

**ASSEMBLY, No. 5332**

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**STATE OF NEW JERSEY**

**219th LEGISLATURE**

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INTRODUCED JANUARY 29, 2021

**Sponsored by:**  
**Assemblyman ERIC HOUGHTALING**  
**District 11 (Monmouth)**

**SYNOPSIS**

Concerns collective bargaining for farm workers.

**CURRENT VERSION OF TEXT**

As introduced.



A5332 HOUGHTALING

2

1 AN ACT concerning collective bargaining for farm workers, and  
2 amending and supplementing P.L.1968, c.303.

3

4 **BE IT ENACTED** *by the Senate and General Assembly of the State*  
5 *of New Jersey:*

6

7 1. Section 5 of P.L.1968, c.303 (C.34:13A-5.1) is amended to  
8 read as follows:

9 5. There is hereby established a Division of Public  
10 Employment Relations and a Division of Private Employment  
11 Dispute Settlement.

12 (a) The Division of Public Employment Relations shall be  
13 concerned exclusively with matters of public employment related to  
14 determining negotiating units, elections, certifications and  
15 settlement of public employee representative and public employer  
16 disputes and grievance procedures. For the purpose of complying  
17 with the provisions of Article V, Section IV, paragraph 1 of the  
18 New Jersey Constitution, the Division of Public Employment  
19 Relations is hereby allocated within the Department of Labor and  
20 Workforce Development, and located in the city of Trenton, but  
21 notwithstanding said allocation, the office shall be independent of  
22 any supervision or control by the department or by any board or  
23 officer thereof.

24 (b) The Division of Private Employment Dispute Settlement  
25 shall assist the New Jersey State Board of Mediation in the  
26 resolution of disputes in private employment. The New Jersey State  
27 Board of Mediation, its objectives and the powers and duties  
28 granted by this act and the act of which this act is amendatory and  
29 supplementary shall be concerned exclusively with matters of  
30 private employment and the office shall continue to be located in  
31 the city of Newark.

32 (c) In the case of a private employer not regulated by the  
33 National Labor Relations Board pursuant to the National Labor  
34 Relations Act (29 U.S.C. s.151 et seq.), the New Jersey State Board  
35 of Mediation shall designate a representative for a unit of  
36 employees of the private employer for the purposes of collective  
37 bargaining when:

38 (1) In any case in which the board determines that there is no  
39 current majority representative and only one employee organization  
40 is seeking to be the majority representative, that organization  
41 demonstrates that a majority of employees in the unit have shown  
42 their preference to have that organization be their representative by  
43 signing authorization cards indicating that preference; or

**EXPLANATION** – Matter enclosed in bold-faced brackets **[thus]** in the above bill is  
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 (2) The employees in the unit have selected a representative by  
2 an election that conforms with the procedures outlined in section  
3 159 of the National Labor Relations Act (29 U.S.C. s.159).

4 For the purposes of paragraph (1) of this subsection, an  
5 authorization card indicating preference shall not be valid unless it  
6 is printed in a language understood by the employee who signs it.

7 An employee organization seeking to be recognized as a majority  
8 representative, either by a card authorization procedure pursuant to  
9 paragraph (1) of this subsection or by an election pursuant to  
10 paragraph (2) of this subsection, shall be permitted, but not  
11 required, to petition the New Jersey State Board of Mediation to  
12 require the employer to file, within not more than 48 hours, and in  
13 the manner required by the board, a complete and accurate list of  
14 the full names, current street addresses, and job classifications of  
15 the current employees, and phone numbers or other employee  
16 contact information available to the employer, which the board shall  
17 immediately convey to the employee organization. Any employer  
18 who refuses to provide information requested by the New Jersey  
19 State Board of Mediation or otherwise acts to prevent the board  
20 from carrying out its responsibilities pursuant to this subsection (c)  
21 shall have violated this subsection and shall be liable to a fine of not  
22 more than **[\$1,000]** \$5,000 for each day that the employer fails to  
23 provide a complete response or otherwise prevents the board from  
24 carrying out its responsibilities, to be recovered under the "Penalty  
25 Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.) in  
26 the name of the board and to be used by the board for costs of  
27 implementing this subsection. In addition, an employee  
28 organization seeking to represent the employees of the employer  
29 may institute an action in a court of competent jurisdiction to obtain  
30 an injunction to restrain any continuation of the violation, to  
31 reimburse the employee organization or any affected employee for  
32 any damages caused by the violation plus reasonable costs and  
33 attorney's fees of the action.

