

SENATE No. 2282

Senate June 27, 2019, – Text of the Senate amendment to the House Bill relative to collective bargaining dues (being the text of Senate document number 2273, printed as amended)

The Commonwealth of Massachusetts

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

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, home telephone number or mobile telephone
4 number of an employee of an agency, executive office, department, board, commission, bureau,
5 division or authority of the commonwealth, or of a political subdivision thereof, or of an
6 authority established by the general court to serve a public purpose, in the custody of the
7 governmental entity that maintains records identifying persons as falling within those categories
8 shall not be public records; provided, however, 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 said chapter 150A by chapter 760 of
12 the acts of 1962, a nonprofit organization for retired public employees under chapter 180, a
13 criminal justice agency as defined in section 167 of chapter 6 or as otherwise required by law.

14 The home address, personal email address, home telephone number or mobile telephone number
15 of a family member of an employee that is contained in a record in the custody of a government
16 agency that 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 a public record.

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 2 paragraphs:-

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

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

34 SECTION 3. Said chapter 150E is hereby further amended by inserting after section 5 the
35 following section:-

36 Section 5A. (a) For the purposes of this section, "exclusive representative" shall mean an
37 employee organization that has been designated as the exclusive representative of employees in a
38 collective bargaining unit as described in section 3.

39 (b) Public employers shall provide an employee organization access to members of the
40 bargaining unit that the employee organization exclusively represents. Access shall include, but
41 shall not be limited to:

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

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

50 (iii) the right to meet with newly-hired employees, without charge to the pay or leave
51 time of such an employee, for not less than 30 minutes, not later than 10 calendar days after the
52 date of hire during new employee orientation or, if the employer does not conduct new employee
53 orientation, at an individual or group meeting; provided, however, that the department of labor
54 and workforce development shall prepare and provide to each employer subject to this act
55 written material regarding employee rights to join or not join a bargaining unit and the employer
56 shall post the material conspicuously in the workplace; provided further, that such material may
57 include, but shall not be limited to, websites established for such purpose.

58 For a school employee, the employer shall notify the exclusive representative of a hiring
59 decision not later than 10 calendar days after the date a prospective employee accepts an offer of

60 employment and shall provide to the exclusive representative the employee contact information
61 identified in subsection (c).

62 (c) Not later than 10 calendar days after the date a prospective school employee accepts
63 an offer of employment or after the date of hire for all other public bargaining unit employees, a
64 public employer shall provide the following contact information to the exclusive representative
65 in spreadsheet file format or other format agreed to by the exclusive representative: (i) name; (ii)
66 job; (iii) title; (iv) worksite location (v) home address; (vi) work telephone number; (vii) home
67 and personal cellular telephone numbers on file with the public employer; (viii) date of hire (ix)
68 work email address; and (x) personal email address on file with the public employer.

69 (d) Home addresses, home and personal cellular telephone numbers, personal email
70 addresses, dates of birth, bargaining units and groupings of employees and emails or other
71 communications between employee organizations and their members shall not be public records
72 and shall be prohibited from disclosure except as provided in subclauses (o) and (p) of clause
73 Twenty-sixth of section 7 of chapter 4.

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

79 (f) The exclusive representative shall have the right to use government buildings and
80 other facilities that are owned or leased by government entities to conduct meetings with unit
81 members regarding bargaining negotiations, the administration of collective bargaining

82 agreements, the investigation of grievances, other workplace-related complaints and issues and
83 internal union matters involving the governance or business of the union; provided, however,
84 that the use does not interfere with governmental operations. Meetings conducted in government
85 buildings pursuant to this section shall not be for a purpose prohibited by sections 13 and 14 of
86 chapter 55. An exclusive representative conducting a meeting in a government building or other
87 government facility pursuant to this section may be charged for maintenance, security and other
88 costs related to the use of the government building or facility that would not otherwise be
89 incurred by the government entity.

90 (g) Nothing in this section shall diminish the obligations of an employer to comply with a
91 collective bargaining agreement that provides greater access and orientation rights than the rights
92 established by this section.

93 (h) A public employer's failure to comply with subsections (b) to (f), inclusive, shall
94 constitute a violation of clause (5) of subsection (a) of section 10.

95 SECTION 4. Section 26 of chapter 161A of the General Laws, as appearing in the
96 2016 Official Edition, is hereby amended by adding the following 3 paragraphs:-

97 The exclusive representative may act for and negotiate agreements covering all
98 employees in the unit and shall be responsible for representing the interests of all such
99 employees without discrimination and without regard to employee organization membership.

100 The exclusive representative may require a non-member to pay for the reasonable costs and fees,
101 including arbitrator fees and related attorney fees, for grieving or arbitrating a matter arising
102 under an agreement negotiated pursuant to this section and brought at the non-member's request.

103 The exclusive representative may require non-members to pay anticipated costs and fees prior to

104 a grievance or arbitration hearing. Failure to pay costs and fees shall relieve the exclusive
105 representative of further responsibility to the non-member regarding the matter.

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

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

116 SECTION 5. Chapter 180 of the General Laws is hereby amended by striking out section
117 17A, as so appearing, and inserting in place thereof the following section:-

118 Section 17A. Deductions on payroll schedules may be made from the salary of an
119 employee of an amount that the employee may specify in writing to that employee's employer or
120 its representative under chapter 150E or to an employer made subject to chapter 150A by chapter
121 760 of the acts of 1962, for the payment of union dues or fees to an employee organization. The
122 authorization for payroll deduction may be irrevocable pursuant to the terms of that authorization
123 for a period of not more than 1 year after the authorization and shall be revocable solely pursuant
124 to the terms of revocation specified in the employee authorization. An authorization consistent
125 with the terms of this section shall be accepted by the employer. The treasurer of the employee

126 organization or relief association shall notify the office of the employer responsible for
127 implementing payroll deductions of an authorization revocation not later than 15 calendar days
128 after it is received.

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

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

144 This section shall be effective in a county, city or town that has accepted it in the manner
145 provided by section 2 of chapter 740 of the acts of 1950 or that accepts this section in the
146 following manner: (i) in a county, by vote of the county commissioners; (ii) in a city having a

147 Plan D or Plan E charter, by majority vote of its city council; (iii) in any other city, by vote of
148 city council, approved by the mayor; and (iv) in a town, by vote of the board of selectmen.

149 SECTION 6. Sections 17C, 17E and 17G of said chapter 180 are hereby repealed.