

HOUSE No. 2086

The Commonwealth of Massachusetts

PRESENTED BY:

Marjorie C. Decker

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 protecting labor and abolishing barriers to organizing rights.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Marjorie C. Decker</i>	<i>25th Middlesex</i>	<i>1/16/2025</i>
<i>Natalie M. Higgins</i>	<i>4th Worcester</i>	<i>2/10/2025</i>
<i>Lindsay N. Sabadosa</i>	<i>1st Hampshire</i>	<i>2/10/2025</i>
<i>Michael D. Brady</i>	<i>Second Plymouth and Norfolk</i>	<i>2/13/2025</i>
<i>Carmine Lawrence Gentile</i>	<i>13th Middlesex</i>	<i>2/18/2025</i>
<i>Chynah Tyler</i>	<i>7th Suffolk</i>	<i>2/20/2025</i>
<i>Paul McMurtry</i>	<i>11th Norfolk</i>	<i>2/20/2025</i>
<i>Erika Uyterhoeven</i>	<i>27th Middlesex</i>	<i>2/20/2025</i>
<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>	<i>3/3/2025</i>
<i>Samantha Montaño</i>	<i>15th Suffolk</i>	<i>3/5/2025</i>
<i>Adrienne Pusateri Ramos</i>	<i>14th Essex</i>	<i>3/11/2025</i>
<i>Steven Ultrino</i>	<i>33rd Middlesex</i>	<i>3/11/2025</i>
<i>Danillo A. Sena</i>	<i>37th Middlesex</i>	<i>3/14/2025</i>
<i>Ryan M. Hamilton</i>	<i>15th Essex</i>	<i>3/26/2025</i>
<i>Tricia Farley-Bouvier</i>	<i>2nd Berkshire</i>	<i>4/7/2025</i>
<i>James J. O'Day</i>	<i>14th Worcester</i>	<i>4/7/2025</i>
<i>David Henry Argosky LeBoeuf</i>	<i>17th Worcester</i>	<i>4/7/2025</i>
<i>Dennis C. Gallagher</i>	<i>8th Plymouth</i>	<i>4/11/2025</i>

<i>Bud L. Williams</i>	<i>11th Hampden</i>	<i>5/8/2025</i>
<i>Steven Owens</i>	<i>29th Middlesex</i>	<i>5/8/2025</i>
<i>Margaret R. Scarsdale</i>	<i>1st Middlesex</i>	<i>5/8/2025</i>
<i>Hadley Luddy</i>	<i>4th Barnstable</i>	<i>5/8/2025</i>
<i>Bridget Plouffe</i>	<i>9th Plymouth</i>	<i>5/8/2025</i>
<i>Estela A. Reyes</i>	<i>4th Essex</i>	<i>5/28/2025</i>
<i>James C. Arena-DeRosa</i>	<i>8th Middlesex</i>	<i>6/13/2025</i>
<i>Patricia A. Duffy</i>	<i>5th Hampden</i>	<i>6/13/2025</i>
<i>Michelle L. Badger</i>	<i>1st Plymouth</i>	<i>6/26/2025</i>
<i>Mark D. Sylvia</i>	<i>10th Bristol</i>	<i>7/15/2025</i>
<i>William F. MacGregor</i>	<i>10th Suffolk</i>	<i>7/17/2025</i>
<i>Thomas M. Stanley</i>	<i>9th Middlesex</i>	<i>7/25/2025</i>
<i>Lisa Field</i>	<i>3rd Bristol</i>	<i>9/3/2025</i>
<i>Nick Collins</i>	<i>First Suffolk</i>	<i>10/20/2025</i>
<i>Kristin E. Kassner</i>	<i>2nd Essex</i>	<i>10/20/2025</i>

HOUSE No. 2086

By Representative Decker of Cambridge, a petition (accompanied by bill, House, No. 2086) of Marjorie C. Decker and others relative to labor organizing rights. Labor and Workforce Development.

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Fourth General Court
(2025-2026)**

An Act protecting labor and abolishing barriers to organizing rights.

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. Chapter 150 of the Massachusetts General Laws is hereby amended to
2 repeal sections 3 through 9, inclusive.

