



The Honorable Thomas J. Umberg
 Chair, Senate Committee on Judiciary
 State Capitol
 Sacramento, CA 95814

June 20, 2022

AB 2183 (Stone): Oppose

Dear Senator Umberg:

The undersigned organizations respectfully oppose AB 2183 (Stone). AB 2183 is the latest incarnation of the card check legislation sought and sponsored by the United Farm Workers (UFW) for the sole purpose of thwarting the secret ballot election process that has been the core protection for employees' right to a free and uncoerced choice for or against union representation under the Agricultural Labor Relations Act (ALRA) since its inception.

The sponsors of AB 2183 state that this bill simply creates a process for mail-in voting for farmworkers. This couldn't be further from the truth. The only resemblance the "ballot card" process described in AB 2183 has to mail-in balloting in elections for political office and ballot questions is that ballot cards are furnished along with mailing envelopes. Unlike mail-in balloting for elections for political office and ballot questions, a union seeking recognition under the AB 2183 "ballot card" process may choose which workers receive a ballot and when (or even whether or not) the election occurs. In fact, the bill implicitly condones the coercion and intimidation of farm employees. Should a union satisfy the conditions set forth in AB 2183 to win representation rights, some farmworkers included in the bargaining unit will never have a chance to express a preference for or against representation. This bill **eliminates a farmworker's right to a secret ballot election** that is free from coercion from any party that has a financial interest in the outcome of the election. This has been recognized by Governor Brown's veto of SB 104 in 2011, Governor Schwarzenegger's veto of AB 1474 in 2010, and Governor Newsom's veto of AB 616 in 2021. Governor Newsom's veto message of AB 616 reads in part:

"This bill contains various inconsistencies and procedural issues related to the collection and review of ballot cards. Significant changes to California's well-defined agricultural labor law must be carefully crafted to ensure that both agricultural workers' intent to be represented and the right to collectively bargain is protected, and the state can faithfully enforce those fundamental rights."

It is critical to distinguish between an employee's decision to sign a "ballot card" and an Agricultural Labor Relations Board (ALRB)-supervised secret ballot vote to decide union representation. UFW founder Cesar Chavez insisted that the ALRA ensure that secret ballot elections are the exclusive means for recognizing a union. The reason for this is to ensure that an agricultural employee may express a true preference on union representation without coercion from either the employee's employer or from the union seeking to represent employees. Unlike the National Labor Relations Act, the ALRA does not permit an employer to voluntarily recognize a union; the ALRB must certify a union's exclusive representation rights. A union opting for the AB 2183 "ballot card" card check procedure will enjoy a significant advantage in that it may obtain a list of employees' names, home addresses and other pertinent information merely by filing a petition it claims represents the will of 50% of the employer's employees. AB 2183 has no requirement that the union demonstrate or verify that the "ballot cards" submitted with the petition constitute any minimum percentage of the workforce before the union receives the employee list; it merely requires the union submitting the petition to "allege" this; the act of filing the petition triggers the requirement for the employer to furnish the list. Even if the union's petition falls well short of the 50% threshold to impose union representation, AB 2183 provides that the union will have seven days while in possession of the list of employees provided by the employer to "cure" its petition to find a sufficient number of actual employees from whom to collect ballot cards to reach the 50% threshold.

AB 2183 also has a rebuttable presumption provision that assumes that an employer took action against an employee due to an ongoing ballot card campaign. This is unnecessary since employees are already afforded protection from retaliation in Labor Code Section 1153 for participation in union activity.

In addition, we are also opposed to the bonding requirement as outlined in the bill when appealing a monetary award order at the ALRB. AB 2183 requires that this appeals bond be filed as a condition of having the right to appeal a decision of the ALRB. This language was also found in AB 561 (Campos, 2015) which was vetoed by Governor Brown. The bonding provision violates basic due process rights because it allows the ALRB to determine whether or not the employer can appeal. The ALRB is not a neutral party in this context and has a prejudicial interest in the outcome of the appeal.

It is for all of these reasons that we are opposed to AB 2183.

Sincerely,

African American Farmers of California
Agricultural Council of California
Association of California Egg Farmers
California Association of Winegrape Growers
California Citrus Mutual
California Cotton Ginners and Growers Association
California Farm Bureau Federation
California Farm Labor Contractor Association
California Food Producers
California Fresh Fruit Association
California Grain & Feed Association
California Grocers Association
California Manufacturers & Technology Association
California Pear Growers Association
California Retailers Association
California Restaurant Association
California Seed Association
California Strawberry Commission
Construction Employers' Association
Far West Equipment Dealers Association
Grower-Shipper Association of Central California
Grower-Shipper Association of Santa Barbara and San Luis Obispo Counties
Housing Contractors of California
Milk Producers Council
National Federation of Independent Business
Nisei Farmers League
Official Police Garage Association of Los Angeles
Ventura County Agricultural Association
Western Agricultural Processors Association
Western Growers Association
Wine Institute