

1 TO THE HONORABLE SENATE:

2 The Committee on Economic Development, Housing and General Affairs to
3 which was referred Senate Bill No. 254 entitled “An act relating to union
4 organizing” respectfully reports that it has considered the same and
5 recommends that the bill be amended as follows:

6 First: By striking out Sec. 1, 3 V.S.A. § 941, in its entirety and inserting in
7 lieu thereof a new Sec. 1 to read:

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

9 § 941. UNIT DETERMINATION, CERTIFICATION, AND
10 REPRESENTATION

11 * * *

12 (c) A petition may be filed with the Board, in accordance with procedures
13 prescribed by the Board:

14 (1) By an employee or group of employees, or any individual or
15 employee organization purporting to act in their behalf, alleging by filing a
16 petition or petitions bearing signatures of not less than 30 percent of the
17 employees, that they wish to form a bargaining unit and be represented for
18 collective bargaining, or that the individual or employee organization currently
19 certified as bargaining agent is no longer supported by at least 51 percent of
20 the employees in the bargaining unit, or that they are now included in an

1 approved bargaining unit and wish to form a separate bargaining unit under
2 Board criteria for purposes of collective bargaining.

3 (2)(A)(i) An employee or group of employees, or any individual or
4 employee organization purporting to act in their behalf, that is seeking to
5 determine interest in the formation of a bargaining unit or representation for
6 collective bargaining may petition the employer and the Board for a list of the
7 employees in the proposed bargaining unit.

8 (ii) An employee or group of employees, or any person purporting
9 to act on their behalf, that is seeking to demonstrate that the individual or
10 employee organization currently certified as bargaining agent is no longer
11 supported by at least 51 percent of the employees in the bargaining unit shall
12 not be entitled to obtain a list of the employees in the proposed bargaining unit
13 pursuant to this subdivision (c)(2).

14 (B) Within five business days after receiving the petition, the
15 employer shall file with the Board and the employee or group of employees, or
16 the individual or employee organization purporting to act in their behalf, a list
17 of the names and job titles of the employees in the proposed bargaining unit.
18 To the extent possible, the list of employees shall be in alphabetical order by
19 last name and provided in electronic format.

1 (d)(1) The Board, a Board member ~~thereof~~, or a person or persons
2 designated by the Board shall investigate the petition; and do one of the
3 following:

4 (A) Determine that a sufficient showing of interest has been made by
5 the petition.

6 ~~(B)(i) If~~ if it finds reasonable cause to believe that a question of unit
7 determination or representation exists, ~~an appropriate hearing shall be~~
8 scheduled before the Board upon due notice the Board shall schedule a hearing
9 to be held before the Board not more than eight days after the petition was filed
10 with the Board unless:

11 (I) the parties named in the petition mutually agree to extend
12 the time for the hearing; or

13 (II) the Board determines that the time for the hearing must be
14 extended due to an insufficient number of Board members being available to
15 hold a hearing or the Executive Director of the Board is unavailable due to
16 leave.

17 (ii) Once scheduled, the date of the hearing shall not be subject to
18 change. ~~Upon request, the results of the investigation shall be made available~~
19 ~~by the Board to the petitioners and all intervenors, if any, including the duly~~
20 ~~certified bargaining representative prior to giving notice of hearing. Written~~

1 notice of the hearing shall be mailed by certified mail to the parties named in
2 the petition not less than seven calendar days before the hearing.

3 (iii) Hearing procedure and notification of the results of ~~same~~ the
4 hearing shall be in accordance with rules ~~prescribed~~ adopted by the Board, ~~or~~
5 except that the parties shall not be permitted to submit briefs to the Board after
6 the conclusion of the hearing unless the parties mutually agree to do so and the
7 Board consents.

8 (iv) The Board shall issue its decision not more than two business
9 days after the hearing or 10 days after the petition was submitted, whichever is
10 sooner.

11 ~~(2)(C)~~ dismiss the petition, based upon the If the Board finds an absence
12 of substantive evidence, it shall dismiss the petition.

13 (2) Upon request, the results of the investigation shall be made available
14 by the Board to the petitioners and all intervenors, if any, including the duly
15 certified bargaining representative as soon as practicable after the investigation
16 is completed.

17 (e)(1) Whenever, as a result of a petition ~~and an appropriate~~ or hearing, the
18 Board finds substantial interest among employees in forming a bargaining unit
19 or being represent for purposes of collective bargaining, a secret ballot election
20 shall be conducted by the Board ~~to be taken in such manner as to show~~ not
21 more than 21 days after the petition is filed with the Board. The Board shall

1 not hold a hearing to resolve any disputes related to the membership of the
2 bargaining unit until after the election unless the parties mutually agree to
3 extend the time for the election for the purpose of resolving those issues.