3 SECTION 2. Section 1 of Chapter 150A of the Massachusetts General Laws is hereby
4 amended by adding the following new paragraphs:-

5 Experience has also proven that maximizing access to the collective and individual
6 protections afforded by established federal and state labor laws as well as ensuring stable,
7 effective, and efficient labor-management relations, is a vital state interest with critical impacts
8 on the Commonwealth’s economic and social development.

9 In the absence of applicable law setting forth the rights and obligations of parties engaged
10 in labor-management relations, as well as procedures for the enforcement of the same, the
11 Commonwealth, its employers and employees would face uncertainty in determining the
12 applicable law.

13 For the reasons expressed above, securing the respective rights of employees, labor
14 organizations, and employers with regard to labor-management relations in the Commonwealth
15 is imperative to our state's health and prosperity. Therefore, the General Court declares that
16 should Federal law cease to preempt the regulation of private sector labor-management relations
17 in the Commonwealth, as a whole or any portion thereof, with regard to any employer,
18 employees [or workers], trade or industry, G.L. c. 150A shall hereby apply in full force and
19 effect.

20 Further, the General Court declares that should the National Labor Relations Board
21 determine that any employer, employees, trade or industry, as defined in section 16, falls outside
22 the jurisdiction of the National Labor Relations Act, or should the Board decline jurisdiction
23 over the same, G.L. c. 150A shall hereby apply in full force and affect.

24 It is further declared to be the policy of the Commonwealth, in the interest of allowing
25 employees not covered by operation of Federal law, whether by statute or by any other means,
26 the full freedom to associate with whom they choose for mutual aid and protection in
27 employment, to eliminate strife, and to efficiently and effectively seek labor organization
28 representation. This includes (a) to promote collective bargaining private sector and their
29 employees within the Commonwealth; (b) to protect the right of employees to organize and
30 select collective bargaining representatives of their own choosing; and (c) to prevent lockouts,
31 strikes, slowdowns or withholding of goods or services.

32 SECTION 3. Section 2 of Chapter 150A of the General Laws is hereby amended by
33 striking out paragraph (2) and inserting in place thereof:-

34 (2) The word "employer" shall include any person having at least one employee in his
35 service or otherwise acting as or in the interest of an employer, directly or indirectly, and shall
36 include, but not be limited to, any health care facility, any nonprofit institution, or any vendor
37 who contracts with or receives funds from the commonwealth or its political subdivisions, or
38 both, to provide social, protective, legal, medical, custodial, rehabilitative, respite, nutritional,
39 employment, educational, training, and other similar services to the commonwealth or its
40 political subdivisions, but shall not include the commonwealth or political subdivision thereof,
41 except in the case of a health care facility. No person shall by a special contract with an
42 employee or by any other means exempt himself from this section.

43 SECTION 4. Said section 2 of said chapter 150A is hereby further amended by striking
44 out paragraph (3) and inserting in place thereof:-

45 (3) Except as otherwise provided in section three A, the word "employee" shall include
46 any employee, and shall not be limited to the employees of a particular employer, unless the
47 chapter explicitly states otherwise, and shall include any individual whose work has ceased as a
48 consequence of, or in connection with, any current labor dispute or because of any unfair labor
49 practice, and who has not obtained any other regular and substantially equivalent employment,
50 and shall include, but not be limited to, any employee of a health care facility or of any nonprofit
51 institution, except members of religious orders, or any employees of vendors who contract with
52 or receive funds from the commonwealth or its political subdivisions to provide social,
53 protective, legal, medical, custodial, rehabilitative, respite, nutritional, employment, educational,
54 training, and other similar services to the commonwealth or its political subdivisions, but shall
55 not include any individual employed as an agricultural worker, except as provided in section five

56 A, or in the domestic service of any family or person at his home, or any individual employed by
57 his parent or spouse.

58 (a) Under this chapter, an employee is an individual performing any service shall be
59 considered an employee (except as provided in the previous paragraph) and not an independent
60 contractor, unless—

61 (A) the individual is free from control and direction in connection with the performance
62 of the service, both under the contract for the performance of service and in fact;

63 (B) the service is performed outside the usual course of the business of the employer; and

64 (C) the individual is customarily engaged in an independently established trade,
65 occupation, profession, or business of the same nature as that involved in the service performed.

