The Commonwealth of Massachusetts

PRESENTED BY:

Sal N. DiDomenico

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act to prevent wage theft, promote employer accountability, and enhance public enforcement.

PETITION OF:

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<th>NAME</th>
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<td>Sal N. DiDomenico</td>
<td>Middlesex and Suffolk</td>
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<td>Harriette L. Chandler</td>
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<td>Thomas M. Stanley</td>
<td>9th Middlesex</td>
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<td>Anne M. Gobi</td>
<td>Worcester, Hampden, Hampshire and Middlesex</td>
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By Mr. DiDomenico, a petition (accompanied by bill, Senate, No. 1066) of Sal N. DiDomenico, Harriette L. Chandler, Thomas M. Stanley, Walter F. Timilty and other members of the General Court for legislation to prevent wage theft, promote employer accountability, and enhance public enforcement. Labor and Workforce Development.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. 2546 OF 2017-2018.]

The Commonwealth of Massachusetts

In the One Hundred and Ninety-First General Court
(2019-2020)

An Act to prevent wage theft, promote employer accountability, and enhance public enforcement.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Section 27C of chapter 149 of the General Laws, as appearing in the 2016 Official Edition, is hereby amended by inserting after the words “subsection (a)”, in line 58, the following words: -, or section 100, 148E or 150C.

2 SECTION 2. Said section 27C of said chapter 149, as so appearing, is hereby further amended by striking out, in line 159, the words “Civil and criminal” and inserting in place thereof the following word: - Criminal.

3 SECTION 3. Said section 27C of said chapter 149, as so appearing, is hereby further amended by adding the following subsection: -
(d) As a further alternative to initiating criminal proceedings pursuant to subsection (a) or civil proceedings pursuant to subsection (b), the attorney general may file a civil action for injunctive relief, for any damages incurred, and for any lost wages and other benefits on behalf of an employee or multiple, similarly situated employees. If the attorney general prevails in such an action, the employee or employees on whose behalf the attorney general brought the civil action shall be awarded treble damages, as liquidated damages, for any lost wages and other benefits, and the attorney general shall also be awarded the costs of the litigation and reasonable attorneys’ fees.

SECTION 4. Chapter 149 of the General Laws is hereby amended by inserting after section 148D the following 3 sections:-

Section 148E. (a) As used in this section and sections 148F to 148H, inclusive, the following words shall have the following meanings unless the context clearly indicates otherwise:-

“Labor contractor”, a person or entity who obtains, engages or provides 1 or more individuals to perform labor or services, with or without a written contract, directly or indirectly, to a lead contractor or from a labor subcontractor.

“Labor subcontractor”, a person or entity who engages or provides 1 or more individuals to perform labor or services, with or without a written contract, directly or indirectly, to a labor contractor.

“Lead contractor”, a business, regardless of form, that obtains, engages or is provided with 1 or more individuals, directly from a labor contractor or indirectly from a labor contractor.
subcontractor, to perform labor or services that has a significant nexus with the lead contractor’s business activities, operations or purposes.

“Wage theft”, a violation of sections 27, 27F, 27G or 27H, the first and third sentences and the fourth paragraph of section 148, sections 148B or 148C, the fourth sentence of section 150, section 152A, subsections (c) or (d) of section 159C, sections 1, 1A, 1B, 2A or 7 of chapter 151, clauses (4) or (5) of section 19 of chapter 151 or section 20 of chapter 151.

(b) An employer, except a staffing agency as defined by section 159C that is licensed or registered pursuant to sections 46A to 46R, inclusive, of chapter 140, shall provide each employee, not later than 10 days after the commencement of employment, with written notice in the language the employer normally uses to communicate employment-related information to the employee, of the following information: (i) the rate or rates of pay and the basis for those rates, whether paid by the hour, shift, day, week, salary, piece, commission or otherwise, including methods of calculation for overtime, if applicable; (ii) allowances, if any, claimed as part of the minimum wage, including meal, tip or lodging allowances; (iii) the regular pay day designated by the employer; (iv) the name of the employer, including any “doing business as” names used by the employer; (v) the physical address of the employer’s main office or principal place of business and mailing address, if different; (vi) the telephone number of the employer; and (vii) the name, address, and telephone number of the employer’s workers’ compensation insurance carrier.

