

## CONCURRENCE IN SENATE AMENDMENTS

AB 1362 (Katra)

As Amended September 05, 2025

Majority vote

**SUMMARY**

Applies, on and after July 1, 2027, the foreign labor contractor registration requirements to farm labor contractors of agricultural workers under the federal H-2A visa program. Requires the Department of Industrial Relations (DIR) to submit to the Legislature, by January 1, 2028, a study on how to extend foreign labor contractor registration requirements to those foreign labor contractors recruiting or soliciting workers authorized to work in the United States under visa programs not covered by the bill or existing law.

**Senate Amendments**

- 1) Make clarifying changes.
- 2) Apply, on and after July 1, 2027, the foreign labor contractor registration requirements to farm labor contractors of agricultural workers under the federal H-2A visa program.
- 3) Revise provisions in existing law covering the registration of foreign labor contractors to provide the following:
  - a. Require, on and after July 1, 2027, a person who is licensed or acting as a farm labor contractor and who performs foreign labor contracting activities to register with the LC pursuant to the terms and procedures for registration established by the LC by January 1, 2016.
  - b. State, that in registering a person already licensed as a farm labor contractor, the LC has discretion, to the extent feasible for the efficient administration of the program, to eliminate duplicative application information requirements for information previously obtained from the farm labor contractor's license application if both of the following conditions are met:
    - i. The applicant provides their farm labor contractor license number.
    - ii. The applicant attests that there are no changes to the information previously provided to the LC.
  - c. Require the LC to post on its internet website the names and contact information for all registered foreign labor contractors and a list of the names and contact information for any foreign labor contractors denied renewal or registration.
  - d. Require the LC to not register or renew the registration of a foreign labor contractor without a listing of each federal visa program under which the person will be performing foreign labor contractor activities, on and after July 1, 2027.
- 4) Clarify that the LC may enforce the foreign labor contractor registration requirements by procedures set forth in Labor Code Sections 98.3, 98.7, 98.74, and 1197.1, including by

the issuance of a citation or the filing of a civil action against a person who commits a violation.

- 5) Require the DIR to submit to the Legislature, by January 1, 2028, a study on how to extend foreign labor contractor registration requirements to those foreign labor contractors recruiting or soliciting workers authorized to work in the United States under visa programs not described in 2) nor covered by existing law. This study shall, at a minimum, include all of the following:
  - a. An overview of the federal visa programs not covered by this chapter's foreign labor contractor registration program.
  - b. An analysis of the demographics of foreign workers in California authorized to work through the federal visa programs described in a) above.
  - c. A discussion of any additional steps the LC would need to take to ensure all foreign labor contractors are required to register pursuant to this chapter.
  - d. A discussion of operational needs, including access to data, fee increases to cover costs, and enforcement options already available, as specified.
  - e. Recommendations of options to expand this chapter's foreign labor contractor registration program that considers the following:
    - i. Risks to workers authorized to work in the United States through the visa programs described in a) above.
    - ii. Costs and staffing needs to expand the registration process required for foreign labor contractors under this chapter.
    - iii. Enforcement costs and options, as specified.
    - iv. The operational constraints described in 5) d) above.
- 6) Authorize the DIR to contract with a third party to conduct the study.
- 7) Repeal the provisions regarding the study on January 1, 2029.

## COMMENTS

While H-2B workers gained important protections related to the foreign labor recruitment process over ten years ago, some 345,000 immigrant workers were left out.<sup>1</sup> H-2A workers make up a significant portion of these workers and are highly susceptible to exploitation and abuse both at the time of recruitment and when they begin work. A 2020 study by the Centro De Los Derechos Del Migrante found that many workers are subject to economic coercion when they are

