# STATE SECTORAL BARGAINING ACT

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF _____:**

## Section 1. Legislative Findings and Purpose

(a) Findings. The Legislature finds that:

(1) Income inequality in the United States is among the highest in the developed world, precarious employment has risen, and wage growth has stagnated, especially for low-wage workers, despite rapid growth in productivity. The causes of wage stagnation include the decline of unionized workplaces.

(2) Unionization and collective bargaining benefit workers by increasing wages, providing better benefits, and improving working conditions. While collective bargaining provides workers a voice in their workplace, it also benefits employers by improving productivity and predictability, increasing worker morale and retention, reducing workplace conflict, and creating a more stable and positive relationship between workers and employers.

(3) Despite this, union density and collective bargaining coverage under the existing system of employer-level bargaining is alarmingly low, and the existing system of collective bargaining is ill-positioned to address fissured workplaces, complex employment relationships, and industry-wide challenges such as automation and the use of artificial intelligence.

(4) Sectoral bargaining is intended to complement and strengthen employer-level collective bargaining, not to replace, undermine, or derogate that right.

(5) The State has a legitimate and substantial interest in displacing labor market competition by authorizing and supervising sector- and industry-wide standard-setting processes to improve the long-term economic health of this State, improving workforce quality,

promoting workplace democracy, and encouraging employers to invest in workers without facing downward pressure from non-unionized workplaces.

(b) Purpose. The purpose of this Act is to increase worker power and self-determination and improve wages and working conditions by establishing a mechanism for sectoral bargaining in which employers, including public employers, and workers may jointly propose minimum industry standards under active state supervision. This mechanism will exist alongside traditional employer-level bargaining. This mechanism will have the effect of displacing some labor market competition, which is necessary to meet the goals of the Act. Nothing in this Act shall be construed to diminish any right to organize, bargain collectively, or engage in concerted activity guaranteed by the National Labor Relations Act or any other applicable federal or state law. Sectoral bargaining agreements shall function as a floor upon which employer-level collective bargaining agreements may improve.

**Section 2. Definitions**

In this Act:

(1) “Covered employer” means any entity, including a public employer, operating in a sector with respect to any covered worker whose performance is not completely free from the entity’s control or direction.

(2) “Covered employer representative” means one or multiple representatives of covered employers that are certified by the State Labor Standards Board to bargain on behalf of covered employers.

(3) “Covered worker” means an employee or other worker whose performance is not completely free from the control or direction of a covered employer, regardless of their classification or status, and who works in a sector that has been petitioned for by a union or worker organization, excluding any worker who acts in a managerial capacity or who has the authority to suspend or discharge other workers.

(4) “Covered worker representative” means one or multiple unions or worker organizations that are certified by the State Labor Standards Board to bargain on behalf of covered workers.

(5) “Employer-level bargaining” means collective bargaining that takes place between an individual union and an individual employer at the unit level, at one or more worksites, or at the enterprise level of the employer.

(6) “Labor Standards Board” or “Board” means the State Labor Standards Board established in Section 3.

(7) “Public employer” means the State or any political subdivision or jurisdiction thereof, or any wholly owned state government corporation, but shall not include the United States or any instrumentality thereof.

(8) “Sector” means a group of workers and their associated employers and representatives who share one or more of the following criteria: industry, occupation, product line, service line, geography, key job

characteristics like skills or certifications, or another clear and distinct common interest.

(9) "Sectoral bargaining" means collective bargaining that takes place between one or more representatives of covered workers and one or more representatives of covered employers.

(10) "Sectoral prevailing wage and fringe benefit rate" means a wage and fringe benefit floor established by the Board and determined to be just, reasonable, and protective against wage suppression within that sector.

(11) "Union" means a labor organization that covered workers can form, join, or assist to negotiate with their employers regarding wages, hours, and other terms and conditions of employment.

(12) "Worker organization" means an organization that is not a union that organizes workers or engages in concerted activities with workers for their mutual aid or protection, whose activities are free from employer establishment, domination, control, support, or interference.

**Section 3. State Labor Standards Board**

(a) Creation. This Act hereby establishes an independent public agency known as the State Labor Standards Board.

(b) Composition. The Board shall consist of:

(1) The Commissioner/Secretary of Labor or designee, who shall serve as Chair.

