

**SENATE JUDICIARY COMMITTEE**  
**Senator Thomas Umberg, Chair**  
**2021-2022 Regular Session**

AB 2183 (Stone)  
Version: March 24, 2022  
Hearing Date: June 28, 2022  
Fiscal: Yes  
Urgency: No  
TSG

**SUBJECT**

Agricultural labor relations

**DIGEST**

This bill enables farm workers to choose, for the purpose of union elections, between voting in-person at a physical location, as they can now, or utilizing a new option, established by this bill, to vote by mailing or dropping off a ballot card to the relevant Agricultural Labor Relations Board (ALRB) office.

**EXECUTIVE SUMMARY**

Enacted in 1975, the Agricultural Labor Relations Act (ALRA) governs how farm workers can collectively choose to unionize should they wish to do so. Of particular relevance to this bill, the ALRA sets forth the procedures for conducting an election, overseen by the 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. Drawing on parallels to changes in how most elections for public office now take place in California, this bill proposes to provide farm workers with an option to cast their ballots for or against unionization by putting them in the mail or taking them down to the regional ALRB office for counting.

The bill is sponsored by the United Farm Workers. Support comes from other organized labor groups who assert that the bill will facilitate participation in farm worker unionization elections. Opposition comes from agricultural business interests and chambers of commerce who are of the view that mail balloting could too easily be manipulated in this context. The bill passed out of the Senate Labor, Public Employment and Retirement Committee by a vote of 4-0. If the bill passes out of this Committee, it will next be heard in the Senate Appropriations Committee.

**PROPOSED CHANGES TO THE LAW**

Existing law:

- 1) Defines “agriculture” to include farming in all its branches, the cultivation and tillage of the soil, dairying, the production, cultivation, growing, and harvesting of any agricultural or horticultural commodities and any practices by a farmer or on a farm in conjunction with farming operations, including preparation for market and delivery to storage. (Lab. Code § 1140.4.)
- 2) Clarifies that the bargaining unit is all agricultural employees of an employer. If these employees are employed in two or more noncontiguous areas, the ALRB determines the appropriate unit or units of agricultural employees. (Lab. Code § 1156.2.)
- 3) Allows an agricultural employee or labor organization acting on behalf of agricultural employees to submit a petition to the ALRB. The petition must allege all of the following:
  - a) 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.
  - b) That no valid election has been conducted by employees of the named employer within the 12 months immediately preceding the filing of the petition.
  - c) That no labor organization is currently certified as the exclusive collective bargaining representative of the agricultural employees of the named employer.
  - d) That the petition is not barred by an existing collective bargaining agreement. (Lab. Code § 1156.3(a).)
- 4) Upon receipt of a petition signed by at least a majority of the agricultural employees in the employ of the named employer, the ALRB must immediately investigate the petition. If the board determines that a bona fide question of representation exists, a representation election by secret ballot must be held within seven days. (Lab. Code § 1156.3(b).)
- 5) Requires that representatives selected by secret ballot by a majority of agricultural employees for the purposes of collective bargaining be considered the exclusive representatives of that bargaining unit with respect to rates of wages, hours of employment or other conditions of employment. (Lab. Code § 1156.)
- 6) Allows any person to file a signed petition with the ALRB asserting that allegations within the original petition were incorrect, that the ALRB improperly determined the geographic scope of a bargaining unit or objecting to the conduct of the election.

The ALRB may refuse to certify the election if it finds that any of the assertions made in such a petition are correct or if it finds that the election was not conducted properly. (Lab. Code § 1156.3(2).)

