

“Agricultural work” means work performed on a farm or in the handling, packing, processing, freezing, canning, or shipping of agricultural produce of the immediate area.

- 4) Prohibits a housing authority operating a OMS center to limit occupancy of units for agricultural workers to less than 270 days if the Director of Agriculture certifies that there are seasonal crops that would keep such workers in the immediate area for such time.
- 5) Allows an OMS center to operate for an extended period prior to or beyond the standard 180-day period after approval by HCD, provided that all of the following conditions are satisfied:
 - a) No additional subsidies provided by HCD are used for the operation or administration of the migrant farm center during the extended occupancy period, except to the extent that state funds are appropriated or authorized for the purpose of funding all or part of the cost of subsidizing extended occupancy periods;
 - b) Rents are not to be increased above the rents charged during the standard 180-day occupancy period unless HCD finds that an increase is necessary to cover the difference between reasonable operating costs necessary to keep the center open during the extended occupancy period and the amount of state funds available pursuant to paragraph 1) and any contributions from agricultural employers or other federal, local, or private sources. These contributions shall not be used to reduce the amount of state funds that otherwise would be made available to the center to subsidize rents during an extended occupancy period; and
 - c) In no event shall the rent during the extended occupancy period exceed the average daily operating cost of the OMS center, less any subsidy funds available pursuant to paragraph a) or b). With respect to an extended occupancy beyond the standard 180-day period, households representing at least 25% of the units in the center shall have indicated their desire and intention to remain in residency by signing a petition to the local entity to keep the center open for an extended period at rents that are the same or higher than rents during the regular period of occupancy.
- 6) Requires HCD, prior to approving or denying an early opening or an extension of occupancy of an OMS center or an extension and establishing the rents for the extended occupancy period, to take into consideration all of the following factors:

- a) The structural and physical condition of the OMS center, including water and sewer pond capacity and the capacity and willingness of the local entity to operate the OMS center during the extended occupancy period;
 - b) Whether local approvals are required, and whether there are competing demands for the use of the OMS center's facilities;
 - c) Whether there is adequate documentation that there is a need for residents of the OMS center 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 available 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 OMS centers.
- 7) Provides that the standard occupancy period combined with any extended occupancy period for an OMS center shall not exceed a cumulative operating period of 275 days in any calendar year.
- 8) Requires HCD, no later than January 1, 2026, to develop a comprehensive strategy to substantially improve policy, funding, and implementation of farmworker housing production in California to adequately address the size and scope of the problems identified in the study, including amendments to the California Statewide Housing Plan.

This bill:

- 1) Expands the definition of "migratory agricultural farmworker" to mean a person who meets any of the following conditions:
 - a) During the current or preceding calendar year, derived at least 50 percent of their total annual household earned income from agricultural employment.
 - b) Can produce current evidence of a current job offer in agricultural employment.
 - c) Is absent from a permanent place of residence for any length of time during the current or preceding calendar year for the purpose of seeking or performing remunerated employment in agricultural work.
- 2) Deletes provisions that housing authorities operate an OMS center for no more than 270 days.

- 3) Provides that all OMS centers operated by a housing authority shall be made available year round for occupancy by migratory agricultural workers by January 1, 2031. Additionally OMS centers shall reserve a sufficient number of units to accommodate those migratory agricultural workers who wish to reside at an OMS center for any period of time less than one year.
- 4) Requires all OMS centers to comply with all applicable health and safety laws and is habitable, as specified, and require HCD to conduct annual inspections.
- 5) Prohibits an OMS center from requiring a migratory agricultural worker with a school-age child to move out of their housing during the child's school year or in a time or manner that is disruptive to the child's academic year.
- 6) Requires that a migratory agricultural worker who has entered into a prior residential tenancy agreement for housing at an OMS center to have the right of first refusal of an available unit upon returning to that OMS center for housing following a break in occupancy.
- 7) Prohibits a migratory agricultural worker from losing their residency if they leave for travel and are paying rent.
- 8) Requires OMS center to be operated year round by January 1, 2031. Prohibits rents from being increased above the rents charged during the year round period and shall not exceed the daily operating cost of the center.
- 9) Requires HCD to develop and implement a six-year transitional plan to make all housing centers available year round.
- 10) Requires each OMS center to send to HCD a report with the following information by January 1, 2025, which shall be aggregated by HCD and sent to the relevant policy committees in the legislature by January 1, 2026:
 - a) The quantity of housing units at each center with each housing unit individual identified that could made available immediately.
 - b) The quantity of housing units at each center with each housing unit individually identified, that requires upgrades to be made available year round, including a description of upgrades needed by unit at each center that includes a scope of work and costs estimates.
 - c) A description of the order in which units will be renovated. The upgrade plan shall ensure that no center shuts down more than 30% of the units at any given time by scheduling them to be renovated. To the extent possible, upgrades shall occur when school is not in session.

