
SENATE COMMITTEE ON APPROPRIATIONS

Senator Anthony Portantino, Chair
2021 - 2022 Regular Session

AB 2183 (Stone) - Agricultural labor relations

Version: March 24, 2022

Urgency: No

Hearing Date: August 1, 2022

Policy Vote: L., P.E. & R. 4 - 0, JUD. 8 - 1

Mandate: Yes

Consultant: Robert Ingenito

Bill Summary: AB 2183 would enable farm workers to choose, for the purpose of union elections, between the current practice of voting in-person at a physical location, or utilizing a new option to vote (as specified) by mailing or dropping off a ballot card to the relevant Agricultural Labor Relations Board (ALRB) office.

Fiscal Impact: ALRB estimates that, based on current election activity, costs to implement the bill would likely be absorbable. However, if election activity increases in the future, ALRB notes that it would require staff resources to ensure timely processing and review of representation ballot card election petitions. Additionally, the current version of the bill contains provisions (in particular, those related to personal liability and civil penalties) that versions of the bill in previous years did not, potentially leading to additional workload. Thus, the bill could result in costs exceeding \$50,000 in a future year (General Fund). Additionally, the bill could result in penalty revenues to the State; the magnitude is unknown but probably minor.

Background: Enacted in 1975, the Agricultural Labor Relations Act (ALRA) governs how farm workers can collectively choose to unionize should they wish to do so. Specifically, ALRA sets forth the procedures for conducting an election, overseen by ALRB, in which all of the farm workers in a proposed bargaining unit cast ballots to indicate whether they wish to be represented by a union. Those procedures currently call for each farm worker to vote in-person, at a physical location determined in advance, which is often a place on the grower's property.

Proposed Law: This bill would, among other things, do the following:

- Designate the existing, in-person election procedure outlined in the ALRA as a "Polling Place Election."
- Allow a labor organization to submit a petition for representation ballot card election to the ALRB. The petition must allege all of the following: (1) that the number agricultural employees currently employed by the employer named in the petition is not less than 50 percent of the employer's peak agricultural employment for the current calendar year, (2) that no valid election has been conducted by employees of the named employer within the 12 months immediately preceding the filing of the petition, (3) that no labor organization is currently certified as the exclusive collective bargaining representative of the agricultural employees of the named employer, and (4) that the petition is not barred by an existing collective bargaining agreement.

- Require that each ballot card include the following: (1) a statement that the employee signing it wishes to have a specified labor organization as the employee's collective bargaining representative, and (2) sufficient space to provide the name of the labor organization, the name of an employer or farm labor contractor, the employee's name, the employee's signature, a witness's signature and the date.
- Require that each ballot card be placed in a sealed envelope provided by ALRB and be signed on the outside by the employee. Further require that the ballot card be submitted or mailed directly to an office of ALRB.
- Require the ALRB to issue standardized representation ballot cards and postage paid envelopes to a labor organization upon request. The ALRB regional offices must keep records pertaining to the labor organization and the number of ballots requested.
- Hold that a representation ballot card is valid if it contains the name of the labor organization, the name of the employee, the employee's signature, and is in a sealed envelope. Allows a labor organization to fill out all of the information except the employee signature.
- Require that a labor organization submitting a representation ballot card election petition personally serve a copy to the employer named in the petition. Within 48 hours, the named employer must issue a response to the labor organization and the ALRB which includes a complete and accurate list of employee names and specified personal information. Each day the employer fails to provide this list shall result in a \$10,000 fine.
- Require ALRB to make an administrative decision pertaining to the validity of a submitted petition and whether the requisite number of ballots have been submitted within five days of that petition being submitted. In the case of a challenge to ballot validity, the ALRB will have seven days to investigate and both parties have seven days to find and present evidence.
- Require ALRB to ignore discrepancies between an employee's listed name and the name given on a ballot if the preponderance of evidence suggests that they are the same individual. Requires rejected ballots to be returned to the labor organization with an explanation of the reason for the rejection.
- Require ALRB to notify the labor organization if they fail to submit the requisite number of ballots and allow 30 days from that notification for the collection of additional ballots.
- Allow any person to file a complaint with ALRB within five days of the certification of a labor organization that alleges one of the following bases for objection: (1) allegations in the representation ballot card petition were false, (2) ALRB improperly determined the geographical scope of the bargaining unit, (3) the representation ballot card election was conducted improperly, or (4) improper conduct affected the results of the representation ballot card election.

- Require that ALRB choose to either rule administratively or conduct a hearing to rule on a petitioner's objection to an election within 14 days of filing. If the board finds the allegations in the objection to be true, the election certification must be revoked.
- Require that ALRB certify a labor organization as the exclusive representative of an agricultural bargaining unit if it is found that the agricultural employer committed an unfair labor practice during the organization's ballot card campaign.
- Create a rebuttable presumption that adverse employment action taken by an employer during a labor organization's ballot card campaign was retaliatory and illegal. The employer may rebut this by providing clear, convincing, and overwhelming evidence that the adverse action would have been taken in the absence of the campaign.
- Allow exclusive representatives for agricultural employees to be selected by a Representation Ballot Card Election, without holding a Polling Place Election.

Related Legislation:

- AB 616 (Stone, 2020) would have authorized agricultural employees, as an alternative to the polling place procedure, to select their labor representatives by submitting a petition to the ALRB accompanied by representation cards signed by a majority of the bargaining unit. The bill was vetoed by the Governor.
- SB 104 (Steinberg, 2011) would have authorized agricultural employees, as an alternative to the polling place procedure, to select their labor representatives by submitting a petition to the ALRB accompanied by representation cards signed by a majority of the bargaining unit. The bill was vetoed by the Governor.
- SB 1474 (Steinberg, 2010) would have established an alternative election procedure by which agricultural employees could decide whether to select a particular labor organization to represent them for collective bargaining purposes. The bill was vetoed by the Governor.

Staff Comments: Any local government costs resulting from the mandate in this measure are not state-reimbursable because the mandate only involves the definition of a crime or the penalty for conviction of a crime.

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