

By Senator Fasano

11-994-03

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.

16
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. 1012.01, 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 used. Other voluntary payroll deductions are
31 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
6 Constitution guarantees a person freedom of association, and
7 included in that right a person may not be compelled to
8 financially support a social cause or a political candidate or
9 cause. To the extent members of a certified employee
10 organization are uninformed regarding the use of their payroll
11 deducted dues and assessments, unaware of their rights to be
12 refunded any portion of such dues or assessments used for
13 political or social purposes to which they do not agree, or
14 are prevented or inhibited from exercising their associational
15 rights, directly or indirectly, for whatever reason and from
16 whatever source, then the state's participation in their
17 payroll deduction impinges on those employees' First Amendment
18 rights.

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

1 by empowering instructional personnel to pursue their First
2 Amendment rights and to make informed decisions regarding
3 their political and social participation within the context of
4 exercising their collective bargaining rights. The
5 Legislature also finds that, as a result of the recent merger
6 and industry consolidation of the collective bargaining agents
7 that represented instructional personnel as defined in s.
8 1012.01, a virtual monopoly in such services has been created
9 in this state, depriving instructional personnel of the
10 benefits of competition. Accordingly, this state must redouble
11 its efforts to remain neutral and thereby not empower or
12 detract from that collective bargaining agent's
13 representational role, or from the employees' ability to be
14 represented in the collective bargaining process by whomever
15 they so choose.

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

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1 (b) With regard to a certified bargaining agent that
2 represents instructional personnel as defined in s. 1012.01,
3 any deduction and collection by an employer of that certified
4 bargaining agent's dues and uniform assessments from an
5 employee's salary may be a proper subject of collective
6 bargaining. If the deduction and collection of an agent's dues
7 and uniform assessments are collectively bargained, the
8 collectively bargained agreement shall provide that payroll
9 deduction for dues or uniform assessments shall not exceed an
10 amount actually used for activities of the certified
11 bargaining agent necessary to perform the agent's duties
12 regarding the resolution of labor-management issues which
13 consist of collective bargaining, contract administration, and
14 grievance adjustment. Such amount shall not include any
15 amounts used for any other purpose, including, but not limited
16 to: electoral activities; independent expenditures or
17 contributions to any candidate, political party, political
18 committee, or committee of continuous existence; voter
19 registration campaigns; or any other political or legislative
20 cause, including, but not limited to, ballot initiatives.
21 Additionally, the collectively bargained agreement must
22 require the written authorization of the employee,
23 commencement of the deductions upon the bargaining agent's
24 written request to the employer, collection of reasonable
25 costs which must include all of the costs incurred by the
26 employer for making such deduction, revocation provisions,
27 including revocation pursuant to s. 447.507, and a prohibition
28 against the public employer from collecting fines, penalties,
29 special assessments, or for any purpose other than
30 labor-management issues, as provided for in this subsection.
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1 (c) The collectively bargained agreement shall also
2 provide for a reasonable accounting of payroll deductions
3 through either:

4 1. The perpetual segregation of all funds received
5 through payroll deductions from any funds used for purposes
6 not authorized in paragraph (b); or

7 2. An independent audit of the use of funds received
8 through payroll deductions.

9 (d) Any taxpayer or other aggrieved party may seek
10 enforcement of this subsection in a court of competent
11 jurisdiction. In addition to injunctive relief prohibiting
12 violations of a bargaining agreement and this subsection,
13 relief shall include an order for a pro rata refund to
14 bargaining unit members in an amount equal to the amount of
15 any funds received through payroll deduction which were used
16 in violation of this subsection. Such refund shall be enforced
17 by an order reducing payroll deductions up to 50 percent below
18 the agreed amount each pay period until the amount has been
19 fully refunded. A refund under this paragraph shall supplement
20 and not preclude a money judgment against the bargaining unit
21 in favor of one or more individuals who had funds deducted
22 from their pay which were used in violation of this
23 subsection.

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

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27 SENATE SUMMARY

28 Provides that, based upon legislative findings, the duty
29 of an employer to deduct and withhold bargaining agent
30 dues and assessments for the bargaining agent of an
31 employee organization composed of instructional personnel
 should be determined through collective bargaining and
 not be imposed by legislative directive.