

1
2 **STATE SECTORAL BARGAINING ACT**
3

4 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF**
5 _____ :
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7 **Section 1. Legislative Findings and Purpose.**
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9 The Legislature finds that:
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- 11 1. Income inequality in the United States is among the highest in the developed
12 world, precarious employment has risen, and wage growth has stagnated,
13 especially for low-wage workers, despite rapid growth in productivity. Among
14 the causes of wage stagnation includes the decline of unionized workplaces.
15 2. Unionization and collective bargaining benefit workers by increasing wages,
16 providing better benefits, and improving working conditions. While collective
17 bargaining provides workers a voice in their workplace, it also benefits
18 employers by improving productivity and predictability, increasing worker
19 morale and retention, reducing workplace conflict, and creating a more stable
20 and positive relationship between workers and employers.
21 3. Despite this, union density and collective bargaining coverage under the
22 existing system of Employer-Level Bargaining is alarmingly low, and the
23 existing system of collective bargaining is ill-positioned to address fissured
24 workplaces, complex employment relationships, and industry-wide challenges
25 such as automation and the use of artificial intelligence.
26 4. Sectoral Bargaining is intended to complement and strengthen employer-
27 level collective bargaining, not to replace, undermine, or derogate those
28 rights. Nothing in this Act shall be construed to diminish any right to
29 organize, bargain collectively, or engage in concerted activity guaranteed by
30 the National Labor Relations Act or any other applicable federal or state law,
31 and Sectoral Bargaining agreements shall function as a floor upon which
32 employer-level collective bargaining agreements may improve.
33 5. The State has a legitimate and substantial interest to displace labor market
34 competition by authorizing and supervising Sector- and industry-wide
35 standard-setting processes to improve the long-term economic health of this
36 State, improving workforce quality, promoting workplace democracy, and
37 encouraging employers to invest in workers without facing downward
38 pressure from non-unionized workplaces.
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40 The purpose of this Act is to increase worker power and self-determination and
41 improve wages and working conditions by establishing a mechanism for sectoral
42 bargaining in which employers, including public employers, and workers may
43 jointly propose minimum industry standards under active state supervision. This

44 mechanism will exist alongside traditional Employer-Level Bargaining. This
45 mechanism will have the effect of displacing some labor market competition, which
46 is necessary to meet the goals of the act.

47 **Section 2. Definitions.**
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- 49 1. **“Covered Employer”** means any entity, including a Public Employer,
50 operating in a Sector with respect to any Covered Worker whose performance
51 is not completely free from the entity's control or direction.
52 2. **“Covered Employer Representative”** means one or multiple
53 representatives of Covered Employers that are certified by the State Labor
54 Standards Board to bargain on behalf of Covered Employers
55 3. **“Covered Worker”** means an employee or other worker whose performance
56 is not completely free from the control or direction of a Covered Employer,
57 regardless of their classification or status, and who works in a Sector that has
58 been petitioned for by a Union or Worker Organization that has been
59 certified by the State Labor Standards Board to bargain on behalf of Covered
60 Workers, excluding any worker who acts in a managerial capacity or who has
61 the authority to suspend and discharge other workers.
62 4. **“Covered Worker Representative”** means one or multiple representatives
63 of Unions or Worker Organizations that are certified by the State Labor
64 Standards Board to bargain on behalf of Covered Workers.
65 5. **“Employer-Level Bargaining”** means collective bargaining which takes
66 place between an individual Union and an individual employer at the unit
67 level, at one or more worksites, or at the enterprise-level of the company.
68 6. **“Individual Employment Contract”** means an employment contract
69 between an employer and an individual worker that is not reached through
70 collective bargaining.
71 7. **“Labor Standards Board” or “Board”** means the State Labor Standards
72 Board established in Section 3.
73 8. **“Public Employer”** means the State or any political subdivision or
74 jurisdiction thereof, any wholly owned state government corporation, but
75 shall not include the United States.
76 9. **“Sector”** means a group of workers and their associated employers and
77 representatives who share one or more of the following criteria: industry,
78 occupation, product line, service line, geography, key job characteristics like
79 skills or certifications, or another clear and distinct common interest.
80 10. **“Sectoral Bargaining”** means collective bargaining that takes place
81 between one or more representatives of Covered Workers and one or more
82 representatives of Covered Employers.
83 11. **“Sectoral Prevailing Wage and Fringe Benefit Rate”** means a wage and
84 fringe benefit floor established by the Board, derived from collective
85 bargaining agreements covering at least 30 percent of Covered Workers in a
86 Sector, and determined to be just, reasonable, and protective against wage
87 suppression within that Sector.

- 88 12. **“Union”** means a labor organization that Covered Workers can form, join, or
89 assist to negotiate with their employers regarding wages, hours, and other
90 terms and conditions of employment.
- 91 13. **“Worker Organization”** means an organization that is not a Union that
92 organizes workers or engages in concerted activities with workers for their
93 mutual aid or protection, whose activities are free from employer
94 establishment, domination, control, support, and/or interference.

