



State Affairs Committee

Thursday, March 10, 2011

2:45 PM

Webster Hall (212 Knott)

**Dean Cannon
Speaker**

**Seth McKeel
Chair**

Committee Meeting Notice

HOUSE OF REPRESENTATIVES

(AMENDED 3/8/2011 3:55:57PM)

Amended(2)

State Affairs Committee

Start Date and Time: Thursday, March 10, 2011 02:45 pm

End Date and Time: Thursday, March 10, 2011 05:45 pm

Location: Webster Hall (212 Knott)

Duration: 3.00 hrs

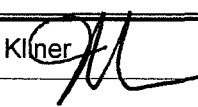
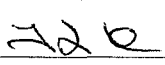
Consideration of the following bill(s):

HB 1021 Labor and Employment by Dorworth

NOTICE FINALIZED on 03/08/2011 15:55 by Sims-Davis.Linda

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1021 Labor and Employment
SPONSOR(S): Dorworth and others
TIED BILLS: IDEN./SIM. BILLS: SB 830

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) State Affairs Committee		Klimer 	Hamby 
2) Appropriations Committee			

SUMMARY ANALYSIS

The bill prohibits state, county, municipal, and special district employee payroll deductions for dues, uniform assessments, penalties, or special assessments of an employee organization. It further prohibits public employee payroll deductions for purposes of political activity, including contributions to a candidate, political party, political committee, committee of continuous existence, electioneering communications organization, or organization exempt from taxation under 501(c)(4), or s. 527, of the Internal Revenue Code. The bill deletes the explicit authorization for "employee organizations" that are the exclusive bargaining agent for a unit of state employees to deduct membership dues.

With regard to labor organizations generally, unless an employee has executed a written authorization, the employee is entitled to a pro rata refund of any dues, uniform assessments, fines, penalties, or special assessments paid by the employee and used by the labor organization to make political contributions or expenditures. The written authorization for political expenditures must be executed by the employee separately for each fiscal year and must be accompanied with a detailed account, provided by the labor organization, of all political contributions and expenditures made by the labor organization in the preceding 24 months. The employee may revoke the authorization at any time. If an employee revokes the authorization, the pro rata refund to the employee for such fiscal year shall be in the same proportion as the proportion of the fiscal year for which the authorization was not in effect. A labor organization may not require an employee to provide the authorization for political contributions and expenditures as a condition of membership in the labor organization.

The bill deletes language made obsolete by the previous sections of the bill, and deletes references to deductions or check-offs by public employee organizations with respect to civil penalties for violation of the statutory strike prohibition.

The bill provides a severability clause, in the event any provision of this act or its application to any person or circumstance is held invalid.

The bill provides an effective date of July 1, 2011.

Reasonable costs to the public employer for payroll deductions have been a subject for collective bargaining agreements, pursuant to state law. Depending upon the particular system utilized by public employers to manage payroll deductions, the elimination of payroll deduction for employee organizations may result in a neutral to insignificant fiscal impact to public employers.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Employee Unions and Federal Labor Law

The Federal National Labor Relations Act (NLRA)¹ of 1935 and the Federal Labor Management Relations Act of 1947² constitute a comprehensive scheme of regulations guaranteeing to private employees the right to organize, to bargain collectively through chosen representatives, and to engage in concerted activities to secure their rights in industries involved in or affected by interstate commerce.³ The NLRA also established the National Labor Relations Board (NLRB), an independent federal agency that administers and interprets the statute and enforces its terms.

The NLRA contains no express preemption provision, and because the NLRA regulates in an area of law traditionally regulated by the states, any NLRA preemption analysis starts with the basic assumption that Congress did not intend to displace state law. Under the *Garmon* preemption doctrine, state regulations and causes of action are presumptively preempted if they concern conduct that is actually or arguably either prohibited or protected by the NLRA.⁴ A state regulation or cause of action may, however, be sustained if the behavior to be regulated is behavior that is of only peripheral concern to the federal law or touches interests deeply rooted in local feeling and responsibility. In such cases, the state's interest in controlling or remedying the effects of the conduct is balanced against both the interference with the National Labor Relations Board's ability to adjudicate controversies committed to it by the NLRA, and the risk that the state will sanction conduct that the NLRA protects.⁵