(2) Six additional members appointed by the Governor, including:

(A) Three persons selected from the general public;

(B) Two persons with experience leading, organizing, or providing services to workers as an officer, agent, or staff member of a labor union, except that one may instead have experience leading a worker organization or providing services to low-wage workers as an officer, agent, or staff member of a worker organization; and

(C) One member with experience negotiating collective bargaining agreements or working with labor organizations on behalf of an employer or employer association.

(c) The Board's role. The Board shall implement, administer, and actively supervise sectoral bargaining agreements pursuant to this Act. It shall designate sectors; identify and certify covered worker and employer representatives; facilitate sectoral bargaining; in limited situations, fix terms of a sectoral bargaining agreement; in limited situations, determine sectoral prevailing wage and fringe benefit rate, including whether the overall terms of an approved sectoral bargaining agreement comportw ith the sames; monitor and enforce compliance of sectoral bargaining agreements and sectoral prevailing wage and benefit rates; solicit public comment; find facts; issue and enforce orders; and provide guidance and regulations for affected parties, as set forth throughout this Act. In carrying out its duties, the Board shall act on behalf of the State and exercise its authority to ensure that the displacement of market competition serves the State's goals of advancing labor peace and the public interest. Each order of the Board will be placed on the Board's public website.

(1) General powers. The Board shall have the power to resolve disputes about duties, obligations, or requirements included within this Act. It shall also have the power to

monitor and enforce compliance with the Act itself, to determine violations and remedies related to those violations, and to determine any other matter arising under this Act. In performing its duties, the Board may:

(A) Conduct hearings and independent investigations or other fact-finding processes;

(B) Issue administrative subpoenas to facilitate these investigations or proceedings;

(C) Conduct independent research with the assistance of qualified experts;

(D) Hire staff or consultants as reasonably needed, including but not limited to obtaining expertise related to the preservation of competitive markets and the maintenance of fair labor markets and working conditions;

(E) Sue or be sued as an independent agency of this State;

(F) Promulgate rules and regulations to implement the Act; and

(G) Issue fines and fees as part of its enforcement activities.

(2) Support services. The Board will, directly or indirectly, offer services that:

(A) Provide general information about rights and obligations in relation to sectoral bargaining agreements in order for regulated parties or the public to understand the requirements to become a bargaining party, the content requirements for a proposed agreement, and the overall bargaining process;

(B) Provide information about what services are available for persons (including unions, worker organizations, covered workers, and covered employers) who have disputes or conflicts related to sectoral bargaining relationships;

(C) Support bargaining parties throughout the process of bargaining to ensure that it is constructive and efficient, including access (at no cost) to independent financial experts to assess inability to pay claims and independent technologists to assess assertions about use of artificial intelligence or other workplace technology; and

(D) Assist parties in resolving any conflict in relation to bargaining for the terms of a sectoral bargaining agreement, including by offering mediation services, if necessary..

**Section 4. Funding**

(a) Employer assessment. To support the regulatory oversight activities of the State Labor Standards Board and recover the cost of regulatory oversight, enforcement, and administration, which shall supplement any funding from general appropriations, each entity registered to do business in the State [cite to business registration code] with one or more employees shall pay an annual Administrative Labor Standards Assessment that is to be collected alongside any business registration or renewal. Monies in the State Labor Standards Board Fund shall be used solely to support the regulatory oversight, enforcement, and administrative activities of the State Labor Standards Board and shall not lapse to the general fund at the end of any fiscal year.

(b) Amount of assessment. The initial annual assessment shall be set at $[reserved] per covered worker.

(c) Adjustments. On July 1 of each year after the passage of this Act, the Chair of the Board may adjust the assessment amounts as needed, including but not limited to increasing the assessment by the cumulative change in the Consumer

Price Index over the preceding year, effective upon registrations and renewals as of each August 1. In adjusting the assessment, the Chair shall ensure that the Board maintain a reserve of no more than three years’ worth of ordinary expenditures in its Fund.

(d) Exemptions. Public employers shall be exempt from this assessment.

(e) Use of Funds. All revenue from the assessment shall be deposited into the State Labor Standards Board Fund and used for its oversight, administration, enforcement, or otherwise to advance the protection of covered workers and implementation of this Act.

(f) Transparency. Each year, the Board shall provide a publicly accessible accounting of its use of funds.

