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

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:

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

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

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

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

2. Whenever a charge has been made that any employer OR STATE GRANT RECIPIENT has engaged in or is engaging in any unfair labor practice, the board shall have power to issue and cause to be served upon such employer OR STATE GRANT RECIPIENT a complaint stating the charges in that respect and containing a notice of hearing before the board at a place therein fixed to be held not less than seven days after the serving of said complaint. Any such complaint may be amended by the board or its agent conducting the hearing at any time prior to the issuance of an order based thereon. The person so complained of shall have the right to file an answer to the original or amended complaint not less than five days after the service of such original or amended complaint 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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time set in the complaint. In the discretion of a member or agent conducting the hearing, or of the board, any other person may be allowed to intervene in the said proceeding and to present testimony. In any such proceeding the board or its agent shall not be bound by technical rules of evidence prevailing in the courts of law or equity.

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, 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. 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. UPON A SHOWING OF A SECOND OR SUBSEQUENT VIOLATION BY A STATE GRANT RECIPIENT, THE BOARD MAY, IN ITS DISCRETION, RECOMMEND TO THE CONTRACTING STATE AGENCY CANCELLATION OF REMAINING STATE PAYMENTS TO SUCH STATE GRANT RECIPIENT ON ANY STATE GRANT OR ECONOMIC DEVELOPMENT GRANT. THE CONTRACTING STATE AGENCY MAY, UPON SUCH A RECOMMENDATION BY THE BOARD, LAWFULLY CANCEL PAYMENTS TO SUCH STATE GRANT RECIPIENT.

S 3. This act shall take effect immediately.