

As Introduced

**136th General Assembly
Regular Session
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H. B. No. 965

Representative Dean

To amend sections 9.81, 4117.09, and 4117.11 of the Revised Code to prohibit requiring public employees to pay dues or fees to an employee organization.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 9.81, 4117.09, and 4117.11 of the Revised Code be amended to read as follows:

Sec. 9.81. After an authorization adopted under section 9.80 of the Revised Code, any public officer or employee of any department or division of the state, any political subdivision or school district thereof, or of any institution supported in whole or in part by the state, a county, or municipal corporation, who desires to make a contribution by the payroll deduction plan to one or more of the specified charitable agencies which are corporations not for profit, community chests, united funds, or other similar united community fund organizations, may be permitted to have such contribution payments deducted from the salary or wages due such public officer or employee by filing a written request and authorization signed by such public officer or employee and specifying the amount of the deduction in each payroll period with the fiscal officer of the state, political subdivision, or

school district, or institution by which such public officer or 22
employee is employed. Such authorization may be withdrawn in 23
writing by such public officer or employee at any time. No funds 24
may be withheld from the salary or wages of any such public 25
officer or employee for the purposes permitted by sections 9.80 26
and 9.81 of the Revised Code unless the withholding is 27
specifically, freely, and voluntarily authorized by that public 28
officer or employee in writing. 29

Upon receipt of evidence of such request by the 30
appropriate fiscal officer, or upon receipt of a written 31
deduction authorization under division (B) (2) ~~or (C)~~ of section 32
4117.09 of the Revised Code, such fiscal officer shall make such 33
deduction and shall, at periodic intervals to the extent of the 34
amount collected, pay the designated charitable agencies which 35
are corporations not for profit, community chests, united funds, 36
or other similar united community fund organizations, or the 37
exclusive representative designated under section 4117.05 of the 38
Revised Code. 39

Sec. 4117.09. (A) The parties to any collective bargaining 40
agreement shall reduce the agreement to writing and both execute 41
it. 42

(B) The agreement shall contain a provision that: 43

(1) Provides for a grievance procedure which may culminate 44
with final and binding arbitration of unresolved grievances, and 45
disputed interpretations of agreements, and which is valid and 46
enforceable under its terms when entered into in accordance with 47
this chapter. No publication thereof is required to make it 48
effective. A party to the agreement may bring suits for 49
violation of agreements or the enforcement of an award by an 50
arbitrator in the court of common pleas of any county wherein a 51

party resides or transacts business. 52

(2) Authorizes the public employer to deduct the periodic 53
dues, initiation fees, and assessments of members of the 54
exclusive representative upon presentation of a written 55
deduction authorization by the employee. 56

~~(C) The agreement may contain a provision that requires as 57
a condition of employment, on or after a mutually agreed upon 58
probationary period or sixty days following the beginning of 59
employment, whichever is less, or the effective date of a 60
collective bargaining agreement, whichever is later, that the 61
employees in the unit who are not members of the employee- 62
organization pay to the employee organization a fair share fee. 63
The arrangement does not require any employee to become a member 64
of the employee organization, nor shall fair share fees exceed 65
dues paid by members of the employee organization who are in the 66
same bargaining unit. Any public employee organization 67
representing public employees pursuant to this chapter shall 68
prescribe an internal procedure to determine a rebate, if any, 69
for nonmembers which conforms to federal law, provided a 70
nonmember makes a timely demand on the employee organization. 71
Absent arbitrary and capricious action, such determination is 72
conclusive on the parties except that a challenge to the 73
determination may be filed with the state employment relations 74
board within thirty days of the determination date specifying 75
the arbitrary or capricious nature of the determination and the 76
board shall review the rebate determination and decide whether 77
it was arbitrary or capricious. The deduction of a fair share 78
fee by the public employer from the payroll check of the 79
employee and its payment to the employee organization is 80
automatic and does not require the written authorization of the 81
employee. 82~~

~~The internal rebate procedure shall provide for a rebate of expenditures in support of partisan politics or ideological causes not germane to the work of employee organizations in the realm of collective bargaining.~~ 83
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~~Any public employee who is a member of and adheres to established and traditional tenets or teachings of a bona fide religion or religious body which has historically held conscientious objections to joining or financially supporting an employee organization and which is exempt from taxation under the provisions of the Internal Revenue Code shall not be required to join or financially support any employee organization as a condition of employment. Upon submission of proper proof of religious conviction to the board, the board shall declare the employee exempt from becoming a member of or financially supporting an employee organization. The employee shall be required, in lieu of the fair share fee, to pay an amount of money equal to the fair share fee to a nonreligious-charitable fund exempt from taxation under section 501(c)(3) of the Internal Revenue Code mutually agreed upon by the employee and the representative of the employee organization to which the employee would otherwise be required to pay the fair share fee. The employee shall furnish to the employee organization written receipts evidencing such payment, and failure to make the payment or furnish the receipts shall subject the employee to the same sanctions as would nonpayment of dues under the applicable collective bargaining agreement.~~ 87
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No public employer shall agree to a provision requiring that a public employee become a member of, or pay dues or fees to, an employee organization as a condition for securing or retaining employment. 109
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(D) As used in this division, "teacher" means any employee 113
of a school district certified to teach in the public schools of 114
this state. 115

The agreement may contain a provision that provides for a 116
peer review plan under which teachers in a bargaining unit or 117
representatives of an employee organization representing 118
teachers may, for other teachers of the same bargaining unit or 119
teachers whom the employee organization represents, participate 120
in assisting, instructing, reviewing, evaluating, or appraising 121
and make recommendations or participate in decisions with 122
respect to the retention, discharge, renewal, or nonrenewal of, 123
the teachers covered by a peer review plan. 124

