LCO No. 1739

Raised Bill No. 5270

February Session, 2020

LCO No. 1739

Referred to Committee on LABOR AND PUBLIC EMPLOYEES

Introduced by:

(LAB)

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:

Section 1. (NEW) (Effective October 1, 2020) (a) Except as otherwise provided in this section, a public employer shall provide the exclusive representative of a public employee organization, in an editable digital file format, when reasonable and agreed to by the public employer and exclusive representative, the following information if on file with the employer: Name, job title, department, work location, work telephone number and, subject to section 1-217 of the general statutes, the home address of any newly hired employee. The public employer shall provide the exclusive representative such information, when reasonable, with real-time electronic transmission of new hire data but in no event later than ten days after such employee is hired or not later than the first pay period of the month following the hiring of such employee. For purposes of this section, (1) "public employer" means (A) "employer", as defined in section 5-270 of the general statutes, (B) "municipal employer", as defined in section 7-467 of the general statutes, and (C) local and regional boards of education, and (2) "public employee
organization" means any lawful association, labor organization, federation or council having as a primary purpose the improvement of wages, hours and other conditions of employment among employees of public employers.

(b) (1) Each public employer shall provide the exclusive representative of a public employee organization access to its new employee orientations. The public employer shall give the exclusive representative not less than ten days' written or electronic notice in advance of such an orientation, except a shorter notice may be provided in any instance where there is an urgent need critical to the public employer's operations. The exclusive representative shall provide the public employer with the physical and electronic address to which such notice shall be sent annually on or before January thirty-first of each year. The structure, time and manner of such exclusive representative's access shall be determined through mutual agreement between the parties, subject to the provisions of this subsection.

(2) Upon request of the public employer or the exclusive representative, the parties shall negotiate regarding the structure, time and manner of access by the exclusive representative to a new employee orientation. Failure to reach agreement on such structure, time and manner of such access shall be subject to compulsory interest arbitration pursuant to this subsection.

(3) When negotiating access regarding a new employee orientation pursuant to subdivision (2) of this subsection, if a dispute has not been resolved within forty-five days after the first meeting of the parties or within sixty days after the initial request to negotiate was made, whichever is earlier, either party may make a demand for compulsory interest arbitration. If such a demand is made, any procedure prescribed pursuant to the general statutes shall apply, except that the factors considered by the arbitrator shall be: (A) The ability of the exclusive representative to communicate with the public employees it represents, (B) the legal obligations of the exclusive representative to such public employees, (C) state, federal and local laws that are applicable to the
employer and the employees, (D) stipulations of the parties, (E) the
interests and welfare of the public and the financial condition and day-
to-day operations of similarly situated public agencies, (F) the structure,
time and manner of access of the exclusive representative to a new
employee orientation in comparable public employers, including, but
not limited to, access provisions in other memoranda of understanding
or collective bargaining agreements containing such provisions, (G) the
public employee organization's need to meaningfully communicate
through cost-effective and efficient means with the public employees it
represents, and (H) any other factors that are normally or traditionally
taken into consideration in establishing the structure, time and manner
of access of the exclusive representative to a new employee orientation.

(c) A public employer shall provide the exclusive representative
access to the public employees that such exclusive representative
represents. Such access includes, but shall not be limited to: (1) The right
to meet with individual employees on the premises of the public
employer during the workday to investigate and discuss grievances,
workplace-related complaints and other workplace issues, (2) the right
to conduct worksite meetings during meal periods and during other
paid or unpaid breaks, and before and after the workday, on the
employer's premises, and (3) the right to meet with newly hired
employees within the bargaining unit, without charge to the pay or
leave time of the employees, for up to one hundred twenty minutes,
within thirty calendar days after the date of hire, during new employee
orientations, or if the public employer does not conduct new employee
orientation, at individual or group meetings.

(d) In addition to any public employee organization's right to
employee information pursuant to the laws of this state or any
applicable collective bargaining agreement, beginning on January 1,
2021, every one hundred twenty calendar days, unless more frequent or
more detailed lists are required by agreement between the parties, a
public employer shall provide the exclusive representative, 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 name, job title, worksite location, work telephone number, date of hire, work electronic mail address and, if authorized by the employee via written authorization provided to the exclusive representative, the employee's home address, home telephone number, personal cellular mobile telephone number and personal electronic mail address if on file with the public employer. Any written authorization required under this subsection may be revoked by the employee at any time and such authorization or revocation shall be provided to the exclusive representative at either the physical or electronic address provided by such representative pursuant to subdivision (1) of subsection (b) of this section. Any exclusive representative who obtains information pursuant to this subsection shall not disclose such information to any unaffiliated third party, excluding vendors the exclusive representative may use for purposes of printing or disseminating communications to members. The provisions of section 36a-701b of the general statutes shall apply to any improper release of any personal information, as defined in said section, obtained by the exclusive representative pursuant to this section. Nothing in this section shall limit the right of an employee to seek additional remedies in court or otherwise for an improper release of information obtained pursuant to this section.

