

1 TO THE HOUSE OF REPRESENTATIVES:

2 The Committee on General and Housing to which was referred Senate Bill
3 No. 102 entitled “An act relating to expanding employment protections and
4 collective bargaining rights” respectfully reports that it has considered the
5 same and recommends that the House propose to the Senate that the bill be
6 amended by striking out all after the enacting clause and inserting in lieu
7 thereof the following:

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

9 § 495o. EMPLOYER COMMUNICATIONS RELATING TO RELIGIOUS
10 OR POLITICAL MATTERS; EMPLOYEE RIGHTS

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

14 (1) because the employee declines:

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

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

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

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

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

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

8 (1) limit an employee’s right to bring a civil action for wrongful
9 termination; or

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

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

16 (1) communicating with its employees regarding the employer’s opinion
17 on religious matters;

18 (2) requiring its employees to attend a meeting regarding the employer’s
19 opinion on religious matters; or

20 (3) requiring its employees to view or participate in communications
21 from the employer or the employer’s agent regarding the employer’s opinion

1 on religious matters.

2 (d) Nothing in this section shall be construed to prohibit an employer that is
3 a political organization, a political party, or an organization that engages, in
4 substantial part, in political matters from:

5 (1) communicating with its employees regarding the employer’s opinion
6 on political matters;

7 (2) requiring its employees to attend a meeting regarding the employer’s
8 opinion on political matters; or

9 (3) requiring its employees to view or participate in communications
10 from the employer or the employer’s agent regarding the employer’s opinion
11 on political matters.

12 (e) Nothing in this section shall be construed to prohibit an employer or the
13 employer’s agent from:

14 (1) communicating information to an employee:

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

17 (B) that is necessary for the employee to perform the employee’s job
18 functions or duties;

19 (2) requiring an employee to attend a meeting to discuss issues related to
20 the employer’s business or operation when the discussion is necessary for the
21 employee to perform the employee’s job functions or duties; or

1 consequence of, or in connection with, any current labor dispute or because of
2 any unfair labor practice and who has not obtained any other regular and
3 substantially equivalent employment, but does not include an individual;

4 (A) employed as an agricultural laborer;

5 (B) employed by ~~his or her~~ the individual's parent or spouse;

6 (C) ~~employed in the domestic service of any family or person at his~~
7 ~~or her home; [Repealed.]~~

8 (D) having the status of an independent contractor;

9 (E) employed as a supervisor;

10 (F) employed by an employer subject to the Railway Labor Act as
11 ~~amended from time to time~~; or

12 (G) employed by any other person who is not an employer as defined
13 in subdivision (7) of this section.

14 * * *

15 **Sec. 3. AGRICULTURAL WORKER LABOR AND EMPLOYMENT**

16 **LAWS; STUDY COMMITTEE; REPORT**

17 (a) Creation. There is created the Agricultural Worker Labor and
18 Employment Laws Study Committee to examine the application of Vermont's
19 labor relations and employment laws to agricultural workers in Vermont and to
20 identify potential legislative action to provide additional coverage to
21 agricultural workers under those laws.

1 **(b) Membership. The Committee shall be composed of the following**
2 **members:**

3 **(1) four current members of the House, not all from the same political**
4 **party, appointed by the Speaker of the House, of whom two shall be members**
5 **of the Committee on Agriculture, Food Resiliency, and Forestry and two shall**
6 **be members of the Committee on General and Housing; and**

7 **(2) four current members of the Senate, not all from the same political**
8 **party, appointed by the Committee on Committees, of whom two shall be**
9 **members of the Committee on Agriculture and two shall be members of the**
10 **Committee on Economic Development, Housing and General Affairs.**

11 **(c) Powers and duties. The Committee shall study how Vermont’s**
12 **employment and labor relations laws apply to Vermont agricultural workers**
13 **and identify potential legislative action to provide additional coverage to**
14 **agricultural workers under those laws. In particular, the Committee shall:**

15 **(1) identify existing employment rights for agricultural workers under**
16 **Vermont and federal law;**

17 **(2) identify Vermont and federal employment and collective bargaining**
18 **laws that do not apply to some or all Vermont agricultural workers;**

19 **(3) identify laws in other states that provide employment or collective**
20 **bargaining rights to agricultural workers that Vermont agricultural workers do**
21 **not have;**

1 (4) paying particular attention to states with agricultural economies
2 similar to Vermont's, examine the structure of collective bargaining rights for
3 agricultural workers in other states that provide such rights, including
4 coverage, certification of exclusive bargaining representatives, subjects for
5 bargaining, procedures for resolving bargaining impasse, unfair labor practices,
6 and costs related to organizing and contract negotiation for both employers and
7 labor organizations;

8 (5) examine the structure of Vermont's existing labor relations laws,
9 including coverage, certification of exclusive bargaining representatives,
10 subjects for bargaining, procedures for resolving bargaining impasse, unfair
11 labor practices, and costs related to organizing and contract negotiation for
12 both employers and labor organizations;

13 (6) examine the capacity of the Vermont Labor Relations Board to
14 administer collective bargaining in Vermont's agricultural sector;

15 (7) develop a framework for agricultural collective bargaining in
16 Vermont; and

17 (8) identify other potential changes to Vermont's employment laws to
18 provide additional rights and protections to agricultural workers.

19 (d) Assistance. The Committee shall have the administrative assistance of
20 the Office of Legislative Operations, the fiscal assistance of the Joint Fiscal
21 Office, and the legal assistance of the Office of Legislative Counsel.

1 (e) Report.

2 (1) On or before December 15, 2024, the Committee shall submit a
3 written report to the General Assembly with its findings and recommendations
4 for legislative action.

