

---

## **OLR Bill Analysis**

### **HB 6935 (as amended by House "A")\***

#### ***AN ACT CONCERNING THE RIGHT OF A PUBLIC EMPLOYEE TO JOIN OR SUPPORT A UNION.***

This bill establishes requirements, subject to certain limitations and conditions, for public employers (i.e., the state, municipalities, and local or regional boards of education) to provide public employee unions with:

1. certain information about newly hired and current employees;
2. access to new employee orientations (if the parties cannot agree on how to provide such access, the bill requires them to arbitrate over the matter); and
3. access to (a) the public employees that they represent and (b) government buildings and facilities to conduct meetings with bargaining unit members.

The bill also establishes certain requirements and criteria related to payroll deductions for dues paid to public employee organizations (e.g., unions). Among other things, these require:

1. public employers to rely on an employee organization's certification that it has and will maintain the deduction authorizations signed by the individuals from whose pay the deductions will be made;
2. the organizations to indemnify public employers for any employee claims about deductions that relied on that certification; and
3. public employers to direct employee requests to cancel or change their deductions to the organization rather than the employer.

The bill prohibits public employers from deterring or discouraging public employees or job applicants from (1) becoming or remaining members of an employee organization, (2) authorizing representation by an employee organization, or (3) authorizing dues deductions to an employee organization. It makes it a prohibited labor practice for (1) public employers to, among other things, encourage an employee to resign or decline membership in a labor organization or (2) public employee unions to contact a public employee who has advised the union that he or she no longer wishes to be contacted.

Lastly, the bill codifies federal case law by explicitly (1) allowing a state employee to opt out of membership in an employee organization; (2) exempting such an employee from paying the organization, as a condition of employment, an amount equal to the regular dues, fees, and assessments charged to a member (i.e., “agency fees”); and (3) giving a municipal employee the right not to join an employee organization.

\*House Amendment “A” replaces the underlying bill (File 478) and, among other things, adds provisions that (1) limit the extent to which public employers must provide employee information; (2) require an employee’s authorization before his or her home address and home phone number are provided to a union representative; (3) generally prohibit public employee unions from disclosing the employee information to third parties; (4) allow public employers to charge public employee unions for using government buildings, subject to certain conditions; and (5) codify federal case law on state and municipal employees’ ability to opt out of union membership.

EFFECTIVE DATE: October 1, 2019, except that the provisions on state or municipal employees declining union membership are effective July 1 2019.

## **EMPLOYEE INFORMATION**

### ***New Employees (§ 1(a))***

The bill requires public employers to provide the exclusive union representative of a public employee union (“exclusive representative”)

with certain information about a newly hired employee in an editable digital file format, when reasonable and agreed to by the employer and exclusive representative. The information consists of the new employee's (1) name; (2) job title, department, and work location; (3) work phone number; and (4) home address, subject to the law that prohibits public agencies from disclosing, under the Freedom of Information Act, the residential address of certain types of public employees.

A public employer must provide this information, when reasonable, with real-time electronic transmission of new hire data but no later than (1) 10 days after the employee is hired or (2) before the first pay period of the month after the employee was hired.

***Information for Negotiations (§ 1(d))***

Beginning on January 1, 2020, the bill also requires public employers to provide exclusive representatives, in an editable digital file format when reasonable and agreed to by the parties, the following information for all negotiations: each bargaining unit employee's (1) name; (2) job title; (3) worksite location; (4) work phone number; (5) hire date; and (6) work email address. If authorized by the employee via written authorization provided to the exclusive representative, the public employer must also provide the employee's home address, home telephone number, personal cell phone number, and personal email address if on file with the public employer.

A public employer must provide this information (1) every 120 days, unless an agreement between the parties requires more frequent or more detailed lists, and (2) in addition to any other employee information to which a labor organization is entitled.

The bill allows an employee to revoke at any time the written authorization required above. The authorization or revocation must be provided to the exclusive representative at either the physical or electronic address provided by the representative for notices about orientation access (see below).

The bill prohibits exclusive representatives from disclosing this information to any unaffiliated third party, excluding vendors that the exclusive representative may use for printing or disseminating communications to members about their collective bargaining agreement and related negotiations. The bill makes it a prohibited labor practice for the exclusive representative to use or release the information for any purpose that does not concern the collective bargaining agreement and related negotiations.

Under the bill, the provisions of the law on security breaches of computerized data containing personal information apply to any improper release of any personal information obtained by the exclusive representative under the bill. The bill further specifies that it does not limit an employee's right to seek additional remedies in court or otherwise for an improper release of information obtained under the bill.

#### **NEW EMPLOYEE ORIENTATION ACCESS**

The bill requires public employers to provide exclusive representatives with access to their new employee orientations. The employer must give the exclusive representative written or electronic notice about an orientation at least seven days in advance unless there is an urgent need critical to the employer's operations. The exclusive representative must give the public employer the physical and electronic address where the notice must be sent by January 31 each year.

The bill requires the parties to determine the structure, time, and manner of the exclusive representative's access to an orientation through mutual agreement. It specifies that the bill does not require a public employer to hold an employee orientation if it is not the employer's custom and practice to do so.

The bill requires the parties to negotiate these issues upon either party's request. Failure to reach an agreement on the issues must be subject to compulsory interest arbitration under the bill. The parties' failure to reach an agreement and initiation of arbitration does not stay

or otherwise prevent the employer from proceeding with the orientation at issue.

