

# The Florida Senate

## 2024 Florida Statutes (Including 2025C)

<u>Title XXXI</u> LABOR	<u>Chapter 447</u> LABOR ORGANIZATIONS  <a href="#">Entire Chapter</a>	<b>SECTION 203</b> <b>Definitions.</b>
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**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 is deemed to be the public employer; and the Board of Governors of the State University System, or the board’s designee, is 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 is deemed to be the public employer with respect to all employees of the community college. The district school board is 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 is 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 Board of Trustees of the Florida School for Competitive Academics is deemed to be the public employer with respect to the academic and academic administrative personnel of the Florida School for Competitive Academics. The Governor is 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. [633.102](#), 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 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; s. 140, ch. 2013-183; s. 133, ch. 2019-167; s. 5, ch. 2023-245.

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