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

AB 1362 (Kalra)
Version: February 21, 2025
Hearing Date: July 8, 2025
Fiscal: Yes
Urgency: No
ME

SUBJECT

Foreign labor contractor registration: agricultural workers

DIGEST

This bill requires most foreign labor contractors, including, but not limited to, those recruiting farmworkers abroad, to register with the California Labor Commissioner, pay a fee, post a bond, and adhere to certain standards designed to prevent exploitation.

EXECUTIVE SUMMARY

To fill needs for various types of labor in the United States, employers can sponsor temporary immigrant visas for foreign workers. Although these visa programs usually come with strict rules governing the terms and conditions under which the foreign worker will be employed, the foreign labor contractors who recruit workers for these programs on behalf of California employers operate with little oversight. Currently, only foreign labor contractors recruiting H2-B workers must register with the Labor Commissioner and comply with associated requirements. The author and sponsor of this bill highlight how unscrupulous foreign labor contractors recruiting for other types of visas take advantage of this absence of oversight, lure foreign workers with false promises, and then extort money from them. To curb these abuses and bring greater accountability to the role played by foreign labor contractors, this bill would require nearly all foreign labor contractors to register with the California Labor Commissioner, pay a fee, post a bond, and adhere to certain standards designed to prevent human trafficking and exploitation. In this time of heightened fear in immigrant communities due to the federal government targeting immigrants, it is more important than ever to ensure that immigrant workers are protected from exploitation by unscrupulous actors.

The bill is sponsored by Bet Tzedek Legal Services, the Coalition for Humane and Immigrant Rights, Farmworker Justice, Freedom United, Justice at Last, the Santa Clara County Wage Theft Coalition, and the Sunita Jain Anti-Trafficking Initiative and supported by various labor and civil rights groups. The bill is opposed by the California Association of Winegrape Growers, the California Chamber of Commerce, the

California Farm Bureau, and the Nisei Farmers League. AB 1362 passed out of the Senate Committee on Labor, Public Employment and Retirement on a vote of 4 to 1.

PROPOSED CHANGES TO THE LAW

Existing law:

1) Directs the California Labor Commissioner to administer a program to register and supervise foreign labor contractors, but specifies that the program only applies to "nonagricultural" H-2B workers. (Bus. & Prof. Code §§ 9998 *et seq.)*

2) Defines the following terms for purposes of the registration program described in (1), above:
   a) "foreign labor contractor" means any person who performs "foreign labor contracting activity" wholly outside of the United States;
   b) "foreign labor contracting activity" means the paid recruitment or solicitation of a "foreign worker" who resides outside of the United States for a job in California; and
   c) "foreign worker" means any person seeking employment who is not a United States citizen or permanent resident but who is authorized by the federal government to work in the United States on a temporary basis. (Bus. & Prof. Code § 9998.1.)

3) Requires any person acting as a foreign labor contractor to register with the Labor Commissioner, to pay a registration fee, and to post a surety bond based upon the foreign labor contractor's gross receipts. (Bus. & Prof. Code § 9998.1.5.)

4) Requires anyone who knows or should know that they are using a foreign labor contractor to procure foreign workers to disclose that fact to the Labor Commissioner together with a declaration consenting to allow the Labor Commissioner to accept service of a summons on their behalf. (Bus. & Prof. Code § 9998.2.)

5) Requires foreign labor contractors to disclose specified information in writing to each foreign worker they recruit, in that worker's primary language, including the following:
   a) a form specified by the Labor Commissioner that informs workers about their rights, including a notice that workers cannot be forced to pay processing, placement, transportation, or legal fees, which, by law, are the responsibility of the foreign labor contractor; and
   b) a statement informing workers of the rights and protections afforded to them under the federal Trafficking Victims Protection Act of 2000. (Bus. & Prof. Code § 9998.2.5.)

6) Prohibits a foreign labor contractor from engaging in certain activities, including:

a) making false or misleading claims about the terms and conditions of work;
b) recruiting minors;
c) intimidating or in any manner discriminating against a foreign worker or a member of the foreign worker's family in retaliation for the foreign worker's exercise of a legal right under the foreign labor contractor law; or
d) promising workers that they will be offered an opportunity for citizenship or legal permanent residence in the United States. (Bus. & Prof. Code §§ 9998.3 to 9998.7.)