34 The provisions of this subsection (c) shall not apply to religious  
35 or parochial schools or their employees or to any private nonprofit  
36 organization exempt from federal taxation under section 501 of the  
37 Internal Revenue Code of 1986 (26 U.S.C. s. 501).

38 (d) In the case of a private employer regulated by the National  
39 Labor Relations Board pursuant to the National Labor Relations Act  
40 (29 U.S.C. s. 151 et seq.), the New Jersey State Board of Mediation  
41 shall, based on the mutual agreement of the private employer and an  
42 organization seeking to represent employees of the employer,  
43 designate a representative for a unit of employees of the private  
44 employer for the purposes of collective bargaining when:

45 (1) In any case in which the board determines that only one  
46 employee organization is seeking to be the majority representative,  
47 that organization demonstrates, in a manner mutually agreed upon  
48 by the representative and the employer, that a majority of

1 employees in the unit have shown their preference to have that  
2 organization be their representative by signing authorization cards  
3 indicating that preference; or

4 (2) the employees in the unit have selected the representative by  
5 an election that conforms with the procedures outlined in section  
6 159 of the National Labor Relations Act (29 U.S.C. s.159).

7 (e) For the purposes of subsections (c) and (d) of this section,  
8 "employee unit" means an appropriate group of employees for the  
9 purposes of collective bargaining as determined, if necessary, by  
10 the New Jersey State Board of Mediation.

11 (cf: P.L.2005, c.161, s.1)

12  
13 2. (New section) a. Agricultural employers and their  
14 representatives and agents shall not engage in the following unfair  
15 practices:

16 (1) interfering with, restraining, or coercing employees in their  
17 exercise of rights guaranteed by P.L. , c. (C. ) (pending  
18 before the Legislature as this bill);

19 (2) dominating or interfering with the formation, existence or  
20 administration of any employee organization, including any  
21 violation of the provisions of section 6 of P.L. , c. (C. )  
22 (pending before the Legislature as this bill);

23 (3) discharging, threatening to discharge, or otherwise  
24 discriminating with respect to hire or tenure of employment or any  
25 term or condition of employment to encourage or discourage  
26 employees from signing or filing an affidavit, petition or complaint  
27 or disclosing any information or testimony, or exercising any other  
28 rights guaranteed by P.L. , c. (C. ) (pending before the  
29 Legislature as this bill);

30 (4) refusing to negotiate in good faith with a majority  
31 representative of employees concerning terms and conditions of  
32 employment, refusing to process grievances, or refusing to reduce  
33 to writing and sign a negotiated agreement; or

34 (5) violating any regulations adopted by the division.

35 b. Employee organizations and their representatives and agents  
36 shall not engage in the following unfair practices:

37 (1) interfering with, restraining or coercing employees in the  
38 exercise of the rights guaranteed to them by (P.L. , c. (C. )  
39 (pending before the Legislature as this bill);

40 (2) interfering with, restraining or coercing an agricultural  
41 employer in the selection of the employer's representative for the  
42 purposes of negotiations or the adjustment of grievances;

43 (3) refusing to negotiate in good faith with an agricultural  
44 employer concerning terms and conditions of employment, or  
45 refusing to reduce to writing and sign a negotiated agreement; or

46 (4) violating any regulations adopted by the division.

47 c. The division shall have exclusive power to prevent anyone  
48 from engaging in any unfair practice listed in subsections a. and b.

