

Pension Lawsuit Update:

Judge rules against segregating funds but says she has the power to recover money when FEA prevails in larger lawsuit

July 1, 2011

FEA is seeking to stop the 3-percent pay cut on teachers, school employees and other workers imposed by the Florida Legislature and signed by Gov. Rick Scott. The lawsuit asserts that the Legislature enacted legislation that was unconstitutional when they required the salary cut. The lawsuit further contends that the actions by the Legislature to reduce the cost-of-living benefits of those employees were also unconstitutional.

The new law went into effect July 1 and will force government workers to pay 3 percent of their salaries into the state pension fund. FEA filed a motion with the Circuit Court in Leon County to put those funds into escrow while the law is challenged in court. Early on July 1, Circuit Judge Jackie Fulford denied that motion, but left some encouraging news in her ruling. We believe the judge's order demonstrates that she can direct the state to repay employees the 3 percent contributions if we prevail in this litigation. She has declared that she has the power to enforce that requirement. Although the Judge did not grant our request to sequester the funds being taken from employees' salaries, she has made it plain that if she finds that employees' salaries are being improperly reduced to make pension contributions, that she has the power to make the state pay the money back.

Nothing in the judge's ruling suggests that the FEA's claims are not well taken. Judge Fulford stated that "this should not be construed to mean the court has concluded the plaintiffs [employees] are unlikely to succeed on the merits of this case, but rather that the court will save that determination for a ruling on summary judgment or the trial of this cause."

Judge Fulford set the date for the full hearing of the lawsuit on October 26, 2011.

- Teachers and other school employees entered into public service with few promises, but one was that their retirement was fully paid for by the employer. This action by the leadership of the Legislature and Gov. Rick Scott rips apart and dashes that promise.
- The leaders in the Legislature chose this irresponsible, politically motivated and unconstitutional way of balancing the budget instead of properly addressing the shortfall. Over the past decade, the Legislature has chosen to provide tax breaks to investors and corporations that have accumulated many billions of dollars. If those tax breaks had not been enacted, there would have been no shortfall this year.
- In fact, the Legislature approved further tax breaks for corporations without any public debate during the final hours of this legislative session, while they cut the salaries of hard-working families and enacted severe budget cuts on our public schools.

- FEA undertakes this effort fully realizing that legislative leaders may try to exact retribution. After all, this past session FEA was fully in their crosshairs with the profession-destroying SB 736, massive budget cuts to public education and a spate of bills designed to put our union, and other public-sector unions, out of business. Nevertheless, the importance of protecting the constitutional rights of our members trumps the fears of legislative payback.
- FEA is being joined in this lawsuit by a variety of groups representing public employees throughout the state, including the Florida AFL-CIO, the state affiliates of the Florida Nurses Association, Fraternal Order of Police, the Police Benevolent Association (PBA), the Service Employees International Union (SEIU), the American Federation of State County and Municipal Employees (AFSCME), as well as other unions and groups.