

2019 POLICY BRIEF

BARGAINING UNIT RIGHTS

BACKGROUND:

The General Assembly approved legislation (SB 1784 – Senator Harmon, D-Oak Park/ Representative Hoffman, D-Belleville) during the Veto Session that imposes additional mandates on local governments.

This legislation is a response to the June 27, 2018, decision of the Supreme Court of the United States (SCOTUS) in *Janus v. American Federation of State, County and Municipal Employees*. In this decision, the Court ruled that public employee labor unions are political and public employees cannot be compelled to subsidize political speech through compulsory union dues to maintain their jobs.

SB 1784 confers statutory rights that benefit bargaining units by requiring public employers to provide information about employees to a union representative, prohibits employers from sharing similar information to bargaining representatives not associated with a union, guarantees employees access to union representatives and inserts a union dues collection process into law.

INFORMATION REQUIRED TO BE SHARED WITH BARGAINING UNIT

The bill requires public employers to proactively share information about employees with a representative of the collective bargaining unit. The information must be provided by the employer at least once per month and any time it is requested by the union representative. The information is as follows:

- Position title
- Location of workplace
- Workplace telephone number
- Personal telephone numbers possessed by employer
- Workplace email address
- Personal email address possessed by employer
- Hire date
- Identification number

The information must be provided in an Excel file or another mutually agreed upon format.

QUICK FACTS

- Legislation intends to strengthen the rights of individuals and labor unions following SCOTUS *Janus v. AFSCME* decision
- Requires public employers to initiate provision of specific employee information to bargaining units
- Confers bargaining unit representatives with broad access to employees and workplace facilities
- Prohibits certain employee information from being shared with parties other than bargaining units
- Establishes statutory process for collection of union dues
- Provides redress to employees for violation of rights conferred by statute



INFORMATION PROHIBITED TO BE SHARED BY EMPLOYERS

The bill specifies that a public employer cannot share the following employee information with anyone other than a union representative:

- Home address
- Date of birth
- Personal e-mail and phone numbers
- Information associated with employee's membership in a labor organization or organization affiliated with a labor union
- Communications between a labor union and its members

The bill includes a provision requiring a public employer in receipt of an inappropriate request for any of the above information to document the request and share it with the bargaining unit representative. If the employer responds to the request, the response must be shared with the bargaining unit representative within 5 business days from the date the request was sent.

Violation of the information disclosure prohibition permits the affected employee to file an unfair labor practice with the Illinois Labor Relations Board (ILRB) or pursue an action for redress in circuit court.

The legislation exempts from the Freedom of Information Act (FOIA) any information prohibited from being disclosed under the Illinois Public Labor Relations Act (ILRA), Illinois Educational Labor Relations Act (IELRA) and Section 1-167 of the Illinois Pension Code.

BARGAINING REPRESENTATIVE ACCESS TO EMPLOYEES

The legislation includes language providing bargaining unit representatives with significant access to employees and workplace premises. The bargaining unit representative is permitted to:

- meet with employees at the workplace during work hours to negotiate and discuss grievances and workplace-related issues with no effect on pay or time-off.
- hold workplace meetings during break times and before and after the workday to discuss collective bargaining negotiations, the administration of collective bargaining agreements and other matters related to the duties of the bargaining representative.
- meet with newly hired employees on or off work premises for up to one hour within the first two weeks of employment or at a later mutually agreed upon date and time.
- use facility mailboxes and employer bulletin boards to communicate with bargaining unit employees.

COLLECTION OF UNION DUES

Per the legislation, a public employer must begin union dues deductions within 30 days following the receipt of notice from the bargaining unit. Transmission of the dues to the bargaining unit must occur within 30 days following deduction unless a shorter date is mutually agreed upon.



Dues deductions must continue until an employer receives notice that an employee has revoked their authorization in writing in accordance with the terms of the authorization or if an employee is no longer employed by the employer in a bargaining unit position represented by the same union.

If an employee who previously authorized a dues deduction is removed from the employer's payroll or placed on paid or unpaid leave, dues deductions must continue if the employee returns to the payroll or is reinstated to a bargaining unit position represented by the same bargaining representative.

Public employees who paid fair share fees as a condition of public employment prior to June 27, 2018, have no legitimate expectation of reimbursement of these fees under any available cause of action going forward.

Failure to comply with the dues deductions provisions of the legislation would be considered a violation of the duty to bargain and an unfair labor practice. The ILRB would have jurisdiction over alleged violations.