- 7) Requires that the ALRB decertify a labor organization if either of the following occur:
  - a) The Department of Fair Employment and Housing finds that the labor organization engaged in discrimination based on a protected class.
  - b) The United States Equal Employment Opportunity Commission finds that the labor organization engaged in discrimination on the basis of a protected class. (Lab. Code § 1156.3(h).)
- 8) Requires that the ALRB certify a labor organization as an exclusive representative if an employer is found to have engaged in misconduct that would diminish the chance that a new election would be free and fair. (Lab. Code § 1156.3(f).)
- 9) Allows the ALRB, upon finding reasonable cause to believe that any person has engaged in or is engaging in an unfair labor practice, petition the superior court in the county where the unfair labor practice occurred for appropriate temporary relief or restraining order. (Lab. Code § 1157.3.)
- 10) Requires that employers maintain accurate payroll lists that contain the names and addresses of all their employees and make such lists available to the ALRB upon request. (Lab. Code § 1160.4.)
- 11) Authorizes a person aggrieved by a final order of the ALRB granting or denying in whole or in part the relief sought for an unfair labor practice, to obtain a review of the order in a specified court of appeal by filing in the court a written petition requesting that the order of the ALRB be modified or set aside. (Lab. Code § 1160.8.)

This bill:

- 1) Designates the existing, in-person election procedure outlined in the ALRA as a "Polling Place Election."
- 2) Allows a labor organization to submit a petition for representation ballot card election to the ALRB. The petition must allege all of the following:
  - a) 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.
  - b) That no valid election has been conducted by employees of the named employer within the 12 months immediately preceding the filing of the petition.

- c) That no labor organization is currently certified as the exclusive collective bargaining representative of the agricultural employees of the named employer.
  - d) That the petition is not barred by an existing collective bargaining agreement.
- 3) Requires that a representation ballot card election petition be accompanied by representation ballot cards from a majority of currently employed employees. These ballots may be submitted together or mailed in separately.
- 4) Defines currently employed employees for the purposes of the above section to mean all employees who were employed at any time during the employer's last payroll period that ended before to the filing of the petition.
- 5) Requires that each ballot card include all of the following:
  - a) A statement that the employee signing it wishes to have a specified labor organization as the employee's collective bargaining representative.
  - b) 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.
- 6) Requires that each ballot card be placed in a sealed envelope provided by the ALRB and be signed on the outside by the employee. Further requires that the ballot card be submitted or mailed directly to an office of the ALRB.
- 7) Requires 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.
- 8) Holds 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.
- 9) Requires 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.
- 10) Requires the 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.

- 11) Requires the 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.
- 12) Requires the 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.
- 13) Allows any person to file a complaint with the ALRB within five days of the certification of a labor organization that alleges one of the following bases for objection:
  - a) Allegations in the representation ballot card petition were false.
  - b) The ALRB improperly determined the geographical scope of the bargaining unit.
  - c) The representation ballot card election was conducted improperly.
  - d) Improper conduct affected the results of the representation ballot card election.
- 14) Requires that the 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.
- 15) Prohibits another representation ballot card election petition from being considered by the ALRB with the same agricultural employer until the board determines whether the labor organization that filed the pending representation ballot card election petition should be certified. Allows the ALRB to consider a second representation ballot card petition only if the second petition alleges that the first petition was filed because of the employer's unlawful assistance, support, creation, or domination of the labor organization that filed the first petition.
- 16) Requires that the 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.
- 17) Creates 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.

- 18) Requires that a representation ballot card be considered valid for 12 months after being signed by an employee.
- 19) Allows exclusive representatives for agricultural employees to be selected by a Representation Ballot Card Election, without holding a Polling Place Election
- 20) Requires an employer who petitions for a writ of review in a court of appeal or who otherwise seeks to overturn or modify any order of the ALRB involving make-whole, back-pay or other monetary award to post a bond in the amount of the entire economic value of the order as determined by the ALRB.
- 21) Requires the bond required above to consist of an appeal bond and orders that bond forfeited if the employer fails to pay the amount owed due to a final judgment following appeal within 10 days.