**Section 5. Covered Worker Rights**

Covered workers shall have the right to self-organization; to form, join, or assist unions, worker organizations, and other labor organizations; to bargain collectively through representatives of their own choosing; and to engage in any other lawful concerted activities for the purpose of collective bargaining, sectoral bargaining, or other mutual aid or protection. [These rights apply to all covered workers to the extent the worker is not covered by the National Labor Relations Act.]

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

(a) Petition to establish sector.

(1) A union or worker organization may file with the Board a petition requesting recognition of a sector for purposes of sectoral bargaining.

(2) The petition shall identify:

(A) The proposed sector;

(B) The approximate number of covered workers; and

(C) Evidence of support sufficient to meet the thresholds set forth in this Section.

(3) The Board shall review the petition to determine whether the proposed sector constitutes a reasonable and administratively workable sector for collective bargaining. A petition that defines the proposed sector by reference to one or more North American Industry Classification System codes shall be presumed reasonable. The Board may solicit up to 30 days of public comment from the date upon which the petition is filed, and shall approve the petition unless it determines that the proposed sector is administratively unworkable, or that the petition is otherwise unreasonable or contrary to the Act.

(4) The Board may issue guidance for defining sectors to ensure that sector definitions are clearly communicated to covered workers.

(b) Initial access threshold.

(1) Where a petitioner seeks initial access to workers before requesting designation, the Board shall review the request under the standard established under Section 6(a) to determine whether the proposed sector constitutes a reasonable and administratively workable sector for collective bargaining.

(2) If the requirements of Section 6(a) are met, upon a showing to the Board by the petitioner that it represents or has demonstrated support from at least 200 workers, or 5% of the workers in the proposed sector, whichever is less, the petitioner shall be granted initial access rights as provided in this subsection.

(3) Initial access rights shall include:

(A) Access to reasonable worker contact information, limited to names, primary work locations, available employer-assigned electronic addresses, and non-work email addresses and phone numbers in the employer’s possession;

(B) A requirement that employers within the sector provide all covered workers with notice, delivered electronically where available and additionally by worksite posting, within 3 days of the granting of initial access rights, informing them of:

(i) The threshold having been met;

(ii) The workers’ rights under this Act to engage in sectoral bargaining;

(iii) The identity and contact information for the petitioner; and

(iv) An explanation of the process and potential scope of sectoral bargaining under this Act;

(C) A requirement that employers provide a reasonable opportunity for the petitioner or its designee to conduct “Know Your Rights” education for workers during paid time, not to exceed two hours per calendar year unless otherwise mutually agreed; and

(D) Such reasonable worksite and digital access, consistent with the First and Fifth Amendments and workplace security needs, as may be ordered by the Board.

(4) Access under clauses (b)(3)(C) and (D) shall be subject to the following conditions:

(A) A covered worker representative must give at least one-hour written notice to the covered employer prior to accessing its physical property;

(B) The covered employer will receive $1.00 from the Board's Fund for each hour of access granted to covered worker representative as just compensation for the access rights;

(C) A covered worker representative and a covered employer may agree to provide more access to the covered worker representative than the access provided by right under this section; and

(D) Nothing herein shall diminish any rights to access property as otherwise provided by law.

(c) Designation as covered worker representative.

(1) Upon demonstrating representation or support from 1,000 workers in the sector, or 25% of the sector workforce, whichever is less, the petitioner shall be designated and certified as a covered worker representative for purposes of sectoral bargaining under this Act.

(2) The Board shall authorize sectoral bargaining to commence once there is at least one covered worker representative and one covered employer representative that the Board determines will provide adequate representation to covered workers and covered employers.

(3) The Board shall promulgate all necessary regulations to: establish the approximate size of a sector and the level of support necessary from the sector to designate employer representative(s); promote integrity and fairness in all related proceedings; and ensure that all related proceedings provide due process for workers and their employers.

(d) Covered worker representatives.

(1) The Board shall certify all eligible covered worker representatives and safeguard their rights to participate fully in sectoral bargaining.

(2) A petitioner shall be the exclusive covered worker representative for the sector if no other union or worker organization represents or provides services to workers within the sector, or if any such union or worker organization does not wish to serve as a covered worker representative.

(3) A petitioner shall coordinate with any union or worker organization representing or providing services to workers within the sector to determine their interest in serving as a covered worker representative and, where interest exists, to reach agreement on proportional representation.

(4) The Board shall certify additional covered worker representatives upon agreement of the parties, provided such agreement is not contrary to the Act.

