

SENATE No. 2644

The Commonwealth of Massachusetts

In the One Hundred and Ninetieth General Court
(2017-2018)

SENATE, July 31, 2018

The committee on Ways and Means to whom was referred the Senate Bill relative to collective bargaining dues (Senate, No. 1047),-- reports, recommending that the same ought to pass with an amendment substituting a new draft with the same title (Senate, No. 2644).

For the committee,
Joan B. Lovely

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In the One Hundred and Ninetieth General Court
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An Act relative to collective bargaining dues.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Section 10B of chapter 66 of the General Laws, as appearing in the 2016
2 Official Edition, is hereby amended by adding the following paragraph:-

3 The home address, personal email address and home or mobile telephone number of an
4 employee of an agency, executive office, department, board, commission, bureau, division or
5 authority of the commonwealth, or of a political subdivision thereof, or of an authority
6 established by the general court to serve a public purpose, in the custody of the governmental
7 entity which maintains records identifying persons as falling within those categories shall not be
8 public; provided, that the information may be disclosed only to an employee organization whose
9 written aims and objectives on file with the department of labor relations are to represent public
10 employees in collective bargaining under chapter 150E or under chapter 150A for employees of
11 a public authority subject to chapter 150A by chapter 760 of the acts of 1982, a nonprofit
12 organization for retired public employees under chapter 180, a criminal justice agency as defined
13 in section 167 of chapter 6 or as otherwise required by law. The home address, personal email
14 address and home or mobile telephone number of a family member of an employee, contained in

15 a record in the custody of a government agency which maintains records identifying employees
16 of an agency, executive office, department, board, commission, bureau, division or authority of
17 the commonwealth, or of a political subdivision thereof, or of an authority established by the
18 general court to serve a public purpose shall not be public; provided, that the information may be
19 disclosed as required by law.

20 SECTION 2. Section 5 of chapter 150E of the General Laws, as so appearing, is hereby
21 amended by inserting after the first paragraph the following 3 paragraphs: -

22 Provided, however, that notwithstanding this or any other general or special law to the
23 contrary, the exclusive representative may require a non-member to pay for the reasonable costs
24 and fees, including arbitrator fees and related attorney fees for grieving or arbitrating a matter
25 that arises under an agreement negotiated pursuant to this section and is brought at the non-
26 member's request. Employee organizations may require non-members to pay any anticipated
27 proportional costs and fees prior to a grievance or arbitration hearing. Failure to pay costs and
28 fees shall relieve the exclusive representative of further responsibility to the non-member
29 regarding the matter.

30 Notwithstanding this or any other general or special law to the contrary, an exclusive
31 representative's duty of fair representation to a public employee who is in the bargaining unit
32 shall be limited to the negotiation and enforcement of the terms of agreements with the public
33 employer. The laws of the commonwealth shall not be construed to prohibit an employee
34 organization from providing only to its members legal, economic or job-related services or
35 benefits outside of the collective bargaining agreement.

36 SECTION 3. Chapter 150E of the General Laws is hereby amended by inserting after
37 section 5 the following section: -

38 Section 5A. (a) Public employers shall provide to an employee organization access to
39 members of the bargaining unit that the employee organization exclusively represents. Access
40 shall include, but shall not be limited to, the following:

41 (i) the right to meet with individual employees on the premises of the public employer
42 during the work day to investigate and discuss grievances, workplace-related complaints and
43 other workplace issues;

44 (ii) the right to conduct worksite meetings during lunch and other non-work breaks, and
45 before and after the workday, on the employer's premises to discuss workplace issues, collective
46 bargaining negotiations, the administration of collective bargaining agreements, other matters
47 related to the duties of an exclusive representative and internal union matters involving the
48 governance or business of the employee organization; and

49 (iii) the right to meet with newly hired employees, without charge to the pay or leave
50 time of the employees, for a minimum of 30 minutes, not later than 10 calendar days after the
51 date of hire, during new employee orientations or, if the employer does not conduct new
52 employee orientations, at individual or group meetings. In the case of school employees, the
53 employer shall notify the exclusive representative of a hiring decision not later than 10 calendar
54 days after the date a prospective employee accepts an offer of employment, and shall provide to
55 the exclusive representative the employee contact information identified in subsection (b).

56 (b) Not later than 10 calendar days after the date a prospective school employee accepts
57 an offer of employment or after the date of hire for all other public bargaining unit employees,
58 public employers shall provide the following contact information to an exclusive representative
59 employee organization in spreadsheet file format or other format agreed to by the exclusive
60 representative employee organization: name, job, title, worksite location, home address, work

61 telephone numbers, home and personal cellular telephone numbers on file with the public
62 employer, date of hire, work email address and personal email address on file with the public
63 employer.

64 (c) Home addresses, phone numbers, email addresses, dates of birth, bargaining units and
65 groupings of employees and emails or other communications between employee organizations
66 and their members are not public records and are prohibited from disclosure except as provided
67 in clauses Twenty-sixth(o) and (p) of section 7 of chapter 4.

68 (d) The exclusive representative shall have the right to use the email system of a public
69 employer to communicate with bargaining unit members regarding official union-related matters
70 including, but not limited to, elections, results of elections, meetings and social activities;
71 provided, that the use does not create an unreasonable burden on network capability or system
72 administration.

