

Date of Hearing: April 25, 2018

ASSEMBLY COMMITTEE ON HOUSING AND COMMUNITY DEVELOPMENT

David Chiu, Chair

AB 2887 (Aguiar-Curry) – As Amended April 17, 2018

SUBJECT: Migrant farm labor centers

SUMMARY: Makes several modifications to the operation of migrant farm labor centers (centers). Specifically, **this bill:**

- 1) Requires, rather than authorizes, a center to establish a capital reserve account with excess funds from the annual operating contract provided by the Department of Housing and Community Development (HCD) at the end of each fiscal year. Prior to establishing such an account, HCD must certify there is no need to address reasonable general maintenance requirements or repairs, rehabilitation, and replacement needs that affect the immediate health and safety of the residents.
- 2) Repeals the 10% cap on cumulative reserve account balance and instead requires the cumulative balance of the account to be reported annually to HCD.
- 3) Specifies that an entity operating a center, before requesting additional funding from HCD, shall first use the available capital reserve funds for required improvements or repairs.
- 4) Requires HCD to allow, in an annual operating contract, the entity operating the contract to have flexibility in its opening date if needed to adjust for variable seasonal or climate changes.
- 5) Requires HCD to enter into operating contracts with entities, containing mutually agreeable language, that would be effective until terminated by HCD, and requires HCD to provide funding annually by making an amendment to that contract.
- 6) Provides that this section may not be interpreted to allow an operating period to exceed a term that is otherwise authorized.
- 7) Requires HCD, if there are any vacant units in a center after the housing needs for multi-membered migratory agricultural worker households have been met, to allow the center to provide housing to single migratory agricultural workers in those vacant units.
- 8) Requires, on or before January 1, 2020, and on or before January 1 of each year thereafter, an entity operating a center to provide a report to the Office of Migrant Services (OMS) that contains specified data about the migratory agricultural workers that resided at the center during the most recent contract period. The data shall be reported in an aggregate, anonymous format, without any individual identifiable information. The report shall include the following information:
 - a) Where the migratory agricultural workers are migrating from;
 - b) Household income;

- c) Race or ethnicity of members of the household;
 - d) Genders of the members of the household;
 - e) Number of school-aged children, including number of participants in the Migrant Education Program, and the number of residents enrolled in postsecondary school programs;
 - f) Identify if members are homeowners or renters; and
 - g) Identify if there are elderly or disabled members.
- 9) Requires the director of HCD to consider the data contained in the reports to determine the needs of the residents served at the centers and how to better serve those needs.

EXISTING LAW:

- 1) Assists agricultural communities with the development, construction, reconstruction, rehabilitation, and operation of migrant farm labor centers through HCD's OMS
- 2) Requires HCD to assist in the development of family units, or dormitory-style units, as may be appropriate, in centers in any counties where there is a substantial unmet need for migrant farmworker housing.
- 3) Expresses legislative intent, in permitting the development of dormitory-style housing, that family households not be mixed with single person households unless a contractor or sponsor can make reasonable accommodations to provide separate living and sleeping areas in the dormitory to those family households.
- 4) Authorizes the director of HCD to contract with specified local public and private entities, including school districts and housing authorities, for the procurement or construction of housing or shelter and to obtain specified services for migratory agricultural workers.
- 5) Authorizes, at the end of each fiscal year, a center to establish a reserve account with excess funds provided through the annual operating contract received from HCD, if HCD certifies there is no need to address reasonable general maintenance requirements or repairs, rehabilitation, and replacement needs that affect the immediate health and safety of residents at the center.
- 6) Places a cap of 10% of the annual operating funds committed to the center by HCD on the cumulative balance of the reserve account, and specifies that reserve funds may only be used for capital improvements.
- 7) Requires, in order to make withdrawals from the reserve account, the written approval of HCD of the amount and nature of expenditures.
- 8) Authorizes a center to operate for an extended period prior to or beyond the standard 180-day period upon approval by HCD, provided that specified conditions are met.