(5) Should a petitioner and any other unions or worker organizations fail to reach agreement, or should such petitioner fail to coordinate with other potential worker representatives, the Board shall determine whether other unions or worker organizations should be certified based on their proportional representation of workers in the sector.

(6) A covered worker representative shall have the right to:

(A) Participate fully at the bargaining table, including the right to introduce subjects of bargaining;

(B) Vote on proposed bargaining positions, tentative agreements, and impasse declarations, with voting weight proportional to its share of represented workers;

(C) Challenge a proportional-representation determination upon a showing of material error or significant change in membership; and

(D) Submit independent data, proposals, and testimony before the Board.

(7) Petitioner’s rights. Nothing in this subsection shall diminish a petitioner’s rights as a covered worker representative, except that its voting share shall be proportional to its demonstrated representation.

**Section 7. Employer Representation**

(a) The Board shall certify all eligible covered employer representatives and safeguard their rights to participate in sectoral bargaining.

(b) Any covered employer operating within a certified sector may apply to the Board for certification as a covered employer representative. The Board shall certify an applicant upon a showing that it employs workers within the Sector.

(c) Upon establishment of a sector, the Board shall notify all known covered employers within the sector of their right to seek certification as a covered employer representative and of any pending sectoral bargaining proceedings.

(d) Covered employers seeking to participate in sectoral bargaining through representation by a covered employer representative may coordinate for the purpose of determining which employer or employers will seek certification as a covered employer representative and, where multiple employers seek certification, the proportional representation among them. Such coordination shall not extend to wages, pricing, output, or any other terms of competition in markets outside the labor market covered by sectoral bargaining, and shall not authorize any employer to share sensitive, firm-specific business information with any other employer.

(e) The Board shall certify covered employer representatives upon the agreement of covered employers, provided such agreement is not contrary to the Act.

(f) Should covered employers fail to reach agreement on representation, or should a covered employer fail to coordinate with other potential employer representatives, the Board shall determine representation based on a proportional share of workers covered within the sector.

(g) A covered employer representative shall have the right to:

(1) Participate fully at the bargaining table, including the right to introduce subjects of bargaining;

(2) Vote on proposed bargaining positions, tentative agreements, and impasse declarations, with voting weight proportional to its share of workers employed in the sector, provided that each worker shall be counted only once;

(3) Challenge a proportional-representation determination upon a showing of material error or significant change in workforce composition; and

(4) Submit independent data, proposals, and testimony before the Board.

(h) Nothing in this section shall prevent two or more covered employers from voluntarily designating a common spokesperson or coordinating their positions for purposes of sectoral bargaining, provided that any such arrangement is disclosed to the Board and to covered worker representatives; does not extend to wages, pricing, output, or any other terms of competition in markets outside the labor market covered by sectoral bargaining; and does not constitute a violation of applicable antitrust law.

(i) State-designated employer representatives.

(1) If a sector has one or more certified covered worker representatives but lacks a covered employer representative, the Board may take steps to facilitate employer

representation, including by notifying covered employers of the vacancy and providing a reasonable period of no more than 30 days for employers to seek certification voluntarily.

(2) If no covered employer seeks certification within that period, the Board may designate one or more willing covered employers to serve as designated covered employer representatives to bargain on behalf of employers in the sector.

(3) In making any such designation, the Board shall give consideration to:

(A) Size and age of the business;

(B) Market share within the sector;

(C) Geographic distribution of operations; and

(D) Other material differences in the circumstances of employers operating within the sector.

(4) A designated covered employer representative shall have the same rights and obligations as a certified covered employer representative under this Act.

**Section 8. Sectoral Bargaining**

(a) Duty to bargain in good faith. Once the Board has authorized sectoral bargaining in a sector, the bargaining parties have a duty to bargain in good faith with one another under this Act in order to reach a Sectoral Bargaining agreement.

(1) A duty to bargain in good faith means that the parties must establish and maintain a productive, responsive, and communicative relationship; provide access to property and information relevant to covered workers’ employment; not, whether directly or indirectly, do anything to mislead or deceive each other; and submit to alternative dispute resolution, if necessary.

(2) Covered employers that are or will be covered by any sectoral bargaining agreement have the obligation to respect workers’ rights of free speech, association, and assembly, as well as rights to organize and collectively bargain free from any employer interference, coercion, restraint, or retaliation.