The participation of teachers or their employee 125
organization representative in a peer review plan permitted 126
under this division shall not be construed as an unfair labor 127
practice under this chapter or as a violation of any other 128
provision of law or rule adopted pursuant thereto. 129

(E) No agreement shall contain an expiration date that is 130
later than three years from the date of execution. The parties 131
may extend any agreement, but the extensions do not affect the 132
expiration date of the original agreement. 133

Sec. 4117.11. (A) It is an unfair labor practice for a 134
public employer, its agents, or representatives to: 135

(1) Interfere with, restrain, or coerce employees in the 136
exercise of the rights guaranteed in ~~Chapter 4117. of the~~ 137
~~Revised Code~~ this chapter or an employee organization in the 138
selection of its representative for the purposes of collective 139
bargaining or the adjustment of grievances; 140

(2) Initiate, create, dominate, or interfere with the 141

formation or administration of any employee organization, or 142
contribute financial or other support to it; except that a 143
public employer may permit employees to confer with it during 144
working hours without loss of time or pay, permit the exclusive 145
representative to use the facilities of the public employer for 146
membership or other meetings, or permit the exclusive 147
representative to use the internal mail system or other internal 148
communications system; 149

(3) Discriminate in regard to hire or tenure of employment 150
or any term or condition of employment on the basis of the 151
exercise of rights guaranteed by ~~Chapter 4117. of the Revised~~ 152
~~Code. Nothing precludes any employer from making and enforcing~~ 153
~~an agreement pursuant to division (C) of section 4117.09 of the~~ 154
~~Revised Code~~this chapter. 155

(4) Discharge or otherwise discriminate against an 156
employee because ~~he~~the employee has filed charges or given 157
testimony under ~~Chapter 4117. of the Revised Code~~this chapter; 158

(5) Refuse to bargain collectively with the representative 159
of ~~his~~the employer's employees recognized as the exclusive 160
representative or certified pursuant to ~~Chapter 4117. of the~~ 161
~~Revised Code~~this chapter; 162

(6) Establish a pattern or practice of repeated failures 163
to timely process grievances and requests for arbitration of 164
grievances; 165

(7) Lock out or otherwise prevent employees from 166
performing their regularly assigned duties where an object 167
thereof is to bring pressure on the employees or an employee 168
organization to compromise or capitulate to the employer's terms 169
regarding a labor relations dispute; 170

(8) Cause or attempt to cause an employee organization,	171
its agents, or representatives to violate division (B) of this	172
section.	173
(B) It is an unfair labor practice for an employee	174
organization, its agents, or representatives, or public	175
employees to:	176
(1) Restrain or coerce employees in the exercise of the	177
rights guaranteed in Chapter 4117. of the Revised Code <u>this</u>	178
<u>chapter</u> . This division does not impair the right of an employee	179
organization to prescribe its own rules with respect to the	180
acquisition or retention of membership therein, or an employer	181
in the selection of his <u>the employer's</u> representative for the	182
purpose of collective bargaining <u>bargaining</u> or the adjustment of	183
grievances.	184
(2) Cause or attempt to cause an employer to violate	185
division (A) of this section;	186
(3) Refuse to bargain collectively with a public employer	187
if the employee organization is recognized as the exclusive	188
representative or certified as the exclusive representative of	189
public employees in a bargaining unit;	190
(4) Call, institute, maintain, or conduct a boycott	191
against any public employer, or picket any place of business of	192
a public employer, on account of any jurisdictional work	193
dispute;	194
(5) Induce or encourage any individual employed by any	195
person to engage in a strike in violation of Chapter 4117. of	196
the Revised Code <u>this chapter</u> or refusal to handle goods or	197
perform services; or threaten, coerce, or restrain any person	198
where an object thereof is to force or require any public	199

employee to cease dealing or doing business with any other	200
person, or force or require a public employer to recognize for	201
representation purposes an employee organization not certified	202
by the state employment relations board;	203
(6) Fail to fairly represent all public employees in a	204
bargaining unit;	205
(7) Induce or encourage any individual in connection with	206
a labor relations dispute to picket the residence or any place	207
of private employment of any public official or representative	208
of the public employer;	209
(8) Engage in any picketing, striking, or other concerted	210
refusal to work without giving written notice to the public	211
employer and to the state employment relations board not less	212
than ten days prior to the action. The notice shall state the	213
date and time that the action will commence and, once the notice	214
is given, the parties may extend it by the written agreement of	215
both.	216
(C) The determination by the board or any court that a	217
public officer or employee has committed any of the acts	218
prohibited by divisions (A) and (B) of this section shall not be	219
made the basis of any charge for the removal from office or	220
recall of the public officer or the suspension from or	221
termination of employment of or disciplinary acts against an	222
employee, nor shall the officer or employee be found subject to	223
any suit for damages based on such a determination; however	224
nothing in this division prevents any party to a collective	225
bargaining agreement from seeking enforcement or damages for a	226
violation thereof against the other party to the agreement.	227
(D) As to jurisdictional work disputes, the board shall	228

hear and determine the dispute unless, within ten days after	229
notice to the board by a party to the dispute that a dispute	230
exists, the parties to the dispute submit to the board	231
satisfactory evidence that they have adjusted, or agreed upon	232
the method for the voluntary adjustment of, the dispute.	233
Section 2. That existing sections 9.81, 4117.09, and	234
4117.11 of the Revised Code are hereby repealed.	235