

1
2
3
4
5
6
7
8
9
10
11

12
13
14
15
16
17
18
19
20

S.131

Introduced by Senators Pollina, Balint, Baruth, Chittenden, Clarkson,
Cummings, Hardy, Hooker, McCormack, Pearson, Perchlik,
Ram and White

Referred to Committee on

Date:

Subject: Executive; education; labor; collective bargaining; certification
procedure

Statement of purpose of bill as introduced: This bill proposes to permit
employees to elect a collective bargaining representative through card check
elections.

An act relating to authorizing card check elections

It is hereby enacted by the General Assembly of the State of Vermont:

Sec. 1. 3 V.S.A. § 941 is amended to read:

§ 941. UNIT DETERMINATION, CERTIFICATION, AND
REPRESENTATION

* * *

(e)(1) Whenever, on the basis of a petition pursuant to subdivision (d)(1) of
this section or a hearing pursuant to subdivision (d)(2) of this section, the
Board finds substantial interest among employees in forming a bargaining unit

1 or being represented for purposes of collective bargaining, a secret ballot
2 election shall be conducted by the Board not more than 23 business days after
3 the petition is filed with the Board except as otherwise provided pursuant to
4 subdivision (4) of this subsection and subdivision (g)(4) of this section.

5 * * *

6 (g)(1) In determining the representation of State employees in a collective
7 bargaining unit, the Board shall conduct a secret ballot of the employees within
8 the time period set forth in subdivision (e)(1) of this section, unless the time to
9 conduct the election is extended pursuant to subdivision (e)(4) of this section,
10 and certify the results to the interested parties and to the State employer. The
11 original ballot shall be so prepared as to permit a vote against representation by
12 anyone named on the ballot. No representative will be certified with less than
13 a majority of the votes cast by employees in the bargaining unit.

14 * * *

15 (4)(A) Notwithstanding any other provision of this subsection (g), if the
16 Board determines that a petition to be represented for collective bargaining
17 filed pursuant to subsection (c) of this section, which identifies a proposed
18 exclusive representative of the employees in the bargaining unit, bears the
19 signatures of at least 50 percent plus one of the employees in a bargaining unit
20 deemed appropriate by the Board pursuant to this section, the Board shall

1 certify the person or labor organization as the exclusive representative of the
2 bargaining unit.

3 (B) Certification of a collective bargaining representative shall only
4 be available pursuant to this subdivision (g)(4) when no other person or labor
5 organization is currently certified or recognized as the exclusive representative
6 of the employees in the bargaining unit.

7 (h) A representative chosen ~~by secret ballot~~ for the purposes of collective
8 bargaining by a majority of the votes cast by secret ballot or certified pursuant
9 to subdivision (g)(4) of this section shall be the exclusive representative of all
10 the employees in ~~such~~ the bargaining unit for a minimum of one year. ~~Such~~
11 The representative shall be eligible for reelection or for recertification pursuant
12 to subdivision (g)(4) of this section.

13 * * *

14 Sec. 2. 16 V.S.A. § 1992 is amended to read:

15 § 1992. REFERENDUM PROCEDURE FOR REPRESENTATION

16 (a)(1) An organization purporting to represent a majority of all of the
17 teachers or administrators employed by the school board may be recognized by
18 the school board without the necessity of a referendum upon the submission of
19 a petition bearing the valid signatures of a majority of the teachers or
20 administrators employed by that school board. ~~Within 15 calendar days after~~
21 ~~receiving the petition, the school board shall notify the teachers or~~

1 administrators of the school district in writing of its intention to either require
2 or waive a secret ballot referendum. If the school board gives notice of its
3 intention to waive a referendum and recognize an organization, 10 percent of
4 the teachers or administrators employed by the school board may submit a
5 petition within 15 calendar days thereafter, objecting to the granting of
6 recognition without a referendum, in which event a secret ballot referendum
7 shall be held in the district for the purpose of choosing an exclusive
8 representative as provided pursuant to the provisions of this section. The
9 school board and the organization purporting to represent a majority of the
10 teachers or administrators shall, within 10 business days after the petition is
11 submitted, agree on an impartial third party to examine the petition and
12 determine whether a majority of the teachers or administrators support the
13 organization. If the parties fail to agree on an impartial third party within
14 10 business days, the Vermont Labor Relations Board shall examine the
15 petition and determine whether a majority of the teachers or administrators
16 support the organization. If the impartial party or the Board determines that a
17 majority of the teachers or administrators support the organization, it shall
18 certify the organization as the exclusive representative of the teachers or
19 administrators.

