--Former s. 481.06.

447.07 Records and accounts required to be kept.--It shall be the duty of any and all labor organizations in this state to keep accurate books of accounts itemizing all receipts from whatsoever source and expenditures for whatsoever purpose, stating such sources and purposes. Any member of such labor organization shall be entitled at all reasonable times to inspect the books, records and accounts of such labor organization.

History.--s. 7, ch. 21968, 1943.

Note.--Former s. 481.07.

447.08 Rights of members in armed forces.--Any employee who is a member of any labor organization who, because of services with the Armed Forces of the United States, during time of war or national emergency, has been unable to pay any dues, assessments or sums levied by any labor organization, shall not hereafter be required to make such back payments as a condition to reinstatement in good standing as a member of any labor organization to which he or she belonged.

History.--s. 8, ch. 21968, 1943; s. 149, ch. 97-103.

Note.--Former s. 481.08.

447.09 Right of franchise preserved; penalties.--It shall be unlawful for any person:

(1) To interfere with or prevent the right of franchise of any member of a labor organization. The right of franchise shall include the right of an employee to make complaint, file charges, give information or testimony concerning the violations of this chapter, or the petitioning to the union regarding any grievance he or she may have concerning membership or employment, or the making known facts concerning such grievance or violations of law to any public officials, and the right of free petition, lawful assemblage and free speech.

(2) To prohibit or prevent any election of the officers of any labor organization.

(3) To participate in any strike, walkout, or cessation of work or continuation thereof without the same being authorized by a majority vote of the employees to be governed thereby; provided, that this shall not prohibit any person from terminating his or her employment of his or her own volition.

(4) To conduct any election referred to in subsection (3) of this section without a secret ballot.

(5) To charge, receive, or retain any dues, assessments or other charges in excess of, or not authorized by, the constitution or bylaws of any labor organization.

(6) To act as a business agent without having obtained and possessing a valid and subsisting license or permit.

(7) To solicit membership for or to act as a representative of an existing labor organization without authority of such labor organization to do so.

(8) To make any false statement in an application for a license.

(9) To seize or occupy property unlawfully during the existence of a labor dispute.

(10) To cause any cessation of work or interference with the progress of work by reason of any jurisdictional dispute, grievance or disagreement between or within labor organizations.

(11) To coerce or intimidate any employee in the enjoyment of legal rights, including those guaranteed in s. 447.03; to coerce or intimidate any elected or appointed public official; or to intimidate the family, picket the domicile, or injure the person or property of such employee or public official, or his or her family.

(12) To picket beyond the area of the industry or employment within which a labor dispute arises.

(13) To engage in picketing by force and violence, or to picket in such a manner as to prevent ingress and egress to and from any premises, or to picket other than in a reasonable and peaceable manner.

(14) To solicit advertising in the name of a labor organization without the written permission of such organization.

(15) To undertake through the medium of a card, circular, pamphlet, newspaper or any other medium whatsoever, or by any holding out to the public as officially representing a labor organization without the written authority or contract with such labor organization. Any publication claiming endorsement by a labor organization shall list in such publication the name and address of the organization or organizations endorsing same.

History.--s. 9, ch. 21968, 1943; s. 1, ch. 65-355; s. 2, ch. 77-343; s. 150, ch. 97-103.

Note.--Former s. 481.09.

447.11 Actions and suits; labor organizations as parties.--Any labor organization may maintain any action or suit in its commonly used name and shall be subject to any suit or action in its commonly used name in the same manner and to the same extent as any corporation authorized to do business in this state. All process, pleadings and other papers in such action may be served on the president or other officer, business agent, manager or person in charge of the business of such labor organization. Judgment in such action may be enforced against the common property only of such labor organization.

History.--s. 11, ch. 21968, 1943.

Note.--Former s. 481.11.

447.12 Fees for registration.--All fees collected by the department under this part shall be paid to the Chief Financial Officer and credited to the General Revenue Fund.

History.--s. 12, ch. 21968, 1943; ss. 16, 35, ch. 69-106; s. 153, ch. 77-104; s. 6, ch. 77-110; s. 5, ch. 77-184; s. 38, ch. 79-7; s. 32, ch. 83-174; s. 22, ch. 95-345; s. 132, ch. 2000-165; s. 500, ch. 2003-261.

Note.--Former s. 481.12.

447.13 Right to strike preserved.--Except as specifically provided in this chapter, nothing therein shall be construed so as to interfere with or impede or diminish in any way the right to strike or the right of individuals to work; nor shall anything in this chapter be so construed as to invade unlawfully the right to freedom of speech.

History.--s. 13, ch. 21968, 1943.

Note.--Former s. 481.13.

447.14 Penalties.--Any person or labor organization who shall violate any of the provisions of this part shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

History.--s. 14, ch. 21968, 1943; s. 373, ch. 71-136; s. 3, ch. 77-343; s. 81, ch. 91-224.

Note.--Former s. 481.14.

447.15 Federal regulations recognized.--All railway labor organizations and members thereof shall be exempt from all of the provisions of this chapter as long as they are regulated by Act of Congress.

History.--s. 15, ch. 21968, 1943.

Note.--Former s. 481.15.

447.16 Applicability of chapter.--Any labor business agent licensed on July 1, 1965, may renew such license each year on forms provided by the department without submitting fingerprints so long as such license or permit has not expired or has not been surrendered, suspended, or revoked. The fingerprinting requirements of this act shall become effective for a new applicant for a labor business agent license immediately upon this act becoming a law.

History.--s. 3, ch. 65-396; ss. 16, 35, ch. 69-106; s. 153, ch. 77-104; s. 6, ch. 77-110; s. 39, ch. 79-7; s. 33, ch. 83-174; s. 23, ch. 95-345; s. 133, ch. 2000-165.

447.17 Civil remedy; injunctive relief.--

(1) Any person who may be denied employment or discriminated against in his or her employment on account of membership or nonmembership in any labor union or labor organization shall be entitled to recover from the discriminating employer, other person, firm, corporation, labor union, labor organization, or association, acting separately or in concert, in the courts of this state, such damages as he or she may have sustained and the costs of suit, including reasonable attorney's fees. If such employer, other person, firm, corporation, labor union, labor organization, or association acted willfully and with malice or reckless indifference to the rights of others, punitive damages may be assessed against such employer, other person, firm, corporation, labor union, labor organization, or association.

(2) Any person sustaining injury as a result of any violation or threatened violation of the provisions of this section shall be entitled to injunctive relief against any and all violators or persons threatening violation.

(3) The remedy and relief provided for by this section shall not be available to public employees as defined in part II of this chapter.

History.--s. 2, ch. 74-100; s. 1, ch. 77-174; s. 4, ch. 77-343; s. 151, ch. 97-103.

PART II

PUBLIC EMPLOYEES

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447.201 Statement of policy.--The public policy of this state, and the purpose of this part, is to provide statutory implementation of s. 6, Art. I of the State Constitution, with respect to public employees; to promote harmonious and cooperative relationships between government and its employees, both collectively and individually; and to protect the public by assuring, at all times, the orderly and uninterrupted operations and functions of government. Nothing herein shall be construed either to encourage or discourage organization of public employees. This state's public policy is best effectuated by:

- (1) Granting to public employees the right of organization and representation;
- (2) Requiring the state, local governments, and other political subdivisions to negotiate with bargaining agents duly certified to represent public employees;
- (3) Creating a Public Employees Relations Commission to assist in resolving disputes between public employees and public employers; and
- (4) Recognizing the constitutional prohibition against strikes by public employees and providing remedies for violations of such prohibition.

History.--s. 3, ch. 74-100; s. 5, ch. 77-343; s. 35, ch. 2001-43.

447.203 Definitions.--As used in this part:

- (1) "Commission" means the Public Employees Relations Commission created by s. 447.205.
- (2) "Public employer" or "employer" means the state or any county, municipality, or special district or any subdivision or agency thereof which the commission determines has sufficient legal distinctiveness properly to carry out the functions of a public employer. With respect to all public employees determined by the commission as properly belonging to a statewide bargaining unit composed of State Career Service System employees or Selected Professional Service employees, the Governor shall be deemed to be the public employer; and the Board of Governors of the State University System, or the board's designee, shall be deemed to be the public employer with respect to all public employees of each constituent state university. The board of trustees of a community college shall be deemed to be the public employer with respect to all employees of the community college. The district school board shall be deemed to be the public employer with respect to all employees of the school district. The Board of Trustees of the Florida School for the Deaf and the Blind shall be deemed to be the public employer with respect to the academic and academic administrative personnel of the Florida

School for the Deaf and the Blind. The Governor shall be deemed to be the public employer with respect to all employees in the Correctional Education Program of the Department of Corrections established pursuant to s. 944.801.

