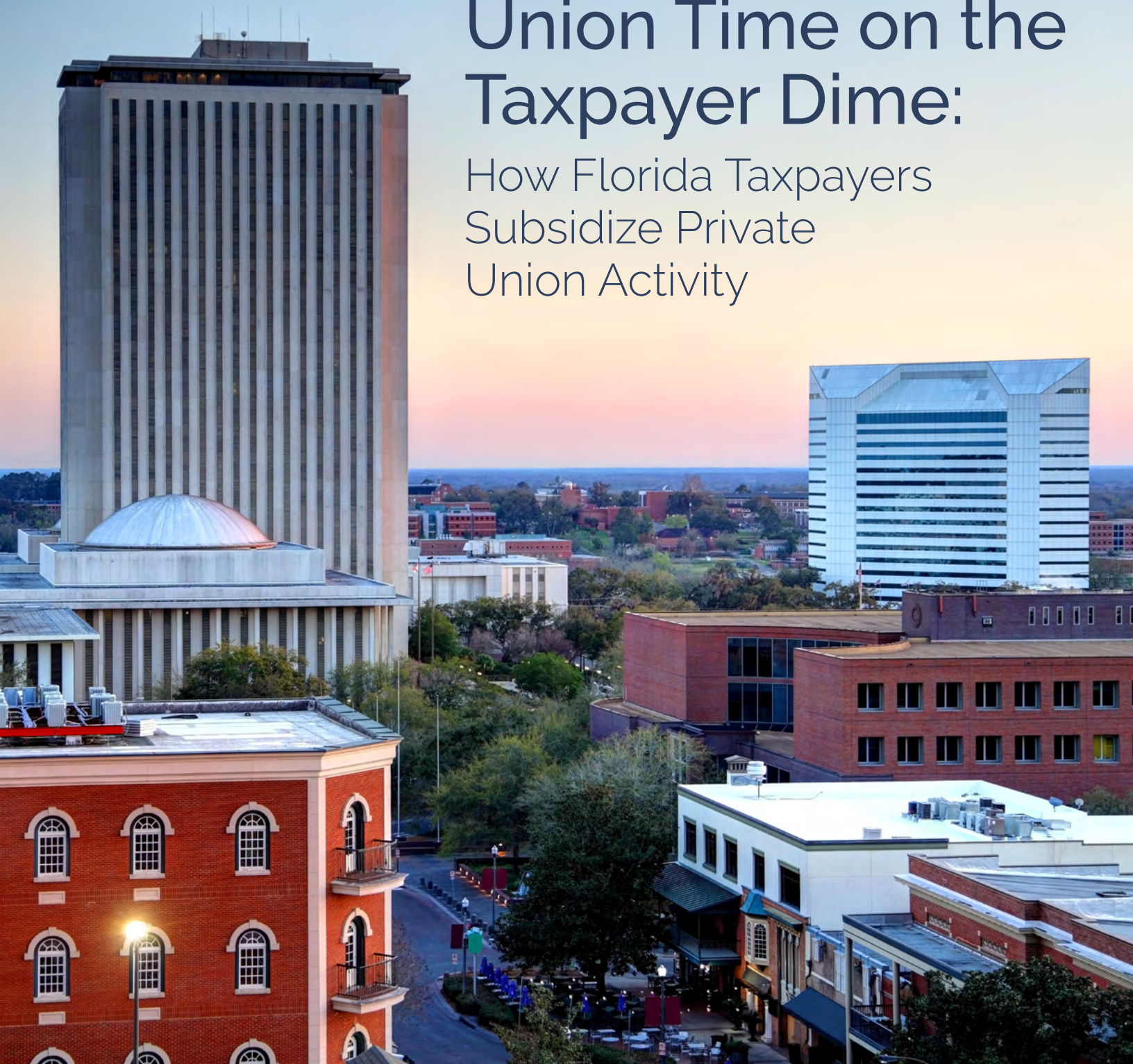


Union Time on the Taxpayer Dime:

How Florida Taxpayers Subsidize Private Union Activity



Imagine that on each working day, public employees report for work but do not perform any governmental duties. Instead, they work for a private entity that does not advance any public purpose—their union—and taxpayers pay for these employees' wages and benefits.

Unfortunately, there is no need to imagine. While most Floridians are likely unaware of this public expenditure, Florida municipalities dole out millions of taxpayer dollars to public employee unions through a common practice known as release time. Release time allows public employees to conduct union business during working hours without loss of pay.