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97 **Section 3. State Labor Standards Board.**

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99 1. **Creation.** This Act hereby establishes an independent public agency known
100 as the State Labor Standards Board.
- 101 2. **Composition.** The Board shall consist of:
- 102 a. The Commissioner/Secretary of Labor or designee, who shall serve as
103 Chair.
 - 104 b. Five additional members appointed by the Governor, including at
105 least:
 - 106 i. Two persons selected from the general public;
 - 107 ii. Two members with experience leading, organizing, or providing
108 services to workers as an officer, agent, or staff member of a
109 labor union, except that one may instead have experience
110 leading a Worker Organization or providing services to low-wage
111 workers as an officer, agent or staff member of a Worker
112 Organization; and
 - 113 iii. One member with experience negotiating collective bargaining
114 agreements or working with labor organizations on behalf of an
115 employer.
 - 116 iv.
- 117 3. **The Board’s Role.** The Board shall implement, administer, and actively
118 supervise Sectoral Bargaining arrangements pursuant to this Act. In
119 carrying out its duties, the Board shall act on behalf of the State and exercise
120 its authority to review, approve, and disapprove Sectoral Minimum
121 Standards and to ensure that the displacement of market competition serves
122 the State’s goals of labor peace and the public interest.
- 123 a. **General powers.** The Board shall have the power to resolve
124 disputes about duties, obligations, or requirements included within
125 this Act. It shall also have the power to monitor and enforce
126 compliance with the Act itself, to determine violations and remedies

127 related to those violations, and to determine any other matter arising
128 under this Act. In performing its duties, the Board may:

- 129 i. Conduct hearings and independent investigations or other fact-
130 finding processes;
- 131 ii. Issue administrative subpoenas to facilitate these investigations
132 or proceedings;
- 133 iii. Conduct independent research with the assistance of qualified
134 experts;
- 135 iv. Hire staff or consultants as reasonably needed to provide
136 expertise related to the preservation of competitive markets and
137 the maintenance of fair labor markets and working conditions;
- 138 v. Promulgate rules and regulations to implement the Act;
- 139 vi. Issue fines and fees as part of its enforcement activities.

140
141 **b. Support services.** The Board will, directly or indirectly, offer services
142 that:

- 143 i. provide general information about rights and obligations in relation
144 to Sectoral Bargaining agreements in order to understand the
145 requirements to become a bargaining party, the content requirements
146 for a proposed agreement, and the overall bargaining process;
- 147 ii. provide information about what services are available for persons
148 (including Unions, Worker Organizations, , Covered Workers, and
149 Covered Employers,) who have problems related to Sectoral
150 Bargaining relationships;
- 151 iii. support bargaining parties throughout the process of bargaining to
152 ensure that it is constructive and efficient, including access (at no cost)
153 to independent financial experts to assess inability to pay claims and
154 independent technologists to assess assertions about use of AI or other
155 workplace technology; and
- 156 iv. assist parties to resolve any conflict in relation to bargaining for the
157 terms of a Sectoral Bargaining agreement, including by offering
158 mediation services, if necessary. However, nothing in this Act prevents
159 the bargaining parties from using private alternate dispute resolution
160 services, prior to potentially being directed.

161
162 **Section 4. Funding**
163

- 164 1. **Employer assessment.** To support the regulatory oversight activities of the
165 State Labor Standards Board and recover the cost of regulatory oversight,
166 enforcement, and administration, which shall supplement any funding from
167 general appropriations, each entity registered to do business in the State [cite
168 to business registration code] with one or more workers shall pay an annual
169 Administrative Labor Standards Assessment that is to be collected alongside
170 any business registration or renewal. Monies in the Fund shall be used solely
171 to support the regulatory oversight, enforcement, and administrative
172 activities of the State Labor Standards Board and shall not lapse to the
173 general fund at the end of any fiscal year.
- 174 2.
- 175 3. **Amount of assessment:** The initial annual assessment shall be set at
176 **[\$reserved]** per Covered Worker.
- 177 4. **Adjustments.** On July 1 of each year after the passage of this Act, the Chair
178 of the Board may adjust the assessment amounts as needed, including but
179 not limited to increasing the assessment by the cumulative change in the
180 Consumer Price Index over the preceding year, effective upon registrations
181 and renewals as of each August 1.
- 182 5. **Exemptions.** Public Employers shall be exempt from this assessment.
- 183 6. **Use of Funds.** All revenue from the assessment shall be deposited into the
184 State Labor Standards Board Fund and used for its oversight,
185 administration, enforcement, or otherwise to advance the protection of
186 Covered Workers and implementation of this Act.
- 187 7. **Transparency.** Each year, the Board shall provide a publicly accessible
188 accounting of its use of funds.
- 189

190 **Section 5. Covered Worker Rights**

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192 Covered Workers shall have the right to self-organization; to form, join, or assist
193 Unions, Worker Organizations, and other labor organizations; to bargain
194 collectively through representatives of their own choosing at both the sectoral and
195 employer levels; to engage in other concerted activities for the purpose of collective
196 bargaining, Sectoral Bargaining, or other mutual aid or protection. [These rights
197 apply to all Covered Workers to the extent the worker is not covered by the
198 National Labor Relations Act.]