(3) "Public employee" means any person employed by a public employer except:

- (a) Those persons appointed by the Governor or elected by the people, agency heads, and members of boards and commissions.
- (b) Those persons holding positions by appointment or employment in the organized militia.
- (c) Those individuals acting as negotiating representatives for employer authorities.
- (d) Those persons who are designated by the commission as managerial or confidential employees pursuant to criteria contained herein.
- (e) Those persons holding positions of employment with the Florida Legislature.
- (f) Those persons who have been convicted of a crime and are inmates confined to institutions within the state.
- (g) Those 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) Those persons employed by the Public Employees Relations Commission.
- (i) Those persons enrolled as undergraduate students in a state university who perform part-time work for the state university.

(4) "Managerial employees" are those employees who:

- (a) Perform jobs that are not of a routine, clerical, or ministerial nature and require the exercise of independent judgment in the performance of such jobs and to whom one or more of the following applies:
 - 1. They formulate or assist in formulating policies which are applicable to bargaining unit employees.
 - 2. They may reasonably be required on behalf of the employer to assist in the preparation for the conduct of collective bargaining negotiations.
 - 3. They have a role in the administration of agreements resulting from collective bargaining negotiations.
 - 4. They have a significant role in personnel administration.

5. They have a significant role in employee relations.
6. They are included in the definition of administrative personnel contained in s. 1012.01(3).
7. They have a significant role in the preparation or administration of budgets for any public agency or institution or subdivision thereof.

(b) Serve as police chiefs, fire chiefs, or directors of public safety of any police, fire, or public safety department. Other police officers, as defined in s. 943.10(1), and firefighters, as defined in s. 633.30(1), may be determined by the commission to be managerial employees of such departments. In making such determinations, the commission shall consider, in addition to the criteria established in paragraph (a), the paramilitary organizational structure of the department involved.

However, in determining whether an individual is a managerial employee pursuant to either paragraph (a) or paragraph (b), above, the commission may consider historic relationships of the employee to the public employer and to coemployees.

(5) "Confidential employees" are persons who act in a confidential capacity to assist or aid managerial employees as defined in subsection (4).

(6) "Strike" means the concerted failure of employees to report for duty; the concerted absence of employees from their positions; the concerted stoppage of work by employees; the concerted submission of resignations by employees; the concerted abstinence in whole or in part by any group of employees from the full and faithful performance of the duties of employment with a public employer for the purpose of inducing, influencing, condoning, or coercing a change in the terms and conditions of employment or the rights, privileges, or obligations of public employment, or participating in a deliberate and concerted course of conduct which adversely affects the services of the public employer; the concerted failure of employees to report for work after the expiration of a collective bargaining agreement; and picketing in furtherance of a work stoppage. The term "strike" shall also mean any overt preparation, including, but not limited to, the establishment of strike funds with regard to the above-listed activities.

(7) "Strike funds" are any appropriations by an employee organization which are established to directly or indirectly aid any employee or employee organization to participate in a strike in the state.

(8) "Bargaining unit" means either that unit determined by the commission, that unit determined through local regulations promulgated pursuant to s. 447.603, or that unit determined by the public employer and the public employee organization and approved by the commission to be appropriate for the purposes of collective bargaining. However, no bargaining unit shall be defined as appropriate which includes employees of two employers that are not departments or divisions of the state, a county, a municipality, or other political entity.

(9) "Chief executive officer" for the state shall mean the Governor and for other public employers shall mean the person, whether elected or appointed, who is responsible to the legislative body of the public employer for the administration of the governmental affairs of the public employer.

(10) "Legislative body" means the State Legislature, the board of county commissioners, the district school board, the governing body of a municipality, or the governing body of an instrumentality or unit of government having authority to appropriate funds and establish

policy governing the terms and conditions of employment and which, as the case may be, is the appropriate legislative body for the bargaining unit. For purposes of s. 447.403, the Board of Governors of the State University System, or the board's designee, shall be deemed to be the legislative body with respect to all employees of each constituent state university. For purposes of s. 447.403 the board of trustees of a community college shall be deemed to be the legislative body with respect to all employees of the community college.

(11) "Employee organization" or "organization" means 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.

(12) "Bargaining agent" means the employee organization which has been certified by the commission as representing the employees in the bargaining unit, as provided in s. 447.307, or its representative.

(13) "Professional employee" means:

(a) Any employee engaged in work in any two or more of the following categories:

1. Work predominantly intellectual and varied in character as opposed to routine mental, manual, mechanical, or physical work;
2. Work involving the consistent exercise of discretion and judgment in its performance;
3. Work of such a character that the output produced or the result accomplished cannot be standardized in relation to a given period of time; and
4. Work requiring advanced knowledge in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction and study in an institution of higher learning or a hospital, as distinguished from a general academic education, an apprenticeship, or training in the performance of routine mental or physical processes.

(b) Any employee who:

1. Has completed the course of specialized intellectual instruction and study described in subparagraph 4. of paragraph (a); and
2. Is performing related work under supervision of a professional person to qualify to become a professional employee as defined in paragraph (a).

(14) "Collective bargaining" means the performance of the mutual obligations of the public employer and the bargaining agent of the employee organization to meet at reasonable times, to negotiate in good faith, and to execute a written contract with respect to agreements reached concerning the terms and conditions of employment, except that neither party shall be compelled to agree to a proposal or be required to make a concession unless otherwise provided in this part.

(15) "Membership dues deduction" means the practice of a public employer of deducting dues and uniform assessments from the salary or wages of a public employee. Such term also means the practice of a public employer of transmitting the sums so deducted to such employee organization.

(16) "Civil service" means any career, civil, or merit system used by any public employer.

(17) "Good faith bargaining" shall mean, but not be limited to, the willingness of both parties to meet at reasonable times and places, as mutually agreed upon, in order to discuss issues which are proper subjects of bargaining, with the intent of reaching a common accord. It shall include an obligation for both parties to participate actively in the negotiations with an open mind and a sincere desire, as well as making a sincere effort, to resolve differences and come to an agreement. In determining whether a party failed to bargain in good faith, the commission shall consider the total conduct of the parties during negotiations as well as the specific incidents of alleged bad faith. Incidents indicative of bad faith shall include, but not be limited to, the following occurrences:

(a) Failure to meet at reasonable times and places with representatives of the other party for the purpose of negotiations.

(b) Placing unreasonable restrictions on the other party as a prerequisite to meeting.

(c) Failure to discuss bargainable issues.

(d) Refusing, upon reasonable written request, to provide public information, excluding work products as defined in s. 447.605.

(e) Refusing to negotiate because of an unwanted person on the opposing negotiating team.

(f) Negotiating directly with employees rather than with their certified bargaining agent.

(g) Refusing to reduce a total agreement to writing.

(18) "Student representative" means the representative selected by each community college or university student government association. Each representative may be present at all negotiating sessions that take place between the appropriate public employer and an exclusive bargaining agent. The representative must be enrolled as a student with at least 8 credit hours in the respective community college or university during his or her term as student representative.

History.--s. 3, ch. 74-100; s. 1, ch. 76-39; s. 1, ch. 76-214; s. 1, ch. 76-269; s. 1, ch. 77-174; s. 6, ch. 77-343; s. 1, ch. 79-100; s. 118, ch. 79-222; s. 2, ch. 81-305; ss. 10, 12, ch. 85-241; s. 12, ch. 85-318; s. 5, ch. 86-145; s. 35, ch. 89-526; s. 12, ch. 90-365; s. 21, ch. 91-55; s. 14, ch. 91-269; s. 1, ch. 94-89; s. 12, ch. 95-325; s. 152, ch. 97-103; s. 1, ch. 2000-156; s. 1006, ch. 2002-387; s. 52, ch. 2007-217.

447.205 Public Employees Relations Commission.--

(1) The Public Employees Relations Commission, hereinafter referred to as the "commission," shall be composed of a chair and two full-time members to be appointed by the Governor, subject to confirmation by the Senate, from persons representative of the public and known for their objective and independent judgment, who shall not be employed by, or hold any commission with, any governmental unit in the state or any employee organization, as defined in this part, while in such office. In no event shall more than one appointee be a person who, on account of previous vocation, employment, or affiliation, is, or has been, classified as a representative of employers; and in no event shall more than one such appointee be a person who, on account of previous vocation, employment, or affiliation, is, or has been, classified as a representative of employees or employee organizations. The commissioners shall devote full

time to commission duties and shall not engage in any other business, vocation, or employment while in such office. Beginning January 1, 1980, the chair shall be appointed for a term of 4 years, one commissioner for a term of 1 year, and one commissioner for a term of 2 years. Thereafter, every term of office shall be for 4 years; and each term of the office of chair shall commence on January 1 of the second year following each regularly scheduled general election at which a Governor is elected to a full term of office. In the event of a vacancy prior to the expiration of a term of office, an appointment shall be made for the unexpired term of that office. The chair shall be responsible for the administrative functions of the commission and shall have the authority to employ such personnel as may be necessary to carry out the provisions of this part. Once appointed to the office of chair, the chair shall serve as chair for the duration of the term of office of chair. Nothing contained herein prohibits a chair or commissioner from serving multiple terms.

