

1 A bill to be entitled
2 An act relating to the deduction and collection
3 of a bargaining agent's dues and uniform
4 assessments; amending s. 447.303, F.S.;
5 eliminating a right of certain bargaining
6 agents to have certain dues and assessments
7 deducted and collected by an employer from
8 certain employees; providing legislative
9 findings and intent; providing that the
10 deduction and collection of certain dues and
11 assessments is a proper subject of collective
12 bargaining; providing requirements and
13 limitations; providing for accounting of funds;
14 providing for enforcement; providing an
15 effective date.

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17 Be It Enacted by the Legislature of the State of Florida:

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19 Section 1. Section 447.303, Florida Statutes, is
20 amended to read:

21 447.303 Dues; deduction and collection.--

22 (1) Any employee organization which has been certified
23 as a bargaining agent, other than a certified bargaining agent
24 for instructional personnel as defined in s. 228.041, shall
25 have the right to have its dues and uniform assessments
26 deducted and collected by the employer from the salaries of
27 those employees who authorize the deduction of said dues and
28 uniform assessments. However, such authorization is revocable
29 at the employee's request upon 30 days' written notice to the
30 employer and employee organization. Said deductions shall
31 commence upon the bargaining agent's written request to the

1 employer. Reasonable costs to the employer of said deductions
 2 shall be a proper subject of collective bargaining. Such
 3 right to deduction, unless revoked pursuant to s. 447.507,
 4 shall be in force for so long as the employee organization
 5 remains the certified bargaining agent for the employees in
 6 the unit. The public employer is expressly prohibited from
 7 any involvement in the collection of fines, penalties, or
 8 special assessments.

9 (2)(a) The Legislature acknowledges that Florida is a
 10 right to work state as guaranteed by s. 6, Art. I of the State
 11 Constitution, which provides employees the right to bargain
 12 collectively. However, the State Constitution does not
 13 require an employer to deduct and collect a bargaining agent's
 14 dues and uniform assessments from an employee's salary.
 15 Furthermore, the Legislature in implementing s. 6, Art. I of
 16 the State Constitution, has declared that it is the public
 17 policy of this state to neither encourage nor discourage
 18 participation in a certified employee organization. The
 19 current statutory right of a collective bargaining agent to
 20 have its dues and uniform assessments deducted from an
 21 employee's salary is inconsistent with this policy because it
 22 assumes a non-neutral position regarding membership in a
 23 certified employee organization. By statutorily requiring an
 24 employer to deduct a collective bargaining agent's dues and
 25 assessments, the state facilitates the financial support of
 26 that organization not only for its collective bargaining
 27 functions but for whatever political or social causes that
 28 organization chooses to support. The payroll deduction
 29 process does not require the identification of how the money
 30 deducted will be utilized. Other voluntary payroll deductions
 31 are clear on their face as to the amount and purpose of the

1 deductions. In addition, other payroll deductions are not
 2 encumbered with the legal complexities surrounding collective
 3 bargaining rights and this state's policy of neutrality
 4 regarding membership in a certified employee organization.
 5 Moreover, the First Amendment to the United States Constitution
 6 guarantees a person freedom of association, and included in
 7 that right a person may not be compelled to financially
 8 support a social cause or a political candidate or cause. To
 9 the extent members of a certified employee organization are
 10 uninformed regarding the use of their payroll deducted dues
 11 and assessments, unaware of their rights to be refunded any
 12 portion of such dues or assessments used for political or
 13 social purposes to which they do not agree, or are prevented
 14 or inhibited from exercising their associational rights,
 15 directly or indirectly, for whatever reason and from whatever
 16 source, then the state's participation in their payroll
 17 deduction impinges on those employees' First Amendment rights.

18 The Legislature finds that instructional personnel
 19 represent the largest collective bargaining unit in this
 20 state. Furthermore, the Legislature recognizes and finds that
 21 teacher shortages in this state have reached critical
 22 proportions and anticipates that Florida will need an
 23 additional 162,000 teachers over the next 10 years to meet the
 24 challenges of this state's growing student population.
 25 Attracting new teachers as well as retaining existing teachers
 26 is a priority for this Legislature. Furthermore, the
 27 Legislature finds that this state has a substantial and
 28 compelling interest in protecting the First Amendment rights
 29 of instructional personnel, and that the state's ability to
 30 recruit and retain instructional personnel should be enhanced
 31 by empowering instructional personnel to pursue their First

1 Amendment rights and to make informed decisions regarding
 2 their political and social participation within the context of
 3 exercising their collective bargaining rights. The
 4 Legislature also finds that, as a result of the recent merger
 5 and industry consolidation of the collective bargaining agents
 6 that represented instructional personnel as defined in s.
 7 228.041, a monopoly in such services has been created in this
 8 state. Accordingly, this state must redouble its efforts to
 9 remain neutral and thereby not empower or detract from that
 10 collective bargaining agent's representational role, or from
 11 the employees' ability to be represented in the collective
 12 bargaining process by whomever they so choose.

13 Because of these facts and trends, the Legislature
 14 finds that the current status of instructional personnel
 15 constitutes a set of circumstances distinct and unique from
 16 any other area of public employment within this state.
 17 Therefore, the Legislature finds that with regard to
 18 instructional personnel, the deduction and collection of the
 19 certified bargaining agent's dues and uniform assessments
 20 should not be mandated by the Legislature but should be a
 21 permissive subject of collective bargaining, as otherwise
 22 restricted by this act. The Legislature further finds that
 23 the restrictions imposed by this act do not interfere with the
 24 ability of instructional personnel to be a member of a
 25 certified labor organization or to contribute directly to that
 26 organization in support of its non-collective bargaining
 27 activities.

28 (b) With regard to a certified bargaining agent that
 29 represents instructional personnel as defined in s. 228.041,
 30 any deduction and collection by an employer of that certified
 31 bargaining agent's dues and uniform assessments from an

1 employee's salary may be a proper subject of collective
2 bargaining. If the deduction and collection of an agent's dues
3 and uniform assessments are collectively bargained, the
4 collectively bargained agreement shall provide that payroll
5 deduction for dues or uniform assessments shall not exceed an
6 amount actually used for activities of the certified
7 bargaining agent necessary to perform the agent's duties
8 regarding the resolution of labor-management issues which
9 consist of collective bargaining, contract administration, and
10 grievance adjustment. Such amount shall not include any
11 amounts used for any other purpose, including, but not limited
12 to: electoral activities; independent expenditures or
13 contributions to any candidate, political party, political
14 committee, or committee of continuous existence; voter
15 registration campaigns; or any other political or legislative
16 cause, including, but not limited to, ballot initiatives.
17 Additionally, the collectively bargained agreement must
18 require the written authorization of the employee,
19 commencement of the deductions upon the bargaining agent's
20 written request to the employer, collection of reasonable
21 costs which must include all of the costs incurred by the
22 employer for making such deduction, revocation provisions,
23 including revocation pursuant to s. 447.507, and a prohibition
24 against the public employer from collecting fines, penalties,
25 special assessments, or for any purpose other than
26 labor-management issues, as provided for in this subsection.

27 (c) The collectively bargained agreement shall also
28 provide for a reasonable accounting of funds through a
29 segregation of funds received through payroll deduction or by
30 an independent audit of the use of such funds.

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1 (d) Any taxpayer or other aggrieved party may seek
2 enforcement of this subsection in a court of competent
3 jurisdiction.

4 Section 2. This act shall take effect July 1, 2001.
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