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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 1866 Session of  
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McCLINTON, FRANKEL, DALEY, INNAMORATO AND DONATUCCI,  
DECEMBER 2, 2019

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REFERRED TO COMMITTEE ON LABOR AND INDUSTRY, DECEMBER 2, 2019

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AN ACT

1 Providing for the right to organize and for collective  
2 bargaining rights for farm laborers.

3 The General Assembly of the Commonwealth of Pennsylvania  
4 hereby enacts as follows:

5 Section 1. Short title.

6 This act shall be known and may be cited as the Farm Laborers  
7 Collective Bargaining Act.

8 Section 2. Findings and declarations.

9 The General Assembly finds and declares as follows:

10 (1) Under prevailing economic conditions, farm laborers  
11 do not possess full freedom of association or actual liberty  
12 of contract.

13 (2) Farm employers in many instances, organized in  
14 corporate or other forms of ownership associations with the  
15 aid of government authority, have superior economic power in  
16 bargaining with farm laborers.

1           (3) The growing inequality of bargaining power between  
2 farm employers and farm laborers substantially and adversely  
3 affects the general welfare of this Commonwealth by creating  
4 variations and instability in competitive wage rates and  
5 working conditions and by depressing the purchasing power of  
6 wage earners, thereby:

7           (i) Creating sweatshops with their attendant dangers  
8 to the health, peace and morals of the people.

9           (ii) Increasing the disparity between production and  
10 consumption.

11           (iii) Tending to produce and aggravate recurrent  
12 business depressions.

13           (4) The denial by some farm employers of the right of  
14 farm laborers to organize and the refusal by farm employers  
15 to accept the procedure of collective bargaining tend to lead  
16 to strikes, lockouts and other forms of strife and unrest,  
17 which are inimical to the public safety and welfare and  
18 frequently endanger the public health.

19           (5) Experience has proven that protection by law of the  
20 right of employees to organize and bargain collectively:

21           (i) removes certain recognized sources of industrial  
22 strife and unrest;

23           (ii) encourages practices fundamental to the  
24 friendly adjustment of industrial disputes arising out of  
25 differences as to wages, hours or other working  
26 conditions; and

27           (iii) tends to restore equality of bargaining power  
28 between employers and employees.

29           (6) The success of this Commonwealth's robust  
30 agriculture industry is due to the collaborative work between

1 farm employers and farm laborers.

2 (7) Farm laborers are one of the few classes of  
3 employees that are not covered by the Fair Labor Standards  
4 Act of 1938 (52 Stat. 1060, 29 U.S.C. § 201 et seq.) or the  
5 National Labor Relations Act (49 Stat. 449, 29 U.S.C. § 151  
6 et seq.), thereby denying these valuable employees the same  
7 basic labor protections and the right to collective  
8 bargaining that almost all other private sector workers  
9 enjoy.

10 (8) Despite regularly working 50, 60, 70 or even more  
11 hours a week doing arduous and difficult work, often with  
12 heavy equipment, pesticides, fertilizers and other dangerous  
13 materials and in sometimes hazardous situations, farm  
14 laborers remain excluded from collective bargaining statutes  
15 and the right to a day of rest, overtime and other labor  
16 protections that are in place at the Federal or State level  
17 for other workers.

18 (9) The agricultural industry is subject to unique and  
19 unpredictable factors, including climate and weather, pricing  
20 and market requirements, seasonal harvests, immigration and  
21 various Federal and State laws, rules and regulations that  
22 directly impact farm employers and require a unique balance  
23 and application of traditional labor protections to ensure  
24 that farm laborers have a voice in their own terms and  
25 conditions of employment and access to basic labor  
26 protections while also creating adaptability and  
27 responsiveness to the unique circumstances of farm  
28 operations.

29 (10) In the interpretation and application of this act  
30 and otherwise, it is hereby declared to be the public policy

1 of the Commonwealth to encourage the practice and procedure  
2 of collective bargaining and to protect the exercise by farm  
3 laborers of full freedom of association, self-organization  
4 and designation of representatives of their own choosing, for  
5 the purpose of negotiating the terms and conditions of their  
6 employment or other mutual aid or protection, free from the  
7 interference, restraint or coercion of farm employers.

8 Accordingly, all the provisions of this act shall be  
9 liberally construed for the accomplishment of this purpose.

10 Section 3. Definitions.

11 The following words and phrases when used in this act shall  
12 have the meanings given to them in this section unless the  
13 context clearly indicates otherwise:

14 "Board." The Pennsylvania Labor Relations Board.

