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Date: (Filing No. H-)

LABOR AND HOUSING

Reproduced and distributed under the direction of the Clerk of the House.

**STATE OF MAINE
HOUSE OF REPRESENTATIVES
130TH LEGISLATURE
FIRST SPECIAL SESSION**

COMMITTEE AMENDMENT “ ” to H.P. 107, L.D. 151, “An Act To Protect Farm Workers by Allowing Them To Organize for the Purpose of Collective Bargaining”

Amend the bill by striking out everything after the enacting clause and inserting the following:

'Sec. 1. 26 MRSA c. 47 is enacted to read:

CHAPTER 47

AGRICULTURAL EMPLOYEES LABOR RELATIONS ACT

§3701. Purpose

It is declared to be the public policy of this State and it is the purpose of this chapter to promote the improvement of the relationship between agricultural employers and their employees by providing a uniform basis for recognizing the right of agricultural employees to join labor organizations of their own choosing and to be represented by those organizations in collective bargaining for terms and conditions of employment. It is also the public policy of this State and the purpose of this chapter, by encouraging voluntary agreements between agricultural employers, employees and their organizations, to limit industrial strife, promote stability in the farm labor force and improve the economic status of workers and businesses.

§3702. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

1. Agricultural employee or employee. "Agricultural employee" or "employee" means a person engaged in agriculture; however, this subsection may not be construed to include any person other than those employees excluded from the coverage of the federal National Labor Relations Act, as amended, as agricultural employees, pursuant to 29

COMMITTEE AMENDMENT

1 United States Code, Section 152(3). "Agricultural employee" or "employee" includes any
2 individual whose work has ceased as a consequence of, or in connection with, any current
3 labor dispute or because of any prohibited labor practice. "Agricultural employee" or
4 "employee" includes supervisors but does not include any higher level managers or those
5 employees whose duties necessarily imply a confidential relationship to the employer.

6 **2. Agricultural employer or employer.** "Agricultural employer" or "employer"
7 means a person or entity that directly or indirectly engages the services or suffers or permits
8 the work of an agricultural employee, and includes any person acting on behalf of an
9 employer directly or indirectly and any person or entity exercising control over the terms
10 and conditions of employment. "Agricultural employer" or "employer" is limited to a
11 person or entity that employs more than 5 agricultural employees.

12 **3. Agriculture.** "Agriculture" means farming in all its branches and includes but is
13 not limited to the cultivation and tillage of the soil; dairying; the production, cultivation,
14 growing and harvesting of any agricultural or horticultural commodities, including
15 commodities defined as agricultural commodities in 12 United States Code, Section
16 1141j(f); the raising of livestock, bees, fur-bearing animals or poultry; and any practices,
17 including any forestry or lumbering operations, performed by a farmer or on a farm
18 incidental to or in conjunction with farming operations, including preparation for market
19 and delivery to storage, to market or to carriers for transportation to market.

20 **4. Bargaining agent.** "Bargaining agent" means a lawful organization or association,
21 or an individual representative of a lawful organization or association, that has as its
22 primary purpose the representation of employees in their employment relations with
23 employers and that has been determined by the employer or the executive director to be the
24 choice of the majority of the bargaining unit as its certified representative.

25 **5. Board.** "Board" means the Maine Labor Relations Board as established in section
26 968, subsection 1.

27 **6. Executive director.** "Executive director" means the Executive Director of the
28 Maine Labor Relations Board as appointed in section 968, subsection 2.

29 **§3703. Rights of agricultural employees; organization, collective bargaining**

30 Agricultural employees have the right to self-organize; to form, join or assist labor
31 organizations; to bargain collectively through representatives of their own choosing; and
32 to engage in other concerted activities for the purposes of collective bargaining or other
33 mutual aid or protection. Agricultural employees also have the right to refrain from such
34 activities.

