STATE OF NEW YORK

3191

2019-2020 Regular Sessions

IN SENATE

February 4, 2019

Introduced by Sen. KENNEDY -- 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 reporting of persuasion activities relating to the right to organize and bargain collectively

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The labor law is amended by adding a new article 21 to read as follows:

ARTICLE 21

EMPLOYEE ORGANIZING PERSUASION DISCLOSURE

Section 750. Reporting of persuasion activities.
751. Receipts and disbursement report.
752. Reporting exemptions.
753. Penalties.
754. Severability.

§ 750. Reporting of persuasion activities. 1. Every employer who hires or contracts with a person who as a direct or indirect party to any agreement or arrangement with an employer undertakes, pursuant to such agreement or arrangement, any activities where an object thereof is, directly or indirectly, (a) to persuade employees to exercise or not to exercise, or to persuade employees as to the manner of exercising, the right to organize and bargain collectively through representatives of their own choosing; or, (b) to supply an employer with information concerning the activities of employees or a labor organization in connection with a labor dispute involving such employer, except information for use solely in conjunction with an administrative or arbitral proceeding or a criminal or civil judicial proceeding; shall file a report with the commissioner in a manner prescribed by this article disclosing the nature of such agreement.

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

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2. The report required by this section shall be filed within thirty days after entering into an agreement or arrangement of the type described in this section.

3. If there is any change in the information reported within subdivision two of this section, an amended report shall be filed by the employer within thirty days of the change.

§ 751. Receipts and disbursement report. Every person who, as a direct or indirect party to any agreement or arrangement, undertakes any activities of the type described in section seven hundred fifty of this article pursuant to such agreement or arrangement and who, as a result of such agreement or arrangement made or received any payment during the previous calendar year shall file a report with the commissioner. The report shall be filed within ninety days after the end of the calendar year.

§ 752. Reporting exemptions. 1. Nothing contained in this article shall be construed to require any person to file a report under this article unless he or she was a direct or indirect party to an agreement or arrangement of the kind described in this article.

2. Nothing contained in this article shall be construed to require any person to file a report covering the services of such person, unless directly connected to the activities described in section seven hundred fifty-one of this article, by reason of his or her:

(a) giving or agreeing to give advice to an employer; or

(b) representing or agreeing to represent an employer before any court, administrative agency, or tribunal of arbitration; or

(c) engaging or agreeing to engage in collective bargaining on behalf of an employer with respect to wages, hours, or other terms or conditions of employment or the negotiation of an agreement or any question arising thereunder.

3. Nothing contained in this article shall be construed to require any regular officer, or employee of an employer to file a report in connection with services rendered as such regular officer, supervisor or employee to such employer; or an attorney who is a member in good standing of the bar of any state, to include in any report required to be filed pursuant to the provisions of this article any information which was lawfully communicated to such attorney by any of his or her clients in the course of a legitimate attorney-client relationship.

§ 753. Penalties. 1. Any person required under section seven hundred fifty or seven hundred fifty-one of this article who fails to properly disclose information as required and in a manner specified by this article shall be subject to civil penalties to be enforced by the commissioner provided under this section.

(a) The civil penalties set forth in this section shall be imposed as follows: five thousand dollars for the first violation; ten thousand dollars for a second violation; and twenty-five thousand dollars for each violation thereafter.

(b) A person who willfully violates this article shall be subject to a civil penalty of up to twenty-five thousand dollars for a first violation and fifty-thousand dollars for every violation thereafter. For purposes of this paragraph, the term "willfully violates" shall mean a person knew or should have known that his or her conduct was prohibited by this article.

2. Any penalties imposed under this section by the commissioner shall be appealable to the industrial board of appeals in accordance with article three of this chapter.

3. Nothing in this section shall limit the availability of other remedies at law or in equity for a violation of this article; and the civil penalty provided for in this section shall be in addition to and may be imposed concurrently with any other remedy or penalty provided for in this chapter.

4. Any fee or penalty assessed for a violation of this article shall be deposited into the department's fee and penalty account.

§ 754. Severability. If any word, phrase, clause, sentence, paragraph, section, or part of this article or the application thereof to any person or circumstances shall be adjudged invalid by a court of competent jurisdiction, such order or judgment shall be confined in its operation to the controversy in which it was rendered, and shall not affect or invalidate the remainder of this article, but shall be confined in its operation to the word, phrase, clause, sentence, paragraph, section, or part thereof directly involved in the controversy in which such judgment shall have been rendered.

§ 2. This act shall take effect on the ninetieth day after it shall have become a law.