- 9) Requires HCD, before approving or denying an early opening or an extension, to take into consideration the following factors:
- a) The structural and physical condition of the center, including water and sewer pond capacity and the capacity and willingness of the local entity to operate the center during the extended occupancy period;
 - b) Whether local approvals are required, and whether there are competing demands for the use of the center's facilities;
 - c) Whether there is adequate documentation that there is a need for residents to continue work in the area, as confirmed by the local entity;
 - d) The climate during the extended occupancy period;
 - e) The amount of subsidy funds that can be allocated to each center to subsidize rents below the operating costs and the cost of operating each center during the extended occupancy period;
 - f) The extended occupancy period is deemed necessary for the health and safety of the migrant farmworkers and their families; and
 - g) Other relevant factors affecting the migrant farmworkers and their families and the operation of the centers.
- 10) Prohibits the standard 180-day occupancy period combined with any extended occupancy periods from exceeding a cumulative operating period of 275 days in any calendar year.

FISCAL EFFECT: Unknown.

COMMENTS:

Background: HCD assists agricultural communities in California with the development, construction, reconstruction, rehabilitation, and operation of migrant farm labor centers. Through OMS, HCD provides rental housing during the peak harvesting season.

OMS provides grants to local government agencies that contract with HCD to operate centers located throughout the state. HCD obtains and administers funds for the construction and rebuilding of centers. Counties, housing authorities, and grower associations typically provide land for migrant centers as an in-kind contribution while HCD owns the structures. Child day care and after-school support services are typically available and tenants are charged a subsidized, affordable daily rent. HCD contracts biennially with local operating agencies and provides grants for OMS center operation, paid from the State General Fund and from OMS rental income. Given that this program was created for migrant farmworkers, occupancy is normally limited to six months (180 days) per year.

There are currently 24 migrant farm labor centers that operate in 15 counties in California. The centers, counties, and units per center are listed in the chart on page 5. Under current HCD procedure, each center must renegotiate its operating contract and budget with OMS every two years. In addition, current law allows entities operating centers to establish a capital reserve account, not to exceed 10% of the center's annual allocation from HCD, at the end of each fiscal

year if the center received excess funds. These funds can only be used for capital improvements, and HCD must approve withdrawals in writing.

This bill requires HCD to enter into ongoing operating contracts with centers and amend those existing contracts each year to provide funding adjustments, rather than creating brand new contracts every two years. This bill will also require centers to provide annual reports to OMS with specified information on the migrant agricultural households the centers are serving, and require the Director of HCD to refer to those reports when amending centers' contracts. The first round of reports will be due by January 1, 2020.

This bill also repeals the 10% cap on capital reserve funds and instead requires centers to report the cumulative balance of the account annually to HCD, while preserving the ability of HCD to sign off on expenditures from these accounts.

Extended Occupancy Period: HCD currently has the ability to approve requests from OMS centers to open early or stay open beyond the standard six month operating period if certain conditions are met. This extended time period plus the original six month period cannot exceed 275 days in a calendar year. In the case of opening early, the center operating entity must request an extended operating period no earlier than 30 days prior to the center's scheduled opening date. HCD must consider several factors before approving or denying such a request, including whether there is documentation of a need for residents to continue work (or begin work early) in the area, and the climate during the extended occupancy period.

In the last four years, several centers have requested extensions (see below for data). HCD did not deny any requests for extensions from 2015-18.

	2015	2016	2017	2018
Centers Requesting Extensions	10	14	16	9

This bill requires HCD to allow OMS centers to have flexibility in their opening dates, if needed, to adjust for seasonal or climate changes. This would supersede the existing procedure for requesting an extended occupancy period prior to the scheduled opening date of an OMS center, instead allowing local entities operating the centers to change a scheduled opening date as needed.

Vacant Units: OMS has issued regulations that govern the operations of the centers. These regulations require there to be more than one person in an applicant's household in order to be eligible for admission to a center. Regulations also set out occupancy standards, which specify a maximum number of persons per number of bedrooms, in order to prevent overcrowding. The chart below shows every OMS center in the state, the total number of units per center, and the number of family units left vacant in each from 2015-17. According to this data, 3.8% of units were left vacant in 2016 and 2017.