35 **§3704. Prohibited acts of agricultural employers, agricultural employees and**
36 **agricultural employee organizations**

37 **1. Agricultural employer prohibitions.** Agricultural employers and their
38 representatives and agents are prohibited from:

39 A. Interfering with, restraining or coercing employees in the exercise of the rights
40 guaranteed in section 3703;

41 B. Encouraging or discouraging membership in any employee organization by
42 discrimination in regard to hire or tenure of employment or any term or condition of
43 employment;

1 C. Dominating or interfering with the formation, existence or administration of any
2 employee organization;

3 D. Discharging or otherwise discriminating against an agricultural employee because
4 the employee has signed or filed any affidavit, petition or complaint or given any
5 information or testimony under this chapter;

6 E. Refusing to bargain collectively with the bargaining agent of its employees as
7 required by section 3705;

8 F. Blacklisting of any employee organization or its members for the purpose of
9 denying them employment;

10 G. Requiring an employee to join a union, employee association or bargaining agent
11 as a member; and

12 H. Terminating or disciplining an employee for not paying union dues or fees of any
13 type.

14 **2. Agricultural employee and agricultural employee organization prohibitions.**
15 Agricultural employees and agricultural employee organizations and their agents, members
16 and bargaining agents are prohibited from:

17 A. Interfering with, restraining or coercing employees in the exercise of the rights
18 guaranteed in section 3703 or an employer in the selection of the employer's
19 representative for purposes of collective bargaining or the adjustment of grievances;

20 B. Refusing to bargain collectively with an employer as required by section 3705; and

21 C. Causing or attempting to cause an agricultural employer to pay or deliver, or agree
22 to pay or deliver, any money or other thing of value for services not performed or not
23 to be performed.

24 **3. Violations.** The board shall process violations of this section in the manner
25 provided in section 3709.

26 **§3705. Obligation to bargain**

27 **1. Negotiations.** It is the obligation of the agricultural employer and the bargaining
28 agent to bargain collectively. "Collective bargaining" means, for the purposes of this
29 chapter, the mutual obligation of the agricultural employer and the bargaining agent:

30 A. To meet at reasonable times;

31 B. To meet within 10 days after receipt of written notice from the other party
32 requesting a meeting for collective bargaining purposes, as long as the parties have not
33 otherwise agreed in a prior written contract;

34 C. To confer and negotiate in good faith with respect to wages, hours and other terms
35 and conditions of employment, except that, by the mutual obligation, neither party may
36 be compelled to agree to a proposal or be required to make a concession;

37 D. To execute in writing any agreements arrived at, the terms of which are subject to
38 negotiation; and

39 E. To participate in good faith in the mediation and arbitration procedures required by
40 this section.

1 Upon the filing by any person of a petition not earlier than the 90th day nor later than the
2 60th day preceding the expiration of the 12-month period following initial certification, the
3 board shall determine whether an employer has bargained in good faith with the currently
4 certified labor organization. If the board finds that the employer has not bargained in good
5 faith, it may extend the certification for up to one additional year, effective immediately
6 upon the expiration of the previous 12-month period following initial certification.

7 **2. Mediation.** This subsection governs the mediation of disputes between agricultural
8 employers and agricultural employees.

9 A. It is the declared policy of the State to provide full and adequate facilities for the
10 settlement of disputes between employers and employees or their representatives and
11 other disputes subject to settlement through mediation.

12 B. Mediation procedures, as provided by section 965, subsection 2, must be followed
13 when either party to a controversy requests mediation services prior to arbitration or
14 upon motion of the board or the executive director.

15 C. The employer, labor organization or employees involved in collective bargaining
16 shall notify the executive director, in writing, at least 30 days prior to the expiration of
17 a contract, or at least 30 days prior to entering into negotiations for a first contract
18 between the employer and the employees, or when a dispute arises between the parties
19 threatening interruption of work.

20 D. Any information disclosed by either party to a dispute to the Panel of Mediators,
21 established pursuant to section 965, subsection 2, paragraph C, or any of its members
22 in the performance of this subsection is privileged.

23 **3. Arbitration.** When the parties are unable to reach an agreement on a contract,
24 within 90 days from and including the date of their first meeting, either party may petition
25 the board to initiate final and binding arbitration regarding all unresolved issues.