7) Subjects anyone who violates provisions of the foreign labor contractor's law to civil penalties and liability for damages or injunctive relief. (Bus. & Prof. Code § 9998.8.)

8) Establishes a program for licensing and regulating "farm labor contractors," defined as any person who, for a fee, employs workers to render personal services in connection with the production of any farm products to, for, or under the direction of a third party, or who recruits, solicits, supplies, or hires workers on behalf of an agricultural employer and who, for a fee, provides one or more of the following services: furnishing board, lodging, or transportation for those workers; supervising, timing, checking, counting, weighing, or otherwise directing or measuring their work; or disbursing wage payments to those workers. (Lab. Code, §§ 1682 *et seq*.)

9) Prohibits a person from acting as a farm labor contractor without first meeting licensing, fee, and bonding requirements established by the Labor Commissioner and authorizes the Labor Commissioner to revoke, suspend, or refuse to renew a license if the farm labor contractor fails to comply with specified state or federal laws, or has been found by a court or administrative agency to have committed sexual harassment of an employee. (Lab. Code, §§ 1682 to 1694.)

10) Requires every licensed farm labor contractor to, among other things, make specified disclosures to employers and workers, maintain specified records, promptly pay all moneys owed to workers, conspicuously post information related to workers' rights, provide mandated training, including sexual harassment prevention training for all supervisors and farm workers, and comply with all federal law requirements, including the Migrant and Seasonal Agricultural Workers Protection Act. (Lab. Code §§ 1695 to 1695.8.)

11) Prohibits a farm labor contractor from making false or misleading representations concerning the terms, places, or conditions of employment, sending workers to any place where the contractor knows a strike or lockout exists without notifying the worker of this fact, or doing any act that constitutes a crime of moral turpitude. (Lab. Code § 1696.)

12) Establishes employment standards, under the federal Migrant and Seasonal Agricultural Worker Protection Act (MSPA), for migrant and seasonal farmworkers related to wages, housing, transportation, disclosures and recordkeeping. The MSPA also requires farm labor contractors to register with the U.S. Department of Labor. (29 U.S.C. § 1801 *et seq.*; 29 C.F.R. Part 500.)

13) Authorizes, under the federal Immigration and Naturalization Act, the lawful admission of foreign workers who have no intention of abandoning their country of origin or becoming citizens or legal permanent residents in the United States. (8 U.S.C. § 1101.)

14) Distinguishes between foreign workers who perform agricultural labor or services of a temporary or seasonal nature (H-2A workers), and foreign workers who perform nonagricultural labor or services of a temporary or seasonal nature (H-2B workers). (8 U.S.C. § 1101(a)(15)(H).)

This bill:

1) States that the Legislature finds and declares that it is well documented that foreign labor recruiters charge illegal and exorbitant recruitment fees and misrepresent the terms and conditions of work and visas to foreign workers seeking to work in California on temporary visas legally. States that these fraudulent activities lead to human trafficking and labor exploitation, harming both workers and ethical businesses.

2) States that the Legislature finds and declares that in 2014, the Legislature passed Senate Bill 477, authored by Senator Darrell Steinberg, to protect the 130,000 foreign workers on temporary work visas who came to California annually. States that due to a drafting error, only 3 percent of California's temporary foreign workers currently receive the comprehensive protection intended by Senate Bill 477. States that since 2014, the number of foreign workers coming legally to California on temporary work visas has increased by almost 169 percent, resulting in 345,000 temporary workers entering California annually who remain unprotected.

3) States that the Legislature finds and declares that the goals of Senate Bill 477, as enacted, were to expand the regulation of foreign labor recruiters by:
    a) Creating a universal standard prohibiting recruitment fees for all workers coming to California.
    b) Requiring the registration of foreign labor recruiters (FLRs) for recruitment activities conducted outside of the United States.
    c) Mandating California employers to use registered FLRs.
    d) Ensuring comprehensive disclosure of working terms and conditions to foreign workers through written contracts during the recruitment process.
    e) Imposing bonds and penalties for noncompliance with the law's requirements.

