

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

4016--A

Cal. No. 1074

2011-2012 Regular Sessions

I N S E N A T E

March 14, 2011

Introduced by Sen. GOLDEN -- read twice and ordered printed, and when printed to be committed to the Committee on Labor -- recommitted to the Committee on Labor in accordance with Senate Rule 6, sec. 8 -- reported favorably from said committee, ordered to first and second report, amended on second report, ordered to a third reading, and to be reprinted as amended, retaining its place in the order of third reading

AN ACT to amend the labor law, in relation to powers of the public employment relations board to investigate unfair labor practices

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

1 Section 1. Subdivision 2 of section 706 of the labor law, as added by
2 chapter 443 of the laws of 1937, is amended to read as follows:
3 2. Whenever a charge has been made that any employer has engaged in or
4 is engaging in any unfair labor practice, the board OR ITS AGENT shall
5 have THE power to [issue and cause to be served] SERVE upon such employ-
6 er a [complaint stating the charges in that respect and containing a
7 notice of hearing before the board at a place therein fixed to be held
8 not less than seven days after the serving of said complaint] COPY OF
9 THE CHARGE THAT WAS FILED WITH THE BOARD AND A NOTICE SETTING THE DATE
10 FOR SERVICE AND FILING OF AN ANSWER. Any such [complaint] CHARGE may be
11 amended [by the board or its agent conducting the hearing at any time]
12 FROM TIME TO TIME prior to the issuance of an order based thereon. The
13 EMPLOYER OR THE person so [complained of] CHARGED shall have the right
14 to file an answer to the original or amended [complaint not less than
15 five days after the service of such original or amended complaint]
16 CHARGE and to appear in person or otherwise to give testimony at the
17 place and time set [in the complaint] BY THE BOARD OR ITS AGENT. In the
18 discretion of a member or agent conducting the hearing, or of the board,
19 any other person may be allowed to intervene in the said proceeding and
20 to present testimony. In any such proceeding the board or its agent

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

LBD09428-03-2

1 shall not be bound by technical rules of evidence prevailing in the
2 courts of law or equity.

3 S 2. Subdivisions 1 and 5 of section 708 of the labor law, subdivision
4 1 as amended by section 6 of part 0 of chapter 56 of the laws of 2010
5 and subdivision 5 as amended by chapter 496 of the laws of 1963, are
6 amended to read as follows:

7 1. The board, or its duly authorized agents or agencies, shall at all
8 reasonable times have access to, for the purposes of examination, and
9 the right to examine, copy or photograph any evidence, including
10 payrolls or lists of employees, of any person being investigated or
11 proceeded against that relates to any matter under investigation or in
12 question. The board OR ITS DESIGNATED AGENTS shall have power to issue
13 subpoenas requiring the attendance and testimony of witnesses and the
14 production of any evidence that relates to any matter under investi-
15 gation or in question before the board, its member, agent, or agency,
16 conducting the hearing or investigation. Any member of the board, or any
17 agent or agency designated by the board for such purposes, may adminis-
18 ter oaths and affirmations, examine witnesses, and receive evidence.

19 5. [Complaints] CHARGES, PETITIONS, orders, and other process and
20 papers of the board, its member, agent, or agency, may be served either
21 personally or by certified or registered mail [or by telegraph] or by
22 leaving a copy thereof at the [principle] PRINCIPAL office or place of
23 business of the person required to be served. The verified return by the
24 individual so serving the same setting forth the manner of such service
25 shall be proof of the same, and the return post-office receipt [or tele-
26 graph receipt] therefor when registered and mailed [or telegraphed] as
27 aforesaid shall be proof of service of the same. Witnesses summoned
28 before the board, its member, agent, or agency shall be paid the same
29 fees and mileage that are paid witnesses in the courts of this state,
30 and witnesses whose depositions are taken and the person taking the same
31 shall severally be entitled to the same fees as are paid for like
32 services in the courts of this state.

33 S 3. This act shall take effect on the sixtieth day after it shall
34 have become a law.