4 (2) The election shall be conducted so that it shows separately the
5 wishes of the employees in the voting group involved as to the determination
6 of the collective bargaining unit, including the right not to be organized. In
7 order for a ~~The~~ collective bargaining unit to ~~or~~ collective bargaining
8 representative shall be recognized and certified by the Board, there must be
9 upon a majority vote ~~east by those~~ of the employees voting.

10 (3)(A) Unless the employer and labor organization agree to a longer
11 period, the employer shall file with the Board and the labor organization that
12 will be named on the ballot a list of the employees in the bargaining unit within
13 two business days after:

14 (i) the Board determines that substantial interest exists and a secret
15 ballot election shall be conducted; or

16 (ii) the parties stipulate to the composition of the bargaining unit.

17 (B) The list shall include, as appropriate, each employee's name,
18 work location, shift, job classification, and contact information. As used in
19 this subdivision (2), "contact information" includes an employee's home
20 address, personal e-mail address, and home and personal cellular telephone
21 numbers.

1 (C) To the extent possible, the list of employees shall be in
2 alphabetical order by last name and provided in electronic format.

3 (D) The list shall be kept confidential by the employer and the labor
4 organization and shall be exempt from copying and inspection under the Public
5 Records Act.

6 (E) Failure to file the list within the time required pursuant to
7 subdivision (A) of this subdivision (2) shall be grounds for the Board to set
8 aside the results of the election if an objection is filed within the time required
9 pursuant to the Board's rules.

10 * * *

11 Second: By striking out Sec. 2, 16 V.S.A. § 1992 in its entirety and

12 inserting in lieu thereof a new Sec. 2 to read:

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

14 § 1992. REFERENDUM PROCEDURE FOR REPRESENTATION

15 (a)(1) An organization purporting to represent a majority of all of the
16 teachers or administrators employed by the school board may be recognized by
17 the school board without the necessity of a referendum upon the submission of
18 a petition bearing the valid signatures of a majority of the teachers or
19 administrators employed by that school board. Within 15 days after receiving
20 the petition the school board shall notify the teachers or administrators of the
21 school district in writing of its intention to either require or waive a secret

1 ballot referendum. If the school board gives notice of its intention to waive a
2 referendum and recognize an organization, 10 percent of the teachers or
3 administrators employed by the school board may submit a petition within
4 15 days thereafter, objecting to the granting ~~or~~ of recognition without a
5 referendum, in which event a secret ballot referendum shall be held in the
6 district for the purpose of choosing an exclusive representative ~~according to the~~
7 ~~guidelines for referendum contained in this legislation~~ as provided pursuant to
8 the provisions of this section.

9 (2)(A)(i) An organization seeking to represent the teachers or
10 administrators employed by a school board may petition the school board and
11 the Vermont Labor Relations Board for a list of the teachers or administrators
12 in the proposed bargaining unit.

13 (ii) An organization or group of teachers or administrators, or any
14 person purporting to act on their behalf, that is seeking to demonstrate that the
15 teachers' or administrators' organization that is currently the exclusive
16 representative of the teachers or administrators is no longer supported by a
17 majority of the teachers or administrators employed by that school board shall
18 not be entitled to obtain a list of the employees in the proposed bargaining unit
19 pursuant to this subdivision (a)(2).

20 (B) Within **five** business days after receiving the petition, the school
21 board shall file with the Vermont Labor Relations Board and the organization a

1 list of the names and job titles of the teachers or administrators in the proposed
2 bargaining unit. To the extent possible, the list of employees shall be in
3 alphabetical order by last name and provided in electronic format.

4 * * *

5 (c)(1) A secret ballot referendum shall be held any time that 20 percent of
6 the teachers or administrators employed by the school board present a petition
7 requesting a referendum on the matter of representation, except during a period
8 of prior recognition, as ~~hereinbefore~~ provided pursuant to subsection (b) of this
9 section. Any organization interested in representing teachers or administrators
10 in the school district shall have the right to appear on the ballot by submitting a
11 petition supported by ten percent or more of the teachers or administrators in
12 the school district.

13 (2)(A) Unless the school board and the organization agree to a longer
14 period, within two business days after the petition is presented, the school
15 board shall file with the organization that will be named on the ballot a list of
16 the teachers or administrators in the bargaining unit.

17 (B) The list shall include, as appropriate, each teacher's or
18 administrator's name, work location, job classification, and contact
19 information. As used in this subdivision (2), "contact information" includes a
20 teacher's or administrator's home address, personal e-mail address, and home
21 and personal cellular telephone numbers.

