S T A T E O F N E W Y O R K

610

2009-2010 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 7, 2009

Introduced by M. of A. JOHN -- read once and referred to the Committee on Labor

AN ACT to amend the labor law, in relation to permitting employers and employees of a residential facility for individuals with disabilities to enter into labor agreements which confer jurisdiction of the New York state employment relations board and include card check and no strike and lockout provisions

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. The labor law is amended by adding a new section 713-a to read as follows:

S 713-A. AGREEMENTS WITH EMPLOYEES OF RESIDENTIAL FACILITIES FOR THE DISABLED. 1. NOTWITHSTANDING ANY OTHER PROVISION OF THIS ARTICLE, AN EMPLOYER AND EMPLOYEE ORGANIZATION OF A RESIDENTIAL FACILITY OR SERVICE FOR INDIVIDUALS WITH DISABILITIES LICENSED BY THE OFFICE OF MENTAL RETARDATION AND DEVELOPMENTAL DISABILITIES OR THE OFFICE OF MENTAL HEALTH MAY ENTER INTO AN AGREEMENT WHICH SHALL: (A) CONFER JURISDICTION OF THE NEW YORK STATE EMPLOYMENT RELATIONS BOARD; (B) PROVIDE FOR PARTICIPATION IN AN AGREEMENT FOR THE DESIGNATION OF COLLECTIVE BARGAINING UNDER SUBDIVISION ONE OF SECTION SEVEN HUNDRED FIVE OF THIS ARTICLE, COMMONLY KNOWN AS CARD CHECK; AND (C) IMPOSE NO STRIKE PROVISIONS AS SET FORTH IN SUBDIVISION TWO OF THIS SECTION. UPON EXECUTION OF SUCH AN AGREEMENT BY BOTH PARTIES CONTAINING ALL OF THE PROVISIONS SET FORTH IN THIS SUBDIVISION, THE AGREEMENT SHALL BE BINDING AND ENFORCEABLE AGAINST BOTH PARTIES.

2. IT SHALL BE UNLAWFUL FOR THE EMPLOYEES OF A RESIDENTIAL FACILITY FOR INDIVIDUALS WITH DISABILITIES LICENSED BY THE OFFICE OF MENTAL RETARDATION AND DEVELOPMENTAL DISABILITIES OR THE OFFICE OF MENTAL HEALTH, WHO HAVE ENTERED INTO AN AGREEMENT IN ACCORDANCE WITH SUBDIVISION ONE OF THIS SECTION, OR THEIR REPRESENTATIVES, OR ANY OTHER PERSONS

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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TO ENGAGE IN OR TO INDUCE OR ENCOURAGE, OR TO ATTEMPT TO ENGAGE IN OR TO INDUCE OR ENCOURAGE ANY STRIKE, WORK STOPPAGE, SLOWDOWN OR WITHHOLDING OF GOODS OR SERVICES BY SUCH EMPLOYEES OR OTHER PERSONS AT SUCH RESIDENTIAL FACILITY FOR INDIVIDUALS WITH DISABILITIES LICENSED BY THE OFFICE OF MENTAL RETARDATION AND DEVELOPMENTAL DISABILITIES OR THE OFFICE OF MENTAL HEALTH, PROVIDED, HOWEVER, THAT NOTHING IN THIS SECTION SHALL BE CONSTRUED TO PROHIBIT PUBLICITY, OTHER THAN PICKETING, FOR THE PURPOSE OF TRUTHFULLY ADVISING THE PUBLIC THAT A GRIEVANCE OR DISPUTE, AS DEFINED IN SECTION SEVEN HUNDRED SIXTEEN OF THIS ARTICLE, EXISTS AT SUCH RESIDENTIAL FACILITY FOR INDIVIDUALS WITH DISABILITIES LICENSED BY THE OFFICE OF MENTAL RETARDATION AND DEVELOPMENTAL DISABILITIES OR THE OFFICE OF MENTAL HEALTH, AS LONG AS SUCH PUBLICITY DOES NOT HAVE THE EFFECT OF INDUCING ANY PERSONS TO WITHHOLD GOODS OR SERVICES AT SUCH RESIDENTIAL FACILITY FOR INDIVIDUALS WITH DISABILITIES LICENSED BY THE OFFICE OF MENTAL RETARDATION AND DEVELOPMENTAL DISABILITIES OR THE OFFICE OF MENTAL HEALTH.

IT SHALL BE UNLAWFUL FOR A RESIDENTIAL FACILITY FOR INDIVIDUALS WITH DISABILITIES LICENSED BY THE OFFICE OF MENTAL RETARDATION AND DEVELOPMENTAL DISABILITIES OR THE OFFICE OF MENTAL HEALTH TO INSTITUTE, DECLARE OR CAUSE, OR TO ATTEMPT TO INSTITUTE, DECLARE OR CAUSE ANY LOCKOUT OF THE EMPLOYEES OF SUCH RESIDENTIAL FACILITY FOR INDIVIDUALS WITH DISABILITIES LICENSED BY THE OFFICE OF MENTAL RETARDATION AND DEVELOPMENTAL DISABILITIES OR THE OFFICE OF MENTAL HEALTH.

S 2. This act shall take effect immediately.