26 A. Upon receipt of the petition, the executive director shall issue an order requiring
27 arbitration and requesting the parties to select one or more arbitrators. If the parties
28 have not selected an arbitrator or an arbitration panel within 5 days after the issuance
29 of the order, the board shall order each party to select one arbitrator within 5 days and,
30 if the 2 arbitrators cannot select a 3rd neutral arbitrator within 5 days, the board shall
31 submit a list within 5 days from which the parties may alternately strike names until a
32 single name is left, who the board shall appoint as arbitrator. The arbitration panel
33 shall call a hearing to be held within 10 days after the date of appointment. In reaching
34 a decision under this paragraph, the arbitration panel shall consider the following
35 factors:

36 (1) A comparison between the wages, hours and working conditions of the
37 employees involved in the arbitration proceeding with those of other employees
38 who perform similar services in private employment in other jurisdictions
39 competing in the same labor market and who are covered by a collective bargaining
40 agreement with their employer;

41 (2) The overall compensation presently received by the employees, including
42 direct wage compensation, vacation, holidays and excused time, insurance and
43 pensions, medical and hospitalization benefits, the continuity and stability of
44 employment and any other benefits received;

1 (3) The overall compensation presently received by the nonbargaining unit
2 employees of the employer and the employer's overall financial condition,
3 including but not limited to sales, income and assets;

4 (4) Any other factors not included in subparagraphs (1) to (3) that are normally
5 and traditionally taken into consideration in the determination of wages, hours and
6 working conditions through voluntary collective bargaining, mediation-arbitration
7 or otherwise between the parties, or in private employment, including the average
8 Consumer Price Index; and

9 (5) The need to establish fair and reasonable conditions in relation to job
10 qualifications and responsibilities and the goal of promoting stability in the labor
11 force and farm labor relations.

12 B. The determination by the arbitration panel on all issues is final and binding on the
13 parties.

14 C. A hearing held pursuant to this subsection must be informal and the rules of
15 evidence for judicial proceedings are not binding. Any documentary evidence and
16 other information determined to be relevant by the arbitration panel may be received
17 in evidence. The arbitration panel may administer oaths and require by subpoena
18 attendance and testimony of witnesses and production of books, records and other
19 evidence relating to the issues presented. The hearing must be concluded within 20
20 days of the date of commencement.

21 D. The arbitration panel shall submit the panel's report to the parties and the board
22 within 30 days after the conclusion of the hearing, unless that time limitation is
23 extended by the executive director.

24 **4. Costs.** The costs for the services of the mediator and of the neutral arbitrator
25 including per diem expenses, actual and necessary travel and subsistence expenses and the
26 costs of hiring the premises where any mediation or arbitration proceedings are conducted
27 must be shared equally by the parties to the proceedings except that any party that
28 intentionally and unreasonably prolongs the proceedings or causes excessive costs or
29 expenses is responsible for excessive costs or expenses. All other costs are assumed by the
30 party incurring them.

31 **5. Arbitration administration.** The cost for services rendered and expenses incurred
32 by the State Board of Arbitration and Conciliation, as described in section 931, and any
33 state cost allocation program charges are shared equally by the parties to the proceedings
34 and must be deposited into a nonlapsing special fund administered by the board.
35 Authorization for services rendered and expenditures incurred by members of the State
36 Board of Arbitration and Conciliation is the responsibility of the executive director. All
37 costs are paid from the special fund administered by the board. The executive director may
38 estimate costs upon receipt of a request for services and collect the estimated costs before
39 providing the services. The executive director shall bill or reimburse the parties for any
40 difference between the estimated costs that were collected and the actual costs of providing
41 the services. When one party has paid its share of the estimated cost of providing the
42 services, the matter is scheduled for hearing. A party that has not paid the estimated or
43 actual cost of providing services within 60 days of the date the invoice for those costs was
44 issued is, in the absence of good cause shown, liable for the amount of the invoice and a
45 penalty of 25% of the amount of the invoice. Any penalty amount collected pursuant to

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1 this subsection remains in the special fund administered by the board. The executive
2 director is authorized to collect any sums due and payable pursuant to this subsection
3 through civil action. In such an action, the court shall allow litigation costs, including court
4 costs and reasonable attorney's fees, to be deposited into the General Fund if the executive
5 director is the prevailing party in the action.

6 **6. Termination and modification.** This subsection governs termination and
7 modification of collective bargaining contracts between agricultural employers and
8 agricultural employees.