(c) A lead contractor shall be subject to joint and several civil liability with a labor contractor and a labor subcontractor for wage theft, provided that written notice of the alleged violation to be raised in that action is provided to the lead contractor, labor contractor and labor
subcontractor, if applicable, not less than 15 days before the filing of a civil action for wage theft
under this section. A successor entity to any lead contractor, labor contractor or labor
subcontractor subject to liability under this section shall also be liable under this section if that
entity: (i) has 1 or more of the same principals or officers as the person or entity subject to
liability; and (ii) is engaged in the same or equivalent trade or activity as the person or entity
subject to liability.

A written offer and payment in full of all such wages allegedly owed during the 15 day
period by a lead contractor, labor contractor or labor subcontractor shall be a defense to any
future civil action based upon the same allegation.

(d) For purposes of this section, a labor contractor or a labor subcontractor shall
indemnify a lead contractor for any wages, damages, interest, penalties or attorneys’ fees owed
or incurred by the lead contractor as a result of the labor contractor or labor subcontractor’s wage
theft. For purposes of this section, a labor subcontractor shall indemnify a labor contractor for
any wages, damages, interest, penalties or attorneys’ fees owed by the labor contractor as a result
of the labor subcontractor’s wage theft.

(e) A person or entity that has been found to have committed wage theft in the previous 5
years shall notify a lead contractor or labor contractor prior to entering into an agreement to
engage or provide 1 or more individuals, directly or indirectly, to a lead contractor or labor
contractor.

A lead contractor or labor contractor that was jointly and severally liable under
subsection (c) but was not the entity that committed the wage theft shall not be required to
provide notice under this subsection.
(f) When a lead contractor receives written notice that a labor contractor or labor subcontractor has allegedly failed to pay wages to a person performing labor for the lead contractor, the lead contractor may do one or both of the following: (i) provide the unpaid wages directly to the person performing labor for the lead contractor; or (ii) withhold or cause to be withheld from any payment due to the labor contractor or labor subcontractor the amount sufficient to satisfy the unpaid wages.

(g) When an individual applies for unemployment benefits pursuant to chapter 151A, and wage theft occurred during the base period as determined based on credible evidence, the individual’s unemployment benefits shall be calculated as if wages had been timely and lawfully paid.

(h) The attorney general shall enforce this section, and may obtain injunctive or declaratory relief. Violation of this section shall be subject to paragraphs (1), (2), (4) and (7) of subsection (b) of section 27C, and subsection (d) of section 27C, except in cases where the lead contractor, labor contractor or labor subcontractor provides payment in full during the 15-day notice period for any wages allegedly owed, as described in subsection (c).

(i) No person or entity shall by contract or any other means be exempted from subsections (a), (b), (c), (e), (f), (g), (h), or (i) or from sections 148F or 148G. Nothing in this chapter shall limit the availability of other remedies at law or equity.

(j) The attorney general may promulgate regulations to implement this section.

Section 148F. (a) The attorney general may investigate an employer’s failure to obtain unemployment insurance as required under chapter 151A. Upon finding a violation of section 15 or section 47 of chapter 151A, the attorney general may issue a stop work order to an employing
unit and the officer or agent of the employing unit, requiring the cessation of all business
operations of the violating person or entity as to the specific place of business and employment
for which the violation exists.

Not less than 5 days before the commencement of a stop work order under this section,
the attorney general shall notify the violating person or entity of the intended action and give the
person or entity an opportunity to confer with the attorney general in person or through counsel
or other representative as to the proposed action. Notice shall be given to the person or entity by
mail, postage prepaid, to the usual place of business or, if there is no usual place of business, to
the last known address.

