

SENATE JUDICIARY COMMITTEE
Senator Thomas Umberg, Chair
2025-2026 Regular Session

AB 2682 (Berman)
Version: March 24, 2026
Hearing Date: June 23, 2026
Fiscal: Yes
Urgency: No
ID

SUBJECT

Transportation network company drivers: labor relations: appeals

DIGEST

This bill permits an aggrieved party to a decision or order of the Public Employment Relations Board (PERB) relating to an unfair labor practice involving Transportation Network Company (TNC) drivers to appeal the decision or order to a district court of appeal, and provides provisions for the enforcement of a final decision or order of PERB that is not appealed.

EXECUTIVE SUMMARY

Under the federal National Labor Relations Act (NRLA), independent contractors do not have the right to form a union. However, in 2025, the Legislature passed AB 1340 (Wicks, Ch. 335, Stats. 2025) to provide drivers of TNCs, which are app-based companies that utilize drivers like Uber and Doordash, the right to form and join a union and collectively bargain, despite their status as independent contractors under law. AB 1340 established a number of actions relating to these rights as unfair practices. AB 1340 also tasked PERB, the quasi-judicial state agency that administers various state public employer-employee relations statutes, with various duties related to TNC driver organizing, including the adjudication of unfair practice claims relating to TNC drivers. However, AB 1340 did not provide a process by which parties could appeal or enforce a final decision by PERB regarding an unfair practice claim. AB 2682 corrects this error by permitting an aggrieved party to appeal a PERB decision relating to an unfair practice claim within 30 days, and specifies the process for these appeals and for the enforcement of a PERB decision that is not appealed.

AB 2682 is sponsored by SEIU California. The Committee has received no timely letters of opposition. AB 2682 previously passed out of the Senate Labor, Public Employment and Retirement Committee by a vote of 4 to 1.

PROPOSED CHANGES TO THE LAW

Existing law:

- 1) Establishes PERB, a quasi-judicial administrative agency charged with administering certain statutory frameworks governing employer-employee relations, resolving disputes, and enforcing the statutory duties and rights of public agency employers and employee organizations, including the adjudication of unfair practice claims for those employers and employees. (Gov. Code §§ 3541 et seq.)
- 2) Establishes the Transportation Network Company Drivers Labor Relations Act (Act), providing that TNC drivers have the right to form, join, and participate in the activities of TNC driver organizations, to bargain through representatives of their own choosing, to engage in concerted activities for the purpose of bargaining or other mutual aid or protection, and to refrain from such activities. Empowers PERB to adjudicate and enforce its various provisions, including those related to unfair practices claims. (Bus. & Prof. Code §§ 7470 et seq.)
- 3) Provides that it shall be an unfair practice for a TNC, an agent of a TNC, or a multicompany committee to, among other things, do the following:
 - a) fail or refuse to negotiate in good faith with a certified driver bargaining organization, as required by the act;
 - b) fail or refuse to provide a certified driver bargaining organization with information required by the organization that is relevant and necessary in discharging its representational duties or in exercising its right to represent TNC drivers regarding terms and conditions of work within the scope of representation;
 - c) dominate or interfere with the formation, existence, or administration of any TNC driver organization, or contribute financial or other support to any such organization, whether directly or indirectly, with some exceptions; or
 - d) interfere with, restrain, or coerce TNC drivers in the exercise of rights guaranteed by the Act. (Bus. & Prof. Code § 7470.18(a).)
- 2) Provides that it shall be an unfair practice for a TNC driver organization or its agents to, among other things, do the following:
 - a) restrain or coerce TNC drivers in the exercise of the rights guaranteed by the Act;
 - b) fail or refuse to negotiate in good faith with a covered TNC or multicompany committee as required by the Act, provided it is the certified driver bargaining organization;
 - c) fail or refuse to provide information requested by a covered TNC or its representative that is relevant and necessary for the purposes of

bargaining regarding terms and conditions of work within the scope of representation; or