### COMMENTS

#### 1. About the ALRA and the ALRB

California enacted the ALRA in 1975 as a system of laws and procedures to govern agricultural labor relations in the state. The ALRA is loosely modeled off of the National Labor Relations Act, from which farm workers were excluded at the time.

The stated policy behind the ALRA is:

to encourage and protect the right of agricultural employees to full freedom of association, self-organization, and designation of representatives of their own choosing, to negotiate the terms and conditions of their employment, and to be free from the interference, restraint, or coercion of employers of labor, or their agents, in the designation of such representatives or in self-organization or in other concerted activities for the purpose of collective bargaining or other mutual aid or protection. (Lab. Code § 1140.2.)

The ALRB is the state agency tasked with overseeing administration and enforcement of the ALRA. The ALRB is headquartered in Sacramento and it maintains regional offices in California's agricultural centers, including Salinas, Visalia, Santa Rosa, Oxnard, and Indio.

#### 2. How farmworker union elections work today

Under the ALRA, a union seeking to represent farm workers at any particular worksite starts out by submitting a petition to the ALRB. The petition must contain a certain

number of signatures of farm workers from the worksite. Specifically, the requisite threshold is at least half of the total number of farm worker who are employed at the worksite during the peak employment season. If the petition meets this threshold, the ALRB must proceed to conduct a secret ballot election within seven days. That election takes place in-person at a specified location, usually at the worksite. The ALRB oversees the election and is empowered to investigate any reports alleging election impropriety on either side. At the conclusion of the election, the ALRB certifies the result. The ALBR also has the authority to certify or decertify a farm worker labor union based on its findings about election tampering.

### 3. The alternative format for farmworker elections proposed by this bill

This bill would not supplant the present mechanism for triggering and conducting a unionization election described in Comment 2, above. Rather, the bill establishes an alternative pathway for a union to become certified to represent farm workers at any given worksite. In this alternative process, instead of presentation of a petition followed by an in-person election, labor organizations would present a petition for representation to the ALRB and then demonstrate the requisite level of support through the submission of signed ballot cards to the ALRB. These ballot cards could be mailed in to the relevant regional ALRB office or dropped off there together with the petition. In these respects, the bill proposes an elections mechanism for farm worker unionization initiatives much like how mail-in balloting now works in California for most elections for public office. Once the ALRB certifies that it has received the requisite number of ballot card supporting unionization, the ALRB would certify the union as the farm workers' exclusive representative going forward.

The proponents of the bill emphasize that this alternative procedure would be easier for farm workers to participate in and would make it harder for employers to intimidate workers, presumably because the farm workers could cast their ballot from the privacy of their homes or in other locations out of the view of the employer. The opponents of the bill contend, for the very same reason, that the proposed new process would be too easily susceptible to manipulation and intimidation since union organizers would be permitted to assist workers with filling out their ballot - though not signing those ballots - and could potentially exert pressure on the workers to do so.

### 4. Policy matters within the purview of the Senate Judiciary Committee

This bill raises three primary policy considerations falling within the jurisdiction of the Senate Judiciary Committee: (a) liability for violations; (b) the creation of a rebuttable presumption of retaliation for adverse action taken against an employee during a unionization election; and (c) the imposition of requirements to post a bond in order to appeal an adverse ALRB ruling.

*a. Civil penalty liability for violations*

To discourage employers from engaging in the foul play to try to interfere with farm workers' right to choose whether to form a union, this bill includes provisions imposing civil penalties for committing unfair labor practices. Specifically, the bill subjects an employer who commits unfair labor practices to civil penalties of up to \$10,000 per violation. An even higher penalty is possible – up to \$25,000 – for firing a worker in order to interfere with union organizing activities. The bill also authorizes the ALRB to assess civil penalties against the director or officer of an employer individually, if the director or officer directed or committed the violation, had established a policy that led to the violation, or had actual or constructive knowledge of, and the authority to prevent, the violation and failed to do so.