(2) The chair and the other commissioners shall be paid annual salaries to be fixed by law. Such salaries shall be paid in equal monthly installments. All commissioners shall be reimbursed for expenses, as provided in s. 112.061.

(3) The commission, in the performance of its powers and duties under this part, shall not be subject to control, supervision, or direction by the Department of Management Services.

(4) The property, personnel, and appropriations related to the commission's specified authority, powers, duties, and responsibilities shall be provided to the commission by the Department of Management Services.

(5) The commission shall make such expenditures, including expenditures for personal services and rent at the seat of government and elsewhere, for law books, books of reference, periodicals, furniture, equipment, and supplies, and for printing and binding, as may be necessary in exercising its authority and powers and carrying out its duties and responsibilities. All such expenditures of the commission shall be allowed and paid upon the presentation of itemized vouchers therefor approved by the chair.

(6) The commission may, in its discretion, charge for publications, subscriptions, and copies of records and documents. Such funds shall be deposited in a trust fund to be established by the commission and shall be used to help defray the cost of providing such publications, subscriptions, and copies of records and documents.

(7) The commission shall maintain and keep open during reasonable business hours an office, which shall be provided in the Capitol Center for the transaction of its business, at which its official records and papers shall be kept. The commission may hold sessions and conduct hearings at any place within the state.

(8) The commission shall have a seal for authentication of its orders and proceedings, upon which shall be inscribed the words "State of Florida--Public Employees Relations Commission--Seal" and which shall be judicially noticed.

(9) The commission is expressly authorized to provide by rule for, and to destroy, obsolete records of the commission.

(10) The deliberations of the commission in any proceeding before it are closed and exempt from the provisions of s. 286.011. However, any hearing held or oral argument heard by the commission pursuant to chapter 120 or this chapter shall be open to the public. All draft orders developed in preparation for, or preliminary to, the issuance of a final written order are confidential and exempt from the provisions of s. 119.07(1).

(11) Any hearing held under this chapter shall be conducted according to the provisions of ss. 120.569 and 120.57 by the commission, a member of the commission, or a hearing officer designated by the commission who is an employee of the commission and a member of The Florida Bar.

(12) The commission may appoint an employee as elections supervisor to conduct elections in accordance with this chapter.

History.--s. 3, ch. 74-100; s. 7, ch. 77-343; s. 40, ch. 79-7; s. 1, ch. 79-85; s. 189, ch. 79-400; s. 2, ch. 84-228; s. 1, ch. 91-151; s. 15, ch. 91-269; s. 299, ch. 96-406; s. 201, ch. 96-410; s. 1073, ch. 97-103; s. 36, ch. 2001-43.

447.207 Commission; powers and duties.--

(1) The commission shall, in accordance with chapter 120, adopt, promulgate, amend, or rescind such rules and regulations as it deems necessary and administratively feasible to carry out the provisions of this part.

(2) To accomplish the objectives and carry out the duties prescribed by this part, the commission may preserve and enforce order during any proceeding; issue subpoenas for, administer oaths or affirmations to, and compel the attendance and testimony of witnesses; or issue subpoenas for, and compel the production of, books, papers, records, documents, and other evidence. However, in the absence of extraordinary circumstances, no subpoena shall issue which commands the attendance or testimony of any commissioner or any commission employee at a commission proceeding with respect to the performance of official or assigned duties, or the production of books, papers, records, or documents of the commission which have been prepared during the performance of such duties.

(3) If any person:

(a) Misbehaves during a proceeding or so near the place thereof as to obstruct the same;

(b) Neglects to produce, after having been ordered to do so, any pertinent book, paper, record, or document; or

(c) Refuses or fails to appear after having been subpoenaed or, upon appearing, refuses to take oath or affirmation as a witness or, after having taken the oath, refuses to be examined according to law,

the commission shall certify the facts to the circuit court having jurisdiction in the county where the proceeding is taking place, which shall thereupon in a summary manner hear the evidence as to the acts complained of and, if the evidence so warrants, punish such person in the same manner and to the same extent as for a contempt committed before the court or commit such person upon the same conditions as if the doing of the forbidden act had occurred with reference to the process or order of, or in the presence of, the court.

(4) Any subpoena, notice of hearing, or other process or notice of the commission issued under the provisions of this part shall be served personally or by certified mail. A return made and verified by the individual making such service and setting forth the manner of such service is proof of service, and a returned post office receipt, when certified mail is used, is proof of service. All process of any court to which application may be made under the provisions of this part shall be served in the county wherein the persons required to be served reside or may be found.

(5) The commission shall adopt rules as to the qualifications of persons who may serve as mediators and special magistrates and shall maintain lists of such qualified persons who are not employees of the commission. The commission may initiate dispute resolution procedures by special magistrates, pursuant to the provisions of this part.

(6) Pursuant to its established procedures, the commission shall resolve questions and controversies concerning claims for recognition as the bargaining agent for a bargaining unit, determine or approve units appropriate for purposes of collective bargaining, expeditiously process charges of unfair labor practices and violations of s. 447.505 by public employees, and resolve such other questions and controversies as it may be authorized herein to undertake. The petitioner, charging party, respondent, and any intervenors shall be the adversary parties before the commission in any adjudicatory proceeding conducted pursuant to this part. Any commission statement of general applicability that implements, interprets, or prescribes law or policy, made in the course of adjudicating a case pursuant to s. 447.307 or s. 447.503 shall not constitute a rule within the meaning of s. 120.52.

(7) The commission shall provide by rule a procedure for the filing and prompt disposition of petitions for a declaratory statement as to the applicability of any statutory provision or any rule or order of the commission. Such rule or rules shall provide for, but not be limited to, an expeditious disposition of petitions posing questions relating to potential unfair labor practices. Commission disposition of a petition shall be final agency action and shall not constitute a rule as defined in s. 120.52.

(8) The commission or its designated agent shall hear appeals arising out of any suspension, reduction in pay, demotion, or dismissal of any permanent employee in the State Career Service System in the manner provided in s. 110.227.

(9) Pursuant to s. 447.208, the commission or its designated agent shall hear appeals, and enter such orders as it deems appropriate, arising out of:

(a) Section 110.124, relating to termination or transfer of State Career Service System employees aged 65 or older.

(b) Section 112.044(4), relating to age discrimination.

(c) Section 295.11, relating to reasons for not employing a preferred veteran applicant.

(10) Appeals to the commission pursuant to subsection (8) or subsection (9) shall be the exclusive administrative review of such actions, notwithstanding the provisions of chapter 120. However, nothing in this subsection shall affect an employee's rights pursuant to s. 447.401 or s. 447.503.

(11) Decisions issued by the commission pursuant to subsection (8) or subsection (9) shall be final agency action which shall be reviewable pursuant to s. 447.504.

History.--s. 3, ch. 74-100; s. 8, ch. 77-343; s. 2, ch. 79-85; s. 190, ch. 79-400; s. 83, ch. 86-163; s. 8, ch. 91-220; s. 19, ch. 91-431; s. 36, ch. 96-399; s. 202, ch. 96-410; s. 37, ch. 2001-43; s. 80, ch. 2004-11.

447.208 Procedure with respect to certain appeals under s. 447.207.--

(1) Any person filing an appeal pursuant to subsection (9) of s. 447.207 shall be entitled to a hearing pursuant to subsections (4) and (5) of s. 447.503 and in accordance with chapter 120;

however, the hearing shall be conducted within 30 days of the filing of an appeal with the commission, unless an extension of time is granted by the commission for good cause. Discovery may be granted only upon a showing of extraordinary circumstances. A party requesting discovery shall demonstrate a substantial need for the information requested and an inability to obtain relevant information by other means. To the extent that chapter 120 is inconsistent with these provisions, the procedures contained in this section shall govern.

(2) This section does not prohibit any person from representing himself or herself in proceedings before the commission or from being represented by legal counsel or by any individual who qualifies as a representative pursuant to rules promulgated and adopted by the commission.

