

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21

S.102

An act relating to expanding employment protections and collective bargaining rights

It is hereby enacted by the General Assembly of the State of Vermont:

Sec. 1. 21 V.S.A. § 495o is added to read:

§ 495o. EMPLOYER COMMUNICATIONS RELATING TO RELIGIOUS OR POLITICAL MATTERS; EMPLOYEE RIGHTS

(a) An employer, or an employer’s agent, shall not discharge, discipline, penalize, or otherwise discriminate against, or threaten to discharge, discipline, penalize, or otherwise discriminate against, an employee:

(1) because the employee declines:

(A) to attend or participate in an employer-sponsored meeting that has the primary purpose of communicating the employer’s opinion about religious or political matters; or

(B) to view or participate in communications with or from the employer or the employer’s agent that have the primary purpose of communicating the employer’s opinion about religious or political matters; or

(2) as a means of requiring an employee to:

(A) attend an employer-sponsored meeting that has the primary purpose of communicating the employer’s opinion about religious or political matters; or

1 (B) view or participate in communications with or from the employer
2 or the employer's agent that have the primary purpose of communicating the
3 employer's opinion about religious or political matters.

4 (b) Nothing in this section shall be construed to:

5 (1) limit an employee's right to bring a civil action for wrongful
6 termination; or

7 (2) diminish or limit any rights provided to an employee pursuant to a
8 collective bargaining agreement or employment contract.

9 (c) Nothing in this section shall be construed to prohibit an employer that is
10 a religious or denominational institution or organization, or any organization
11 operated for charitable or educational purposes, that is operated, supervised, or
12 controlled by or in connection with a religious organization, from:

13 (1) communicating with its employees regarding the employer's opinion
14 on religious matters;

15 (2) requiring its employees to attend a meeting regarding the employer's
16 opinion on religious matters; or

17 (3) requiring its employees to view or participate in communications
18 from the employer or the employer's agent regarding the employer's opinion
19 on religious matters.

20 (d) Nothing in this section shall be construed to prohibit an employer that is
21 a political organization, a political party, or an organization that engages, in

1 substantial part, in political matters from:

2 (1) communicating with its employees regarding the employer's opinion
3 on political matters;

4 (2) requiring its employees to attend a meeting regarding the employer's
5 opinion on political matters; or

6 (3) requiring its employees to view or participate in communications
7 from the employer or the employer's agent regarding the employer's opinion
8 on political matters.

9 (e) Nothing in this section shall be construed to prohibit an employer or the
10 employer's agent from:

11 (1) communicating information to an employee:

12 (A) that the employer is required to communicate pursuant to State or
13 federal law; or

14 (B) that is necessary for the employee to perform the employee's job
15 functions or duties;

16 (2) requiring an employee to attend a meeting to discuss issues related to
17 the employer's business or operation when the discussion is necessary for the
18 employee to perform the employee's job functions or duties; or

19 (3) offering meetings, forums, or other communications about religious
20 or political matters for which attendance or participation is entirely voluntary.

21 (f)(1) The penalty and enforcement provisions of section 495b of this

1 subchapter shall apply to this section.

2 (2) The provisions against retaliation in subdivision 495(a)(8) of this
3 subchapter shall apply to this section.

4 (g) As used in this section:

5 (1) “Political matters” means matters relating to political affiliation,
6 elections for political office, political parties, legislative proposals, proposals
7 to change rules or regulations, and the decision to join or support any political
8 party or political, civic, community, fraternal, or labor organization.

9 (2) “Religious matters” means matters relating to religious affiliation
10 and practice and the decision to join or support any religious or denominational
11 organization or institution.

12 Sec. 2. 21 V.S.A. § 1502 is amended to read:

13 § 1502. DEFINITIONS

14 As used in this chapter:

15 * * *

16 (6) “Employee” includes any employee, and is not limited to the
17 employees of a particular employer unless this chapter explicitly states
18 otherwise, and includes any individual whose work has ceased as a
19 consequence of, or in connection with, any current labor dispute or because of
20 any unfair labor practice and who has not obtained any other regular and
21 substantially equivalent employment, but does not include an individual;

1 subdivision (4) of this subsection and subdivision (g)(4) of this section.

2 * * *

3 (g)(1) In determining the representation of State employees in a collective
4 bargaining unit, the Board shall conduct a secret ballot of the employees within
5 the time period set forth in subdivision (e)(1) of this section, unless the time to
6 conduct the election is extended pursuant to subdivision (e)(4) of this section,
7 and certify the results to the interested parties and to the State employer. The
8 original ballot shall be so prepared as to permit a vote against representation by
9 anyone named on the ballot. No representative will be certified with less than
10 a majority of the votes cast by employees in the bargaining unit.

