

Date of Hearing: July 11, 2023

ASSEMBLY COMMITTEE ON HUMAN SERVICES

Corey A. Jackson, Chair

SB 831 (Caballero) – As Amended March 22, 2023

SENATE VOTE: 34-2

SUBJECT: Department of Community Services and Development: pilot program: lawful permanent residents

SUMMARY: Allows the Governor to enter an agreement with the federal government to establish a workgroup to develop a permanent resident pilot program for an agricultural employee. Specifically, **this bill**:

- 1) Authorizes the Governor to enter into an agreement with the federal government to establish a workgroup to develop a pilot program for an agricultural employee who has lived continuously in the United States for five years to be granted lawful permanent resident status.
- 2) Permits the California Department of Community Services and Development (CSD) upon implementation of the pilot program, to administer a pilot program for certain agricultural employees.
- 3) Provides that CSD may establish an application process for the pilot program, including, but not limited to:
 - a) The payment of application fees to the department and any federal entity to obtain lawful permanent resident status;
 - b) A criminal history background check; and,
 - c) A national security check.
- 4) Allows CSD to establish eligibility criteria for an agricultural employee to be eligible for lawful permanent resident status. An agricultural employee may be eligible for lawful permanent resident status under the pilot program if the individual meets all of the following:
 - a) They have lived continuously in the United States for five years;
 - b) They have demonstrated good moral character; and,
 - c) They have not been convicted of a crime.

EXISTING LAW:

- 1) Establishes CSD within the California Health and Human Services Agency, and enumerates the following responsibilities:
 - a) Recognize existing community action agencies and Indian tribes or tribal organizations, as the operators of programs to serve the poor in local communities, and, where the programs

are of a statewide or multicounty nature, other limited purpose agencies may be considered as program operators;

- b) Apply for, administer, and oversee federal block grant funds, including, but not limited to, the Community Services Block Grant and the Low-Income Home Energy Assistance Program, and other public and private funds designed to support antipoverty programs in the state that are not currently administered by other departments, and define and enforce programmatic performance and fiscal accountability standards for those funds;
- c) Provide funding and technical assistance, directly or through grants or contracts, to community action agencies, Indian tribes, and other agencies that operate programs of an antipoverty nature;
- d) Coordinate antipoverty efforts throughout the state, to the extent permissible under federal law, to avoid duplication, improve delivery of services, and relate programs to one another;
- e) Maintain liaison with the Office of Community Services in the federal Department of Health and Human Services, county and city commissions on economic opportunity, citizens' groups, and all other governmental agencies engaged in economic opportunity or community service programs, or both;
- f) Collect and assemble pertinent information and data available from other agencies of the state and federal governments and disseminate information in the interests of community services programs in the state by publication, advertisement, conference, workshops, programs, lectures, and other means;
- g) Plan and evaluate long-range and short-range strategies for overcoming poverty in the state;
- h) Mobilize public and private resources in support of antipoverty and community services programs;
- i) Encourage participation by residents of poor communities in the development and operation of community action programs for their betterment;
- j) Advise the Governor of the Governor's responsibilities under the Economic Opportunity Program and the Community Services Block Grant Program as well as any other federal law enacted with respect to meeting the needs of the poor;
- k) Measure and evaluate, directly or through grants or contracts, the impact of this article and other poverty-related programs authorized by law, in order to determine the effectiveness of the programs in achieving stated goals, impact on related programs, and the structure and mechanisms for the delivery of services. All the offices under the executive branch shall cooperate and provide the necessary information to the director, upon the director's request, to achieve the purposes of this subdivision; and,
- l) Promulgate regulations and negotiate and execute contracts necessary or convenient for the exercise of its responsibilities, powers, and functions, and to ensure that federal and state standards of programmatic performance and fiscal accountability are met. (Government Code Sections 12085 – 12091)