66 SECTION 5. Said section 2 of said chapter 150A is hereby further amended by striking
67 out subsection (8) and inserting in place thereof: -

68 (8) The term "department" means the Department of Labor Relations existing under
69 section nine O of chapter twenty-three. The term "board" shall mean the Commonwealth
70 Employment Relations Board existing under section nine R of chapter 23.

71 SECTION 6. Said section 2 of said chapter 150A is hereby further amended by striking
72 out paragraph (12) and inserting in place thereof: -

73 (12) The term "written majority authorization" shall mean writings signed and dated by
74 employees in the form of authorization cards, petitions or such other written evidence that the
75 commission finds suitable, whether handwritten or in electronic form, in which a majority of
76 employees in a unit appropriate for the purposes of collective bargaining designates or selects a

77 labor organization as its representative for the purposes of collective bargaining and certifies the
78 designation to be its free act and deed and given without consideration. Employee signatures
79 shall be dated within the 12 months preceding the date on which the writings are proffered to
80 establish majority and exclusive representative status within the meaning of subsection (a) of
81 section 5. The Department shall, within 90 days of the effective date of this Law, issue draft
82 regulations for the format and verification of electronic signatures.

83 SECTION 7. Said section 2 of said chapter 150A is hereby further amended by including
84 after paragraph (12) a new paragraph:-

85 (13) The term “joint employer” shall mean two or more persons shall be joint employers
86 with respect to an employee if each such person codetermines or shares control over any of the
87 employee’s terms and conditions of employment, to retains explicit or implicit authority to do so.
88 In determining whether such control exists, the Department shall consider as relevant direct
89 control and indirect control over such terms and conditions, reserved authority to control such
90 terms and conditions, and control over such terms and conditions exercised by a person in fact.

91 SECTION 8. Section 3 of Chapter 150A of the Massachusetts General Laws is hereby
92 amended by inserting, after the words “making payment of,” the following:- agency

93 SECTION 9. Said section 3 of said chapter 150A is hereby amended by inserting after the
94 words “exclusive representative”, the following:- in lieu of membership dues.

95 SECTION 10. Section 4 of Chapter 150A of the Massachusetts General Laws is hereby
96 amended by inserting, in paragraph (3) after the words “employment membership therein,” the
97 words:- or in lieu of membership, payment of an agency service fee constituting the full cost of
98 representation on a pro rata basis,

99 SECTION 11. Said section 4 of said chapter 150A is hereby further amended by
100 inserting, in paragraph (6), after the words “employment membership therein,” the words:- or in
101 lieu of membership, payment of an agency service fee constituting the full cost of representation
102 on a pro rata basis,

103 SECTION 12. Said section 4 of said chapter 150A is hereby further amended by inserting
104 at the end of paragraph (6), subsection A, the following new subsection:-

105 (3) Has refused, in lieu of membership, an agency service fee constituting the full cost of
106 representation on a pro rata basis in the bargaining unit by the exclusive representative.

107 SECTION 13. Said section 4 of said chapter 150A is hereby further amended by striking
108 out subsection (B) of paragraph (6) and inserting in place the following thereof:-

109 (B) Such employee shall have exhausted the remedies available to him under the labor
110 organization’s constitution and bylaws and section 6B of this chapter.

111 SECTION 14. Said section 4 of said chapter 150A is hereby further amended by
112 inserting, after paragraph (6), the following new paragraphs:-

113 (7) to promise, threaten, or take any action—

114 (A) to permanently replace an employee who participates in a strike as defined by Section
115 9 of this Chapter;

116 (B) to discriminate against an employee who is working or has unconditionally offered to
117 return to work for the employer because the employee supported or participated in such a strike;

118 or

119 (C) to lockout, suspend, or otherwise withhold employment from employees in order to
120 influence the position of such employees or the representative of such employees in collective
121 bargaining prior to a strike; and

122 (8) to communicate or misrepresent to any person that an employee, or any group or
123 classification of employees as defined under this Chapter, Section 2, is excluded from the
124 definition of an employee, or to misclassify such employees as independent contractors.

