

STATE OF CALIFORNIA  
AGRICULTURAL LABOR RELATIONS BOARD

Agricultural Labor Relations Board  
Public Meeting  
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REMOTE VIA ZOOM

Reported By:  
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P R O C E E D I N G S

10:01 a.m.

1  
2  
3 BOARE MEMBER BROAD: Okay. Good morning,  
4 everybody. I'm Barry Broad and with me is Ralph Lightstone  
5 and-- who is-- he and I comprise the Regulation  
6 Subcommittee of the Board. Todd Ratshin is here, he's our  
7 Chief Board Counsel and intimately involved in the drafting  
8 of what we did here. And Santiago Avila-Gomez is here, our  
9 Executive Secretary and I'd like to-- he's going to say a  
10 few kind of introductory things related to Spanish  
11 translation and that process. Santiago?

12 EXECUTIVE SECRETARY AVILA-GOMEZ: Thanks Barry.  
13 Good morning, everyone and thank you for joining the  
14 Regulation Subcommittee workshop. We are offering English  
15 to Spanish interpreting services, and ask that everyone who  
16 has joined via Zoom, not telephone -- so, I'm admitting  
17 folks as I do this at the same time -- to navigate to the  
18 bottom of your screen and click on interpretation and  
19 choose English or Spanish. If you're not needing  
20 interpretation, to ensure your sound quality please select  
21 English, nonetheless.

22 (Dialogue in Spanish)

23 BOARD MEMBER BROAD: Okay, welcome everyone. And  
24 we're glad to see that so many people are attending. To  
25 sort of set the table for what we're going to do today,

1 we're currently in a what it still is an informal process  
2 leading towards rulemaking. So as Santiago stated, today's  
3 meeting is a workshop, which means that it's intended for  
4 interested parties to educate us about what they think  
5 about the proposed regulations that our subcommittee has  
6 come up with. These are-- if and when we move forward to  
7 propose something to the Board, in other words, if we take  
8 these regulations as they are now or if they're modified,  
9 our Regulations Subcommittee will go to the full Board at a  
10 public meeting and propose that these regulations be put  
11 out for adoption by the Board. At that point, the formal  
12 rulemaking process begins.

13           So, this is a real opportunity to talk about what  
14 you feel about these regulations. We are implementing a  
15 statutory change of great significance. It was a big bill,  
16 AB 113, and it changes our process significantly. These  
17 regulations are intended to implement that process.

18           It's important to us-- I mean I know, having been  
19 a lobbyist for 40 years, I know that sometimes the  
20 temptation is great to want to, in a sense re-litigate the  
21 arguments of contending parties that led up to the passage  
22 of a bill or to say how much you hated or like it or  
23 whatever. That's perfectly okay for you to do. It's not  
24 particularly helpful.

25           We need to implement these regulations and get it

1 right. So, one of my biggest fears when I used to propose  
2 legislation, and for those of you who are involved in that  
3 process will understand what I'm saying, is you can expect  
4 to have to disagreements between, say, business and labor  
5 over how to proceed changing labor law. But oftentimes my  
6 biggest fear was not that I had a good bill from my side  
7 and it was viewed as a bad bill from the other side, that's  
8 sort of often a given, but that I would get it wrong in the  
9 details that I might come up with a, what I thought was a  
10 perfectly great idea on behalf of the people I represented.  
11 But if it wasn't workable, if it had flaws, would have  
12 flaws fundamentally in its implementation, that's a huge  
13 problem.

14           And I often felt that the biggest amount of help  
15 I got in solving that problem, ironically, came from the  
16 people who-- on the other side who sometimes said, "Well I  
17 don't-- we disagree. You got it right. I mean, you know,  
18 got it right, but you're wrong in what you're doing. But  
19 yeah, I get what you're doing." But sometimes they would  
20 say you know, "It's a bad idea. And even if it was a good  
21 idea, you're doing it wrongly." Our job is to implement  
22 this legislation and to do it faithfully to the legis-- to  
23 the intent of the legislation to make it workable. Those  
24 are the purposes, that's the purpose of this regulation, to  
25 make the process workable.

1           So, to the extent that you can tell us what we've  
2 omitted, what we've gotten wrong with regard to making the  
3 process workable, that would be the most helpful thing for  
4 our subcommittee's work. Because we want to get it right  
5 and we recognize and respect that there are people probably  
6 in this meeting who oppose that legislation, still oppose  
7 it, wish it was never passed. But we're not-- you know we  
8 can't, even if we wanted to, we can't repeal a law, we just  
9 have to implement it.

10           So, the most helpful thing will be to tell us,  
11 you know, this portion of the regulation, it's not faithful  
12 to what-- it doesn't implement what the law says, it's you  
13 got it wrong, it should be done a different way, so that we  
14 can feel confident that we're reasonably confident as we go  
15 into the formal rulemaking process with whatever we produce  
16 as a final work product of our subcommittee, that we've  
17 given or recommended something to the full Board that we  
18 feel, with reasonable confidence, is a workable approach;  
19 that it faithfully attempts to implement the statute, the  
20 statute itself.

21           Now I just want to, for those of you who aren't  
22 familiar with the regulatory process, I just want to make  
23 it very clear. Once the Board proposes a regulation, a  
24 formal comment period begins. So, nothing is cast in stone  
25 at that point. The Board could do anything from adopt it

1 as we propose it, to reject it all together and tell us to  
2 go back to the drawing board, and of course anything in  
3 between.

4           So, nothing is cast in stone in this process.  
5 That we had this kind of public process, that sort of this  
6 Board that exists now through a series of regulatory  
7 changes that we've done. Some of which were very, you  
8 know, kind of technical, and some of which, like this, are  
9 likely to be more controversial because they implement a  
10 controversial bill. But we wanted to have this informal  
11 process beforehand, because it really helps us shape our  
12 sense of whether we're doing it right or not, and what  
13 changes need to be made.

14           So, with that, I will basically open this up. I  
15 want to say that you're perfectly free to say whatever you  
16 want, obviously. But you're perfectly free to respond to  
17 other people, to say you disagree with them. This is an  
18 informal process. It's more like a conversation than it is  
19 like a formal hearing. And we'll probably ask questions,  
20 maybe even probing questions about what your point of view  
21 is, because we really want to understand it from all  
22 perspectives.

23           So, with that, I will open it up and then let me  
24 recognize Ralph for a few words.

25           BOARD MEMBER LIGHTSTONE: Yeah, Barry, I thank



1 you and thank everybody for being here. I just wanted to  
2 add, reinforce the point that there are going to be further  
3 opportunities to comment. The other thing is I think by  
4 way of process what we had in mind is for Chief Counsel,  
5 Todd Ratshin, who is in the Zoom here, to walk everyone  
6 through the draft that we have posted for people to comment  
7 on. And if you-- I'd like, I think it'd be better if  
8 people let Todd go through that whole thing and people will  
9 want to talk about a number of issues that are in the  
10 draft. But let's have Todd walk us all through that, and  
11 at the end of that, let's open it up for comment.

12 BOARD MEMBER BROAD: Yeah, thank you Ralph. You-  
13 - I got the script wrong, my first apology of the day.  
14 Okay, Todd, why don't you go ahead.

15 MR. RATSHIN: Okay, yeah, thanks. And thanks  
16 everyone for being here. So, I'm just going to do a quick  
17 walkthrough of the regulations. I know we published them,  
18 hopefully everyone's had a chance to review them. We  
19 thought it would be helpful in laying out the proposed  
20 language to sort of flag where we are modeling the  
21 processes based on existing practice and regulatory  
22 language.

23 And so, the two main components of the bill, AB  
24 113, are the Majority Support Petition process and then the  
25 appellate bond process that requires some-- will require

1 some restructuring of our compliance regulations and  
2 determination of monetary remedies prior to judicial review  
3 of a Board decision taking place. So, you know, we're  
4 trying to take the amendments to the act and fit the  
5 processes within procedures that our parties, folks that  
6 practice before us are familiar with, and that will be  
7 consistent with other procedures that we currently handle.

