



Senate

General Assembly

File No. 287

January Session, 2021

Substitute Senate Bill No. 908

Senate, April 6, 2021

The Committee on Labor and Public Employees reported through SEN. KUSHNER of the 24th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

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

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

1 Section 1. (NEW) (*Effective October 1, 2021*) (a) Except as otherwise
2 provided in this section, a public employer shall provide an exclusive
3 representative, in an editable digital file format, and, if possible, in a
4 format agreed to by the exclusive representative, the following
5 information if on file with the employer: Name, job title, department,
6 work location, work telephone number and the home address of any
7 newly hired employee. The public employer shall provide the exclusive
8 representative such information, if possible, with real-time electronic
9 transmission of new hire data but in no event later than ten days after
10 such employee is hired or the first pay period of the month following
11 the hiring of such employee, whichever is earlier. For purposes of this
12 section, (1) "public employer" means (A) "employer", as defined in
13 section 5-270 of the general statutes, (B) "municipal employer", as

14 defined in section 7-467 of the general statutes, and (C) local and
15 regional boards of education, (2) "public employee organization" means
16 any lawful association, labor organization, federation or council having
17 as a primary purpose the improvement of wages, hours and other
18 conditions of employment among employees of public employers, and
19 (3) "exclusive representative" means the public employee organization
20 certified or recognized in accordance with state law to be the exclusive
21 bargaining representative of a public employer bargaining unit.

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

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

40 (3) When negotiating access regarding a new employee orientation
41 pursuant to subdivision (2) of this subsection, if a dispute has not been
42 resolved within forty-five days after the first meeting of the parties or
43 within sixty days after the initial request to negotiate was made,
44 whichever is earlier, either party may make a demand for compulsory
45 interest arbitration. If such a demand is made, any procedure prescribed
46 pursuant to the general statutes shall apply, except that the factors

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

63 (c) A public employer shall provide the exclusive representative
64 access to the public employees that such exclusive representative
65 represents. Such access includes, but shall not be limited to: (1) The right
66 to meet with individual employees on the premises of the public
67 employer during the workday to investigate and discuss grievances,
68 workplace-related complaints and other workplace issues, (2) the right
69 to conduct worksite meetings during meal periods and during other
70 paid or unpaid breaks, and before and after the workday, on the
71 employer's premises, and (3) the right to meet with newly hired
72 employees within the bargaining unit, without charge to the pay or
73 leave time of the employees, for not less than thirty minutes nor more
74 than one hundred twenty minutes, within thirty calendar days after the
75 date of hire, during new employee orientations, or if the public
76 employer does not conduct new employee orientation, at individual or
77 group meetings.

78 (d) In addition to any public employee organization's right to
79 employee information pursuant to the laws of this state or any
80 applicable collective bargaining agreement, beginning on January 1,

81 2022, every one hundred twenty calendar days, unless more frequent or
82 more detailed lists are required by agreement between the parties, a
83 public employer shall provide the exclusive representative, in an
84 editable digital file format agreed to by the exclusive representative,
85 and, if possible, the following information: Each bargaining unit
86 employee's name, job title, worksite location, work telephone number,
87 date of hire, work electronic mail address, home address and, if
88 authorized by the employee via written authorization provided to the
89 exclusive representative, the employee's home telephone number,
90 personal cellular mobile telephone number and personal electronic mail
91 address if on file with the public employer. Any written authorization
92 required under this subsection may be revoked by the employee at any
93 time and such authorization or revocation shall be provided to the
94 exclusive representative at either the physical or electronic address
95 provided by such representative pursuant to subdivision (1) of
96 subsection (b) of this section.

97 (e) The exclusive representative shall have the right to use the
98 electronic mail systems of public employers to communicate with
99 bargaining unit members regarding collective bargaining, the
100 administration of collective bargaining agreements, the investigation of
101 grievances, other workplace-related complaints and issues, and internal
102 matters involving the governance or business of the public employee
103 organization. The provisions of this subsection shall not limit the rights
104 of a public employee organization to communicate with public
105 employees.

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

115 attending such meetings.

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

121 (h) Employees, including retired employees, of a public employer
122 may authorize deductions to be made from their salaries, wages or
123 retirement allowances for the payment of dues to, or for any other
124 service, program or committee provided or sponsored by, any public
125 employee organization.

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

134 (j) Public employers that provide for the administration of payroll
135 deductions authorized by employees for public employee organizations
136 shall: (1) Rely on a certification from any public employee organization
137 requesting a deduction or reduction that such organization has and will
138 maintain an authorization, signed by the individual from whose salary
139 or wages the deduction or reduction is to be made. A public employee
140 organization that certifies that it has and will maintain individual
141 employee authorizations shall not be required to provide a copy of an
142 individual authorization to the public employer unless a dispute arises
143 about the existence or terms of the authorization. The public employee
144 organization shall indemnify the public employer for any claims made
145 by the employee for deductions made in reliance on that certification;
146 and (2) direct employee requests to cancel or change deductions for
147 public employee organizations to the employee organization, rather

148 than to the public employer. The public employer shall rely on
149 information provided by the public employee organization regarding
150 whether deductions for the employee organization were properly
151 canceled or changed, and the employee organization shall indemnify
152 the public employer for any claims made by the employee for
153 deductions made in reliance on such information. Deductions may be
154 revoked only pursuant to the terms of an employee's written
155 authorization.

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

160 (l) Notwithstanding any other provision of this section, a public
161 employer shall be liable to a public employee organization, without
162 recourse to the employees, for the full amount of dues that such
163 employer fails to remit to the public employee organization, provided
164 the public employee organization has complied with the provisions of
165 this section. The failure of an employer to comply with the provisions of
166 this section shall be a violation of the duty to bargain and an unfair labor
167 practice. The provisions of a collective bargaining agreement that
168 contain the obligations set forth in this section may be enforced in
169 accordance with the provisions of this section.

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

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

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

| | | |
|---|-----------------|-------------|
| This act shall take effect as follows and shall amend the following sections: | | |
| Section 1 | October 1, 2021 | New section |

Statement of Legislative Commissioners:

In Subsec. (a), the provision concerning the timeframe in which a public employer is required to provide new hire data was rewritten for clarity; in Subsec. (b)(1), "that prevents the ten days' notice" was inserted after "operations" for clarity and "annually on or before January thirty-first of each year" was moved to after "public employer" for accuracy; in Subsec. (i), "in subsection (h) of this section" was inserted after "described" for clarity; in Subsec. (j), "the employees' " was changed to "an employee's" for accuracy; and the title was changed for accuracy.

LAB Joint Favorable Subst. -LCO

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.

The Out Years**State Impact:** None**Municipal Impact:** None

OLR Bill Analysis**sSB 908*****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.

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, if possible, 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, 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 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)