Worse, several local governments fail to track what activities these public employees conduct while using release time. Due to this poor tracking, release time amounts to a no-strings attached multi-million-dollar taxpayer-funded subsidy to government unions, which are actually private organizations. It places no obligation on public employee unions to provide anything in return for this taxpayer-funded subsidy.

Whatever the union business conducted on release time may be, there is one incontrovertible fact—it provides no direct public benefit. Rather, it exclusively serves the interests of government employee unions. The purpose of government unions is to advance the interests of their members. Therefore, union members should fund the private activity of the labor organization. Yet, release time sticks Florida taxpayers with the tab for private union activity.

Union release time is a blatant misuse of taxpayer money, overtly directing taxpayer dollars and human resources to activities that only promote the unions' interests. These activities are frequently in stark contrast to the interests of the taxpayers footing the bill. It stands to reason (and common sense) that taxpayer funds should be reserved for public purposes, not the private benefit of individuals, corporations, or associations.

In 2019, the Florida legislature proposed reforms that would eliminate the practice of union release time.¹ As the 2020 legislative session approaches, eliminating this multi-million dollar subsidy to public-employee unions should be a priority.

Lack of Release Time Oversight and Transparency

Proper oversight and tracking of activity conducted on release time is crucial as a result of a recent final order by the Florida Public Employee Relations Commission (PERC). In *Allen v. Miami-Dade College Board of Trustees*, a former employee of the college filed an unfair labor practice charge against Miami-Dade College Board of Trustees.² In the complaint, the employee charged that the college provided illegal financial support to the faculty union—American Federation of Teachers Local 4253—in

violation of Florida statute section 447.50 (I)(e). This provision of Florida law prohibits public employers from:

Dominating, interfering with, or assisting in the formation, existence, or administration of, any employee organization or *contributing financial support to such an organization.* [Emphasis added]

In this case, the former employee argued that paid release time granted to union president Mark Richards was an illegal financial contribution to the union. Miami-Dade College paid the union president's \$100,000 salary plus benefits, while the union only reimbursed the college \$30,000 for the cost of replacement adjunct professors to cover his classes.

While on release time, Richards did not perform any teaching duties and there was no limitation on the type of union activity he performed. The self-described activities performed by Richards included recruiting new union members, lobbying on political issues, communicating union positions, and coordinating with other unions.

PERC ruled that none of Richards' union activities were an "appropriate use of tax collections." PERC further ruled that release time cannot be used to "perform these types of ancillary union activities unless it [union] completely reimburses the College." Permitted activity on release time "must be limited to direct representational activity," and such core activities include collective bargaining, grievance activities, and discipline activities.³

Due to uncertainty over what union activities are valid uses of release time, PERC did not find the college guilty of illegally financially supporting the union. However, in its final order on the matter, PERC issued a warning to public employers that grant paid release time:

[T]he College, and other similarly situated public employers, should examine their obligation under a provision similar to the third method for paid release time which does not limit the union activity to be performed or require complete reimbursement by a union. Public employers must ensure that employer funded release time is only used by unions for direct representational activities and that it has objective corroboration of a union's direct representational activities.⁴

Such a ruling puts public employers on notice that they must limit what release time activity is performed which, in turn, means



they must apply strict oversight and track the release time activity employees conduct. As discussed in this report, several Florida municipal governments are not adhering to PERC's decree that public employers ensure release time activity is only for direct union representational activity.

How Release Time Works Against Taxpayer Interests

No matter the activity, release time by public employees is a misuse of tax dollars and is in conflict with taxpayers' interests, compelling them to fund political activity they may oppose. Florida would be wise to eliminate, or at the very least severely curtail, release time. Any reform short of eliminating release time should increase transparency and accountability through more rigorous record-keeping to help ensure any abuse is swiftly addressed.

In general, unions typically support greater levels of government spending and policies that restrict workers' choice of whether to join and pay dues to a union or not. More government spending means more potential public sector union members and union dues payments, a clear conflict of interest. In a recent egregious case, Missouri taxpayers subsidized government employees to lobby legislators to vote against right to work and paycheck

protection laws.⁵

Release time works against the public interest in another way. When release time is used to negotiate contracts, taxpayers are effectively funding both sides of the negotiations—a public employee union, subsidized via release time, negotiates for more wages and benefits opposite a public employer that is also funded by the taxpayer. As a result, the taxpayer has no voice in matters that determine government employee pay and benefits (or accountability), which greatly impact tax rates, government debt, and the quality of government services.⁶

Subsidizing union activity via release time also encourages the filing of frivolous grievances. When the taxpayer covers the costs of the grievance procedure, unions do not need to exercise any prudence about which grievances they choose to file. In using resources—time and money—in which they have no direct financial stake, unions have no incentive to weigh either the merit of a possible grievance or the probability of success against the resources required.