(3) Any order of the commission issued under this section may include back pay, if applicable, and an amount, to be determined by the commission and paid by the agency, for reasonable attorney's fees, witness fees, and other out-of-pocket expenses incurred during the prosecution of an appeal against an agency in which the commission sustains the employee. In determining the amount of an attorney's fee, the commission shall consider only the number of hours reasonably spent on the appeal, comparing the number of hours spent on similar cases and the reasonable hourly rate charged in the geographic area for similar appeals, but not including litigation over the amount of the attorney's fee. This paragraph applies to future and pending cases.

History.--s. 84, ch. 86-163; s. 37, ch. 87-238; s. 31, ch. 91-57; s. 2, ch. 91-151; s. 49, ch. 95-228; s. 134, ch. 95-418; s. 153, ch. 97-103; s. 54, ch. 99-399; s. 100, ch. 2000-349; s. 38, ch. 2001-43.

447.2085 Commission rules concerning appeals under s. 447.207.--The Public Employees Relations Commission shall promulgate rules concerning the receipt, processing, and resolution of appeals filed under subsections (8) and (9) of s. 447.207.

History.--s. 86, ch. 86-163.

447.209 Public employer's rights.--It is the right of the public employer to determine unilaterally the purpose of each of its constituent agencies, set standards of services to be offered to the public, and exercise control and discretion over its organization and operations. It is also the right of the public employer to direct its employees, take disciplinary action for proper cause, and relieve its employees from duty because of lack of work or for other legitimate reasons. However, the exercise of such rights shall not preclude employees or their representatives from raising grievances, should decisions on the above matters have the practical consequence of violating the terms and conditions of any collective bargaining agreement in force or any civil or career service regulation.

History.--s. 3, ch. 74-100.

447.301 Public employees' rights; organization and representation.--

(1) Public employees shall have the right to form, join, and participate in, or to refrain from forming, joining, or participating in, any employee organization of their own choosing.

(2) Public employees shall have the right to be represented by any employee organization of their own choosing and to negotiate collectively, through a certified bargaining agent, with their public employer in the determination of the terms and conditions of their employment. Public employees shall have the right to be represented in the determination of grievances on

all terms and conditions of their employment. Public employees shall have the right to refrain from exercising the right to be represented.

(3) Public employees shall have the right to engage in concerted activities not prohibited by law, for the purpose of collective bargaining or other mutual aid or protection. Public employees shall also have the right to refrain from engaging in such activities.

(4) Nothing in this part shall be construed to prevent any public employee from presenting, at any time, his or her own grievances, in person or by legal counsel, to his or her public employer and having such grievances adjusted without the intervention of the bargaining agent, if the adjustment is not inconsistent with the terms of the collective bargaining agreement then in effect and if the bargaining agent has been given reasonable opportunity to be present at any meeting called for the resolution of such grievances.

(5) In the case of community colleges and universities, the student government association of each community college or university shall establish procedures for the selection of, and shall select, a student representative to be present, at his or her discretion, at negotiations between the bargaining agent of the employees and the board of trustees. Each student representative shall have access to all written draft agreements and all other written documents pertaining to negotiations exchanged by the appropriate public employer and the bargaining agent, including a copy of any prepared written transcripts of any negotiating session. Each student representative shall have the right at reasonable times during the negotiating session to comment to the parties and to the public upon the impact of proposed agreements on the educational environment of students. Each student representative shall have the right to be accompanied by alternates or aides, not to exceed a combined total of two in number. Each student representative shall be obligated to participate in good faith during all negotiations and shall be subject to the rules and regulations of the Public Employees Relations Commission. The student representatives shall have neither voting nor veto power in any negotiation, action, or agreement. The state or any branch, agency, division, agent, or institution of the state, including community colleges and universities, may not expend any moneys from any source for the payment of reimbursement for travel expenses or per diem to aides, alternates, or student representatives participating in, observing, or contributing to any negotiating sessions between the bargaining parties.

History.--s. 3, ch. 74-100; s. 9, ch. 77-343; s. 191, ch. 79-400; s. 6, ch. 83-214; s. 154, ch. 97-103; s. 1007, ch. 2002-387.

447.303 Dues; deduction and collection.--Any employee organization which has been certified as a bargaining agent shall have the right to have its dues and uniform assessments deducted and collected by the employer from the salaries of those employees who authorize the deduction of said dues and uniform assessments. However, such authorization is revocable at the employee's request upon 30 days' written notice to the employer and employee organization. Said deductions shall commence upon the bargaining agent's written request to the employer. Reasonable costs to the employer of said deductions shall be a proper subject of collective bargaining. Such right to deduction, unless revoked pursuant to s. 447.507, shall be in force for so long as the employee organization remains the certified bargaining agent for the employees in the unit. The public employer is expressly prohibited from any involvement in the collection of fines, penalties, or special assessments.

History.--s. 3, ch. 74-100; s. 10, ch. 77-343.

447.305 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 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.

447.3075 Law enforcement bargaining units; separate units required; establishment.-- Notwithstanding any other provision of law, administrative rule, or administrative agency decision to the contrary, any state law enforcement agency that has 1,200 or more officers shall be in a bargaining unit that is separate from officers in other state law enforcement agencies. If the application of this section requires that a new state law enforcement bargaining unit be created, a question concerning representation is not deemed to have arisen regarding the new unit or the existing unit.

History.--s. 2, ch. 2007-42.

447.308 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.

447.309 Collective bargaining; approval or rejection.--

(1) After an employee organization has been certified pursuant to the provisions of this part, the bargaining agent for the organization and the chief executive officer of the appropriate public employer or employers, jointly, shall bargain collectively in the determination of the wages, hours, and terms and conditions of employment of the public employees within the bargaining unit. The chief executive officer or his or her representative and the bargaining agent or its representative shall meet at reasonable times and bargain in good faith. In conducting negotiations with the bargaining agent, the chief executive officer or his or her representative shall consult with, and attempt to represent the views of, the legislative body of the public employer. Any collective bargaining agreement reached by the negotiators shall be reduced to writing, and such agreement shall be signed by the chief executive officer and the bargaining agent. Any agreement signed by the chief executive officer and the bargaining agent shall not be binding on the public employer until such agreement has been ratified by the public employer and by public employees who are members of the bargaining unit, subject to the provisions of subsections (2) and (3). However, with respect to statewide bargaining units, any agreement signed by the Governor and the bargaining agent for such a unit shall not be binding until approved by the public employees who are members of the bargaining unit, subject to the provisions of subsections (2) and (3).

(2)(a) Upon execution of the collective bargaining agreement, the chief executive shall, in his or her annual budget request or by other appropriate means, request the legislative body to

appropriate such amounts as shall be sufficient to fund the provisions of the collective bargaining agreement.

(b) If the state is a party to a collective bargaining agreement in which less than the requested amount is appropriated by the Legislature, the collective bargaining agreement shall be administered on the basis of the amounts appropriated by the Legislature. The failure of the Legislature to appropriate funds sufficient to fund the collective bargaining agreement shall not constitute, or be evidence of, any unfair labor practice. All collective bargaining agreements entered into by the state are subject to the appropriations powers of the Legislature, and the provisions of this section shall not conflict with the exclusive authority of the Legislature to appropriate funds.

(3) If any provision of a collective bargaining agreement is in conflict with any law, ordinance, rule, or regulation over which the chief executive officer has no amendatory power, the chief executive officer shall submit to the appropriate governmental body having amendatory power a proposed amendment to such law, ordinance, rule, or regulation. Unless and until such amendment is enacted or adopted and becomes effective, the conflicting provision of the collective bargaining agreement shall not become effective.

(4) If the agreement is not ratified by the public employer or is not approved by a majority vote of employees voting in the unit, in accordance with procedures adopted by the commission, the agreement shall be returned to the chief executive officer and the employee organization for further negotiations.

(5) Any collective bargaining agreement shall not provide for a term of existence of more than 3 years and shall contain all of the terms and conditions of employment of the employees in the bargaining unit during such term except those terms and conditions provided for in applicable merit and civil service rules and regulations.

History.--s. 3, ch. 74-100; s. 13, ch. 77-343; s. 4, ch. 85-77; s. 1, ch. 95-218; s. 155, ch. 97-103.