15 "Farm employer." As follows:

16 (1) Every individual, firm, partnership, association,  
17 trust, corporation, receiver or other officer of a court of  
18 this Commonwealth, or any person or group of persons acting  
19 directly or indirectly in the interest of an employer in  
20 relation to any employee, employing or permitting to work any  
21 farm laborer in this Commonwealth.

22 (2) The term includes every farmer, grower, nurseryman  
23 or landowner who employs, or on whose premises or in whose  
24 interest is employed, any farm laborer.

25 "Farm labor." As follows:

26 (1) A service performed in agricultural employment in  
27 connection with cultivating the soil or raising or harvesting  
28 agricultural commodities, including raising, shearing, caring  
29 for or managing livestock, poultry or dairy.

30 (2) The term includes seasonal farm labor.

1 "Farm laborer." As follows:

2 (1) An individual who is engaged, or permitted by a farm  
3 employer, to work in farm labor.

4 (2) The term includes a seasonal farm worker.

5 (3) The term does not include an individual who is a  
6 parent, spouse, child or other immediate family member of a  
7 farm employer.

8 "Labor dispute." Includes a controversy concerning:

9 (1) the terms, tenure or conditions of employment; or

10 (2) the association or representation of persons in  
11 negotiating, fixing, maintaining, changing or seeking to  
12 arrange terms or conditions of employment, regardless of  
13 whether the disputants stand in the proximate relation of  
14 employer and employee.

15 "Labor organization." As follows:

16 (1) An organization of any kind, or an agency or  
17 employee representation committee or plan in which farm  
18 laborers participate, which exists for the purpose, in whole  
19 or in part, of dealing with farm employers concerning  
20 grievances, labor disputes, wages, rates of pay, hours of  
21 employment or conditions of work.

22 (2) The term does not include a labor organization that,  
23 by ritualistic practice, constitutional or bylaw proscription  
24 or tacit agreement among its members or otherwise, denies a  
25 person membership in the organization on account of race,  
26 creed, color or political affiliation.

27 "Representative." Includes an individual or labor  
28 organization.

29 "Seasonal farm labor." As defined in section 103 of the  
30 Seasonal Farm Labor Act.

1 "Seasonal Farm Labor Act." The act of June 23, 1978  
2 (P.L.537, No.93), known as the Seasonal Farm Labor Act.

3 "Seasonal farm worker." As defined in section 103 of the  
4 Seasonal Farm Labor Act.

5 Section 4. Rights of farm laborers.

6 (a) Rights generally.--A farm laborer shall have the right  
7 to:

8 (1) Self-organization.

9 (2) Form, join or assist a labor organization.

10 (3) Bargain collectively through representatives of the  
11 farm laborer's own choosing.

12 (4) Engage in concerted activities for the purpose of  
13 collective bargaining or other mutual aid or protection.

14 (b) Day of rest.--Except as provided in subsection (d), a  
15 farm laborer shall be allowed at least 24 consecutive hours of  
16 rest in each calendar week. The following shall apply:

17 (1) The 24-hour requirement may be satisfied as a result  
18 of certain circumstances, such as weather or crop conditions.

19 (2) This subsection shall not prohibit a farm laborer  
20 from voluntarily agreeing to work on a designated day of rest  
21 under this subsection if the farm laborer is compensated at  
22 an overtime rate that is at least one and one-half times the  
23 farm laborer's regular rate of pay for all hours worked on  
24 the day of rest.

25 (3) The day of rest required under this subsection must,  
26 whenever possible, coincide with the traditional day reserved  
27 by the farm laborer for religious worship.

28 (c) Maximum hours.--Except as provided in subsection (d), a  
29 farm employer may not require a farm laborer to work more than  
30 60 hours in a calendar week, unless the farm laborer is

1 compensated at an overtime rate that is at least one and one-  
2 half times the farm laborer's regular rate of pay.

3 (d) Seasonal farm labor.--For a seasonal farm worker,  
4 Chapters 2, 3 and 4 of the Seasonal Farm Labor Act shall govern  
5 regarding the minimum rates and standards for all collective  
6 bargaining under this act.

7 Section 5. Right to collective bargaining, adjustment and  
8 settlement.

9 A farm laborer shall:

10 (1) Through labor organizations or other representatives  
11 designated by a simple majority vote of farm laborers for a  
12 single farm or farm employer, have the right to bargain  
13 collectively with a farm employer concerning the terms and  
14 conditions of employment, including compensation, hours,  
15 working conditions, retirement, pensions and other benefits.

16 (2) Have the right to an adjustment or settlement of  
17 grievances or disputes in accordance with this act.