- 2) Requires the California Department of Social Services (CDSS) to establish and supervise a county- or county consortia-administered program to provide cash assistance to the Cash Assistance Program for Aged, Blind, and Disabled Legal Immigrants that are not eligible for SSI/SSP. (Welfare and Institutions Code Section [WIC] 18937-18944)
- 3) Requires CDSS to provide grants to qualified organizations to provide services to assist with the naturalization process and any appeals arising from the process. (WIC 13303)
- 4) Defines “agricultural employee” as one engaged in agriculture. (Labor Code Section [LAB] 1140.4(b))
- 5) Defines “agriculture” to include farming in all its branches, and, among other things, includes the cultivation and tillage of the soil, dairying, the production, cultivation, growing, and harvesting of any agricultural or horticultural commodities, the raising of livestock, bees, furbearing animals, or poultry, and any practices (including any forestry or lumbering operations) performed by a farmer or on a farm as an incident to or in conjunction with such farming operations, including preparation for market and delivery to storage or to market or to carriers for transportation to market. (LAB 1140.4(a))
- 6) Defines “lawful permanent resident” as the status of having been lawfully accorded the privilege of residing permanently in the United States as an immigrant in accordance with the immigration laws, such status not having changed. (United States Code, Title 8, Section 1101(a)(20))

FISCAL EFFECT: According to the Senate Appropriations Committee on May 8, 2023:

- CSD indicates the cost of implementing and administering the pilot program is unknown, and would depend on its scope and scale which would be developed by the proposed workgroup. CSD anticipates ongoing costs for contracting with an entity with expertise in federal immigration law and administration, and ongoing CSD staffing costs to oversee the program.
- Unknown General Fund cost pressures to expand the pilot program statewide.

COMMENTS:

Background: *California Department of Community Services and Development.* CSD administers California’s federal funding share for the Community Services Block Grant, Low Income Home Energy Assistance Program, and Weatherization Assistance Program. In addition, CSD administers the state’s Low-Income Weatherization Program, one of California Climate Investments, a statewide initiative that directed billions of Cap-and-Trade dollars into programs to reduce greenhouse gas emissions, and improve public health and the environment-particularly in disadvantaged, low-income, and other priority population communities. The Naturalization Services Program, established within CSD, was funded in the 2002-03 State Budget and ceased operating in 2007-08. The program provided funding to community-based organizations to assist legal permanent residents in obtaining citizenship via existing federal laws and regulations.

This bill would require CSD to administer a pilot program for certain agricultural employees and to establish eligibility criteria for an agricultural employee to be eligible for lawful permanent resident status.

Immigration Services. CDSS houses the Immigration Services Bureau which funds legal services and education and outreach to increase access to legal immigration remedies. CDSS also funds programs at community-based organizations that can provide legal advice on how to change immigration status. Programs also include, storm assistance, cash assistance, and food assistance.

The legal assistance allows access to information and application assistance for Deferred Action for Childhood Arrivals (DACA), Naturalization, Other Immigration Remedies, and immigration protections for Unaccompanied Undocumented Minors.

Cash Assistance Program for Aged, Blind, and Disabled Immigrants is a state-funded program that provides monthly cash aid to aging, blind, and immigrants that are not eligible for SSI/SSP based on immigration status. In 1996, the Personal Responsibility and Work Opportunity Act excluded noncitizen immigrants from SSI/SSP eligibility.

California Food Assistance Program provides state-funded food assistance to qualified noncitizens, using the same automated systems used by CalFresh, the Electronic Benefits Transfer and the California Statewide Automated Welfare System.

Data from the United States Department of Agriculture (USDA), indicates that roughly half of hired crop farmworkers are not legally authorized to work in the US. In 2018–20, 30% of crop farmworkers were US born, 6% were immigrants who had obtained United States (U.S.) citizenship, 23% were other authorized immigrants (primarily permanent residents or green-card holders), and the remaining 41% held no work authorization. According to the USDA, the share of workers who are U.S. born is highest in the Midwest, while the share who are unauthorized is highest in California.

