



The Honorable Gavin Newsom  
 Governor, State of California  
 State Capitol  
 Sacramento, CA 95814

September 13, 2021

**AB 616 (Stone): VETO REQUEST**

Dear Governor Newsom:

We respectfully urge you to VETO AB 616 (Stone). AB 616 is the latest incarnation of the UFW’s card check legislation, designed for the sole purpose of thwarting the secret ballot election process that has been at the core of the Agricultural Labor Relations Act (ALRA) since its inception.

AB 616’s sponsors characterize it as simply creation of mail-in voting for farmworkers to choose to be represented by the union, allowing workers to sign a “ballot card” in lieu of casting a vote in a secret ballot

election. The practical reality will be quite different, which is precisely the intent. No farmworker will find it easy to look a union agent in the eye and reject the union when the card is presented to them with no one else around. AB 616 implicitly condones the coercion and intimidation of farm employees. In reality, AB 616 “ballot card” elections will not be elections at all, but a foreordained outcome certifying a labor union as the exclusive collective agent for farm employees who will never have an opportunity to express their preference for representation, to not be represented, or which union should provide representation.

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 616 “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 616 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 616 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.

Moreover, AB 616 does not require that a ballot card identify any particular employer as the target of the employee’s putative desire for union representation. This is unsurprising, given that such ballot cards are valid for twelve months, and may be collected well before the employee signing the ballot card ever begins work for that employer or for a farm labor contractor employed by that employer.

If AB 616 were to become law, it is hard to envision another secret ballot election taking place. Union agents will go to great lengths to abuse their unmonitored interaction with farmworkers in order to force a card check certification and avoid secret ballot elections at all costs.

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 616 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.

Importantly, the sponsors of AB 616 also state that this bill simply creates a process for mail-in voting for farmworkers. The only resemblance the “ballot card” process described in AB 616 has to mail-in balloting in elections for political office and ballot questions is that ballot cards are furnished along with mailing

envelopes. Ballot cards need not be mailed to the ALRB, and nothing in AB 616 requires anything other than for the petitioning union to furnish ballot cards to the ALRB along with its petition for certification of collective bargaining rights.

We are not incontrovertibly opposed to the concept of mail-in voting. We are willing to work with you and the ALRB to study the several aspects of a potential regulation allowing for mail-in voting for farmworkers in union representation elections. Of course a regulatory process would allow for full stakeholder engagement and any final outcome would be subject to the existing confines of the ALRA and the appropriate oversight of the ALRB.

It is for all of these reasons that AB 616 should be vetoed. Thank you for your consideration.

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 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  
Nisei Farmers League  
Official Police Garage Association of Los Angeles  
Ventura County Agricultural Association  
Wine Institute  
Western Agricultural Processors Association  
Western Growers Association