125 SECTION 15. Section 4C of Chapter 150A of the Massachusetts General Laws is hereby
126 amended by striking, in subsection (1), the words “nurse or nonprofessional”

127 SECTION 16. Section 5 of said chapter 150A is hereby amended by striking, in
128 subsection (c), the last sentence, and replacing it with the following new paragraphs:-

129 Notwithstanding any other provision of this section or any other general or special law, in
130 the event that the Commonwealth is no longer preempted from regulating the labor-management
131 relations of any private sector employer, bargaining unit, industry or trade operating in the
132 Commonwealth under Federal law, Chapter 150A shall apply upon the effective date of this
133 legislation or the date NLRA preemption no longer applies, whichever is later. The Department
134 shall, upon application, promptly certify the exclusive bargaining representative of any
135 bargaining unit who previously certified the unit with the National Labor Relations Board and
136 whose certification remained in effect until federal preemption was no longer effective.

137 Notwithstanding any other provision of this section or any other general or special law, in
138 the event that the National Labor Relations Board determines that any employer, employees,
139 trade or industry, as defined in Section 1 falls outside the scope of the National Labor Relations
140 Act’s coverage, or should the Board decline jurisdiction over the same, G.L. c. 150A shall

141 hereby upon the effective date of this legislation or the date NLRA determines the absence of its
142 authority, whichever is later. The department shall, upon application, promptly certify the
143 exclusive bargaining representative of any bargaining unit previously certified by the National
144 Labor Relations Board and whose certification remained in effect until federal preemption was
145 no longer effective.

146 The board and/or, by designation, the department, shall establish rules and procedures for
147 the prompt verification of evidence of a certification formerly granted by the NLRB, which rules
148 shall include the procedure for petitioning the Department, and which shall further provide that,
149 absent exceptional cause, the verification procedure shall last not longer than 30 days after the
150 petition is filed with the Department. All existing terms and conditions of employment between
151 a formerly NLRB-certified exclusive bargaining representative and an employer shall remain in
152 full force and effect through the Department's verification process.

153 SECTION 17. Section 5 of said chapter 150A is hereby amended by replacing the word
154 "commission" in the first sentence with the word "department" and replacing the word
155 "commission" in the second, third, and fourth sentences with the word "board".

156 SECTION 18. Said section 5 of said chapter 150A is hereby further amended by adding,
157 after the words "entire record" in subsection (e), the following word:- required

158 SECTION 19. Chapter 150A of the Massachusetts General Laws is hereby amended by
159 inserting, after section 5A, the following new section:-

160 Section 5B. Agents and other Persons Assisting Employers.

161 (a) Every person who pursuant to any agreement with an employer undertakes activities
162 where an object thereof is, directly or indirectly—

163 (1) to persuade employees to exercise or not to exercise, or persuade employees as to the
164 manner of exercising, the right to organize and bargain collectively through representatives of
165 their own choosing; or (2) to supply an employer with information concerning the activities of
166 employees or a labor organization in connection with a labor dispute involving such employer,
167 except information for use solely in conjunction with an administrative or arbitral proceeding or
168 a criminal or civil judicial proceeding; shall file within thirty days after entering into such
169 agreement or arrangement a report with the department, signed by its president and treasurer or
170 corresponding principal officers, containing the name under which such person is engaged in
171 doing business and the address of its principal office, and a detailed statement of the terms and
172 conditions of such agreement or arrangement. Every such person shall file annually, with respect
173 to each fiscal year during which payments were made as a result of such an agreement or
174 arrangement, a report with the department, signed by its president and treasurer or corresponding
175 principal officers, containing a statement (A) of its receipts of any kind from employers on
176 account of labor relations advice or services, designating the sources thereof, and (B) of its
177 disbursements of any kind, in connection with such services and the purposes

178 thereof. In each such case such information shall be set forth in such categories as the
179 department may prescribe. Such reports shall be posted on the department's website and shall be
180 searchable by employer and by person providing aforementioned services.

181 SECTION 20. Chapter 150A of the Massachusetts General Laws is hereby amended by
182 striking section 6 and inserting in place thereof the following section:-

183 Section 6. (a) The department is empowered, as hereinafter provided, to prevent any
184 person from engaging in any unfair labor practice listed in sections four, four A, four B and four
185 C affecting industry, trade or health care. This power shall be exclusive, and shall not be affected
186 by any other means of adjustment or prevention that has been or may be established by
187 agreement, code, law, or otherwise.

