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1 A bill to be entitled

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

15  
16 Be It Enacted by the Legislature of the State of Florida:

17  
18 Section 1. Section 447.303, Florida Statutes, is amended  
19 to read:

20 447.303 Dues; deduction and collection.--

21 (1) Any employee organization which has been certified as  
22 a bargaining agent, other than a certified bargaining agent for  
23 instructional personnel as defined in s. 1012.01, shall have the  
24 right to have its dues and uniform assessments deducted and  
25 collected by the employer from the salaries of those employees  
26 who authorize the deduction of said dues and uniform  
27 assessments. However, such authorization is revocable at the  
28 employee's request upon 30 days' written notice to the employer  
29 and employee organization. Said deductions shall commence upon  
30 the bargaining agent's written request to the employer.



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31 Reasonable costs to the employer of said deductions shall be a  
32 proper subject of collective bargaining. Such right to  
33 deduction, unless revoked pursuant to s. 447.507, shall be in  
34 force for so long as the employee organization remains the  
35 certified bargaining agent for the employees in the unit. The  
36 public employer is expressly prohibited from any involvement in  
37 the collection of fines, penalties, or special assessments.

38 (2)(a)1. The Legislature acknowledges that Florida is a  
39 right-to-work state as guaranteed by s. 6, Art. I of the State  
40 Constitution, which provides employees the right to bargain  
41 collectively. However, the State Constitution does not require  
42 an employer to deduct and collect a bargaining agent's dues and  
43 uniform assessments from an employee's salary. Furthermore, the  
44 Legislature, in implementing s. 6, Art. I of the State  
45 Constitution, has declared that it is the public policy of this  
46 state to neither encourage nor discourage participation in a  
47 certified employee organization. The current statutory right of  
48 a collective bargaining agent to have its dues and uniform  
49 assessments deducted from an employee's salary is inconsistent  
50 with this policy because it assumes a non-neutral position  
51 regarding membership in a certified employee organization. By  
52 statutorily requiring an employer to deduct a collective  
53 bargaining agent's dues and assessments, the state facilitates  
54 the financial support of that organization not only for its  
55 collective bargaining functions but for whatever political or  
56 social causes that organization chooses to support. The payroll  
57 deduction process does not require the identification of how the  
58 money deducted will be utilized. Other voluntary payroll  
59 deductions are clear on their faces as to the amount and purpose  
60 of the deductions. In addition, other payroll deductions are not



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61 encumbered with the legal complexities surrounding collective  
62 bargaining rights and this state's policy of neutrality  
63 regarding membership in a certified employee organization.  
64 Moreover, the First Amendment to the United States Constitution  
65 guarantees a person freedom of association, and included in that  
66 right a person may not be compelled to financially support a  
67 social cause or a political candidate or cause. To the extent  
68 members of a certified employee organization are uninformed  
69 regarding the use of their payroll-deducted dues and  
70 assessments, unaware of their rights to be refunded any portion  
71 of such dues or assessments used for political or social  
72 purposes with which they do not agree, or are prevented or  
73 inhibited from exercising their associational rights, directly  
74 or indirectly, for whatever reason and from whatever source, the  
75 state's participation in their payroll deduction impinges on  
76 those employees' First Amendment rights.

77 2. The Legislature finds that instructional personnel are  
78 the largest group of public employees represented by collective  
79 bargaining in this state. Furthermore, the Legislature  
80 recognizes and finds that teacher shortages in this state have  
81 reached critical proportions and anticipates that Florida will  
82 need an additional 162,000 teachers over the next 10 years to  
83 meet the challenges of this state's growing student population.  
84 Attracting new teachers as well as retaining existing teachers  
85 is a priority for this Legislature. Furthermore, the Legislature  
86 finds that this state has a substantial and compelling interest  
87 in protecting the First Amendment rights of instructional  
88 personnel and that the state's ability to recruit and retain  
89 instructional personnel should be enhanced by empowering  
90 instructional personnel to pursue their First Amendment rights



