Date of Hearing: April 9, 2025

ASSEMBLY COMMITTEE ON HOUSING AND COMMUNITY DEVELOPMENT
Matt Haney, Chair
AB 457 (Soria) – As Introduced February 6, 2025

SUBJECT: Farmworker housing: streamlined, ministerial approval: Counties of Fresno, Madera, and Merced

SUMMARY: Expands the existing streamlined, ministerial approval process for farmworker housing established by AB 1783 (R. Rivas), Chapter 866, Statutes of 2019. **Specifically**, adds the Counties of Fresno, Madera, and Merced, to the streamlined, ministerial approval process for farmworker housing established by AB 1783 (R. Rivas) that allows agricultural housing developments that are 150 units or less within 15 miles of an area designated as farmland or grazing land by the Department of Conservation.

EXISTING LAW:

1) Prohibits state funding from being used for predevelopment, development, or operation of any housing for farmworkers holding federal H-2A visas. For purposes of this section, "state funding" is defined to mean any provision of moneys or other financial assistance provided by the state or a state agency, including, but not limited to, grants, loans, and write-downs of land costs. This includes funding from Community Development Block Grants, Building Homes and Jobs Trust Fund, Joe Serna, Jr. Farmworker Housing Grant Program, and other programs for migratory workers, but does not include any allocation of federal or state low-income housing tax credits. (Health and Safety Code (HSC) Section 17021.8)

2) Requires any employer or other recipient of state funding who utilizes the funds for housing for H-2A farmworkers to reimburse the state or state agency that provided the funding. (HSC Section17021.8)

3) Defines "agricultural employee housing" to mean housing occupied by an employee of an agricultural employer or by a farm labor contractor. (HSC Section 17021.8)

4) Creates a streamlined, ministerial approval process for agricultural employee housing if all of the following criteria are met:

    a) The land is zoned for agricultural uses;

    b) The land is not located in environmentally unsafe or sensitive areas, including a coastal zone, wetlands, a high or very high fire hazard severity zone, a hazardous waste site, an earthquake fault zone, a flood plain or floodway, lands identified for conservation in an adopted natural community conservation plan, lands under conservation easement, and lands with specified groundwater levels; and

    c) The development does not contain dormitory-style housing;

    d) The development consists of no more than 36 units or spaces designed for use by a single family or household; and

e) For the counties of Santa Cruz and Santa Clara, the housing development is 150 units or less and within 15 miles of an area designated as farmland or grazing by the Department of Conservation. (HSC Section 17021.8)

5) Allows a local government to subject an eligible agricultural employee housing development to specified written, objective development standards, including, but not limited to, adequate water and wastewater facilities and dry utilities to serve the project; connection to municipal sewer system, as specified; proximity to duly designated collector road, as specified; and off-street parking, as specified. (HSC Section 17021.8)

6) Requires the Department of Housing and Community Development (HCD) to establish an application and review process for certifying that a person is an affordable housing organization qualified to operate agricultural employee housing. HCD shall review an application and certify that the person is a qualified affordable housing organization if the following is satisfied:

   a) The applicant has demonstrated relevant prior experience in California and current capacity as capable of operating the housing and related facilities for its remaining useful life, either by itself or through a management agent; and

   b) The applicant is one of the following: a not-for-profit, as specified; a local public housing agency; or a multicounty, state, or multistate agency, as specified. (HSC Section 17021.8)

7) Requires HCD to establish and maintain a roster of all affordable housing organizations certified under 7) above. (HSC Section 17021.8)

8) Requires any landowner who fails to select an alternative certified person to operate and maintain the agricultural employee housing to be subject to an administrative penalty issued by HCD. (HSC Section 17021.8)

9) Requires that, if a certified person's permit expires or the certified person is otherwise unable or unwilling to continue to operate and maintain an agricultural employee housing development approved ministerially, the landowner who obtained that approval within 90 days shall select an alternative certified person to operate and maintain the agricultural employee housing. (HSC Section 17021.8)

FISCAL EFFECT: Unknown.

COMMENTS:

Author's Statement: According to the author, "While California's housing crisis is often thought of in terms of its effects on dense urban cities, the effects on more rural areas have been equally devastating and present unique challenges. Farmworkers in particular bear the brunt of this crisis, with farmworkers disproportionately living in overcrowded households, often in aging, substandard housing with significant habitability issues. An important step to address this issue was taken by AB 1783 (Rivas 2019), the Farm Worker Housing Act of 2019, which created a streamlined, ministerial approval process for up to 36 units of affordable farmworker housing

in agricultural zones, which was significantly expanded in Santa Cruz and Santa Clara Counties by AB 3035 (Pellerin 2024).

AB 457 builds on the work of AB 3035 to allow the streamlined approval of up to 150 units of affordable farmworker housing within 15 miles of farm or grazing land in the Counties of Fresno, Madera, and Merced. Providing more flexibility in locating these developments allows easier connections to necessary infrastructure and easy access to important amenities like grocery stores, while streamlining larger developments helps to meet the urgent need for farmworker housing. AB 457 is a targeted solution to provide the dignified, safe, and affordable housing that farmworkers need in the Central Valley's agricultural heartland."

AB 1783 (R. Rivas) And AB 3035 (Pellerin): AB 1783 (R. Rivas) was modelled after the streamlined housing approval process created in SB 35 (Wiener), Chapter 366, Statutes of 2017, but applies to farmworker housing instead of infill housing. The bill established a streamlined, ministerial process for approval of qualifying agricultural employee housing projects. To qualify, projects must be on land zoned for agricultural uses and cannot be located in environmentally unsafe or sensitive areas, including a coastal zone, wetlands, a high or very high fire hazard severity zone, a hazardous waste site, an earthquake fault zone, a flood plain or floodway, lands identified for conservation in an adopted natural community conservation plan, and lands under conservation easement. The agricultural employee housing cannot be dormitory style housing, and must be maintained and operated by a qualified affordable housing organization, certified by HCD. Qualified organizations include non-profits and public agencies with prior experience and current capacity to capably maintain and operate the housing. Except for local public housing agencies with elected legislative bodies, to be qualified the applicant cannot have an officer or director with a financial interest in an agricultural employer or a farm labor contractor.