188 (b) Whenever it is charged that any person has engaged in or is engaging in any such
189 unfair labor practice, the department shall have power to issue and cause to be served upon such
190 person a complaint stating the charges in that respect, and containing a notice of hearing before
191 the department's agent, at a place therein fixed, not less than five days after the serving of said
192 complaint. Any such complaint may be amended by the department's agent conducting the
193 hearing or the department in its discretion at any time prior to the issuance of an order based
194 thereon. The person so complained of shall have the right to file an answer to the original or
195 amended complaint and to appear in person or otherwise and give testimony at the place and
196 time fixed in the complaint. In the discretion of the department or its agent conducting the
197 hearing, any other person may be allowed to intervene in the said proceeding and to present
198 testimony. In any such proceeding the rules of evidence prevailing in courts of law or equity
199 shall not be controlling.

200 (c) If upon the record before him such agent shall determine that an unfair labor practice
201 has been committed by a person named in the complaint, he shall issue and cause to be served
202 upon such person an order requiring such person to cease and desist from such unfair labor
203 practice, and to take such further affirmative action as will effectuate the provisions of this
204 chapter, including, but not limited to, the relief permitted in sub-section (d) of this Section. If the
205 agent determines that an unfair labor practice has not been committed, he shall issue an order

206 dismissing the complaint. An order issued pursuant to this subsection shall become final and
207 binding unless, within ten days after notice thereof, any party requests review by the board. A
208 review may be made upon a written statement of the case by the agent agreed to by the parties, or
209 upon written statements furnished by the parties, or, if any party or the board requests, upon a
210 transcript of the testimony taken at the hearing, if any, together with such other testimony as the
211 board may require.

212 If upon the record before it the board determines that an unfair practice has been
213 committed it shall state its findings of fact and issue and cause to be served on the person an
214 order requiring such person to cease and desist from such unfair labor practice, and to take such
215 further affirmative action as will effectuate the provisions of this chapter. If upon the record
216 before it the board determines that an unfair labor practice has not been committed, it shall state
217 its findings of fact and shall issue an order dismissing this complaint.

218 (d) (1) If the department finds that an employer has discriminated against an employee in
219 violation of paragraph (3) or (4) of section 10(a) or has committed a violation of section 10(a)
220 that results in the discharge of an employee or other serious economic harm to an employee, the
221 department shall award the employee back pay without any reduction (including any reduction
222 based on the employee's interim earnings or failure to earn interim earnings), front pay (when
223 appropriate), consequential damages, an additional amount as liquidated damages equal to three
224 (3) times the amount of damages awarded, punitive damages where appropriate, and reasonable
225 attorneys' fees and costs.

226 An employer found to have violated the Law may not seek to avoid damages under this
227 Section by asserting that, during the course of employment, an employee did not meet all
228 qualifications for the job they filled as required by law.

229 (2) If the department finds that an employer has violated section 10(a) of the Law, but
230 that sub-section (d)(1) is inapplicable, the department shall issue civil penalties for each violation
231 of the law no less than \$10,000, which shall accrue to the Commonwealth, in addition to the
232 reasonable attorneys' fees and costs of the prevailing party.

233 (3) Any person who fails or neglects to obey an order of the department shall forfeit and
234 pay to the department a civil penalty of \$25,000 for each violation, which shall accrue to the
235 Commonwealth and may be recovered in a civil action brought by the department to the superior
236 court in the county in which the unfair labor practice or other subject of the order occurred, or in
237 which such person or entity resides or transacts business. No action by the department under this
238 paragraph may be made until 30 days following the issuance of an order, or in the event of a
239 request for review by the commission, 30 days following the issuance of the commission's order.
240 Each separate violation of such an order shall be a separate offense, except that, in the case of a
241 violation in which a person fails to obey or neglects to obey a final order of the department, each
242 day such failure or neglect continues shall be deemed a separate offense.

243 (4) In awarding punitive damages under paragraph (d)(1) of this section, the court shall
244 consider—

245 (A) the gravity of the unfair labor practice;

246 (B) the impact of the unfair labor practice on the charging party, on other persons seeking
247 to exercise rights guaranteed by this Act, and on the public interest; and

248 (C) the gross income of the employer.

