

AMENDED IN ASSEMBLY MARCH 17, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

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 amended, 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~~ any order of the board *under the act* 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 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. 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 those
16 complaints before the board. 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 counsel
22 has been negligent in his or her duties or has unreasonably delayed
23 in processing or litigating the makewhole award, backpay
24 calculation, or other monetary award. The general counsel shall
25 have those other duties as the board may prescribe or as may be
26 provided by law. All employees appointed by the general counsel

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

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

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

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

18 1164.6. An employer who petitions for a writ of review in the
19 court of appeal or the California Supreme Court or otherwise
20 appeals or seeks to overturn or stay ~~an~~ *any* order of the board *under*
21 *the Alatorre-Zenovich-Dunlap-Berman Agricultural Labor*
22 *Relations Act of 1975* shall post a bond, in the amount of the entire
23 economic value of the order as determined by the board, to ensure
24 that employees receive the benefits of the order if the employer
25 does not prevail. The board shall reasonably determine the entire
26 economic value of the order based on submissions from the parties.