

HOUSE No. 3854

The Commonwealth of Massachusetts

HOUSE OF REPRESENTATIVES, June 5, 2019.

The committee on Ways and Means, to whom was referred the Bill relative to collective bargaining dues (House, No. 3825), reports recommending that the same ought to pass with an amendment substituting therefor the accompanying bill (House, No. 3854).

For the committee,

AARON MICHLEWITZ.

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**In the One Hundred and Ninety-First General Court
(2019-2020)**

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, home telephone number or mobile telephone
4 number of an employee of an agency, executive office, department, board, commission, bureau,
5 division or authority of the commonwealth, or of a political subdivision thereof, or of an
6 authority established by the general court to serve a public purpose, in the custody of the
7 governmental entity which maintains records identifying persons as falling within those
8 categories shall not be public records; provided, that the information may be disclosed only to an
9 employee organization whose written aims and objectives on file with the department of labor
10 relations are to represent public employees in collective bargaining under chapter 150E or under
11 chapter 150A for employees of a public authority subject to chapter 150A by chapter 760 of the
12 acts of 1962, a nonprofit organization for retired public employees under chapter 180, a criminal
13 justice agency as defined in section 167 of chapter 6 or as otherwise required by law. The home
14 address, personal email address, home telephone number or mobile telephone number of a family

15 member of an employee, contained in a record in the custody of a government agency which
16 maintains records identifying employees of an agency, executive office, department, board,
17 commission, bureau, division or authority of the commonwealth, or of a political subdivision
18 thereof, or of an authority established by the general court to serve a public purpose shall not be
19 public records.

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 2 paragraphs:-

22 The exclusive representative may require a non-member to pay for the reasonable costs
23 and fees, including arbitrator fees and related attorney fees for grieving or arbitrating a matter
24 arising under an agreement negotiated pursuant to this section and brought at the non-member's
25 request. The exclusive representative may require non-members to pay any anticipated
26 proportional costs and fees prior to a grievance or arbitration hearing. Failure to pay costs and
27 fees shall relieve the exclusive representative of further responsibility to the non-member
28 regarding the matter.

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

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

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

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

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

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

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

58 title, worksite location, home address, work telephone numbers, home and personal cellular
59 telephone numbers on file with the public employer, date of hire, work email address and
60 personal email address on file with the public employer.

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

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

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

80 costs related to the use of the government building or facility that would not otherwise be
81 incurred by the government entity.

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

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

87 (h) For the purposes of this section, "exclusive representative" means an employee
88 organization which has been designated as the exclusive representative of employees in a
89 collective bargaining unit as described in section 3.

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

92 The exclusive representative may act for and negotiate agreements covering all
93 employees in the unit and shall be responsible for representing the interests of all such
94 employees without discrimination and without regard to employee organization membership.

95 The exclusive representative may require a non-member to pay for the reasonable costs of
96 advancing a grievance on the non-member's behalf to arbitration, including arbitrator fees and
97 the fees of the attorney representing the employee organization. The exclusive representative
98 may require non-members to pay anticipated costs and fees prior to a grievance or arbitration
99 hearing. Failure to pay costs and fees shall relieve the exclusive representative of further
100 responsibility to the non-member regarding the matter.

101 An exclusive representative's duty of fair representation to a public employee who is in
102 the bargaining unit shall be limited to the negotiation and enforcement of the terms of
103 agreements with the authority. The laws of the commonwealth shall not be construed to prohibit
104 an employee organization from providing only to its members legal, economic or job-related
105 services or benefits outside of the collective bargaining agreement.

106 An employee may present a grievance to the authority and have the grievance heard
107 without intervention by the exclusive representative of the employee organization representing
108 the employee; provided, that the exclusive representative is afforded the opportunity to be
109 present at conferences and that any adjustment made shall not be inconsistent with the terms of
110 an agreement then in effect between the authority and the exclusive representative.

111 SECTION 5. Chapter 180 of the General Laws is hereby amended by striking out section
112 17A and inserting in place thereof the following section:-

113 Section 17A. Deductions on payroll schedules may be made from the salary of an
114 employee of an amount that the employee may specify in writing to that employee's employer or
115 its representative under chapter 150E or to an employer made subject to chapter 150A by chapter
116 760 of the acts of 1962, for the payment of union dues or fees to an employee organization. The
117 authorization for payroll deduction may be irrevocable pursuant to the terms of that authorization
118 for a period of no longer than 1 year after the anniversary of the authorization and shall be
119 revocable solely pursuant to the terms of revocation specified in the employee authorization. An
120 authorization consistent with the terms of this section shall be accepted by the employer. The
121 treasurer of the employee organization or relief association shall notify the office of the employer

122 responsible for implementing payroll deductions of an authorization revocation not later than 15
123 calendar days after it is received.

124 If an authorization for payroll deduction does not specify the terms for revocation, then
125 the authorization may be withdrawn by the employee by giving not less than 60 calendar days'
126 notice in writing of that withdrawal to that employee's employer responsible for implementing
127 payroll deductions and by filing a copy of the notice with the treasurer of the employee
128 organization.

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

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

SECTION 6. Sections 17C, 17E and 17G of said chapter 180 are hereby repealed.