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<sup>1</sup>Department of Homeland Security periodically outlines the number of Nonimmigrants Residing in the United States – recent reports for 2016 and 2019 can be found at [https://ohss.dhs.gov/sites/default/files/2023-12/Nonimmigrant\\_Population%2520Estimates\\_2016\\_0.pdf](https://ohss.dhs.gov/sites/default/files/2023-12/Nonimmigrant_Population%2520Estimates_2016_0.pdf) and [https://ohss.dhs.gov/sites/default/files/2023-12/ni\\_population\\_estimates\\_fiscal\\_years\\_2017\\_-\\_2019v2.pdf](https://ohss.dhs.gov/sites/default/files/2023-12/ni_population_estimates_fiscal_years_2017_-_2019v2.pdf).

recruited. The majority of surveyed H-2A workers reported that they started their employment in debt and forty-three percent reported that the salary they received was less than what they were promised.<sup>2</sup> Over sixty percent had to take out a loan just to come to the United States.<sup>3</sup>

Federal labor law covering H-2A workers has done little to protect this vulnerable workforce. The Federal Department of Labor's Wage and Hour Division which enforces the law establishing the H-2A guest worker program is woefully understaffed and underfunded. In 2019, for example, the Division had just under 1,500 employees, including 780 investigators, and a budget of \$229 million to investigate 10.2 million U.S. establishments with 148 million employees.<sup>4</sup> Reports have shown that farm labor contractors are indeed the biggest violators of federal labor standards for farm workers in California.<sup>5</sup>

### **According to the Author**

According to the author, "For too long, the vast majority of temporary foreign workers have remained unprotected and subject to the documented abuses of unscrupulous foreign labor recruiters. AB 1362 will close a harmful loophole by requiring all foreign labor recruiters to register with the Labor Commissioner, not just those who recruit workers through the H-2B visa category. This will ensure all temporary immigrant workers, such as domestic workers, agricultural workers, and nurses, are protected against wage theft, human trafficking, and other labor violations."

### **Arguments in Support**

The Sunita Jain Anti-Trafficking Initiative, Freedom United, Justice at Last, The Santa Clara County Wage Theft Coalition, The Coalition for Humane and Immigrant Rights (CHIRLA, Bet Tzedek Legal Services and Farmworker Justice), sponsors of the bill, state, "The Agriculture Community and business communities' assertions that the protections under AB 1362 for H-2A workers are duplicative or unnecessary are deeply flawed. Farm Labor Contractors have consistently been documented as some of the worst offenders in cases of wage theft and worker abuse across California. AB 1362 is specifically designed to protect workers at the critical point of recruitment, where they face the highest risk of exploitation. It is essential to note that the provisions governing Farm Labor Contractors and the unique protections outlined in AB 1362 for Foreign Labor Recruiters are distinct and complementary, with no overlap.

Farm Labor Contractors involved in the recruitment of foreign H-2A workers must be required to register under AB 1362. This ensures consistent and uniform protections for all temporary visa workers entering California. Furthermore, the fact that the National Human Trafficking Hotline reports H-2A workers as the largest category of abuse cases underscores the pervasive exploitation by Foreign Labor Recruiters and the glaring inadequacies in the enforcement of current laws regarding H-2A workers.

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<sup>2</sup> "Ripe for Reform: Abuses of Agricultural Workers in the H-2A Visa Program," Centro De Los Derechos Del Migrante, Inc., p. 5 (updated in 2020 to reflect the COVID-19 pandemic).

<sup>3</sup> *Id.* at 7.

<sup>4</sup> Daniel Costa, Philip Martin, and Zachariah Rutledge, Federal labor standards enforcement in agriculture: Data reveal the biggest violators and raise new questions about how to improve and target efforts to protect farmworkers Dec.15, 2020. Available at <https://epi.org/213135>.

<sup>5</sup> *Ibid.*

Without these critical protections, such exploitation will undoubtedly persist. AB 1362 is a necessary and timely measure to uphold workers' rights and reaffirm California's leadership in combating labor trafficking and abuse."

