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HOUSE BILL NO. 341

AMENDMENT IN THE NATURE OF A SUBSTITUTE
(Proposed by the House Committee on Commerce and Energy
on February 10, 2022)

(Patron Prior to Substitute—Delegate Freitas)

A BILL to amend the Code of Virginia by adding in Article 2.1 of Chapter 4 of Title 40.1 a section numbered 40.1-57.4, relating to collective bargaining by public employees; labor union dues deduction authorization.

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Article 2.1 of Chapter 4 of Title 40.1 a section numbered 40.1-57.4 as follows:

§ 40.1-57.4. **Public employees; labor union dues deduction authorization.**

A. The provisions of this section shall apply to public employees, employee organizations, or employers who are able to engage in collective bargaining per a local ordinance or resolution providing for collective bargaining pursuant to § 40.1-57.2.

B. For purposes of this section, "deduction authorization" occurs when an employer, upon receipt of written authorization of a public employee permitted to engage in collective bargaining, deducts from the pay of the employee any dues designated or certified by the appropriate bargaining agent of the labor union or other employee organization that is an exclusive representative of any employees of the employer and remits the dues to the labor union or employee organization.

C. The following provisions shall apply to deduction authorizations and all other agreements between an employer of public employees authorized to engage in collective bargaining and a labor union or other employee organization to deduct organization dues from an employee's pay:

1. Public employees who are able to engage in collective bargaining have the right to resign from and end any financial obligation to a labor union or other employee organization at any time. This right shall not be waived by the employee, and no public employer may waive this right on behalf of an employee;

2. An authorization for employee organization dues to be deducted from an employee's pay shall be on a form prescribed by the Attorney General, in consultation with the Department of Labor and Industry, and shall contain the following statement in writing: "The Commonwealth of Virginia wishes to inform you that you have a First Amendment right to refrain from joining and paying dues to a labor union or other employee organization. Membership and payment of dues are voluntary and you may not be discriminated against for your refusal to join or financially support a labor union or other employee organization or for your decision to join and pay such an organization. By signing this form, you are authorizing your employer to deduct union dues from your salary in the amounts specified in accordance with your labor union's or other employee organization's bylaws. You may revoke this authorization at any time.";

3. The authorization for withholding form shall include the public employee's full name, position, employee organization, and signature and shall be submitted directly to the employer by the employee. After receiving the authorization for withholding form, the employer shall confirm the authorization by sending an email message to the employee's employer-provided email address and shall wait for confirmation of the authorization before starting any deduction. If the public employee does not possess an employer-provided email address, the employer shall use other appropriate means to confirm the authorization;

4. Authorizations by an employee for the withholding of employee organization dues from the employee's pay shall not exceed one year in duration and shall be subject to annual renewal;

5. Upon the submission of a written or email request to an employer, an employee shall have the right to cease the withholding of employee organization dues from his pay. Upon receipt of such a request, the employer shall (i) cease the withholding of employee organization dues from the employee's pay beginning on the first day of the employee's next pay period and (ii) provide written or email notification of the employee's decision to the employee organization. The notification in clause (ii) shall occur within a reasonable time to ensure that the employee is not required to have dues withheld during the employee's next pay period or any subsequent pay period; and

6. Employers of public employees authorized to engage in collective bargaining shall annually provide written or email notification to its employees of their right to cease payment of employee organization dues and withdraw from that organization. The notification shall also include (i) the authorization form described in subdivision 2 and (ii) the average amount of dues that the employee will be liable to pay to the employee organization each pay period and annually.

D. By December 1, 2022 and annually by December 1 of each year thereafter, the Attorney General,

60 *in consultation with the Department of Labor and Industry, shall notify all public employers of*
61 *employees authorized to engage in collective bargaining of the provisions of subsection C. This notice*
62 *shall include the authorization form described in subdivision C 2.*

63 *E. The provisions of this section shall apply to each collective bargaining agreement or contract that*
64 *is entered into, modified, extended, affected by a new or changed memorandum of understanding,*
65 *amended, or otherwise changed or altered in any way on or after July 1, 2022. The requirements of this*
66 *section shall not affect any collective bargaining agreement or contract that is in effect prior to July 1,*
67 *2022, the terms of which shall remain valid until the adoption of a new collective bargaining agreement*
68 *or contract or the modification, extension, or alteration thereof.*