

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:

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

6 1-a. If the choice available to the employees in a negotiating unit is
7 limited to selecting or rejecting a single employee organization, that
8 choice shall be ascertained by the board on the basis of dues deduction
9 authorizations instead of by an election. In such case, the employee
10 organization involved will be certified without an election if a majori-
11 ty of the employees within the unit have executed a [~~showing~~]
12 [~~deductions authorizations~~] deduction authorization or other showing of
13 interest.

14 2. The board shall decide in each case whether, in order to insure to
15 employees the full benefit of their right to self-organization, to
16 collective bargaining and otherwise to effectuate the policies of this
17 article, the unit appropriate for the purposes of collective bargaining
18 shall be the employer unit, multiple employer unit, craft unit, plant
19 unit, or any other unit; provided, however, that in any case where the
20 majority of employees of a particular craft, or in the case of a non-
21 profitmaking hospital or residential care center where the majority of
22 employees of a particular profession or craft, shall so decide the board
23 shall designate such profession or craft as a unit appropriate for the
24 purpose of collective bargaining; and provided further, however, that
25 the board shall designate negotiating units that shall be deemed appro-
26 priate 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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1 stances and in circumstances in which there are existing non-conforming
2 units.

3 3. Whenever it is alleged by an employee or his representative, or by
4 an employer or his representative, that there is a question or contro-
5 versy concerning the representation of employees, the board shall investi-
6 gate such question or controversy and certify in writing to all
7 persons concerned the name or names of the representatives who have been
8 designated or selected. In [~~any such investigation~~] the event the board
9 is unable to determine whether the showing of interest supports certif-
10 ication of a representative or direction of an election without an
11 evidentiary hearing, the board shall provide for an appropriate hearing
12 upon due notice, [~~either in conjunction with a proceeding under section~~
13 ~~seven hundred six or otherwise, and may conduct an election by secret~~
14 ~~ballot of employees, or use any other suitable method to ascertain such~~
15 ~~representatives (either before or after the aforesaid hearing),~~]
16 provided, however, that the board shall not have authority to investi-
17 gate or determine any question or controversy between individuals or
18 groups within the same labor organization nor between labor organiza-
19 tions affiliated with the same parent labor organization concerning the
20 internal affairs of any labor organization but nothing contained in this
21 proviso shall be deemed to preclude the board from investigating and
22 determining which, if any, of affiliated groups or labor organizations
23 have been designated or selected by employees as their representatives
24 for the purposes of collective bargaining within the meaning of this
25 article.

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

28 2. Whenever a charge has been made that any employer has engaged in or
29 is engaging in any unfair labor practice, the board or its agent shall
30 have the power to [~~serve~~] issue and cause to be served upon such employ-
31 er a [~~copy of the charge that was filed with the board and a notice~~
32 ~~setting the date for the service and filing of an answer~~] complaint
33 stating the charges in that respect and containing a notice of hearing
34 before the board at a place therein fixed to be held not less than seven
35 days after the serving of said complaint. Any such [~~charge~~] complaint
36 may be amended [~~from time to~~] by the board or its agent conducting the
37 hearing at any time prior to the issuance of an order based thereon. The
38 employer or the person so [~~charged~~] complained of shall have the right
39 to file an answer to the original or amended [~~charge~~] complaint not less
40 than five days after the service of such original or amended complaint
41 and to appear in person or otherwise to give testimony at the place and
42 time set [~~by the board or its agent~~] in the complaint. In the discretion
43 of a member or agent conducting the hearing, or of the board, any other
44 person may be allowed to intervene in the said proceeding and to present
45 testimony. In any such proceeding the board or its agent shall not be
46 bound by technical rules of evidence prevailing in the courts of law or
47 equity.

48 § 3. Subdivision 5 of section 708 of the labor law, as amended by
49 chapter 148 of the laws of 2013, is amended to read as follows:

50 5. [~~Charges~~] Complaints, charges, petitions, orders, notices of hear-
51 ing, and other process and papers of the board, its member, agent, or
52 agency, [~~may~~] shall be served [~~either~~] by electronic mail whenever prac-
53 ticable, and may be served personally or by regular mail or by leaving a
54 copy thereof at the principal office or place of business of the person
55 required to be served, whenever service by electronic mail is not feasi-
56 ble. The verified return or certificate of service by the individual so

1 serving the same setting forth the manner of such service shall be proof
2 of the same, and the return post office receipt therefor when registered
3 and mailed as aforesaid shall be proof of service of the same. Witnesses
4 summoned before the board, its member, agent, or agency shall be paid
5 the same fees and mileage that are paid witnesses in the courts of this
6 state, and witnesses whose depositions are taken and the person taking
7 the same shall severally be entitled to the same fees as are paid for
8 like services in the courts of this state. Final orders issued by the
9 board shall be served upon the parties by electronic mail whenever prac-
10 ticable, as well as by registered or certified mail.
11 § 4. This act shall take effect on the ninetieth day after it shall
12 have become a law.