20 * * *

1 (b) ~~Recognition granted to~~ Certification of a negotiating unit as exclusive
2 representative shall be valid and not subject to challenge by referendum
3 petition or otherwise for the remainder of the fiscal year in which ~~recognition~~
4 ~~is granted~~ the certification occurs and for an additional period of 12 months
5 after final adoption of the budget for the succeeding fiscal year and shall
6 continue thereafter until a new referendum is called for.

7 (c)(1)(A) A secret ballot referendum shall be held not more than 21
8 calendar days after 20 percent of the teachers or administrators employed by
9 the school board present a petition requesting a referendum on the matter of
10 representation, except during a period of prior ~~recognition~~ certification, as
11 provided pursuant to subsection (b) of this section.

12 * * *

13 Sec. 3. 21 V.S.A. § 1581 is amended to read:

14 § 1581. PETITIONS FOR ELECTION; FILING, INVESTIGATIONS,
15 HEARINGS, DETERMINATIONS

16 * * *

17 (b)(1) The Board shall investigate the petition and if it has reasonable cause
18 to believe that a question of representation exists shall provide for an
19 appropriate hearing before the Board itself, a member thereof, or its agents
20 appointed for that purpose upon due notice. Written notice of the hearing shall

1 be mailed by certified mail to the parties named in the petition not less than
2 seven days before the hearing.

3 (2) If the Board finds upon the record of the hearing that a question of
4 representation exists, it shall conduct an election by secret ballot marked at the
5 place of election and certify to the parties, in writing, the results thereof of the
6 election.

7 (3)(A) If the Board finds upon the record of the hearing that a petition to
8 be represented for collective bargaining filed pursuant to subdivision (a)(1)(A)
9 of this section, which identifies a proposed bargaining representative, bears the
10 signatures of at least 50 percent plus one of the employees in the bargaining
11 unit, the Board shall certify the individual or labor organization identified as
12 the bargaining representative.

13 (B) Certification of a representative shall only be available pursuant
14 to this subdivision (B) when no other individual or labor organization is
15 currently certified or recognized as the bargaining representative.

16 (c) In determining whether or not a question of representation exists, ~~it~~ the
17 Board shall apply the same regulations and rules of decision regardless of the
18 identity of the persons filing the petition or the kind of relief sought.

19 * * *

1 Sec. 4. 21 V.S.A. § 1584 is amended to read:

2 § 1584. PETITIONS AND ELECTION TO RESCIND

3 REPRESENTATIVE'S AUTHORITY

4 * * *

5 (b) No election ~~may~~ shall be conducted under this section in a bargaining
6 unit or a subdivision within which in the preceding 12 months a valid election
7 or certification of a representative pursuant to this subchapter has ~~been held~~
8 occurred.

9 Sec. 5. 21 V.S.A. § 1724 is amended to read:

10 § 1724. CERTIFICATION PROCEDURE

11 * * *

12 (e)(1) ~~In~~ Except as otherwise provided pursuant to subsection (h) of this
13 section, in determining the representation of municipal employees in a
14 collective bargaining unit, the Board shall conduct an election by secret ballot
15 of the employees and certify the results to the interested parties and to the
16 employer. The election shall be held not more than 23 business days after the
17 petition is filed with the Board except as otherwise provided pursuant to
18 subdivision (4) of this subsection.

19 * * *

20 (h)(1) Notwithstanding subsections (e)–(g) of this section, if following its
21 investigation pursuant to subsection (b) the Board determines that a petition to

1 be represented for collective bargaining filed pursuant to subsection (a) of this
2 section, which identifies a proposed bargaining agent, bears the signatures of at
3 least 50 percent plus one of the employees in the bargaining unit, the Board
4 shall certify the individual or labor organization identified as the bargaining
5 agent.

6 (2) Certification of a bargaining agent shall only be available pursuant to
7 this subsection when no other individual or labor organization is currently
8 certified or recognized as the agent of the employees in the bargaining unit.

9 (i) No election ~~may~~ or certification of a representative shall be conducted
10 under this section in a bargaining unit or a subdivision within which in the
11 preceding 12 months a valid election or certification has ~~been held~~ occurred.

12 Sec. 6. EFFECTIVE DATE

13 This act shall take effect on July 1, 2021.