(3) The parties are required to bargain in good faith until reaching a tentative sectoral bargaining agreement, which will then be subject to a ratification vote pursuant to Section 9. If the parties cannot reach a tentative sectoral bargaining agreement within 6 months, either party may seek a determination to fix terms as outlined in Section 8(e).

(b) Initiation. Bargaining for a sectoral bargaining agreement is initiated by one or more covered worker representative(s) or by one or more covered employer representative(s) after certification by the Board. Entering into, or bargaining for, a collective agreement in accordance with the collective bargaining provisions of the National Labor Relations Act (NLRA) or related state law does not prevent the initiation, bargaining, and conclusion of sectoral bargaining for a sectoral bargaining agreement that would apply to a party to any employer-level agreement under the NLRA or related state law.

(c) Content. Each sectoral bargaining agreement must specify the following:

(1) Dates. The agreement must include the date that its terms come into force and the date that the agreement terminates. A sectoral bargaining agreement must apply for a period that is no less than 3 years, but no more than 5 years; and must specify a commencement date, which must apply to each provision of the agreement, and a date on which it expires, which must apply to each provision in the agreement. Upon expiration, all provisions will remain in full force and effect until such time as a new agreement becomes effective, *unless* the covered

worker representative notifies the Board and all covered employers in writing that continuation of the expired agreement’s terms is not in the interests of covered workers, in which case the agreement shall terminate on the date specified in such notice, which shall be no earlier than 90 days following delivery of such notice. In the event that no certified worker representative exists for the relevant sector at the time of expiration or at any point thereafter, the Board shall, on its own motion or upon petition of any covered worker, conduct a review to determine whether continuation of the agreement’s terms remains consistent with the purposes of this Act. Following such review, the Board may order that the agreement continue in effect, be modified, or terminate on a date certain, with adequate notice to covered employers and workers.

(2) Coverage. The agreement must describe with sufficient clarity the work or type of work and each class of worker or type of class that is covered by the agreement.

(3) Terms in sectoral bargaining agreements.

(A) The bargaining parties are required to reach agreement on each of the following subjects, but need not resolve every issue within each subject:

(i) Wages;

(ii) Benefits, including health care and retirement;

(iii) The displacement of, reduction in, or material change to, any job classification due to artificial intelligence or other workplace technology;

(iv) The monitoring or surveillance of workers through artificial intelligence or other workplace technology;

(v) The use of artificial intelligence or other workplace technology in employment decisions, including hiring, discipline, and discharge; and

(vi) Other terms and conditions of employment, such as paid and unpaid leave; health and safety; scheduling; job security; union security and dues checkoff; and discipline and discharge, including just-cause protections and due-process requirements.

(B) The bargaining parties may, but are not required to, also include in a sectoral bargaining agreement:

(i) An alternative dispute resolution process, including binding arbitration; and

(ii) Access to covered workers, including the use of the employers' electronic systems and real property access.

(4) Covered parties' collusion, market allocation, or bargaining over pricing, output, or competitive conditions that directly impact downstream product or service markets outside the labor market are prohibited.

(5) The bargaining parties shall not include any language that would impede, interfere, or coerce covered workers from engaging in concerted activity for the purpose of collective bargaining or other mutual aid or protection.

(6) Employer-level agreements. The existence of a sectoral bargaining agreement does not relieve a covered employer of the obligation to bargain collectively with a labor or worker organization representing its employees.

(d) Dispute resolution. One or more matters relating to bargaining for a sectoral bargaining agreement may be referred to the Board by any bargaining party to assist, directly or indirectly, in resolving coverage or bargaining participation issues, or any other difficulties in concluding the agreement.

(1) Where a matter is referred to the Board, the Board may resolve disputes in connection with the process of bargaining for a sectoral bargaining agreement, including:

(A) Whether a worker or employer is a covered worker or covered employer in relation to a sector or a sectoral bargaining agreement;

(B) Whether a topic can or must be included in a proposed sectoral bargaining agreement;

(C) Matters related to bargaining; and

(D) What constitutes compliance with the sectoral bargaining agreement and/or the Act.

(2) A matter may not be referred to the Board unless the referring party demonstrates that extensive efforts have failed to resolve the dispute or 6 months have elapsed without producing an agreement.

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

(4) If the Board gives a directive to the parties, the parties must comply with the directive and act in good faith to reach a resolution of their differences.