The stop work order may be issued only against the person or entity found to be in
violation of section 15 or section 47 of chapter 151A and only as to the specific place of business
or employment for which the violation exists. The stop work order shall be effective 24 hours
after it is served upon the violator or the place of business or employment. A stop work order
may be served in hand or at a place of business, employment or job site by posting a copy of the
stop work order in a conspicuous location. The stop work order shall be in effect, subject to an
appeal under subsection (b), until the attorney general issues an order to release the stop work
order upon a finding that the violation has been corrected.

(b) A person or entity aggrieved by the imposition of a stop work order shall have 10
days from the date of its service to make a request for a hearing to be held in a manner
determined by the attorney general. A person or entity that timely files such an appeal shall be
granted a hearing in accordance with chapter 30A not later than 21 days after receipt of the
appeal. The stop work order shall not be in effect during the pendency of a timely filed appeal.
(c) A stop work order imposed against a person or entity shall be effective against any successor person or entity that: (i) has at least 1 of the same principals or officers as the person or entity against whom the stop work order was issued; and (ii) is engaged in the same or equivalent trade or activity as the person or entity for which the stop work order was imposed.

(d) An employee affected by a stop work order pursuant to this section shall be paid for the period the stop work order is in place or the first 10 days the employee would have been scheduled to work if the stop work order had not been issued, whichever is less, by the person or entity that was served the stop work order. Time lost by an employee affected by a stop work order pursuant to this section, not exceeding 10 days, shall be considered time worked under chapters 149 and 151. Subsection (c) of section 148E shall not apply to wages due and payable under this subsection.

(e) The attorney general may promulgate regulations to implement this section.

Section 148G. (a) Upon finding that any person or entity has engaged in a wage theft violation, the attorney general may issue a stop work order to an employing unit and the officer or agent of the employing unit, requiring the cessation of all business operations of the violating person or entity as to the specific place of business and employment for which the violation exists.

Not less than 5 days before the commencement of a stop work order under this section, the attorney general shall notify the violating person or entity of the intended action and give the person or entity an opportunity to confer with the attorney general in person or through counsel or other representative as to the proposed action. Notice shall be given to the person or entity by
mail, postage prepaid, to the usual place of business, or if there is no usual place of business, to
the last known address.

The stop work order may be issued only against the person or entity found to be in violation, and only as to the specific place of business and employment for which the violation exists. The stop work order shall be effective 24 hours after it is served upon the violator or the place of business or employment. A stop work order may be served in hand or at a place of business, employment or job site by posting a copy of the stop work order in a conspicuous location. The stop work order shall be in effect, subject to an appeal under subsection (b), until the attorney general issues an order to release the stop work order upon a finding that the violation has been corrected.

(b) A person or entity aggrieved by the imposition of a stop work order shall have 10 days from the date of its service to make a request for a hearing to be held in a manner determined by the attorney general. A person or entity that timely files such an appeal shall be granted a hearing in accordance with chapter 30A not later than 21 days after receipt of the appeal. The stop work order shall not be in effect during the pendency of a timely filed appeal.

(c) A stop work order imposed under this section against a person or entity shall be effective against any successor person or entity that: (i) has at least 1 of the same principals or officers as the person or entity against whom the stop work order was issued; and (ii) is engaged in the same or equivalent trade or activity as the person or entity for which the stop work order was imposed.

(d) An employee affected by a stop work order pursuant to this section shall be paid for the period the stop work order is in place or the first 10 days the employee would have been
scheduled to work if the stop work order had not been issued, whichever is less, by the person or
entity that was served the stop work order. Time lost by an employee affected by a stop work
order issued pursuant to this section, not exceeding 10 days, shall be considered time worked
under chapters 149 and 151. Subsection (c) of section 148E shall not apply to wages due and
payable under this subsection.

(e) The attorney general may promulgate regulations to implement this section.

SECTION 5. Section 150 of said chapter 149, as appearing in the 2016 Official Edition,
is hereby amended by inserting, in line 22, after the word “148C” the following word:- , 148E.