Employee Unions and Florida's Labor Law

In 1943, the Florida Legislature passed legislation to regulate the activities of union officials and certain aspects of labor-management relations.⁶ Among the rights created was the right of employees to organize themselves. The Declaration of Rights of the Florida Constitution was amended to protect workers from employment discrimination resulting from membership or non-membership in an employee organization. As such, Florida is one of twenty-two states with right-to-work laws that secure the right of employees to decide whether or not to join or financially support a labor union.⁷ As amended in 1968, Article I, section 6, of the Florida Constitution states:

The right of persons to work shall not be denied or abridged on account of membership or non-membership in any labor union or labor organization. The right of employees, by and through a

¹29 U.S.C. §§ 151 to 169. See, *Nash v. Florida Indus. Commission*, 389 U.S. 235, 88 S. Ct. 362, 19 L. Ed. 2d 438 (1967).

²29 U.S.C. §§ 141 to 187. Also known as the Taft-Hartley Act, the Labor Management Relations Act prohibits jurisdictional strikes and secondary boycotts by unions, authorizes individual states to pass "right-to-work laws", regulates pension and other benefit plans established by unions, and provides that federal courts have jurisdiction to enforce collective bargaining agreements.

³With limited exceptions, the NLRA, and amendments thereto, addresses private sector employee/employer relations only, and does not provide employees of state and local governments with the right to organize or engage in union activities, except to the extent that the United States Constitution protects their rights to freedom of speech and freedom of association. Such labor rights derive from state law. Governmental employees were covered, however, in the Fair Labor Standards Act, 29 U.S.C. §§ 201 to 219. Passed in 1938, the Act establishes standards for minimum wages, overtime pay, record keeping, and child labor.

⁴*San Diego Building Trades Council v. Garmon*, 359 U.S. 236, 79 S.Ct. 773, 3 L.Ed.2d 775 (1959),

⁵2003 A.L.R. Fed. 1 (Originally published in 2003)

⁶Chapter Law 21968, 1943. Formerly in Chapter 481, F.S. Labor organizations are regulated in Chapter 447, F.S.

⁷The remaining states permit union security provisions in collective labor contracts that may require the employer hire only union members, ensuring a so-called "closed shop," or require that newly hired workers join the union within a certain period. Other states with right to work laws include Alabama, Arizona, Arkansas, Georgia, Idaho, Iowa, Kansas, Louisiana, Mississippi, Nebraska, Nevada, North Carolina, North Dakota, Oklahoma, South Carolina, South Dakota, Tennessee, Texas, Utah, Virginia, and Wyoming.

See: <http://www.nrtw.org/rtws.htm>

labor organization, to bargain collectively shall not be denied or abridged. Public employees shall not have the right to strike.

Chapter 447, F.S., regulates labor organizations. Part I provides general provisions applicable to labor unions in the state and provides employees' right to self-organization and to refrain from such activity. Part I places regulatory oversight of licensing and permitting union representatives, registration of labor organizations, and collection of fees with the Department of Business and Professional Development.

Part II of chapter 447, F.S., regulates labor organizations for public employees, and establishes the Public Employees Relations Commission to regulate collective bargaining in the state. The public policy of the state is to promote harmonious and cooperative relationships between employees and governments and to assure orderly and uninterrupted government operations and functions.

Under current law, an employee organization⁸ that is certified as a bargaining agent has the right to have its dues and uniform assessments deducted and collected by the employer from the salaries of those employees who authorize the deduction of said dues and uniform assessments.⁹ Authorizations are revocable at the employee's request upon 30 days' written notice to the employer and employee organization. Deductions commence upon the bargaining agent's written request to the employer. Reasonable costs to the employer of said deductions are a proper subject of collective bargaining. Such right to deduction, unless revoked by a court due to a violation on the prohibition on strikes, is operable for so long as the employee organization remains the certified bargaining agent for the employees in the unit. The public employer is expressly prohibited from any involvement in the collection of fines, penalties, or special assessments.¹⁰