8           So, I'll just go through, I'll try to be quick,  
9 but kind of go through them piece by piece. Starting with  
10 the Majority Support Petition process, this would be  
11 proposed regulation 20391. Up in Subdivision A, it's  
12 basically covering the filing requirements that are laid  
13 out in statute. So really, no new requirements here except  
14 in terms of service of the petition, borrowing other  
15 regulatory language to make it consistent with those  
16 processes.

17           In terms of the contents of the support that  
18 accompanies a petition, this would be authorization cards  
19 or signatures, well petitions containing employee  
20 signatures. And so, in terms of the contents of what the  
21 cards or petitions must contain that we'll be looking for,  
22 we've modeled that after exist existing regulatory language  
23 for a normal petition for certification. And so, you know,  
24 the cards or petitions must be signed, dated, the  
25 signatures are valid for one year from the date of

1 signature. And then language indicating that the employee  
2 or employees authorized the union to serve as their  
3 collective bargaining representative. So that's based on  
4 existing language for, you know, the current requirements  
5 for a certification petition.

6 Then moving down further into Subdivision B, this  
7 is the Employer Response to a Petition. Again, it's  
8 modeled pretty closely after existing language, the same  
9 sort of timeframe for an employer to respond, which is also  
10 set out in statute.

11 And then moving further down, Subdivision C gets  
12 into what, you know, the substance of an investigation will  
13 entail, which is primarily as described under the statute--  
14 and I'll just say here that a lot of the process is already  
15 laid out in statute and so there wasn't a whole lot of--  
16 the heavy lifting in terms of crafting the details of the  
17 process is largely already covered in statute. So that's  
18 sort of the hand that we're playing here.

19 But this will entail the regional director where  
20 the petition is filed comparing the names and signatures on  
21 the support to the list received from the employer. Also,  
22 inquiry into issues about the scope of the bargaining unit,  
23 whether peak requirements are met for the timing of the  
24 filing of the petition.

25 And then if the support provided with the

1 petition is insufficient, the statute provides a 30-day  
2 cure period to the filing labor organization. And so the  
3 board would notify, or the region would notify the parties  
4 and the labor organization would then have the opportunity  
5 to gather and submit additional support, or to cure  
6 deficiencies on support that may have already been  
7 submitted but was deemed invalid for some reason on the  
8 cards.

9           If the support is deemed to be sufficient, you  
10 know, the threshold 50 percent majority showing is made,  
11 then under the statute, the Board certifies the labor  
12 organization and that will trigger a time period for an  
13 employer to file objections to the petition. This would  
14 include grounds, you know, based on existing language,  
15 whether there was improprieties during the investigation or  
16 whether there were questions with the support submitted.  
17 But these-- you know, the grounds for objection and the  
18 process for handling objection under this statute are  
19 modeled after the existing regulations governing the  
20 objections process for a petition for certification. So  
21 again, trying to stay as closely in line with our current  
22 practices and procedures as possible.

23           I'll just skip down to under Subdivision F of the  
24 regulation. There's-- the statute lays out procedures  
25 regarding if a second Majority Support Petition is filed

1 while one is already pending, and that the second petition  
2 basically gets held in abeyance until the first filed  
3 petition is resolved. And so that's what Subdivision F of  
4 the regulation is seeking to implement, how the Board would  
5 handle these situations where a second petition is filed.

6 And under the statute, the only circumstances  
7 where the Board would begin to entertain the second  
8 petition is that if it contains allegations of employer  
9 assistance, support, domination. And so, there's, you  
10 know, the sub parts of this paragraph layout what the board  
11 would be looking at and the criteria and requirements in  
12 terms of when those types of allegations would warrant a  
13 hearing. And then the statute sets forth a three-month  
14 time period for those types of allegations to be resolved.  
15 And so, the process is designed to be expedited to meet  
16 that requirement.

17 One aspect the statute doesn't cover is  
18 consolidation with unfair labor practice proceedings. And  
19 so that's skipping down towards the end, Subdivision G of  
20 the regulation. That's intended to cover similar to  
21 existing practice with certification petitions where  
22 objections may be consolidated with pending unfair labor  
23 practice charges. That's what Subdivision G is intending  
24 to cover and address. Again, tried to model the language  
25 as closely as possible on existing practice so we're not

1 reinventing the wheel here.

2           And then the final piece of this regulation is  
3 addressing the final subdivisions of the Majority Support  
4 Petition statute, 1156.37, where the final subdivisions of  
5 that statute set forth certain unfair labor practice,  
6 liability, consequences for a certain employer conduct  
7 while a Majority Support Petition campaign is underway.  
8 And so, this final subdivision is seeking to implement that  
9 piece, and when the board would consider a campaign to be  
10 underway for purposes of triggering the provisions of those  
11 subdivisions of the statute.

12           So that's that. And then the appellate bonding  
13 restructuring of the bill is pretty significant. There's a  
14 lot of process in here that, you know, I won't bother  
15 getting into the details, but please folks who have  
16 reviewed it and familiar with the processes, if you see  
17 anything, feel free after to jump in on that.

18           But the overview here is that when the board  
19 determines that an employer has committed an unfair labor  
20 practice and a monetary remedy is owed, the statute  
21 directs-- 1160.3 directs the Board to refer the matter in  
22 into subsequent proceedings to determine the amount of the  
23 monetary remedy. And this would take place before judicial  
24 review of the Board's unfair labor practice liability  
25 decision is available.

1           And so, after the Board were to issue a decision  
2 in those circumstances, the process is designed so that the  
3 Board would refer the matter directly back to, I think the  
4 ALJ one of the ALJs, and then that a 90-day time period for  
5 the region to issue a specification for calculating the  
6 amount of the monetary remedy. And this is in keeping with  
7 1149.3, which requires compliance proceedings involving  
8 monetary remedies to take place or to be completed within  
9 one year. And so, we're trying to operate within that  
10 timeframe.

11           And so then after the specification is filed, the  
12 process, I mean it's basically a lot of the same regulatory  
13 language, just restructured or reordered. And so, the  
14 process would then proceed very similar to how it does  
15 under current practice, where the party that disputes would  
16 litigate those issues. It would result, if it goes to  
17 hearing in a final administrative law judge decision,  
18 recommending the specific amount of the monetary remedy  
19 owed, at which point review before the Board would be  
20 available.

21           And then after that, when the Board settles on a  
22 specific monetary amount, that would then be the amount of  
23 the bond that would have to be posted as a condition of  
24 seeking judicial review. At which point, the liability  
25 questions and any issues that arise during the scope of the

1 remedial proceedings, would all be subject to review in  
2 that single appeal. So, it would sort of be review of the  
3 entire process leading to both of the Board decisions that  
4 issue.

5           So that's the overview. I think I've covered  
6 everything hopefully. But, you know, I'll turn it back to  
7 Barry and Ralph if you have anything to add. Otherwise, I  
8 think, you know, we're ready to engage.

9           BOARD MEMBER BROAD: Okay, so here's how we're  
10 going to proceed. There is a public comment queue, some  
11 people are already in it. Santiago will call the people in  
12 the queue. We're not going to do the raising of hands  
13 thing, because it's very hard to track who comes first and  
14 who's there. And the public comment queue actually allows  
15 us to get it right where it's sort of first come, first  
16 served, so to speak, and to make sure that when we sort of  
17 form a-- or write out a record of this meeting, that we  
18 actually include everyone and don't miss anybody.

19           So, with that, I'm going to turn it over to  
20 Santiago to call the first group of people and to tell you  
21 kind of how to get in the public comment queue if you  
22 don't, haven't figured it out yet. So, Santiago?

