

1 S.36

2 Introduced by Senator Baruth

3 Referred to Committee on

4 Date:

5 Subject: Executive; education; labor; collective bargaining; certification  
6 procedure

7 Statement of purpose of bill as introduced: This bill proposes to permit  
8 employees to elect a collective bargaining representative through card check  
9 elections.

10 An act relating to collective bargaining

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

12 Sec. 1. 3 V.S.A. § 941 is amended to read:

13 § 941. UNIT DETERMINATION, CERTIFICATION, AND

14 REPRESENTATION

15 \* \* \*

16 (g)(1) In determining the representation of State employees in a collective  
17 bargaining unit, the Board shall conduct a secret ballot of the employees and  
18 certify the results to the interested parties and to the State employer. The  
19 original ballot shall be so prepared as to permit a vote against representation by

1 anyone named on the ballot. No representative will be certified with less than  
2 a majority of the votes cast.

3 \* \* \*

4 (4)(A) Notwithstanding any other provision of this subsection, if the  
5 Board determines that a petition to be represented for collective bargaining  
6 filed pursuant to subsection (c) of this section, which identifies a person or  
7 labor organization that will act as representative of the employees in the  
8 collective bargaining unit, bears the signatures of at least 50 percent plus one  
9 of the employees in a bargaining unit deemed appropriate by the Board  
10 pursuant to this section, the Board shall certify the person or labor organization  
11 as the representative of the bargaining unit.

12 (B) Certification of a collective bargaining representative shall only  
13 be available pursuant to this subdivision (g)(4) when no other person or labor  
14 organization is currently certified or recognized as the exclusive representative  
15 of the employees in the bargaining unit.

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

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Sec. 2. 16 V.S.A. § 1992 is amended to read:

§ 1992. ~~REFERENDUM PROCEDURE FOR REPRESENTATION;~~  
PETITION; REFERENDUM

(a) An organization purporting to represent a majority of all of the teachers or administrators employed by the school board may be recognized by the school board without the necessity of a referendum upon the submission of a petition bearing the valid signatures of a majority of the teachers or administrators employed by that school board. ~~Within 15 days after receiving the petition the school board shall notify the teachers or administrators of the school district in writing of its intention to either require or waive a secret ballot referendum. If the school board gives notice of its intention to waive a referendum and recognize an organization, 10 percent of the teachers or administrators employed by the school board may submit a petition within 15 days thereafter, objecting to the granting or recognition without a referendum, in which event a secret ballot referendum shall be held in the district for the purpose of choosing an exclusive representative according to the guidelines for referendum contained in this legislation. The school board and the organization purporting to represent a majority of the teachers or administrators shall, within 10 business days after the petition is submitted, agree on an impartial third party to examine the petition and determine whether~~

1 a majority of the teachers or administrators support the organization. If the  
2 parties fail to agree on an impartial third party within 10 business days, the  
3 Vermont Labor Relations Board shall examine the petition and determine  
4 whether a majority of the teachers or administrators support the organization.  
5 If the impartial party or the Board determines that a majority of the teachers or  
6 administrators support the organization, it shall certify the organization as the  
7 exclusive representative of the teachers or administrators.

8 (b) ~~Recognition granted to~~ Certification of a negotiating unit as exclusive  
9 representative shall be valid and not subject to challenge by referendum  
10 petition or otherwise for the remainder of the fiscal year in which ~~recognition~~  
11 ~~is granted~~ the certification occurs and for an additional period of 12 months  
12 after final adoption of the budget for the succeeding fiscal year and shall  
13 continue thereafter until a new referendum is called for.

14 (c) A secret ballot referendum shall be held any time that 20 percent of the  
15 teachers or administrators employed by the school board present a petition  
16 requesting a referendum on the matter of representation, except during a period  
17 of prior ~~recognition~~ certification, as ~~hereinbefore~~ provided pursuant to  
18 subsection (b) of this section. Any organization interested in representing  
19 teachers or administrators in the school district shall have the right to appear on  
20 the ballot by submitting a petition supported by ten percent or more of the  
21 teachers or administrators in the school district.

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Sec. 3. 21 V.S.A. § 1581 is amended to read:

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

\* \* \*

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

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

(3)(A) If the Board finds upon the record of the hearing that a petition to be represented for collective bargaining filed pursuant to subdivision (a)(1)(A) of this section, which identifies the individual or labor organization that will act as the bargaining representative of the employees, bears the signatures of at least 50 percent plus one of the employees in the bargaining unit, the Board

1 shall certify the individual or labor organization as the representative of the  
2 employees in the bargaining unit.

3 (B) Certification of a representative shall only be available pursuant  
4 to this subdivision (B) when no other individual or labor organization is  
5 currently certified or recognized as the representative of the employees in the  
6 bargaining unit.

7 (c) In determining whether or not a question of representation exists, ~~it~~ the  
8 Board shall apply the same regulations and rules of decision regardless of the  
9 identity of the persons filing the petition or the kind of relief sought.

10 \* \* \*

11 Sec. 4. 21 V.S.A. § 1584 is amended to read:

12 § 1584. PETITIONS AND ELECTION TO RESCIND

13 REPRESENTATIVE'S AUTHORITY

14 \* \* \*

15 (b) No election ~~may~~ shall be conducted under this section in a bargaining  
16 unit or a subdivision within which in the preceding 12 months a valid election  
17 or certification of a representative pursuant to this subchapter has ~~been held~~  
18 occurred.

19 Sec. 5. 21 V.S.A. § 1724 is amended to read:

20 § 1724. CERTIFICATION PROCEDURE

21 \* \* \*

1        (h)(1) Notwithstanding subsections (e)–(g) of this section, if the Board  
2        determines that a petition to be represented for collective bargaining filed  
3        pursuant to subsection (a) of this section, which identifies an individual or  
4        labor organization that will act as representative of the employees in the  
5        bargaining unit, bears the signatures of at least 50 percent plus one of the  
6        employees in the bargaining unit, the Board shall certify the individual or labor  
7        organization as the representative of the bargaining unit.

8        (2) Certification of a bargaining representative shall only be available  
9        pursuant to this subsection when no other individual or labor organization is  
10       currently certified or recognized as the representative of the employees in the  
11       bargaining unit.

12       (i) No election ~~may~~ or certification of a representative shall be conducted  
13       under this section in a bargaining unit or a subdivision within which in the  
14       preceding 12 months a valid election or certification has ~~been held~~ occurred.

15       Sec. 6. EFFECTIVE DATE

16       This act shall take effect on July 1, 2019.