199

200 **Section 6. Worker Representation, Petitions and Thresholds**

- 201 1. **Petition(s) to Establish Sector.**
- 202 a. A Union and/or Worker Organization may file with the Board a
203 petition requesting recognition of a Sector for purposes of Sectoral
204 Bargaining.
- 205 b. The petition(s) shall identify:

- 206 A. the proposed Sector;
207 B. the approximate number of Covered Workers; and
208 C. evidence of support sufficient to meet the thresholds set forth in
209 this Section.
- 210 c. The Board shall review the petition(s) to determine whether the
211 proposed sector constitutes a reasonable and administratively
212 workable unit for collective bargaining. The Board shall determine any
213 petition proposing a sector defined by the North American Industry
214 Classification System code to be reasonable. The Board may solicit up
215 to 30 days of public comment from the date upon which the petition is
216 filed, and shall approve the petition unless it determines that the
217 proposed unit is unreasonable and administratively unworkable or
218 that the petition is contrary to the Act.
- 219 d. The Board may issue guidance for defining sectors to ensure that
220 Sector definitions are clearly communicated to Covered Workers.

221

222 **2. Initial Access Threshold.**

- 223 a. Where a Petitioner seeks initial access to workers before requesting
224 recognition, the Board shall review the request under the standard
225 established under Section 6(1) to determine whether the sector
226 constitutes a reasonable and administratively workable sector for
227 collective bargaining.
- 228 b. If the requirements of Section 6(1) are met, upon a showing by the
229 Petitioner that it represents or has demonstrated support from at least
230 200 workers, or 5% of the workers in the proposed sector, whichever is
231 less, the Petitioner shall be granted Initial Access Rights as provided
232 in this subsection.
- 233 c. Initial Access Rights shall include:
- 234 A. access to reasonable worker contact information, limited to
235 names, primary work locations, available employer-assigned
236 electronic addresses, and non-work email addresses and phone
237 numbers in the employers' possession.
- 238 B. a requirement that employers within the Sector provide all
239 Covered Workers with notice, delivered electronically where
240 available and additionally by worksite posting, within 3 days of
241 the granting of initial access rights, informing them of:
- 242 i. the threshold having been met;
- 243 ii. the workers' rights under this Act to engage in sectoral
244 bargaining;

- 245 iii. the identity and contact information for the Petitioner;
- 246 and
- 247 iv. an explanation of the process and potential scope of
- 248 Sectoral Bargaining under this Act;
- 249 C. a requirement that employers provide a reasonable opportunity
- 250 for the Petitioner or its designee to conduct “Know Your Rights”
- 251 education for workers during paid time, not to exceed two hours
- 252 per calendar year unless otherwise mutually agreed; and
- 253 D. any reasonable worksite and digital access consistent with the
- 254 First and Fifth Amendments and workplace security needs, as
- 255 ordered by the Board.

256 d. Access under Subsections C and D shall be subject to the following

257 conditions:

- 258 A. A Covered Worker Representative organization must give at
- 259 least one-hour written notice to the Covered Employer prior to
- 260 accessing its physical property.

- 261 B. The Covered Employer will receive \$1.00 from the State for each
- 262 hour of access granted to Covered Worker Representative as just
- 263 compensation for the access rights..

- 264 C. A Covered Worker Representative and a Covered Employer may
- 265 agree to provide more access to the Covered Worker
- 266 Representative than the access provided by right under this
- 267 section and provided by the Board.

- 268 D. Nothing herein shall diminish any rights to access property as
- 269 otherwise provided by law.

270 **3. Formal Representation Threshold.**

- 271 a. Designation as Sectoral Representative. Upon demonstrating
- 272 representation or support from 1,000 workers in the sector, or 25% of
- 273 the Sector workforce, whichever constitutes fewer workers, the
- 274 Petitioner shall be designated the Covered Worker Representative for
- 275 purposes of sectoral bargaining under this Act.
- 276 b. Certification by the Board.
- 277 A. Upon designation under paragraph (3)(a), the Board shall certify
- 278 the Petitioner as the Covered Worker Representative.
- 279 B. The Board shall authorize Sectoral Bargaining to commence
- 280 when there is at least one Covered Worker Representative and
- 281 one Covered Employer Representative, or at such time as the
- 282 Board determines that Covered Workers and Covered
- 283 Employers are adequately represented.

284 c. The Board shall promulgate all necessary regulations to: (i) establish
285 the approximate size of a Sector and the level of support necessary
286 from the Sector to designate Sector Representative(s), (ii) promote
287 integrity and fairness in all related proceedings, and (iii) ensure that
288 all related proceedings provide due process for workers and their
289 employers.

290 **4. Covered Worker Representatives**

- 291 a. The Board shall certify all eligible Covered Worker Representatives
292 and safeguard their rights to participate fully in Sectoral Bargaining.
- 293 b. A Petitioner shall be the exclusive Covered Worker Representative for
294 the Sector if no other Union or Worker Organization represents or
295 provides services to workers within the Sector, or if any such Union or
296 Worker Organization does not wish to serve as a Covered Worker
297 Representative.
- 298 c. The Petitioner shall coordinate with any Union or Worker
299 Organization representing or providing services to workers within the
300 Sector to determine their interest in serving as a Covered Worker
301 Representative and, where interest exists, to reach agreement on
302 proportional representation.
- 303 d. The Board shall certify additional Covered Worker Representatives
304 upon agreement of the parties, provided such agreement is not
305 contrary to the Act.
- 306 e. Should the Petitioner and any other Unions or Worker Organizations
307 fail to reach agreement, or should the Petitioner fail to coordinate with
308 other potential worker representatives, the Board shall determine
309 whether other Unions or Worker Organizations should be certified
310 based on their proportional representation of workers in the Sector.
- 311 f. A Covered Worker Representative shall have the right to:
- 312 A. participate fully at the bargaining table, including the right to
313 introduce subjects of bargaining;
 - 314 B. vote on proposed bargaining positions, tentative agreements,
315 and impasse declarations, with voting weight proportional to its
316 share of represented workers;
 - 317 C. challenge proportional-representation determination upon a
318 showing of material error or significant change in membership;
319 and
 - 320 D. submit independent data, proposals, and testimony before the
321 Board.

