

AGRICULTURAL COOPERATIVE BARGAINING ASSOCIATION STATUTES BRIEFING PAPER

(Division 20, Chapter 2, Section 54401 et seq., of the Food and Agricultural Code)

The Department of Food and Agriculture's Marketing Branch administers the Cooperative Bargaining Association Law. This Law, is also referred to as the Unfair Trade Practices Act (Act), was enacted in 1967 to protect farmer's rights to bargain fairly for price with processors via cooperative bargaining associations in which they choose to freely participate. Prior to the enactment of this Statute many allegations of interference with a fair bargaining process were issued against both processors and bargaining associations.

Under this Law, the Department has three obligations:

1. To hear and resolve unfair trade practice complaints (complaints received rarely).
2. To receive Requests for Conciliation and to initiate the process for resolution. Arrangements for a Conciliation Service are made either as agreed upon by the negotiating parties or as selected by the Department if no service is agreed upon by the parties.
3. To facilitate meetings of the Agricultural Cooperative Associations Advisory Committee.

Background

Unfair Trade Practices – Initially, the Law was enforced by the Department when an unfair trade practices complaint was filed by either a producer bargaining association or a processor. The initial Law established a thorough yet costly and impractical process for resolving these complaints. As a result, only a handful of complaints were filed even though the Law allowing for filing of these complaints remains active. The initial legislation contained a General Fund appropriation of nearly \$200,000.

Conciliation – In 1989, the Law was amended to include a simpler and more practical conciliation process for resolving these disputes. The process for the Department to Order conciliation involves a ten-day administrative procedure initiated by a request from either a producer bargaining association or a processor. In 1992, the entire General Fund appropriation to support these Department activities was eliminated, these request for conciliation are now voluntarily accompanied by a check from the requesting party for \$500 to cover the Department's costs associated with administering the request. Once the Department orders conciliation, the process is turned over to a private conciliation service. This service will make all subsequent arrangements and conducts the conciliation. All further costs are charged directly to the participants.

Attached is a list of the 35 requests for conciliation processed by the Department since 1989. Most of these conciliation processes were resolved successfully.

Cooperative Bargaining Associations Advisory Committee – The Committee is required by Law to meet at least once each year. The Marketing Branch Staff organize these Committee meetings and facilitate its activities. We prepare the annual report to the Secretary as well as devoting time to manage special requests of the Committee.