The imposition of any penalty for violation of a law raises due process considerations. Both the state and federal constitutions prohibit the government from depriving anyone of property – in this case the money associated with paying a penalty – without adequate procedural protections to ensure the deprivation is not arbitrary or unfair. (U.S. Const., Amend. 14, §1; Cal. Const., art. I, §7(a).) In this instance, the penalties would be imposed by the ALRB, which has a robust set of administrative law procedures that it follows whenever it proposes to fine employers for workplace safety violations. (*See* Lab. Code §§ 1160 *et seq.*) Accordingly, this bill does not raise procedural due process concerns.

The award of monetary damages as punishment can, at extremes, raise substantive due process concerns. In other words, even if the procedure for determining whether or not a defendant has to pay is sufficient, monetary penalties can still violate due process if they are set up in ways that might bias the entity imposing the fines. (*Ward v. Village of Monroeville* (1972) 409 U.S. 57.) Where the penalties do not impact the compensation of the people imposing them and where any revenue from the penalties only makes up a small fraction of the imposing entity's overall budget, no constitutional due process concerns arise. (*Marshall v. Jerrico, Inc.* (1980) 446 U.S. 238, 243). In the case of this bill, ALRB salaries and benefits are entirely unrelated to the amount that the agency takes in in penalties and the size of the fines are minimal in comparison to ALRB's overall budget. For these reasons, this bill does not appear to raise substantive due process concerns.

The imposition of civil penalties can also violate constitutional prohibition on excessive fines. (U.S. Const., 8th Amend; Cal. Const., art. I, § 17.) Whether a civil penalty is excessive depends on its proportionality to the underlying. (*United States v. Bajakajian* (1998) 524 U.S. 321, 334.) In the case of this bill, the penalty amounts set forth are maximums; ALRB would retain the authority to impose lesser amounts where appropriate and is instructed to take into account the gravity of the unfair labor practice committed, the impact it had on the farm workers and the exercise of the right to form a union, and the financial circumstances of the employer. Ultimately, an employer could



challenge a specific ALRB fine imposed pursuant to this bill as excessive in proportion to the violation in question, but the bill on its face does not appear to raise constitutional concern.

*b. Rebuttable presumption of retaliation*

Participating in a union organizing effort, like exercising any right in the workplace, is fraught for employees because the employer wields control over their livelihoods. Accordingly, robust protections against retaliation for the exercise of workplace rights is essential if those rights are to have any meaningful practical effect.

With this dynamic in mind, this bill establishes heightened protections against retaliation for workers for the duration of the proposed balloting process. Specifically, during that period, any adverse employment action taken against an employee would be presumed to be retaliatory. The onus would be on the employer to show, by clear, convincing, and overwhelming evidence that the adverse action was motivated by something else entirely.

The opposition to this bill argue that the rebuttable presumption is unnecessary because interfering with, restraining, or coercing farm workers in relation to union organizing is already prohibited by law. (Lab. Code § 1153.) However, nothing in the existing protections establishes the rebuttable presumption that this bill would. The purpose behind rebuttable presumptions in contexts like this is to make it more difficult for employers to invent allegations or seize upon petty matters as a pretext for firing a worker who is suspected of supporting the unionization effort.

The opposition claims that the rebuttable presumption would have a chilling effect on employers, especially in light of the heightened legal standard for overcoming it. Because of this chilling effect, employers would be “hesitant to discipline even the most egregious conduct.” Yet temporarily shifting the burden of proof to the employer does not prevent disciplining or firing workers who misbehave; it just requires that the employer clearly and convincingly demonstrates that the misbehavior is the genuine reason for the firing. And the higher standard of proof is not unprecedented; a similar standard applies to whistleblowers, both private and public. (Lab. Code 1102.6; Gov. Code § 8547.8(e).)