322 **g. Petitioner’s Rights.** Nothing in this subsection shall diminish the
323 Petitioner’s rights as a Covered Worker Representative, except that its
324 voting share shall be proportional to its demonstrated representation.
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327 **Section 7. Covered Employer Representatives**

- 328 1. The Board shall certify all eligible Covered Employer Representatives and
329 safeguard their rights to participate fully in Sectoral Bargaining.
- 330 2. Any Covered Employer operating within a certified Sector may apply to the
331 Board for certification as a Covered Employer Representative. The Board
332 shall certify an applicant upon a showing that it employs workers within the
333 Sector.
- 334 3. Upon establishment of a Sector, the Board shall notify all known Covered
335 Employers within the Sector of their right to seek certification as a Covered
336 Employer Representative and of any pending Sectoral Bargaining
337 proceedings.
- 338 4. Covered Employers seeking to participate in Sectoral Bargaining through
339 representation by a Covered Employer Representatives may coordinate for
340 the purpose of determining which employer or employers will seek
341 certification as a Covered Employer Representative and, where multiple
342 employers seek certification, the proportional representation among them.
343 Such coordination shall not extend to wages, pricing, output, or any other
344 terms of competition in markets outside the labor market covered by Sectoral
345 Bargaining, and shall not authorize any employer to share sensitive, firm-
346 specific business information with any other employer.
- 347 5. The Board shall certify Covered Employer Representatives upon the
348 agreement of Covered Employers, provided such agreement is not contrary to
349 the Act.
- 350 6. Should Covered Employers fail to reach agreement on representation, or
351 should a Covered Employer fail to coordinate with other potential employer
352 representatives, the Board shall determine representation based on
353 proportional share of workers employed within the Sector.
- 354 7. A Covered Employer Representative shall have the right to:
- 355 ○ (a) participate fully at the bargaining table, including the right to
356 introduce subjects of bargaining;
 - 357 ○ (b) vote on proposed bargaining positions, tentative agreements, and
358 impasse declarations, with voting weight proportional to its share of
359 workers employed in the Sector;
 - 360 ○ (c) challenge a proportional-representation determination upon a
361 showing of material error or significant change in workforce
362 composition; and

- 363 ○ (d) submit independent data, proposals, and testimony before the
364 Board.
- 365 8. Nothing in this section shall prevent two or more Covered Employers from
366 voluntarily designating a common spokesperson or coordinating their
367 positions for purposes of Sectoral Bargaining, provided that any such
368 arrangement is disclosed to the Board and to Covered Worker
369 Representatives, does not extend to wages, pricing, output, or any other
370 terms of competition in markets outside the labor market covered by Sectoral
371 Bargaining, and does not constitute a violation of applicable antitrust law.
- 372 9. State-Designated Employer Representatives. If a Sector has one or more
373 certified Covered Worker Representatives but lacks a Covered Employer
374 Representative, the Board may take steps to facilitate employer
375 representation, including by notifying Covered Employers of the vacancy and
376 providing a reasonable period of no more than 30 days for employers to seek
377 certification voluntarily.
- 378 10. If no Covered Employer seeks certification within that period, the Board may
379 designate one or more Covered Employers to serve as designated Covered
380 Employer Representatives to bargain on behalf of employers in the Sector. In
381 making any such designation, the Board shall give consideration to:
- 382 a. size and age of the business;
383 b. market share within the Sector;
384 c. geographic distribution of operations; and
385 d. other material differences in the circumstances of employers
386 operating within the Sector.

387 A designated Covered Employer Representative shall have the same rights
388 and obligations as a certified Covered Employer Representative under this
389 section.

390

391 **Section 8. Sectoral Bargaining**

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- 393 1. **Duty to bargain in good faith.** The bargaining parties have a duty to
394 bargain in good faith with one another under this Act in order to reach a
395 sectoral bargaining agreement.
- 396 a. A duty to bargain in good faith means that the parties must establish
397 and maintain a productive, responsive and communicative
398 relationship; provide access to property and information relevant to
399 Covered Workers' employment; not, whether directly or indirectly, do
400 anything to mislead or deceive each other; and submit to alternate
401 dispute resolution, if necessary.
- 402 b. Employers that are or will be covered by any Sectoral Bargaining
403 agreement have the obligation to respect workers' rights of free speech,
404 association and assembly, as well as rights to organize and collectively

405 bargain free from any employer interference, coercion, restraint and/or
406 retaliation.

407 c. The parties are required to bargain in good faith until reaching a
408 tentative Sectoral Bargaining agreement which will then be subject to
409 a ratification vote pursuant to Section 9. If the parties cannot reach a
410 tentative Sectoral Bargaining agreement within 6 months, either party
411 may request alternative dispute resolution as provided in Section 8(4).
412

413 **Initiation.** Bargaining for a Sectoral Bargaining agreement is initiated by
414 one or more Covered Worker Representatives(s) or by one or more Covered
415 Employer Representative(s) after certification by the Board. Entering into, or
416 bargaining for, a collective agreement in accordance with the collective
417 bargaining provisions of the National Labor Relations Act (NLRA) or related
418 state law does not prevent the initiation, bargaining, and conclusion of
419 Sectoral Bargaining for a Sectoral Bargaining agreement that would apply to
420 a party to any employer-level agreement under the NLRA or related state
421 law.