Cost of Release Time

Several Florida municipal employers grant significant release time to unions as part of collective bargaining agreements (CBAs). Generally, Florida CBAs permit release time for activities such as



preparing and filing grievances, administering union contracts, negotiating contracts, and attending union meetings and conferences. Permitted activities, the activities for which release time is actually used, and the amount of release time granted vary across CBAs.

Florida's municipal governments do not publicize the cost of union release time. The only way for taxpayers to examine the cost and number of hours granted is to submit a public records request. The Competitive Enterprise Institute requested information from several local governments on the number of hours of union release time, activities that release time paid for, and the cost. Public records requests were sent to Miami-Dade County, the City of Jacksonville, and the City of Tampa. An overview of responses follows.

Miami-Dade County

By far, the largest release time costs and hours spent on union business came from Miami-Dade County, the largest county in Florida. In FY 2014, FY 2015, and FY 2016, Miami-Dade County employees spent nearly 100,000 hours on release time each fiscal year, at a cost to taxpayers of \$3.2 million, \$3.1 million, and \$2.9 million, respectively. From FY 2017 to 2019 (as of October 24,

2019), county employees spent 132,433 hours on release time at a cost of \$4,316,585. Notably, a substantial amount of release time pays for government employees who spend 100 percent of their time performing union business. In the past three fiscal years, Miami-Dade County paid over \$600,000 per year to employees who spent 100 percent of their working hours on release time. A small portion of release time costs were reimbursed to the county—\$87,895 in FY 2014, \$119,916 in FY 2015, and \$34,968 in FY 2016.⁷

Perhaps of more concern than the actual dollar figures is the fact that Miami-Dade County officials could not provide information on what activity takes place on union release time. The county's failure to track what activity public employees undertake while being paid by the taxpayer demonstrates a complete lack of both transparency and accountability over the practice.

City of Jacksonville

City of Jacksonville employees spent approximately 7,000 to 15,000 hours per year on union activity instead of actual government work. This resulted in a direct cost to taxpayers of \$399,245 in FY 2014, \$341,980 in FY 2015, \$314,677 in FY 2016, \$147,600 in FY 2017 and \$258,500 in FY 2018. The majority

of release time was used by the Jacksonville Fire and Rescue Department. As with Miami-Dade County, records did not exist related to what union activities were performed.

City of Tampa

In Tampa, release time cost taxpayers \$285,925 in FY 2014, \$188,797 in FY 2015, \$366,771 in FY 2016, and \$822,690 in FY 2017 and FY 2018.⁸ These costs cover release time used by the Police Benevolent Association (PBA), International Association of Firefighters (IAFF), and Amalgamated Transit Union (ATU). Tampa public employees spent roughly between 6,000 and 10,500 hours per year in the past three years working on union activities instead of their taxpayer-funded job functions. ATU members spent 5,935 hours, IAFF 4,331 hours, and PBA 9,423 hours on release time combined in FY 2017 and FY 2018. The City of Tampa also did not keep records related to the activity performed on release time.

Activities Performed on Union Release Time

According to public records released by the three local governments, activities performed on union release time did not exist. This lack of control and oversight makes it impossible to completely discern whether employees are engaging in appropriate use of release time, a finding of great importance given the recent PERC ruling that restricts what activity may be performed on paid release time.

Various public handbooks and collective bargaining agreements provide a glimpse into what activities may be performed on union release time. According to the Miami-Dade County “Leave Manual,” employees are authorized to “participate in labor management committee meetings, collective bargaining sessions, the processing of an employee grievance, or other activities as specified by collective bargaining agreement.”⁹ Negotiated release time activities that are specified by collective bargaining agreements include attending union conventions and administering union contracts.¹⁰

The City of Tampa’s collective bargaining agreements permit release time to be used for “grievance hearings, contract

negotiations, City Council meetings regarding the resolution of collective bargaining impasse procedures, and attending State PBA conventions and meetings, including local board meetings.”¹¹