(e) The exclusive representative shall have the right to use the electronic mail systems of public employers to communicate with bargaining unit members regarding collective bargaining, the administration of collective bargaining agreements, the investigation of grievances, other workplace-related complaints and issues, and internal matters involving the governance or business of the public employee organization. Any communications made pursuant to this section shall be subject to chapter 14 of the general statutes. The provisions of this subsection shall not limit the rights of a public employee organization to communicate with public employees.

(f) Consistent with the provisions of subsection (c) of this section, the exclusive representative shall have the right to use state and municipal government buildings and other facilities that are owned or leased by
public employers to conduct meetings with bargaining unit members. An exclusive representative shall have the right to hold such meetings at a reasonable time and place, provided the meetings do not interfere with the public employer's operations. An exclusive representative shall have the right to conduct such meetings without undue interference and may place reasonable restrictions on the conduct of an individual attending such meetings.

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

(h) Employees, including retired employees, of a public employer may authorize deductions, consistent with state and federal law, to be made from their salaries, wages or retirement allowances for the payment of dues in, or for any other service, program or committee provided or sponsored by any public employee organization.

(i) A public employer shall honor employee authorizations created or adopted by a public employee organization for the deductions described in any form that satisfies the requirements of sections 1-266 to 1-286, inclusive, of the general statutes, including, but not limited to, electronic and voice authorizations that meet the requirements of an electronic signature pursuant to said sections. The revocability of an authorization shall be determined by the terms of the authorization.

(j) Public employers that provide for the administration of payroll deductions authorized by employees for public employee organizations shall: (1) Rely on a certification from any public employee organization requesting a deduction or reduction that such organization has and will maintain an authorization, signed by the individual from whose salary or wages the deduction or reduction is to be made. A public employee organization that certifies that it has and will maintain individual employee authorizations shall not be required to provide a copy of an
individual authorization to the public employer unless a dispute arises about the existence or terms of the authorization. The public employee organization shall indemnify the public employer for any claims made by the employee for deductions made in reliance on that certification, and (2) direct employee requests to cancel or change deductions for public employee organizations to the employee organization, rather than to the public employer. The public employer shall rely on information provided by the public employee organization regarding whether deductions for the employee organization were properly canceled or changed, and the employee organization shall indemnify the public employer for any claims made by the employee for deductions made in reliance on such information. Deductions may be revoked only pursuant to the terms of the employees' written authorization.

(k) A public employee organization or public employer shall only be liable to each other for any amounts improperly deducted pursuant to this section. No further damages or penalties shall be awarded by any public agency or court.

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

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

(n) The failure of an employer to comply with the provisions of this section shall be a violation of the duty to bargain and an unfair labor
practice. Relief for the violation shall be reimbursement by the public employer of dues that should have been deducted or paid based on a valid authorization given by the employee or employees. The provisions of a collective bargaining agreement that contain the obligations set forth in this section may be enforced in accordance with the provisions of this section.

(o) A public employer shall not deter or discourage public employees or applicants for public employee positions from becoming or remaining members of a public employee organization, or from authorizing representation by a public employee organization, or from authorizing dues or deductions to a public employee organization.

(p) It shall be a prohibited practice for a public employer to: (1) Encourage an employee to resign or decline to obtain membership in a public employee organization, (2) encourage an employee to revoke authorization for a payroll deduction of dues to a public employee organization, (3) knowingly aid any such effort by any other entity, and (4) permit use of the employer's electronic mail system by any entity to discourage membership in a public employee organization or discourage authorization of payroll deduction of dues to a public employee organization.

Sec. 2. Section 5-271 of the general statutes is amended by adding subsection (g) as follows (Effective July 1, 2020):

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

Sec. 3. Subsection (a) of section 5-280 of the general statutes is repealed and the following is substituted in lieu thereof (Effective July 1, 2020):

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

This act shall take effect as follows and shall amend the following sections:

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<thead>
<tr>
<th>Section</th>
<th>Date</th>
<th>Action</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>October 1, 2020</td>
<td>New section</td>
</tr>
<tr>
<td>2</td>
<td>July 1, 2020</td>
<td>5-271</td>
</tr>
<tr>
<td>3</td>
<td>July 1, 2020</td>
<td>5-280(a)</td>
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</table>

Statement of Purpose:
To protect the rights of public employees to join or support unions.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]