SECTION 6. Section 150C of said chapter 149, as appearing in the 2016 Official Edition,
is hereby amended by striking out, in line 9, the words “one thousand dollars,” and inserting in
place thereof the following words:- $1,000 or shall be subject to a civil citation or order as
provided in subsection (b) of section 27C.

SECTION 7. Said section 150C of said chapter 149, as so appearing, is hereby further
amended by adding the following sentence:- The president and treasurer of a corporation and any
officers or agents having the management of such corporation shall be considered the employers
of the employees of the corporation for the purposes of this section.

SECTION 8. Said chapter 149 of the General Laws is hereby amended by striking out
section 148A and inserting in place thereof the following section:-

Section 148A. (a) Any person or entity, including an employer or its agent, who in any
manner discriminates or takes adverse action, or threatens to discriminate or take adverse action,
against any person because that person has opposed a violation of this chapter, complained to the
attorney general or to any other person of a violation of this chapter, assisted any other person in
exercising rights under this chapter, informed any other person of rights under this chapter, or
instituted, assisted in, or testified in any investigation or proceedings under or related to this
chapter, or because of a belief that the person may in the future engage in any such actions, shall
have violated this section and shall be punished or subject to civil proceedings as provided in
subsection (b) or subsection (d) of section 27C, or section 150, and shall recover actual damages,
compensatory damages, punitive damages, injunctive relief or any other appropriate relief.

(b) There shall be a rebuttable presumption of a violation of this section if a person or
entity discriminates or takes adverse action, or threatens to discriminate or take adverse action,
against any person within 90 days of that person’s exercise of rights under this chapter, including
activity protected by this section. This presumption may be rebutted by clear and convincing
evidence that the action was taken for a permissible purpose and that it would have been taken in
the absence of the protected activity.

SECTION 9. Section 19 of chapter 151 of the General Laws, as appearing in the 2016
Official Edition, is hereby amended by striking out subsection (1) and inserting in place thereof
the following subsection:-

(1) (a) Any person or entity, including an employer or its agent, who in any manner
discriminates or takes adverse action, or threatens to discriminate or take adverse action, against
any person because that person has opposed a violation of this chapter, complained to the
attorney general or to any other person of a violation of this chapter, assisted any other person in
exercising rights under this chapter, informed any other person of rights under this chapter, or
instituted, assisted in, or testified in any investigation or proceedings under or related to this
chapter, or because of a belief that the person may in the future engage in any such actions, shall
have violated this section and shall be punished or subject to civil proceedings as provided in
subsection (b) or subsection (d) of section 27C, or section 150, and shall recover actual damages,
compensatory damages, punitive damages, injunctive relief or any other appropriate relief.

(b) There shall be a rebuttable presumption of a violation of this subsection if a person or
entity discriminates or takes adverse action, or threatens to discriminate or take adverse action,
against any person within 90 days of that person’s exercise of rights under this chapter, including
activity protected by this subsection. This presumption may be rebutted by clear and convincing
evidence that the action was taken for a permissible purpose and that it would have been taken in
the absence of the protected activity.

SECTION 10. Chapter 149 of the General Laws, as so appearing, is hereby amended by
inserting after section 148G the following section 148H:-

(a) For purposes of this section, the following terms shall have the following meanings:

(1) “Aggrieved person”, any employee, prospective or former employee, or person
providing services for remuneration to another against whom one or more of the alleged
violations was committed by the alleged violator, whether or not employed by the violator at the
time an action is filed, including any person who is not classified by an employer as an employee
but who claims to be an employee and whose claims against the purported employer relate to
such alleged misclassification.

(2) “Public enforcement action”, a civil action brought by a relator under this section to
enforce protections enforceable by the attorney general.
(3) “Relator”, a whistleblower or a representative organization that acts as a plaintiff in a public enforcement action under this section.

