

5235

2009-2010 Regular Sessions

I N S E N A T E

April 27, 2009

Introduced by Sen. SAVINO -- read twice and ordered printed, and when printed to be committed to the Committee on Labor

AN ACT to amend the labor law, in relation to extending the application of the New York state labor relations act to state grant recipients

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

1 Section 1. Section 701 of the labor law is amended by adding a new
2 subdivision 13 to read as follows:

3 13. THE TERM "STATE GRANT RECIPIENT" MEANS ANY PERSON OR ORGANIZATION
4 RECEIVING STATE GRANT FUNDS, INCLUDING ECONOMIC DEVELOPMENT GRANTS, AND
5 ACTING IN THE CAPACITY OF AN EMPLOYER AS DEFINED IN SUBDIVISION TWO OF
6 THIS SECTION.

7 S 2. Subdivisions 1, 2 and 3 of section 706 of the labor law, as added
8 by chapter 443 of the laws of 1937, are amended to read as follows:

9 1. The board is empowered and directed, as hereinafter provided, to
10 prevent any employer OR STATE GRANT RECIPIENT from engaging in any
11 unfair labor practice. This power shall not be affected or impaired by
12 any means of adjustment, mediation or conciliation in labor disputes
13 that have been or may hereafter be established by law.

14 2. Whenever a charge has been made that any employer OR STATE GRANT
15 RECIPIENT has engaged in or is engaging in any unfair labor practice,
16 the board shall have power to issue and cause to be served upon such
17 employer OR STATE GRANT RECIPIENT a complaint stating the charges in
18 that respect and containing a notice of hearing before the board at a
19 place therein fixed to be held not less than seven days after the serv-
20 ing of said complaint. Any such complaint may be amended by the board
21 or its agent conducting the hearing at any time prior to the issuance of
22 an order based thereon. The person so complained of shall have the
23 right to file an answer to the original or amended complaint not less
24 than five days after the service of such original or amended complaint
25 and to appear in person or otherwise to give testimony at the place and

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

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1 time set in the complaint. In the discretion of a member or agent
2 conducting the hearing, or of the board, any other person may be allowed
3 to intervene in the said proceeding and to present testimony. In any
4 such proceeding the board or its agent shall not be bound by technical
5 rules of evidence prevailing in the courts of law or equity.
6 3. The testimony taken at the hearing shall be reduced to writing and
7 filed with the board. Thereafter, in its discretion, the board upon
8 notice may take further testimony or hear argument. If upon all the
9 testimony taken the board shall determine that the respondent has
10 engaged in or is engaging in any unfair labor practice, the board shall
11 state its findings of fact and shall issue and cause to be served on
12 such respondent an order requiring such respondent to cease and desist
13 from such unfair labor practice, and to take such further affirmative or
14 other action as will effectuate the policies of this article, including,
15 but not limited to (a) withdrawal of recognition from and refraining
16 from bargaining collectively with any employee organization or associ-
17 ation, agency or plan defined in this article as a company union or
18 established, maintained or assisted by any action defined in this arti-
19 cle as an unfair labor practice; (b) awarding of back pay; (c) rein-
20 statement with or without back pay of any employee discriminated against
21 in violation of section seven hundred four OF THIS ARTICLE, or mainte-
22 nance of a preferential list from which such employee shall be returned
23 to work; (d) reinstatement with or without back pay of all employees
24 whose work has ceased or whose return to work has been delayed or
25 prevented as the result of the aforementioned or any other unfair labor
26 practice in respect to any employee or employees or maintenance of a
27 preferential list from which such employees shall be returned to work.
28 Such order may further require such person to make reports from time to
29 time showing the extent to which the order has been complied with. If
30 upon all the testimony the board shall be of the opinion that the person
31 or persons named in the complaint have not engaged in or are not engag-
32 ing in any such unfair labor practice, then the board shall make its
33 findings of fact and shall issue an order dismissing the complaint. UPON
34 A SHOWING OF A SECOND OR SUBSEQUENT VIOLATION BY A STATE GRANT RECIPI-
35 ENT, THE BOARD MAY, IN ITS DISCRETION, RECOMMEND TO THE CONTRACTING
36 STATE AGENCY CANCELLATION OF REMAINING STATE PAYMENTS TO SUCH STATE
37 GRANT RECIPIENT ON ANY STATE GRANT OR ECONOMIC DEVELOPMENT GRANT. THE
38 CONTRACTING STATE AGENCY MAY, UPON SUCH A RECOMMENDATION BY THE BOARD,
39 LAWFULLY CANCEL PAYMENTS TO SUCH STATE GRANT RECIPIENT.
40 S 3. This act shall take effect immediately.