422 **3. Content.** Each Sectoral Bargaining agreement must specify the following:

423 d. Dates. The agreement must include the date that its terms come into
424 force and the date that the agreement terminates. A Sectoral
425 Bargaining agreement must apply for a period that is no less than 3
426 years, but no more than 5 years; and must specify a commencement
427 date, which must apply to each provision of the agreement and one
428 date on which it expires, which must apply to each provision in the
429 agreement. Upon expiration, all provisions will remain in full force
430 and effect until such time as a new agreement becomes effective.

431 e. Coverage. The agreement must describe with sufficient clarity the
432 work or type of work and each class or type of class that is covered by
433 the agreement.
434

435 f. Terms in sectoral bargaining agreements.

436 i. The bargaining parties are required to reach agreement on each
437 of the following subjects, but need not resolve every issue within
438 each subject:

- 439 1. Wages;
- 440 2. Benefits, including health care and retirement;
- 441 3. The displacement of, reduction in, or material change to,
442 any job classification due to artificial intelligence or other
443 workplace technology;
- 444 4. The monitoring or surveillance of workers through
445 artificial intelligence or other workplace technology;
- 446 5. The use of artificial intelligence or other workplace
447 technology in employment decisions, including hiring,
448 discipline, and discharge; and

- 449 6. Other terms and conditions of employment, such as paid
450 and unpaid leave; health and safety; scheduling; job
451 security, and discipline and discharge, including just-
452 cause protections and due-process requirements.
453 ii. Without obligation to agree, the bargaining parties may also
454 discuss:
455 1. an alternate dispute resolution process, including binding
456 arbitration; and
457 2. access to Covered Workers, including the use of the
458 employers' electronic systems and real property access.
459
460
461 g. Covered parties' collusion, market allocation, or bargaining over
462 pricing, output, or competitive conditions that impact downstream
463 product or service markets outside the labor market is prohibited.
464 h. The bargaining parties shall not include any language that would
465 impede, interfere, or coerce Covered Workers from engaging in
466 concerted activity for the purpose of collective bargaining or other
467 mutual aid or protection.
468 i. Employer-level agreements. The existence of a Sectoral Bargaining
469 agreement does not relieve a Covered Employer of the obligation to
470 bargain collectively with a labor or Worker Organization representing
471 its employees.

472 **4. Dispute resolution.** One or more matters relating to bargaining for a
473 Sectoral Bargaining agreement may be referred to the Board by any
474 bargaining party to assist, directly or indirectly, in resolving coverage and/or
475 bargaining participation issues, and/or other difficulties in concluding the
476 agreement.

- 477 j. Where a matter is referred to the Board, the Board may resolve
478 disputes in connection with the process of bargaining for a Sectoral
479 Bargaining Agreement, including:
480 i. Resolving disputes concerning whether a worker or employer is
481 a Covered Worker or Covered Employer in relation to a Sector or
482 a Sectoral Bargaining Agreement.
483 ii. Resolving disputes over whether a topic can or must be included
484 in a proposed Sectoral Bargaining agreement;
485 iii. Resolving disputes over matters related to bargaining; and
486 iv. Resolving disputes over what constitutes compliance with the
487 Sectoral Bargaining Agreement and/or the Act.
488 k. A matter may not be referred to the Board unless the referring party
489 demonstrates that extensive efforts (including private alternate
490 dispute resolution services) have failed to resolve the dispute or six
491 months have elapsed without producing an agreement.

492 1. The Board has authority to issue orders to facilitate agreement, and
493 may direct the parties to engage in further private or Board-provided
494 mediation and/or arbitration, including binding arbitration.

495 m. If the Board gives a directive to the parties, the parties must comply
496 with the directive and act in good faith to reach a resolution of their
497 differences.

498 **5. Fixing terms where bad faith bargaining.** Where the Board
499 determines that a party has bargained in bad faith in a manner that is
500 deliberate, serious, and sustained, the Board may, upon application by a
501 party alleging bad faith, fix the terms of a proposed agreement.

502 **6. Determining Covered Workers.** Each Covered Employer within a
503 Sector that is subject to Sectoral Bargaining shall be required to submit to
504 the Board an updated list of active Covered Workers from the initiation of
505 Sectoral Bargaining on a quarterly basis through final ratification. Such lists
506 shall be examined for accuracy, consolidated and provided to the Covered
507 Worker Representative by the Board. The Covered Worker Representative
508 may challenge the authenticity of the lists if reasonable suspicion exists (such
509 as employer manipulation of a list, worker suppression, or falsification).
510 Following ratification, Covered Employers shall be required to submit
511 updated lists to the Board quarterly or upon request of the Board. The
512 Covered Worker Representative may ask the Board for updated lists from
513 Covered Employers as needed to enforce the terms of the Sectoral Bargaining
514 Agreement.