4) States that the Legislature finds and declares that although the Legislature intended to protect all visa holders through Senate Bill 477, implementation of the law has left foreign workers unprotected, including visa holders on A-3, B-1, H-1B, H-1C, H-2A, H-2B, L-1, O-1, P-3, and TN temporary work visas. States that Senate Bill 477 intended to protect these workers from fraudulent "foreign labor contracting activity," defined as recruiting or soliciting for compensation a foreign worker residing outside of the United States. Senate Bill 477 focused on activities at the time of recruitment and does not apply to employers who directly recruit their own foreign workers or workers already inside the United States.

5) States that the Legislature finds and declares that from 2014 to 2024, the National Human Trafficking Hotline has documented that the H-2A visa, used to bring foreign workers for seasonal agriculture work, has been involved in the most reports for human trafficking cases among temporary visa holders. States that H-2A visa holders constitute approximately 14 percent of the foreign workers who come annually to California on temporary work visas. States that current law, including California's farm labor contractor requirements, does not protect these workers and other visa holders from illegal activities at the time of recruitment in their home country, which was the intent of Senate Bill 477.

6) Extends the foreign labor contractor provisions in existing law to all contractors of foreign labor, including farm labor contractors who contract for foreign labor, by deleting a provision that expressly limits the law's application to "nonagricultural" workers and that expressly exempts farm labor contractors. However, talent agencies who recruit foreign workers and J-1 visas that authorize persons participating in an educational or cultural program to work while that are in the United States remain carved out of foreign labor contractor provisions.

COMMENTS

1. Foreign Visas for work in the United States of America

As explained by the Senate Labor, Public Employment and Retirement Committee in their analysis of AB 1362:

> While employers in the United States may recruit foreign nationals to work in the country with the protection of specific visas granted by the federal government on a temporary or permanent basis, the individuals must first obtain authorization to work in the U.S. A nonimmigrant visa provides temporary status and work authorization and immigrant visas grant permanent residency status.
>
> Most employment-based nonimmigrant visas require employer sponsorship where the employer files for a specific visa with the U.S. Citizenship and Immigration Services (USCIS) on behalf of the prospective employee. Some

circumstances also require U.S. Department of Labor (DOL) approval to demonstrate that the foreign national will not displace U.S. workers. Below are some of the most common visa classifications under which a foreign national may temporarily work or train in the U.S:

- H-1B: Specialty occupations in fields requiring highly specialized knowledge, specified fashion models, or certain services of an exceptional nature, as specified.
- H-2A: Temporary agricultural workers.
- H-2B: Temporary nonagricultural workers performing other services or labor.
- H-3: Trainees or special education exchange visitors.
- I: Representatives of foreign media.
- L-1A: Intra-company transferees (executives, managers).
- L-1B: Intra-company transferees (employees with specialized knowledge).
- O-1: Individuals with extraordinary ability or achievement in the sciences, arts, education, business, or athletics.
- P-3: Foreign nationals who perform, teach, or coach a program that is culturally unique.
- R-1: Temporary religious workers.

According to the Economic Policy Institute, California is the state with the largest number of migrant workers, with at least 300,000 nonimmigrants who were "temporary workers" in a list of visa programs included by U.S. Department of Homeland Security (DHS) in 2019.

2. The role of foreign labor contractors and abuses of that role

Frequently, when a California employer wishes to hire foreign workers through one of the foreign labor visa programs, the employer engages the services of a foreign labor contractor. For a fee, the foreign labor contractor then recruits foreign workers for the job on behalf of the employer. Forthright foreign labor contractors accurately describe the nature of the job for which the foreign worker is being recruited, what the compensation will be, and how things like travel to the worksite, housing, and meals will be arranged. Unscrupulous foreign labor contractors, by contrast, can take advantage of the situation to lure foreign workers with false promises and then extort money from them. For instance, unethical foreign labor contractors often tell the workers they are recruiting that the worker must pay the foreign labor contractor for things like travel expenses or for processing the worker's visa, either up front or as reimbursements from the worker's earnings. In fact, under the visa programs, such costs are the employer's obligation. Foreign workers are often willing to enter into these arrangements, because the foreign labor contractors exaggerate how well-compensated

the jobs are or falsely imply that the workers may be able to use their work visa to immigrate to the United States permanently.