### **Arguments in Opposition**

A coalition of employer organizations, including the California Farm Bureau, is opposed and states "Under the present federal regulations employers must, among other requirements, demonstrate the need to hire an H-2A visa holder, pay the highest of the Adverse Effect Wage Rate (AEWR), the prevailing wage determined by a prevailing wage survey, or the applicable statutory minimum wage, guarantee work hours, and provide housing at no cost to the worker. H-2A employees must also receive a copy of their work contract in a language that they understand.

In addition, California also has a unique FLC licensing program that is managed and enforced by the California Labor Commissioner's Office and *already covers* farm labor contractors and, in fact, *served as a model for the creation of SB 477*. This program was specifically referenced as a model in the Assembly Committee on Judiciary analysis for SB 477, "currently California law requires licensing of farm labor contractors only. This has curtailed human trafficking-related abuses..." As a result, expanding the California foreign labor contracting regulation to cover agricultural workers – who are already covered federally *and* are already covered by a program that preceded and inspired the foreign labor contracting regulation – makes little sense."

### **FISCAL COMMENTS**

According to the Senate Appropriations Committee:

- 1) The Department of Industrial Relations (DIR) indicates that, absent an approved fee increase, at a minimum it would incur first-year costs of \$2.5 million, and \$1.4 million annually thereafter, to implement and maintain the Foreign Labor Contractor Registration Program under the bill. To the extent that the regulated community is larger than DIR's estimate, resulting costs could be higher.
- 2) The bill would result in an expansion of the Labor Commissioner's (LC's) foreign labor contractor registration requirement to apply to more contractors, a violation of which is punishable as a misdemeanor and subject to a civil penalty and other civil remedies through the courts. Consequently, this bill would result in potentially significant cost pressures; the magnitude is unknown (Trial Court Trust Fund (TCTF)). The specific number of new actions that could be filed under the bill also is unknown; however, it generally costs about \$10,500 to operate a courtroom for an eight-hour day. Courts are not funded on the basis of workload, and increased pressure on TCTF may create a need for increased funding for courts from the General Fund. The enacted 2025-26 budget includes \$38 million in ongoing support from the General Fund to continue to backfill TCTF for revenue declines.

### **VOTES:**

**ASM LABOR AND EMPLOYMENT: 5-0-2**

**YES:** Ortega, Elhawary, Kalra, Lee, Ward

**ABS, ABST OR NV:** Flora, Chen

**ASM APPROPRIATIONS: 11-2-2**

**YES:** Wicks, Arambula, Calderon, Caloza, Elhawary, Fong, Mark González, Hart, Pacheco, Pellerin, Solache

**NO:** Dixon, Tangipa

**ABS, ABST OR NV:** Sanchez, Ta

**ASSEMBLY FLOOR: 57-12-10**

**YES:** Addis, Aguiar-Curry, Ahrens, Alvarez, Arambula, Ávila Farías, Bauer-Kahan, Bennett, Berman, Boerner, Bonta, Bryan, Calderon, Caloza, Carrillo, Connolly, Elhawary, Fong, Gabriel, Garcia, Gipson, Mark González, Haney, Harabedian, Hart, Irwin, Jackson, Kalra, Krell, Lee, Lowenthal, McKinnor, Muratsuchi, Nguyen, Ortega, Pacheco, Papan, Patel, Pellerin, Petrie-Norris, Quirk-Silva, Ramos, Ransom, Celeste Rodriguez, Michelle Rodriguez, Rogers, Blanca Rubio, Schiavo, Schultz, Sharp-Collins, Solache, Stefani, Valencia, Ward, Wicks, Zbur, Rivas

**NO:** Alanis, Castillo, DeMaio, Dixon, Ellis, Gallagher, Jeff Gonzalez, Hadwick, Hoover, Patterson, Sanchez, Wallis

**ABS, ABST OR NV:** Bains, Chen, Davies, Flora, Lackey, Macedo, Soria, Ta, Tangipa, Wilson

**UPDATED**

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CONSULTANT: Megan Lane / L. & E. / (916) 319-2091

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