- d) fail or refuse to fulfill its duty of fair representation toward TNC drivers where it is the certified driver bargaining organization by acts or omissions that are arbitrary, discriminatory, or in bad faith. (Bus. & Prof. Code § 7470.18(b).)
- 4) Authorizes a writ of review to be granted by any court when an inferior tribunal, board, or officer, exercising judicial functions, has exceeded the jurisdiction of such tribunal, board, or officer, and there is no appeal, nor, in the judgment of the court, any plain, speedy, and adequate remedy, and specifies the procedures for such a writ to be made. (Code Civ. Proc. §§ 1067 et seq.)
- 5) Authorizes a writ of mandate to be issued by any court to any inferior tribunal, corporation, board, or person, to compel the performance of an act which the law specially enjoins, as a duty resulting from an office, trust, or station, or to compel the admission of a party to the use and enjoyment of a right or office to which the party is entitled, and from which the party is unlawfully precluded by that inferior tribunal, corporation, board, or person. (Code Civ. Proc. § 1805(a).)
- 6) Provides various procedures for the adjudication of unfair practice claims, including for the review of a claim by a board agent, the issuance of a complaint by the board agent upon a finding of a prima facie case, an informal settlement conference, a formal hearing before an administrative law judge (ALJ) regarding the complaint, the issuance of a proposed decision by the ALJ, and an appeals process to appeal the ALJ or certain board agent decisions to PERB. (Cal. Code Regs. §§ 32600 et seq.)

This bill:

- 1) Permits any charging party, respondent, or intervenor aggrieved by a final decision or order of PERB in an unfair practice case relating to TNC drivers to petition for a writ of extraordinary relief from the decision or order. Excludes a decision of PERB not to issue a complaint from those final decisions appealable under these provisions.
- 2) Requires this petition to be filed with the district court of appeal in the appellate district where the dispute giving rise to the unfair practice occurred, and to be filed within 30 days after the issuance of PERB's final decision or order.
- 3) Requires, upon the filing of this petition, the court to have notice of the petition be served upon PERB, and provides the court with jurisdiction over the proceeding after that. Requires PERB to file with the court within 10 days of receiving this notice

the record of proceeding certified by PERB, unless the court extends this timeline for good cause.

- 4) Permits the court the jurisdiction to grant to PERB such temporary relief or restraining order it deems just and proper, and to make and enter a decree enforcing, modifying, or setting aside the order of PERB.
- 5) Requires the findings of PERB regarding questions of fact, including ultimate facts, be considered conclusive if supported by substantial evidence on the record considered as a whole.
- 6) Requires specified provisions of the Code of Civil Procedure relating to writs to apply to proceedings under these provisions, but that these provisions shall prevail in cases of conflict with those Code of Civil Procedure provisions.
- 7) Permits PERB, if the time to petition for extraordinary relief from PERB's decision has expired, to seek enforcement of any final decision or order in a district court of appeal or a superior court in the district where the unfair practice case occurred.
- 8) Requires PERB to respond within 10 days to any inquiry from a party to the action as to why PERB has not sought court enforcement of PERB's final decision or order.
- 9) Requires PERB, if PERB's response does not indicate that there has been compliance with PERB's final decision or order, to seek enforcement of the final decision or order upon the request of the party, and requires PERB to file with the court the record of proceeding certified by PERB, and appropriate evidence disclosing the failure to comply with PERB's decision or order.
- 10) Specifies that, if, after a hearing, the court determines that the order was issued pursuant to PERB's procedures and that the person or entity refuses to comply with the order, the court must enforce PERB's order by writ of mandamus. Prohibits the court from reviewing the merits of PERB's order in this case.

COMMENTS

1. Author's statement

In support of this measure, the author states:

Rideshare drivers are the backbone of the gig economy and for too long, they were denied the same rights and protections that others take for granted. Last year, the Legislature passed and the Governor signed AB 1340 - an historic leap forward for fairness and dignity on the job for hundreds of thousands of California workers who now have the opportunity to join a union. AB 2682

would correct an oversight and likewise ensure that those covered by the Transportation Network Company Drivers Labor Relations Act also have the right to appeal a decision or order from the Public Employment Relations Board.

2. The fight over who is an independent contractor

The history of worker misclassification law in California is a long and contentious one. In early California history, common law distinguished between an employee and independent contractor based on the degree to which the hirer controlled the details of the hired person's services.¹ This test was adopted into California employment law statutes that distinguished between employees and independent contractors for the purposes of coverage of the laws' employee protections.

However, a series of recent California Supreme Court cases changed this landscape. In the case *S.G. Borello & Sons v. Department of Industrial Relations*, the California Supreme Court adopted a multi-factor test that considered the original control of details of the hired person's services as one factor along with a variety of other factors. (*S.G. Borello & Sons v. Department of Industrial Relations* (1989) 48 Cal. 3d 341, 351.) Such a test was incredibly fact intensive and case specific, and allowed employers to more easily classify employees as independent contractors. The California Supreme Court ultimately overturned the *Borello* test as unworkable in the 2018 case *Dynamex Operations W. v. Superior Court*, and instead adopted the ABC test. (*Dynamex Operations W. v. Superior Court*, (2018) 4 Cal. 5th 903, 956.) Under the ABC test, a person is an independent contractor when: they are free from the control and direction of their hirer, they perform work that is outside the usual course of business for the hirer, and they are customarily engaged in an independently established trade, occupation, or business of the same nature as the work performed. (*Dynamex*, 4 Cal. 5th 957.) A worker is presumed to be an employee, unless the employer demonstrates that all three factors exist.

