

**HOUSE . . . . . No. 3971**

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**The Commonwealth of Massachusetts**



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*July 15, 2019*

To the Honorable Senate and House of Representatives,

Pursuant to Article LVI, as amended by Article XC, Section 3 of the Amendments to the Constitution, I am returning to you for amendment House Bill No. 3854, “An Act Relative to Collective Bargaining Dues.”

This bill would make changes to the statutes that govern public employees in light of the Supreme Court’s decision in *Janus v. American Federation of State, County, and Municipal Employees, Council 31*, where the court held that “states and public sector unions may no longer extract agency fees from nonconsenting employees.” Although a portion of this bill addresses issues raised in the *Janus* decision, including the ability of public sector unions to charge non-members for costs associated with representation in grievances or other services rendered, other provisions in the bill go beyond what the *Janus* decision required. These provisions would jeopardize the privacy rights of public employees and prevent the Commonwealth and public sector unions from negotiating certain terms and conditions of employment. Thus, I propose changes to the bill that will protect the privacy rights of public employees, correct statutory inconsistencies, and ensure that the public records exception contained in the bill is consistent with the existing statutory definition of “public records” and the Supreme Court’s ruling in *Janus*.

Accordingly, I recommend amending the bill by striking out, in section 1, the words “home telephone number or mobile telephone number” and inserting in place thereof the following words:- and home telephone number.

And by adding in subsection (b) of section 5A of chapter 150E as inserted by section 3 the following paragraph:- No provisions of this subsection shall require an employee to meet with the employee organization.

And by inserting in subsection (c) of said section 5A of said chapter 150E as so inserted, after the words “public employer shall provide” the following words:- with the written consent of the employee,.

And by striking out in subsection (d) of said section 5A of said chapter 150E as so inserted, the words “home and personal cellular telephone numbers, personal email addresses, dates of birth, bargaining units and groupings of employees and emails or other communications between employee organizations and their members” and inserting in place thereof the following words:- personal email addresses and home telephone numbers.

And by inserting in subsection (e) of said section 5A of said chapter 150E as so inserted, after the words “system administration”, the following words:- ; provided, that the use shall be consistent with any computer, electronic mail or information technology usage policies of the public employer.

And by adding in the first sentence in subsection (f) of said section 5A of said chapter 150E as so inserted, after the words “governmental operations”, the following words:- ; and provided further, that the use is based on reasonable prior notice to the government entity.

And by striking out subsection (h) of said section 5A of said chapter 150E as so inserted and inserting in place thereof the following 2 subsections:-

(h) The public employer shall provide to newly-hired employees written material regarding employee rights to join or not join a bargaining unit.

(i) Nothing in this section shall authorize an exclusive representative to communicate with an employee through text message unless the representative obtains the express written consent of the employee.

And by inserting after section 3, the following section:-

Section 3A. Subsection (b) of section 10 of said chapter 150E, as so appearing, is hereby amended by adding the following clause:-

(4) To use information obtained under section 10B of chapter 66 to interfere with, restrain or coerce an employee in the exercise of any right guaranteed under this chapter or section 17A of chapter 180.

And by further amending the bill by striking out the words:- Whereas, The deferred operation of this act would tend to defeat its purpose, which is to forthwith make certain changes in laws relative to collective bargaining dues, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

I approve the remainder of this Act.

Respectfully submitted

Charles D. Baker,  
*Governor*