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# SENATE COMMITTEE ON BUDGET AND FISCAL REVIEW

Senator Nancy Skinner, Chair

2023 - 2024 Regular

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| <b>Bill No:</b>    | AB 113                    | <b>Hearing Date:</b> | May 2, 2023 |
| <b>Author:</b>     | Committee on Budget       |                      |             |
| <b>Version:</b>    | April 28, 2023 As amended |                      |             |
| <b>Urgency:</b>    | Yes                       | <b>Fiscal:</b>       | Yes         |
| <b>Consultant:</b> | Christopher Francis       |                      |             |

**Subject:** Agricultural labor relations

**Summary:** This bill makes necessary changes to implement labor, workforce, and employment provisions adopted as a part of the Budget Act of 2023.

**Background:** Existing law provides that agricultural employees have the right to form, join, assist labor organizations, and to bargain collectively through representatives of their own choosing with respect to rates of pay, wages, hours of employment, or other conditions of employment. Prior to AB 2183 (Stone), Chapter 673, Statutes of 2022, the union election process for agricultural workers was done exclusively through secret ballot elections overseen by the Agricultural Labor Relations Board (ALRB). Generally, a union who wishes to represent the agricultural workers of an employer can submit a petition to the ALRB with a number of signatures equal to at least 50 percent of the peak agricultural employment of that employer. If the union meets this threshold, a secret ballot election must commence within seven days. The ALRB oversees this process and investigates any allegations from the employees or the employer about election impropriety; the ALRB is also empowered to certify or decertify labor unions based on its findings about election tampering.

**Adoption of AB 2183.** In August of 2022, the Legislature passed AB 2183. The bill provides two additional pathways for agricultural workers to select a union representative:

- 1) Through mail-in ballots (referred to as a labor-peace election). In the mail-in ballot / labor peace election process, the employer agrees to make no statements for or against union representation to its employees. Then, agricultural employees may make a choice regarding union representation through a mail ballot election without holding a polling place election. The employees or the union would request voting kits issued by the ALRB that would contain voting instructions for participating in a mail ballot election. The ALRB would verify the validity of the petition for representation and the supporting mail ballots, such as comparing the names on the mail ballots submitted by the labor organization to the names on the list of currently employed employees provided by the employer, before certifying the collective bargaining representative.
- 2) By “cardcheck” (referred to as non-labor peace election). Through the “card-check” / non-labor peace election, the employer does not agree to make statements for or against union representation to its employees. In this process, a union may submit proof of majority support, through authorization cards or

petitions, demonstrating majority support of currently employed employees determined from the employer's payroll. Upon receipt of the proof of majority support, the ALBR verifies the validity of the petition before certifying the collective bargaining representative.

**Supplemental Agreement Accompanying AB 2183.** In September 2022, Governor Newsom signed AB 2183, and announced that the Governor, the United Farm Workers, and the California Labor Federation agreed on clarifying language to be made to the enacted law to address concerns around implementation and voting integrity. This agreement was memorialized in a published letter and a supplemental agreement language. The supplemental agreement are the provisions contained within this trailer bill legislation.

**Proposed Law:** This bill makes statutory changes to implement the labor, workforce, and employment provisions of the 2023-24 budget related to agricultural employees collective bargaining. Specifically, this bill:

- 1) Eliminates the option to conduct union elections using mail-in ballots.
- 2) Retains the option to conduct union elections via the "card-check" system, now called the "Majority Support Petition." Similar to the original provisions of AB 2183, a Majority Support Petition is submitted by a union wishing to represent employees to the ALRB, accompanied by proof of majority support through petition cards, petitions, or other appropriate proof.
- 3) Limits the number of card-check / Majority Support Petition elections that result in the certification of a labor organization to 75 certifications.
- 4) Sunsets on January 1, 2028. On that date, Majority Support Petitions would no longer be an available option for union elections. Of note, the original provisions of AB 2183 are also scheduled to sunset on January 1, 2028.

**Fiscal Effect:** This bill is a budget trailer bill within the overall 2023-24 budget package to implement actions related to labor, workforce, and employment.

**Support:** None on file.

**Opposed:** None on file.

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