3. Existing law regulates foreign labor contractors recruiting for the H2-B program

It was in an attempt to curb some of these abuses that, in 1998, California enacted the Foreign Labor Contractor Law. (AB 4554, Roybal-Allard, Ch. 1450, Stats. 1988). Under that law, anyone who, for compensation, recruited or solicited foreign workers to come to California to work temporarily had to comply with minimum standards. (Gov. Code § 9998.) Among other things, the original Foreign Labor Contractor Law obligated California employers to notify the Labor Commissioner if the employer was using a foreign labor contractor to recruit foreign workers; prohibited foreign labor contractors from making any false or misleading representations about the terms and conditions of the promised employment; prohibited foreign labor contractors from recruiting minors; required foreign labor contractors to pay the wages of anyone they recruited under false pretenses of a job offer that did not actually exist; and prohibited foreign labor contractors from retaliating or discriminating against foreign workers for exercising legal rights. (Gov. Code §§ 9998.2 – 9998.7.)

There was a major limitation on the scope of the original Foreign Labor Contractor Law, however. By its terms, the original law only applied to one category of visa: H2-B visas for "nonagricultural workers." (Bus. & Prof. Code 9998.) The original law also expressly stated that it did not apply to a "farm labor contractor," as that term is defined in Labor Code Section 1682, or to any employer of H-2A agricultural workers. (*Ibid*.)

4. SB 477 was signed into law in 2014 to curtail exploitative and abusive practices of foreign labor contractors; however, a drafting error resulted in the bill having limited effect in curtailing abuses

In 2014, California responded to further reports of foreign labor abuses by enacting SB 477 (Steinberg, Ch. 711, Stats. 2014). SB 477 strengthened the Foreign Labor Contractor Law by obligating foreign labor contractors themselves to register with the Labor Commissioner, pay a licensing fee, and post a surety bond. (Bus. & Prof. Code § 9998.1.5.) In addition, SB 477 required foreign labor contractors to make certain disclosures to workers and employers; imposed penalties on any employer who used an unregistered foreign labor contractor; expanded the remedies available to foreign workers aggrieved by a violation of the law; and extended the prohibition against retaliation to include acts of retaliation against a worker's family members.

The proponents explain that SB 477 was meant to cover nearly all categories of foreign labor visas. In support of that view, they cite negotiations that led to the express exclusion from SB 477 of talent agencies who recruit foreign workers and J-1 visas that authorize persons participating in an educational or cultural program to work while they are in the United States. (Bus. & Prof. Code § 9998.1(d).) It would not have made sense to mention *exclusion* of these types of foreign labor recruitment if the overall law

were only intended to be applicable to H2-B visas. The provisions of SB 477 amended into the chapter of the Business and Professions Code that regulates foreign labor contractors. It seemed like the most logical place to put the new code sections. However, already existing law, Business and Professions Code section 9988 was not removed from that chapter and therefore was interpreted as limiting the provisions in SB 477. Section 9988 provided that the foreign labor contractor chapter only applies to "nonagricultural workers" as defined by Section 1101(a)(15)(H)(ii)(b) of Title 8 of the federal Immigration and Nationality Act and shall not apply to any person duly licensed as a "farm labor contractor" as that term is defined in Section 1682 of the Labor Code nor shall it apply to any person exempt from the licensing requirement in Section 1682.5 of the Labor Code or to any employer employing agricultural workers as defined by Section 1101(a)(15)(H)(ii)(a) of Title 8 of the federal Immigration and Nationality Act. Indeed, the Labor Commission has interpreted the protections in SB 477 as applying only to H2-B workers. By going back and striking out the provisions limiting the provision that the Labor Commission has relied on for that conclusion, this bill would expand the application of the Foreign Labor Contractor Law to all but the talent agencies and J-1 visas that were carved out of SB 477, thus effectuating the original intent of SB 477.