Author’s Statement: According to the Author, “Our country experienced a shortage of paper products, hand sanitizer, face masks and many other products during the pandemic, but fresh fruits and vegetables were not one of them. Workers in the agriculture sector were classified as essential workers and were expected to show up to work every day despite the risk of serious illness and death that was rampant in the industry. As a consequence, many farmworkers and their families suffered due to the pandemic, living in overcrowded living quarters, lacking sick leave and medical care for treatment. At issue is the disparities in our communities that farmworkers face because a majority are not legal residents or are undocumented workers ineligible to work legally in the United States. Creating a pathway to permanent residency in the United States would allow undocumented friends, family members and neighbors to come out of the shadows, to live lives free of fear and allow them to qualify for the safety net programs that they deserve and pay into. [This bill] would state that the intent of the Legislature is to create a partnership with the Federal Government in conjunction with the Governor to create a pathway to legalize an agricultural workforce who are critical to the state’s economy and food security.”

Equity Implications: Creating a pathway for permanent residency for undocumented farmworkers who lack bargaining power, earning potential, and suffer exploitation by employers due to their immigration status, would allow for fairness in pay and employee protection in the workplace. During the COVID-19 pandemic, farmworkers, including undocumented workers, were deemed by the federal government to be “essential workers” critical to the food supply chain. During the pandemic, the Immigration and Customs Enforcement temporarily ceased to carry out enforcement actions and instead focus efforts on gangs, drug enforcement and human trafficking. The unfairness in simultaneously deeming undocumented agricultural workers essential while not providing a pathway to legal residency, and merely pausing enforcement

when it benefits the economy should be addressed. California leads the nation in the production of fruits, vegetable, wines, and nuts, which positively impacts the state and national economy. It is appropriate to develop policies that treat agricultural employees the same regardless of their immigration status.

Policy Considerations: This bill aims to help make a pathway for undocumented farmworkers to become lawful permanent residents via a workgroup and pilot program. According to the California Department of Food and Agriculture, over a third of the country's vegetables and three-quarters of the country's fruits and nuts are grown in California; and, in 2021, California's farms and ranches received \$51.1 billion in cash receipts for their output. There is no question that farmworkers, including those who are not documented, bring economic value to California. However, it is unclear if this bill is the best solution to help them gain permanent residency.

This bill gives ownership of this workgroup and pilot program to CSD. As outlined above, CSD does not have expertise or the infrastructure to support such a program.

The Author may wish to consider moving this to a more appropriate department or agency.

This bill calls for a workgroup and a pilot program, but lacks specificity and leaves lots of questions. Who are the members of this workgroup? How long or often will the workgroup convene? Will the workgroup produce a report with recommendations? Is there any legislative signoff? What is the objective of the pilot program? When does the pilot program sunset?

The Author may wish to consider amending this bill to add specificity.

The bill allows, but does not require, CSD to establish an application process. Within the application process, the bill provides for an application fee to CSD and any federal entity, but does not specify which federal entities. Additionally, a criminal history check and a national security check are included in the application process. It is unclear what constitutes a national security check.

The Author may wish to consider amending this bill to further clarify the intended application process.

This bill permits CSD to establish eligibility criteria for participants in the pilot program. The eligibility requirements include good moral character and no convictions of a crime. Good moral character is subjective and it is unclear who determines an applicant's character. Furthermore, it is unclear if the best policy for permanent residency includes no crime convictions. As outlined in the Senate Public Safety Committee Analysis, "What about all the various Fish and Game misdemeanors—would catching a fish too big or too small make a person ineligible? What about a charge for camping because a person has no home? It may be necessary to get the Federal Government to agree to have any conviction make a person ineligible but should that be established in statute even before the workgroup meets?"

The Author may wish to consider what is necessary for eligibility criteria.

RELATED AND PRIOR LEGISLATION:

AB 2060 (De La Torre), Chapter 515, Statute of 2006, established the “Naturalization Services Program” that is to be administered within CSD.

REGISTERED SUPPORT / OPPOSITION:**Support**

California Citrus Mutual
California Fresh Fruit Association
California Public Defenders Association (CPDA)
California Workforce Association
FarmworkerFamilies
Indivisible Sacramento
Indivisible San Francisco
LA Cooperativa Campesina De California
National Association of Social Workers, California Chapter
NorCal Resist

Opposition

None on file

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