9 A. When a collective bargaining contract is in effect covering agricultural employees,
10 a party to the contract may not terminate or modify the contract unless the party
11 desiring termination or modification:

12 (1) Serves written notice upon the other party to the contract of the proposed
13 termination or modification not less than 60 days before the expiration date of the
14 contract or, if the contract contains no expiration date, 60 days before the proposed
15 termination or modification time;

16 (2) Offers to meet and confer with the other party for the purpose of negotiating a
17 new contract or a contract containing the proposed modification;

18 (3) Notifies the board within 30 days after notice of existence of a dispute, as long
19 as no agreement has been reached by that time; and

20 (4) Continues in effect, without resorting to strike or lockout, all the terms and
21 conditions of the existing contract for a period of 60 days after the notice under
22 subparagraph (1) is given or until the expiration of the contract, whichever occurs
23 later.

24 B. The duties imposed upon agricultural employers and labor organizations by
25 paragraph A, subparagraphs (2) to (4) become inapplicable upon an intervening
26 certification of the board that the labor organization or individual that is a party to the
27 contract has been superseded as, or has ceased to be, the representative of the
28 employees, subject to sections 3706 and 3707, and the duties so imposed may not be
29 construed to require either party to discuss or agree to any modification of the terms
30 and conditions contained in a contract for a fixed period, if the modification is to
31 become effective before the terms and conditions can be renegotiated under the
32 provisions of the contract. Any agricultural employee who engages in a strike within
33 the 60-day period specified in this section is deemed to no longer meet the definition
34 of an agricultural employee under section 3702, subsection 1 of the agricultural
35 employer engaged in the particular labor dispute, for the purposes of sections 3704 and
36 3706 to 3709, but the change in definition for that employee terminates if and when
37 that employee is reemployed by the employer.

38 **§3706. Bargaining unit; how determined**

39 **1. Unit determination.** If there is a dispute between the agricultural employer and an
40 employee or employees over the appropriateness of a bargaining unit for purposes of
41 collective bargaining or between the agricultural employer and an employee or employees
42 over whether a supervisory or other position is included in the bargaining unit, the
43 executive director or the executive director's designee shall conduct a proceeding to make
44 the determination, except that anyone excepted from the definition of "agricultural

1 employee" under section 3702, subsection 1 may not be included in a bargaining unit. The
2 executive director or the executive director's designee conducting bargaining unit
3 determination proceedings may administer oaths and require by subpoena the attendance
4 and testimony of witnesses and the production of books, records and other evidence relative
5 or pertinent to the issues represented.

6 **2. Determination of exclusion of supervisory position; criteria.** In determining,
7 pursuant to subsection 1, whether a supervisory position should be excluded from the
8 proposed bargaining unit, the executive director or the executive director's designee shall
9 consider, among other criteria, if the principal functions of the position are characterized
10 by performing management control duties such as scheduling, assigning, overseeing and
11 reviewing the work of subordinate employees or performing duties that are distinct and
12 dissimilar from those performed by the employees supervised or exercising judgment in
13 adjusting grievances, applying other established personnel policies and procedures and
14 enforcing a collective bargaining agreement or establishing or participating in the
15 establishment of performance standards for employees and taking corrective measures to
16 implement those standards.

17 **3. Determination of bargaining unit appropriateness.** In determining the
18 bargaining unit that is appropriate for purposes of collective bargaining, the executive
19 director or the executive director's designee shall ensure that employees have the fullest
20 freedom in exercising the rights guaranteed by this chapter, ensure a clear and identifiable
21 community of interest among employees and avoid excessive fragmentation among
22 bargaining units.

23 **4. Bargaining unit clarification.** If there is a certified or currently recognized
24 bargaining agent and the circumstances surrounding the formation of an existing bargaining
25 unit are alleged to have changed sufficiently to warrant modification in the composition of
26 that bargaining unit, the agricultural employer or any certified or recognized bargaining
27 agent may file with the executive director a petition for a unit clarification when the parties
28 are unable to agree on appropriate modifications and there is no question concerning
29 representation.

30 **§3707. Determination of bargaining agent**

31 **1. Voluntary recognition.** An agricultural employee organization may file a request
32 with an agricultural employer alleging that a majority of the agricultural employees in an
33 appropriate bargaining unit wish to be represented for the purposes of collective bargaining
34 between the agricultural employer and the employees' organization. The request must
35 describe the grouping of jobs or positions that constitute the unit considered appropriate
36 and include a demonstration of majority support. The request for recognition must be
37 granted by the agricultural employer.

