



House of Representatives

File No. 1022

General Assembly

January Session, 2019

(Reprint of File No. 478)

House Bill No. 6935
As Amended by House Amendment
Schedule "A"

Approved by the Legislative Commissioner
May 31, 2019

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

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective October 1, 2019*) (a) Except as otherwise
2 provided in this section, a public employer shall provide the exclusive
3 union representative of a public employee union, in an editable digital
4 file format, when reasonable and agreed to by the public employer and
5 exclusive union representative, the following information if on file
6 with the employer: Name, job title, department, work location, work
7 telephone number and, subject to section 1-217 of the general statutes,
8 the home address of any newly hired employee. The public employer
9 shall provide the exclusive union representative such information,
10 when reasonable, with real-time electronic transmission of new hire
11 data but in no event later than ten days after such employee is hired or
12 not later than the first pay period of the month following the hiring of
13 such employee. For purposes of this section, "public employer" means
14 (1) "employer", as defined in section 5-270 of the general statutes, (2)
15 "municipal employer", as defined in section 7-467 of the general
16 statutes, and (3) local and regional boards of education.

17 (b) (1) Each public employer shall provide the exclusive union
18 representative of a public employee union with access to its new
19 employee orientations. The public employer shall give the exclusive
20 union representative not less than seven days' written or electronic
21 notice in advance of such an orientation, except a shorter notice may be
22 provided in any instance where there is an urgent need critical to the
23 public employer's operations. The exclusive union representative shall
24 provide the public employer with the physical and electronic address
25 regarding such notice annually by January thirty-first of each year. The
26 structure, time and manner of such exclusive union representative's
27 access shall be determined through a mutual agreement between the
28 parties, subject to the provisions of this subsection. Nothing in this
29 section shall require a public employer to hold an employee
30 orientation if it is the custom and practice of the public employer not to
31 do so.

32 (2) Upon request of the public employer or the exclusive union
33 representative, the parties shall negotiate regarding the structure, time
34 and manner of access by the exclusive union representative to a new
35 employee orientation. Failure to reach agreement on such structure,
36 time and manner of such access shall be subject to compulsory interest
37 arbitration pursuant to this subsection. The failure of the public
38 employer and exclusive union representative to reach agreement and
39 the initiation of arbitration pursuant to this subsection shall not stay or
40 otherwise prevent the public employer from proceeding with the
41 employee orientation at issue.

42 (3) When negotiating access regarding a new employee orientation
43 pursuant to subdivision (2) of this subsection, if a dispute has not been
44 resolved within forty-five days after the first meeting of the parties or
45 within sixty days after the initial request to negotiate was made,
46 whichever is earlier, either party may make a demand for compulsory
47 interest arbitration. If such a demand is made, any procedure
48 prescribed pursuant to the general statutes shall apply, except that the
49 factors considered by the arbitrator shall be: (A) The ability of the
50 exclusive union representative to communicate with the public

51 employees it represents, (B) the legal obligations of the exclusive union
52 representative to such public employees, (C) state, federal and local
53 laws that are applicable to the employer and the employees, (D)
54 stipulations of the parties, (E) the interests and welfare of the public
55 and the financial condition and day-to-day operations of similarly
56 situated public agencies, (F) the structure, time and manner of access
57 of the exclusive union representative to a new employee orientation in
58 comparable public agencies, including, but not limited to, access
59 provisions in other memoranda of understanding or collective
60 bargaining agreements containing such provisions, (G) the labor
61 organization's need to meaningfully communicate through cost-
62 effective and efficient means with the public employees it represents,
63 and (H) any other factors that are normally or traditionally taken into
64 consideration in establishing the structure, time and manner of access
65 of the exclusive union representative to a new employee orientation.

66 (c) A public employer shall provide the exclusive union
67 representative access to the public employees that such exclusive
68 union representative represents. Such access includes, but shall not be
69 limited to: (1) The right to meet with individual employees on the
70 premises of the public employer during the workday to investigate
71 and discuss grievances, workplace-related complaints, and other
72 workplace issues, (2) the right to conduct worksite meetings during
73 meal periods and during other paid or unpaid breaks, and before and
74 after the workday, on the employer's premises, and (3) the right to
75 meet with newly hired employees within the bargaining unit, without
76 charge to the pay or leave time of the employees, for up to sixty
77 minutes, within thirty calendar days from the date of hire.

