
SENATE COMMITTEE ON PUBLIC SAFETY

Senator Aisha Wahab, Chair

2023 - 2024 Regular

Bill No: SB 831 **Hearing Date:** April 25, 2023
Author: Caballero
Version: March 22, 2023
Urgency: No **Fiscal:** Yes
Consultant: MK

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

HISTORY

Source: Author

Prior Legislation: None

Support: California Public Defenders Association; FarmworkerFamilies; Indivisible Sacramento; Indivisible San Francisco; Norcal Resist

Opposition: None known

PURPOSE

The purpose of this bill is to authorize the Governor to enter into an agreement with the federal government to establish a workgroup to develop a pilot program for agricultural workers who have lived continuously in the United States for five years to be granted lawful permanent resident status and states that Department of Community Services and Development (CSD) may administer and establish an application process for the pilot program.

Existing law defines “agricultural employee” as one engaged in agriculture. (*Labor Code 1140.4(b)*)

Existing law 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. (*Labor Code 1140.4(a)*)

Existing law 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))

This bill provides that the Governor may 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.

This bill permits CSD, that upon implementation of the pilot program to administer a pilot program for certain agricultural employees.

This bill 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.
- c. A national security check.

This bill allows CDS 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.
- c. They have not been convicted of a crime.

COMMENTS

1. Need for This Bill

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. SB 831 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.

2. Pilot project

This bill 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 meets specified eligibility requirements to be granted lawful permanent residency status.

One of the eligibility requirements is a criminal background check and a statement that a person has not been convicted of a crime.

The Department of Community Services and Development is the department that would implement the pilot project. In order to complete a state and federal background check the department will need statutory authorization. Does this need to be clarified within this statute or will it require a future authorizing section? The author may wish to work with the Department of Justice to determine what if any additional language is needed. It is also unclear what "a national security check" means. If it is intended the federal check is included when a background check is done, that too will need operating language.

This bill also provides that in order for an agricultural employee to be eligible for lawful permanent resident status under the pilot program if the individual meets all the following:

- They have lived continuously in the United States for five years.
- They have demonstrated good moral character.
- They have not been convicted of a crime.

It is appropriate for a person to be ineligible for lawful permanent resident status if they are convicted of *any* crime? Should a single DUI years prior make a person ineligible? 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?

3. Argument in Support

According to Indivisible Sacramento:

Denying citizenship or permanent residency status is based in decades of racist, xenophobic; policies that sought to prevent the majority Latino workforce from settling permanently in the; United States. Despite these inequities, migrant farmworkers show up to work every day to work; our state's farms and fields, directly contributing to our state's status as the largest agricultural producer in the nation.¹ Researchers estimate that 75 percent of California's farmworkers are undocumented, preventing them from accessing many state and federal aid programs, enrolling in school, opening bank accounts, or even getting identification documents.² Simply put, these workers feed us, working through heat waves,

torrential downpours, and the worst of the pandemic to ensure our shelves are stocked and our cupboards are full.

A pathway to legal residency status for these most essential of workers is long overdue. Republican opposition has stalled similar programs in Congress, but SB 831 could create additional pressure on federal officials to act now to give farmworkers the legal status they have more than earned. For these reasons and more, we are proud to support this legislation as written.

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