249 (5) The president and treasurer of a corporation and any officers or agents having the
250 management of such corporation shall be deemed to be the employers of the employees of the
251 corporation within the meaning of this Section. Individual liability for both damages and civil
252 penalties shall be assessed against any president, treasurer, officer or agent having the
253 management of a corporation where the department finds that such individual directed or
254 committed the violation, had established a policy that led to such a violation, or had actual or
255 constructive knowledge of and the authority to prevent the violation and failed to prevent the
256 violation.

257 (e) Until the record in a case shall have been filed in a court, as hereinafter provided, the
258 board may at any time, upon reasonable notice and in such manner as it shall deem proper,
259 modify or set aside, in whole or in part, any finding or order made or issued by it.

260 (f) The board may institute appropriate proceedings in the appeals court for enforcement
261 of its final orders.

262 (g) Any party aggrieved by a final order of the board may institute proceedings for
263 judicial review in the appeals court within thirty days after receipt of said order. The
264 proceedings in the appeals court shall, insofar as applicable, be governed by the provisions of
265 section fourteen of chapter thirty A.

266 SECTION 21. Chapter 150A of the General Laws is hereby amended by striking section
267 6A and inserting in place the following section thereof:-

268 Section 6A. Any employee who is required as a condition of employment to be a member
269 in good standing of a labor organization may file with the department a charge alleging (1) that,
270 although eligible to membership, he has been unfairly denied admission to, or unfairly suspended
271 or expelled from membership in, such organization for reasons other than malfeasance in office
272 or non-payment of regular initiation fees, dues, or assessments and (2) that such labor
273 organization has requested, or is about to request, his employer to discharge or otherwise
274 discriminate against him because of his failure to maintain membership in good standing in such
275 organization or; provided, that such charge shall be filed not more than fifteen days after notice
276 of such request has been given the employee by the labor organization. Upon filing of such
277 charge, the department shall have power to issue and cause to be served upon the labor
278 organization a complaint stating the charge in that respect and containing a notice of hearing.
279 The notice shall be given and the subsequent proceedings shall be conducted in the manner
280 provided in section six. If upon all the evidence the department shall determine that the employee
281 was unfairly denied admission to membership in such organization, or that such discipline—

282 (1) Was imposed by the labor organization in violation of its constitution and by-laws; or

283 (2) Was imposed without a fair trial, including an adequate hearing and opportunity to
284 defend; or

285 (3) Was not warranted by the offense, if any, committed by the employee against the
286 labor organization;

287 (4) Is not consistent with the established public policy of the commonwealth; or

288 (5) Or that discrimination or discharge was requested or about to be requested by the
289 labor organization, notwithstanding the employee's payment in full of all applicable agency
290 service fees in lieu of membership;

291 then the department shall state its determinations and shall issue and cause to be served
292 on the labor organization an order requiring it, in its discretion, either to admit or restore the
293 employee to membership in good standing together with full voting rights, or else to refrain from
294 seeking to bring about any discrimination against him in his employment because he is not a
295 member in good standing, and to return to him such union dues and assessments as may have
296 been collected from him during the period of his suspension or expulsion from the union. If
297 department shall not make such a determination after hearing, it shall enter an order dismissing
298 the charge filed by the employee.

299 Nothing contained in this section or in section four shall be deemed to require a labor
300 organization as a condition of making or enforcing a contract requiring membership therein as a
301 condition of employment, to accord to non-participants in an insurance plan the right to vote on
302 questions pertaining thereto or to grant local organizations voting rights in a convention
303 proportionate to their membership.

304 SECTION 22. Section 6C of chapter 150A of the General Laws is hereby amended by
305 adding after the word "assessments" the following words:- or in the alternative, the applicable
306 agency service fee

307 SECTION 23. Chapter 150A of the Massachusetts General Laws is hereby amended by
308 adding, after section 6C, the following new section:-

309 Section 6D.

310 1. A party filing an unfair labor practice charge under Sections 10(a)(1), (3) or (4) may,
311 concurrent with filing its unfair labor practice charge, or anytime subsequent thereto, petition the
312 department for pre-hearing injunctive relief (“interim injunctive relief”), pending a decision on
313 the merits of said charge by the department, upon the department’s determination that: (i) there is
314 probable cause to believe a unfair labor practice has occurred, (ii) barring the requested
315 immediate injunctive relief, the moving party will be irreparably injured, thereby rendering the
316 department’s ultimate judgment on the merits ineffectual, (iii) the harm to the moving party
317 exceeds the harm the non-moving party is likely to suffer as a result of the preliminary
318 injunction, and (iv) the public interest favors the grant of the preliminary injunction. Such
319 immediate and irreparable harm may include the chilling of workers in the exercise of rights
320 provided by this chapter.