*c. Requirement to post a bond in order to appeal an adverse ALRB ruling*

In addition to proposing an alternative mechanism for conducting unionization elections under the ALRA, the bill also contains a provision that newly requires employers to post a bond as a prerequisite to seeking judicial review of any ALRB order requiring the employer to pay make-whole, back pay, or any other monetary award or economic benefit to farm workers or their union. The bond must be in an amount equal to the entire economic value of the order. The purpose of the bond is to ensure that

employees or the labor organization receive the benefits of the order if the employer does not prevail.

The opponents of the bill object that:

“[t]he Legislature should not put such a steep price tag on an entity’s legal right to appeal a legal decision, especially during a global pandemic where many depend on agricultural companies to keep food on the table and those businesses have suffered from devastating capital shortages to keep operations running. Further, the bill is again one-sided by making this bond burden only applicable to an employer and not to any union that seeks review of an ALRB order.

However, the requirement to post bond would certainly not be unprecedented in circumstances like this. Similar requirements exist for employers who lose a wage and hour dispute before the California Labor Commissioner and want to seek a new trial of the issue in court, for example. (Lab. Code § 98.2(b).) And there are related requirements for an appellant to post a bond if they want to prevent a judgment creditor from seeking to enforce the judgment against them while the appeal is pending. (Code Civ. Proc. § 917.1.)

##### 5. Arguments in support of the bill

According to the author:

Excluded from federal labor laws, farmworkers in California rely on the Legislature to amend the Agriculture Labor Relations Act (ALRA) for increased labor and collective bargaining protections. AB 2183 would modernize the ALRA to allow farm workers to choose if they want to vote at a physical location, or vote by mailing or dropping off a representation ballot card to the Agricultural Labor Relations Board (ALRB) office. The Legislature has enacted a series of changes that have successfully made it easier for Californians to participate in statewide elections, including mail-in voting. These changes were made based on the simple premise that facilitating the exercise of an existing right is inherently a good thing to do. This bill applies that same principle and extends voting flexibilities to farm workers as they exercise their longstanding right to vote in union representation elections.

As sponsor of the bill, the United Farmworkers writes:

Many want to ignore the realities afflicting the workforce that makes California's agricultural industry one of the most successful industries in the nation - over \$50 billion in this state alone. For many, it's more convenient to not know why the ALRA was enacted. It's easier to not understand than it is to take the time to learn from a farm worker about their life. [...]The goal of the ALRA is to "ensure peace in the agricultural fields by guaranteeing justice for all agricultural workers and stability in labor relations." And, under the ALRA, beginning in 1975 farm worker representation elections were conducted the way other political elections were - at a physical polling place. Since then, the state has updated how Californians vote for their local, state, and federal elected officials by making it easier to register to vote, increasing the amount of time to vote, adding more ways and access to vote, allowing someone else assist in completing and turning in their ballot. The bill would afford farm workers similar opportunities in union representation elections by helping to facilitate farm workers' longstanding right to vote. More importantly, these opportunities must be free from any form of vote suppression, as the ARLA historically intended.

6. Arguments in opposition to the bill

In opposition to the bill, a coalition of 25 agricultural trade associations and local chambers of commerce led by the California Chamber of Commerce writes:

[T]his bill seeks to eliminate an agricultural employee's democratic right to cast an independent vote in a secret ballot election regarding whether to unionize, making them susceptible to coercion and misinformation. The bill also creates an unfair retaliation presumption against employers and imposes an unrealistic bond requirement on employers pursuing their legal right to appeal an order by the Agricultural Labor Relations Board ("ALRB").

More specific opposition arguments are included within the relevant Comments, above.