(4) “Representative organization”, an organization that is tax-exempt under subsection (c)(3), (c)(4) or (c)(5) of the federal Internal Revenue Code, 26 U.S. C. section 501, and that regularly advocates on behalf of employees or that regularly assists in enforcement of this chapter or chapter 151 and that has been elected by an aggrieved person to initiate a public enforcement action on the aggrieved person’s behalf, in writing in a form prescribed by the attorney general. In such cases, the aggrieved party’s name and personal identifying information shall be kept confidential if the aggrieved party so chooses.

(5) “Whistleblower”, an aggrieved person or any current or former employee, contractor, subcontractor, employee of a contractor or subcontractor of the defendant, vendor, or client with knowledge of the alleged violations that is independent of and materially adds to any publicly disclosed information about the alleged violations.

(b) (1) A relator, on behalf of the attorney general, may initiate a public enforcement action pursuant to the procedures and subject to the limitations specified in subsection (e) of this section. Such action may be brought in any court of competent jurisdiction. Such an action may allege multiple violations that have affected different parties aggrieved by the same defendant.

(2) For purposes of public enforcement actions brought pursuant to this section, whenever the attorney general is authorized to assess or seek civil remedies, including penalties, equitable and declaratory relief, and other civil relief, for a violation of section 21, 26-27H, 52D, 100, 148, 148A, 148B, 148C, 148E, 150A, 150C, 152, 152A, 159C, or 190 of this chapter, or of chapter 151, a court is hereby authorized to assess the same civil remedies. Where the section of
chapter 149 or chapter 151 establishes an employer’s obligation to maintain certain working conditions, but no civil penalty is specifically provided for a breach of that obligation, there is hereby established a civil penalty of $500 for each aggrieved person per two-week period in which the breach occurred. All civil penalties shall be awarded for each person aggrieved by the violation during each two-week period in which the violation occurred.

(3) When a civil remedy is recovered pursuant to decision or settlement in any public enforcement action, the relator shall be awarded reasonable attorneys’ fees and costs.

(4) Nothing in this section shall operate to limit an aggrieved party’s right to pursue a private action based on the same violation or injury.

(5) Nothing in this section shall operate to limit the attorney general’s right to seek restitution and damages, where available, for aggrieved parties as part of a public enforcement action in which it has intervened.

(6) Civil remedies recovered in a public enforcement action or settlement of a proposed action shall be distributed as follows:

(i) Where the attorney general has not intervened, 30 percent to the relator and 70 percent to the attorney general for enforcement of and education about the rights and obligations enforceable under this chapter and chapter 151. Twenty-five percent of the attorney general’s share shall be reserved for providing funding to community-based outreach and enforcement activities under subsection (f) of this section. The Attorney General shall promulgate regulations relative to further distribution and disbursal of recoveries. Any funding received by the attorney general under this section shall be continuously appropriated to supplement, and not supplant, other funding for those purposes;
(ii) Where the attorney general has intervened, 20 percent to the relator and 80 percent to the attorney general for enforcement of and education about the rights and obligations enforceable under chapters 149 and 151. Twenty-five percent of the attorney general’s share shall be reserved for providing funding to community-based outreach and enforcement activities under subsection (f) of this section. The attorney general shall promulgate regulations relative to further distribution and disbursal of recoveries. Any funding received by the attorney general under this section shall be continuously appropriated to supplement, and not supplant, other funding for those purposes;

(7) The right to bring a public enforcement action under this section shall not be impaired by any special contract.

(8) Notwithstanding any other provision of law, a public enforcement action authorized by this section shall be commenced within the same period of time that the attorney general has to take enforcement action under this chapter or chapter 151. The statute of limitations for bringing a public enforcement action under this section shall be tolled from the date that a relator files a notice pursuant to subsection (e) of this section with the attorney general, or the date that the attorney general commences an investigation, whichever is earlier.