38 **2. Majority sign-up.** If a request by an agricultural employee organization for
39 recognition pursuant to subsection 1 is not granted by the agricultural employer, the
40 executive director or the executive director's designee shall examine the demonstration of
41 support. If the executive director or the executive director's designee finds that a majority
42 of the employees in a unit appropriate for bargaining have signed valid authorizations
43 designating the employees' organization specified in the petition as their bargaining
44 representative and that no other individual or labor organization is currently certified or
45 recognized as the exclusive representative of any of the employees in the unit, the board

1 may not direct an election but shall certify the employees' organization as the
2 representative. However, if the majority status of the employees in the appropriate unit is
3 in question, the executive director or the executive director's designee shall call an election
4 to determine whether the organization represents a majority of the members in the
5 bargaining unit.

6 **3. Elections.** The executive director, or the executive director's designee, pursuant to
7 subsection 2 or upon receiving a signed petition of at least 30% of a bargaining unit of
8 agricultural employees stating that they desire to be represented by an agricultural
9 employee organization, shall conduct a secret ballot election to determine whether the
10 organization represents a majority of the members in the bargaining unit.

11 A. The election may be conducted at suitable work locations or through the United
12 States mail and the procedures adopted and employed must ensure that neither the
13 employee organizations nor the management representatives involved in the election
14 have access to information that identifies a voter.

15 B. The ballot must contain the name of the employee organization and that of any
16 other employee organization showing written proof of at least 10% representation of
17 the agricultural employees within the unit, together with a choice for an agricultural
18 employee to designate that the employee does not desire to be represented by a
19 bargaining agent.

20 If more than one organization is on the ballot and none of the 3 or more choices receives
21 a majority vote of the agricultural employees voting, a run-off election must be held.
22 The run-off ballot must contain the 2 choices that received the largest and next largest
23 number of votes.

24 **4. Bargaining agent certified.** When an organization receives the majority of votes
25 of those voting, the executive director shall certify that organization as the bargaining
26 agent. The agricultural employer shall recognize the bargaining agent certified as
27 representing a bargaining unit as the exclusive bargaining agent for all of the employees in
28 the bargaining unit unless a decertification election by secret ballot is held and the
29 bargaining agent is declared by the executive director as not representing a majority of the
30 unit.

31 **5. Decertification.** When 30% of the employees in a certified bargaining unit petition
32 for a bargaining agent to be decertified, the procedures for conducting an election on the
33 question are the same as for representation as a bargaining agent set forth in this section.

34 **6. Questions concerning representation.** A question concerning representation may
35 not be raised within one year of a certification or attempted certification. When a valid
36 collective bargaining agreement is in effect, a question concerning unit or representation
37 may not be raised except during the period neither more than 90 days nor less than 60 days
38 prior to either the expiration date of the agreement or its anniversary date if the agreement
39 contains no expiration date. Matters of unit clarification may be raised at any time.

40 **7. Representation of employees within unit regardless of membership.** The
41 bargaining agent certified by the executive director as the exclusive bargaining agent is
42 required to represent all the agricultural employees within the unit without regard to
43 membership in the organization certified as bargaining agent. An agricultural employee at
44 any time may present the employee's grievance to the agricultural employer and have the

1 grievance adjusted without the intervention of the bargaining agent if the adjustment is not
2 inconsistent with the terms of a collective bargaining agreement then in effect and if the
3 bargaining agent's representative has been given reasonable opportunity to be present at
4 any meeting of the parties called for the resolution of the grievance.

5 **§3708. Maine Labor Relations Board; procedure and review**

6 **1. Proceedings subject to rules.** Proceedings conducted under this chapter are subject
7 to the rules and procedures of the board adopted under section 968, subsection 3.