5 (2) The report shall include a proposal for permitting agricultural
6 workers to collectively bargain. The proposal shall specifically address:

7 (A) whether to provide for collective bargaining by agricultural
8 workers under the State Labor Relations Act or in a separate agricultural
9 workers' labor relations act;

10 (B) the minimum size of agricultural employer to be covered;

11 (C) whether, and if so how, to differentiate between covered
12 employers based on their size;

13 (D) the minimum number of employees who may form a bargaining
14 unit;

15 (E) how to address seasonal, migratory, and temporary workers;

16 (F) procedures for selecting and certifying an exclusive
17 representative for a bargaining unit;

18 (G) mandatory subjects for bargaining;

19 (H) procedures for resolving bargaining impasses, including whether
20 to permit strikes or contract imposition;

21 (I) unfair labor practices;

1 (J) the role, if any, of the Vermont Labor Relations Board in
2 administering the proposed law;

3 (K) whether to provide State resources to assist parties during the
4 process of determining a bargaining unit, certifying an exclusive representative
5 for a bargaining unit, negotiating a contract, and resolving a bargaining
6 impasse; and

7 (L) any other issues the Committee deems to be appropriate.

8 (3) The report shall also include a recommendation for any other
9 legislative action to amend Vermont’s employment laws in relation to
10 agricultural workers that the Committee deems to be appropriate.

11 (f) Meetings.

12 (1) The Chair of the House Committee on Agriculture, Food Resiliency,
13 and Forestry shall call the first meeting of the Committee to occur on or before
14 September 6, 2024.

15 (2) The Committee shall select a chair from among its members at the
16 first meeting.

17 (3) A majority of the membership shall constitute a quorum.

18 (4) The Committee shall cease to exist on December 31, 2024.

19 (g) Compensation and reimbursement. For attendance at meetings during
20 adjournment of the General Assembly, a legislative member of the Committee
21 shall be entitled to per diem compensation and reimbursement of expenses

1 pursuant to 2 V.S.A. § 23 for not more than six meetings. These payments
2 shall be made from monies appropriated to the General Assembly.

3 **Sec. 4.** 3 V.S.A. § 941 is amended to read:

4 § 941. UNIT DETERMINATION, CERTIFICATION, AND
5 REPRESENTATION

6 * * *

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

14 * * *

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

1 a majority of the votes cast by employees in the bargaining unit.

2 * * *

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

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

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

21 * * *

1 **Sec. 5.** 16 V.S.A. § 1992 is amended to read:

2 § 1992. REFERENDUM PROCEDURE FOR REPRESENTATION

3 (a)(1) An organization purporting to represent a majority of all of the
4 teachers or administrators employed by the school board may be recognized by
5 the school board without the necessity of a referendum upon the submission of
6 a petition bearing the valid signatures of a majority of the teachers or
7 administrators employed by that school board. ~~Within 15 calendar days after~~
8 ~~receiving the petition, the school board shall notify the teachers or~~
9 ~~administrators of the school district in writing of its intention to either require~~
10 ~~or waive a secret ballot referendum. If the school board gives notice of its~~
11 ~~intention to waive a referendum and recognize an organization, 10 percent of~~
12 ~~the teachers or administrators employed by the school board may submit a~~
13 ~~petition within 15 calendar days thereafter, objecting to the granting of~~
14 ~~recognition without a referendum, in which event a secret ballot referendum~~
15 ~~shall be held in the district for the purpose of choosing an exclusive~~
16 ~~representative as provided pursuant to the provisions of this section. The~~
17 ~~school board and the organization purporting to represent a majority of the~~
18 ~~teachers or administrators shall, within 10 business days after the petition is~~
19 ~~submitted, agree on an impartial third party to examine the petition and~~
20 ~~determine whether a majority of the teachers or administrators support the~~
21 ~~organization. If the parties fail to agree on an impartial third party within~~

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

7 * * *

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

19 * * *

1 **Sec. 6.** 21 V.S.A. § 1581 is amended to read:

2 § 1581. PETITIONS FOR ELECTION; FILING, INVESTIGATIONS,
3 HEARINGS, DETERMINATIONS

4 * * *

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

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

15 (3)(A) If the Board finds upon the record of the hearing that a petition to
16 be represented for collective bargaining filed pursuant to subdivision (a)(1)(A)
17 of this section, which identifies a proposed bargaining representative, bears the
18 signatures of at least 50 percent plus one of the employees in the bargaining
19 unit, the Board shall certify the individual or labor organization identified as
20 the bargaining representative.

21 (B) Certification of a representative shall only be available pursuant

1 to this subdivision (B) when no other individual or labor organization is
2 currently certified or recognized as the bargaining representative.

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

6 * * *

7 **Sec. 7.** 21 V.S.A. § 1584 is amended to read:

8 § 1584. PETITIONS AND ELECTION TO RESCIND

9 REPRESENTATIVE'S AUTHORITY

10 * * *

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

15 **Sec. 8.** 21 V.S.A. § 1724 is amended to read:

16 § 1724. CERTIFICATION PROCEDURE

17 * * *

18 (e)(1) ~~In~~ Except as otherwise provided pursuant to subsection (h) of this
19 section, in determining the representation of municipal employees in a
20 collective bargaining unit, the Board shall conduct an election by secret ballot
21 of the employees and certify the results to the interested parties and to the

1 employer. The election shall be held not more than 23 business days after the
2 petition is filed with the Board except as otherwise provided pursuant to
3 subdivision (4) of this subsection.

4 * * *

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

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

15 (i) 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 has been held.

18 **Sec. 9.** EFFECTIVE DATE

19 This act shall take effect on July 1, 2024.

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(Committee vote: _____)

Representative _____

FOR THE COMMITTEE