

COMMITTEE ON PUBLIC SERVICE - BILL SUMMARY

Bill No: H2465

Title: AN ACT RELATIVE TO WRITTEN MAJORITY AUTHORIZATION CARDS, PETITIONS AND OTHER WRITTEN EVIDENCE OF COLLECTIVE BARGAINING RESULTS.

Sponsor: Robert A. DeLeo

Hearing Date: March 15th, 2007

Prior History: 05-06: H429 House & Senate enacted, but Governor vetoed.

Current Law:

G.L. c. 150E § 4 public employers may recognize an employee organization, designated by the majority of the employees in an appropriate bargaining unit, as the exclusive representative of all the employees in the bargaining unit.

The commission shall conduct an investigation upon receipt of an employer's petition or an employee's petition or an employee organization's petition concerning appropriate representation of the employees. The commission shall conduct a hearing if it has reasonable cause to believe that a substantial question of representation exists. If, after hearing, the commission finds that there is a controversy concerning the representation of employees, it shall direct an election by secret ballot or shall use any other suitable method to determine whether or by which employee organization the employees in an appropriate unit desire to be represented. The commission shall certify any employee organization which received a majority of the votes in such election as the exclusive representative of such employees.

Except for good cause no election shall be directed by the commission in an appropriate bargaining unit within which a valid election has been held in the preceding twelve months, or a valid collective bargaining agreement is in effect. The commission shall provide an appropriate period prior to expiration of such agreements when certification or decertification petitions may be filed.

Nothing in this section shall prohibit a stipulation between the employer and the employee organization for the waiving of an hearing and the conducting of a consent election by the commission for the purpose of determining a controversy concerning the representation of employees.

Any hearing under this section may be conducted by a member or agent of the commission. The decision of the member or agent shall be final and binding unless within ten days after notice of the decision any party requests a review by the full commission. If a review is requested, the member or agent shall file a written statement of the case with the commission and with the parties. Any party may submit a supplementary statement with the commission within ten days of the receipt of the agents' statement. A review by the commission shall be made upon the statements of the case by

the member or agent and any supplemental statements by the parties, and any other such evidence as the commission may require.

G.L. c. 150A §5 (c): Whenever a question affecting industry, trade or healthcare arises concerning the representation of employees, the commission may investigate such controversy and certify to the parties, in writing, the name or the names of the representatives who have been designated or selected. The commission shall be authorized to investigate petitions requesting decertification of an exclusive representative. Section 5 (c) gives the commission the authority to establish rules or regulations to effectuate the policies of chapter 150A for filing petitions for investigation and certification. The section also directs the commission to establish rules for the filing of a petition by an employer whenever it is alleged:

- 1) that two or more labor organizations have presented to the employer, conflicting claims that each represents a majority of the employees in a bargaining unit.
- 2) that a labor organization that has not been recognized as the exclusive representative for a bargaining unit has requested the employer to bargain, or has tried to force the employer to recognize it by strike, slowdown, boycott, or other concerted cessation of work.

Summary of Proposed Law:

Section 1

Section 1 of chapter 150E would be amended to allow written majority authorization for an employee organization to represent the workers in a bargaining unit in collective bargaining. Written authorization would include authorization cards, petitions, or such other evidence suitable to the commission. Employee signatures must be dated within twelve months of the date on which the signatures are submitted to establish representative status for the employee organization.

Section 2

Section 4 of Chapter 150E will be amended to state that the commission shall certify and the public employer shall recognize the employee organization which has received written majority authorization as the exclusive representative for the purpose of collective bargaining. Written majority authorization can only be used if no other employee organization is already recognized as the exclusive representative of the employees in the bargaining unit.

The employee organization and the employer have ten days to agree upon a neutral to conduct a confidential inspection of the evidence of written majority authorization. If after ten days a neutral has not been agreed upon the commission will act as the neutral. The neutral shall verify the employee organization's majority support and shall report its results to the parties and the commission.

The commission shall establish rules and procedures for the prompt verification of written majority authorization. These rules shall include safeguards to protect employee privacy as to their choice and shall also provide that the verification procedure shall not last longer than ten days, absent exceptional cause, from the date of appointment of the neutral.

Section 3

Section 2 of chapter 150A will be amended to include a subsection 12 defining the term "written majority authorization". Majority written authorization means writings signed and dated by employees in the form of authorization cards, petitions, or such other written evidence as the commission shall find suitable, that shows that a majority of employees in a bargaining unit have selected a labor organization as their representative for collective bargaining. Employee signatures must be dated within 12 months of the date they are presented to establish majority and exclusive representative status.

Section 4

Section 5 of chapter 150A would be amended to state that the commission shall certify, in writing, and the public employer shall recognize the employee organization, which has received written majority authorization, as the exclusive representative for the purpose of collective bargaining. Written majority authorization can only be used if no other employee organization is already recognized as the exclusive representative of the employees in the bargaining unit.

The employee organization and the employer have ten days to agree upon a neutral to conduct a confidential inspection of the evidence of written majority authorization. If after ten days a neutral has not been agreed upon the commission will act as the neutral. The neutral shall verify the employee organization's majority support and shall report its results to the parties and the commission.

The commission shall establish rules and procedures for the prompt verification of written majority authorization. These rules shall include safeguards to protect employee privacy as to their choice and shall also provide that the verification procedure shall not last longer than ten days, absent exceptional cause, from the date of appointment of the neutral.