

HOUSE No. 3825

The Commonwealth of Massachusetts

HOUSE OF REPRESENTATIVES, May 30, 2019.

The committee on Labor and Workforce Development, to whom were referred the petition (accompanied by bill, Senate, No. 1043) of Joseph A. Boncore, Barry R. Finegold, Walter F. Timilty, Brian W. Murray and other members of the General Court for legislation relative to collective bargaining dues, the petition (accompanied by bill, House, No. 1596) of Tackey Chan and others relative to collective bargaining dues, the petition (accompanied by bill, House, No. 2363) of Daniel J. Ryan and others relative to collective bargaining representation for public employees and the petition (accompanied by bill, House, No. 2385) of Bud L. Williams and others relative to public employee collective bargaining, reports recommending that the accompanying bill (House, No. 3825) ought to pass.

For the committee,

PAUL BRODEUR.

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**In the One Hundred and Ninety-First General Court
(2019-2020)**

An Act relative to collective bargaining dues.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Section 10B of chapter 66 of the General Laws, as appearing in the 2016
2 Official Edition, is hereby amended by adding the following paragraph:-

3 The home address, personal email address and home telephone number or mobile
4 telephone number of an employee of an agency, executive office, department, board,
5 commission, bureau, division or authority of the commonwealth, or of a political subdivision
6 thereof, or of an authority established by the general court to serve a public purpose, in the
7 custody of the governmental entity which maintains records identifying persons as falling within
8 those categories shall not be public; provided, that the information may be disclosed only to an
9 employee organization whose written aims and objectives on file with the department of labor
10 relations are to represent public employees in collective bargaining under chapter 150E or under
11 chapter 150A for employees of a public authority subject to chapter 150A by chapter 760 of the
12 acts of 1982, a nonprofit organization for retired public employees under chapter 180, a criminal
13 justice agency as defined in section 167 of chapter 6 or as otherwise required by law. The home
14 address, personal email address and home telephone number or mobile telephone number of a

15 family member of an employee, contained in a record in the custody of a government agency
16 which maintains records identifying employees of an agency, executive office, department,
17 board, commission, bureau, division or authority of the commonwealth, or of a political
18 subdivision thereof, or of an authority established by the general court to serve a public purpose
19 shall not be public; provided, that the information may be disclosed as required by law.

20 SECTION 2. Section 5 of chapter 150E of the General Laws, as so appearing, is hereby
21 amended by inserting after the first paragraph the following 3 paragraphs: -

22 Provided, however, that notwithstanding this or any other general or special law to the
23 contrary, the exclusive representative may require a non-member to pay for the reasonable costs
24 and fees, including arbitrator fees and related attorney fees for grieving or arbitrating a matter
25 arising under an agreement negotiated pursuant to this section and is brought at the non-
26 member's request. Employee organizations may require non-members to pay any anticipated
27 proportional costs and fees prior to a grievance or arbitration hearing. Failure to pay costs and
28 fees shall relieve the exclusive representative of further responsibility to the non-member
29 regarding the matter.

30 Notwithstanding this or any other general or special law to the contrary, an exclusive
31 representative's duty of fair representation to a public employee who is in the bargaining unit
32 shall be limited to the negotiation and enforcement of the terms of agreements with the public
33 employer. The laws of the commonwealth shall not be construed to prohibit an employee
34 organization from providing only to its members legal, economic or job-related services or
35 benefits outside of the collective bargaining agreement.

36 SECTION 3. Chapter 150E of the General Laws is hereby amended by inserting after
37 section 5 the following section: -

38 Section 5A. (a) Public employers shall provide to an employee organization access to
39 members of the bargaining unit that the employee organization exclusively represents. Access
40 shall include, but shall not be limited to, the following:

41 (i) the right to meet with individual employees on the premises of the public employer
42 during the work day to investigate and discuss grievances, workplace-related complaints and
43 other workplace issues;

44 (ii) the right to conduct worksite meetings during lunch breaks and other non-work
45 breaks, and before and after the workday, on the employer's premises to discuss workplace
46 issues, collective bargaining negotiations, the administration of collective bargaining agreements,
47 other matters related to the duties of an exclusive representative and internal union matters
48 involving the governance or business of the employee organization; and

49 (iii) the right to meet with newly hired employees, without charge to the pay or leave
50 time of the employees, for a minimum of 30 minutes, not later than 10 calendar days after the
51 date of hire, during new employee orientations or, if the employer does not conduct new
52 employee orientations, at individual or group meetings. In the case of school employees, the
53 employer shall notify the exclusive representative of a hiring decision not later than 10 calendar
54 days after the date a prospective employee accepts an offer of employment, and shall provide to
55 the exclusive representative the employee contact information identified in subsection (b).

56 (b) Not later than 10 calendar days after the date a prospective school employee accepts
57 an offer of employment or after the date of hire for all other public bargaining unit employees,

58 public employers shall provide the following contact information to an exclusive representative
59 employee organization in spreadsheet file format or other format agreed to by the exclusive
60 representative employee organization: name, job, title, worksite location, home address, work
61 telephone numbers, home and personal cellular telephone numbers on file with the public
62 employer, date of hire, work email address and personal email address on file with the public
63 employer.

64 (c) Home addresses, home and personal cellular telephone numbers, personal email
65 addresses, dates of birth, bargaining units and groupings of employees and emails or other
66 communications between employee organizations and their members are not public records and
67 are prohibited from disclosure except as provided in clauses twenty-sixth(o) and (p) of section 7
68 of chapter 4.