8 **2. Review of representation proceedings.** Any person aggrieved by any ruling or
9 determination of the executive director under section 3706 or 3707 may appeal to the board,
10 within 15 days of the announcement of the ruling or determination, except that in the
11 instance of objections to the conduct of an election or challenged ballots the time period is
12 5 working days. Upon receipt of an appeal, the board shall within a reasonable time give
13 notice in writing 7 days in advance of the time and place of a hearing to the aggrieved party,
14 the labor organizations or the bargaining agent and the agricultural employer and the board
15 shall hold the hearing. The hearing must be in accordance with section 968. Decisions of
16 the board made pursuant to this subsection are subject to review by the Superior Court
17 under the Maine Rules of Civil Procedure, Rule 80C, in accordance with the standards
18 specified in section 1292, if the complaint is filed within 15 days of the date of issuance of
19 the decision. The complaint must be served upon the board and all parties to the board
20 proceedings by certified mail, return receipt requested.

21 **§3709. Prevention of prohibited acts**

22 **1. Prevention of prohibited acts; board powers.** The board may prevent a person,
23 an agricultural employer, an agricultural employee, an agricultural employee organization
24 or a bargaining agent from engaging in a prohibited act under section 3704. This subsection
25 is not affected by any other means of adjustment or prevention that has been or may be
26 established by agreement, law or otherwise.

27 **2. Complaints.** An agricultural employer, an agricultural employee, an agricultural
28 employee organization or a bargaining agent that believes that a person, an agricultural
29 employer, an agricultural employee, an agricultural employee organization or a bargaining
30 agent has engaged in or is engaging in a prohibited practice may file a complaint with the
31 executive director stating the charges. The complaint may not be filed with the executive
32 director until the complaining party has served a copy of it upon the party named in the
33 complaint. Upon receipt of a complaint, the executive director or the executive director's
34 designee must review the charge to determine whether the facts as alleged constitute a
35 prohibited act. If it is determined that the facts do not, as a matter of law, constitute a
36 violation, the charge must be dismissed by the executive director, subject to review by the
37 board. If the executive director or the board determines that a formal hearing is necessary,
38 the executive director must serve upon the parties to the complaint a notice of the
39 prehearing conference and of the hearing before the board. The notice must include the
40 time and place of hearing for the prehearing conference or the hearing, as appropriate. A
41 hearing may not be held based upon an alleged prohibited practice occurring more than 6
42 months before the filing of the complaint with the executive director. The party named in
43 the complaint has the right to file a written answer to the complaint and to appear in person
44 or otherwise and give testimony at the place and time fixed for the hearing. Through the
45 discretion of the board, any other person or organization may be allowed to intervene in

1 the proceeding and to present testimony. This subsection does not restrict the right of the
2 board to require the executive director or the executive director's designee to hold a
3 prehearing conference on any prohibited practice complaint prior to the hearing before the
4 board and to take an action, including dismissal, to attempt to resolve disagreements
5 between the parties or to recommend an order to the board, when the executive director
6 determines appropriate, subject to review by the board.

7 **3. Cease and desist order.** If after hearing and argument, upon a preponderance of
8 the evidence received, the board is of the opinion that a party named in the complaint has
9 engaged in or is engaging in a prohibited practice, the board shall state in writing its
10 findings of fact and the reasons for its conclusions and issue and cause to be served upon
11 that party an order requiring the party to cease and desist from the prohibited practice and
12 to take affirmative action, including reinstatement of employees with or without back pay,
13 and making employees whole, when the board considers relief appropriate, for the loss of
14 pay resulting from the employer's refusal to bargain and to provide other relief, including
15 payment of attorney's fees and costs. An order of the board may not require the
16 reinstatement of an individual as an employee who has been suspended or discharged or
17 the payment to the employee of any back pay if the individual was suspended or discharged
18 for cause.

19 **4. Dismissal of complaint.** If after hearing and argument, upon a preponderance of
20 the evidence received, the board is not of the opinion that the party named in the complaint
21 has engaged in or is engaging in any prohibited practice, the board shall state in writing its
22 findings of fact and the reasons for its conclusions and issue an order dismissing the
23 complaint.

24 **5. Enforcement action; scope of review; consolidation of actions.** If, after the
25 issuance of an order by the board requiring a party to cease and desist or to take any other
26 affirmative action, the party fails to comply with the order of the board, the party in whose
27 favor the order operates or the board may file a civil action in Superior Court to compel
28 compliance with the order of the board. Upon application of a party in interest or the board,
29 the court may grant temporary relief or a restraining order and may impose terms and
30 conditions as determined just and proper. The board's decision may not be stayed except
31 when it is clearly shown to the satisfaction of the court that substantial and irreparable
32 injury will be sustained or that there is a substantial risk of danger to the public health or
33 safety. In an action to compel compliance, the Superior Court may not review the action
34 of the board other than to determine whether the board has acted in excess of its jurisdiction.
35 If an action to review the decision of the board is pending at the time of the commencement
36 of an action for enforcement pursuant to this subsection or is filed later, the 2 actions must
37 be consolidated.