Counties, municipalities, and special districts as well as state departments, agencies, bureaus, commissions, and officers are authorized and permitted in their sole discretion to make deductions from the salary or wage of any employee or employees in such amount as is authorized and requested by such employee or employees and for such purpose as is authorized and requested by such persons and pay such sums so deducted as directed by such persons.¹¹

Political Contributions

For purposes of campaign financing:

A "contribution" is defined as:

- A gift, subscription, conveyance, deposit, loan, payment, or distribution of money or anything of value, including contributions in kind having an attributable monetary value in any form, made for the purpose of influencing the results of an election or making an electioneering communication.
- A transfer of funds between political committees, between committees of continuous existence, between electioneering communications organizations, or between any combinations of these groups.
- The payment, by any person other than a candidate or political committee, of compensation for the personal services of another person which are rendered to a candidate or political committee without charge to the candidate or committee for such services.
- The transfer of funds by a campaign treasurer or deputy campaign treasurer between a primary depository and a separate interest-bearing account or certificate of deposit, and the term includes any interest earned on such account or certificate.¹²

⁸ An employee organization is the public employee's labor union. See, subsection 447.02(1), F.S.

⁹ Subsection 447.203(12), F.S., defines bargaining agent as the employee organization which has been certified by the Public Employees Relations Commission as representing the employees in the bargaining unit or its representative.

¹⁰ Section 447.303, F.S.

¹¹ Sections 110.114 and 112.171, F.S. Voluntary payroll deductions may include contributions to charities, non-profit organizations, retirement plans, deferred compensation and health plans, academic tuition and fees, membership dues for professional organizations, and labor organization dues (as well as funds, committees or subsidiary organizations maintained by labor organizations).

¹² Section 106.011, F.S.

An "expenditure" means a purchase, payment, distribution, loan, advance, transfer of funds by a campaign treasurer or deputy campaign treasurer between a primary depository and a separate interest-bearing account or certificate of deposit, or gift of money or anything of value made for the purpose of influencing the results of an election or making an electioneering communication. There is an exception for internal newsletters.¹³

Effect of Proposed Changes

The bill prohibits state, county, municipal, and special district employee payroll deductions for dues, uniform assessments, penalties, or special assessments of an employee organization. It further prohibits public employee payroll deductions for purposes of political activity, including contributions to a candidate, political party, political committee, committee of continuous existence, electioneering communications organization, or organization exempt from taxation under 501(c)(4), or s. 527, of the Internal Revenue Code. The bill deletes the explicit authorization for "employee organizations" that are the exclusive bargaining agent for a unit of state employees to deduct membership dues.

With regard to labor organizations generally, unless an employee has executed a written authorization, the employee is entitled to a pro rata refund of any dues, uniform assessments, fines, penalties, or special assessments paid by the employee and used by the labor organization to make political contributions or expenditures, as defined in s. 106.011, F.S. The written authorization for political expenditures must be executed by the employee separately for each fiscal year and must be accompanied with a detailed account, provided by the labor organization, of all political contributions and expenditures made by the labor organization in the preceding 24 months. The employee may revoke the authorization at any time. If an employee revokes the authorization, the pro rata refund of the employee for such fiscal year shall be in the same proportion as the proportion of the fiscal year for which the authorization was not in effect. A labor organization may not require an employee to provide the authorization for political contributions and expenditures as a condition of membership in the labor organization.

With regard to public employee labor organizations, the bill prohibits public employers from deducting or collecting money from their employees for an employee organization. The bill deletes language made obsolete by the previous sections of the bill, specifically:

- Authorizing a bargaining agent to have its dues and uniform assessments deducted and collected by the employer from the salaries of those employees who authorize the deduction of said dues and uniform assessments
- Allowing the employee to revoke authorization for employer deduction with 30 days' written notice
- Allowing reasonable costs to the employer for deductions as a subject for collective bargaining
- Providing procedures regarding the deduction and revocation process
- Prohibiting the public employer from any involvement in the collection of fines, penalties, or special assessments

In addition the bill deletes references to deductions or check-offs by employee organizations with respect to penalties for violation of the strike prohibition, also made obsolete by the previous statutory changes.

The bill provides a severability clause, in the event any provision of this act or its application to any person or circumstance is held invalid.

The bill provides an effective date of July 1, 2011.