(e) Fixing terms where bad faith bargaining. Where the Board determines that a party has bargained in bad faith in a manner that is deliberate, serious, and sustained, the Board may, upon application by a party alleging bad faith, fix the terms of a proposed agreement.

(f) Determining covered workers.

(1) Each covered employer within a sector that is subject to sectoral bargaining shall be required to submit to the Board an updated list of active covered workers from the initiation of sectoral bargaining on a quarterly basis through final ratification. Such lists shall be examined for accuracy, consolidated, and provided to the covered worker representative by the Board. The covered worker representative may challenge the authenticity of the lists if reasonable suspicion exists (such as employer manipulation of a list, worker suppression, or falsification). Following ratification, covered employers shall be required to submit updated lists to the Board quarterly or upon request of the Board. The covered worker representative may ask the Board for updated lists from covered employers as needed to enforce the terms of the sectoral bargaining agreement.

(2) Covered worker lists provided shall include the following information if available: name, primary work location, language preference, date of hire, date of separation if the worker has left this employment, and relevant contact information, primary residential address, available employer-assigned electronic addresses and phone numbers, and non-work email addresses and phone numbers in the employers’ possession.

(g) Sectoral bargaining agreement as floor.

(1) All employers operating within a covered sector shall provide wages, benefits, and working conditions no less favorable in the aggregate than the terms of the approved sectoral bargaining agreement established under this Act, whether or not the employer is party to any agreement. Collective bargaining agreements reached via employer-level bargaining and individually negotiated employment contracts or agreements shall be construed and applied consistent with the foregoing requirement.

(2) For purposes of this section, compliance shall be assessed on the basis of the overall value of wages, benefits, and working conditions taken together such that a more generous provision in one component may offset a less generous provision in another, provided the aggregate is no less favorable than the terms of an approved sectoral bargaining agreement. Nothing in this section shall be construed to prohibit employer-level bargaining from establishing wages, benefits, and working conditions more favorable than the terms of an approved sectoral bargaining agreement.

**Section 9. Ratification**

(a) Opportunity to review. In order to meet the self-determination objectives of this Act, all workers within a defined sector shall have an opportunity to review a proposed sectoral bargaining agreement and exercise their right to vote.

(1) Within 10 days of the parties submitting the tentative sectoral bargaining agreement for ratification, the Board shall publish the agreement on its website with a link to the agreement on the Board’s home page.

(2) Within 15 days of the parties submitting the tentative sectoral bargaining agreement for ratification, the Board shall transmit the proposed text of the agreement to all covered workers in the sector.

(b) Ratification vote. Once the bargaining parties reach a tentative sectoral bargaining agreement, the agreement will be submitted to the Board to hold a ratification vote.

(1) The Board shall hold a ratification vote for all workers in the sector within 60 days of the parties submitting the tentative sectoral bargaining agreement for ratification.

(2) Unless it otherwise directs, the Board will supervise all ratification votes. All ratification votes shall be by secret ballot and may be conducted by mail, in person, or

through secure electronic means that reasonably protect the anonymity of voters, without imposing procedural requirements beyond what is necessary to ensure a fair and secure vote. The Board may require an election to be held entirely in person, without absentee voting, for good cause.

(3) All covered workers within a given Sector will be eligible to vote. All covered workers will be notified of the ratification vote, their right to vote, and the voting procedure at least 10 days prior to opening voting.

(4) The Board will provide the parties the names of eligible voters at least 30 days prior to opening voting. Any challenges for good cause to voter eligibility must be received 5 days prior to opening voting. The Board must conduct the election, and the ballots of such challenged voters shall be impounded. The Board will resolve ballot challenges within 14 days of the election only if the outcome would be impacted given the number of challenged ballots.

(5) Upon the conclusion of the vote, the tally of ballots shall be provided to the parties.

(c) Voting eligibility and dispute resolution process.

(1) Eligible voters include those covered workers currently being compensated, those otherwise being compensated during bargaining, and seasonal workers from last season or those expected to return to work, as confirmed by the covered worker representative. Eligible voters shall also include covered workers who are on strike or locked out, laid off subject to recall rights, or whose discharge is the subject of an unfair labor practice charge.

