

MAINE STATE LEGISLATURE

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STATE OF MAINE
SENATE
106TH LEGISLATURE

SENATE AMENDMENT " B " to H. P. 1511, L. D. 1941, Bill, "AN ACT to Create a Maine Agricultural Bargaining Board."

Amend said Bill by striking out all of paragraph D of subsection 3 of that part designated "§1957." of section 1.

Further amend said Bill by striking out all of subsection 2 of that part designated "§1956." of section 1 and inserting in place thereof the following:

'2. Membership. The board shall consist of 5 members who shall be appointed by the Governor with the approval of the Council. One member shall be appointed from a list of names submitted by agricultural producer organizations organized under this subchapter and chapter 81. One shall be appointed from a list of names submitted by processors of agricultural products. Three shall be representatives of the public.

The initial terms of office of members of the board shall be 2 years for 2 representatives of the public and 3 years for the producer and processor representative and 4 years for the remaining public member. The Governor shall designate one member to serve as chairman of the board. Thereafter all terms shall be for a period of 5 years. Each member of the board shall be eligible for reappointment and shall hold office until his successor is appointed and qualified. In the event of a vacancy, the Governor and Council shall, within one month, appoint a successor to fill the unexpired term of his predecessor.

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All appointments to the board shall be made in conformity with the foregoing plan. Members shall take the oath of office prescribed for state officers.'

Further amend said Bill in that part designated "§1958." of section 1 by inserting after subsection 1 the following:

'1-A. Determination of bargaining units. Whenever a petition shall have been filed in accordance with such regulations as may be prescribed by the board:

A. By a qualified association alleging that a substantial number of producers wish to be represented for collective bargaining and that the handler for whom they are or have been producing in accordance with subsection 2 declines to recognize the association as their representative; or

B. By a handler alleging that one or more qualified associations has presented to him a claim to be recognized as the bargaining agent for producers under subsection 2.

The board shall investigate such petition and if it has reasonable cause to believe that a question of representation exists, shall provide for an appropriate hearing upon due notice. If the board finds upon the record of such hearing that such question of representation exists, it shall direct an election by secret ballot and shall certify the results thereof. An association shall not be certified as the bargaining representative of its member producers unless 51% of the producers in number who produced at least 1/2 of

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the volume of the particular agricultural product acquired by such handler during the previous 12 months have voted in favor of being represented by such association in such election. In all matters pertaining to the investigation of such petition and the conduct of such election, the board shall be covered by the rules and regulations currently adopted by the National Labor Relations Board in such matters to the fullest extent possible under the circumstances.'

Further amend said Bill by striking out all of subsection 4 of that part designated "§1958." of section 1 and inserting in place thereof the following:

'4. --limitation. It shall be unlawful for a handler to negotiate with other producers of a product with respect to the price, terms of sale, compensation for commodities produced under contract, and other contract provisions relative to such product, while negotiating with a qualified bargaining association certified as a bargaining representative by the board. Provided, however, that nothing contained herein shall preclude a handler from obtaining agricultural products from other producers if the members of the qualified association fail or refuse to furnish such products to the handler during the negotiating period.'

Further amend said Bill by striking out in the 2nd line of subsection 5 (first line in L. D.) of that part designated "§1958." of section 1 the underlined word "purchase" and inserting in place thereof the underlined word 'acquire'

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Further amend said Bill by striking out in the 7th line of subsection 5 (6th and 7th lines in L. D.) of that part designated "§1958." of section 1 the underlined words "a reasonable time" and inserting in place thereof the underlined figure and word '30 days'

Further amend said Bill by adding at the end of section 1 the following:

'§1965. Unfair practices

1. It shall be an unfair practice for a qualified association or its agent or for individuals:

A. To enter into a contract which discriminates against a producer represented by an accredited association whether or not he is a member producer;

B. To act in a manner contrary to the bylaws of the association;

C. To refuse to bargain with a handler with whom the accredited association has had prior dealing or with whom its producers have had substantial dealing prior to the accreditation of the association;

D. To coerce or intimidate a handler to breach, cancel or terminate a membership agreement or marketing contract with an association or a contract with a producer;

E. To make or circulate unsubstantiated reports about the finances, management or activities of other associations or handlers;

F. To conspire, combine, agree or arrange with any other person to do or aid or abet the doing of any practice which is in violation of this subchapter;

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G. To hinder or prevent, by mass picketing, threats, intimidations, force or coercion of any kind, the pursuit of any lawful work or employment, or to obstruct or interfere with entrance to or egress from any place of employment, or to obstruct or interfere with free and uninterrupted use of public roads, streets, highways, railways, airports or other ways of travel or conveyance;

H. To take unauthorized possession of a handler's property or to hold or damage or destroy the property of the handler with the intent of compelling the handler to accede to demands, conditions and terms of bargaining agreements, including the demand for collective bargaining;

I. To picket or otherwise patrol at premises owned or controlled by such handler;

J. To engage in a strike against, or in a refusal to handle and provide agricultural products, including but not limited to poultry and poultry products which are raised by members of a qualified association and delivered to handlers on a periodic basis during the entire year;

K. To picket or otherwise patrol where such conduct is at a business establishment other than the premises owned or controlled by the handler with whom a primary dispute exists;

L. To engage in, or to induce or encourage any person to engage in, a refusal by strike or otherwise in the course of his employment to use, manufacture, process, transport or otherwise handle or work on any agricultural commodity after the commodity has left the farm of its origin;

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M. To threaten, coerce or restrain any person, where in either case an object thereof is:

(1) Forcing or requiring any producer or self-employed person to join any association of producers;

(2) Forcing or requiring any person to enter into an agreement, express or implied, whereby such person ceases or refrains or agrees to cease or refrain from handling, using, selling, transporting or otherwise dealing in any agricultural commodity; or

(3) Forcing or requiring any person to cease using, selling, handling, transporting or otherwise dealing in any agricultural commodity produced by any other producer or any other person or to cease doing business with any producer or any other person.'

Statement of Fact

The purpose of this amendment is to make the Act consistent with provisions of the National Labor Relations Act, L. D. 1811, the Agricultural Labor Act and the Michigan Agricultural Marketing and Bargaining Act which became effective on January 9, 1973.

(Speers)

NAME:

COUNTY: Kennebec

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