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91 and to make informed decisions regarding their political and  
92 social participation within the context of exercising their  
93 collective bargaining rights. The Legislature also finds that,  
94 as a result of the recent merger and industry consolidation of  
95 the collective bargaining agents that represented instructional  
96 personnel as defined in s. 1012.01, a virtual monopoly in such  
97 services has been created in this state, depriving instructional  
98 personnel of the benefits of competition. Accordingly, this  
99 state must redouble its efforts to remain neutral and thereby  
100 not empower or detract from that collective bargaining agent's  
101 representational role, or from the employees' ability to be  
102 represented in the collective bargaining process by whomever  
103 they so choose.

104 3. Because of these facts and trends, the Legislature  
105 finds that the current status of instructional personnel  
106 constitutes a set of circumstances distinct and unique from any  
107 other area of public employment within this state. Therefore,  
108 the Legislature finds that with regard to instructional  
109 personnel, the deduction and collection of the certified  
110 bargaining agent's dues and uniform assessments should not be  
111 mandated by the Legislature but should be a permissive subject  
112 of collective bargaining, as otherwise restricted by this  
113 section. The Legislature further finds that the restrictions  
114 imposed by this section do not interfere with the ability of  
115 instructional personnel to be members of a certified labor  
116 organization or to contribute directly to that organization in  
117 support of its noncollective bargaining activities.

118 (b) With regard to a certified bargaining agent that  
119 represents instructional personnel as defined in s. 1012.01, any  
120 deduction and collection by an employer of that certified



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121 bargaining agent's dues and uniform assessments from an  
122 employee's salary may be a proper subject of collective  
123 bargaining. If the deduction and collection of an agent's dues  
124 and uniform assessments are collectively bargained, the  
125 collectively bargained agreement shall provide that payroll  
126 deduction for dues or uniform assessments shall not exceed an  
127 amount actually used for activities of the certified bargaining  
128 agent necessary to perform the agent's duties regarding the  
129 resolution of labor-management issues which consist of  
130 collective bargaining, contract administration, and grievance  
131 adjustment. Such amount shall not include any amounts used for  
132 any other purpose, including, but not limited to: electoral  
133 activities; independent expenditures or contributions to any  
134 candidate, political party, political committee, or committee of  
135 continuous existence; voter registration campaigns; or any other  
136 political or legislative cause, including, but not limited to,  
137 ballot initiatives. Additionally, the collectively bargained  
138 agreement must require the written authorization of the  
139 employee, commencement of the deductions upon the bargaining  
140 agent's written request to the employer, collection of  
141 reasonable costs which must include all of the costs incurred by  
142 the employer for making such deduction, revocation provisions,  
143 including revocation pursuant to s. 447.507, and a prohibition  
144 against the public employer from collecting fines, penalties,  
145 special assessments, or for any purpose other than labor-  
146 management issues, as provided for in this subsection.

147 (c) The collectively bargained agreement shall also  
148 provide for a reasonable accounting of payroll deductions  
149 through:

150 1. Perpetual segregation of all funds received through



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151 payroll deduction from any funds used for purposes not  
152 authorized in paragraph (b); or

153 2. An independent audit of the use of funds received  
154 through payroll deduction.

155 (d) Any taxpayer or other aggrieved party may seek  
156 enforcement of this subsection in a court of competent  
157 jurisdiction. In addition to injunctive relief prohibiting  
158 violations of a bargaining agreement and this subsection, relief  
159 shall include an order for a pro rata refund to bargaining unit  
160 members in an amount equal to the amount of any funds received  
161 through payroll deduction that were used in violation of the  
162 provisions of this subsection. Such refund shall be enforced by  
163 an order reducing payroll deductions up to 50 percent below the  
164 agreed amount each pay period until the amount shall have been  
165 fully refunded. A refund pursuant to this paragraph shall  
166 supplement and not preclude a money judgment against the  
167 bargaining unit in favor of one or more individuals who had  
168 funds deducted from their pay that were used in violation of  
169 this subsection.

170 Section 2. This act shall take effect July 1, 2003.