



Agricultural Worker Labor and Employment Laws Study Committee

Highlights of States' Agricultural Worker Collective Bargaining Laws

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Overview

- 14 States currently permit agricultural workers to collectively bargain
 - 13 have done so in statute
 - New Jersey has done so in its constitution
- The Maine Legislature passed a bill to permit agricultural workers to collectively bargain, but it was vetoed by the Governor in January 2022.

Employer Definition

- “Agricultural Employer” is only defined in some of the states’ laws
 - Definitions frequently cross reference a federal law, including the NLRA, FLSA, and unemployment insurance law
- Several states’ laws only apply to larger farms:
 - Arizona: 6 or more employees employed for 30 days during the past 6 months
 - Colorado: 8 or more employees
 - Hawaii: 2 or more employees
 - Kansas: 6 or more employees for 20 or more days in any month in past 6 months
 - Massachusetts: 4 or more permanent employees
 - Maine: 5 or more agricultural employees

Definition of Employee

- The definition of employee is generally broad with specific exceptions for certain types of employees, such as:
 - Immediate family of the farmer
 - Independent contractors
 - Supervisors
 - Confidential Employees
 - Guards
 - Tenants or sharecroppers

Factors for Determining Bargaining Units

- Most states look to common factors such as whether common interests and working conditions exist among the employees in the bargaining unit
- Arizona directs its Agricultural Employment Relations Board to consider whether a bargaining unit should consist of:
 - (1) only temporary workers;
 - (2) only permanent workers; or
 - (3) both.
- California directs its Agricultural Labor Relations Board to consider whether geographically separate worksites should have separate bargaining units

Union Certification

- 8 of 14 states permit secret ballot elections for union certification
- 4 of those 8 states also permit majority signup for union certification
- New York requires that the majority signup be in the form of a dues deduction authorization
- Maine would have permitted both secret ballot elections and majority signup
- The remaining 6 states' statutes are silent regarding union certification

Dispute Resolution

- 7 of 14 states provide for mediation to resolve bargaining disputes
- 2 of 14 states provide for fact finding to resolve bargaining disputes
- 6 of 14 states provide for arbitration or a determination by an oversight body to resolve bargaining disputes
- 11 of 14 states appear to permit some form of strike
 - The right to strike is often limited

Limitations on Right to Strike

- Arizona: Permits court to stop a strike for 10 days if employer agrees to arbitration. Court may enjoin strike if it would result in loss of products valued at \$5,000.00 or more.
- Colorado requires 30 days' notice to oversight body of any strike that may harm agricultural products, which will notify employer and attempt to mediate/convince parties to arbitrate.
- Hawaii requires 10 days notice to oversight body, which will notify employer
- Kansas prohibits strikes "periods of marketing of livestock or during a critical period of production or harvesting of crops."

Limitations on Right to Strike

- New York prohibits strikes, work stoppages, and work slowdowns.
- Oregon: Prohibits picketing at a farm, ranch, or orchard during harvest, except by employees of the farm, ranch, or orchard.
- Wisconsin requires 10 days' notice to oversight body of any strike that may harm agricultural products, which will notify employer and attempt to mediate/convince parties to arbitrate.

Oversight Body

- 3 of 14 states created an entity for the purpose of overseeing agricultural collective bargaining
- 7 of 14 states delegated oversight of agricultural collective bargaining to an existing labor relations oversight entity or another state agency
- 3 of 14 states have no apparent oversight body
- New Jersey's courts have charged the New Jersey State Board of Mediation with certain oversight responsibilities
- Maine would have delegated oversight to its existing Labor Relations Board