(c) (1) Notwithstanding the provisions of subsection (b) of this section, no public enforcement action may be brought by a relator:

(i) If the attorney general, on the same facts and theories, cites a person or entity within the time periods set forth in subsection (e) of this section for a violation of the same section or sections of the General Laws under which such relator is attempting to recover a civil penalty or other remedy on behalf of aggrieved employees or others, or files a proceeding to assess
penalties or to enforce other remedies available to the attorney general, provided that the attorney
general serves notice on the relator pursuant to subsection (e) of this section. Public enforcement
actions belong to the attorney general and preclude subsequent attorney general enforcement
efforts based on the same facts and law, whether brought by the attorney general or by a relator
under this section. However, nothing in this section shall operate to limit the attorney general’s
right to seek additional civil remedies for aggrieved parties as part of a public enforcement action
in which it has intervened.

(ii) For any violation of a posting, notice, agency reporting, or filing requirement, except
where the filing or reporting requirement involves mandatory payroll reporting.

(2) The attorney general shall establish a publicly available online database of public
enforcement actions brought pursuant to this section, which shall include the names of the
parties, the date filed, the disposition, and any other information that the attorney general shall by
regulation prescribe.

(d) (1) No one shall retaliate or take adverse action in any manner against an aggrieved
person or whistleblower, or threaten to retaliate or take adverse action, because:

(i) the aggrieved person or whistleblower has brought a public enforcement action;

(ii) the aggrieved person or whistleblower has cooperated with a relator in a public
enforcement action or the attorney general in investigating, prosecuting, or intervening in a
public enforcement action; or

(iii) it is believed that the aggrieved person or whistleblower may bring a public
enforcement action or cooperate with one.
Any person aggrieved by a violation of this subsection may enforce it as provided by section 27C or section 150 of this chapter, or as provided by section 19 of chapter 151.

(e) (1) No public enforcement action pursuant to this section may be commenced prior to 60 days after written notice of the claim has been filed by the relator with the attorney general.

(2) The relator shall submit a filing fee of 75 dollars with each filing of notice, subject to waiver in accordance with regulations promulgated by the attorney general. Notice and submission of the filing fee shall toll the statute of limitations on the enforcement action for which notice has been provided.

(3) The attorney general shall establish an online portal to provide for efficient electronic filing of the notice.

(4) The notice shall be construed in the light most favorable to the relator, and shall include:

(i) The name, address, and contact information of the alleged violator.

(ii) The name and contact information of the relator.

(iii) The name, address, and contact information of the relator’s legal counsel, should one exist.

(iv) A concise statement of the underlying claim reasonably calculated to apprise the attorney general of the substance and nature of the claim.

(5) The attorney general shall, by regulation, provide for the right of a relator to furnish an amended notice, if the attorney general determines that the relator’s original notice pursuant
paragraph (1) of this subsection was not in compliance with this section or the regulations
issued thereunder. Such determination by the attorney general shall identify with particularity
the deficiencies in the original notice. If such determination and the opportunity to amend are not
provided by the attorney general within thirty days of the original notice, the original notice shall
be deemed to comply with this section. The relator shall have thirty days from receiving the
determination of the attorney general of noncompliance with this section to amend the notice.
The amended notice will relate back to the original notice.

(6) If the attorney general intends to investigate the alleged violation, it shall notify the
relator of its decision within 30 calendar days of the date of the notice received pursuant to
paragraph (1) of this subsection. Within 120 calendar days of that decision, the attorney general
may investigate the alleged violation and issue any appropriate citation. If the attorney general,
during the course of its investigation, determines that additional time is necessary to complete
the investigation, it may extend the time by not more than 30 additional calendar days and shall
issue a notice of the extension. If the attorney general determines that a citation shall not be
issued, it shall notify the relator of that decision within five business days thereof by certified
mail.

(7) Upon receipt of notice that no citation will be issued, or if no citation is issued by the
attorney general within the time limits prescribed herein, or if the attorney general fails to
provide timely or any notification, the relator may commence a public enforcement action.