23           EXECUTIVE SECRETARY AVILA-GOMEZ: Thank you,  
24 Board Member Brad. So, initially we have a queue of three  
25 parties wishing to make comments. For other folks in the



1 meeting who wish to join the queue, you may do so by either  
2 using the chat feature in Zoom, allowing you to send me a  
3 message indicating you wish to provide public comment.  
4 Alternatively, you can email me and that's at  
5 Santiago.Avila-Gomez, with a Z at the end, @alrb.ca.gov.

6 Right. Moving ahead to the first party in the  
7 queue, it's Barsamian and Moody Attorneys, Ron Barsamian,  
8 Pat Moody, and Seth Mehrten. Beforehand I'd let you know,  
9 I'm sorry if I butchered your name in any way, but at this  
10 time, Barsamian and Moody Attorneys may commence public  
11 comment.

12 MR. BARSAMIAN: Well, thanks Santiago. This is  
13 Ron Barsamian. First off, I appreciate the whole approach  
14 you folks are taking on this very important legislation and  
15 regulatory process by having a workshop. We did this years  
16 ago during Gould's(PHONETIC) time and even before then when  
17 we were revisiting access, for instance, for example. So,  
18 it's a good process. I think it's a good idea, and I think  
19 it ought to be used more often. Might not have been a bad  
20 idea to use this for some of the procedural regulations  
21 that we just dealt with since the-- at least with the  
22 attorneys, we have to deal with those things.

23 But in any event, as you said, Barry, we're left  
24 with this, so I'm not going to scream, yell, or go nuts  
25 about the legislation. Just assume I would be. I'll talk

1 about what I think needs to be done with the regulations  
2 based on the draft before us. Most of this has to do with  
3 the authorization cards and the petition alternative.

4 My biggest concern, doing this for four decades,  
5 is the abrupt change in what these authorization cards  
6 mean. This is not the NLRB where the employer can still  
7 reject the authorization cards in the card check and call  
8 for an election and get a secret ballot election. Even in  
9 New York under their PERB regulations, there can still be  
10 an election and all. I don't know if Carl's in the queue  
11 or not, but Carl Borden could probably speak to that since  
12 he took a look at that.

13 My biggest concern is these authorization cards  
14 the minute they're signed may very well become votes in and  
15 of themselves. Obviously, card check is just an  
16 alternative. The union can still file for a regular secret  
17 ballot election. But chances are, they're going to try for  
18 the card check. And by card check, I mean the majority  
19 support, I'm just using a generic term.

20 I think the cards need to be changed. There  
21 needs to be a requirement here because of the change in  
22 this law. And this will not have any effect on a union's  
23 security rights or their ability to govern their own  
24 membership rules. This is because the cards can be used as  
25 a vote, and because everything farm workers have been heard

1 for decades is, "Sign a card, you're still going to get a  
2 secret ballot election." Everything they've ever heard  
3 about the history of Cesar Chavez, he fought for a secret  
4 ballot election, it's been the whole key.

5 Now we've changed it. Won't argue about why or  
6 whether it's a good idea, but it's been changed now. Those  
7 cards become a vote. It's as if somebody's standing next  
8 to you in a ballot area watching you as you vote. I think  
9 there needs to be information on the cards and/or on the  
10 petition that is very clearly communicating to the employee  
11 that this authorization card, if you sign it may very well  
12 be your vote. You are not guaranteed a secret ballot  
13 election down the road. This may be it.

14 Secondly, there needs to be very clear and  
15 concise language on both the authorization card, and of  
16 course this can be difficult with the petition. So maybe  
17 if they're using, you know, petitions to be signed, maybe  
18 something needs to be given, a sticker like a little  
19 voting, I voted today type of thing, given to the worker  
20 that says and explains exactly how they can withdraw their  
21 support.

22 We don't know why the workers are going to sign  
23 these authorization cards. The UFW is very, very-- and I'm  
24 picking on the UFW because I think they do this more than  
25 the teamsters of the UFCWW. They're-- it's in their roots.

1 They're a very good social organization. They do a lot of  
2 things for people. They help with immigration, they help  
3 with credit, and get discount cards at Disneyland for  
4 crying out loud.

5           There's a lot of reasons why people might sign an  
6 authorization card. So, I think they need to know that  
7 there's another purpose for these cards and it needs to be  
8 clearly stated about how they can be withdrawn. And I'm  
9 not too impressed with the idea. I know New York talks  
10 about this a little bit, and I know there's been other  
11 discussions with this even in our own processes here when  
12 the cards were just used for getting excelsior lists or  
13 what have you.

14           Sending a withdrawal, in this case to the union,  
15 I don't think is sufficient. I think there needs to be a  
16 form provided and a process even before these cards may  
17 even be used to where a withdrawal can be sent directly to  
18 the ALRB, cause it's the ALRB that's going to be getting  
19 the support, the cards or the petitions. And if the ALRB  
20 needs to keep a bank of those somewhere, so be it. It's  
21 computerized. I hear there's a big locker in the Visalia  
22 room where thousands of ballots were kept for the years on  
23 end, so there's evidently some kind of recourse there for  
24 keeping things safe. But I don't think sending that to the  
25 union itself is sufficient as far as providing safeguards

1 to the employees.

2 But again, two things so far. One, an  
3 explanation on the card, on the petition, or on a handout  
4 when you're using a petition, making it clear to the  
5 employee that this may constitute their vote. They may not  
6 get a secret ballot election. And two, how they can  
7 withdraw it if they're unsure, or maybe because they've  
8 changed their mind. I think there needs to be something  
9 very clearly stated in-- it's going to be A, I think A-1,  
10 but maybe A-2, a clear statement that there can be no  
11 electronic signatures. Period. You just, you can't allow  
12 it in this situation.

13 I think the board needs to issue new pamphlets.  
14 The old certification pamphlets just don't do anything for  
15 this card check. I think new pamphlets need to be printed  
16 out, things that organizations, whether they're unions or  
17 anybody else, can hand out. So, it's a statement from the  
18 state, as opposed to a statement from a union or an  
19 employer, to the employees in the state's own language as  
20 to what a Majority Support Petition is, and what signing a  
21 card or a petition means.

22 There was, when Todd was going through this, I  
23 picked up some other-- oh, on C, there's a discussion.  
24 Todd, you mentioned talks about the RD's going to be  
25 comparing the names and the signatures. One thing I don't

1 see in here, and again, I know you're-- you refer back to  
2 the current regulations. But there's nothing in here, and  
3 I think it's specifically going to be needed, restated if  
4 necessary for the card check program here, and even the  
5 petitions, about a process where signature examples can be  
6 provided by the employer.

7           So far, we're just talking about lists of  
8 employees. When an employer receives these cards under the  
9 NLRB, they have the ability to go look at W-2 forms, I-9's,  
10 what have you. Here, the ALRB's got nothing. And under  
11 the current process, there's not a lot of opportunity.  
12 There is when a NA is filed-- NO is filed, but not when an  
13 election petition.

14           But thought needs to be given to, especially if  
15 it's a large employer, some timing beyond the 48 hours to  
16 provide signatures. Especially if we're doing farm labor  
17 contractors and we need to make hard copies of documents,  
18 because that's not going to be something you're going to  
19 find electronically filed already. But it's going to be W-  
20 2 forms I-9's, redacted of course. Anything else,  
21 employment applications that might have signatures.

22           Because in reality nobody's going to be walking  
23 up to an election area table to check in with the ALRB  
24 agents and the observers from the parties to go down a  
25 list, see the face, show maybe an employee identification

1 card or what have you, and have people confirm whether or  
2 not it's the person that's on the voting list. Here, it's  
3 an electri-- it's a signature, could be done 11 months  
4 beforehand. They're rely on the regional director to only  
5 just have the names and somehow declare 'em valid?