- d) Information about the regional K-12 schools necessary to determine how long migrant farm labor center housing units may remain open during the six-year plan implementation.

COMMENTS:

- 1) *Author's statement.* "Farmworkers should be treated with dignity and respect reflective of the essential contribution they make to California's agricultural economy and local communities. AB 2240 ensures that farmworkers and their families are not separated because of outdated policies and that their children's education is not interrupted.

Before modern migratory farmworker housing centers were established, many lived in overcrowded, substandard motel rooms, makeshift shacks, or near orchards and streams without plumbing or safety. In response, in 1965 California provided migrant farmworkers and their families with affordable, seasonal rental housing from April to November.

Today, however, the majority of farmworkers are no longer migratory single men but instead are settled with families. Despite this change, farmworkers still must reside outside of a 50-mile radius of a center for a minimum of three months in order to qualify for migratory farmworker housing. This is devastating to children whose school years do not align with these closures and to families who are required to separate as a condition of residency."

- 2) *Farmworkers.* The state lacks enough affordable housing for farmworkers and their families. AB 1654 (R. Rivas, Chapter 638, Statutes of 2022), requires the state to complete a statewide study of farmworker housing conditions, needs, and solutions to inform a comprehensive strategy for meeting the housing needs of the state's farmworkers. This includes an analysis of the needs of migrant farmworkers. The strategy is due by January 1, 2026.
- 3) *OMS.* Since the 1960s, HCD has administered OMS to provide affordable housing to migrant farmworkers. HCD owns farmworker labor centers and contracts with local housing authorities and counties to operate the centers. Counties, housing authorities, and grower associations typically provide land for centers as an in-kind contribution. Child daycare and after-school support services are often available. Tenants are charged a subsidized, affordable daily rent. HCD contracts annually with local operating agencies and provides grants for OMS center operation, paid from the state General Fund and from OMS rental income. There are currently 24 migrant farm labor centers that operate in

15 counties in California that typically house approximately 7,000 farmworkers a year.

Historically, occupancy of OMS centers has been limited to six months, generally between May/April to October/November to accommodate migrant workers who have travelled to California for the growing season and then returned to their country of origin. To live there, individuals must meet an income requirement, prove they work in agriculture, and live at least 50 miles away for three months after the season ends. However, that policy has been changed by the Legislature over the last few years.

In response to concerns that school-aged children living in migrant centers were not able to complete the school year because of the 50-mile rule, SB 850 (Committee on Budget, Chapter 48, Statutes of 2018), allowed migratory agricultural workers with school-aged children to reside within a 50-mile radius of a migrant farm labor center on a year-round basis. Up to 50% of the units in a migrant farm labor centers could be made available to these families. The remaining units were reserved for migratory agricultural workers who require round-trip travel exceeding 100 miles per day, which results in the migratory agricultural worker being unable to return to the workers' chosen place of residence within the same day of labor. The exemption to the 50-mile year sunset on January 1, 2024. This bill would eliminate the requirement that a migratory farmworker live 50 miles away from the farmworker center at least three months out of the year.