OMS Center	County	Units per center	Vacancies in 2015	Vacancies in 2016	Vacancies in 2017
Williams	Colusa	100	33	5	3
Parlier	Fresno	130	0	0	0
Arvin	Kern	88	0	0	0
Shafter	Kern	88	12	0	3

Pomona Ranch	Madera	50	0	0	0
Atwater-Livingston	Merced	62	0	0	0
Rafael Silva (Los Baños)	Merced	48	0	0	0
Felix Torres (Planada)	Merced	62	44	29	29
Merced (RD)	Merced	50	0	0	0
Newell	Modoc	53	31	30	27
King City	Monterey	79	0	6	3
Hollister	San Benito	67	0	0	0
Artesi II (French Camp)	San Joaquin	95	0	0	0
Artesi III (French Camp)	San Joaquin	95	0	0	0
Harney Lane (Lodi)	San Joaquin	95	0	0	0
Arturo Ochoa (Gilroy)	Santa Clara	100	0	0	0
Buena Vista (Watsonville)	Santa Cruz	105	0	0	0
FH Rehrman (Dixon)	Solano	80	0	0	0
Empire	Stanislaus	90	0	0	0
Westley	Stanislaus	85	0	0	0
Patterson	Stanislaus	41	0	0	0
Yuba City	Sutter	77	1	3*	8*
Davis	Yolo	62	0	0	0
Madison	Yolo	88	0	0	0
TOTAL		1890	121	73	73

**These units have been left vacant because they are in need of repairs and cannot be occupied.*

This bill requires HCD to allow centers to provide housing to single workers only if there are vacant units left after meeting the housing needs of eligible families.

Need for the bill: According to the author, "the demographics and needs of our state's farmworkers are shifting. AB 2887 takes into account feedback from OMS housing operators statewide. This bill will increase flexibility in the OMS housing program to better serve our state's migratory agricultural workers, and increase efficiency at the state level. If needed, a local operator of a migrant farm labor center should be able to adjust dates for variable seasonal or climate changes. In addition, many issues with the structure of the OMS program come from the lack of detailed information about the farmworkers living and working in our fields. There is no existing process for the state to collect data about our farmworkers' demographics, incomes, home locations, etc. Some local housing operators do this voluntarily, but data collection is not required or standardized. This bill creates a process for collecting and reporting aggregated and anonymous data to the state, in order to allow each center to provide services and conditions most appropriate to the residents actually living there."

Arguments in opposition

According to the United Farm Workers, "[this bill] would require the Department of Housing and Community Development to consider, and allow to be approved, employer-owned farm worker housing including a return to essentially all-male barracks.

In addition, the bill permits approval of any proposal or any plan including allowing for the severe power-imbalance of someone controlling both a farm worker's source of income and

shelter. This bill takes California back to the days of the company town, company store and gender discrimination.”

Committee amendments:

To better reflect the author’s intent and correct errors in drafting, the Committee may wish to consider the below amendments:

- 1) Strike out provisions of the bill allowing centers to provide housing to single migratory agricultural workers.
- 2) Require the director of HCD to consider the data contained in annual reports in the process of amending operating contracts with centers.
- 3) Make technical corrections.

The proposed committee amendments are as follows:

1. On page 3, in line 34, strike out “cap” and insert:

capital

2. On page 7, in line 4, strike out “annual”
3. On page 7, strike out line 15 to line 23.
4. On page 7, in line 26, strike out “SEC. 5” and insert:

SEC. 4

5. On page 9, strike out line 13, and insert:

needs in operating contracts and annual amendments pursuant to Section 50710.3.

Related legislation:

AB 571 (Eduardo Garcia), Chapter 372, Statutes of 2017: Made changes to the farmworker housing tax credit set-aside within the Low Income Housing Tax Credit (LIHTC) Program and to HCD's OMS.

AB 1165 (Caballero), 2017: Prohibits HCD from imposing requirements that a migrant farmworker reside outside any particular radius of a center for any period of time in order to be eligible for that center. *This bill is pending in Senate Rules Committee.*

REGISTERED SUPPORT / OPPOSITION:

Support

California Association of Housing Authorities
Family Winemakers of California

Opposition

United Farm Workers

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