



A Tradition of Stewardship
A Commitment to Service

Agenda Date: 1/13/2020

Agenda Placement: 5B

Napa County Legislative Subcommittee Board Agenda Letter

TO: Napa County Legislative Subcommittee
FROM: Mary Booher for Minh Tran - County Executive Officer
County Executive Office
REPORT BY: Nelson Cortez, Staff Assistant-BOS - 7072991478
SUBJECT: H.R. 5038 - Farm Workforce Modernization Act of 2019

RECOMMENDATION

County Executive Officer seeks discussion and possible action on House Resolution 5038 by Rep. Lofgren (CA-19), the Farm Workforce Modernization Act of 2019, that would provide a pathway for undocumented farmworkers to be granted certified agricultural worker status to be able to work, and makes changes to the H-2A temporary worker program.

EXECUTIVE SUMMARY

HR 5038 creates a process for certain workers with agricultural experience to apply for temporary immigration status known as certified agricultural worker (CAW) status. This bill also makes several changes to the existing H-2A temporary agricultural worker visa program (H2A) to streamline and make the process more cost-effective to employers.

The bill aims to address the increasing issues US farmers are facing with labor shortages to keep their farms running.

Locally, agricultural employers have faced chronic labor shortages that has impacted the agricultural economy which the Board of Supervisors has consistently made protecting a priority.

Staff is requesting discussion and recommending action on this bill, consistent with the state and federal legislative and regulatory platforms.

FISCAL & STRATEGIC PLAN IMPACT

Is there a Fiscal Impact? No

County Strategic Plan pillar addressed:

ENVIRONMENTAL IMPACT

ENVIRONMENTAL DETERMINATION: The proposed action is not a project as defined by 14 California Code of Regulations 15378 (State CEQA Guidelines) and therefore CEQA is not applicable.

BACKGROUND AND DISCUSSION

Synopsis

This bill creates a process for certain workers with significant and recent agricultural experience to apply for temporary immigration status, known as certified agricultural worker (CAW) status. Workers with CAW status may remain on that temporary status indefinitely, but they also have the option to earn lawful permanent resident (LPR) status through continued agricultural work and the payment of penalties. Second, this bill makes several changes to the existing H-2A temporary agricultural worker visa program (H2A) with the goal of making more streamlined and cost-effective for employers including, creating a unified portal and application process for hiring H-2A workers, reforms wage requirements to control sharp wage fluctuations, opens the H-2A program to year-round occupations, and expands the availability of affordable farmworker housing. The bill also ensures protections for both domestic and H-2A workers against employment exploitation and abuse and, finally, requires the use of E-Verify by agricultural employers after the full implementation of the aforementioned proposed policies.

Background and Need for the Bill

Despite the country's increased reliance on hired farmworkers, the legal channels for hiring foreign farmworkers have not changed in several decades. The H-2A program has seen significant growth in recent years, but the program is often criticized by employers as outdated, overly burdensome, and expensive. Moreover, certain industries are unable to fully use the program in its current form because it limits the program to industries with seasonal or temporary needs.

The Immigration and Nationality Act (INA) provides less than 10,000 immigrant visas per year for workers who engage in year-round, lower-skilled, labor across all sectors of the US economy. Because demand for these visas far outweighs supply, the program has been over-subscribed for years, resulting in long backlogs for new sponsor petitions. And, as noted above, these visas are unavailable to fill temporary or seasonal needs.

Due to these and other reasons, US farmers have found it difficult to keep their farms running. In the face of problematic and potentially unavailable visa programs, many have turned to an unauthorized workforce.

Status

Passed the House of Representatives. In the Senate, referred to the Committee on the Judiciary.

Support and Opposition

NACo: No action yet

Local Support

Napa County Farm Bureau

STAFF COMMENTS

Platform: Yes

Federal: Legislative Goal: Preserving the Agricultural Economy (Page 3)

State: Agricultural Economy (Page16)

Implications to Napa County Departments and Operations

Staff does not believe this bill will directly impact current or future operations within the County of Napa. However, consistent with the legislative and regulatory platforms, this issue does impact, directly, the agricultural economy in Napa County, which the Board has made protecting one of its major priorities. Agricultural employers in Napa County have faced increased challenges finding labor which has led to more and more workers being transported from surrounding areas like Solano and Sonoma Counties and as far as San Joaquin and Sacramento Counties. Further, local employers have been discouraged from utilizing the cumbersome and expensive processes of petitioning to sponsor H-2A visas.

Recommendation

Direct staff to draft a letter of support and transmit it to the sponsor, congressional representatives and the County's lobbyists bypassing the Board of Supervisors since this issue is consistent with the legislative platform.

SUPPORTING DOCUMENTS

A . Bill Text - 12.12.2019

Recommendation: Approve

Reviewed By: Molly Rattigan