Introduced by Representatives Troiano of Stannard, Anthony of Barre City, Cina of Burlington, Cordes of Lincoln, Hooper of Montpelier, Hooper of Burlington, Howard of Rutland City, and Yantachka of Charlotte

Referred to Committee on

Date:

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

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

An act relating to authorizing card check elections

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

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

§ 941. UNIT DETERMINATION, CERTIFICATION, AND REPRESENTATION

* * *

(e)(1) Whenever, on the basis of a petition pursuant to subdivision (d)(1) of this section or a hearing pursuant to subdivision (d)(2) of this section, the
Board finds substantial interest among employees in forming a bargaining unit or being represented for purposes of collective bargaining, a secret ballot election shall be conducted by the Board not more than 23 business days after the petition is filed with the Board except as otherwise provided pursuant to subdivision (4) of this subsection and subdivision (g)(4) of this section.

** * * *

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

** * * *

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

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

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

* * *

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

§ 1992. REFERENDUM PROCEDURE FOR REPRESENTATION

(a)(1) 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 calendar 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 calendar days thereafter, objecting to the granting of
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 as provided pursuant to the provisions of this section. 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 a majority of the teachers or administrators support the
organization. If the parties fail to agree on an impartial third party within
10 business days, the Vermont Labor Relations Board shall examine the
petition and determine whether a majority of the teachers or administrators
support the organization. If the impartial party or the Board determines that a
majority of the teachers or administrators support the organization, it shall
certify the organization as the exclusive representative of the teachers or
administrators.

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

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

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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 a proposed bargaining representative, bears the
signatures of at least 50 percent plus one of the employees in the bargaining
unit, the Board shall certify the individual or labor organization identified as
the bargaining representative.

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

(c) In determining whether or not a question of representation exists, it the
Board shall apply the same regulations and rules of decision regardless of the
identity of the persons filing the petition or the kind of relief sought.
Sec. 4. 21 V.S.A. § 1584 is amended to read:

§ 1584. PETITIONS AND ELECTION TO RESCIND REPRESENTATIVE’S AUTHORITY

* * *

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

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

§ 1724. CERTIFICATION PROCEDURE

* * *

(e)(1) InExcept as otherwise provided pursuant to subsection (h) of this section, in determining the representation of municipal employees in a collective bargaining unit, the Board shall conduct an election by secret ballot of the employees and certify the results to the interested parties and to the employer. The election shall be held not more than 23 business days after the petition is filed with the Board except as otherwise provided pursuant to subdivision (4) of this subsection.

* * *

(h)(1) Notwithstanding subsections (e)–(g) of this section, if following its investigation pursuant to subsection (b) the Board determines that a petition to
be represented for collective bargaining filed pursuant to subsection (a) of this section, which identifies a proposed bargaining agent, bears the signatures of at least 50 percent plus one of the employees in the bargaining unit, the Board shall certify the individual or labor organization identified as the bargaining agent.

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

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

Sec. 6. EFFECTIVE DATE

This act shall take effect on July 1, 2021.