

STATE OF FLORIDA
PUBLIC EMPLOYEES RELATIONS COMMISSION

IN RE

Case No. MS-2023-004

PETITION FOR WAIVER OF MIAMI-
DADE COUNTY BOARD OF COUNTY
COMMISSIONERS.

Order No.: 23MS-110
Date Issued: June 30, 2023

FINAL ORDER

On June 21, 2023, the Miami-Dade County Board of County Commissioners (County) filed an emergency petition for waiver pursuant to section 447.207(12), Florida Statutes (2022),¹ as amended by chapter 2023-35, section 2, Laws of Florida.

Specifically, the County seeks a waiver of the following provisions: the prohibition on dues and assessment deductions provided in section 447.303(1), Florida Statutes, as amended by chapter 2023-35, section 3, Laws of Florida; the requirement to petition the Public Employees Relations Commission (Commission) for recertification provided in 447.305(6), Florida Statutes, as amended by chapter 2023-35, section 4, Laws of Florida; and the revocation of certification provided in section 447.305(6) and (7), Florida Statutes, as amended by chapter 2023-35, section 4, Laws of Florida.

The County is a public employer within the meaning of section 447.203(2), Florida Statutes. Local 291 of the Transport Workers Union of America, AFL-CIO (TWU Local 291) is certified to represent a bargaining unit of transit operating employees in the County's Transportation & Public Works Department. See Certification 359. TWU Local

¹ All references to Florida Statutes herein are to the 2022 edition.

291 is an employee organization within the meaning of section 447.301(11), Florida Statutes, and is currently registered with the Commission. *See In re Application for Renewal of Registration of Local 291 of the Transport Workers Union of America, AFL-CIO*, Case No. OR-2013-005 (PERC July 13, 2022) (unpublished order) (granting registration for one year from the date of the order). The collective bargaining agreement (CBA) between the County and TWU Local 291, with respect to the bargaining unit defined in Certification 359, expires on May 31, 2026.²

According to the petition, the County has entered into agreements and arrangements with TWU Local 291, pursuant to 49 U.S.C. § 5333(b), to protect the interests of its mass transit employees and to ensure continued receipt of federal funds to acquire, improve, or operate its mass transit system. The provisions of 49 U.S.C. § 5333(b) require that these arrangements must, among other things, provide for the preservation of rights, privileges, and benefits under existing CBAs. The Department of Labor's (Department) Office of Labor-Management Standards (OLMS) previously reviewed and certified the protective arrangements between the County and TWU Local 291 and determined that they meet the requirements of 49 U.S.C. § 5333(b).

By letter dated June 16, 2023, the Department notified the County that the recent legislative changes contained in Florida Statutes, as amended by chapter 2023-35, Laws of Florida, may jeopardize the County's ability to comply with its previously certified sufficient protections and its continued eligibility for federal assistance that is subject to

² According to the County, the CBA was ratified by both parties as of June 16, 2023. The parties are still in the process of scheduling a date to sign the agreement.

compliance with 49 U.S.C. § 5333(b). The letter states that the County may provide documentation of a waiver by the Commission, which the Department will promptly consider in determining the County's continued eligibility for federal funding.

Section 447.207(12), Florida Statutes, as amended by chapter 2023-35, section 2, Laws of Florida, provides:

Upon a petition by a public employer after it has been notified by the Department of Labor that the public employer's protective arrangement covering mass transit employees does not meet the requirements of 49 U.S.C. s. 5333(b) and would jeopardize the employer's continued eligibility to receive Federal Transit Administration funding, the commission may waive, to the extent necessary for the public employer to comply with the requirements of 49 U.S.C. s. 5333(b), any of the following for an employee organization that has been certified as a bargaining agent to represent mass transit employees:

- (a) The prohibition on dues and assessment deductions provided in s. 447.303(1).
- (b) The requirement to petition the commission for recertification.
- (c) The revocation of certification provided in s. 447.305(6) and (7).

Based on the foregoing, we GRANT the County's petition. Pursuant to section 447.207(12), Florida Statutes, as amended by chapter 2023-35, section 2, Laws of Florida, we exercise our statutory discretion in granting the County and TWU Local 291 a waiver from the following with respect to the bargaining unit defined in Certification 359:

1. the prohibition on dues and assessment deductions provided in section 447.303(1), Florida Statutes, as amended by chapter 2023-35, section 3, Laws of Florida;

2. the requirement to petition the Commission for recertification provided in 447.305(6), Florida Statutes, as amended by chapter 2023-35, section 4, Laws of Florida; and
3. the revocation of certification provided in section 447.305(6) and (7), Florida Statutes, as amended by chapter 2023-35, section 4, Laws of Florida.

The waiver shall be in effect until May 31, 2026, which is the date upon which the existing CBA expires. The County bears the responsibility of notifying the Department when the waiver expires or otherwise becomes inapplicable.

This order may be appealed to the appropriate district court of appeal. A notice of appeal must be received by the Commission and the district court of appeal within **thirty days** from the date of this order. Except in cases of indigency, the court will require a filing fee and the Commission will require payment for preparing the record on appeal. Further explanation of the right to appeal is provided in sections 120.68 and 447.504, Florida Statutes, and the Florida Rules of Appellate Procedure.

It is so ordered.
RUBOTTOM, Chair, AARON and SASSO, Commissioners, concur.

I HEREBY CERTIFY that this document was filed and a copy served on each party on June 30, 2023.

BY: 
Clerk



/ia

MS-2023-004

COPIES FURNISHED:

For Miami-Dade County Board of County Commissioners
Marlon D. Moffett, Esquire

For Local 291 of the Transport Workers Union of America, AFL-CIO
Mark H. Richard, Esquire