



COUNCIL AGENDA: 04-22-08
ITEM: 3.5

Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: Lee Price, MMC
City Clerk

SUBJECT: S 340 (FEINSTEIN) AND HR 371
(BERMAN) – THE AGJOBS ACT
OF 2007

DATE: 04-17-08

RECOMMENDATION

Consider a position on S 340 (Feinstein) and HR 371 (Berman) – the Agricultural Job Opportunities, Benefits and Security Act of 2007 or the AgJOBS Act of 2007. This item was referred to the City Council by the Rules and Open Government Committee of April 9, 2008 without a recommendation, and is outlined in the attached memo previously submitted to the Rules and Open Government Committee.





Memorandum

TO: RULES AND OPEN GOVERNMENT COMMITTEE **FROM:** Betsy Shotwell

SUBJECT: SEE BELOW

DATE: 4-2-08

Approved

Christine J. Shypin

Date

4-3-08

SUBJECT: S. 340 (FEINSTEIN) /H.R. 371 (BERMAN) – THE AGJOBS ACT OF 2007

RECOMMENDATION

That the Rules and Open Government Committee support S. 340 (Feinstein) and H.R. 371 (Berman) the Agricultural Job Opportunities, Benefits and Security Act of 2007 or the AgJOBS Act of 2007.

BACKGROUND

On March 19, Vice Mayor Cortese presented to the Rules and Open Government Committee a memorandum recommending that the City Council adopt an “oppose” position to changes being proposed by the Bush Administration to the H2-A guest worker program and adopt a “support” position for the AgJOBS bill. (Memorandum attached.) Following discussion, a motion was made that the Mayor and Vice Mayor would forward a letter to the Secretary of Labor requesting that the shortened 45-day comment period of the proposed guest worker regulations be extended to the normal 90 days. In addition, the Committee requested that staff return to the Committee with an analysis and recommendation on the AgJOBS legislation pending in Congress.

OUTCOME

If the Rules and Open Government Committee and the Mayor and City Council accept staff’s recommendation, the City lobbyist will then share the City’s position with our Congressional Delegation and advocate for the support of the AgJOBS proposal in Washington, D.C.

ANALYSIS

The Agricultural Job Opportunities, Benefits, and Security Act of 2007 or the AgJOBS Act of 2007 – (S. 340 and H.R. 371) would direct the Secretary of Agriculture to confer “blue card status” upon an undocumented agricultural worker who: (1) has performed agricultural employment in the United States for at least 863 hours or 150 work days during the 24-month

period ending on December 31, 2006; (2) applied for such status during the 18-month application period beginning on the first day of the seventh month that begins after the date of enactment of this Act; (3) is otherwise admissible to the United States; and (4) has not been convicted of any felony or a misdemeanor, an element of which involves bodily injury, threat of serious bodily injury, or harm to property in excess of \$500.

In addition, the AgJOBS Act of 2007:

- Directs the Secretary to adjust a blue card undocumented agricultural worker (and spouse and minor children) to permanent resident status if the alien has fulfilled specified periods of agricultural employment.
- Amends the Social Security Act to exempt blue card undocumented agricultural workers from prosecution for social security-related identity or payment false statements if such conduct occurred prior to the granting of blue card status.
- Amends the Immigration and Nationality Act to revise H-2A visa (agricultural labor or temporary or seasonal services) provisions. Replaces the existing labor certification requirement with a labor attestation requirement containing: (1) a description of the nature and location of the job; (2) the job's expected beginning and ending dates; (3) the number of jobs; and (4) specified labor assurances respecting job opportunities covered by collective bargaining agreements and non-covered job opportunities.

Both measures were introduced in Congress in January 2007, and S. 340 (Feinstein and co-sponsored by Boxer, Clinton, McCain, Obama, Specter et al.) has been referred to the Senate Judiciary Committee and H.R. 371 (Berman and co-sponsored by Eshoo, Lofgren, McNerney, et al.), has been referred to the Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International Law.

According to Senator Feinstein, "In 2006, growers in California reported their harvesting crews were down by as much as 20 percent and the costs are in the stratosphere. If the labor shortage continues, it means \$3 billion a year in the short-term and as much as \$4.1 billion a year in the long-term. Just in California. That's why I introduced the AgJOBS bill. This bi-partisan legislation would help to ease the severe worker shortage. We know that there are plenty of people willing and able to do the work. And these workers deserve to be treated with dignity and respect.

"The AgJOBS bill is a two-part bill. Part one would create a pilot program to identify undocumented agricultural workers and legalize the immigration status for those who have been working in the United States for the past two years or more. The second part would create a more usable H-2A program to implement a realistic and effective guest worker program.

"The AgJOBS bill is supported by growers, farmers, and farm workers."

OPPOSITION: Groups that oppose the bills generally coalesce around the immigration amnesty issue. They argue that relaxing immigration policy, by lowering amnesty requirements, will reward over a million undocumented immigrants, negatively impact American wages, and provide amnesty to employers who violated immigration laws. Opponents believe the bills are unpopular with voters because it will encourage illegal immigration, invite fraud, and overwhelm the judicial system without stabilizing a legal agriculture workforce. They also believe taxpayers will be negatively impacted by having to subsidize illegal workers and their families through the provision of public benefits such as education, health care, and income supplements.

A sample of groups in opposition include Americans for Legal Immigration, Immigration Watchdog, and Fire Society.