321 2. Within fifteen (15) business days of its determination of probable cause or fifteen (15)
322 business days after a petition for injunctive relief is filed post-petition, whichever is later,
323 department shall provide notice to the parties of its intention to grant the moving party’s
324 petition requesting that the department seek interim injunctive relief. If no petition for
325 injunctive relief is filed, upon a finding of probable cause, the department may elect, on its own
326 volition, to pursue injunctive relief.

327 3. Should the department elect to pursue interim injunctive relief, a complaint, a motion
328 seeking interim injunctive relief, and a memorandum in support thereof shall be filed with the
329 Superior Court of Suffolk County consistent with the Massachusetts Rules of Civil Procedure.

330 4. Any grant of interim injunctive relief by the Suffolk Superior Court shall be consistent
331 with the Massachusetts jurisprudence governing injunctive relief. In ordering interim injunctive

332 relief, the superior court shall establish the duration of relief, notice requirements, and terms for
333 compliance. The court may also remand supervision of the interim injunctive relief to the
334 Department.

335 5. The Suffolk Superior Court's order on interim injunctive relief may be appealed by the
336 department or the unfair labor practice respondent, pursuant to section 118 of chapter 231
337 of the general laws.

338

339 SECTION 24. Chapter 150A of the General Laws is hereby further amended by striking
340 section 7 and inserting in place the following new section:-

341 Section 7. For the purpose of all hearings and investigations which, in the opinion of the
342 department, are necessary and proper for the exercise of the powers vested in it by sections five,
343 six, six A and six B—

344 (1) The department, or the board upon a request for review, shall at all reasonable times
345 have access to, for the purpose of examination, and the right to copy any evidence of any person
346 being investigated or proceeded against that relates to any matter under investigation or in
347 question. Any agent of the department, or the board upon a request for review, shall have power
348 to issue subpoenas requiring the attendance and testimony of witnesses and the production of any
349 evidence that relates to any matter under investigation or in question before the department at a
350 hearing or investigation or before the board upon a request for review. The department or any
351 agent of the department, or the board upon a request for review, may administer oaths and
352 affirmations, examine witnesses, and receive evidence. Such attendance of witnesses and the

353 production of such evidence may be required from any place in the commonwealth, at any
354 designated place of hearing.

355 (2) In case of contumacy or refusal to obey a subpoena issued to any person, the superior
356 court within the jurisdiction of which the inquiry is carried on or within the jurisdiction of which
357 said person guilty of contumacy or refusal to obey is found or resides or transacts business, upon
358 application by the department or board shall have jurisdiction to issue to such person an order
359 requiring such person to appear before the department or board, respectively, there to produce
360 evidence if so ordered, or there to give testimony, touching the matter under investigation or in
361 question; and any failure to obey such order of the court may be punished by said court as a
362 contempt thereof.

363 (3) No person shall be excused from attending and testifying or from producing books,
364 records, correspondence, documents or other evidence in obedience to the subpoena of the
365 department or board, on the ground that the testimony or evidence required of him may tend to
366 incriminate him or subject him to a penalty or forfeiture; but no individual shall be prosecuted or
367 subjected to any penalty or forfeiture for or on account of any transaction, matter or thing
368 concerning which he is compelled, after having claimed his privilege against self-incrimination,
369 to testify or produce evidence, except that such individual so testifying shall not be exempt from
370 prosecution and punishment for perjury committed in so testifying.

371 (4) Complaints, orders and other process and papers of the department and their agents or
372 the board may be served either personally or by registered mail or by telegraph or by leaving a
373 copy thereof at the principal office or place of business of the person required to be served. The
374 verified return by the individual so serving the same setting forth the manner of such service

375 shall be proof of service of the same, and the return post office receipt or telegraph receipt
376 therefor when registered and mailed or telegraphed as aforesaid shall be proof of service of the
377 same. Witnesses summoned before the department and its agents or the board shall be paid the
378 same fees and mileage that are paid witnesses in civil cases before the courts of the
379 commonwealth, and witnesses whose depositions are taken and the persons taking the same shall
380 severally be entitled to the same fees as are paid for like services in the courts of the
381 commonwealth.