6 No. And we all know there's so many common usage  
7 of names in this industry that that's not going to suffice.  
8 That proves nothing. You might as well just challenge  
9 everybody on a card. So there needs to be some process  
10 there for providing signatures specifically for the  
11 Majority Support Petition.

12 You also pointed out on H that there needs to be  
13 some showing of interest, 10 percent showing of interest,  
14 to show that an organizing campaign has gone on. And I  
15 presume, Todd, you're referring to the presumptions that  
16 can be raised under the card check, which is, you know,  
17 thanks to whoever came up with the idea of getting rid of  
18 overwhelming evidence. Because I talked to people at the  
19 Hoover Institute, and they couldn't figure out what the  
20 hell that meant. So, I'm glad that went away. I dunno who  
21 came up with it. Maybe Edgar did, I don't know.

22 But are you saying that they have to file  
23 something to show they are at 10 percent? Or is that going  
24 to be some bass-ackwards approach where you go backwards  
25 and say, "Oh, you did something two months ago and we've

1 just now received evidence at that time that they already  
2 had 10 percent." What-- we need a process there.

3 If they're going to file a 10 percent showing of  
4 interest like they would for a Notice of Intent to  
5 Organize, well then it needs to be stated. In other words,  
6 if there's nothing filed, how the hell is anybody going to  
7 know that there's an organizing drive going on pursuant to  
8 subparagraph H?

9 Is there going to be a new specific form for a  
10 response to a Majority Support Petition? I presume there  
11 will be. But because there's going to be a certain things  
12 that are different in there, and maybe that could contain  
13 some instructions on providing signatures.

14 On the-- we-- I see that you're talking about  
15 objections within five days. What about challenges? There  
16 doesn't seem to be anything in there about time limits for  
17 filing challenges. Normally that would be done at the  
18 little table when somebody walks up to vote, get their  
19 ballot. When does that process take place? We need some  
20 procedures on that. Is that something the employer has to  
21 do with its response to the petition? That seems a little  
22 bit strange because at that point you're just trying to get  
23 an employee list. And if any of you have been through that  
24 in the Ag setting, 48 hours, damn tough. So-- especially  
25 if you got contractors.



1           So, there's going to be other issues. I suspect  
2 that once that initial list is given to an RD, more so than  
3 the current petitions for certification process, there's  
4 going to be ongoing discussions, processes going on between  
5 the RD, the union if you will, and the employer. There's  
6 going to be more information as it comes on. The-- I'm  
7 thinking back to-- I don't know if Edgar remembers this,  
8 but the last Wonderful organizing campaign we went on  
9 through. I mean that process was almost hourly if not  
10 daily, just because more and more information had to be  
11 obtained because there was different issues about the  
12 bargaining unit and all that.

13           I think here, because there's going to be-- and  
14 really think this through guys and ladies, there's going to  
15 be a lot more put on an RD handling these petitions than in  
16 a normal election petition situation. They're going to be  
17 doing a lot more work, they're going to have a lot more  
18 obligations, and there's going to be, we're not providing  
19 them much more time. I don't know if the legislation would  
20 allow any more time to be added, but it's damn difficult  
21 for me to understand how all that's going to happen,  
22 especially if signature examples are given. And I think  
23 they're almost going to be absolutely necessary given card  
24 check.

25           And again, because this is mandatory and because

1 these cards are being filed with the ALRB, not being  
2 provided to the employer, who could sit there in their  
3 payroll office and actually check signatures like it is  
4 under the NLRB? I've got some comments about the appeal  
5 bond, but just processes here. I don't know if you want to  
6 just talk about the card checks so to speak, or you want  
7 everything we got to come out all at once? Because I think  
8 things are going to be forgotten, what have you.

9 BOARD MEMBER BROAD: Well, I think all at once is  
10 probably a better approach rather than us dividing it up.  
11 And I think, given the comments you've made so far, it  
12 would probably be very helpful for you to get this into a  
13 written form so that we can actually--

14 MR. BARSAMIAN: And this certainly isn't all--  
15 we've got a lot of questions on the attorneys, on those of  
16 us that might be filing it, appeal bonds. Edgar, you can  
17 go to sleep on this one. I'm trying to imagine a situation  
18 where you've got to worry about it.

19 Let's say a bag of cash comes into the ALRB, for  
20 the appeal bond. Where are you going to put it? Where are  
21 you going to keep it? Does it go into the farm worker  
22 fund? Are you going to create a special trust fund Bank  
23 accounts for each case rather than earmarking? And, you  
24 know, I have questions about that process.

25 But if a normal corporate bond is filed, Barry

1 you know this. If you're in court, you're filing that  
2 proof with the court and there's a whole process there.  
3 Are we supposed to be looking at the rules of court  
4 processes? Or is this something that's going to be set up  
5 separately with the ALRB? That's where we're really in  
6 doubt.

7 Obviously, I would recommend the rules of court,  
8 it's there. But I don't know if you guys feel constrained  
9 and think that you actually have to hold the bond. I would  
10 think it ought to be held by the court just because that's  
11 what's-- it's going to really mess up people if we start up  
12 a whole new process here, and then we get into the  
13 questions. Who gets to decide whether to cash in that bond  
14 and for how much? You know, and if one agency does that,  
15 that's actually a party in the case, going to have a lot of  
16 questions raised about that. Whereas a court order saying,  
17 go ahead, pay the bond, go ahead and cash in on the bond.  
18 I think that's why we set it up that way in civil  
19 litigation.

20 Those are my big issues on the appeal bond. The  
21 big black holes if you will. Just somebody that does civil  
22 litigation, when I'm looking at this it's like, wait a  
23 minute, what do we do here? What's going to be different?  
24 What isn't going to be different?

25 I guess my other concern about, and I heard what

1 you were saying Barry and Todd, the processes are already  
2 there for figuring out remedial monetary amounts. And I  
3 understand in some cases small discharges, whatever, it may  
4 all be done at one time. But Todd, you didn't point that  
5 section, but that's already currently part of the  
6 regulatory scheme. So, I presume that would be in this  
7 case as well. Obviously in a bad-faith bargaining case  
8 you're going to have to wait till the end and all that  
9 stuff.

10 But I'm just wondering, are we saying that-- if  
11 I'm reading this right, if I understand you correctly,  
12 we'll get to the end, get a financial amount, go through  
13 any Board review of that and then that's when the Board  
14 would issue a final decision and get the clock running? I  
15 assume that's what you have in mind. It's the only thing  
16 that makes sense to me right now. That's good.

17 BOARD MEMBER BROAD: That's how I see the statute  
18 operating.

19 MR. BARSAMIAN: Me too. Me too. It doesn't--  
20 That's going to take a while. I don't think there's going  
21 to be a hundred cases filed almost you know, immediately or  
22 anything like that. But in any given case, that's going to  
23 take a while. So, is that going to put pressure on the  
24 General Counsel and the Executive Secretary to have more  
25 cases where the remedial parts of the case are part of the

1 hearing in the first place?

2           If so, and I've seen this many, many times, it  
3 sounds like a great way to save time, but those hearings go  
4 on, and on, and on. And it may be a situation where it's  
5 defended and all that time was wasted for nothing. It also  
6 makes it tough on farm workers and other agricultural  
7 personnel that may have to testify twice, being called back  
8 on cross-examination where they're testifying about the  
9 liability phase, the underlying ULP, and then all of a  
10 sudden, we're talking about the remedial stage and  
11 questions are raised about, "Did you go out and try to find  
12 work," and all that stuff. That's what could really extend  
13 these cases out.

14           Even in civil litigation you see that. Here, it  
15 would even take longer. So, I think some thought needs to  
16 be given on how you deal with that, and where you're going  
17 to cut the size of the case and say, "No, we're not going  
18 to combine 'em when it gets this big. We'll have to do it  
19 separately in a bifurcated fashion." But up to this point,  
20 if it's a question of discharge of one, two, a few people,  
21 even an entire crew on the same day and all that, that I  
22 can see. If you start getting beyond that, you're almost  
23 going to have to bifurcate it, just because of the length  
24 of time in the first hearing.