447.401 Grievance procedures.--Each public employer and bargaining agent shall negotiate a grievance procedure to be used for the settlement of disputes between employer and employee, or group of employees, involving the interpretation or application of a collective bargaining agreement. Such grievance procedure shall have as its terminal step a final and binding disposition by an impartial neutral, mutually selected by the parties; however, when the issue under appeal is an allegation of abuse, abandonment, or neglect by an employee under s. 39.201 or s. 415.1034, the grievance may not be decided until the abuse, abandonment, or neglect of a child has been judicially determined. However, an arbiter or other neutral shall not have the power to add to, subtract from, modify, or alter the terms of a collective bargaining agreement. If an employee organization is certified as the bargaining agent of a unit, the grievance procedure then in existence may be the subject of collective bargaining, and any agreement which is reached shall supersede the previously existing procedure. All public employees shall have the right to a fair and equitable grievance procedure administered without regard to membership or nonmembership in any organization, except that certified employee organizations shall not be required to process grievances for employees who are not members of the organization. A career service employee shall have the option of utilizing the civil service appeal procedure, an unfair labor practice procedure, or a grievance procedure established under this section, but such employee is precluded from availing himself or herself to more than one of these procedures.

History.--s. 3, ch. 74-100; s. 1, ch. 74-378; s. 14, ch. 77-343; s. 38, ch. 87-238; s. 12, ch. 88-290; s. 32, ch. 91-57; s. 135, ch. 95-418; s. 156, ch. 97-103; s. 154, ch. 98-403; s. 101, ch. 2000-349.

¹447.403 Resolution of impasses.--

(1) If, after a reasonable period of negotiation concerning the terms and conditions of employment to be incorporated in a collective bargaining agreement, a dispute exists between a public employer and a bargaining agent, an impasse shall be deemed to have occurred when one of the parties so declares in writing to the other party and to the commission. When an impasse occurs, the public employer or the bargaining agent, or both parties acting jointly, may appoint, or secure the appointment of, a mediator to assist in the resolution of the impasse. If the Governor is the public employer, no mediator shall be appointed.

(2)(a) If no mediator is appointed, or upon the request of either party, the commission shall appoint, and submit all unresolved issues to, a special magistrate acceptable to both parties. If the parties are unable to agree on the appointment of a special magistrate, the commission shall appoint, in its discretion, a qualified special magistrate. However, if the parties agree in writing to waive the appointment of a special magistrate, the parties may proceed directly to resolution of the impasse by the legislative body pursuant to paragraph (4)(d). Nothing in this section precludes the parties from using the services of a mediator at any time during the conduct of collective bargaining.

(b) If the Governor is the public employer, no special magistrate shall be appointed. The parties may proceed directly to the Legislature for resolution of the impasse pursuant to paragraph (4)(d).

(c) If the district school board is the public employer and an impasse is declared under subsection (1) involving a dispute of a Merit Award Program Plan under s. 1012.225, the dispute is subject to an expedited impasse hearing. Notwithstanding subsections (3), (4), and (5), and the rules adopted by the commission, the following procedures shall apply:

1.a. The commission shall furnish the names of seven special magistrates within 5 days after receiving notice of impasse. If the parties are unable to agree upon a special magistrate within 5 days after the date of the letter transmitting the list of choices, the commission shall immediately appoint a special magistrate. The special magistrate shall set the hearing, which shall be held no later than 15 days after the date of appointment of the special magistrate. Within 5 days after the date of appointment of a special magistrate, each party shall serve upon the special magistrate and upon each other party a written list of issues at impasse.

b. At the close of the hearing, the parties shall summarize their arguments and may provide a written memorandum in support of their positions.

c. Within 10 days after the close of the hearing, the special magistrate shall transmit a recommended decision to the commission and the parties.

d. The recommended decision of the special magistrate shall be deemed accepted by the parties, except as to those recommendations that a party specifically rejects, by filing a written notice with the commission and serving a copy on the other party within 5 days after the date of the recommended decision.

2. If a party rejects any part of the recommended decision of the special magistrate, the parties shall proceed directly to resolution of the impasse by the district school board pursuant to paragraph (4)(d).

(3) The special magistrate shall hold hearings in order to define the area or areas of dispute, to determine facts relating to the dispute, and to render a decision on any and all unresolved contract issues. The hearings shall be held at times, dates, and places to be established by the special magistrate in accordance with rules promulgated by the commission. The special magistrate shall be empowered to administer oaths and issue subpoenas on behalf of the parties to the dispute or on his or her own behalf. Within 15 calendar days after the close of the final hearing, the special magistrate shall transmit his or her recommended decision to the commission and to the representatives of both parties by registered mail, return receipt requested. Such recommended decision shall be discussed by the parties, and each recommendation of the special magistrate shall be deemed approved by both parties unless specifically rejected by either party by written notice filed with the commission within 20 calendar days after the date the party received the special magistrate's recommended decision. The written notice shall include a statement of the cause for each rejection and shall be served upon the other party.

(4) If either the public employer or the employee organization does not accept, in whole or in part, the recommended decision of the special magistrate:

(a) The chief executive officer of the governmental entity involved shall, within 10 days after rejection of a recommendation of the special magistrate, submit to the legislative body of the governmental entity involved a copy of the findings of fact and recommended decision of the special magistrate, together with the chief executive officer's recommendations for settling the disputed impasse issues. The chief executive officer shall also transmit his or her recommendations to the employee organization;

(b) The employee organization shall submit its recommendations for settling the disputed impasse issues to such legislative body and to the chief executive officer;

(c) The legislative body or a duly authorized committee thereof shall forthwith conduct a public hearing at which the parties shall be required to explain their positions with respect to the rejected recommendations of the special magistrate;

(d) Thereafter, the legislative body shall take such action as it deems to be in the public interest, including the interest of the public employees involved, to resolve all disputed impasse issues; and

(e) Following the resolution of the disputed impasse issues by the legislative body, the parties shall reduce to writing an agreement which includes those issues agreed to by the parties and those disputed impasse issues resolved by the legislative body's action taken pursuant to paragraph (d). The agreement shall be signed by the chief executive officer and the bargaining agent and shall be submitted to the public employer and to the public employees who are members of the bargaining unit for ratification. If such agreement is not ratified by all parties, pursuant to the provisions of s. 447.309, the legislative body's action taken pursuant to the provisions of paragraph (d) shall take effect as of the date of such legislative body's action for the remainder of the first fiscal year which was the subject of negotiations; however, the legislative body's action shall not take effect with respect to those disputed impasse issues which establish the language of contractual provisions which could have no effect in the absence of a ratified agreement, including, but not limited to, preambles, recognition clauses, and duration clauses.

(5)(a) Within 5 days after the beginning of the impasse period in accordance with s. 216.163(6), each party shall notify the President of the Senate and the Speaker of the House of Representatives as to all unresolved issues. Upon receipt of the notification, the presiding officers shall appoint a joint select committee to review the position of the parties and render a recommended resolution of all issues remaining at impasse. The recommended resolution shall be returned by the joint select committee to the presiding officers not later than 10 days prior to the date upon which the legislative session is scheduled to commence. During the legislative session, the Legislature shall take action in accordance with this section.

(b) Any actions taken by the Legislature shall bind the parties in accordance with paragraph (4)(c).

History.--s. 3, ch. 74-100; s. 15, ch. 77-343; s. 192, ch. 79-400; s. 1, ch. 80-367; s. 1, ch. 84-228; s. 157, ch. 97-103; s. 44, ch. 2001-43; s. 1008, ch. 2002-387; s. 81, ch. 2004-11; s. 3, ch. 2007-3.

¹**Note.**--Section 1, ch. 2007-68, provides that:

"All noneconomic collective bargaining issues at impasse for the 2007-2008 fiscal year between the State of Florida and the legal representatives of the certified bargaining units for state employees shall be resolved as follows:

"(1) Collective bargaining issues at impasse between the State of Florida and the Florida State Fire Service Association regarding Article 16 'Retirement,' Article 20 'Training and Education,' Article 23 'Hours of Work and Overtime,' and Article 24 'On Call, Assignment, Call Back and Residency' shall be resolved by maintaining the status quo under the language of the current collective bargaining agreement.

"(2) Collective bargaining issues at impasse between the State of Florida and the American Federation of State, County and Municipal Employees, Florida Council 79 regarding Article 5 'Union Activities and Employee Representation,' Article 8 'Workforce Reduction,' Article 9 'Vacant (formerly known as "Reassignment and Transfer"),' Article 10 'Vacant (formerly known as "Promotion'),' Article 15 'Length of Service Preference,' Article 18 'Leaves of Absence, Hours of Work, Disability Leave,' Article 24 'On Call, Assignment and Call Back,' Article 28 'Travel Expenses,' AFSCME Proposed New Article 'Professional and Occupational Employee Licensure and Continuing Education,' and AFSCME Proposed New Article 'Special Risk Retirement' shall be resolved by maintaining the status quo under the language of the current collective bargaining agreement.