(2) Within 7 days of the tally of ballots, a party may file objections to the conduct of the election or conduct affecting the election results together with a description of the

evidence supporting the objections. The Board will commence a hearing to resolve the objections and any potentially outcome-determinative challenges to ballots within 14 days after the tally or as soon thereafter as practicable. The Board will issue a final decision as to the objection within 30 calendar days of the original filing.

(d) Ratification of sectoral bargaining agreement. A Sectoral Bargaining agreement will apply to all covered workers and covered employers within a given sector if a simple majority of ballots cast by covered workers is in favor of ratifying the agreement.

(e) Approval. The bargaining parties must submit a ratified or arbitrator-ordered sectoral bargaining agreement to the Board for final approval. Once the bargaining parties submit such a sectoral bargaining agreement, the Board will review the agreement to determine whether it contains a term or terms that are contrary to law, or that are inconsistent with this Act. In the event that the Board identifies such a term, it shall consider whether the unlawful term can be stricken consistent with the bargain struck by the parties; if so, the Board will strike any such term or terms, provide written justification for such actions, approve the agreement as modified, and deem it in full force and effect.

(f) Publication. Each sectoral bargaining agreement will be placed on the Board’s public website.

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

(a) Petition for sectoral prevailing wage and fringe benefit rate determination.

(1) A labor organization or organizations that are a party to 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).

(2) The petition shall identify the proposed sector, describe the boundaries of the sector consistent with this Act, and provide evidence that:

(A) One or more CBAs within the sector (i) 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

(B) The labor organization(s) party to the CBA(s) consent to the proposed sectoral prevailing wage and fringe benefit rate.

(3) The sectoral prevailing wage and fringe benefit rate, if established, shall be a floor.

(b) 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(b).

(c) 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.

(d) Board review and approval.

(1) The Board shall approve a petition for a sectoral prevailing wage and fringe benefit rate where it finds that:

(A) 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);

(B) 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

(C) The sectoral prevailing wage and fringe benefit rate would protect covered workers from wage suppression or substandard wage competition within the sector.

(2) Additional considerations. In determining whether the sectoral prevailing wage and fringe benefit rate is just and reasonable, the Board may consider:

(A) Prevailing wage rates and compensation practices within the sector;

(B) Regional cost-of-living variations where relevant;

(C) The economic conditions of the sector, including trends in profitability, productivity, and labor supply;

(D) The potential impact of the sectoral prevailing wage and fringe benefit rate on small employers and on maintaining high-road competition, that is, competition among employers based on quality, productivity, and worker investment rather than on lowering wages or labor standards; and

(E) Any input received through a public comment process or stakeholder consultation conducted by the Board.

(e) Overlapping petitions for sectoral prevailing wage and fringe benefit rates.

(1) Covered workers may be included in multiple petitions for sectoral prevailing wage and fringe benefit rates.

(2) Covered workers included in multiple Board-approved sectoral prevailing wage and fringe benefit rate agreements shall be compensated based on the wage and fringe benefit rates that result in the highest total compensation.

(3) If presented with petitions containing overlapping covered workers, the Board may, if the overlap involves greater than 50 percent of covered workers in a single petition, choose to reject the petition containing fewer covered workers.

(f) Decision and publication. The Board shall issue a written decision stating the basis for approval or denial within 30 days of receiving a petition. If approved, the sectoral prevailing wage and fringe benefit rate shall be published by the Board and shall take effect on a date specified in the Board's order, which shall be no later than 90 days after the written decision is issued.

**Section 11. Compliance and Enforcement**

(a) Monitoring. The Board shall have the authority to seek and obtain property access and information from covered employers in order to monitor compliance with any sectoral bargaining agreement and any sectoral prevailing wage and fringe benefit rate. Covered worker representatives may seek and obtain property access and information from covered employers for compliance monitoring purposes where the Board determines that such access is reasonably necessary for that purpose.

(b) Actions. Any covered worker, covered employer, covered worker representative, or covered employer representative that alleges that they or those they represent have been affected by non-observance or non-compliance of an agreement, sectoral prevailing wage and fringe benefit rate, or any provision of this Act may take action against another by:

(1) In the case of covered workers and covered worker representatives, engaging in collective action, including strikes, work stoppages, slowdowns, picketing, boycotts, and concerted refusals to work, subject to any limitations incorporated in a bargaining agreement or embedded in the National Labor Relations Act to the extent applicable;

(2) Seeking enforcement through the mediation and arbitration provisions of the sectoral bargaining agreement; and

(3) Applying to the Board or the courts for any order, determination, direction, declaration, or requirement, including those related to bargaining, compliance, breach, penalties, or fines.

