

1 S.12

2 Introduced by Senators Ram Hinsdale, Baruth, Gulick and Vyhovsky

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 authorizing card check elections

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 (e)(1) Whenever, on the basis of a petition pursuant to subdivision (d)(1) of
17 this section or a hearing pursuant to subdivision (d)(2) of this section, the
18 Board finds substantial interest among employees in forming a bargaining unit
19 or being represented for purposes of collective bargaining, a secret ballot
20 election shall be conducted by the Board not more than 23 business days after

1 the petition is filed with the Board except as otherwise provided pursuant to
2 subdivision (4) of this subsection and subdivision (g)(4) of this section.

3 * * *

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

12 * * *

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

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

18 * * *

19 (b) ~~Recognition granted to~~ Certification of a negotiating unit as exclusive
20 representative shall be valid and not subject to challenge by referendum
21 petition or otherwise for the remainder of the fiscal year in which ~~recognition~~

1 ~~is granted~~ the certification occurs and for an additional period of 12 months
2 after final adoption of the budget for the succeeding fiscal year and shall
3 continue thereafter until a new referendum is called for.

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

9 * * *

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

11 § 1581. PETITIONS FOR ELECTION; FILING, INVESTIGATIONS,
12 HEARINGS, DETERMINATIONS

13 * * *

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

20 (2) If the Board finds upon the record of the hearing that a question of
21 representation exists, it shall conduct an election by secret ballot marked at the

1 place of election and certify to the parties, in writing, the results ~~thereof~~ of the
2 election.

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

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

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

15 * * *

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

17 § 1584. PETITIONS AND ELECTION TO RESCIND

18 REPRESENTATIVE'S AUTHORITY

19 * * *

20 (b) No election ~~may~~ shall be conducted under this section in a bargaining
21 unit or a subdivision within which in the preceding 12 months a valid election

1 or certification of a representative pursuant to this subchapter has been held
2 occurred.

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

4 § 1724. CERTIFICATION PROCEDURE

5 * * *

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

13 * * *

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

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

4 (i) No election may be conducted under this section in a bargaining unit or
5 a subdivision within which in the preceding 12 months a valid election has
6 been held.

7 Sec. 6. EFFECTIVE DATE

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