"(3) Collective bargaining issues at impasse between the State of Florida and the Police Benevolent Association - Security Services Unit regarding Article 7 'Discipline and Discharge' shall be resolved by maintaining the status quo under the language of the current collective bargaining agreement. All collective bargaining issues at impasse regarding Article 23 'Hours of Work and Overtime' shall be resolved by maintaining the status quo under the language of the current collective bargaining agreement with respect to Article 23, Sections 1(A), 1(C), 2(B)(2)(b) and 2(G) and shall be resolved in accordance with the State of Florida's offer of March 20, 2007, with respect to Sections 2(B)(2)(a), 2(B)(2)(c), and 2(B)(2)(d).

"(4) Collective bargaining issues at impasse between the State of Florida and the Police Benevolent Association - Law Enforcement Unit regarding Article 9 'Reassignment, Transfer, Change in Duty Station and Promotion,' Article 10 'Disciplinary Action,' Article 12 'Personnel Records,' Article 14 'Performance Review,' and Article 36 'Awards' shall be resolved by maintaining the status quo under the language of the current collective bargaining agreement. All collective bargaining issues at impasse regarding Article 18, Section 6 'Hours of Work, Leave,

and Job-Connected Disability' shall be resolved in accordance with the State of Florida's offer of February 2, 2007.

"(5) Collective bargaining issues at impasse between the Department of the Lottery and the Federation of Public Employees regarding Article 4 'Grievance Procedure, Non-Disciplinary Cases' shall be resolved in accordance with the Department of the Lottery's Proposal 4-2 dated March 12, 2007.

"(6) All other mandatory collective bargaining issues at impasse for the 2007-2008 fiscal year which are not addressed by this act or the General Appropriations Act for the 2007-2008 fiscal year shall be resolved consistent with the personnel rules in effect on May 4, 2007, and by otherwise maintaining the status quo under the language of the current collective bargaining agreements."

447.405 Factors to be considered by the special magistrate.--The special magistrate shall conduct the hearings and render recommended decisions with the objective of achieving a prompt, peaceful, and just settlement of disputes between the public employee organizations and the public employers. The factors, among others, to be given weight by the special magistrate in arriving at a recommended decision shall include:

(1) Comparison of the annual income of employment of the public employees in question with the annual income of employment maintained for the same or similar work of employees exhibiting like or similar skills under the same or similar working conditions in the local operating area involved.

(2) Comparison of the annual income of employment of the public employees in question with the annual income of employment of public employees in similar public employee governmental bodies of comparable size within the state.

(3) The interest and welfare of the public.

(4) Comparison of peculiarities of employment in regard to other trades or professions, specifically with respect to:

(a) Hazards of employment.

(b) Physical qualifications.

(c) Educational qualifications.

(d) Intellectual qualifications.

(e) Job training and skills.

(f) Retirement plans.

(g) Sick leave.

(h) Job security.

(5) Availability of funds.

History.--s. 3, ch. 74-100; s. 16, ch. 77-343; s. 158, ch. 97-103; s. 82, ch. 2004-11.

447.407 Compensation of mediator and special magistrate; expenses.--The compensation of the mediator and special magistrate, and all stenographic and other expenses, shall be borne equally by the parties.

History.--s. 3, ch. 74-100; s. 17, ch. 77-343; s. 83, ch. 2004-11.

447.409 Records.--All records that are relevant to, or have a bearing upon, any issue or issues raised by the proceedings conducted by the special magistrate shall be made available to the special magistrate by a request in writing to any of the parties to the impasse proceedings. Notice of such request must be furnished to all parties. Any such records that are made available to the special magistrate must also be made available to any other party to the impasse proceedings, upon written request.

History.--s. 3, ch. 74-100; s. 18, ch. 77-343; s. 17, ch. 91-269; s. 301, ch. 96-406; s. 84, ch. 2004-11.

447.4095 Financial urgency.--In the event of a financial urgency requiring modification of an agreement, the chief executive officer or his or her representative and the bargaining agent or its representative shall meet as soon as possible to negotiate the impact of the financial urgency. If after a reasonable period of negotiation which shall not exceed 14 days, a dispute exists between the public employer and the bargaining agent, an impasse shall be deemed to have occurred, and one of the parties shall so declare in writing to the other party and to the commission. The parties shall then proceed pursuant to the provisions of s. 447.403. An unfair labor practice charge shall not be filed during the 14 days during which negotiations are occurring pursuant to this section.

History.--s. 2, ch. 95-218; s. 159, ch. 97-103.

447.501 Unfair labor practices.--

(1) Public employers or their agents or representatives are prohibited from:

(a) Interfering with, restraining, or coercing public employees in the exercise of any rights guaranteed them under this part.

(b) Encouraging or discouraging membership in any employee organization by discrimination in regard to hiring, tenure, or other conditions of employment.

(c) Refusing to bargain collectively, failing to bargain collectively in good faith, or refusing to sign a final agreement agreed upon with the certified bargaining agent for the public employees in the bargaining unit.

(d) Discharging or discriminating against a public employee because he or she has filed charges or given testimony under this part.

(e) Dominating, interfering with, or assisting in the formation, existence, or administration of, any employee organization or contributing financial support to such an organization.

(f) Refusing to discuss grievances in good faith pursuant to the terms of the collective bargaining agreement with either the certified bargaining agent for the public employee or the employee involved.

(2) A public employee organization or anyone acting in its behalf or its officers, representatives, agents, or members are prohibited from:

(a) Interfering with, restraining, or coercing public employees in the exercise of any rights guaranteed them under this part or interfering with, restraining, or coercing managerial employees by reason of their performance of job duties or other activities undertaken in the interests of the public employer.

(b) Causing or attempting to cause a public employer to discriminate against an employee because of the employee's membership or nonmembership in an employee organization or attempting to cause the public employer to violate any of the provisions of this part.

(c) Refusing to bargain collectively or failing to bargain collectively in good faith with a public employer.

(d) Discriminating against an employee because he or she has signed or filed an affidavit, petition, or complaint or given any information or testimony in any proceedings provided for in this part.

(e) Participating in a strike against the public employer by instigating or supporting, in any positive manner, a strike. Any violation of this paragraph shall subject the violator to the penalties provided in this part.

(f) Instigating or advocating support, in any positive manner, for an employee organization's activities from high school or grade school students or students in institutions of higher learning.

(3) Notwithstanding the provisions of subsections (1) and (2), the parties' rights of free speech shall not be infringed, and the expression of any arguments or opinions shall not constitute, or be evidence of, an unfair employment practice or of any other violation of this part, if such expression contains no promise of benefits or threat of reprisal or force.

History.--s. 3, ch. 74-100; s. 1, ch. 77-174; s. 160, ch. 97-103.

447.503 Charges of unfair labor practices.--It is the intent of the Legislature that the commission act as expeditiously as possible to settle disputes regarding alleged unfair labor practices. To this end, violations of the provisions of s. 447.501 shall be remedied by the commission in accordance with the following procedures and in accordance with chapter 120; however, to the extent that chapter 120 is inconsistent with the provisions of this section, the procedures contained in this section shall govern:

(1) A proceeding to remedy a violation of the provisions of s. 447.501 shall be initiated by the filing of a charge with the commission by an employer, employee, or employee organization, or any combination thereof. Such a charge shall contain a clear and concise statement of facts constituting the alleged unfair labor practice, including the names of all individuals involved in the alleged unfair labor practice, specific reference to the provisions of s. 447.501 alleged to have been violated, and such other relevant information as the commission may by rule require or allow. Service of the charge shall be made upon each named respondent at the time of filing with the commission. The charge must be accompanied by sworn statements and documentary

evidence sufficient to establish a prima facie violation of the applicable unfair labor practice provision. Such supporting evidence is not to be attached to the charge and is to be furnished only to the commission.

(2) The commission, or any agent designated by it for such purpose, shall thereupon review the charge to determine its sufficiency.

(a) If upon review it is determined that the charge is insufficient, the commission or its designated agent may issue a summary dismissal of the charge. A charging party whose charge is dismissed by a designated agent may appeal the dismissal to the commission within 20 days after the date of issuance of the dismissal. If the commission finds the charge to be sufficient, it shall reinstate the charge.

(b) If upon review it is determined that the charge is sufficient, the commission shall notify the parties. Each respondent so charged shall thereupon file an answer to the charge with the commission, and serve a copy upon the charging party, no more than 20 days after service of notification of the sufficiency of the charge, unless otherwise allowed by the commission. The commission, in its discretion, may allow a charge or answer to be amended at any time. The commission may also, in its discretion, allow other interested parties to intervene in the proceeding.

(3) Whenever a charging party alleges that a respondent has engaged in unfair labor practices and that the charging party will suffer substantial and irreparable injury if not granted temporary relief, the commission may petition the circuit court for appropriate injunctive relief pending the final adjudication by the commission with respect to such matter. Upon the filing of any such petition, the court shall cause notice thereof to be served upon the parties and, thereupon, shall have jurisdiction to grant such temporary relief or restraining order as it deems just and proper.