1 of this section. Whenever it is charged that any party has engaged  
2 or is engaging in an unfair practice, the division, or its designated  
3 agent, shall have authority to issue and cause to be served upon the  
4 party a complaint stating the specific unfair practice charged and  
5 including a notice of hearing containing the date and place of  
6 hearing before the division or its designated agent, except that no  
7 complaint shall be based on an unfair practice occurring more than  
8 six months prior to the filing of the charge unless the aggrieved  
9 person is prevented from filing the charge, in which event the six-  
10 month period shall be computed from the day the person is no  
11 longer prevented. If the division determines that any party charged  
12 has engaged or is engaging in an unfair practice, the division shall  
13 state its findings of fact and conclusions of law and issue and cause  
14 to be served on the party an order requiring the party to cease and  
15 desist from the unfair practice, and to take reasonable remedial or  
16 affirmative action as shall effectuate the policies of  
17 P.L. , c. (C. ) (pending before the Legislature as this bill). In  
18 the case of a discharge or other discrimination against any  
19 employee for exercising rights guaranteed by P.L. , c. (C. )  
20 (pending before the Legislature as this bill), the actions shall  
21 include reinstatement to any employment from which the employee  
22 was discharged, the payment of any wages lost due to the  
23 discrimination, reasonable costs of action, and liquidated damages  
24 equal to the wages due. Any case in which a complaint and notice  
25 of hearing are issued by the division shall be prosecuted before the  
26 division by a representative of the employee organization or other  
27 party filing the charge.

28 d. The division shall have the power to apply to the Appellate  
29 Division of the Superior Court for an appropriate order enforcing  
30 any order of the division issued pursuant to subsection c. of this  
31 section, and its findings of fact, if based upon substantial evidence  
32 on the record as a whole, shall not be set aside or modified, and any  
33 order for remedial or affirmative action, if reasonably designed to  
34 effectuate the provisions of P.L. , c. (C. ) (pending before  
35 the Legislature as this bill), shall be affirmed and enforced.

36  
37 3. (New section) a. If an employee organization seeking to be  
38 a majority representative of employees of an agricultural employer  
39 petitions the New Jersey State Board of Mediation to require the  
40 employer to provide a list of the current employees with contact  
41 information pursuant to section 5 of P.L.1968, c.303 (C.34:13A-  
42 5.1), the employer shall, along with providing the list and contact  
43 information, provide the employee organization access to the  
44 employees. The required access to employees shall include, but not  
45 be limited to, permitting representatives of the organization to meet  
46 with employees on the premises of the employer during the work  
47 day, and permitting representatives of the organization to meet with

1 employees at any employee living quarters under the control of the  
2 employer.

3 b. An agricultural employer shall permit any employee  
4 organization which is a majority representative of employees of the  
5 employer:

6 (1) to access the employer's premises to investigate and discuss  
7 with the employees grievances, workplace-related complaints, and  
8 other workplace issues;

9 (2) to conduct worksite meetings during non-work breaks, and  
10 before and after the workday, to discuss workplace issues,  
11 collective negotiations, the administration of collective negotiations  
12 agreements, other matters related to the governance, business, and  
13 duties of the employee organization; and

14 (3) to meet with a newly hired employee within five days after  
15 hire, without charge to the pay or leave time of the employee.

16 c. An agricultural employer shall provide the majority  
17 representative with timely notification of any new hiring by the  
18 employer or change in the contact information of current  
19 employees.

20 d. An agricultural employer shall carry out payroll deductions  
21 for membership dues for the majority representative, and payroll  
22 deductions for representation fees from non-members, as agreed to  
23 in negotiations between the employer and the majority  
24 representative, or, if an agreement is not reached, as set by the  
25 division.

26 e. An agricultural employer shall not discourage an employee  
27 from joining, forming or assisting an employee organization, or  
28 encourage employees to resign or relinquish membership in an  
29 employee organization, or revoke authorization of the deduction of  
30 dues or fees to an employee organization.

31 f. An agricultural employer who violates any provision of this  
32 section shall be regarded as having engaged in an unfair practice in  
33 violation of section 2 of P.L. , c. (C. ) (pending before the  
34 Legislature as this bill), and, upon a finding that the violation has  
35 occurred, the division, in addition to implementing any other  
36 remedies authorized by that section, shall order the agricultural  
37 employer to make whole the employee organization for any losses  
38 suffered by the organization as a result of the violation.