President pro Tempore Emeritus Darrell Steinberg wrote the following about the intent of SB 477:.

> As the author of SB 477 (2016), I am writing to express that the legislative intent of SB 477 was to cover all temporary foreign workers coming to California through the foreign labor recruitment process on a wide range of visa categories including H2A workers. This bill was never intended to be limited to coverage of just H2B workers. [. . .]
>
> [R]ecruiters managed to weave a loophole into the legislation that excluded the vast majority of temporary workers, resulting in only 1% of the now more than 350,000 workers coming to the state annually being protected by the law.
>
> Even though unskilled foreign laborers on H-2A visas laboring in our fields and vineyards are the group most exploited by FLCs, not only in California, but nationwide, corrupt FLR practices also affect California's tech industry, the other major driver of the state's economy. Abusive FLRs entice corporations with the promise of cheaper labor by substituting foreign workers for US ones. In giving these entities an unfair competitive advantage over corporations who play by the rules, it is not just foreign workers who suffer, but displaced U.S. workers and law-abiding businesses as well. [. . .]

5. Opposition concerns with the bill

Apart from how it might affect recruitment of agricultural workers under the H2-A guestworker program, this bill's proposed expansion of the Foreign Labor Contractor

Law does not appear to be controversial. In fact, the American Apparel and Footwear Association, a national trade association representing apparel, footwear and other sewn products companies and their suppliers writes the following in support of the bill:

> AB 1362, and previously SB 477, are examples of legislation that ensure that responsible business practices are consistently applied in the recruitment of foreign labor and ensures that workers authorized to work temporarily in California are safeguarded from exploitation at the point of recruitment. AB 1362 strengthens California's leadership in combating trafficking and exploitation. By protecting temporary workers, it promotes fair competition for businesses while addressing the systemic vulnerabilities that unscrupulous recruiters exploit.

That companies might support greater regulation of foreign labor contractors makes sense from a financial as well as a moral perspective: companies recruiting foreign workers may want assurance that the people recruiting for them are doing so on the level so as to avoid the potential civil or even criminal liability they might otherwise incur. (18 U.S.C. §§ 1593A, 1595(a).) The companies may also want assurance that their competitors are not able to obtain an economic advantage by skirting the law.

With regard to the recruitment of H2-A workers specifically, however, there is opposition to the bill. That opposition contends that recruitment of H2-A workers is already adequately regulated by two existing programs: the federal H2-A program itself, and California's laws requiring the registration of farm labor contractors.

a. *Would the Foreign Labor Contractor Law duplicate federal oversight of the H2-A program?*

In its letter to the Committee, the opposition states that "H-2A visas were simply not intended to be covered by the [foreign labor contractor] program because of the lack of necessity to do so because the H-2A visa program is *already regulated by a restrictive application and enforcement program at the federal level* […]" The opponents then accurately describe elements of what employers must do to import H2-A workers:

> 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.

Of these obligations, only one – the requirement to give H2-A workers a copy of their contract in a language the workers understand – arguably duplicates what this bill would require of foreign labor contractors as well. In that regard, however, the

duplication hardly seems like an imposition on the recruiter: by providing the work contract in the appropriate language, the foreign labor contractor would be complying with both the federal law and this bill at once.

Opposition has also pointed to Department of Labor guidance regarding the H2-A program that states:

> [H2-A] [e]mployers must comply with all applicable laws and regulations, including the prohibition against holding or confiscating workers' passports or other immigration documents. In addition, employers must not seek or receive payment of any kind from workers for anything related to obtaining the H-2A certification, including the employer's attorney or agent fees, the application fees, or the recruitment cost.[1]

While this is reassuring with respect to H2-A *employers*, it does not speak to what the people who *recruit* workers on behalf of those employers may do or not do. It is that role – the role of foreign labor contractors – that this bill is intended to address.