73 (e) The exclusive representative shall have the right to use government buildings and
74 other facilities that are owned or leased by government entities to conduct meetings with unit
75 members regarding bargaining negotiations, the administration of collective bargaining
76 agreements, the investigation of grievances, other workplace-related complaints and issues and
77 internal union matters involving the governance or business of the union; provided, that the use
78 does not interfere with governmental operations. Meetings conducted in government buildings
79 pursuant to this section shall not be for a purpose prohibited by section 13 and section 14 of
80 chapter 55. An exclusive representative conducting a meeting in a government building or other
81 government facility pursuant to this section may be charged for maintenance, security and other
82 costs related to the use of the government building or facility that would not otherwise be
83 incurred by the government entity.

84 (f) Nothing in in this section shall be construed to diminish the obligations of an
85 employer to comply with a collective bargaining agreement that provides greater access and
86 orientation rights than the rights established by this law.

87 (g) A public employer's failure to comply with subsections (a) to (e), inclusive, shall
88 constitute a violation of section 10(a)(5).

89 (h) For the purposes of this section, "exclusive representative" means an employee
90 organization which has been designated as the exclusive representative of employees in a
91 collective bargaining unit as defined in section 3 of chapter 150E.

92 SECTION 4. Section 26 of chapter 161A of the General Laws, as so appearing, is hereby
93 amended by adding the following 3 paragraphs: -

94 A labor organization representing employees may act for and negotiate agreements
95 covering all employees in the unit and shall be responsible for representing the interests of all
96 such employees without discrimination and without regard to employee organization
97 membership. Provided, however, that notwithstanding this or any other general or special law to
98 the contrary, the exclusive representative may require a non-member to pay for the reasonable
99 costs of advancing a grievance on the non-member's behalf to arbitration, including arbitrator
100 fees and the fees of the attorney representing the employee organization. Employee
101 organizations may require non-members to pay anticipated costs and fees prior to a grievance or
102 arbitration hearing. Failure to pay costs and fees shall relieve the exclusive representative of
103 further responsibility to the non-member regarding the grievance or arbitration matter.

104 Notwithstanding this section or any other general or special law to the contrary, an
105 exclusive representative's duty of fair representation to a public employee who is in the
106 bargaining unit shall be limited to the negotiation and enforcement of the terms of agreements

107 with the public employer. The laws of the commonwealth shall not be construed to prohibit an
108 employee organization from providing only to its members legal, economic or job-related
109 services or benefits outside of the collective bargaining agreement.

110 An employee may present a grievance to that employee's employer and have the
111 grievance heard without intervention by the exclusive representative of the employee
112 organization representing the employee; provided, that the exclusive representative is afforded
113 the opportunity to be present at conferences and that any adjustment made shall not be
114 inconsistent with the terms of an agreement then in effect between the employer and the
115 exclusive representative.

116 SECTION 5. Chapter 180 of the General Laws is hereby amended by striking out
117 sections 17A, 17C, 17E and 17G and inserting in place thereof the following section: -

118 Section 17A. Deductions on payroll schedules may be made from the salary of an
119 employee of an amount that the employee may specify in writing to that employee's public
120 employer or its representative under chapter 150E or to an employer made subject to chapter
121 150A by chapter 760 of the acts of 1982, for the payment of union dues or fees to a labor
122 organization or employee organization. The authorization for payroll deduction may be
123 irrevocable pursuant to the terms of that authorization for a period of not longer than 1 year after
124 the anniversary of the authorization and shall be revocable solely pursuant to the terms of
125 revocation specified in the employee authorization. An authorization consistent with the terms of
126 this section shall be accepted by the employer or public employer. The treasurer of the labor
127 organization or employee organization or relief association shall notify the office of the
128 employer or public employer responsible for implementing payroll deductions of an
129 authorization revocation not later than 15 days after it is received.

130 If an authorization for payroll deduction does not specify the terms for revocation, then
131 the authorization may be withdrawn by the employee by giving not less than 60 days' notice in
132 writing of that withdrawal to that employee's employer or public employer responsible for
133 implementing payroll deductions and by filing a copy of the notice with the treasurer of the labor
134 organization or employee organization.

135 The state treasurer or the treasurer of the employer or public employer that employs the
136 employee shall deduct from the salary of that employee the amount of union dues or fees
137 certified to that treasurer on the payroll, and transmit the sum so deducted to the treasurer of the
138 labor organization or employee organization; provided, that the state treasurer or the treasurer of
139 the employer or public employer, as applicable, is satisfied that the treasurer of the employee
140 organization or labor organization has given the employee organization or labor organization a
141 bond, in a form approved by the commissioner of revenue, for the faithful performance of that
142 treasurer's duties, in a sum and with such surety or sureties as are satisfactory to the state
143 treasurer or treasurer of the employer or public employer. Whenever a labor organization or
144 employee organization is certified or obtains consent recognition under chapter 150A or chapter
145 one 150E, such deductions shall be made for dues or fees only to the certified or recognized
146 labor organization or employee organization.

147 This section shall be effective in a county, city or town which has accepted it in the
148 manner provided by section 2 of chapter 740 of the acts of 1950 or which accepts this section in
149 the following manner: (i) in a county, by vote of the county commissioners; (ii) in a city having a
150 Plan D or Plan E charter, by majority vote of its city council; (iii) in any other city, by vote of
151 city council, approved by the mayor; and (iv) in a town, by vote of the board of selectmen.