382 (5) All process of any court to which application may be made under this chapter may be
383 served in the judicial district wherein the defendant or other person required to be served resides
384 or may be found.

385 (6) The several departments and agencies of the commonwealth, when directed by the
386 governor, shall furnish the department or the board, upon request, all records, papers and
387 information in their possession relating to any matter before the department and/or the board
388 remedies available to him under sections six A and six B.

389 SECTION 25. Chapter 150A of the Massachusetts General Laws is hereby amended by
390 inserting, after section 7, the following new section:-

391 Section 7A.

392 (a) As used in this section, the following words shall have the following meanings
393 unless the context clearly requires otherwise:

394 (1) The term “critical period” is defined as the time after a petition for an election or
395 card check authorization is filed with the department.

396 (2) The term “in-person captive audience meeting” is defined as an in-person
397 meeting in which attendance of a bargaining unit member is required by an employer or
398 supervisor, actually or constructively, as a condition of employment or to receive a benefit or
399 avoid retaliation.

400 (3) The term “virtual captive audience meeting” is defined as live or asynchronous
401 audio or video, which a bargaining unit member is required, actually or constructively, to watch
402 as a condition of employment, to receive a benefit or avoid retaliation, or where the employer
403 surveils or is reasonably perceived to be surveilling viewership.

404 (b) During the critical period, an employer is prohibited from requiring any member
405 of a petitioned for bargaining unit from taking part in in-person or virtual captive audience
406 meetings.

407 Further, an employer is prohibited from engaging in virtual or in-person electioneering
408 activities without providing bona fide, good faith opportunities for bargaining unit
409 members to opt out of receiving electioneering content and activities without penalty. To the
410 extent an employer engages in electioneering during the critical period, the petitioning labor
411 organization(s) must be given—upon request—equal opportunities to communicate with
412 employees in in-person and/or virtual formats.

413 SECTION 26. Section 8 of chapter 150A of the general laws is hereby amended by
414 replacing the word “commission” with the word “department” and striking the words “or
415 agencies”.

416 SECTION 27. Chapter 150A of the general laws is hereby further amended by striking
417 section 9A and inserting in place the following section thereof:-

418 Section 9A. A labor organization before engaging in any strike, picketing, or other
419 concerted refusal to work at any health care institution shall, not less than ten days prior to such
420 action, notify the institution in writing and the Director of the Department of that intention. The
421 notice shall state the date and time that such action will commence. The notice, once given, may
422 be extended by the written agreement of both parties.

423 SECTION 28. Section 10 of chapter 150A of the general laws is hereby further amended
424 by replacing, in subsection (b), the word “commission” with the word “department”.

425 SECTION 29. Chapter 150A of the general laws is hereby amended by inserting, after
426 section 12, the following new section:-

427 Section 13. Notwithstanding any other provision of law, subject to the provisions of this
428 Section, not later than 90 days after the date of the enactment of this Law, the department shall
429 issue regulations for notice and comment implementing a system and procedures to conduct
430 representation elections remotely using an electronic voting system.

431 (a) Definitions. As used in this section, the following words shall have the following
432 meanings unless the context clearly requires otherwise:

433 (1) The term “electronic voting system”—

434 (a) includes an internet voting system and a telephone voting system; and

435 (b) does not include machines used for casting votes at a polling site or an electronic
436 tabulation system where votes are cast non-electronically but counted electronically, included but
437 not limited to a punch card or optical scanning system.

438 (2) The term “internet voting system” means an internet-based voting system that allows
439 a participant to cast a ballot remotely using a personal computer or other mobile electronic
440 device that is connected to the internet.

441 (3) The term “telephone voting system” means a voting system in which participants
442 may cast a vote remotely using a telephone.

443 (4) The term “remotely”, used with respect to voting in a representation election, means
444 a vote may be cast at any site chosen by a participant in such election.

445 (5) The term “representation election” means a petitioned-for election to select a labor
446 organization as an exclusive representative under section 5 of Chapter 150A.

447 SECTION 30. This act shall take effect upon its passage.