The Legislature codified the ABC test in the *Dynamex* case and expanded it to apply to most other industries and workers in California through AB 5 (Gonzalez, Ch. 296, Stats. 2019). However, that was not the end of the story. In 2020, app-based companies that rely on drivers to provide their app-based services, such as Uber and Doordash, sought to permanently exempt their drivers from AB 5 through the passage of Proposition 22. After one of the most expensive initiative elections in state history, the proposition passed, permanently classifying drivers for app-based companies as independent contractors.

¹ *S.G. Borello & Sons v. Dept. of Industrial Relations*, (1989) 48 Cal. 3d 341, 350.

3. The National Labor Relations Act and independent contractors

The rights of workers to organize and engage in collective bargaining with their employer are fundamental rights. These rights were hard-fought rights that came as the result of thousands of workers speaking up, organizing, and risking their lives as part of the Labor Movement that swept the United States in the early Twentieth Century, and are now enshrined in the National Labor Relations Act (NLRA), which states that employees “shall have the right to self-organization, to form, join, or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in other concerted activities for the purpose of collective bargaining or other mutual aid or protection.” (29 U.S.C. § 157.) Under the NLRA, workers’ rights are vindicated before the National Labor Relations Board (NLRB), a five-person quasi-judicial body that decides cases regarding unionization efforts and workers’ rights to organize under the NLRA.

However, the NLRA was passed at a time when the country’s workforce was very different than it is now, as far fewer workers were independent contractors then, prior to the recent rise of the gig economy. Thus, the NLRA (through the Taft-Hartley amendments of 1948) only applies to *employees*; independent contractors are explicitly excluded. (29 U.S.C. § 152(3).) As such, they are not guaranteed a right to collectively bargain and do not fall within NLRB’s jurisdiction.

4. AB 1340 provided transportation network company drivers the right to unionize

Last year, the Legislature sought to give drivers of app-based companies, or Transportation Network Companies (TNC), the right to organize, despite their independent contractor status, through the passage of AB 1340 (Wicks, Ch. 335, Stats. 2025). AB 1340 tasked the Public Employment Relations Board (PERB), the quasi-judicial state agency that administers various state public employer-employee relations statutes, with various duties related to TNC driver organizing, including determining if an entity is a TNC driver organization, certifying a TNC driver organization as drivers’ bargaining representative pursuant to an election, and approving or disapproving sectoral agreements between TNCs and driver bargaining representatives. It also required TNCs and certified driver bargaining organizations to negotiate in good faith, and set forth various rights and protections for TNC drivers in exercising their rights to organize.

AB 1340 also established a number of actions as unfair practices, and authorized PERB to adjudicate unfair practice claims relating to TNC drivers. It made the failure or refusal to negotiate in good faith, a refusal by the TNC to provide PERB with a specified list of drivers or to provide the other party with information required for bargaining, and the interference with a driver’s right to organize and join a union of their choice an unfair practice. (Bus. & Prof. Code § 7470.18.)

AB 1340 specified that any unfair practice charges may be filed with PERB and adjudicated by PERB through the process the board uses for unfair practice charges under other labor statutes. This process entails a PERB agent reviewing the claim to determine whether it has made a prima facie case of an unfair practice, the issuance of a complaint by the agent for an alleged unfair practice, a hearing before an administrative law judge on the complaint, and the issuance of a decision by the ALJ after the hearing.² Either party can appeal the ALJ's decision, or a decision by the board agent to deny a claim, to PERB itself within specified periods of time.

5. AB 2682 provides the ability to appeal PERB decisions related to TNC drivers

However, while AB 2682 defined various unfair practices and permitted PERB to adjudicate such claims, it did not provide any mechanism by which a party can appeal a decision of PERB relating to an unfair practice. Most of the state's other labor relations statutes, for which PERB adjudicates unfair practice charges, contain provisions specifying how a party can appeal an unfair practice decision by PERB. For example, the Meyer-Milias-Brown Act (MMBA), which provides for public employer-employee relations between local government employers and their employees, includes provisions permitting a party aggrieved by a final decision of PERB regarding an unfair practice charge to appeal the decision to a local district court of appeal. (Gov. Code § 3509.5.)