39

40 4. (New section) Notwithstanding any law to the contrary, an  
41 organization representing agricultural laborers, and its members,  
42 representatives, and supporters, shall have the right to engage in  
43 publicity, including picketing, for the purpose of truthfully advising  
44 the public, including consumers, that products or the ingredients of  
45 products are produced by an agricultural employer with which the  
46 organization has a dispute, including publicity which has the effect  
47 of requesting the public to cease patronizing businesses which  
48 distribute or sell those products.



1        This bill brings farmworkers under protections similar to those  
2 laws, by expanding the responsibilities of the Division of Private  
3 Employment Dispute Settlement in the Department of Labor and  
4 Workforce Development regarding agricultural employment not  
5 regulated by the NLRA. It provides the division with the power to  
6 prevent specified unfair labor practices, thus providing rights to the  
7 farmworkers similar to the rights provided to other private sector  
8 workers under the NLRA, and the rights provided to public  
9 employees under the PERL and the WDEA.

10       For the purposes of the bill, an agricultural employer is defined  
11 as a private employer of agriculture laborers who is not regulated  
12 by the National Labor Relations Board pursuant to the National  
13 Labor Relations Act (29 U.S.C. s.151 et seq.) and who has a  
14 permanent hired work force of more than four workers who are not  
15 members of his family. The bill prohibits agricultural employers  
16 and their representatives and agents from the following unfair  
17 practices:

- 18       1. Interfering with, restraining, or coercing employees in the  
19 exercise of the rights granted by the bill.
- 20       2. Dominating or interfering with any employee organization.
- 21       3. Discriminating against employees for making disclosures or  
22 otherwise exercising their rights.
- 23       4. Refusing to negotiate in good faith or sign a negotiated  
24 agreement.
- 25       5. Violating any division regulation.

26       The bill similarly prohibits employee organizations and their  
27 representatives and agents from the following unfair practices:

- 28       1. Interfering with, restraining or coercing employees in the  
29 exercise of their rights.
- 30       2. Interfering with, restraining or coercing an agricultural  
31 employer in the selection of a representative for negotiations or  
32 grievance procedures.
- 33       3. Refusing to negotiate in good faith or sign a negotiated  
34 agreement.
- 35       4. Violating any division regulation.

36       The division may order an offending party to cease any unfair  
37 practice and take reasonable remedial action, including, in the case  
38 of a discharge, reinstatement, paying lost wages, costs of action,  
39 and damages equal to the wages due. It is also an unfair practice  
40 under the bill for an agricultural employer to encourage or  
41 discourage employees from joining, forming or assisting an  
42 employee organization, or encourage them to end their employee  
43 organization membership or revoke authorization of the deduction  
44 of dues or fees. The division is required to order the employer to  
45 make whole the employee organization for any resulting losses to  
46 the organization.

47       Current law, section 5 of P.L.1968, c.303 (C.34:13A-5.1),  
48 permits the New Jersey State Board of Mediation to designate a



1 labor organization to represent employees of a private sector  
2 employer not regulated under the NLRA, if the employees select the  
3 organization in an election conforming with NLRA procedures, or,  
4 if only one labor organization seeks to represent the employees, a  
5 majority of the employees sign cards showing that they prefer that  
6 organization.

7 The bill provides that in such cases the employee organization  
8 may petition the board to require the employer to provide a list of  
9 current employees with contact information. If the organization  
10 petitions the board for that information, the employer must also  
11 give the organization access to the employees, including allowing  
12 meetings in the workplace and employer-controlled living quarters.

13 The bill provides that once an employee organization is  
14 designated as the employee representative, the employer must give  
15 the organization access to the employer's premises to investigate  
16 and discuss grievances and other issues, conduct meetings, and  
17 meet newly hired employees.

18 The bill gives farmworker organizations the right to engage in  
19 publicity regarding products produced by an employer with which  
20 the organization has a dispute, including publicity asking the public  
21 to not patronize businesses distributing or selling the products.