78 (d) In addition to any labor organization's right to employee
79 information pursuant to the laws of this state or any applicable
80 collective bargaining agreement, beginning on January 1, 2020, every
81 one hundred twenty calendar days, unless more frequent or more
82 detailed lists are required by an agreement between the parties, a
83 public employer shall provide the exclusive union representative, in an
84 editable digital file format when reasonable and agreed to by the

85 parties, the following information for all negotiations: Each bargaining
86 unit employee's name, job title, worksite location, work telephone
87 number, date of hire, work electronic mail address and, if authorized
88 by the employee via written authorization provided to the exclusive
89 union representative, the employee's home address, home telephone
90 number, personal cellular mobile telephone number and personal
91 electronic mail address if on file with the public employer. Any written
92 authorization required under this subsection may be revoked by the
93 employee at any time and such authorization or revocation shall be
94 provided to the exclusive union representative at either the physical or
95 electronic address provided by such representative pursuant to
96 subdivision (1) of subsection (b) of this section. Any exclusive union
97 representative that obtains information pursuant to this subsection
98 shall not disclose such information to any unaffiliated third party,
99 excluding vendors the exclusive union representative may use for
100 purposes of printing or disseminating communications to members
101 concerning the collective bargaining agreement and related
102 negotiations. It shall be a prohibited labor practice for the exclusive
103 union representative to use or release the information obtained
104 pursuant to this subsection for any purpose other than concerning the
105 collective bargaining agreement and related negotiations. The
106 provisions of section 36a-701b of the general statutes shall apply to any
107 improper release of any personal information, as defined in said
108 section, obtained by the exclusive union representative pursuant to
109 this section. Nothing in this section shall limit the right of an employee
110 to seek additional remedies in court or otherwise for an improper
111 release of information obtained pursuant to this section.

112 (e) The exclusive union representative shall have the right to use the
113 electronic mail systems of public employers to communicate with
114 bargaining unit members regarding collective bargaining, the
115 administration of collective bargaining agreements, the investigation
116 of grievances, other workplace-related complaints and issues and
117 internal union matters involving the governance or business of the
118 union. Any communications made pursuant to this section shall be

119 subject to chapter 14 of the general statutes. The provisions of this
120 subsection shall not limit the rights of a labor organization to
121 communicate with public employees.

122 (f) Consistent with the provisions of subsection (c) of this section,
123 the exclusive union representative shall have the right to use state and
124 municipal government buildings and other facilities that are owned or
125 leased by government entities to conduct meetings with bargaining
126 unit members. An exclusive union representative shall have the right
127 to hold such meetings at a reasonable time and place, provided the
128 meetings do not interfere with the public employer's operations. Use of
129 state and municipal government buildings and other facilities that are
130 owned or leased by government entities pursuant to this subsection
131 may be subject to customary and regular charges for such use, if any,
132 as uniformly applied to other persons or entities, consistent with
133 existing policies, if any, and as may be adopted or amended by the
134 government entity.

135 (g) The requirements set forth in this section establish the minimum
136 requirements for access to and communication with bargaining unit
137 employees by the exclusive union representative and shall not prevent
138 a public employer from granting the exclusive union representative
139 greater access to or communication with public employees.

140 (h) Employees, including retired employees, of a public employer,
141 may authorize deductions, consistent with state and federal law, to be
142 made from their salaries, wages or retirement allowances for the
143 payment of dues in, or for any other service, program or committee
144 provided or sponsored by any employee organization or bona fide
145 association whose membership is comprised, in whole or in part, of
146 employees of the public employer and employees of such organization
147 and which has as one of its objectives improvements in the terms or
148 conditions of employment for the advancement of the welfare of such
149 employees.

150 (i) A public employer shall honor employee authorizations created

151 or adopted by a labor organization for the deductions described in any
152 form that satisfies the requirements of the Connecticut Uniform
153 Electronic Transactions Act, sections 1-266 to 1-286, inclusive, of the
154 general statutes, including, but not limited to, electronic and voice
155 authorizations that meet the requirements of an electronic signature
156 pursuant to said act.

157 (j) Public employers that provide for the administration of payroll
158 deductions authorized by employees for employee organizations shall:
159 (1) Rely on a certification from any employee organization requesting a
160 deduction or reduction that such organization has and will maintain
161 an authorization, signed by the individual from whose salary or wages
162 the deduction or reduction is to be made. An employee organization
163 that certifies that it has and will maintain individual employee
164 authorizations shall not be required to provide a copy of an individual
165 authorization to the public employer unless a dispute arises about the
166 existence or terms of the authorization. The employee organization
167 shall indemnify the public employer for any claims made by the
168 employee for deductions made in reliance on that certification, and (2)
169 direct employee requests to cancel or change deductions for employee
170 organizations to the employee organization, rather than to the public
171 employer. The public employer shall rely on information provided by
172 the employee organization regarding whether deductions for an
173 employee organization were properly canceled or changed, and the
174 employee organization shall indemnify the public employer for any
175 claims made by the employee for deductions made in reliance on such
176 information.

