STATE OF NEW YORK

8434

IN SENATE

March 1, 2022

Introduced by Sen. JACKSON -- 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 the designation of representatives for the purposes of collective bargaining by farm laborers and the prevention of unfair labor practices

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

Section 1. Subdivisions 1-a, 2 and 3 of section 705 of the labor law, subdivision 1-a as added by chapter 105 of the laws of 2019, subdivision 2 as amended by chapter 515 of the laws of 1963, and subdivision 3 as amended by chapter 1034 of the laws of 1957, are amended to read as follows:

1-a. If the choice available to the employees in a negotiating unit is limited to selecting or rejecting a single employee organization, that choice shall be ascertained by the board on the basis of dues deduction authorizations instead of by an election. In such case, the employee organization involved will be certified without an election if a majority of the employees within the unit have executed a [~~showing~~] dues [~~deductions authorizations~~] **deduction authorization or other showing of interest**.

2. The board shall decide in each case whether, in order to insure to employees the full benefit of their right to self-organization, to collective bargaining and otherwise to effectuate the policies of this article, the unit appropriate for the purposes of collective bargaining shall be the employer unit, multiple employer unit, craft unit, plant unit, or any other unit; provided, however, that in any case where the majority of employees of a particular craft, or in the case of a non-profitmaking hospital or residential care center where the majority of employees of a particular profession or craft, shall so decide the board shall designate such profession or craft as a unit appropriate for the purpose of collective bargaining**; and provided further, however, that the board shall designate negotiating units that shall be deemed appropriate in cases concerning farm laborers except in extraordinary circum-**

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

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stances and in circumstances in which there are existing non-conforming units.

3. Whenever it is alleged by an employee or his representative, or by an employer or his representative, that there is a question or controversy concerning the representation of employees, the board shall investigate such question or controversy and certify in writing to all persons concerned the name or names of the representatives who have been designated or selected. In [~~any such investigation~~] the event the board is unable to determine whether the showing of interest supports certification of a representative or direction of an election without an evidentiary hearing, the board shall provide for an appropriate hearing upon due notice, [~~either in conjuction with a proceeding under section seven hundred six or otherwise, and may conduct an election by secret ballot of employees, or use any other suitable method to ascertain such representatives (either before or after the aforesaid hearing),~~] provided, however, that the board shall not have authority to investigate or determine any question or controversy between individuals or groups within the same labor organization nor between labor organizations affiliated with the same parent labor organization concerning the internal affairs of any labor organization but nothing contained in this proviso shall be deemed to preclude the board from investigating and determining which, if any, of affiliated groups or labor organizations have been designated or selected by employees as their representatives for the purposes of collective bargaining within the meaning of this article.

§ 2. Subdivision 2 of section 706 of the labor law, as amended by chapter 148 of the laws of 2013, is amended to read as follows:

2. Whenever a charge has been made that any employer has engaged in or is engaging in any unfair labor practice, the board or its agent shall have the power to [~~serve~~] issue and cause to be served upon such employer a [~~copy of the charge that was filed with the board and a notice setting the date for the service and filing of an answer~~] 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 [~~charge~~] complaint may be amended [~~from time to~~] by the board or its agent conducting the hearing at any time prior to the issuance of an order based thereon. The employer or the person so [~~charged~~] complained of shall have the right to file an answer to the original or amended [~~charge~~] 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 time set [~~by the board or its agent~~] 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. Subdivision 5 of section 708 of the labor law, as amended by chapter 148 of the laws of 2013, is amended to read as follows:

5. [~~Charges~~] Complaints, charges, petitions, orders, notices of hearing, and other process and papers of the board, its member, agent, or agency, [~~may~~] shall be served [~~either~~] by electronic mail whenever practicable, and may be served personally or by regular mail or by leaving a copy thereof at the principal office or place of business of the person required to be served, whenever service by electronic mail is not feasible. The verified return or certificate of service by the individual so

serving the same setting forth the manner of such service shall be proof of the same, and the return post office receipt therefor when registered and mailed as aforesaid shall be proof of service of the same. Witnesses summoned before the board, its member, agent, or agency shall be paid the same fees and mileage that are paid witnesses in the courts of this state, and witnesses whose depositions are taken and the person taking the same shall severally be entitled to the same fees as are paid for like services in the courts of this state. Final orders issued by the board shall be served upon the parties by **electronic mail whenever practicable, as well as by** registered or certified mail.

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