(4) The commission may issue prehearing orders requiring the parties to provide written statements of relevant issues of fact and law and such other information as the commission may require to expedite the resolution of the case. Such orders may further direct the parties to identify witnesses, exchange intended exhibits and documentary evidence, and appear at a conference before the commission or a member thereof, or a designated hearing officer, for the purpose of handling such matters as will aid the commission in expeditiously resolving the case before it.

(5) Whenever the proceeding involves a disputed issue of material fact and an evidentiary hearing is to be conducted:

(a) The commission shall issue and serve upon all parties a notice of hearing before an assigned hearing officer at a time and place specified therein. Such notice shall be issued at least 14 days prior to the scheduled hearing.

(b) The evidentiary hearing shall be conducted by a hearing officer designated by the commission. Said hearing officer may be the commission itself, a member of the commission, or an agent designated by the commission for such purpose, provided that such agent shall be an employee of the commission and a member of The Florida Bar.

(c) Not later than 45 days after the close of the evidentiary hearing, unless extended by the commission with the consent of all parties, the hearing officer shall submit to the commission and to all parties a recommended order which shall include findings of fact and recommended

rulings on procedural matters. The recommended order may also include recommended conclusions of law if requested by the commission.

(d) If the hearing was held before the commission or a member of the commission, the commission may elect to issue a final order which is in compliance with ss. 120.569 and 120.57.

(6)(a) If, upon consideration of the record in the case, the commission finds that an unfair labor practice has been committed, it shall issue and cause to be served an order requiring the appropriate party or parties to cease and desist from the unfair labor practice and take such positive action, including reinstatement of employees with or without back pay, as will best implement the general policies expressed in this part. However, no order of the commission shall require the reinstatement of any individual as an employee who has been suspended or discharged, or the payment of any back pay, if the individual was suspended or discharged for cause. The order may further require the party or parties to make periodic reports showing the extent to which it has complied with the order. If, upon consideration of the record in the case, the commission finds that an unfair labor practice has not been or is not being committed, it shall issue an order dismissing the case.

(b) If the commission determines that the alleged unfair labor practice occurred more than 6 months prior to the filing of the charge, the commission shall issue an order dismissing the case, unless the person filing the charge was prevented from doing so by reason of service in the Armed Forces, in which case the 6-month period shall run from the date of the person's discharge.

(c) The commission may award to the prevailing party all or part of the costs of litigation, reasonable attorney's fees, and expert witness fees whenever the commission determines that such an award is appropriate.

(d) Final orders of the commission issued pursuant to this section shall be enforced pursuant to the provisions of s. 447.5035 and shall be reviewed pursuant to the provisions of s. 447.504.

History.--s. 3, ch. 74-100; s. 154, ch. 77-104; s. 1, ch. 77-174; s. 19, ch. 77-343; s. 1, ch. 79-295; s. 19, ch. 91-269; s. 203, ch. 96-410; s. 1074, ch. 97-103.

447.5035 Enforcement of commission orders.--In case of any failure by any employer, employee, or employee organization to comply with any order of the commission, upon application of the commission or, notwithstanding the provisions of s. 120.69(1)(b)1., upon application of any person who is a resident of the state and who is substantially interested in such order, any circuit court of this state shall have jurisdiction to enforce the order pursuant to the provisions of s. 120.69. However, if one or more petitions for enforcement and a notice of appeal involving the same agency action are pending at the same time, the district court of appeal considering the notice of appeal shall order all such actions transferred to and consolidated in the district court of appeal. If a petition for enforcement is filed after the time for filing notice of appeal has expired, the respondent may assert as a defense only that the agency action was not intended to apply to respondent or that respondent has complied with the agency action. Petitions for enforcement filed under this part shall be heard expeditiously by the circuit court to which presented and shall take precedence over all other civil matters except prior matters of the same character.

History.--s. 2, ch. 79-295.

447.504 Judicial review.--

(1) The district courts of appeal are empowered, upon the filing of appropriate notices of appeal, to review final orders of the commission pursuant to s. 120.68. A copy of the notice of appeal shall be filed with the commission. The record in the proceeding, certified by the commission, shall be filed with the court in accordance with the Florida Rules of Appellate Procedure.

(2) Upon the filing of a notice of appeal, the appropriate district court of appeal shall thereupon have jurisdiction of the proceeding and may grant such temporary or permanent relief or restraining order as it deems just and proper and may enforce, modify, affirm, or set aside, in whole or in part, the order of the commission. The findings of the commission with respect to questions of fact, if supported by substantial evidence on the record considered as a whole, shall be conclusive.

(3) The court may award to the prevailing party all or part of the costs of litigation and reasonable attorney's fees and expert witness fees whenever the court determines that such an award is appropriate. However, no such costs or fees shall be assessed against the commission in any appeal from an order issued by the commission in an adjudicatory proceeding between adversary parties conducted pursuant to this part.

(4) The commencement of proceedings under this section shall not, unless specifically ordered by the district court of appeal, operate as a stay of the commission's order.

(5) Appeals filed under this part shall be heard expeditiously by the district court of appeal to which presented and shall take precedence over all other civil matters except prior matters of the same character.

History.--s. 3, ch. 74-100; s. 20, ch. 77-343; s. 3, ch. 79-295.

447.505 Strikes prohibited.--No public employee or employee organization may participate in a strike against a public employer by instigating or supporting, in any manner, a strike. Any violation of this section shall subject the violator to the penalties provided in this part.

History.--s. 3, ch. 74-100.

447.507 Violation of strike prohibition; penalties.--

(1) Circuit courts having jurisdiction of the parties are vested with the authority to hear and determine all actions alleging violations of s. 447.505. Suits to enjoin violations of s. 447.505 will have priority over all matters on the court's docket except other emergency matters.

(2) If a public employee, a group of employees, an employee organization, or any officer, agent, or representative of any employee organization engages in a strike in violation of s. 447.505, either the commission or any public employer whose employees are involved or whose employees may be affected by the strike may file suit to enjoin the strike in the circuit court having proper jurisdiction and proper venue of such actions under the Florida Rules of Civil Procedure and Florida Statutes. The circuit court shall conduct a hearing, with notice to the commission and to all interested parties, at the earliest practicable time. If the plaintiff makes a prima facie showing that a violation of s. 447.505 is in progress or that there is a clear, real, and present danger that such a strike is about to commence, the circuit court shall issue a temporary injunction enjoining the strike. Upon final hearing, the circuit court shall either make the injunction permanent or dissolve it.

(3) If an injunction to enjoin a strike issued pursuant to this section is not promptly complied with, on the application of the plaintiff, the circuit court shall immediately initiate contempt proceedings against those who appear to be in violation. An employee organization found to be in contempt of court for violating an injunction against a strike shall be fined an amount deemed appropriate by the court. In determining the appropriate fine, the court shall objectively consider the extent of lost services and the particular nature and position of the employee group in violation. In no event shall the fine exceed \$5,000. Each officer, agent, or representative of an employee organization found to be in contempt of court for violating an injunction against a strike shall be fined not less than \$50 nor more than \$100 for each calendar day that the violation is in progress.

(4) An employee organization shall be liable for any damages which might be suffered by a public employer as a result of a violation of the provisions of s. 447.505 by the employee organization or its representatives, officers, or agents. The circuit court having jurisdiction over such actions is empowered to enforce judgments against employee organizations, as defined in this part, by attachment or garnishment of union initiation fees or dues which are to be deducted or checked off by public employers. No action shall be maintained pursuant to this subsection until all proceedings which were pending before the commission at the time of the strike or which were initiated within 30 days of the strike have been finally adjudicated or otherwise disposed of. In determining the amount of damages, if any, to be awarded to the public employer, the trier of fact shall take into consideration any action or inaction by the public employer or its agents that provoked or tended to provoke the strike by the public employees. The trier of fact shall also take into consideration any damages that might have been recovered by the public employer under subparagraph (6)(a)4.

(5) If the commission, after a hearing on notice conducted according to rules promulgated by the commission, determines that an employee has violated s. 447.505, it may order the termination of his or her employment by the public employer. Notwithstanding any other provision of law, a person knowingly violating the provision of said section may, subsequent to such violation, be appointed, reappointed, employed, or reemployed as a public employee, but only upon the following conditions:

(a) Such person shall be on probation for a period of 18 months following his or her appointment, reappointment, employment, or reemployment, during which period he or she shall serve without permanent status and at the pleasure of the agency head.

(b) His or her compensation may in no event exceed that received immediately prior to the time of the violation.