AB 2682 would replicate the appeals provisions in the MMBA and other state labor-relations statutes to provide a party the ability to appeal a final decision of PERB relating to unfair practice charges relating to TNC drivers. It would permit a charging party, respondent, or intervenor to the unfair practice case to appeal the final decision of PERB, except for a decision not to issue a complaint, to the district court of appeal where the dispute occurred, if the petition for appeal is filed within 30 days of the issuance of PERB's order. It would require the court to then notify PERB of the appeal and require PERB to file in the court the record of the PERB proceeding within 10 days, unless extended by the court for good cause.

The court would be empowered to grant any temporary relief or restraining order it deems just and proper, and may enforce, modify, or set aside PERB's decision. However, PERB's findings of fact would be considered conclusive if supported by substantial evidence on the record considered as a whole.

AB 2682 also provides provisions for PERB to enforce its final decisions when the decision is not appealed. It permits PERB to seek enforcement of any decision once the time to appeal has expired in a district court of appeal or superior court in the district

² See, 8 Cal. Code of Regs. §§ 32600; Public Employment Relations Board, "The unfair practice charge process – an overview," (accessed Jun. 7, 2026), <https://perb.ca.gov/how-to-file-an-unfair-practice-charge/the-unfair-practice-charge-process-an-overview/>.

where the unfair practice occurred, and requires PERB to respond within 10 days of any inquiry from a party to the action as to why it has not sought court enforcement of its final order. If PERB's response does not indicate that there has been compliance with PERB's final decision, PERB must seek enforcement upon the party's request. If, after a hearing on PERB's request to enforce its decision, the court determines that the order was properly issued pursuant to PERB's procedures and the person or entity refuses to comply with the order, the court must enforce PERB's order by a writ of mandamus.

The provisions of AB 2682 are substantially similar to those in the MMBA and other state statutes relating to labor relations of various public employees. These provisions ensure that parties can get a final judicial determination on the decisions of PERB if they believe PERB's decision was erroneously decided, and correctly makes PERB's findings of fact conclusive. These provisions further ensure the rights and due process of parties in unfair practice cases regarding TNC drivers, and include fair timeframes and limitations to ensure the timely adjudication and enforcement of PERB's decisions.

SUPPORT

SEIU California (sponsor)

OPPOSITION

None received

RELATED LEGISLATION

Pending Legislation: None known.

Prior Legislation:

AB 1340 (Wicks, Ch. 335, Stats. 2025) established the Transportation Network Company Drivers Labor Relations Act to provide TNC drivers with the right to form, join, and participate in the activities of TNC driver organizations, to bargain through representatives of their own choosing, to engage in concerted activities for the purpose of bargaining or other mutual aid or protection, and to refrain from such activities. Provided PERB authority to adjudicate and enforce its various provisions, including as related to unfair practices, but did not provide a mechanism to appeal final decisions of PERB related to unfair practices. *See Comment 4.*

AB 1510 (Committee on Public Employment and Retirement, Ch. 454, Stats. 2025) authorizes, under the Santa Clara Valley Transportation Authority Act, any charging party, respondent, or intervenor aggrieved by a final decision or order of PERB in an unfair practice case related to employees of the Santa Clara Valley Transportation Authority, except for a decision of PERB not to issue a complaint in such a case, to

petition for a writ of extraordinary relief from that decision or order, as specified. The bill, if the time to petition for extraordinary relief from a PERB decision or order has expired, authorizes PERB to seek enforcement of any final decision or order in a district court of appeal or superior court having jurisdiction over the county where the events giving rise to the decision or order occurred, as specified.

SCA 7 (Umberg, 2023) would have established a broad-based constitutional right for any person in California to form or join a union and for that union to represent the person in collective bargaining with the person's respective employer. Would have prohibited the passing of any statute or ordinance that interferes with, negates, or diminishes these rights. SCA 7 died in the Senate Elections and Constitutional Amendments Committee.

AB 5 (Lorena Gonzalez, Ch. 296, Stats. 2019) codified the ABC test in *Dynamex* for determining when an employee is actually an independent contractor, and expanded the applicability of the test to all industries and workers in California, with specific industry and profession exemptions.

PRIOR VOTES:

Senate Labor, Public Employment and Retirement Committee (Ayes 4, Noes 1)

Assembly Floor (Ayes 69, Noes 7)

Assembly Appropriations Committee (Ayes 13, Noes 1)

Assembly Labor and Employment Committee (Ayes 7, Noes 0)