¹³ Section 106.011, F.S.

B. SECTION DIRECTORY:

Section 1 amends s. 110.114, F.S., to prohibit state employee payroll deductions for dues, uniform assessments, penalties, or special assessments of an employee organization, and further prohibits deductions for purposes of political activity.

Section 2 amends s. 112.171, F.S., to prohibit county, municipal, and special district employee payroll deductions for dues, uniform assessments, penalties, or special assessments of an employee organization, and further prohibits deductions for purposes of political activity.

Section 3 creates s. 447.18, F.S., to require an employee/union member to annually submit written authorization to the union to make contributions or expenditures of a political nature. This section also requires an accounting of union political expenditures or contributions for the preceding 24 months, provides for a pro-rata refund in the absence of written authorization, provides for revocation of employee authorization, and prohibits employee authorization as a condition of union membership.

Section 4 amends s. 447.303, F.S., to prohibit public employers from deducting or collecting money from their employees for an employee organization. This section removes language made obsolete by the prohibition of employee payroll deductions for union activity.

Section 5 amends s. 447.507, F.S., deleting references to payroll deductions or check-offs by employee organizations with respect to penalties for violation of the strike prohibition.

Section 6 states that if any provision of this act or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this act which can be given effect without the invalid provision or application, and to this end the provisions of the act are severable.

Section 7 provides an effective date of July 1, 2011.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

See, Section D FISCAL COMMENTS

2. Expenditures:

See, Section D FISCAL COMMENTS

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

See, Section D FISCAL COMMENTS

2. Expenditures:

See, Section D FISCAL COMMENTS

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

To the extent financial institutions' may "sweep" accounts receiving payroll deductions from members of labor organizations, institutions servicing state labor organizations may lose some indeterminate financial benefit.¹⁴

Employee organizations are likely to have more difficulty collecting dues, fees, assessments and penalties from public employees. Labor organizations are likely to have more difficulty collecting funds from employees for political purposes.

D. FISCAL COMMENTS:

Reasonable costs to the public employer for payroll deductions were a subject for the collective bargaining agreement. The elimination of payroll deduction for employee organizations may result in a neutral fiscal impact to public employers.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

2. Other:

The bill provides for a refund for certain employee dues, assessments, fines, or penalties unless the employee has executed a written authorization. The written authorization must be executed by the employee separately for each fiscal year. Depending on the labor organization's scheduled fiscal year, the bill's effective date of July 1, 2011, may result in a conflict between statutory rights and contractual obligations.

The United States Constitution and the Florida Constitution prohibit the state from passing any law impairing the obligation of contracts.¹⁵ "[T]he first inquiry must be whether the state law has, in fact, operated as a substantial impairment of a contractual relationship. The severity of the impairment measures the height of the hurdle the state legislation must clear."¹⁶ If a law does impair contracts, the courts will assess whether the law is deemed reasonable and necessary to serve an important public purpose.¹⁷ The factors that a court will consider when balancing the impairment of contracts with the public purpose include: whether the law was enacted to deal with a broad, generalized economic or social problem; whether the law operates in an area that was already subject to state regulation at the time the parties undertook their contractual obligations, or whether it invades an area never before subject to regulation; and whether the law effects a temporary alteration of the contractual relationships of those within its scope, or whether it works a severe, permanent, and immediate change in those relationships, irrevocably and retroactively.¹⁸

¹⁴In banking, sweep accounts are primarily used as a legal workaround to the prohibition on paying interest on business checking accounts. In this system, the funds are being described as being "swept overnight" into an investment vehicle of some kind.
<http://free.thebankaccounts.com/2008/06/sweep-account.html>

¹⁵ U.S. Const. Art. I, § 10; Art. I, s. 10, Fla. Const.

¹⁶ *Pomponio v. Claridge of Pompano Condominium, Inc.*, 378 So 2d 774 (Fla. 1979). See also *General Motors Corp. v. Romein*, 503 U.S. 181 (1992).