1 organization currently certified as bargaining agent is no longer supported by
2 at least 51 percent of the employees in the bargaining unit, or that not less than
3 51 percent of the employees now included in an approved bargaining unit wish
4 to form a separate bargaining unit under Board criteria for purposes of
5 collective bargaining.

6 ~~(2)(B)~~ By the employer alleging that the presently certified bargaining
7 unit is no longer appropriate under Board criteria.

8 (2)(A)(i) An employee or group of employees, or any individual or
9 employee organization purporting to act in their behalf, that is seeking to
10 determine interest in the formation of a bargaining unit or representation for
11 collective bargaining may petition the employer and the Board for a list of the
12 employees in the proposed bargaining unit.

13 (ii) An employee or group of employees, or any person purporting
14 to act on their behalf, that is seeking to demonstrate that the individual or
15 employee organization currently certified as bargaining agent is no longer
16 supported by at least 51 percent of the employees in the bargaining unit shall
17 not be entitled to obtain a list of the employees in the proposed bargaining unit
18 pursuant to this subdivision (a)(2).

19 (B) Within five business days after receiving the petition, the
20 employer shall file with the Board and the employee or group of employees, or
21 the individual or employee organization purporting to act in their behalf, a list

1 of the names and job titles of the employees in the proposed bargaining unit.

2 To the extent possible, the list of employees shall be in alphabetical order by

3 last name and provided in electronic format.

4 (b)(1) The Board, a Board member thereof, or a person or persons
5 designated by the Board shall investigate the petition; and do one of the
6 following:

7 (A) Determine that a sufficient showing of interest has been made by
8 the petition.

9 ~~(B)(i)~~ if If it finds reasonable cause to believe that a question of unit
10 determination or representation exists, ~~an appropriate hearing shall be~~
11 ~~scheduled before the Board upon due notice. Written notice of the hearing~~
12 ~~shall be mailed by certified mail to the parties named in the petition not less~~
13 ~~than 14 calendar days before the hearing.~~ the Board shall schedule a hearing to
14 be held before the Board not more than eight days after the petition was filed
15 with the Board unless:

16 (I) the parties named in the petition mutually agree to extend
17 the time for the hearing; or

18 (II) the Board determines that the time for the hearing must be
19 extended due to an insufficient number of Board members being available to
20 hold a hearing or the Executive Director of the Board is unavailable due to
21 leave.

1 (ii) Once scheduled, the date of the hearing shall not be subject to
2 change.

3 (iii) Hearing procedure and notification of the results thereof of
4 the hearing shall be in accordance with rules ~~prescribed~~ adopted by the Board
5 of, except that the parties shall not be permitted to submit briefs to the Board
6 after the conclusion of the hearing unless the parties mutually agree to do so
7 and the Board consents.

8 (iv) The Board shall issue its decision not more than two business
9 days after the hearing or 10 days after the petition was submitted, whichever is
10 sooner.

11 ~~(2)(C)~~ dismiss the petition, based upon the If the Board finds an absence
12 of substantive evidence it shall dismiss the petition.

13 (2) Upon request, the results of the investigation shall be made available
14 by the Board to the petitioners and all intervenors, if any, including the duly
15 certified bargaining representative as soon as practicable after the investigation
16 is completed.

17 * * *

18 (e)(1) In determining the representation of municipal employees in a
19 collective bargaining unit, the Board shall conduct a an election by secret
20 ballot of the employees and certify the results to the interested parties and to
21 the employer. The election shall be held not more than 21 days after the

1 petition is filed with the Board. The Board shall not hold a hearing to resolve
2 any disputes related to the membership of the bargaining unit until after the
3 election, unless the parties mutually agree to extend the time for the election
4 for the purpose of resolving those issues.

5 (2) The original ballot shall be so prepared as to permit a vote against
6 representation by anyone named on the ballot. No representative will be
7 certified with less than a 51 percent affirmative vote of all votes cast. ~~In the~~
8 ~~ease where~~ If it is asserted that the certified bargaining agent is no longer
9 supported by at least 51 percent of the employees in the bargaining unit and
10 there is no attempt to seek the election of another employee organization or
11 individual as bargaining representative, there shall be at least 51 percent
12 negative vote of all votes cast to decertify the existing bargaining agent.

13 (A) Unless the employer and the individual or labor organization
14 seeking to represent the bargaining unit agree to a longer period, the employer
15 shall file with the Board and the individual or labor organization that will be
16 named on the ballot a list of the employees in the bargaining unit within two
17 business days after:

18 (i) the Board determines that substantial interest exists and a secret
19 ballot election shall be conducted; or

20 (ii) the parties stipulate to the composition of the bargaining unit.

1 (Committee vote: _____)

2

3

Senator _____

4

FOR THE COMMITTEE