177 (k) A labor organization or public employer shall only be liable to
178 each other for any amounts improperly deducted pursuant to this
179 section. No further damages or penalties shall be awarded by any
180 public agency or court. Nothing in this section shall limit the right of
181 an employee to bring a claim or seek any relief against either the public
182 employer or exclusive union representative for amounts improperly
183 deducted.

184 (l) Notwithstanding any other provision of this section, a public
185 employer shall be liable to a labor organization, without recourse to
186 the employees, for the full amount of dues that such employer fails to
187 remit to the labor organization, provided the labor organization has
188 complied with the provisions of this section.

189 (m) If a dispute arises between the employee and the labor
190 organization regarding the existence, validity or revocation of a payroll
191 deduction authorization, the dispute shall be resolved through a
192 prohibited labor practice proceeding pursuant to sections 5-272, 5-274,
193 7-470, 7-471 and 10-153e of the general statutes, as applicable.

194 (n) A public employer shall not deter or discourage public
195 employees or applicants for public employee positions from becoming
196 or remaining members of an employee organization, or from
197 authorizing representation by an employee organization, or from
198 authorizing dues or deductions to an employee organization.

199 (o) It shall be a prohibited labor practice for a public employer to: (1)
200 Encourage an employee to resign or decline to obtain membership in a
201 labor organization, (2) encourage an employee to revoke authorization
202 for a payroll deduction of dues to a labor organization, (3) knowingly
203 aid any such effort by any other entity, and (4) permit use of the
204 employer's electronic mail system by any entity to discourage
205 membership in a labor organization or discourage authorization of
206 payroll deduction of dues to a labor organization. It shall be a
207 prohibited labor practice for an exclusive union representative to
208 contact an employee who has advised the exclusive union
209 representative, in writing or via electronic mail at the address
210 provided in subdivision (1) of subsection (b) of this section that he or
211 she no longer wishes to be contacted by the exclusive union
212 representative, except that the exclusive union representative may
213 continue to contact any such employee in order to comply with its
214 duty of fair representation under section 5-271 of the general statutes.

215 Sec. 2. Section 5-271 of the general statutes is amended by adding

216 subsection (g) as follows (*Effective July 1, 2019*):

217 (NEW) (g) Notwithstanding the provisions of subsections (a) to (f),
218 inclusive, of this section, any employee may opt out of membership of
219 any employee organization.

220 Sec. 3. Subsection (a) of section 5-280 of the general statutes is
221 repealed and the following is substituted in lieu thereof (*Effective July*
222 *1, 2019*):

223 (a) If an exclusive representative has been designated for the
224 employees in an appropriate collective bargaining unit, each employee
225 in such unit who is not a member of the exclusive representative shall
226 be required, as a condition of continued employment, to pay to such
227 organization for the period that it is the exclusive representative, an
228 amount equal to the regular dues, fees and assessments that a member
229 is charged, provided any employee who has opted out of membership
230 shall not be required to make such payment.

231 Sec. 4. Subsection (a) of section 7-468 of the general statutes is
232 repealed and the following is substituted in lieu thereof (*Effective July*
233 *1, 2019*):

234 (a) Employees shall have, and shall be protected in the exercise of,
235 the right of self-organization, to form, join, not join or assist any
236 employee organization, to bargain collectively through representatives
237 of their own choosing on questions of wages, hours and other
238 conditions of employment and to engage in other concerted activities
239 for the purpose of collective bargaining or other mutual aid or
240 protection, free from actual interference, restraint or coercion.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2019</i>	New section
Sec. 2	<i>July 1, 2019</i>	5-271
Sec. 3	<i>July 1, 2019</i>	5-280(a)
Sec. 4	<i>July 1, 2019</i>	7-468(a)

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact: None

Municipal Impact: None

Explanation

The bill, which provides guidelines for public employers regarding the rights of their employees to join or remain members of a union, has no fiscal impact to the State or municipalities.

House "A" clarified the guidelines that have no fiscal impact.

The Out Years

State Impact: None

Municipal Impact: None

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)