¹⁷ *Park Benziger & Co. v. Southern Wine & Spirits, Inc.*, 391 So 2d 681 (Fla. 1980); *Yellow Cab C. v. Dade County*, 412 So 2d 395 (Fla. 3rd DCA 1982). See also *Exxon Corp. v. Eagerton*, 462 U.S. 176 (1983) (construing the federal constitutional provision). An important public purpose would be a purpose protecting the public's health, safety, or welfare. See *Khoury v. Carvel Homes South, Inc.*, 403 So2d 1043 (Fla. 1st DCA 1981).

¹⁸ *Pomponio v. Claridge of Pompano Condominium, Inc.*, 378 So 2d 774 (Fla. 1979).

B. RULE-MAKING AUTHORITY:

The bill does not provide rule making authority and none is needed to implement provisions therein.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

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1 A bill to be entitled
2 An act relating to labor and employment; amending s.
3 110.114, F.S.; prohibiting a state agency from deducting
4 from employee wages the dues, uniform assessments, fines,
5 penalties, or special assessments of an employee
6 organization or contributions made for purposes of
7 political activity; amending s. 112.171, F.S.; prohibiting
8 a county, municipality, or other local governmental entity
9 from deducting from employee wages the dues, uniform
10 assessments, fines, penalties, or special assessments of
11 an employee organization or contributions made for
12 purposes of political activity; creating s. 447.18, F.S.;
13 requiring that a labor organization refund any dues,
14 uniform assessments, fines, penalties, or special
15 assessments paid by an employee which were used for
16 political contributions or expenditures unless the
17 employee has provided prior authorization; requiring that
18 the labor organization provide notice of such
19 contributions and expenditures; prohibiting a labor
20 organization from requiring an employee to authorize the
21 collection of funds for political contributions and
22 expenditures as a condition of membership in the
23 organization; amending s. 447.303, F.S.; prohibiting a
24 public employer from deducting or collecting from employee
25 wages the dues, uniform assessments, fines, penalties, or
26 special assessments of an employee organization; amending
27 s. 447.507, F.S., relating to violation of the strike
28 prohibition; conforming provisions to changes made by the

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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29 | act; providing for severability; providing an effective
 30 | date.

31 |

32 | Be It Enacted by the Legislature of the State of Florida:

33 |

34 | Section 1. Subsections (1) and (3) of section 110.114,
 35 | Florida Statutes, are amended to read:

36 | 110.114 Employee wage deductions.—

37 | (1) The state or any of its departments, bureaus,
 38 | commissions, and officers are authorized and permitted, with the
 39 | concurrence of the Department of Financial Services, to make
 40 | deductions from the salary or wage of any employee or employees
 41 | in such amount as shall be authorized and requested by such
 42 | employee or employees and for such purpose as shall be
 43 | authorized and requested by such employee or employees and shall
 44 | pay such sums so deducted as directed by such employee or
 45 | employees. The concurrence of the Department of Financial
 46 | Services shall not be required for ~~the deduction of a certified~~
 47 | ~~bargaining agent's membership dues deductions pursuant to s.~~
 48 | ~~447.303 or any~~ deductions authorized by a collective bargaining
 49 | agreement.

50 | (3) Notwithstanding ~~the provisions of~~ subsections (1) and
 51 | (2), deductions may not be made for the deduction of an
 52 | employee's membership dues, uniform assessments, fines,
 53 | penalties, or special assessments of deductions as defined in s.
 54 | 447.203(15) for an employee organization, and deductions may not
 55 | be made for purposes of political activity, including
 56 | contributions to a candidate, political party, political

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57 committee, committee of continuous existence, electioneering
 58 communications organization, or organization exempt from
 59 taxation under s. 501(c)(4) or s. 527 of the Internal Revenue
 60 Code as defined in s. 447.203(11) shall be authorized or
 61 permitted only for an organization that has been certified as
 62 the exclusive bargaining agent pursuant to chapter 447 for a
 63 unit of state employees in which the employee is included. Such
 64 deductions shall be subject to the provisions of s. 447.303.