If they fail to reach an agreement within 45 days after first meeting, or 60 days after the request to negotiate, whichever is earlier, the bill allows either party to demand compulsory interest arbitration. If a party makes such a demand, any procedure prescribed in state law applies, but the arbitrator must consider the following factors:

1. the exclusive representative's ability to communicate with the employees he or she represents;
2. the exclusive representative's legal obligations to the employees;
3. applicable state, federal, and local laws;
4. stipulations by the parties;
5. the public's interest and welfare and the financial condition and day-to-day operations of similarly situated public agencies;
6. the structure, time, and manner of access to new employee orientations in comparable public agencies, including access provisions in other memoranda of understanding or collective bargaining agreements;
7. the labor organization's need to meaningfully communicate through cost-effective and efficient means with the employees it represents; and
8. any other factors that are normally or traditionally considered when establishing how an exclusive representative may access new employee orientations.

## **EMPLOYEE, PUBLIC BUILDING, AND FACILITY ACCESS**

### ***Employees (§ 1(c))***

The bill requires public employers to provide exclusive representatives with access to the public employees that the representatives represent. This includes the right to:

1. meet with individual employees on the public employer's premises during workdays to investigate and discuss grievances, workplace-related complaints, and other workplace issues;
2. conduct worksite meetings on the employer's premises before and after the workday and during meal periods and other paid or unpaid breaks; and
3. meet with a newly hired employee within the bargaining unit, without charge to the employee's pay or leave time, for up to 60 minutes within 30 calendar days after the employee is hired.

***Buildings and Facilities (§ 1(f))***

Consistent with the above provision providing exclusive representatives with access to the public employees, the bill gives exclusive representatives the right to use state and municipal government-owned or -leased buildings and facilities to conduct meetings with bargaining unit members. It gives the representatives the right to hold such meetings at a reasonable time and place, as long as the meetings do not interfere with the public employer's operations. It also allows public employers to charge customary and regular fees for using the buildings and facilities, as long as they are uniformly applied to other people or entities, consistent with existing policies, if any, and as may be adopted or amended by the government entity.

***Email (§ 1(e))***

The bill also gives exclusive representatives the right to use public employers' email systems to communicate with bargaining unit members about collective bargaining, administering collective bargaining agreements, investigating grievances, other workplace-related complaints and issues, and internal union matters involving the union's governance or business. It makes any communications made under the bill subject to the state's Freedom of Information Act. It also specifies that this provision does not limit a labor organization's rights to communicate with public employees.

***Greater Access Permitted (§ 1(g))***

The bill specifies that its provisions establish minimum requirements for an exclusive representative's access to and communication with bargaining unit employees and do not prevent a public employer from granting the representative greater access to or communication with public employees.

## **PAYROLL DEDUCTIONS**

### ***Deduction Authorizations (§ 1(h)-(j))***

The bill allows a public employer's employees and retirees to authorize deductions from their salaries, wages, or retirement benefits to pay dues in or for a service, program, or committee that is provided or sponsored by an employee organization (e.g., union) or bona fide association. The organization's membership must be entirely or partly comprised of the public employer's and the organization's employees and its objectives must include improving the employees' terms or conditions of employment to advance the employees' welfare.

The bill requires public employers to honor the employee deduction authorizations that a labor organization creates or adopts, as long as they are in a form that satisfies the state's Uniform Electronic Transactions Act, including electronic and voice authorizations that meet the act's electronic signature requirements.

Under the bill, public employers that administer employee-authorized payroll deductions must rely on an employee organization's certification that it has and will maintain authorizations, signed by the individuals from whose pay the deductions will be made. An organization that makes such a certification does not have to provide copies of the authorizations to the public employer unless a dispute arises about an authorization's existence or terms. The organizations must indemnify the public employer for any claims an employee makes about deductions that rely on the certification.

### ***Deduction Cancellations, Changes, or Revocations (§ 1(j))***

The bill requires public employers to direct employee requests to cancel or change their deductions to the employee organization rather than the employer. It requires the (1) employer to rely on information

provided by the organization about whether the deductions were properly canceled or changed and (2) organization to indemnify the employer for any claims an employee makes about deductions that rely on such information.

***Liability (§§ 1(k) & (l))***

The bill limits a labor organization's or public employer's liability to each other for any amounts improperly deducted. It prohibits a public agency or court from awarding further damages or penalties. It specifies that it does not limit an employee's right to bring a claim or seek relief against either the public employer or exclusive representative for improperly deducted amounts.

The bill also makes public employers liable to labor organizations, without recourse to the employees, for the full amount of dues that an employer fails to remit to the labor organization, as long as the organization complies with the bill's provisions.

***Disputes (§ 1(m))***

If a dispute arises between an employee and the labor organization over a deduction authorization's existence, validity, or revocation, the bill requires it to be resolved through a prohibited labor practice proceeding under the state's collective bargaining laws for state, municipal, or board of education employees, as applicable.

**PROHIBITED LABOR PRACTICES**

The bill makes it a prohibited labor practice for a public employer to do the following:

1. encourage an employee to resign or decline membership in a labor organization,
2. encourage an employee to revoke authorization for a payroll deduction of dues to a labor organization,
3. knowingly aid any such effort by another entity, and
4. allow an entity to use the employer's email system to discourage



membership in a labor organization or discourage authorization of payroll deductions for the organization's dues.

It also makes it a prohibited labor practice for an exclusive representative to contact an employee who has advised the representative, in writing or via email, that he or she no longer wishes to be contacted by the representative. However, the representative may contact such an employee to comply with his or her duty of fair representation under the state employee collective bargaining law.

**COMMITTEE ACTION**

Labor and Public Employees Committee

Joint Favorable

Yea 9 Nay 4 (03/21/2019)