Thus, while the federal government does play a major role in overseeing the H2-A program generally, it does not appear – at least from the materials provided to the Committee by the opponents – that the registration and regulation of foreign labor contractors who recruit H2-A workers to come to California, as proposed in this bill, would duplicate much of that federal oversight.

The Committee may also wish to bear in mind that while federal law applies to all agricultural worksites in theory, federal inspection and enforcement is extremely rare in practice. The chances that the U.S. Department of Labor's Wage and Hour Division will investigate a farm employer in any given year are only just over one percent.[2] Even at these quite limited levels however, federal investigations have revealed that abusive practices remain alarmingly pervasive in the farm labor context.[3] Moreover, it is clear that this new federal administration has succeeded in terrorizing immigrant communities, which makes temporary foreign workers more vulnerable to abuse and more in need of state protection.

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[1]Fact Sheet #26: Section H-2A of the Immigration and Nationality Act (INA) (Feb. 2010) United States Department of Labor Wage and Hour Division https://www.dol.gov/sites/dolgov/files/WHD/legacy/files/whdfs26.pdf (as of Jul. 1, 2025).
[2]Costa, Martin, and Rutledge. *Federal Labor Standards Enforcement in Agriculture* (Dec. 15, 2020) Economic Policy Institute https://www.epi.org/publication/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/ (as of Jul. 1, 2025).
[3]*Ibid.*

b. Would the Foreign Labor Contractor Law duplicate state oversight of farm labor contractors?

The opposition also contends that extending the Foreign Labor Contractor Law to apply to the recruitment of H2-A workers is unnecessary because California already regulates farm labor contractors. It is true that California law requires farm labor contractors to register with the Labor Commissioner, pay fees, and post a surety bond. (Lab. Code, §§ 1682 et seq.) Up to that point, the requirement of the existing farm labor contractor laws do match quite closely with what this bill asks of foreign labor contractors. Thus, to the degree that farm labor contractors are also engaging in the recruitment of H2-A workers abroad, these components of the two programs are at least arguably duplicative.

The rest of the requirements that this bill would impose on foreign labor contractors, however, diverge distinctly from what existing law demands of farm labor contractors. As detailed earlier in this analysis, the Foreign Labor Contractor Law addresses what happens during the recruitment process (prohibiting, for example, the charging of recruitment fees and falsely holding out the prospect of permanent immigration into the United States). The farm labor contractor law, by contrast, largely addresses what happens once the workers have already taken the job and are in California.

Among other things, the farm labor contractor law requires the farm labor contractor to register with the county agricultural commission, ensure that the workers are adequately covered by workers' compensation coverage, obtain training in the prevention of sexual harassment, assure that workers are paid appropriately, and maintain safe and healthy working conditions. (Lab. Code §§, 1682 *et seq*.) None of these provisions relates to what happens when the farmworker is still living abroad and weighing the decision whether or not to accept a job in California.

California law does not protect the vulnerability of these migrant workers at the recruitment stage. For the same reason, even the bonding requirements that both the farm labor contractor law and the foreign labor contractor law contain are not as duplicative as they might at first appear. They insure against harms that would emerge from abusive behavior at different stages of the process. As a result, though a California farm labor contractor who also recruits foreign workers from abroad could, under this bill, be required to put up two separate surety bonds with the Labor Commissioner, one bond would cover against harms resulting from unlawful behavior in the recruitment process, while the other bond would cover against harms arising during the work itself.

5. <u>Support</u>

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.

Sponsors of the bill write:

In 2025, under an administration that has weakened essential protections for workers and immigrants, and with the anticipated increase in temporary work visas, the urgency of this bill cannot be overstated. California must take proactive measures to shield its most vulnerable workers and reinforce our commitment to fairness and human dignity.

The bill's sponsors have worked on the front lines with survivors of trafficking across California for decades, and our on-the-ground experience highlights the acute vulnerability of temporary visa holders. The temporary visa program creates a specific vulnerability to trafficking. Based on false promises made by fraudulent foreign labor recruiters (FRLs), workers often take on exorbitant debt to pay for a legal visa to come to California and then, due to false promises and coercion, are trafficked into exploitative situations. AB 1362 provides a vital framework for addressing this systemic exploitation and ensuring California remains a leader in combating human trafficking.