18 Section 6. Representatives and elections.

19 (a) Exclusive representatives.--Except as provided in  
20 subsection (b), representatives selected or designated for the  
21 purposes of collective bargaining by the majority of farm  
22 laborers at a single farm or farm employer shall be the  
23 exclusive representatives of all farm laborers at the single  
24 farm or farm employer for the purposes of collective bargaining  
25 with respect to rates of pay, wage, hours of employment and  
26 other conditions of employment.

27 (b) Grievances.--An individual farm laborer or group of farm  
28 laborers shall have the right at any time to present grievances  
29 to the farm employer.

30 Section 7. Mutual responsibilities.

1 A farm employer and farm laborers shall pursue every  
2 reasonable effort to settle a labor dispute by engaging in  
3 collective bargaining in good faith, entering into settlements  
4 through written agreements and maintaining written agreements  
5 designed to avoid a labor dispute.

6 Section 8. Protocol.

7 (a) Collective bargaining.--Collective bargaining between a  
8 farm employer and farm laborers shall begin at least six months  
9 prior to the expiration of the previous collective bargaining  
10 agreement or within 60 days of certification of the labor  
11 organization.

12 (b) Arbitration.--A request for arbitration under this act  
13 shall be made at least 110 days prior to the expiration of a  
14 collective bargaining agreement.

15 Section 9. Unfair labor practices.

16 (a) Farm employers.--It shall be an unfair labor practice  
17 for a farm employer to do any of the following:

18 (1) Interfere with, restrain or coerce farm laborers in  
19 the exercise of the rights guaranteed in this act.

20 (2) Dominate or interfere with the formation of  
21 administration of a labor organization or contribute  
22 financial or other material support to it, but, subject to  
23 rules and regulations made and published by the board under  
24 this act, a farm employer shall not be prohibited from  
25 permitting farm laborers to confer with the farm employer  
26 during working hours without loss of time or pay.

27 (3) Discriminate regarding the hiring or tenure of  
28 employment of farm laborers or any term or condition of  
29 employment, to encourage or discourage membership in a labor  
30 organization, but nothing in this act, or in an agreement



1 approved or prescribed under this act or in any other statute  
2 of this Commonwealth, shall preclude a farm employer from  
3 making an agreement with a labor organization, which is not  
4 established, maintained or assisted by an action defined in  
5 this act as an unfair labor practice, to require as a  
6 condition of employment, membership in the labor  
7 organization, if the labor organization is the representative  
8 of the farm laborers, as provided in section 7(a) of the act  
9 of June 1, 1937 (P.L.1168, No.294), known as the Pennsylvania  
10 Labor Relations Act, in the appropriate collective bargaining  
11 unit covered by the agreement when made and if the labor  
12 organization does not deny membership in its organization to  
13 a farm laborer of the farm employer at the time of the making  
14 of the agreement, provided that the farm laborer was not  
15 employed in violation of a previously existing agreement with  
16 the labor organization.

17 (4) Discharge or otherwise discriminate against a farm  
18 laborer because the farm laborer has filed charges or given  
19 testimony under this act or any other statute or act of this  
20 Commonwealth.

21 (5) Refuse to bargain collectively with the  
22 representatives of the farm laborers, subject to section 7(a)  
23 of the Pennsylvania Labor Relations Act.

24 (6) Deduct, collect or assist in collecting from the  
25 wages of farm laborers any dues, fees, assessments or other  
26 contributions payable to a labor organization, unless the  
27 farm employer:

28 (i) is authorized to do so by a majority vote of all  
29 the farm laborers in the appropriate collective  
30 bargaining unit taken by secret ballot; and

1           (ii) thereafter receives the written authorization  
2           from each farm laborer whose wages are affected.

3           (b) Labor organizations.--It shall be an unfair labor  
4 practice for a labor organization, an officer or agent of a  
5 labor organization, a person acting in the interest of a labor  
6 organization or a farm laborer acting in concert to do any of  
7 the following:

8           (1) Intimidate, restrain or coerce a farm laborer for  
9           the purpose or with the intent of:

10           (i) compelling the farm laborer to join or refrain  
11           from joining a labor organization; or

12           (ii) influencing or affecting the farm laborer's  
13           selection of representatives for the purposes of  
14           collective bargaining.

15           (2) During a labor dispute, join or become a part of a  
16           sitdown strike, or, without the farm employer's  
17           authorization, seize, hold, damage or destroy any building,  
18           structure, equipment, machinery or other property of the farm  
19           employer, with the intent of compelling the farm employer to  
20           accede to demands, conditions or terms of employment,  
21           including the demand for collective bargaining.

22           (3) Intimidate, restrain or coerce a farm employer by  
23           threats of force, violence or harm to the person of the farm  
24           employer or the members of the farm employer's family, with  
25           the intent of compelling the farm employer to accede to  
26           demands, conditions or terms of employment, including the  
27           demand for collective bargaining.