The City of Jacksonville collective bargaining agreements allow release time to be used to “investigate and settle grievances.”¹² Local union presidents or an alternate may take reasonable time off to attend to “appropriate Union activities requiring his/her presence.” Some Jacksonville bargaining units are also granted a pool of discretionary release time for unrestricted use. For example, the Fraternal Order of Police (F.O.P.), which represents rank and file corrections officers, is granted 5,800 hours of release time to be used “by any member of the F.O.P. for F.O.P. activities.”¹³ The F.O.P. CBA that covers police officers up through the rank of sergeant also grants a release time pool of 5,800 hours.¹⁴ Neither CBA sets parameters on what activities are permitted or prohibited for its pool of release time.

It is Past Time to End Release Time

Florida policymakers have viable options to eliminate union release time. The simplest mechanism would be for the legislature to prohibit—or provide more stringent layers of accountability and transparency for—this taxpayer-funded union subsidy.

Moreover, there is no obligation on Florida government employers to provide union release time to government employee unions. Therefore, another option is for public employers to simply stop including release time in contracts, require unions to reimburse the municipalities for the cost of release time, or greatly reduce the amount offered during collective bargaining negotiations.

Regardless of the state of the economy, government should always strive to act as better stewards of taxpayer funds and cut expenses for activities that do not advance a public purpose. Under union release time, Florida municipalities pay government employees to perform activities unrelated to their public duties. Use of release time is poorly tracked and costs Florida taxpayers millions of dollars each year. The Sunshine State has the tools at its disposal to put an end to the practice of giving away scarce taxpayer resources to private entities for private benefit. It is now time to use those tools.

Endnotes

1. Fla. H.R. Subcommittee on Oversight, Transparency & Public Management, HB 13 (2019) <https://www.myfloridahouse.gov/Sections/Bills/billsdetail.aspx?BillId=65265&SessionId=87>.
2. Allen v. Miami-Dade College, PERC Case No. CA-2015-070, May 27, 2016, <http://perc.myflorida.com/download.aspx/Prefix=CA/CaseYr=15/CaseNo=070/File=CA15070-Ord17-052716103809.pdf>.
3. Ibid.
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5. Trey Kovacs, “A Remedy for Taxpayer Giveaway to Unions,” OnPoint No. 200, Competitive Enterprise Institute, March 25, 2015, <https://cei.org/content/remedy-taxpayer-giveaway-unions>.
6. Jonathan Riches, et al., “Public Money for Private Gain: Legal Strategies to End Taxpayer-Funded Union. Activism and Pension Spiking,” Goldwater Institute, June 10, 2014, https://goldwater-media.s3.amazonaws.com/cms_page_media/2015/1/28/Release%20Time.pdf.
7. The collective bargaining agreement between Miami-Dade County and Transport Workers Union (TWU), Local 291, allows union members to voluntarily donate sick or annual leave to TWU’s “union time pool.” However, the response to our public record requests failed to indicate how much employees donated to the pool.
8. Response to public records request for FY 2017 and FY 2018 release time data, the City of Tampa did not separate the hours and cost of release time by year.
9. “Miami-Dade County Leave Manual,” accessed October 21, 2019, <https://www.miamidade.gov/humanresources/library/compensation-leave.pdf>.
10. Agreement between Miami-Dade County Florida and American Federation of State, County and Municipal Employees AFL-CIO General Employees, Local 199, accessed October 21, 2019, <http://www.miamidade.gov/humanresources/library/labor-relations-afscme-199.pdf>.
11. Agreement between City of Tampa and Tampa Police Benevolent Association Inc., accessed October 21, 2019, https://www.tampagov.net/sites/default/files/human-resources/files/pba_agreement.pdf.
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13. Agreement between the City of Jacksonville and Fraternal Order of Police (Rank and File Police Officers), Accessed on October 22, 2019, <https://www.coj.net/getattachment/Departments/Employee-Services/Labor-Relations/Corrections-R-F-Contract-Final-2017-2020.pdf.aspx?lang=en-US>.
14. Agreement between the City of Jacksonville and Fraternal Order of Police (Police Officers through Sergeants), accessed October 22, 2019, <https://www.coj.net/getattachment/Departments/Employee-Services/Labor-Relations/FOP-POLICE-R-F-Final-2017-2020.pdf.aspx?lang=en-US>.



✉ The James Madison Institute
The Columns
100 North Duval Street
Tallahassee, FL 32301

☎ 850.386.3131

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