

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

8008--A

2011-2012 Regular Sessions

I N A S S E M B L Y

May 25, 2011

Introduced by M. of A. WRIGHT -- read once and referred to the Committee on Labor -- reported and referred to the Committee on Codes -- recommended to the Committee on Codes in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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

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

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

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

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

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