28           (4) Picket or cause to be picketed a place of employment  
29           by a person who is not a farm laborer at the place of  
30           employment.

1           (5) Engage in a secondary boycott or hinder or prevent  
2 by threat, intimidation, force, coercion or sabotage, the  
3 obtaining, use or disposition of materials, equipment or  
4 services, or combine or conspire to hinder or prevent by any  
5 means whatsoever, the obtaining, use or disposition of  
6 materials, equipment or services.

7           (6) Call, institute, maintain or conduct a strike or  
8 boycott against a farm employer or picket a place of business  
9 of the farm employer on account of a jurisdictional  
10 controversy.

11 Section 10. Impasse resolution procedures for farm employers  
12 and farm laborers.

13 (a) Impasse.--

14           (1) For purposes of this section, an impasse is deemed  
15 to exist if a farm employer and labor organization fail to  
16 achieve agreement by the end of a 45-day period from the date  
17 of certification or recognition of the labor organization as  
18 a representative of farm laborers or from the expiration date  
19 of a collective bargaining agreement, or if the appropriate  
20 lawmaking body does not approve the agreement reached by  
21 collective bargaining, with the result that the farm employer  
22 and farm laborers are unable to effect a settlement.

23           (2) If an impasse as described in paragraph (1) exists,  
24 either party to the dispute, after written notice to the  
25 other party containing specifications of each issue in  
26 dispute, may request the appointment of a board of  
27 arbitration.

28 (b) Request for board assistance.--Upon impasse, a farm  
29 employer or recognized labor organization may request the board  
30 to render assistance as provided in this section. If the board

1 determines that an impasse exists in the course of collective  
2 bargaining negotiations between the farm employer and recognized  
3 labor organization, the board shall aid the parties in effecting  
4 a voluntary resolution of the dispute.

5 (c) Board of arbitration.--

6 (1) A board of arbitration shall be composed of the  
7 following three members:

8 (i) An individual appointed by the farm employer.

9 (ii) An individual appointed by the body of farm  
10 laborers involved.

11 (iii) An individual to be agreed upon by the farm  
12 employer and the body of farm laborers involved.

13 (2) Each member of the board of arbitration representing  
14 the farm employer or farm laborers shall be named within five  
15 days from the date of the request for the appointment of the  
16 board of arbitration.

17 (3) If, after a period of 10 days from the date of the  
18 appointment of the two arbitrators appointed by the farm  
19 employer and farm laborers, the third arbitrator has not been  
20 appointed by them, either arbitrator may request the American  
21 Arbitration Association, or its successor in function, to  
22 furnish a list of three members of the American Arbitration  
23 Association who are residents of this Commonwealth from which  
24 the third arbitrator shall be appointed. The following shall  
25 apply:

26 (i) Within five days after publication of the list,  
27 the arbitrator appointed by the farm employer shall  
28 eliminate one name from the list.

29 (ii) Within five days after the elimination of one  
30 of the names under subparagraph (i), the arbitrator

1 appointed by the farm laborers shall eliminate one name  
2 from the list.

3 (iii) The individual whose name remains on the list  
4 after the elimination of the two names under  
5 subparagraphs (i) and (ii) shall be the third arbitrator,  
6 who shall serve as the chairperson of the board of  
7 arbitration.

8 (4) A board of arbitration shall commence arbitration  
9 proceedings within 10 days after the third arbitrator is  
10 appointed.

11 (5) A board of arbitration shall make a determination  
12 within 30 days after the appointment of the third arbitrator.

13 (6) The determination of the majority of the members of  
14 the board of arbitration shall be final on each issue in  
15 dispute and shall be binding upon the farm employer and farm  
16 laborers involved. The following shall apply:

17 (i) The determination shall be in writing.

18 (ii) A copy of the determination shall be forwarded  
19 to both parties to the dispute.

20 (iii) No appeal from the determination shall be  
21 allowed to any court.

22 (iv) The determination shall constitute a mandate to  
23 the farm employer to take the action necessary to carry  
24 out the determination of the board of arbitration.

25 (7) Compensation for the members of a board of  
26 arbitration shall be as follows:

27 (i) The compensation, if any, of the arbitrator  
28 appointed by the farm laborers shall be paid by the farm  
29 laborers.

30 (ii) The compensation of the other two arbitrators

1           shall be paid by the farm employer.

2           (8) Stenographic and other expenses incurred by the  
3       board of arbitration in connection with the arbitration  
4       proceedings shall be paid by the farm employer.

5 Section 11. Repeals.

6       All acts and parts of acts are repealed insofar as they are  
7       inconsistent with this act.

8 Section 12. Effective date.

9       This act shall take effect immediately.