**SUPPORT**

United Farm Workers (sponsors)  
California Alliance for Retired Americans  
California Catholic Conference

California Federation of Teachers, AFL-CIO  
California Immigrant Policy Center  
California Labor Federation  
California Nurses Association  
California Professional Firefighters  
California Rural Legal Assistance Foundation, Inc.  
California School Employees Association  
California State Legislative Board, Sheet Metal, Air, Rail and Transportation Workers -  
Transportation Division  
California Teachers Association  
California Teamsters Public Affairs Council  
Central Coast Alliance United for a Sustainable Economy  
Courage California  
Earthjustice  
Mi Familia Vota  
National Association of Social Workers, California Chapter  
Service Employees International Union, California State Council  
United Auto Workers, Local 2865  
United Auto Workers, Local 5810  
United Food and Commercial Workers, Western States Council  
Writers Guild of America West

### **OPPOSITION**

African American Farmers of California  
Agricultural Council of California  
Association of California Egg Farmers  
California Association of Winegrape Growers  
California Chamber of Commerce  
Carlsbad Chamber of Commerce  
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

Chamber of Commerce Alliance of Ventura and Santa Barbara Counties  
Citrus Heights Chamber of Commerce  
Citrus Heights Regional Chamber of Commerce  
Construction Employers' Association  
Far West Equipment Dealers Association  
Fountain Valley Chamber of Commerce  
Fresno Chamber of Commerce  
Garden Grove Chamber of Commerce  
Glendora Chamber of Commerce  
Greater Bakersfield Chamber of Commerce  
Greater Coachella Valley Chamber of Commerce  
Greater High Desert Chamber of Commerce  
Greater Riverside Chambers of Commerce  
Greater San Fernando Valley Chamber of Commerce  
Grower-Shipper Association of Central California  
Grower-Shipper Association of Santa Barbara and San Luis Obispo Counties  
Hayward Chamber of Commerce  
Housing Contractors of California  
La Canada Flintridge Chamber of Commerce  
Milk Producers Council  
National Federation of Independent Business  
Nisei Farmers League  
North Orange County Chamber of Commerce  
Oceanside Chamber of Commerce  
Official Police Garage Association of Los Angeles  
Pleasanton Chamber of Commerce  
Rancho Cordova Area Chamber of Commerce  
Rancho Mirage Chamber of Commerce  
Redondo Beach Chamber of Commerce  
San Gabriel Valley Economic Partnership  
Santa Maria Valley Chamber of Commerce  
Simi Valley Chamber of Commerce  
South Bay Association of Chambers of Commerce  
Tulare Chamber of Commerce  
Ventura County Agricultural Association  
West Ventura County Business Alliance  
Western Agricultural Processors Association  
Western Growers Association  
Wine Institute

**RELATED LEGISLATION**

Pending Legislation: None known.

Prior 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. In his message vetoing AB 616, Governor Newsom wrote that: "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."

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. In his message vetoing SB 104, Governor Brown wrote that: "SB 104 is indeed a drastic change and I appreciate the frustrations that have given rise to it. But, I am not yet convinced that the far reaching proposals of this bill--which alter in a significant way the guiding assumptions of the ALRA--are justified. Before restructuring California's carefully crafted agricultural labor law, it is only right that the legislature consider legal provisions that more faithfully track its original framework. The process should include all those who are affected by the ALRA."

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. In his message vetoing SB 1474, Governor Schwarzenegger wrote: "The provisions of SB 1474 represent a serious departure from existing law. The provisions of this bill tip the scale in favor of the union by only allowing the ALRB to consider any misconduct, which is not defined, by the employer when making the determination to set aside the election, but does not take into consideration the possibility that the employer may have similar allegations of election misconduct by the labor organization. This remedy should only be allowed in cases where the ALRB finds the possibility of erasing the effects of past unfair labor practices and of ensuring a fair election is slight, and that employee sentiment once expressed through cards would, on balance, be better protected by a bargaining order."

**PRIOR VOTES:**

Senate Labor, Public Employment and Retirement Committee (Ayes 4, Noes 0)

Assembly Floor (Ayes 49, Noes 22)

Assembly Appropriations Committee (Ayes 12, Noes 4)

Assembly Labor and Employment Committee (Ayes 5, Noes 2)

\*\*\*\*\*