

# FELS

Farm Employers Labor Service



Serving Agriculture in Labor Management Relations

## Union Organizing by Card Check Might Be Headed Your Way

A bill passed by the California Legislature and soon to be considered by Gov. Jerry Brown to sign into law would amend the Agricultural Labor Relations Act (ALRA) and radically change how a labor union could become certified as the collective bargaining representative (CBR) of an employer's agricultural employees. Specifically, Senate Bill 104 would allow a union to become certified as a CBR through a process commonly called "card check."

*Under the ALRA as now written, how does a union become certified as a CBR?*

- A union tries to get signed "authorization cards" from a majority of an employer's agricultural employees.
- If it gets enough cards, the union files the cards with the Agricultural Labor Relations Board (ALRB) along with a petition asking that a secret-ballot election be conducted among those employees to determine if most of them want to be unionized.
- After determining an election is warranted, the ALRB conducts an election among the employees.
- If a majority of eligible employees vote for unionization and there are no challenges from either side that the election was valid, the ALRB certifies the prevailing union as the employees' CBR.

*How would "card check" work if the Governor were to sign SB 104 into law?*

- Card check would allow a union to be certified as the CBR of an employer's agricultural employees by filing with the ALRB a petition along with "representation cards" signed by a majority of those employees stating they want the union to be their CBR.
- **That's it; no secret-ballot election would be held.**
- A representation card signed by an employee cannot be revoked and is valid for 12 months, denying the employee the ability to change his or her mind about being represented by the union.

*How would SB 104 affect me as a grower? Would I face any new liability or responsibility?*

- You might not even know a union is trying to organize your employees until it's too late—that is, until you've learned the union has already obtained enough representation cards for it to be certified as your employees' CBR.
- When a union notifies you it has enough cards, you would have to give the ALRB and the union a list of all your employees' names, addresses and job information. If you don't provide this list within 48 hours, the ALRB could fine you up to \$10,000 per day until you do.
- If you discriminate against employees who sign representation cards or in nearly any other way resist a union's efforts, the ALRB could fine you up to \$20,000 for each violation.

*Would SB 104 let a union take access to my worksite to ask employees to sign representation cards?*

- SB 104 itself would not enable a union to access your worksite to entice employees to sign cards; a union can already take worksite access under the ALRB's access regulation.
- But under SB 104, a union would not have to visit your worksite to persuade employees to sign representation cards.
  - Union agents could pester employees to sign cards *anywhere*, not just at your worksite.
  - And again, once it has obtained signed representation cards from a majority of your employees, a union would automatically get address and job information for *all* your employees.

*If SB 104 were to become law, what could I do to prevent my employees from being organized by card check?*

- Train your supervisors! A bad supervisor is a union's best argument for your employees to want a CBR.
- So, be sure your supervisors don't:
  - Harass employees

- Show certain employees undue favoritism
- Treat employees badly or unfairly
- Employee complaints that most frequently lead to unionization involve issues such as poor working conditions or supervisor treatment—*not* wages and benefits.

FELS can help! With more than four decades of related experience, FELS can train your supervisors to give them the labor-relations knowledge they need to foster positive employee morale—your best defense against unionization attempts, whether by card check or traditional means.