



Labor Unions Trying Again for “Card Check” for California Farmworkers

Insights

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California agricultural employers are in for a turbulent season as labor advocates and the farmworkers union are once again pushing to institute the infamous “card check” organizing system – which would make it far easier for workers to organize into unions – across the state. While the California legislature passed a bill last year which would have allowed union organizers to make an end-run around secret ballot elections, Governor Newsom ultimately returned AB 616 without signature. He noted “various inconsistencies and procedural issues related to the collection and review of ballot cards” and directed the Labor Workforce and Development Agency to work with the Agricultural Labor Relations Board and “all relevant stakeholders” to develop new policies to address the issue. This year, the United Farm Workers (UFW) is back at it again with AB 2183. What do you need to know about this second stab at a card check law, and what might it mean for your business?

Summary of Proposal

The pending bill would amend California’s Agricultural Labor Relations Act of 1975 (ALRA) to allow a labor organization:

- to get an employer’s employee list (including the employee’s name, current street address, email address, cell phone number) after providing written notice to the employer, provided that the labor organization received authorization cards signed by at least 10% of the employer’s employees;
- an employer would only have five days from the date of filing the notice of intention to organize to provide the employee list to the ALRB regional office;
- instead of requiring a secret ballot election at a polling place, the bill would permit agricultural employees to vote for union election through a representation ballot card election signed by a “majority of employees;” and
- The bill would make it more difficult for employers to appeal petitions by requiring an appeal bond in many scenarios in an amount of the entire “economic value of the order.”

How Would the Law Impact Employers Facing Union Election?

Currently, the ALRB conducts secret ballot elections when a majority of employees sign a petition to hold an election. Voting is done privately and management, supervisors, union representatives, attorneys, or legal representatives are not permitted in a polling area.

This bill would radically change union elections by providing an “alternative procedure” called a ballot card election. In a ballot card election (otherwise known as “card check”), a bargaining unit could select a labor union as its representative **without any polling place election**. The labor organization would petition for certification based on the ballot cards alone.

This bill has similarities with the now defunct Employee Free Choice Act and the card check provisions within the proposed “Protecting the Right to Organize Act of 2021,” or PRO Act. [You can read more about the PRO act here.](#)

What Does This Mean for Agricultural Employers?

Card check elections give employers cause for concern. Commenters have noted that by taking away a voter’s secrecy, the employee’s vote is subject to intimidation because there is no longer voter anonymity – union representatives are able to track an employee’s votes. A union may also prefill a ballot card and present it to employee for signature without anything more. There is also concern of unions intimidating and threatening workers who do not sign off on the ballot cards, or pro-union employees using peer pressure to change a co-worker’s “vote.”

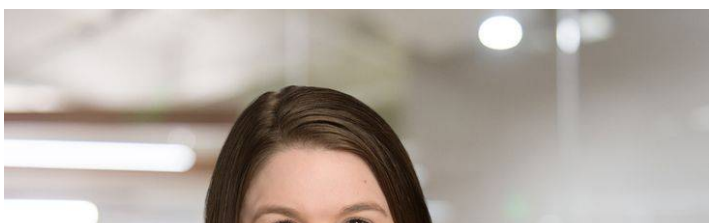
What’s Next – and What Should You Do?

On March 31 – Caesar Chavez Day – farmworkers rallied in the Capitol and elsewhere across the state in support of AB 2183. The attention drawn to this bill may result in action sooner rather than later. On March 28, the bill was referred to the Committee on Labor and Employment for a second time. It needs to clear both the Senate and the Assembly before it heads to the Governor’s desk.

As this bill makes its way through the Legislature, employers should speak to their representatives and associations to voice concerns.

We will monitor this bill and proposed updates, so make sure you are subscribed to [Fisher Phillips’ Insight System](#) to get the most up-to-date information directly to your inbox. If you have questions, contact your Fisher Phillips attorney, or the author of this Insight.

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