(8) If the attorney general does not object to the filing of a public enforcement action
pursuant to this section, but objects to the attorney general being represented by a particular
attorney proposed by the relator, the attorney general may, within the time limits set forth in
paragraph (6) of this subsection, may put the relator on notice of the attorney general’s objection.

The attorney general will establish regulations for notice and a hearing, for purposes of reviewing the attorney general’s objection to counsel. Upon finding, after notice and hearing, that, based on the attorney’s past conduct while representing a client or clients, the attorney does not meet the required professional standards of representatives, or, alternatively, if the attorney fails to zealously pursue the remedies available under this section, the attorney general may order that the public enforcement shall not be filed by the particular attorney on behalf of the relator.

(9) The attorney general may intervene in a public enforcement action and proceed with any and all claims in the action:

(i) As of right within 30 days after the filing of the action;

(ii) For good cause shown, as determined by the court, after the expiration of the 30 day period after the filing of the action.

(10) If the attorney general intervenes in an action it shall have primary responsibility for prosecuting the action and shall not be bound by an act of the relator bringing the action. In such cases, the relator shall remain a party to the action. The attorney general may move to dismiss or settle the action after the relator has been notified of the filing of the motion and has been provided with an opportunity to be heard, and the court determines that such dismissal or settlement is fair, adequate, reasonable, and in the public interest. Any disposition by the attorney general shall provide compensation for reasonable attorneys’ fees and costs expended on behalf of the relator in instituting the action.

(11) If the attorney general does not intervene in the action, the relator shall have the right to conduct such an action subject to the following limitations:
(i) The court shall review and approve any settlement of any action filed pursuant to this section. The proposed settlement shall be submitted to the attorney general concurrent with submission to the court. The court shall approve a settlement of the action only upon a determination that such settlement or voluntary dismissal is fair, adequate, reasonable, and in the public interest.

(ii) If the attorney general so requests, it shall be served with copies of all pleadings filed in the action and shall be supplied with copies of all deposition transcripts. The attorney general shall bear any costs associated with service of such pleadings and depositions.

(12) No public enforcement action brought pursuant to this section shall be subject to the requirements of rule 23 of the Massachusetts rules of civil procedure.

(f) (1) The Community Outreach and Labor Education Fund is established as a special fund, separate and distinct from the General Fund. Interest earned by the Community Outreach and Labor Education Fund shall be credited to the same Fund. All moneys in the Community Outreach and Labor Education Fund shall be continuously appropriated for the purpose of awarding grants as provided in paragraph (3) of this subsection.

(2) The 25 percent of the attorney general’s share of recoveries reserved for providing funding to community-based outreach and enforcement activities pursuant to paragraph (6) of subsection (b) of this section shall be reported to the treasurer of the commonwealth, who shall credit such amount to the Community Outreach and Labor Education Fund.

(3) Moneys in the Community Outreach and Labor Fund shall be granted from time to time by the attorney general to organizations that are tax-exempt under subsection (c)(3), (c)(4) or (c)(5) of the federal Internal Revenue Code, 26 U.S. C. section 501, for purposes of funding
outreach, education and technical assistance to Massachusetts workers pertaining to workplace
rights.

(4) Grants provided from the Community Outreach and Labor Education Fund shall be
used for activities to assist workers in enforcing employment rights, including outreach,
community-based education events, training materials, technical assistance, counseling, research
and referral services.

(5) When considering applications for grants, the attorney general shall give priority to
projects that provide services to especially vulnerable workers.

(g) (1) If any word, phrase, clause, sentence, paragraph, section or part of this section or
the application thereof to any person or circumstances shall be adjudged invalid by a court of
competent jurisdiction, such order or judgment shall be confined in its operation to the
controversy in which it was rendered, and shall not affect or invalidate the remainder of this
section, but shall be confined in its operation to the word, phrase, clause, sentence, paragraph,
section or part thereof directly involved in the controversy in which such judgment shall have
been rendered.

(2) This section shall be liberally construed in light of its remedial purposes to expand the
enforcement of statutes protecting workers in the commonwealth.