25           My thoughts. I may have others, but I'll shut up

1 for now.

2 BOARD MEMBER BROAD: Thank you. That was very  
3 helpful and very detailed, and we appreciate it. And like  
4 I said, I think it would be-- for us, it would be great if  
5 you would reduce these comments to writing. Cause  
6 sometimes in that process too, you kind of refine your own  
7 thoughts.

8 MR. BARSAMIAN: Oh, I planned to.

9 BOARD MEMBER BROAD: Yeah.

10 MR. BARSAMIAN: I just didn't want to turn--

11 BOARD MEMBER BROAD: Right. I mean, but--

12 MR. BARSAMIAN: But I didn't have any time to do  
13 it before this. I've been in negotiations. But no, I plan  
14 to, and I think others have the same plan on the employer  
15 side. We wanted to get our comments out, be able to  
16 respond to other folks' comments. But yeah, we'll be  
17 submitting stuff to you as a follow up.

18 BOARD MEMBER BROAD: Okay. Alright. Santiago,  
19 can you call the next person?

20 EXECUTIVE SECRETARY AVILA-GOMEZ: Yeah, the next  
21 speaker will be Pat Moody.

22 MR. MOODY: I have nothing to add, beyond what  
23 Ron added.

24 EXECUTIVE SECRETARY AVILA-GOMEZ: Thank you. And  
25 that leaves Seth Mehrten from your office. Will he have

1 public comment?

2 MR. MEHRTEN: Same. I will-- yeah, just echo  
3 Ron's comments and submit on that.

4 EXECUTIVE SECRETARY AVILA-GOMEZ: Thank you.  
5 Next in the queue is the Martinez Aguila-socho, Inc.,  
6 Attorney Edgar Ivan Aguila-socho.

7 MR. AGUILASOCHO: Good morning. Yeah, so I'd  
8 like to-- so effectively, I'm making a statement on behalf  
9 of the United Farm Workers. We've reviewed these draft  
10 regulations extensively. We really appreciate the work of  
11 the subcommittee and Mr. Ratshin on drafting these.

12 We think they fairly reflect the purposes of the  
13 bill. They're set out clearly and concisely in terms of  
14 how the new majority sign-up procedure will work, how to  
15 calculate bond amounts under the action provisions. I  
16 think altogether, the way they're drafted already makes it  
17 more likely that farm workers will be able to exercise  
18 their rights under the ALRA if implemented as written. And  
19 so, we would urge the board to do that.

20 Just in terms of responding to a few of things  
21 that Mr. Barsamian raised during his comment. In terms of  
22 adding some kind of additional vote sort of disclaimer on  
23 the document signed by workers, the majority sign-up cards--  
24 you know, the language in Section A-1, that portion of the  
25 regulations, reflects what's in the bill. We think it's

1 clear enough that when a signer authorizes-- you know, when  
2 a signer puts their name to those cards, that they're  
3 authorizing the union to be their collective bargaining  
4 representative. Which, in our experience working  
5 extensively with farm worker clients in the farm worker  
6 community, we think that complicating that language, adding  
7 all sorts of disclaimers and things like that would only  
8 muddle up what the purpose of the bill was and make it more  
9 likely that there be some kind of confusion about what the  
10 purpose of that card is.

11 But beyond that, I think a change to what's  
12 required, sort of bringing up the threshold for what's a  
13 valid card under the new bill feels more like a legislative  
14 change than a regulatory change. And so, setting anything  
15 that's a higher bar doesn't feel appropriate for this  
16 regulatory process.

17 Similar thing with the withdrawal form that are  
18 being proposed. That feels more like a legislative change  
19 than a regulatory change. What we don't want, and what has  
20 been pretty, you know, common practice is for a petition to  
21 be filed, and then captive audience meetings to happen, a  
22 fore-person is asking for workers to sign saying something  
23 that the petition that was filed contained something that  
24 was against their will or things like that.

25 So, the way that the bill is set up is pretty



1 clear on how, you know, representation happens, the way a  
2 worker expresses their intent and adding something like  
3 this feels like a legislative change. So, it's a big  
4 enough change that is not appropriate for the regulatory  
5 process.

6           Mr. Barsamian made many, many comments. I'll try  
7 to respond to just a couple of more. In terms of the  
8 potential for extending timelines for submitting employer  
9 provided signature comparisons or anything else-- similar  
10 thing, not contemplated in the bill and would undermine the  
11 quick timelines that are established in the bill.

12           In terms of employer provided signature  
13 comparisons, I mean the regulations as written already  
14 provide for, you know, the employer to submit objections  
15 alleging misconduct. And so, if there's some kind of  
16 concern about whether signatures match up, the bill  
17 provides for the objections process to be used for that, I  
18 don't see anything in the bill that would allow for some  
19 new special process regarding the validity of signatures  
20 and things like that.

21           So overall, you know, the union strongly supports  
22 the regulations as drafted, and we would urge this to move  
23 forward with the regulations as written. Thank you.

24           MR. BARSAMIAN: While it's still fresh, can I  
25 respond real quick?

1           BOARD MEMBER BROAD: In one second? Cause I just  
2 have a question.

3           MR. AGUILASOCHO: Mmm hmm?

4           BOARD MEMBER BROAD: Do you believe that this  
5 statute would authorize this process, this kind of card  
6 check certification process, to be used for  
7 decertifications?

8           MR. AGUILASOCHO: No. The way that it's written-  
9 - even just looking at sort of the noun-verb relationships,  
10 right? The way that the bill is drafted is for a worker to  
11 signal their intent to have a labor union represent them as  
12 their collective bargaining representative, right? There's  
13 no language about using this process to request  
14 decertification or anything of that sort. So pretty clear  
15 there for us. No.

16          BOARD MEMBER BROAD: Okay. Mr. Barsamian?

17          MR. BARSAMIAN: And I'll be very-- I just want to  
18 respond to a couple things. Mr. Aguila-socho is talking  
19 about the need to stay within these quick timelines. How  
20 quick is it when you obtain a card and you can wait up to  
21 11 months, 29 days before you even use it? This isn't a  
22 petition for certification with seven-day elections being  
23 required. If you want quick, go ahead and file a regular  
24 petition for certification.

25               As far as mixing up workers, I can't abide having

1 language in there about what these cards actually mean now.  
2 For the past, what, nearly 50 years or more than 50 years,  
3 all they've been hearing from even the ALRB's own pamphlets  
4 is that signing an authorization card or a petition is  
5 going to get you a secret ballot election. Now you're not  
6 going to explain the difference? What better way to mix up  
7 a farm worker. I can't even imagine anybody even making a  
8 statement like that.

9           You need to do that in order to make it clear to  
10 employees that the law has changed. And it doesn't--  
11 nothing in my statement said you are not going to be able  
12 to vote. It says you may not be able to vote in a secret  
13 ballot election. You need to understand this may be used  
14 as a vote.

15           Same thing on the withdrawal. I don't understand  
16 why that's a big deal. You're talking about captive  
17 audiences. What's more captive audience than having people  
18 come in to grab their 600 bucks from Joe Biden and have  
19 them signing authorization cards? Talk about captive  
20 audience. I can't imagine anything better than that or  
21 getting authorization card signed. So, what's good for the  
22 goose is good for the gander. You're going to be standing  
23 over them as they actually vote signing an authorization  
24 card, and yet you have a real problem with giving them the  
25 information on how to withdraw that.

1           So, the question you brought up there about  
2 decertifications, yeah, that'd be great. It would be  
3 great. I think part of what may cause this law to be  
4 challenged is the fact that it's not clearly providing for  
5 decertifications.