Under the current standard OMS centers remain open for 180 days out of the year, with the option to stay open 270 days with approval from HCD. This bill would eliminate the option for a farmworker center to limit occupancy of units for agricultural workers to less than 270 days. As a result, units in a center could be provided year round to farmworkers and their families. There is not a requirement for centers to set-aside any units for farmworkers who may choose to live temporarily in a farmworker center and travel back to their country to origin for part of the year.

According to demographic data that HCD collects from migrant farmworkers at OMS centers, 66% of residents come from Mexico, 12% from Arizona, 4% from Texas. Seventeen percent come from California. In 2022, approximately 77% of residents reported they owned their own primary residences and 23% were renters. According to a 2022 study from the Department of Labor, Employment, and Training Administration, which compiled demographic information between 2015-2019, 13% of the farmworkers in California are "migrants" that travelled more than 75 miles to obtain a farm job. According to

the author, additional US Department of Labor data shows about 92% of California farmworkers were settled in the state from 2019-2020.

According to investigative reporting completed by the Sacramento Bee, the number of migrant California farmworkers has decreased significantly over time. The Sacramento Bee interviewed farmworkers living in centers and found that more than 80% of the farmworkers surveyed said they would stay if their units were available year-round. Although the number of farmworkers who migrate each year for the growing season has declined, housing is still necessary for those workers.

4) *Permanent farmworker housing programs.* There are two main state programs that fund permanent housing projects specifically for farmworkers: Joe Serna, Jr. Farmworker Housing Program, and the low income housing tax credit (LIHTC) program.

a) *Joe Serna Jr., Farmworker Housing Program.* Administered by HCD, this program funds fund new construction, rehabilitation, and acquisition of owner-occupied and rental units for agricultural workers, with a priority for lower income households. Financial assistance is available as deferred-payment loans for multifamily housing new construction or rehabilitation and grants for single-family new construction or owner-occupied rehabilitation programs. The FWHG program supports development projects involving multiple home ownership units, including single-family subdivisions, for lower-income agricultural employees and their families, and programs that assist lower-income agricultural employees and their families to become or remain homeowners. According to HCD, over the last five years, Serna has funded 56 new farmworker projects with 3,577 new units. Many of these projects are in the same counties as the OMS centers.

b) *LIHTC (Farmworker housing set-aside).* In 1987, the legislature authorized a state LIHTC program to augment the federal tax credit program. State tax credits can only be awarded to projects that also receive federal LIHTCs, except for farmworker housing projects, which can receive state credits without federal credits. Within the LIHTC program, there is a set-aside of \$500,000 a year for farmworker housing projects. Until 2018, relatively few funds from the set aside were awarded to farmworker housing projects. AB 571 (E. Garcia, Chapter 372, Statutes of 2019) made significant reforms to encourage developers constructing farmworker housing to apply for specified federal credits by increasing the value of the state credits that would accompany those credits.

- 5) *Land use incentives for farmworker housing.* In addition to funding the construction of farmworker units through state programs, the Legislature has sought to make local land use approvals more streamlined for these projects. The Employee Housing Act (EHA) was enacted for the benefit of persons in privately owned and operated employee housing (typically farmworkers) to assure their health, safety, and general welfare, and to provide them a decent living environment. HCD's Employee Housing Program adopts and enforces statewide regulations for the construction, maintenance, use, and occupancy of privately owned and operated employee facilities providing housing.

The EHA permits the housing to be constructed by-right (*i.e.* ministerially, or without discretionary review by a local jurisdiction) so long as the housing is in a rural area, the housing accommodations or property are not maintained in connection with any work or workplace, the housing accommodations or property are provided by someone other than an agricultural employer, and the housing accommodations or property are used by five or more agricultural employees of any agricultural employer or employers for permanent or temporary residency. Employee housing may not contain more than 36 beds in a group quarters or 12 units or spaces designed for single family.

In 2019, the Legislature passed AB 1783 (R. Rivas, Chapter 866), which created a new streamlined, ministerial approval process for agricultural employee housing, that is not dormitory style housing, on land zoned for agricultural uses. That approval process was similar to the EHA, except that the developments are not allowed in environmentally unsafe or sensitive areas, provides that the developments must be eligible for state funding; the developments do not contain dormitory-style housing; and eligible developments are subject to specified written, objective development standards.