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. 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.

Case Examples:

1. **Agricultural Workers Deceived by Recruiters**: A group of agricultural workers was promised fair wages and safe working conditions under the H-2A visa program. Upon arrival in California, the workers discovered that the promises were false. They were subjected to inhumane living conditions and forced to work excessive hours without proper compensation. The recruiter had imposed significant debts on the workers, leaving them trapped and vulnerable.
2. **Hospitality Worker Exploitation** A worker came to California on a temporary visa to work in the hospitality industry. The recruiter misrepresented the nature of the job and the wages. Once employed, the worker faced threats of deportation when they attempted to leave an abusive employer. The lack of regulation and oversight allowed the recruiter to escape accountability, leaving the worker without recourse.
3. **Construction Workers Facing Trafficking** A group of construction workers was brought to California on temporary visas by a FLR. The recruiter collected exorbitant fees, indebting the workers before arrival. Once here, the workers were denied the wages and safety equipment promised, while being threatened with retaliation if they sought assistance.

These stories are not isolated. AB 1362 is essential to closing the loopholes that allow such abuse to persist.

This bill effectuates the original legislative intent of SB 477 to protect nearly every worker recruited abroad from foreign labor contractor abuse during recruitment. This is especially important during this era of mass targeting of immigrants and the heightened fear in immigrant communities. Because of this heightened, justified fear, it is easier for foreign labor contractors to exploit workers and more important than ever to protect the immigrant worker.

SUPPORT

Bet Tzedek Legal Services (sponsor)
Coalition for Humane and Immigrant Rights (sponsor)
Farmworker Justice (sponsor)
Freedom United (sponsor)
Justice at Last (sponsor)
Santa Clara County Wage Theft Coalition (sponsor)
Sunita Jain Anti-Trafficking Initiative (sponsor)
American Apparel & Footwear Association
Asian Americans Advancing Justice Southern California
California Federation of Labor Unions, AFL-CIO
California Rural Legal Assistance Foundation
California State Senate President pro Tem Emeritus Darrell Steinberg

Center for Human Rights and Constitutional Law
Central Valley Justice Coalition
CIERTO
Community Legal Services in East Palo Alto
Economic Policy Institute
Golden Gate University School of Law Women's Employment Rights Clinic
Justice in Motion
Praeveni U.S. Inc.
SEIU California
Verité
Worksafe
Six retired U.S. Ambassadors

OPPOSITION

California Association of Winegrape Growers
California Chamber of Commerce
California Farm Bureau
Nisei Farmers League

RELATED LEGISLATION

Pending Legislation: None Known.

Prior Legislation:

AB 364 (Rodriguez, 2021) would have required foreign labor contractors (except those explicitly exempted), including those recruiting farmworkers abroad, to register with the California Labor Commissioner and follow existing requirements for other foreign labor contractors, including paying a fee, posting a bond, and adhering to certain standards designed to prevent exploitation. The bill was vetoed by Governor Gavin Newsom. In his veto message, the Governor wrote: "…this bill would create a redundant process for many of the contractors covered by this bill…"

AB 1913 (Kalra, 2018) was nearly identical to AB 364. AB 1913 failed passage on the Assembly Floor.

SB 477 (Steinberg, Ch. 711, Stats. 2014) established a comprehensive registration and oversight process for foreign labor contractors, including enumerated protections for temporary foreign workers who are recruited to work in California.

SB 516 (Steinberg, 2013) was substantially similar to SB 477 but specified a lower contractor registration fee. In his message vetoing the bill, then-Governor Brown wrote: "[u]nfortunately, the registration and filing fees established by the bill are insufficient to support the ongoing costs of the proposed program."

PRIOR VOTES:

Senate Labor, Public Employment and Retirement Committee (Ayes 4, Noes 1)
Assembly Floor (Ayes 57, Noes 12)
Assembly Appropriations Committee (Ayes 11, Noes 2)
Assembly Labor and Employment Committee (Ayes 5, Noes 0)
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