6           There's a lot of other problems and it just  
7 reminded me of another one I forgot to bring up. This  
8 highly monopolistic job protection provision about groups  
9 of employees having to have filed two LM2s or having had a  
10 contract, just so traditional unions can keep out any  
11 newbies if you will. I wonder about all those Starbucks  
12 kids that didn't ever file a LM2, all of a sudden starting  
13 one of the biggest reemergences of unionization this last  
14 summer. If they looked at this thing and said, well, "I  
15 can't even form my own union here. At least I can't even  
16 use card check. And working with a Starbucks where we've  
17 got people spread out around the city, card check would be  
18 a great idea, especially since we're working shifts." If  
19 they were under the ALRB, you would be shutting them out.

20           So that whole concept there is probably going to  
21 be challenged in court. There's a lot of stuff that's  
22 going to be challenged in court first time this thing comes  
23 up, any authorization cards that don't have language. But  
24 I guess just letting you know about that.

25           But one of the biggest problems is knowledge to

1 the employees. And filing objections later; if I heard  
2 Edgar correctly, you're saying let's go through the  
3 Majority Support Petition, let's have the RD decide, oh,  
4 they're certified, and then you want us to turn over  
5 signatures as an objection? Talk about bass-ackwards.

6 That's always done before. The challenges take  
7 place before anybody even got a secret ballot to go vote  
8 with. I mean, talk about extending things out. You're  
9 coming in after the fact saying, all right, you've already  
10 certified the union. You've got time running now under the  
11 MMC provisions. You've got all these other things that  
12 have been triggered. You're saying none of that's going to  
13 be delayed by the objections and now you want us to turn  
14 over the signatures? No. Absolutely, I'm using this in a  
15 nice-- asinine. That just doesn't fit in any universe.  
16 Thanks.

17 BOARD MEMBER BROAD: Can I just ask you a  
18 question Mr. Barsamian--

19 MR. BARSAMIAN: Sure.

20 BOARD MEMBER BROAD: -- about that? Since the  
21 union under this circumstance controls the timing of when  
22 they turn in the cards --

23 MR. BARSAMIAN: Mmm hmm.

24 BOARD MEMBER BROAD: -- how could you even have a  
25 process under this statute where the employer would file

1 objections regarding the cards before they were turned in  
2 since they don't know when they're going to be turned in?  
3 It's ki--

4 MR. BARSAMIAN: Oh, I'm saying once they're  
5 turned in and we're talking challenges when we're talking  
6 signatures, I don't think that's an objection based on  
7 conduct. That's a challenge based on, is this even the  
8 person? Okay? That, I wouldn't say, takes place before  
9 they turn him in. That would have to be done that. That's  
10 what I was saying before. That has to be done at or near  
11 the time of the employer's response. But extra time might  
12 be needed for the regional director to do that.

13 What I heard Edgar saying is, no, you can raise  
14 that after the whole decision on whether they're certified  
15 or not. Presumably even after the extra 30 days they get  
16 before you even look at signatures. That's an objection.  
17 It's not. It's a challenge. That has to do with the  
18 employee's right to vote, whether it's by secret ballot or  
19 a card check. That has not a damn thing to do with the  
20 conduct as far as the process. Two different animals.

21 BOARD MEMBER BROAD: Okay, I understand that. So  
22 you-- and I do also understand Mr. Aguila-socho's comments  
23 about sort of what the statute says. It's pretty clear in  
24 my mind that at this point. But with regard to conduct, if  
25 an employer believed that a union was obtaining the

1 signatures during the process, they found out that the  
2 process and they believed, for example, or wished to  
3 allege, that the union was intimidating people or giving  
4 them some unlawful inducement, or, you know, something that  
5 would affect-- there's nothing that I see that would  
6 prevent them from filing an unfair labor practice charge at  
7 any time if they had evidence of some unlawful conduct. I  
8 don't-- so I don't think that the employer is foreclosed  
9 from raising questions related to conduct.

10 MR. BARSAMIAN: No. And that's-- typically, that  
11 happens. You get a ULP, it takes a while for that to be  
12 investigated. Although now we got this long period of  
13 these cards being good for 12 months before they're even  
14 used. The worker didn't even know where they're going to  
15 work, or in what commodity, or in what location in  
16 California, and they are already voting for a union.

17 But many times, you can look back at some of the  
18 most significant cases over the last 10 years. The  
19 allegations that lead to a UOP are the very same  
20 allegations that lead to an objection to an election. And  
21 that's what Todd was talking about, consolidation. That's  
22 where that typically happens. And that's where the  
23 Executive Secretary, for instance at Gerawan, literally  
24 went through, looked through a bunch of the ULPs, looked at  
25 the objections to the election filed by both the employer

1 and the union, and matched them up. Didn't deal with ULPs  
2 that had nothing to do with the election, matched them up.  
3 That's where the big consolidation case came from.

4 BOARD MEMBER BROAD: Okay. Alright, next person.  
5 Santiago?

6 EXECUTIVE SECRETARY AVILA-GOMEZ: Next in the  
7 queue is California Farm Bureau Council, Carl Borden.

8 MR. BORDEN: Good morning, thank you for this  
9 opportunity. I'm Carl Borden, I'm Senior Counsel with  
10 California Farm Bureau Federation. A few words about what  
11 that is. It's a nonprofit agricultural trade association  
12 representing farmers throughout the state regardless of  
13 commodity. Technically, California Farm Bureau has 53  
14 members. Those are 53 separately organized county farm  
15 bureaus throughout the state, which among them count as  
16 agricultural members more than 21,000 persons, entities,  
17 and individuals.

18 So, I won't drag this out by repeating what Mr.  
19 Barsamian said, in which I and my organization joined  
20 wholeheartedly. But I would like to augment on it and also  
21 address what I understood Mr. Aguila-socho is saying about  
22 the authorization cards, and specifically that. Because  
23 with what they-- what OT(PHONETIC) and Mr. Barsamian refer  
24 to as withdrawal of authorization, I'm going to call  
25 revocation of authorization, because that's the term that



1 is used in court cases and agency decisions that have taken  
2 up the issue in the context of both the National Labor  
3 Relations Act, and also under our California Public  
4 Employment Relations Board.

5 I appreciate the fact that in drafting the  
6 proposal, you folks at the ALRB were trying to just follow  
7 your current regulations, provisions with respect to secret  
8 ballot elections as much as possible. I don't think we can  
9 do that. That's because of the monumentally different  
10 purpose of these employee authorizations, whether they be  
11 by cards or petition, excuse me.

12 Of course, under the secret ballot election  
13 process, it's-- I reduce that when I talk about this to a  
14 two-step process. The first step is the Labor Organization  
15 Union gathers sufficient authorizations to show interest.  
16 Showing of interest is the term used to have an election.  
17 That's the first step. If the ALRB regional director is  
18 convinced that there is such a showing of interest, then an  
19 election is held.

20 Step two, where the employees can then make a  
21 real time fresh expression of their sentiments about  
22 unionization. That is not what we have under card check  
23 the cards executed and given to a union that could be as  
24 much as 12 months old do not necessarily reflect the  
25 current at the time. When I say current, I mean at the

1 time the union files its petition for recognition with the  
2 ALRB. If they could-- the employees minds could have  
3 changed. Either they don't want any union anymore, they  
4 don't want to, or that just that particular union, and may  
5 want some other union to represent them.

6           Going to-- I hope that Mr. Agiulasochó was not  
7 suggesting that once an employee signs an authorization  
8 that it's forever, that it's irrevocable. The AB 113 does  
9 not talk about the duration of the employee authorizations.  
10 It merely says that upon a union showing employee majority  
11 support to the ALRB that it will become certified as the  
12 exclusive bargaining representative of an agricultural  
13 employer's agricultural employees' bargaining.

14           So, I'm stressing this to highlight the  
15 difference. With respect to secret ballot election, it  
16 doesn't really matter so much if an employee no longer  
17 wants to have that designated union, the authorized union,  
18 to be the representative. Because if there's ultimately an  
19 election, a secret ballot election, that employee as well  
20 as the employees co-employees can express their then real  
21 time fresh expression as to their sentiments about  
22 unionization.

