

SENATE No. 1327

The Commonwealth of Massachusetts

PRESENTED BY:

Paul R. Feeney

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:	
<i>Paul R. Feeney</i>	<i>Bristol and Norfolk</i>	
<i>Jason M. Lewis</i>	<i>Fifth Middlesex</i>	<i>2/10/2025</i>
<i>Michael D. Brady</i>	<i>Second Plymouth and Norfolk</i>	<i>2/13/2025</i>
<i>Patricia D. Jehlen</i>	<i>Second Middlesex</i>	<i>2/19/2025</i>
<i>John F. Keenan</i>	<i>Norfolk and Plymouth</i>	<i>2/24/2025</i>
<i>Paul W. Mark</i>	<i>Berkshire, Hampden, Franklin and Hampshire</i>	<i>3/2/2025</i>
<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>	<i>3/2/2025</i>

SENATE No. 1327

By Mr. Feeney, a petition (accompanied by bill, Senate, No. 1327) of Paul R. Feeney, Jason M. Lewis, Michael D. Brady, Patricia D. Jehlen and other members of the Senate for legislation to protect labor relations and abolish barriers to 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

Commonwealth, its employers and employees would face uncertainty in determining the applicable law.

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

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

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

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

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

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

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

training, and other similar services to the commonwealth or its political subdivisions, but shall not include any individual employed as an agricultural worker, except as provided in section five A, or in the domestic service of any family or person at his home, or any individual employed by his parent or spouse.

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

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

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

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

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

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

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

(12) The term "written majority authorization" shall mean writings signed and dated by employees in the form of authorization cards, petitions or such other written evidence that the

commission finds suitable, whether handwritten or in electronic form, in which a majority of employees in a unit appropriate for the purposes of collective bargaining designates or selects a labor organization as its representative for the purposes of collective bargaining and certifies the designation to be its free act and deed and given without consideration. Employee signatures shall be dated within the 12 months preceding the date on which the writings are proffered to establish majority and exclusive representative status within the meaning of subsection (a) of section 5. The Department shall, within 90 days of the effective date of this Law, issue draft regulations for the format and verification of electronic signatures.

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

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

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

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

SECTION 10. Section 4 of Chapter 150A of the Massachusetts General Laws is hereby amended by inserting, in paragraph (3) after the words “employment membership therein,” the

words:- or in lieu of membership, payment of an agency service fee constituting the full cost of representation on a pro rata basis,

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Notwithstanding any other provision of this section or any other general or special law, in the event that the National Labor Relations Board determines that any employer, employees, trade or industry, as defined in Section 1 falls outside the scope of the National Labor Relations Act's coverage, or should the Board decline jurisdiction over the same, G.L. c. 150A shall hereby upon the effective date of this legislation or the date NLRA determines the absence of its authority, whichever is later. The department shall, upon application, promptly certify the exclusive bargaining representative of any bargaining unit previously certified by the National Labor Relations Board and whose certification remained in effect until federal preemption was no longer effective.

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

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

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

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

Section 5B. Agents and other Persons Assisting Employers.

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

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

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

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

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

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

(c) If upon the record before him such agent shall determine that an unfair labor practice has been committed by a person named in the complaint, he shall issue and cause to be served upon such person an order requiring such person to cease and desist from such unfair labor practice, and to take such further affirmative action as will effectuate the provisions of this chapter, including, but not limited to, the relief permitted in sub-section (d) of this Section. If the agent determines that an unfair labor practice has not been committed, he shall issue an order dismissing the complaint. An order issued pursuant to this subsection shall become final and binding unless, within ten days after notice thereof, any party requests review by the board. A review may be made upon a written statement of the case by the agent agreed to by the parties, or upon written statements furnished by the parties, or, if any party or the board requests, upon a transcript of the testimony taken at the hearing, if any, together with such other testimony as the board may require.

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

(d) (1) If the department finds that an employer has discriminated against an employee in violation of paragraph (3) or (4) of section 10(a) or has committed a violation of section 10(a) that results in the discharge of an employee or other serious economic harm to an employee, the department shall award the employee back pay without any reduction (including any reduction based on the employee's interim earnings or failure to earn interim earnings), front pay (when

appropriate), consequential damages, an additional amount as liquidated damages equal to three (3) times the amount of damages awarded, punitive damages where appropriate, and reasonable attorneys' fees and costs.

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

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

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

(4) In awarding punitive damages under paragraph (d)(1) of this section, the court shall 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.

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

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

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

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

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

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

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

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

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

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

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

Section 6D.

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

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

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

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

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

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

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

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

(1) The department, or the board upon a request for review, shall at all reasonable times have access to, for the purpose of examination, and the right to copy any evidence of any person being investigated or proceeded against that relates to any matter under investigation or in question. Any agent of the department, or the board upon a request for review, shall have power to issue subpoenas requiring the attendance and testimony of witnesses and the production of any evidence that relates to any matter under investigation or in question before the department at a hearing or investigation or before the board upon a request for review. The department or any agent of the department, or the board upon a request for review, may administer oaths and affirmations, examine witnesses, and receive evidence. Such attendance of witnesses and the production of such evidence may be required from any place in the commonwealth, at any designated place of hearing.

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

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

(4) Complaints, orders and other process and papers of the department and their agents or the board may be served either personally or by registered mail or by telegraph or by leaving a copy thereof at the principal office or place of business of the person required to be served. The verified return by the individual so serving the same setting forth the manner of such service shall be proof of service of the same, and the return post office receipt or telegraph receipt therefor when registered and mailed or telegraphed as aforesaid shall be proof of service of the same. Witnesses summoned before the department and its agents or the board shall be paid the

377 same fees and mileage that are paid witnesses in civil cases before the courts of the
378 commonwealth, and witnesses whose depositions are taken and the persons taking the same shall
379 severally be entitled to the same fees as are paid for like services in the courts of the
380 commonwealth.

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

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

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

390 Section 7A.

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

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

395 (2) The term “ in-person captive audience meeting” is defined as an in-person
396 meeting in which attendance of a bargaining unit member is required by an employer or

397 supervisor, actually or constructively, as a condition of employment or to receive a benefit or
398 avoid retaliation.

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

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

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

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

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

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

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

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

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

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

(1) The term “electronic voting system”—

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

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

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

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

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

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

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