The housing must be affordable and for agricultural employees for at least 55 years, and must be eligible for state funding. AB 1783 prohibits state funding from being provided for the purposes of planning, developing, or operating any housing used to comply with the requirements of federal law to house H-2A workers and requires any recipient of state funding who does so to reimburse the state. The bill applies these state funding requirements to Community Development Block Grants, Building Homes and Jobs Trust Fund, Joe Serna, Jr. Farmworker Housing Grant Program, and other programs for migratory workers.

Like the Employee Housing Act, AB 1783 only applied to developments of 35 units or less. AB 1783 also required that developers use state funding in conjunction with the by-right streamlining allowed under the bill. State funding programs, like the Joe Serna Farmworker Housing Program, tend to fund larger projects, with more units. As a result, it has been difficult for developers to marry these two criteria.

Several issues arose with the implementation of AB 1783. First, providing the necessary infrastructure and connections to water, sewer, and other utilities is more expensive and difficult on agriculturally-zoned land. Second, the amenities residents need are frequently far from agricultural land, making building housing there less attractive to developers. Third, larger developments often have an easier time of securing grants and financing, so the limitation to a maximum of 36 units can make these developments financially unfeasible.

AB 3035 (Pellerin), Chapter 524, Statutes of 2024, made changes to AB 1783 to respond to these issues in the counties of Santa Clara and Santa Cruz. AB 1783 is limited to sites that are zoned

for an agricultural use and applies to developments consisting of no more than 36 units or spaces. AB 3035 (Pellerin) expanded streamlining in the counties of Santa Clara and Santa Cruz to developments of 150 units or less within 15 miles of an area designated as farmland or grazing by the Department of Conservation. This bill would expand the list of counties to which these provisions apply to include Fresno, Madera, and Merced.

The H-2A Visa Program*:* The H-2A Visa program is a federal program that allows U.S. employers or U.S. agents who meet specific regulatory requirements to bring foreign nationals to the United States to fill temporary agricultural jobs. Petitioners requesting to utilize this program must demonstrate that there are not enough U.S. workers who are able, willing, qualified, and available to do the temporary work. They must also show that employing H-2A workers will not adversely affect the wages and working conditions of similarly employed U.S. workers. Importantly for this bill, employers must provide clean and safe housing to H-2A workers at no charge to the employee. Employees are responsible for their food costs, but employers must provide a place for workers to prepare their meals. An employer must arrange for a worker's transportation from the originating country to the place of employment or reimburse the worker for transportation costs.

Since its introduction in 1986, the H-2A program has grown steadily in size. Per the U.S. Department of Labor, in 2000 there were approximately 30,000 visa-holders, in 2010 there were approximately 55,000, and in 2016 there were over 134,000 (including 11,000 in California). This represents about 4-7% of farmworkers nationwide, and 2-3% in California. According to the Economic Policy Institute, this increase is because "(m)ost crop workers are unauthorized, and farmers are turning to H-2A guestworkers as unauthorized migration from Mexico to the United States slows, to replace current workers who leave agriculture to find non-farm jobs."

The H-2A program is not uncontroversial. Farmers convey that the additional costs for housing and transportation without reduction in wages are limiting factors on their use of the program. However, they cite its practical necessity in the face of a diminishing labor supply and the inability of Congress to pass immigration reform that meets the well-documented needs of the nation's food producers. Opponents point to the fact that the H-2A visa ties the worker to the employer. They cite this power imbalance as enabling substantial abuses, including lack of access to legal resources, wage theft, poor housing, denial of medical benefits for on-the-job injuries, and withholding of documents.

As stated above, current federal law requires employers utilizing the H-2A program to provide clean and safe housing to H-2A workers. This housing must be provided at no charge to the employee. AB 1783 did not preclude utilization of the H-2A program or the development of housing for H-2A visa-holders. However, it does make such housing ineligible for state funding for its planning, development, or operation.

Arguments in Support: The City of Firebaugh writes in support, "While California's housing crisis is mostly seen as an urban issue, its effects on rural areas are equally devastating. Developments on agricultural land in particular face unique challenges such as a lack of critical water and sewer infrastructure as well as long distances to necessary amenities. AB 457 addresses these challenges by streamlining the development of up to 150 units of affordable farmworker housing within 15 miles of farm or grazing land, providing flexibility and better access to amenities and easing connections to infrastructure. AB 457 cuts unnecessary red tape and promotes the development of affordable, dignified housing for the farmworker

communities who are the backbone of the Central Valley."

Arguments in Opposition: None on file.

***Related Legislation*:**

AB 1783 (Rivas, Chapter 866, Statutes of 2019): Created a ministerial approval process for up to 36 units of farmworker housing on agriculturally-zoned land.

AB 3035 (Pellerin, Chapter 524, Statutes of 2024): Allowed ministerial approval of up to 150 units of farmworker housing within 15 miles of farm or grazing land.

REGISTERED SUPPORT / OPPOSITION:

Support

City of Firebaugh
City of Kerman, CA
City of Madera
City of Mendota
City of Merced
Habitat for Humanity Greater Fresno Area

Opposition

None on file.

Analysis Prepared by: Lisa Engel / H. & C.D. / (916) 319-2085