515 n. Covered Worker lists provided shall include the following information
516 if available: name, primary work location, language preference, date of
517 hire, date of separation if the worker has left this employment, and
518 relevant contact information, primary residential address, available
519 employer-assigned electronic addresses and phone numbers, and non-
520 work email addresses and phone numbers in the employers'
521 possession.

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7. Sectoral Bargaining Agreement as Floor.

524 a. All employers operating within a covered sector shall provide wages,
525 benefits, and working conditions no less favorable in the aggregate
526 than the Sectoral Minimum Standards established under this Act,
527 whether or not the employer is party to any agreement. Collective
528 bargaining agreements reached via Employer-Level Bargaining and
529 individually negotiated employment contracts or agreements shall be
530 construed and applied consistent with the foregoing requirement.'

531 b. For purposes of this section, compliance shall be assessed on the basis
532 of the overall value of wages, benefits, and working conditions taken
533 together such that a more generous provision in one component may
534 offset a less generous provision in another, provided the aggregate is

535 no less favorable than the sectoral minimum standards. Nothing in
536 this section shall be construed to prohibit employer-level bargaining
537 from establishing wages, benefits, and working conditions more
538 favorable than the sectoral minimum standards., but may provide
539 more generous wages and benefits or more protective working
540 conditions.

541
542 **Section 9. Ratification.**

- 543
544 1. **Opportunity to Review.** In order to meet the self-determination objectives
545 of this act, all workers within a defined sector shall have an opportunity to
546 review a proposed agreement and exercise their right to vote.
547 a. Within 10 days of the parties submitting the tentative Sectoral
548 Bargaining agreement for ratification, the Board shall publish the
549 agreement on its website with a link to the agreement on the Board's
550 home page.
551 b. Within 15 days of the parties submitting the tentative Sectoral
552 Bargaining agreement for ratification, the Board shall transmit the
553 proposed text of the agreement to all covered workers in the Sector.
- 554 2. **Ratification Vote.** Once the bargaining parties reach a tentative Sectoral
555 Bargaining agreement, the agreement will be submitted to the Board to hold
556 a ratification vote.
557 a. The Board shall hold a ratification vote for all workers in the sector
558 within 60 days of the parties submitting the tentative sectoral
559 bargaining agreement for ratification.
560 b. Unless it otherwise directs, the Board will supervise all ratification
561 votes. All ratification votes shall be by secret ballot and may be
562 conducted by mail, in person, or through secure electronic means that
563 reasonably protect the anonymity of voters, without imposing
564 procedural requirements beyond what is necessary to ensure a fair and
565 secure vote. Absentee ballots will not be permitted.
566
567 c. All Covered Workers within a given Sector will be eligible to vote. All
568 Covered Workers will be notified of the ratification vote, their right to
569 vote, and the voting procedure at least 10 days prior to opening voting.
570 d. The Board will publish the names of eligible voters at least 30 days
571 prior to opening voting. Any challenges for good cause to voter
572 eligibility must be received 5 days prior to opening voting. The Board
573 must conduct the election, and the ballots of such challenged voters

574 shall be impounded. The Board will resolve ballot challenges within 10
575 days of the election only if the outcome would be impacted given the
576 number of challenged ballots.

577 e. Upon the conclusion of the vote, the tally of ballots shall be provided to
578 the parties.

579 **3. Voting Eligibility and Dispute Resolution Process**

580
581 a. Eligible voters include those Covered Workers currently being
582 compensated, those otherwise being compensated during bargaining,
583 and seasonal workers from last season or those expected to return, as
584 certified by the Worker Representative. Eligible voters shall also
585 include Covered Workers who are on strike or locked out, laid off
586 subject to recall rights, or whose discharge is the subject of an unfair
587 labor practice charge.

588 b. Within seven days of the tally of ballots, a party may file objections to
589 the conduct of the election or conduct affecting the election results
590 together with a description of the evidence supporting the objections.
591 The Board will commence a hearing to resolve the objections and any
592 potentially outcome-determinative challenges to ballots within 14 days
593 after the tally or as soon thereafter as practicable. The Board will issue
594 a final decision as to the objection within 30 calendar days of the
595 original filing.

596
597 4. **Ratification Sectoral Bargaining Agreement.** A sectoral bargaining
598 agreement will apply to all Covered Workers and Covered Employers within
599 a given sector if a simple majority of ballots cast by Covered Workers is in
600 favor of ratifying the agreement.

601
602 5. **Ratified standards.** A ratified standard shall remain in force until it is
603 replaced by a new standard ratified by a majority of ballots cast by Covered
604 Workers.

605
606 **Approval.** The bargaining parties must submit a ratified or arbitrator-
607 ordered sectoral bargaining agreement to the Board for final approval.

608 o. Once the bargaining parties submit such a Sectoral Bargaining
609 agreement, the Board will review the agreement to determine whether
610 it contains a term or terms that are contrary to law, or that are
611 inconsistent with this Act. . The Board will provide written
612 justification for such actions, strike any such term or terms, approve
613 the rest of the agreement, and consider it in full force and effect.

614 **Publication.** Each Sectoral Bargaining agreement will be placed on the
615 Board's public website. Each order of the Board will be placed on the Board's
616 public website.

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Section 10. Alternative Process: Prevailing Wage and Fringe Benefit Rate Setting Through Employer-Level Collective Bargaining Agreements.