23           Again, that's not what we have here. And so  
24 going to one-- and we will of course be submitting, once  
25 the regulatory package comes out and formal public comment

1 period has opened, we will be submitting specific comments  
2 and proposals for amendments. So, for example, under A2 of  
3 the proposed regulation, which is based on the same  
4 language the current regulation for secret ballot of  
5 elections, no employee authorizations more than one year  
6 prior to the date filing of the petition shall be counted  
7 to determine a showing of majority support.

8           Well, I suppose that that would be okay, except  
9 for the fact that the legislation has this plan B where the  
10 union, where the ALRB determines that the union fell short  
11 of proving majority support and the union is given another  
12 30 days. Now, 30 days may not sound like much, but it's  
13 possible that a substantial number of the authorization  
14 cards were issued in the 12th month before that petition  
15 for the Majority Support Petition was filed.

16           It's our position at the Farm Bureau that that  
17 language should be changed so that it takes into account  
18 the freshness, the validity of the cards, the 12 months  
19 that the cards had to have been issued within 12 months, or  
20 the authorizations given by the employees within 12 months  
21 of when the board makes its final determination as to  
22 whether there in fact is majority employee support.

23           Going back to this question of employee right to  
24 revoke authorizations. The statute is silent on that. It  
25 just talks about the ALRB evaluating whether there is proof

1 of employee majority support for a union. That is kind of  
2 in line of with what employers have been doing under the  
3 National Labor Relations Act under where they have of  
4 course voluntary recognition, where the union gives cards  
5 to the employer for the employer to compare and make the  
6 evaluation. And the employer could, not required to, the  
7 employer could choose to voluntarily recognize that union  
8 without an election.

9 Under our California Public Employment Relations  
10 Board process, it's a bit different. There, if the  
11 employer is presented with cards expressing majority  
12 support by its employees for a union, then the employer  
13 must, it's mandatory, the employer must recognize that  
14 union. In those-- in cases that I was able to find, and  
15 I'll cite them, not now but in our formal comments. The  
16 questions had come up about the validity of employee  
17 revocations of their prior authorization. How is that  
18 effected?

19 In one case under the California PRRB, the  
20 question was, was a mere writing on slips of paper, "No  
21 union," enough to revoke the prior authorization of the  
22 union? The PRRB held no, it wasn't, but that a specific  
23 statement that was actually provided to the employees by  
24 the employer in an email to them, 'cause the employer was  
25 not sure of whether slips of paper saying, "No union," were

1 good enough. A handful of employees did say, "I hereby  
2 revoke my authorization of the union." There was no  
3 allegation that the employer had engaged in any unlawful,  
4 you know, coercion or intimidation of these employees, but  
5 merely said, "Hey, if you really don't want the union to  
6 represent you anymore, please let us know because we have  
7 to make this decision." Likewise, under the National Labor  
8 Relations Board, there was at least one case where the  
9 employer was-- had to make that same type of determination,  
10 whether a prior authorization given by employee remains  
11 valid.

12           So, getting back here. So, since it's not going  
13 to be the employer, of course, under the ALRA's card check  
14 provision who is making the determination, but a regional  
15 director of the ALRB, that regional director should be  
16 provided with the means of making a quick and clear-cut  
17 determination as to the validity of any employee  
18 withdrawal, or revocation of authorization. And if not put  
19 in the reg itself, which we do support, and we'll try to  
20 develop some appropriate wording to that effect, unless you  
21 folks at the ALRB like-- or not like but recognize what I'm  
22 saying makes sense and include it in the regulations. At  
23 the very least, there should be a form that would be posted  
24 on the ALRB's website. And that might come as a result of  
25 a reg regulation provision as well, that by which the

1 employee can withdr-- notify the ALRB of withdrawal,  
2 revocation of authorization.

3           Think about in terms of during this 12-month  
4 period where there may be one or more other unions at play  
5 who might be interested in organizing these workers, and  
6 those unions might be able to, might make a better pitch to  
7 the employee. And the employee says, boy, you know, "I  
8 like what I'm hearing better from this Union B as opposed  
9 to Union A. I want to sign an authorization card." If  
10 there's not-- for Union B.

11           If there's not specific language that is  
12 included, say, on the card that by signing this card I  
13 revoke any prior authorization I may have given to any  
14 other labor organization, the regional director is going to  
15 be in a difficult position to make a determination as to  
16 whether employee authorization remains fresh and it hasn't  
17 been revoked. It should be, as a provision on the card, it  
18 should actually say that; how, or that you may at the very  
19 least revoke this, and how it can be revoked. I don't  
20 think it has to complicate things too much. You know, if  
21 it refers the employee signing it to the ALRB website.

22           Or if the concern is that it's going to  
23 complicate what's on the card, right? It may even be more  
24 effective since the employee doesn't retain that card, but  
25 gives it to an organizer. But if the union were to be, I

1 know the union won't like this, but to have to give to the  
2 employees an ALRB approved form that tells employees, you  
3 know, what is that they've done and if they choose to no  
4 longer want to authorize that union to be the employee's  
5 collective bargaining representative, how they go about  
6 revoking that. That's all I have. I will entertain any  
7 questions you have.

8 BOARD MEMBER BROAD: Thank you. Who's our next  
9 person in the queue?

10 EXECUTIVE SECRETARY AVILA-GOMEZ: Next speaker  
11 will be Maribel Ortiz.

12 MS. ORTIZ: (Translated from Spanish) Hello, good  
13 morning.

14 EXECUTIVE SECRETARY AVILA-GOMEZ: (Dialogue in  
15 Spanish) Okay. Interpreter? Yes. Thank you.

16 MS. ORTIZ: (Translated from Spanish) Yes. Good  
17 morning, everybody. My name is Maribel, and I live in  
18 Delano California. I work in the fields here in this area.  
19 And, well, I also have other jobs, like the pruning season,  
20 other jobs. And yes, me and my co-workers, we've been  
21 organizing here for years with the table grapes.

22 With those workers, there's so many injustices,  
23 low wages, we don't have any benefits. We have been trying  
24 to organize, but we've never been able to, and it's because  
25 of all of the reprisals against us. Campaigns, it's the

1 campaigns that the companies do against us so we won't be  
2 able to organize.

3 This AB 2183 is very important for me, the law  
4 that was just approved. Because with this law, me and my  
5 co-workers, that means that now we have hope. We have hope  
6 that thanks to this law we will be able to organize. For  
7 me, for my family, it's very important to have a union  
8 representation. Thank you.

9 EXECUTIVE SECRETARY AVILA-GOMEZ: Barry, do you  
10 want me to cue the next speaker?

11 BOARD MEMBER BROAD: Yeah, although I didn't hear  
12 the translation

13 EXECUTIVE SECRETARY AVILA-GOMEZ: Were-- okay. I  
14 was able to hear it. Was anyone? Just a reminder, folks  
15 to be sure to choose the English language setting at the  
16 bottom of your screen, clicking on interpretation, choose  
17 English to ensure you can hear the interpreter.

18 BOARD MEMBER LIGHTSTONE: Yeah, I was able to  
19 hear it.

20 BOARD MEMBER BROAD: Okay. I'm sorry, I didn't.  
21 I must have not chosen it. What? Oh, is that under  
22 interpretation?

23 EXECUTIVE SECRETARY AVILA-GOMEZ: Yes. Choose  
24 English there.

25 BOARD MEMBER BROAD: Oh yeah, I had original



1 audio. Okay, thank you. I'm sorry.

2 COURT REPORTER: I actually have it chosen and I  
3 didn't hear it.

4 EXECUTIVE SECRETARY AVILA-GOMEZ: Okay. Well, we  
5 have a recording, so we'll be able to share it with you,  
6 Elise. And then Barry, if you'd like, I can call the next  
7 speaker.