SUPPORT: Groups that support the “labor-employer compromise bills” believe the AgJOBS Act is needed to help stabilize the agricultural workforce and protect the nation’s own food supply. That compromise includes an “earned legalization program” coupled with employer-friendly reforms to the H-2A guest worker program. Bill sponsors believe that the nation’s \$260 billion agriculture industry is dependent largely on undocumented workers (by as much as 70%) meaning that American farmers would be unable to fully harvest crops without them. Their loss would make the nation more dependent on foreign food sources; and the AgJOBS Act itself should not be considered an “amnesty bill” because it applies to only a limited group of experienced workers.

A sample of groups that support the AgJOBS Act include National Farmworker Alliance, Agriculture Coalition on Immigration Reform, National Farm Worker Ministry, Farmworker Justice, United Farm Workers, and the National Council of Agricultural Employers.

STAFF RECOMMENDATION: For those reasons as cited above by the measures proponents, staff recommends support for S. 340 and H.R. 371, the AgJOBS Act of 2007. .

PUBLIC OUTREACH

- Criteria 1:** Requires Council action on the use of public funds equal to \$1 million or greater. (Required: Website Posting)
- Criteria 2:** Adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the City. (Required: E-mail and Website Posting)
- Criteria 3:** Consideration of proposed changes to service delivery, programs, staffing that may have impacts to community services and have been identified by staff, Council or a Community group that requires special outreach. (Required: E-mail, Website Posting, Community Meetings, Notice in appropriate newspapers)

4/2/08

Subject: S. 340 (FEINSTEIN) / H.R. 371 (BERMAN) – THE AgJOBS ACT OF 2007

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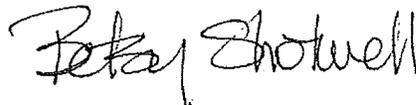
This document will be posted on the City's website for the April 9 Rules and Open Government Committee where Council and the public have the opportunity to comment.

EVALUATION AND FOLLOW-UP

The City Council will be informed of the status of this matter at follow-up Rules and Open Government Committee meetings in 2008.

COORDINATION

This memorandum was coordinated with the City Attorney's Office and the City's Federal lobbyist firm of Patton Boggs, LLP.



BETSY SHOTWELL

Director, Intergovernmental Relations

For more information contact Betsy Shotwell, Director of IGR at 408-535-8270.

Attachment: March 18, 2008 Memorandum from Vice Mayor Cortese re: H2A Guestworker Program



Replacement



Memorandum

TO: Rules Committee

FROM: Vice Mayor Dave Cortese

SUBJECT: H2A Guestworker Program DATE: March 18, 2008

APPROVED: *[Signature]*

DATE: 3/18/08

RECOMMENDATION:

It is recommended that the City Council adopt an "oppose" position to changes being proposed by President Bush to the H2A guest worker program and adopt a "support" position for the AgJOBS bill.

ANALYSIS:

H2A – This is a foreign labor certification program that permits agricultural employers who anticipate a labor shortage to apply for permission to hire temporary foreign labor. Under the law, employers must request a certification from the Department of Labor of that there are not sufficient U.S. workers who are able, willing, qualified and available to perform work at the place and time needed, and the wages and working conditions of workers in the United States similarly employed will not be "adversely affected" by the importation of H-2A workers. This program provides important relief to agrarian businesses experiencing a shortage in critically needed workers. Last month, the Bush administration announced proposed sweeping changes to the H2A program. If implemented, these changes would lessen housing and wage standards for this critical workforce. Specifically, the changes would:

- Permit employers to hire foreign workers without having first to recruit U.S. workers effectively and without sufficient government oversight.
- Allow employers to give housing vouchers instead of actually providing housing for such workers.
- Modify how employers petition for foreign workers by shifting from a "labor certification" process to a "labor attestation" process, which means that employers need only promise to comply with the law, thereby reducing the level of government oversight.
- Alter the basis for wage calculation for these workers by using a different set of statistics.

Several individuals and organizations have come out in opposition to these proposed changes, including: United Farm Workers, Hillary Clinton, Dolores Huerta Foundation, La Raza Roundtable, Zoe Lofgren, Lynn Woolsey, Howard Berman, African Resource Center (Washington, DC), CAUSA (Oregon), Coalition for Humane Immigrant Rights of Los Angeles (California), Colorado Immigrant Rights Coalition, Gamaliel Foundation (National), Hate Free Zone (Washington), Illinois Coalition for Immigrant and Refugee Rights, Massachusetts Immigrant and Refugee Advocacy Coalition, Michigan Organizing Project, National Capital Immigrant Coalition, New Jersey Immigrant and Policy Network, New York Immigrant Coalition, Voces de la Frontera (Wisconsin)

AgJOBS - In order to truly resolve the agricultural immigration facing our nation, the UFW has put forth a comprehensive compromise between farmworker advocates and agricultural employers. Called the Agricultural Job Opportunities, Benefits and Security Act ("AgJOBS") it was introduced in the Senate and in the House of Representatives. It contains two main provisions: (1) an "earned legalization" program enabling many undocumented farmworkers and H-2A guestworkers to earn a "blue card" temporary immigration status with the possibility of becoming permanent residents of the U.S. by continuing to work in agriculture and by meeting additional requirements; and (2) revisions to the existing H-2A temporary foreign agricultural worker program.

AgJOBS has overwhelming bipartisan support and is a crucial step in protecting the rights of U.S. workers and those working here from abroad to ensure that we offer the best standards of fairness and equity in the workplace.