

ASSEMBLY BILL

No. 561

Introduced by Assembly Member Campos

February 24, 2015

An act to amend Section 1149 of, and to add Sections 1149.3 and 1164.6 to, the Labor Code, relating to agricultural labor relations.

LEGISLATIVE COUNSEL'S DIGEST

AB 561, as introduced, Campos. Agricultural labor relations.

(1) The Alatorre-Zenovich-Dunlap-Berman Agricultural Labor Relations Act of 1975 regulates employer-employee relations in agriculture. The act, among other things, prohibits agricultural employers and employees from engaging in unfair labor practices, as defined, and empowers the Agricultural Labor Relations Board to prevent any person from engaging in those practices. The act provides for a general counsel of the board, and grants the general counsel final authority with respect to the investigation of charges and issuance and prosecution of complaints regarding unfair labor practices.

This bill would grant the general counsel primary authority with respect to the calculation and litigation of makewhole awards, backpay calculations, and other monetary awards in compliance proceedings before the board, as specified. The bill would require the board and general counsel, within one year of an order of the board finding liability for a makewhole award, backpay calculation, or other monetary award, to process any compliance decision concerning the award to final board order.

(2) The act grants employees the right to engage in collective bargaining with respect to wages, terms of employment, and other employment conditions, and authorizes employees to elect exclusive

bargaining representatives for these purposes. The act, if certain conditions are met, requires the employer and exclusive bargaining representative to engage in mandatory mediation and conciliation of their issues, and authorizes both parties to appeal orders of the board based on this mandatory mediation and conciliation, as specified.

This bill would require an employer who appeals or petitions for a writ of review of an order of the board to post a bond in the amount of the entire economic value of the order, as specified.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1149 of the Labor Code is amended to
 2 read:
 3 1149. There shall be a general counsel of the board who shall
 4 be appointed by the Governor, subject to confirmation by a
 5 majority of the Senate, for a term of four years. The general counsel
 6 shall have the power to appoint ~~such~~ *those* attorneys, administrative
 7 assistants, and other employees as necessary for the proper exercise
 8 of his *or her* duties. The general counsel of the board shall exercise
 9 general supervision over all attorneys employed by the board (other
 10 than administrative law officers and legal assistants to board
 11 members), and over the officers and employees in the regional
 12 offices. ~~He~~ *The general counsel* shall have final authority, on behalf
 13 of the board, with respect to the investigation of charges and
 14 issuance of complaints under Chapter 6 (commencing with Section
 15 1160) of this part, and with respect to the prosecution of ~~such~~ *those*
 16 complaints before the board. ~~He~~ *The general counsel shall have*
 17 *primary authority with respect to the calculation and litigation of*
 18 *makewhole awards, backpay calculations, and other monetary*
 19 *awards to employees in compliance proceedings before the board,*
 20 *and may be relieved of this primary authority upon application by*
 21 *a charging party and a finding by the board that the general*
 22 *counsel has been negligent in his or her duties or has unreasonably*
 23 *delayed in processing or litigating the makewhole award, backpay*
 24 *calculation, or other monetary award. The general counsel shall*
 25 *have* ~~such~~ *those* other duties as the board may prescribe or as may
 26 be provided by law. All employees appointed by the general
 27 counsel shall perform their duties in an objective and impartial

1 manner without prejudice toward any party subject to the
2 jurisdiction of the board. In case of a vacancy in the office of the
3 general counsel, the Governor is authorized to designate the officer
4 or employee who shall act as general counsel during such vacancy,
5 but no person or persons so designated shall so act either (1) for
6 more than 40 days when the Legislature is in session unless a
7 nomination to fill ~~such~~ *that* vacancy ~~shall have~~ *has* been submitted
8 to the Senate, or (2) after the adjournment sine die of the session
9 of the Senate in which ~~such~~ *the* nomination was submitted.

10 SEC. 2. Section 1149.3 is added to the Labor Code, to read:

11 1149.3. Within one year of an order of the board finding
12 liability for a makewhole award, backpay calculation, or other
13 monetary award to employees, the board and general counsel shall
14 process any compliance decision concerning the award to final
15 board order.

16 SEC. 3. Section 1164.6 is added to the Labor Code, to read:

17 1164.6. An employer who petitions for a writ of review in the
18 court of appeal or the California Supreme Court or otherwise
19 appeals or seeks to overturn or stay an order of the board shall post
20 a bond, in the amount of the entire economic value of the order as
21 determined by the board, to ensure that employees receive the
22 benefits of the order if the employer does not prevail. The board
23 shall reasonably determine the entire economic value of the order
24 based on submissions from the parties.