

1 bargaining agent's written request to the employer. Reasonable
2 costs to the employer of ~~such said~~ deductions shall be a
3 proper subject of collective bargaining. Such right to
4 deduction, unless revoked pursuant to s. 447.507, shall be in
5 force for so long as the employee organization remains the
6 certified bargaining agent for the employees in the unit. The
7 public employer is expressly prohibited from any involvement
8 in the collection of fines, penalties, or 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 require
13 an employer to deduct and collect a bargaining agent's dues
14 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 process
29 does not require the identification of how the money deducted
30 will be used. Other voluntary payroll deductions are clear on
31 their face as to the amount and purpose of the deductions. In

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

18 1. 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 in excess
23 of 100,000 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 Legislature
4 also finds that, as a result of the recent merger and industry
5 consolidation of the collective bargaining agents that
6 represented instructional personnel as defined in s. 1012.01,
7 a virtual monopoly in such services has been created in this
8 state, depriving instructional personnel of the benefits of
9 competition. Accordingly, this state must redouble its efforts
10 to remain neutral and thereby not empower or detract from that
11 collective bargaining agent's representational role, or from
12 the employees' ability to be represented in the collective
13 bargaining process by whomever they so choose.

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

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

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

28 (c) The collectively bargained agreement shall also
29 provide for a reasonable accounting of payroll deductions
30 through either:
31

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

4 2. An independent audit of the use of funds received
5 through payroll deductions.

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

21 Section 2. This act shall take effect July 1, 2006.

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24 SENATE SUMMARY

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