1. Petition for Sectoral Prevailing Wage and Fringe Benefit Rate Determination.

- a. A labor organization or organizations that are a party to a collective bargaining agreement(s) (CBA(s)) with an employer or group of employers within a Sector may file a petition with the Board requesting the creation of a Sectoral Prevailing Wage and Fringe Benefit Rate for all Covered Workers in that Sector based on the wage rates and fringe benefit rates provided in their CBA(s).
- b. The petition shall identify the proposed sector, describe the boundaries of the Sector consistent with this Act, and provide evidence that:
 - 1. One or more CBAs within the Sector cover at least 30 percent of all Covered Workers in that sector or (ii) establish wage and fringe benefit rates for the largest number of Covered Workers in the Sector; and
 - 2. The labor organization(s) party to the CBA(s) consent to the proposed Sectoral Prevailing Wage and Fringe Benefit Rate.

2. Access rights. A labor organization or organizations requesting the creation of a Sectoral Prevailing Wage and Fringe Benefit Rate for all Covered Workers in that Sector may secure initial access rights subject to the thresholds, rights, and conditions listed under Section 6(2).

3. Determination of Coverage. For purposes of this section, Covered Workers include all Covered Workers performing work within the petitioned-for Sector as defined under this Act. The Sectoral Prevailing Wage and Fringe Benefit Rate, if established, shall be a floor.

4. Board Review and Approval.

- a. The Board shall approve a petition for a Sectoral Prevailing Wage and Fringe Benefit Rate if it finds that:
 - i. The petition satisfies the requirements of this section, including the 30-percent coverage threshold and consent of the labor organization(s) party to the CBA(s);
 - ii. The wage provisions proposed for the Sectoral Prevailing Wage and Fringe Benefit Rate establish a wage floor that is just, reasonable, and consistent with promoting fair competition within the Sector; and
 - iii. The Sectoral Prevailing Wage and Fringe Benefit Rate would protect covered employees from wage suppression or substandard wage competition within the Sector,

- 660 b. Additional Considerations. In determining whether the Sectoral
661 Prevailing Wage and Fringe Benefit Rate is just and reasonable, the
662 Board may consider:
- 663 i. Prevailing wage rates and compensation practices within the
664 sector;
 - 665 ii. Regional cost-of-living variations where relevant;
 - 666 iii. The economic conditions of the sector, including trends in
667 profitability, productivity, and labor supply;
 - 668 iv. The potential impact of the sectoral prevailing wage and fringe
669 benefit rate on small employers and on maintaining high-road
670 competition; and
 - 671 v. Any input received through a public comment process or
672 stakeholder consultation conducted by the Board.

673 **5. Overlapping Petitions for Sectoral Prevailing Wage and Fringe**
674 **Benefit Rates**

- 675 a. Covered Workers may be included in multiple petitions for sectoral
676 prevailing wage and fringe benefit rates.
- 677 b. Covered Workers included in multiple Board-approved Sectoral
678 Prevailing Wage and Fringe Benefit Rate agreements shall be
679 compensated based on the wage and fringe benefit rates that result in
680 the highest total compensation.
- 681 c. If presented with petitions containing overlapping Covered Workers,
682 the Board may, if the overlap involves greater than 50 percent of
683 Covered Workers in a single petition, choose to reject the petition
684 containing fewer Covered Workers.

685 **6. Decision and Publication.** The Board shall issue a written decision stating
686 the basis for approval or denial within 30 days of receiving a petition. If
687 approved, the Sectoral Prevailing Wage and Fringe Benefit Rate shall be
688 published by the Board and shall take effect on the date specified in the
689 Board's order, no later than 90 days after the written decision is issued.

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691 7.

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693 **Section 11. Compliance and Enforcement.**
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- 695 **1. Monitoring.** The Board shall have the authority to seek and obtain property
696 access and information from Covered Employers in order to monitor
697 compliance with the Sectoral Bargaining agreement and Sectoral Prevailing
698 Wage and Fringe Benefit Rate. Covered Worker Representatives may seek
699 and obtain property access and information from Covered Employers for
700 compliance monitoring purposes where the Board determines that such
701 access is reasonably necessary for that purpose.
702

- 703 **2. Actions.** Any Covered Worker, Covered Employer, Covered Worker
704 Representative, or Covered Employer Representative that alleges that they
705 or those they represent have been affected by non-observance or non-
706 compliance of the agreement, Sectoral Prevailing Wage and Fringe Benefit
707 Rate, or any provision of this Act may take action against another by:
- 708 a. In the case of Covered Workers and Covered Worker Representatives,
709 engaging in collective action, including strikes, work stoppages,
710 slowdowns, picketing, boycotts, and concerted refusals to work, subject
711 to any limitations incorporated in a bargaining agreement or
712 embedded in the National Labor Relations Act to the extent applicable;
 - 713 b. Seeking enforcement through the mediation and arbitration provisions
714 of the Sectoral Bargaining agreement; and
 - 715 c. Applying to the Board or the courts for any order, determination,
716 direction, declaration, or requirement, including those related to
717 bargaining, compliance, breach, penalties, or fines.