(c) Compliance.

(1) Where the parties choose or the Board orders resolution of non-observance or non-compliance of the agreement through binding arbitration, an arbitrator may impose a final and binding arbitration order. Those affected by the failure of any entity to comply with a compliance order of an arbitrator may apply to a court for enforcement.

(2) The court, upon filing by an affected covered worker, covered employer, covered worker representative, or covered employer representative that an arbitration decision is being violated, shall have the power to order compliance.

(3) Where the court makes a compliance order under this section, it may then adjourn the proceedings, without imposing any penalty or fine or making a final determination, to enable the compliance order to be complied with while the proceedings are adjourned.

(4) The Board, upon motion of an affected covered worker, covered employer, covered worker representative, or covered employer representative, or upon its own motion, shall have the power to order compliance when any entity that is or will be covered by the sectoral bargaining agreement or sectoral prevailing wage and fringe benefit rates has not observed or complied with any directive or order of the Board, arbitrator, or a court or any provision of the agreement.

(5) Where the initial venue chosen is the Board, those affected by the failure of any entity to comply with a compliance order made by the Board may apply to the court for enforcement.

(d) Jurisdiction and forum.

(1) Where arbitration has been authorized by the Board or agreed to by the parties, arbitration shall be the primary forum for claims involving breach of a sectoral bargaining agreement or sectoral prevailing wage and fringe benefit rate. An arbitrator may assess penalties and fines consistent with this section.

(2) Any covered worker, covered employer, covered worker representative, or covered employer representative shall have a private right of action in court for breach of a sectoral bargaining agreement or breach of a sectoral prevailing wage and fringe benefit rate as a contract claim. However, where a party has commenced arbitration proceedings with respect to a particular breach claim, neither party may simultaneously pursue a court action arising from the same breach.

(3) The Board shall have primary jurisdiction over statutory claims under this Act, including violations of the duty to bargain in good faith and employers' obligations to respect workers' rights of free speech, association, assembly, organizing, and collective

bargaining free from interference, coercion, restraint, and retaliation. A party aggrieved by a Board determination may seek court enforcement or review pursuant to this Act.

(e) Court authority. Where a court determines that a breach has occurred, it may order those in breach to take any specified action or cease any specified activity to prevent further non-compliance, and shall specify a time period within which the order is to be obeyed. The court may impose a penalty or fine consistent with this section.

(f) Board authority. The Board has injunctive authority and may issue arbitration orders (to be heard before the Board or a designated arbitrator) and other orders to facilitate agreement and compliance with the agreement, sectoral prevailing wage and fringe benefit rates, and the Act, including but not limited to orders governing union and worker organization access to employer information and property pursuant to this Act.

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

Penalties and fines under this Act may be issued against any entity covered by the Act but shall not exceed [$X,000] per worker per day. No covered entity shall be subject to cumulative penalties exceeding this amount across all forums for the same breach of the agreement or the Act. On July 1 of each year following passage of this Act, the Chair of the Board may adjust the per-worker penalty amount to reflect the cumulative change in the Consumer Price Index over the preceding year, effective as to penalties issued on or after August 1 of that year.

(1) In determining an appropriate penalty or fine, the Board or court shall consider:

(A) The nature and extent of the breach;

(B) Whether the breach was intentional, inadvertent, or negligent;

(C) The nature and extent of any loss or damage suffered by any covered worker, labor organization, or worker organization, or any gain made or loss avoided by the entity in breach;

(D) Whether the entity in breach has paid compensation, reparation, or restitution, or taken other steps to mitigate the effects of the breach; and

(E) Whether the entity in breach has previously been found by the Board or a court to have engaged in similar conduct.

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

**Section 12. Severability**

The provisions of this Act are separate and severable and operate independently from one another. If any provision of this Act is held to be invalid or unenforceable by its terms, or as applied to any person, party, entity or circumstance, or stayed pending further agency action, the provision must be construed so as to continue to give the maximum effect to the provision permitted by law, unless such holding be one of utter invalidity or unenforceability, in which event the provision will be severable from this Act and will not affect the remainder thereof. If this Act is held to be invalid as to any category of covered workers for any reason, it shall remain operative with respect to all other covered workers.

**Section 13. Effect**

[Reserved]