8 BOARD MEMBER BROAD: Yes, please.

9 EXECUTIVE SECRETARY AVILA-GOMEZ: Next speaker is  
10 Susana Ortiz.

11 MS. ORTIZ: (Translated from Spanish) Good  
12 morning. My name is Susana Ortiz. I am a farmworker, and  
13 I work here in Delano, California. And well, for me, it's  
14 very important that this new law was approved, AB 2183, so  
15 that I can have better work conditions. And that way, for  
16 me and for my coworkers, we don't-- we won't need to have--  
17 we won't have, well, these reprisals that have been taken  
18 against us. We'll feel safer. The safer that we can have  
19 representation. And so, we have more hope now that we're  
20 going to have better wages, better work conditions that  
21 they treat us better. And, well, I mean, here we are, you  
22 know. We're here hoping to continue on with this new law.  
23 Thank you.

24 BOARD MEMBER BROAD: Thank you,

25 EXECUTIVE SECRETARY AVILA-GOMEZ: That concluded

1 the speakers that were in the queue. At this time, Barry,  
2 if you like, you can call on others in the Zoom meeting to  
3 indicate whether they want to make public comment.

4 BOARD MEMBER BROAD: Is there anybody else that  
5 wishes to make public comment at this time?

6 MR. MOODY: I'd like to make one comment that I  
7 don't think has been covered yet.

8 BOARD MEMBER BROAD: And that's Patrick?

9 EXECUTIVE SECRETARY AVILA-GOMEZ: Yeah.

10 MR. MOODY: It is.

11 BOARD MEMBER BROAD: Yeah. Okay.

12 MR. MOODY: The one thing, we heard some talk  
13 about the time issues and wanting quick results and  
14 whatnot. I think one thing that's important to note is  
15 that the 48-hour response time that's in here, and again, I  
16 understand that was in prior issues, but one thing that  
17 hasn't been considered, I don't think, is the fact that  
18 there's no regulation on this and there's nothing written.

19 But from an employer perspective, I've been doing  
20 this over 31 years, and we get everything either from the  
21 union or from the Board on Friday afternoon at four  
22 o'clock. It requires a 48-hour response time, and it sort  
23 of obliterates the response time where you've got an  
24 intervening weekend. I think that's something needs to be  
25 considered and addressed in some fashion.

1 MR. ALLEN: Mr. Broad, it's Matthew with Western  
2 Growers, can you hear me okay?

3 BOARD MEMBER BROAD: Yes.

4 MR. ALLEN: Yeah. I just, in the interest of  
5 time, I would just-- I wanted to thank you for the  
6 opportunity for the workshop today. And everything that I  
7 was going to comment on was covered by Mr. Barsamian, and  
8 so I had aligned our comments with his and I couldn't say  
9 it any better. Thank you.

10 BOARD MEMBER BROAD: Thank you very much. Are  
11 there other people that wish to comment?

12 EXECUTIVE SECRETARY AVILA-GOMEZ: Cynthia Burgos  
13 would like to make a comment.

14 MS. BURGOS: (Translated from Spanish) I do have  
15 a comments. I live here in Bakersfield. I've worked in  
16 all of the corridors from LA to Salinas, California. I am  
17 part-- I am a volunteer at the Campecinas union. I marched  
18 355 miles, 24 days, for AB 2183. I spent 30 days waiting  
19 outside of the capital, living out there to waiting for  
20 Governor Newsom to sign this law. And so, I am-- I feel I  
21 am a part of this new law now.

22 And now, we need to get this implemented. We  
23 need to work on that, because there is a lot of injustice  
24 for field workers. There's too many. I myself was raped.  
25 And that was one of the things that made me march, made me

1 march for my rights, for justice. And now, now I'm seeing  
2 that we can organize ourselves. I see that we don't have  
3 to fear reprisals and much less do we have to deal with  
4 harassment at work, do we have to put up with that anymore.  
5 So, I was very happy to be part of this march that we did  
6 to Sacramento, and be part of this law. And I'm calling  
7 out to all of my coworkers, don't be afraid. Let's  
8 organize, and let's get this done in the fields as well.  
9 Thank you.

10 BOARD MEMBER BROAD: Thank you very much.

11 Alright. Are there any further comments? Going once,  
12 going twice. Going three times. Okay.

13 So, we're now-- if there's no more comments,  
14 we're sort of at the end of the process, or our informal  
15 process for today. We'd like to give everybody a week.  
16 And given the last comments, why don't we say that we'll  
17 have all written comments to the committee, we'd like them  
18 in by noon on Friday of next week. That's June 30th, if I  
19 got it correctly. And then we will be able to review those  
20 as a subcommittee and make any changes that we would like  
21 to recommend to the full Board based on the comments  
22 received.

23 If the changes that you've requested are not in  
24 there and our regulation goes forward without something  
25 that you want, you'll have every opportunity, if the Board

1 moves forward with the regulatory package in a form you  
2 don't like, as we said before, to repeat any changes that  
3 you request, any changes that you want, or raise any new  
4 changes, or anything that suits your fancy, you are  
5 entitled, will be entitled to present before the Board.

6 I just want to thank you all for participating  
7 today. The comments, at least from my perspective, I'm  
8 not-- Ralph can comment too. But at least from my  
9 perspective, the comments that were made were very helpful.  
10 And I very much appreciate your willingness to get down in  
11 the weeds, so to speak, about specific issues and problems  
12 that you see in the statute because that's helpful for us  
13 in formulating our own view on, you know, what to do, or  
14 not to do as we move forward.

15 Ralph, do you have a final comment?

16 BOARD MEMBER LIGHTSTONE: I would just join in  
17 that I would like to thank everybody for participating. I  
18 thought it was very helpful to have people's views  
19 expressed. And to urge you to-- you know there are, as  
20 Barry says, there are several steps in the process where  
21 there's not further opportunity to comment in writing or  
22 orally. But getting written comments in early, or citing  
23 cases that you refer to and so on. That PRRB, I think Carl  
24 Borden mentioned the case, is useful to us to hear that  
25 stuff.

1 BOARD MEMBER BROAD: Alright.

2 BOARD MEMBER LIGHTSTONE: I hope you'll-- those  
3 who are so inclined would file written comments too.  
4 Thanks.

5 BOARD MEMBER BROAD: Thank you, Ralph. Again,  
6 thanks to all of you. And I think that with that, we can  
7 conclude our meeting. I hope everyone has a nice weekend.  
8 Thank you.

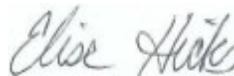
9 (Whereupon the meeting was adjourned at 11:29  
10 P.M.)  
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## CERTIFICATE OF REPORTER

I do hereby certify that the testimony in the foregoing hearing was taken at the time and place therein stated; that the testimony of said witnesses were reported by me, a certified electronic court reporter and a disinterested person, and was under my supervision thereafter transcribed into typewriting.

And I further certify that I am not of counsel or attorney for either or any of the parties to said hearing nor in any way interested in the outcome of the cause named in said caption.

IN WITNESS WHEREOF, I have hereunto set my hand this 6th day of July, 2023.



ELISE HICKS, IAPRT CERT\*\*2176

## CERTIFICATE OF TRANSCRIBER

I do hereby certify that the testimony in the foregoing hearing was taken at the time and place therein stated; that the testimony of said witnesses were transcribed by me, a certified transcriber and a disinterested person, and was under my supervision thereafter transcribed into typewriting.

And I further certify that I am not of counsel or attorney for either or any of the parties to said hearing nor in any way interested in the outcome of the cause named in said caption.

I certify that the foregoing is a correct transcript, to the best of my ability, from the electronic sound recording of the proceedings in the above-entitled matter.



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MARTHA L. NELSON, CERT\*\*367

July 6, 2023