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

2123

2009-2010 Regular Sessions

I N A S S E M B L Y

January 15, 2009

Introduced by M. of A. JOHN, NOLAN, COLTON -- Multi-Sponsored by -- M. of A. DESTITO -- read once and referred to the Committee on Labor

AN ACT to amend the labor law, in relation to designating as an unfair labor practice and prohibiting the use of public funds to engage in activities intended to influence the outcome of a union representation election or intended to prevent or to influence the outcome of other concerted employment-related activity pursuant to rights granted under federal or state law

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

Section 1. Subdivision 11 of section 704 of the labor law, as added by chapter 563 of the laws of 1998, is amended to read as follows:

11. To utilize any state OR OTHER PUBLIC funding appropriated for any purpose to train managers, supervisors or other administrative personnel regarding methods to discourage union organization, or to discourage an employee from participating in a union organizing drive, OR TO ENGAGE IN ANY OTHER ACTIVITY INTENDED TO INFLUENCE THE OUTCOME OF A UNION REPRESENTATION ELECTION OR INTENDED TO PREVENT OR TO INFLUENCE THE OUTCOME OF ANY CONCERTED EMPLOYMENT-RELATED ACTIVITY UNDERTAKEN PURSUANT TO RIGHTS GRANTED UNDER FEDERAL OR STATE LAW.

S 2. Subdivision 3 of section 706 of the labor law, as added by chapter 443 of the laws of 1937, is amended to read as follows:

3. The testimony taken at the hearing shall be reduced to writing and filed with the board. Thereafter, in its discretion, the board upon notice may take further testimony or hear argument. If upon all the testimony taken the board shall determine that the respondent has engaged in or is engaging in any unfair labor practice, the board shall state its findings of fact and shall issue and cause to be served on such respondent an order requiring such respondent to cease and desist from such unfair labor practice, and to take such further affirmative or other action as will effectuate the policies of this article, including,

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

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but not limited to (a) withdrawal of recognition from and refraining from bargaining collectively with any employee organization or association, agency or plan defined in this article as a company union or established, maintained or assisted by any action defined in this article as an unfair labor practice; (b) awarding of back pay; (c) reinstatement with or without back pay of any employee discriminated against in violation of section seven hundred four OF THIS ARTICLE, or maintenance of a preferential list from which such employee shall be returned to work; (d) reinstatement with or without back pay of all employees whose work has ceased or whose return to work has been delayed or prevented as the result of the aforementioned or any other unfair labor practice in respect to any employee or employees or maintenance of a preferential list from which such employees shall be returned to work; AND (E) IN INSTANCES WHERE THE BOARD HAS DETERMINED THAT THE RESPONDENT HAS ENGAGED IN OR IS ENGAGING IN AN UNFAIR LABOR PRACTICE AS DEFINED IN SUBDIVISION ELEVEN OF SECTION SEVEN HUNDRED FOUR OF THIS ARTICLE, RESTITUTION OF THE FUNDS USED IN CONNECTION WITH SUCH UNFAIR LABOR PRACTICE TO THE APPROPRIATING AGENCY. Such order may further require such person to make reports from time to time showing the extent to which the order has been complied with. If upon all the testimony the board shall be of the opinion that the person or persons named in the complaint have not engaged in or are not engaging in any such unfair labor practice, then the board shall make its findings of fact and shall issue an order dismissing the complaint.

S 3. This act shall take effect on the first of November next succeeding the date on which it shall have become a law, except that any rules and regulations necessary or convenient to implement the provisions of this act on its effective date may be promulgated on or before such date.