(c) The compensation of the person may not be increased until after the expiration of 1 year from such appointment, reappointment, employment, or reemployment.

(6)(a) If the commission determines that an employee organization has violated s. 447.505, it may:

1. Issue cease and desist orders as necessary to ensure compliance with its order.
2. Suspend or revoke the certification of the employee organization as the bargaining agent of such employee unit.
3. Revoke the right of dues deduction and collection previously granted to said employee organization pursuant to s. 447.303.

4. Fine the organization up to \$20,000 for each calendar day of such violation or determine the approximate cost to the public due to each calendar day of the strike and fine the organization an amount equal to such cost, notwithstanding the fact that the fine may exceed \$20,000 for each such calendar day. The fines so collected shall immediately accrue to the public employer and shall be used by him or her to replace those services denied the public as a result of the strike. In determining the amount of damages, if any, to be awarded to the public employer, the commission shall take into consideration any action or inaction by the public employer or its agents that provoked, or tended to provoke, the strike by the public employees.

(b) An organization determined to be in violation of s. 447.505 shall not be certified until 1 year from the date of final payment of any fine against it.

History.--s. 3, ch. 74-100; s. 1, ch. 77-174; s. 21, ch. 77-343; s. 4, ch. 79-295; s. 161, ch. 97-103; s. 39, ch. 2001-43.

447.509 Other unlawful acts.--

(1) Employee organizations, their members, agents, or representatives, or any persons acting on their behalf are hereby prohibited from:

(a) Soliciting public employees during working hours of any employee who is involved in the solicitation.

(b) Distributing literature during working hours in areas where the actual work of public employees is performed, such as offices, warehouses, schools, police stations, fire stations, and any similar public installations. This section shall not be construed to prohibit the distribution of literature during the employee's lunch hour or in such areas not specifically devoted to the performance of the employee's official duties.

(c) Instigating or advocating support, in any positive manner, for an employee organization's activities from high school or grade school students during classroom time.

(2) No employee organization shall directly or indirectly pay any fines or penalties assessed against individuals pursuant to the provisions of this part.

(3) The circuit courts of this state shall have jurisdiction to enforce the provisions of this section by injunction and contempt proceedings, if necessary. A public employee who is convicted of a violation of any provision of this section may be discharged or otherwise disciplined by his or her public employer, notwithstanding further provisions of law, and notwithstanding the provisions of any collective bargaining agreement.

History.--s. 3, ch. 74-100; s. 162, ch. 97-103.

447.51 Violations not a ground for municipal recall.--Any violation of this part (Labor Organizations; Public Employees) shall not subject any person to municipal recall and shall not be considered as grounds for municipal recall.

History.--s. 2, ch. 77-279.

447.601 Merit or civil service system; applicability.--The provisions of this part shall not be construed to repeal, amend, or modify the provisions of any law or ordinance establishing a merit or civil service system for public employees or the rules and regulations adopted

pursuant thereto or to prohibit or hinder the establishment of other such personnel systems unless the provisions of such merit or civil service system laws or ordinances or rules and regulations adopted pursuant thereto are in conflict with the provisions of this part, in which event such laws, ordinances, or rules and regulations shall not apply, except as provided in s. 447.301(4).

History.--s. 3, ch. 74-100; s. 120, ch. 79-164.

447.603 Local option.--

(1) Any district school board or political subdivision, other than the state or a state public authority, may elect to adopt, by ordinance, resolution, or charter amendment, its own local option in lieu of the requirements of this part, provided such provisions and procedures thereby adopted effectively secure to public employees substantially equivalent rights and procedures as set forth in this part. However, notwithstanding any provision of s. 447.205 to the contrary, members of local commissions established pursuant to this section shall be appointed so that the composition of the local commission is as follows: One appointee shall be a person who, on account of previous vocation, employment, or affiliation, is or has been classified as a representative of employers; one appointee shall be a person who, on account of previous vocation, employment, or affiliation, is or has been classified as a representative of employees or employee organizations; and all other appointees, including alternates, shall be persons who, on account of previous vocation, employment, or affiliation, are not or have not been classified as representatives of employers, employees, or employee organizations. The chair and all members of any such local commission shall be appointed for 4-year staggered terms. Neither the chair nor any member shall be employed by, or hold any commission with, any governmental unit in the state or any employee organization while serving in such office.

(2) The public employer shall apply to the commission for review and approval as to whether the local provisions or procedures, or both, are substantially equivalent to the provisions and procedures set forth in this part. No ordinance, resolution, charter amendment, rule, or regulation incorporating such provisions and procedures shall take effect until approved by the commission. Upon approval of the local option and the rules relating thereto, the local commission shall perform the duties set forth under its local option, and the commission may transfer any pending cases, and shall transfer any cases or other matters filed after the approval of the local option that are within the local commission's jurisdiction, to the local commission for disposition. All public employee agreements now in existence shall remain in effect until their expiration. However, if a local commission is not properly constituted, fails to act or respond to a filing of an employee organization or public employer or public employee within a reasonable and timely period, or acts in a manner clearly inconsistent with the precedent of the commission, the employee organization or public employer or public employee may file a petition with the commission setting forth such circumstances. The commission or one of its designated agents shall investigate the petition to determine its sufficiency, and, if it has reasonable cause to believe the petition is sufficient, the commission shall provide for an appropriate hearing upon due notice. Such a hearing shall be conducted by the commission or its designated agent pursuant to s. 447.503(5). Upon a finding by the commission that the local commission is not properly constituted, has not acted or responded to a filing of the employee organization or public employer or public employee within a reasonable and timely period, or has acted in a manner clearly inconsistent with the precedent of the commission, the commission shall assume jurisdiction of the case, and the decision and findings of the commission in such case shall be binding upon the local commission, the public employer, and the employee organization or public employee. The provisions of this subsection pertaining to the assumption of jurisdiction by the state commission shall have no application to final orders of a local commission which are reviewable by a district court of appeal pursuant to chapter 120.

(3)(a) In order to continuously secure substantially equivalent rights and procedures, the commission may require that any amendment to this part be incorporated into the local option. The commission shall notify the local legislative body or the local commission of any such required amendment by certified mail, return receipt requested. The local legislative body or local commission shall have 60 days from the date of receipt of such notification from the commission within which to submit the required amendment. If the local legislative body or the local commission fails to submit the required amendment within the 60-day period, the commission may suspend the operation of the local commission until the required amendment is submitted. After 50 days of any such suspension, the commission may transfer to itself any cases or other matters pending before the local commission.

(b) No amendment or revision of any ordinance, resolution, charter amendment, rule, or regulation relating to a local option shall become effective without prior approval by the commission. The commission shall act on such amendment or revision within 45 days of receipt of a request.

(4) The provisions of chapter 120 shall apply to local commissions to the same extent that they apply to the commission, except that for purposes of s. 120.545 the "committee" shall be the local legislative body. Notice to the commission shall be provided by any party seeking judicial review of any order of a local commission.

(5) No district school board or political subdivision which has not filed an application for approval by the commission of local provisions or procedures on or before June 1, 1977, shall be permitted to adopt the local option provided in this section.

History.--s. 3, ch. 74-100; s. 1, ch. 77-174; s. 22, ch. 77-343; s. 121, ch. 79-164; s. 1, ch. 80-214; s. 1, ch. 89-50; s. 204, ch. 96-410; s. 17, ch. 99-7.

447.605 Public meetings and records law; exemptions and compliance.--

(1) All discussions between the chief executive officer of the public employer, or his or her representative, and the legislative body or the public employer relative to collective bargaining shall be closed and exempt from the provisions of s. 286.011.

(2) The collective bargaining negotiations between a chief executive officer, or his or her representative, and a bargaining agent shall be in compliance with the provisions of s. 286.011.

(3) All work products developed by the public employer in preparation for negotiations, and during negotiations, shall be confidential and exempt from the provisions of s. 119.07(1).

History.--s. 3, ch. 74-100; s. 23, ch. 77-343; s. 18, ch. 91-269; s. 302, ch. 96-406; s. 1075, ch. 97-103.

447.607 Commission rules; powers retained by the Legislature.--The Legislature shall retain the right to approve, amend, or rescind all rules promulgated by the commission pursuant to this part. In the absence of legislative action to the contrary, all rules shall have full force and effect.

History.--s. 5, ch. 74-100; s. 52, ch. 78-95.

447.609 Representation in proceedings.--Any full-time employee or officer of any public employer or employee organization may represent his or her employer or any member of a

bargaining unit in any proceeding authorized in this part, excluding the representation of any person or public employer in a court of law by a person who is not a licensed attorney.

History.--s. 24, ch. 77-343; s. 163, ch. 97-103.