38 **6. Review.** Either party may seek a review by the Superior Court of a decision or
39 order of the board by filing a complaint in accordance with the Maine Rules of Civil
40 Procedure, Rule 80C, if the complaint is filed within 15 days of the date of issuance of the
41 decision. The complaint must be served upon the board and all parties to the board
42 proceeding by certified mail, return receipt requested. Upon the filing of the complaint,
43 the court shall schedule the hearing at the earliest possible time and notify all interested
44 parties and the board. Pending review and upon application of an interested party, the court
45 may grant temporary relief or a restraining order and impose terms and conditions that the
46 court determines just and proper, except that the board's decision or order is not stayed

1 unless it is clearly shown to the satisfaction of the court that substantial and irreparable
2 injury will be sustained or that there is a substantial risk of danger to the public health or
3 safety. The executive director shall immediately file in the court the record in the
4 proceeding certified by the executive director or a member of the board. The record must
5 include all documents filed in the proceeding and the transcript, if any. A hearing must be
6 held not less than 7 days after notice, and after the hearing the court may enforce, modify,
7 enforce as modified or set aside in whole or in part the decision or order of the board, except
8 that the findings of the board on questions of fact are final unless shown to be clearly
9 erroneous. An appeal to the Law Court must be the same as an appeal from an interlocutory
10 order under section 6.

11 **7. Privileges seeking injunctive relief.** In a judicial proceeding authorized by this
12 section in which injunctive relief is sought, sections 5 and 6 apply, except that neither an
13 allegation nor proof of unavoidable substantial and irreparable injury to the complainant's
14 property is required to obtain a temporary restraining order or injunction.

15 **§3710. Hearings**

16 **1. Hearings; rules of evidence; evidence.** Hearings conducted by the board must be
17 informal and the rules of evidence prevailing in judicial proceedings are not binding. Any
18 documentary evidence and other evidence determined to be relevant by the board may be
19 received.

20 **2. Subpoenas; evidence; witness fees.** The chair of the board may administer oaths
21 and require by subpoena the attendance and testimony of witnesses and the presentation of
22 books, records and other evidence relative or pertinent to the issues presented to the board
23 for determination. Witnesses subpoenaed by the board are allowed the same fees paid to
24 witnesses in the Superior Court. These fees, together with all necessary expenses of the
25 board, must be paid by the Treasurer of State on warrants drawn by the State Controller.

26 **§3711. Binding contract arbitration**

27 A collective bargaining agreement between an agricultural employer and a bargaining
28 agent may provide for binding arbitration as the final step of a grievance procedure. An
29 arbitrator with the power to make binding decisions pursuant to any such provision has no
30 authority to add to, subtract from or modify the collective bargaining agreement.

31 **§3712. Suits by and against unincorporated employee organizations**

32 In any judicial proceeding brought under this chapter or to enforce the rights guaranteed
33 by this chapter, an unincorporated employee organization may sue or be sued in the name
34 by which it is known.

35 **§3713. Review**

36 Either party may seek a review of a binding determination by an arbitration panel or
37 arbitrator pursuant to the Uniform Arbitration Act.

38 **§3714. Federal precedents**

39 The board must consult precedents under the federal National Labor Relations Act, as
40 amended, as appropriate.'

41 Amend the bill by relettering or renumbering any nonconsecutive Part letter or section
42 number to read consecutively.

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SUMMARY

This amendment replaces the bill, which is a concept draft.

This amendment:

1. Gives employees of agricultural employers the right to bargain collectively;
2. Specifies the parties' mutual obligation to bargain;
3. Creates procedures for determining bargaining units and bargaining agents, including procedures for appeal of such determinations; and
4. Prohibits specified acts of agricultural employers, agricultural employees and agricultural labor organizations and provides for enforcement of those prohibitions by the Maine Labor Relations Board and subsequently through civil action in Superior Court.