69 (d) The exclusive representative shall have the right to use the email system of a public
70 employer to communicate with bargaining unit members regarding official union-related matters
71 including, but not limited to, elections, election results, meetings and social activities; provided,
72 that the use does not create an unreasonable burden on network capability or system
73 administration.

74 (e) The exclusive representative shall have the right to use government buildings and
75 other facilities that are owned or leased by government entities to conduct meetings with unit
76 members regarding bargaining negotiations, the administration of collective bargaining
77 agreements, the investigation of grievances, other workplace-related complaints and issues and
78 internal union matters involving the governance or business of the union; provided, that the use
79 does not interfere with governmental operations. Meetings conducted in government buildings

80 pursuant to this section shall not be for a purpose prohibited by section 13 and section 14 of
81 chapter 55. An exclusive representative conducting a meeting in a government building or other
82 government facility pursuant to this section may be charged for maintenance, security and other
83 costs related to the use of the government building or facility that would not otherwise be
84 incurred by the government entity.

85 (f) Nothing in in this section shall be construed to diminish the obligations of an
86 employer to comply with a collective bargaining agreement that provides greater access and
87 orientation rights than the rights established by this law.

88 (g) A public employer's failure to comply with subsections (a) to (e), inclusive, shall
89 constitute a violation of section 10(a)(5).

90 (h) For the purposes of this section, "exclusive representative" means an employee
91 organization which has been designated as the exclusive representative of employees in a
92 collective bargaining unit as defined in section 3 of chapter 150E.

93 SECTION 4. Section 26 of chapter 161A of the General Laws, as so appearing, is hereby
94 amended by adding the following 3 paragraphs: -

95 A labor organization representing employees may act for and negotiate agreements
96 covering all employees in the unit and shall be responsible for representing the interests of all
97 such employees without discrimination and without regard to employee organization
98 membership. Provided, however, that notwithstanding this or any other general or special law to
99 the contrary, the exclusive representative may require a non-member to pay for the reasonable
100 costs of advancing a grievance on the non-member's behalf to arbitration, including arbitrator
101 fees and the fees of the attorney representing the employee organization. Employee

102 organizations may require non-members to pay anticipated costs and fees prior to a grievance or
103 arbitration hearing. Failure to pay costs and fees shall relieve the exclusive representative of
104 further responsibility to the non-member regarding the grievance or arbitration matter.

105 Notwithstanding this section or any other general or special law to the contrary, an
106 exclusive representative's duty of fair representation to a public employee who is in the
107 bargaining unit shall be limited to the negotiation and enforcement of the terms of agreements
108 with the public employer. The laws of the commonwealth shall not be construed to prohibit an
109 employee organization from providing only to its members legal, economic or job-related
110 services or benefits outside of the collective bargaining agreement.

111 An employee may present a grievance to that employee's employer and have the
112 grievance heard without intervention by the exclusive representative of the employee
113 organization representing the employee; provided, that the exclusive representative is afforded
114 the opportunity to be present at conferences and that any adjustment made shall not be
115 inconsistent with the terms of an agreement then in effect between the employer and the
116 exclusive representative.

117 SECTION 5. Chapter 180 of the General Laws is hereby amended by striking out
118 sections 17A, 17C, 17E and 17G and inserting in place thereof the following section: -

119 Section 17A. Deductions on payroll schedules may be made from the salary of an
120 employee of an amount that the employee may specify in writing to that employee's public
121 employer or its representative under chapter 150E or to an employer made subject to chapter
122 150A by chapter 760 of the acts of 1982, for the payment of union dues or fees to a labor
123 organization or employee organization. The authorization for payroll deduction may be

124 irrevocable pursuant to the terms of that authorization for a period of not longer than 1 year after
125 the anniversary of the authorization and shall be revocable solely pursuant to the terms of
126 revocation specified in the employee authorization. An authorization consistent with the terms of
127 this section shall be accepted by the employer or public employer. The treasurer of the labor
128 organization or employee organization or relief association shall notify the office of the
129 employer or public employer responsible for implementing payroll deductions of an
130 authorization revocation not later than 15 calendar days after it is received.

131 If an authorization for payroll deduction does not specify the terms for revocation, then
132 the authorization may be withdrawn by the employee by giving not less than 60 calendar days'
133 notice in writing of that withdrawal to that employee's employer or public employer responsible
134 for implementing payroll deductions and by filing a copy of the notice with the treasurer of the
135 labor organization or employee organization.

136 The state treasurer or the treasurer of the employer or public employer that employs the
137 employee shall deduct from the salary of that employee the amount of union dues or fees
138 certified to that treasurer on the payroll, and transmit the sum so deducted to the treasurer of the
139 labor organization or employee organization; provided, that the state treasurer or the treasurer of
140 the employer or public employer, as applicable, is satisfied that the treasurer of the employee
141 organization or labor organization has given the employee organization or labor organization a
142 bond, in a form approved by the commissioner of revenue, for the faithful performance of that
143 treasurer's duties, in a sum and with such surety or sureties as are satisfactory to the state
144 treasurer or treasurer of the employer or public employer. Whenever a labor organization or
145 employee organization is certified or obtains consent recognition under chapter 150A or chapter

146 one 150E, such deductions shall be made for dues or fees only to the certified or recognized
147 labor organization or employee organization.

148 This section shall be effective in a county, city or town which has accepted it in the
149 manner provided by section 2 of chapter 740 of the acts of 1950 or which accepts this section in
150 the following manner: (i) in a county, by vote of the county commissioners; (ii) in a city having a
151 Plan D or Plan E charter, by majority vote of its city council; (iii) in any other city, by vote of
152 city council, approved by the mayor; and (iv) in a town, by vote of the board of selectmen.