65 Section 2. Subsection (1) of section 112.171, Florida
 66 Statutes, is amended to read:

67 112.171 Employee wage deductions.-

68 (1) The counties, municipalities, and special districts of
 69 the state and the departments, agencies, bureaus, commissions,
 70 and officers thereof are authorized and permitted in their sole
 71 discretion to make deductions from the salary or wage of any
 72 employee or employees in such amount as shall be authorized and
 73 requested by such employee or employees and for such purpose as
 74 shall be authorized and requested by such employee or employees
 75 and shall pay such sums so deducted as directed by such employee
 76 or employees. However, deductions may not be made for the dues,
 77 uniform assessments, fines, penalties, or special assessments of
 78 an employee organization, and deductions may not be made for
 79 purposes of political activity, including contributions to a
 80 candidate, political party, political committee, committee of
 81 continuous existence, electioneering communications
 82 organization, or organization exempt from taxation under s.
 83 501(c)(4) or s. 527 of the Internal Revenue Code.

84 Section 3. Section 447.18, Florida Statutes, is created to

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85 read:

86 447.18 Refund of certain employee dues, assessments,
87 finances, or penalties.-

88 (1) Unless an employee has executed a written
89 authorization, the employee is entitled to a pro rata refund of
90 any dues, uniform assessments, fines, penalties, or special
91 assessments paid by the employee and used by the labor
92 organization of which the employee is a member to make
93 contributions or expenditures, as defined in s. 106.011. The
94 written authorization must be executed by the employee
95 separately for each fiscal year of the labor organization and
96 shall be accompanied with a detailed account, provided by the
97 labor organization, of all contributions and expenditures made
98 by the labor organization in the preceding 24 months.

99 (2) The employee may revoke the authorization described in
100 subsection (1) at any time. If an employee revokes the
101 authorization, the pro rata refund of the employee for such
102 fiscal year shall be in the same proportion as the proportion of
103 the fiscal year for which the authorization was not in effect.

104 (3) A labor organization may not require an employee to
105 provide the authorization described in subsection (1) as a
106 condition of membership in the labor organization.

107 Section 4. Section 447.303, Florida Statutes, is amended
108 to read:

109 447.303 ~~Dues;~~ Deduction and collection of dues or uniform
110 assessments prohibited.-A public employer may not deduct or
111 collect the dues, uniform assessments, fines, penalties, or
112 special assessments of an employee organization from the

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113 compensation of any person employed by the public employer. Any
114 ~~employee organization which has been certified as a bargaining~~
115 ~~agent shall have the right to have its dues and uniform~~
116 ~~assessments deducted and collected by the employer from the~~
117 ~~salaries of those employees who authorize the deduction of said~~
118 ~~dues and uniform assessments. However, such authorization is~~
119 ~~revocable at the employee's request upon 30 days' written notice~~
120 ~~to the employer and employee organization. Said deductions shall~~
121 ~~commence upon the bargaining agent's written request to the~~
122 ~~employer. Reasonable costs to the employer of said deductions~~
123 ~~shall be a proper subject of collective bargaining. Such right~~
124 ~~to deduction, unless revoked pursuant to s. 447.507, shall be in~~
125 ~~force for so long as the employee organization remains the~~
126 ~~certified bargaining agent for the employees in the unit. The~~
127 ~~public employer is expressly prohibited from any involvement in~~
128 ~~the collection of fines, penalties, or special assessments.~~

129 Section 5. Subsection (4) and paragraph (a) of subsection
130 (6) of section 447.507, Florida Statutes, are amended to read:

131 447.507 Violation of strike prohibition; penalties.—

132 (4) An employee organization shall be liable for any
133 damages which might be suffered by a public employer as a result
134 of a violation of the provisions of s. 447.505 by the employee
135 organization or its representatives, officers, or agents. ~~The~~
136 ~~circuit court having jurisdiction over such actions is empowered~~
137 ~~to enforce judgments against employee organizations, as defined~~
138 ~~in this part, by attachment or garnishment of union initiation~~
139 ~~fees or dues which are to be deducted or checked off by public~~
140 ~~employers.~~ No action shall be maintained pursuant to this

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141 subsection until all proceedings which were pending before the
 142 commission at the time of the strike or which were initiated
 143 within 30 days of the strike have been finally adjudicated or
 144 otherwise disposed of. In determining the amount of damages, if
 145 any, to be awarded to the public employer, the trier of fact
 146 shall take into consideration any action or inaction by the
 147 public employer or its agents that provoked or tended to provoke
 148 the strike by the public employees. The trier of fact shall also
 149 take into consideration any damages that might have been
 150 recovered by the public employer under subparagraph (6)(a)4.