718
719 **3. Compliance.**

- 720 a. Where the parties choose or the Board orders, resolution of non-
721 observance or non-compliance of the agreement through arbitration, an
722 arbitrator may impose a final and binding arbitration order. Those
723 affected by the failure of any entity to comply with a compliance order
724 of an arbitrator may apply to the court for enforcement.
- 725 b. The court, upon filing by an affected Covered Worker, Covered
726 Employer, Covered Worker Representative, or Covered Employer
727 Representative that an arbitration decision being violated, shall have
728 the power to order compliance.
- 729 c. Where the court makes a compliance order under this section, it may
730 then adjourn the proceedings, without imposing any penalty or fine or
731 making a final determination, to enable the compliance order to be
732 complied with while the proceedings are adjourned.
- 733 d. The Board, upon motion of an affected Covered Worker, Covered
734 Employer, Covered Worker Representative, or Covered Employer
735 Representative, or upon its own motion, shall have the power to order
736 compliance when any entity that is or will be covered by the Sectoral
737 Bargaining agreement or sectoral prevailing wage and fringe benefit
738 rates has not observed or complied with any directive or order of the
739 Board, arbitrator, or a court or any provision of the agreement.
- 740 e. Where the initial venue chosen is the Board, those affected by the
741 failure of any entity to comply with a compliance order made by the
742 Board, may apply to the court for enforcement.

743
744 **4. Penalties, Fines and Enforcement**

745 An action for the recovery of a penalty or fine under this Act must be commenced
746 within 12 months after the earlier of the date on which the cause of action first
747 became known to the person bringing the action, or the date on which it should
748 reasonably have become known, except that actions based upon violations of the
749 sectoral prevailing wage and fringe benefit rates must be commenced within 3
750 years.

751 **5. Jurisdiction and Forum.**

- 752 a. Where arbitration has been authorized by the Board or agreed to by
753 the parties, arbitration shall be the primary forum for claims involving
754 breach of a Sectoral Bargaining agreement or Sectoral Prevailing
755 Wage and Fringe Benefit Rate. An arbitrator may assess penalties and
756 fines consistent with this section.
- 757 b. Any Covered Worker, Covered Employer, Covered Worker
758 Representative or Covered Employer Representative shall have a
759 private right of action in court for breach of a Sectoral Bargaining
760 agreement or breach of a Sectoral Prevailing Wage and Fringe Benefit
761 Rate as a contract claim, regardless of whether arbitration is available.
762 However, where a party has commenced arbitration proceedings with
763 respect to a particular breach claim, neither party may simultaneously
764 pursue a court action arising from the same breach.
- 765 c. The Board shall have primary jurisdiction over statutory claims under
766 this Act, including violations of the duty to bargain in good faith and
767 employers' obligations to respect workers' rights of free speech,
768 association, assembly, organizing, and collective bargaining free from
769 interference, coercion, restraint, and retaliation. A party aggrieved by
770 a Board determination may seek court enforcement or review pursuant
771 to this Act.
- 772 6. **Court Authority.** Where a court determines that a breach has occurred, it
773 may order those in breach to take any specified action or cease any specified
774 activity to prevent further non-compliance, and shall specify a time within
775 which the order is to be obeyed. The court may impose a penalty or fine
776 consistent with this section.
- 777 7. **Board Authority.** The Board has injunctive authority and may issue
778 arbitration orders and other orders to facilitate agreement and compliance
779 with the agreement, sectoral prevailing wage and fringe benefit rates, and
780 the Act, including but not limited to orders governing Union and Worker
781 Organization access to employer information and property pursuant to this
782 Act.
- 783 8. **Penalties and Fines.** Penalties and fines under this Act may be issued
784 against any entity covered by the Act and, in the case of Employers or
785 Covered Employer Representatives, shall not exceed [\$X,000] per worker per
786 day. No covered entity shall be subject to cumulative penalties exceeding this
787 amount across all forums for the same breach. On July 1 of each year

788 following passage of this Act, the Chair of the Board may adjust the per-
789 worker penalty amount to reflect the cumulative change in the Consumer
790 Price Index over the preceding year, effective as to penalties issued on or
791 after August 1 of that year.

792 a. In determining an appropriate penalty or fine, the Board or court shall
793 consider:

794 the nature and extent of the breach;

795 whether the breach was intentional, inadvertent, or negligent;

796 the nature and extent of any loss or damage suffered by any covered
797 worker, labor organization, or Worker Organization, or any gain made
798 or loss avoided by the entity in breach;

799 whether the entity in breach has paid compensation, reparation, or
800 restitution, or taken other steps to mitigate the effects of the breach;
801 and

802 whether the entity in breach has previously been found by the Board or
803 a court to have engaged in similar conduct.

804 b. In any proceeding for a penalty or fine, the Board or court may require
805 payment of the total amount claimed or any other amount consistent
806 with this Act, dismiss the action, or order payment by installments
807 where the financial position of the paying entity requires it.

808 **Section 12. Severability.**

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810 1. The provisions of this Act are separate and severable and operate
811 independently from one another. If any provision of this part is held to be
812 invalid or unenforceable by its terms, or as applied to any person, party,
813 entity or or circumstance, or stayed pending further agency action, the
814 provision must be construed so as to continue to give the maximum effect to
815 the provision permitted by law, unless such holding be one of utter invalidity
816 or unenforceability, in which event the provision will be severable from this
817 Act and will not affect the remainder thereof. If this Act is held to be invalid
818 as to any category of Covered Workers for any reason, it shall remain
819 operative with respect to all other Covered Workers.
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821 **Section 13. Effect.**

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823 1. [Reserved]