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## OLR Bill Analysis

sSB 908 (File 287, as amended by Senate "A")\*

### ***AN ACT CONCERNING ACCESS TO CERTAIN PUBLIC EMPLOYEES BY THE EXCLUSIVE BARGAINING REPRESENTATIVE OF A PUBLIC EMPLOYER BARGAINING UNIT.***

#### **SUMMARY**

This bill establishes requirements 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 new and current employees;
2. access to new employee orientations; and
3. access to (a) the employees that they represent and (b) government buildings and facilities to conduct meetings with bargaining unit members.

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

1. public employers to rely on a union'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 unions 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 union 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 a public employee union, (2) authorizing representation

by one, or (3) authorizing dues or deductions to one. It makes it a prohibited labor practice for public employers to, among other things, encourage an employee to resign or decline membership in a public employee union.

The bill makes an employer's failure to comply with the bill's provisions a violation of the duty to bargain and an unfair labor practice. It also allows the provisions of a collective bargaining agreement that contain obligations set forth in the bill to be enforced under the bill's provisions.

\*Senate Amendment "A" (1) specifies that an arbitration over new employee orientations must follow the applicable arbitration procedure already in statute, rather than any procedure prescribed in law; (2) requires public employers to provide certain information about current employees, rather than only requiring them to do so if possible; and (3) removes inapplicable statutory citations.

EFFECTIVE DATE: October 1, 2021

## **EMPLOYEE INFORMATION**

### ***New Employees (§ 1(a))***

The bill requires public employers to provide an exclusive representative with a newly hired employee's (1) name; (2) job title, department, and work location; (3) work phone number; and (4) home address. Under the bill, an "exclusive representative" is public employee organization certified as the exclusive bargaining representative of a public employer bargaining unit. A "public employee organization" is a lawful association, labor organization, federation or council whose primary purpose is improving public employees' wages, hours, and employment conditions.

The bill requires the public employer to provide the information in an editable digital file format, and if possible, in a format agreed to by the exclusive representative. If possible, the employer must also provide the information with real-time electronic transmission of new hire data, but no later than 10 days after the employee was hired or the

first pay period of the month after the employee was hired, whichever is earlier.

***Current Employees (§ 1(d))***

Beginning on January 1, 2022, the bill also requires public employers to provide exclusive representatives with each bargaining unit employee's (1) name; (2) job title; (3) worksite location; (4) work phone number; (5) hire date; (6) work email address; and (7) home address. The employer must provide the information in an editable digital file format agreed to by the exclusive representative (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 public employee organization is entitled.

If authorized by the employee via written authorization provided to the exclusive representative, the information above must also include the employee's home telephone number, personal cell phone number, and personal email address if on file with the public employer. The bill allows an employee to revoke the authorization at any time. 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).

**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 10 days in advance unless there is an urgent need critical to the employer's operations, requiring shorter notice. By January 31 each year, the exclusive representative must give the public employer the physical and electronic address where the notice must be sent.

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 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.

If they fail to reach an agreement within 45 days after their 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 the demand, the applicable arbitration 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 it 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 employers, including access provisions in other memoranda of understanding or collective bargaining agreements;
7. the public employee 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 they represent. This includes the right to:

1. meet with individual employees on the 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 between 30 and 120 minutes within 30 calendar days after the employee is hired, during orientations, or if the employer does not hold orientations, at individual or group meetings.

***Email (§ 1(e))***

The bill 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 public employee organization's governance or business. It also specifies that this provision does not limit a public employee organization's rights to communicate with public employees.

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

Consistent with the bill's provisions giving exclusive representatives access to 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 the meetings (1) at a reasonable time and place, as long as they do not interfere with the public employer's operations, and (2) without undue interference. It also allows them to place reasonable restrictions on the conduct of someone attending the meetings.

***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 a public employee organization. It requires public employers to honor the deduction authorizations that the 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. The revocability of an authorization must be determined by the authorization's terms.

Under the bill, public employers that administer employee-authorized payroll deductions must rely on a public employee organization's certification, when requesting a deduction or reduction, that it has and will maintain authorizations, signed by the individuals from whose pay the deductions will be made. An organization that makes this certification does not have to provide copies of the authorizations to the public employer unless a dispute arises about their 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 public 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 this information. Under the bill, deductions may be revoked only under the terms of the employee's written authorization.

***Liability (§§ 1(k) & (l))***

The bill limits a public employee organization's or public employer's liability to the amounts improperly deducted and prohibits a public agency or court from awarding further damages or penalties.

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

***Disputes (§ 1(m))***

If a dispute arises between an employee and the public employee 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 public employee organization,
2. encourage an employee to revoke authorization for a payroll deduction of dues to an organization,
3. knowingly aid such an effort by another entity, or
4. allow an entity to use the employer's email system to discourage membership in a public employee organization or discourage authorization of payroll deductions for the

organization's dues.

**COMMITTEE ACTION**

Labor and Public Employees Committee

Joint Favorable

Yea 9 Nay 4 (03/18/2021)