151 (6)(a) If the commission determines that an employee
 152 organization has violated s. 447.505, it may:

153 1. Issue cease and desist orders as necessary to ensure
 154 compliance with its order.

155 2. Suspend or revoke the certification of the employee
 156 organization as the bargaining agent of such employee unit.

157 ~~3. Revoke the right of dues deduction and collection~~
 158 ~~previously granted to said employee organization pursuant to s.~~
 159 ~~447.303.~~

160 3.4. Fine the organization up to \$20,000 for each calendar
 161 day of such violation or determine the approximate cost to the
 162 public due to each calendar day of the strike and fine the
 163 organization an amount equal to such cost, notwithstanding the
 164 fact that the fine may exceed \$20,000 for each such calendar
 165 day. The fines so collected shall immediately accrue to the
 166 public employer and shall be used by him or her to replace those
 167 services denied the public as a result of the strike. In
 168 determining the amount of damages, if any, to be awarded to the

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169 public employer, the commission shall take into consideration
170 any action or inaction by the public employer or its agents that
171 provoked, or tended to provoke, the strike by the public
172 employees.

173 Section 6. If any provision of this act or its application
174 to any person or circumstance is held invalid, the invalidity
175 does not affect other provisions or applications of this act
176 which can be given effect without the invalid provision or
177 application, and to this end the provisions of this act are
178 severable.

179 Section 7. This act shall take effect July 1, 2011.

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 1021 (2011)

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

1 Committee/Subcommittee hearing bill: State Affairs Committee
2 Representative(s) Dorworth offered the following:

3
4 **Amendment (with title amendment)**

5 Remove lines 86-103 and insert:

6 447.18 Written authorization required to expend certain
7 employee dues, assessments, fines, or penalties.-

8 (1) A labor organization may not use dues, uniform
9 assessments, fines, penalties, or special assessments paid by an
10 employee to make contributions or expenditures, as defined in s.
11 106.011, without the express written authorization of the
12 employee. The written authorization must be executed by the
13 employee separately for each fiscal year of the labor
14 organization and shall be accompanied with a detailed account,
15 provided by the labor organization, of all contributions and
16 expenditures made by the labor organization in the preceding 24
17 months. The labor organization shall estimate its expected
18 contributions and expenditures for the fiscal year and shall
19 reduce the amount collected during the fiscal year from each

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20 employee that has not executed a written authorization. If the
21 actual contributions and expenditures of the labor organization
22 exceed its estimated contributions and expenditures, the labor
23 organization shall provide a refund at the end of the fiscal
24 year to each employee that has not executed a written
25 authorization.

26 (2) The employee may revoke the authorization described in
27 subsection (1) at any time. If an employee revokes the
28 authorization, the employee shall be entitled to a pro rata
29 reduction of such dues, uniform assessments, fines, penalties,
30 or special assessments for the remainder of the fiscal year of
31 the labor organization. The amount of the reduction shall be
32 based upon the proportion of the contributions and expenditures,
33 as defined in s. 106.011, in relation to the total annual
34 contributions and expenditures of the labor organization for the
35 preceding fiscal year.

36
37
38 -----
39 **T I T L E A M E N D M E N T**

40 Remove lines 12-17 and insert:
41 purposes of political activity; creating s. 447.18, F.S.;
42 prohibiting labor organizations from collecting dues,
43 assessments, fines, or penalties without written authorization;
44 providing for a refund to employees that have not given a
45 written authorization in certain situations; requiring that

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 1021 (2011)

Amendment No. 2

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

1 Committee/Subcommittee hearing bill: State Affairs Committee
2 Representative(s) Dorworth offered the following:

3
4 **Amendment (with title amendment)**

5 Remove line 179 and insert:

6 Section 7. This act shall take effect July 1, 2011 and
7 apply to all collective bargaining agreements entered into after
8 that date.

9
10
11 -----
12 **T I T L E A M E N D M E N T**

13 Remove line 30 and insert:

14 date and applying prospectively to collective bargaining
15 agreements.