- 6) *This bill.* This bill would fundamentally change the OMS centers to be permanent housing from housing intended to be occupied only part of the year, eliminating the requirement for a farmworker to establish they are migrating each year. Specifically, it would require all units at OMS centers to be available year round by migratory farmworkers (now defined broadly to include a person who can show they work in agriculture, can show half their income comes from agricultural employment, or absent from a permanent residence for any length of time during the year and performing agricultural work). In order to achieve this transition, all OMS centers must submit specified information to HCD by January 1, 2025, and HCD must aggregate this information and present it to the Legislature by January 1, 2026.

According to the Assembly Appropriations analysis, this bill would require HCD to redesign the OMS program, including adopting regulations and updating operating manuals, forms and standard agreements for year-round housing; renegotiate leases for the 24 OMS centers for year-round housing; and in some cases, negotiate or purchase water rights to operate year-round housing at the centers. Additionally, HCD indicates it will need to undergo necessary tasks to meet minimum health and safety standards, including but not limited to adding heat and other upgrades to “winterize” the units, and water well and wastewater treatment upgrades to accommodate year-round occupancy.

- 7) *Opposition.* A coalition of organizations representing both migrant and non-migrant farmworkers are opposed to this bill unless amended. “Our experience is supported by the available data that indicates that as much as 13% of farmworkers are migrants. While that may be a small proportion of the workforce, it still represents between 30,000 and 60,000 workers based on various estimates of the overall farmworker population... [This bill] would effectively eliminate the migrant housing program in California, leaving our migrant farmworker clients without any source of affordable housing that they can access while working temporarily in an area...It is simply not possible for an OMS center to serve as both temporary and permanent housing at the same time.” They suggest the following amendments: (1) give priority in permanent affordable housing units (Joe Serna Jr. Program units) for migrant farmworkers wishing to secure long-term housing; (2) direct HCD to evaluate both the number of days each center is open and to establish opening and closing dates that better correspond to the school year; and (3) study the question of how best to meet the needs of both migrant and non-migrant households.

RELATED LEGISLATION:

AB 1654 (R. Rivas, Chapter 638, Statutes of 2022) — required HCD to commission a statewide study on the lack of affordable and accessible farmworker housing. HCD will contract with trusted messengers (such as local non-profits) in farmworker communities to conduct this study. HCD will then use that analysis of the barriers, unmet needs, existing housing conditions, and trends in agricultural employment statewide and regionally to improve policy and potentially increase funding for farmworker housing production.

SB 850 (Committee on Budget, Chapter 48, Statues of 2018) — allowed immediate family members of a migratory agricultural worker to reside within a 50-mile radius of a migrant farm labor center on a year-round basis. Codifies the definition of a migrant farmworker, and upon approval by HCD and until January 1, 2024, allows operators of migrant farm labor centers to provide up to 50% of the units in a labor center to be available for non-migrant agricultural workers

provided they have school-age children enrolled in the local school district.
Requires annual reporting from operators of migrant farmworker housing centers on demographic data for both migrant and non-migrant agricultural workers in the facility.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: Yes

POSITIONS: (Communicated to the committee before noon on Wednesday, June 19, 2024.)

SUPPORT:

Food Empowerment Project (Sponsor)
Center for Farmworker Families (Co-Sponsor)
Human Agenda (Co-Sponsor)
La Cooperativa Campesina De California (Co-Sponsor)
Sacramento State Center on Race, Immigration, and Social Justice (Co-Sponsor)
Asian Law Alliance
California Human Development
California YIMBY
Center for Employment and Training
Cleaneearth4kids.org
County of Yolo
Jewish Voice for Peace-South Bay
Proteus
Vision Y Compromiso
8 Individuals

OPPOSITION:

California Coalition for Rural Housing
California Rural Legal Assistance Foundation
Leadership Counsel for Justice & Accountability
Western Center on Law & Poverty

-- END --