



# California Governor Confirms Unionization of Agricultural Employees Through “Card Check” Process: Your Top 3 Takeaways

Insights

5.19.23

Governor Newsom recently signed a bill into law clarifying that a single alternative to the traditional secret ballot method – an alternative known as the “card check” election – may be used for unions to organize at agricultural work settings in California. AB 113, which was signed on May 15 and takes effect immediately, amends last year’s controversial AB 2183. As we previously reported [here](#), AB 2183 provided that employers could enter an agreement called a “Labor Peace Compact” where they would agree to act neutrally with respect to unionization. In turn, instead of participating in a card check election, these employees would vote either in-person through the traditional secret ballot election *or* through a secret mail-in ballot election. AB 113 eliminates the secret mail-in ballot election and the “Labor Peace Compact” altogether. What are the three main points you need to know about the new California law and its impact on agricultural employers?

## 1. What Methods Can Be Used to Unionize?

Under AB 113, agricultural employers may be unionized by either:

- The secret ballot method; or
- The card check process, which is referred to as a “Majority Support Petition.”

With **the secret ballot method**, the California Agricultural Labor Relations Board (ALRB) conducts an in-person polling place election where a majority of employees must vote to designate their representative by a secret ballot.

The **card check process** is the same as established in AB 2183. Unions must submit to the ALRB a petition with the names of 50% or more agricultural employees on the employer’s payroll during that employer’s “peak” agricultural employment. Within five days of receipt of a petition, the ALRB shall certify whether the petition has proof of majority support.

In short, here’s what AB 113 does:

- Provides a single alternative process for unions to organize with the card check process, officially referred to as a “Majority Support Petition.”
- Appropriates \$10,000 for the 2022-2023 fiscal year to the ALRB to implement these provisions.

- Appropriates \$10,000 for the 2022-2023 fiscal year to the ALKB to implement these provisions.
- Limits the amount of union certifications that result from a Majority Support Petition to 75 workplaces through January 1, 2028.
- Requires employers who wish to challenge a certification under these provisions to first post a bond “in the amount of the entire economic value of the order.”

## 2. When Does This Take Effect?

Immediately. [AB 113](#) and [SB 113](#) came about as budget “trailer bills.” These types of bills make statutory changes to implement the state budget and are allowed to circumvent the traditional form of legislative process.

These provisions will remain in effect until January 1, 2028, when they will be revisited and could be amended or signed into law again.

## 3. What Should You Do Now?

The Majority Support Petition method motivates union organizers to approach agricultural employees to sign a card representing their union, especially given how quickly a card check election will move forward. As we reported [previously](#), the price if found to have committed unfair labor practice is up to \$10,000 for each violation and up to \$25,000 for cases where the employee suffers “serious economic harm.” Employers should provide updated training to managers about how to properly communicate to employees about unionization and have an action item plan ready to go when union representatives attempt to gain access to their property.

We will monitor any 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, the authors of this Insight, or any attorney in [our California offices](#).

### ***Related People***



**Benjamin M. Ebbink**

**BENJAMIN M. EDDY**

Partner

916.210.0400

Email



**Rebecca Hause-Schultz**

Partner

916.210.0391

Email



**Alden J. Parker**

Regional Managing Partner

916.210.0404

Email

## ***Service Focus***

Labor Relations

## ***Industry Focus***

Agriculture

## ***Related Offices***

## Related Offices

Irvine

Los Angeles

Sacramento

San Diego

San Francisco

Woodland Hills