11 * * *

12 (4)(A) Notwithstanding any other provision of this subsection (g), if the
13 Board determines that a petition to be represented for collective bargaining
14 filed pursuant to subsection (c) of this section, which identifies a proposed
15 exclusive representative of the employees in the bargaining unit, bears the
16 signatures of at least 50 percent plus one of the employees in a bargaining unit
17 deemed appropriate by the Board pursuant to this section, the Board shall
18 certify the person or labor organization as the exclusive representative of the
19 bargaining unit.

20 (B) Certification of a collective bargaining representative shall only
21 be available pursuant to this subdivision (g)(4) when no other person or labor

1 organization is currently certified or recognized as the exclusive representative
2 of the employees in the bargaining unit.

3 (h) A representative chosen ~~by secret ballot~~ for the purposes of collective
4 bargaining by a majority of the votes cast by secret ballot or certified pursuant
5 to subdivision (g)(4) of this section shall be the exclusive representative of all
6 the employees in ~~such~~ the bargaining unit for a minimum of one year. ~~Such~~
7 The representative shall be eligible for reelection or for recertification pursuant
8 to subdivision (g)(4) of this section.

9 * * *

10 Sec. 4. 16 V.S.A. § 1992 is amended to read:

11 § 1992. REFERENDUM PROCEDURE FOR REPRESENTATION

12 (a)(1) An organization purporting to represent a majority of all of the
13 teachers or administrators employed by the school board may be recognized by
14 the school board without the necessity of a referendum upon the submission of
15 a petition bearing the valid signatures of a majority of the teachers or
16 administrators employed by that school board. ~~Within 15 calendar days after~~
17 ~~receiving the petition, the school board shall notify the teachers or~~
18 ~~administrators of the school district in writing of its intention to either require~~
19 ~~or waive a secret ballot referendum. If the school board gives notice of its~~
20 ~~intention to waive a referendum and recognize an organization, 10 percent of~~
21 ~~the teachers or administrators employed by the school board may submit a~~

1 ~~petition within 15 calendar days thereafter, objecting to the granting of~~
2 ~~recognition without a referendum, in which event a secret ballot referendum~~
3 ~~shall be held in the district for the purpose of choosing an exclusive~~
4 ~~representative as provided pursuant to the provisions of this section. The~~
5 ~~school board and the organization purporting to represent a majority of the~~
6 ~~teachers or administrators shall, within 10 business days after the petition is~~
7 ~~submitted, agree on an impartial third party to examine the petition and~~
8 ~~determine whether a majority of the teachers or administrators support the~~
9 ~~organization. If the parties fail to agree on an impartial third party within~~
10 ~~10 business days, the Vermont Labor Relations Board shall examine the~~
11 ~~petition and determine whether a majority of the teachers or administrators~~
12 ~~support the organization. If the impartial party or the Board determines that a~~
13 ~~majority of the teachers or administrators support the organization, it shall~~
14 ~~certify the organization as the exclusive representative of the teachers or~~
15 ~~administrators.~~

16 * * *

17 (b) ~~Recognition granted to~~ Certification of a negotiating unit as exclusive
18 representative shall be valid and not subject to challenge by referendum
19 petition or otherwise for the remainder of the fiscal year in which ~~recognition~~
20 ~~is granted~~ the certification occurs and for an additional period of 12 months
21 after final adoption of the budget for the succeeding fiscal year and shall

1 continue thereafter until a new referendum is called for.

2 (c)(1)(A) A secret ballot referendum shall be held not more than 21
3 calendar days after 20 percent of the teachers or administrators employed by
4 the school board present a petition requesting a referendum on the matter of
5 representation, except during a period of prior ~~recognition~~ certification, as
6 provided pursuant to subsection (b) of this section.

7 * * *

8 Sec. 5. 21 V.S.A. § 1581 is amended to read:

9 § 1581. PETITIONS FOR ELECTION; FILING, INVESTIGATIONS,
10 HEARINGS, DETERMINATIONS

11 * * *

12 (b)(1) The Board shall investigate the petition and if it has reasonable cause
13 to believe that a question of representation exists shall provide for an
14 appropriate hearing before the Board itself, a Board member ~~thereof~~, or its
15 agents appointed for that purpose upon due notice. Written notice of the
16 hearing shall be mailed by certified mail to the parties named in the petition
17 not less than seven days before the hearing.

18 (2) If the Board finds upon the record of the hearing that a question of
19 representation exists, it shall conduct an election by secret ballot marked at the
20 place of election and certify to the parties, in writing, the results ~~thereof~~ of the
21 election.

1 (i) No election ~~may~~ shall be conducted under this section in a bargaining
2 unit or a subdivision within which in the preceding 12 months a valid election
3 has been held.

4 Sec. 8. EFFECTIVE DATE

5 This act shall take effect on July 1, 2023.