

Guest Workers for California Agriculture?

by
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The farm workers of tomorrow are growing up today outside the United States. An estimated 55 percent of California's farm workers are unauthorized, and over 95 percent of new entrants to the farm work force are born abroad, which makes the terms on which farmers can employ foreign workers of keen interest. This article reviews the current situation of farm labor and the guest worker and legalization options that will be discussed by U.S. President Bush and Mexican President Fox in September 2001.

Farm Employment and Workers

In California, the Employment Development Department (EDD) reports the number of employees and their wages each quarter. In 2000, average annual wage and salary employment on the state's farms was 408,000. This is about the same as average number of state employees (444,000). However, there are far more farm workers than state employees because more workers must be hired to fill the peak seasonal labor needs. About two farm workers are hired to fill each year-round equivalent farm job, meaning that more than 800,000 California workers are employed on the state's farms each year.

The EDD data in Table 1 highlight two trends: (1) employment on California farms is increasing, up 22 percent between 1985 and 2000; and (2) farm services employment—farm services are farm labor contractors and farm management companies that bring workers to farms—has been rising, while hiring by farm operators declined. If current trends continue, farm services employers will soon account for the majority of farm worker employment.

Farm worker employment fluctuates from month to month and most farm labor issues involve seasonal workers, who are those employed during peak months such as September, but not trough months such as January. Statewide, peak employment in September rose 42,000 between 1993 and 2000, from 444,000 to 486,000, while trough employment in January rose 34,000, from 279,000 to 313,000. The peak-trough ratio (Table 2) is higher for farm services firms

The most recent national data profiling the characteristics of workers employed for wages on crop farms found that 80 percent were immigrants, and 95 percent of them were born in Mexico. There are an estimated 1.8 million U.S. crop workers, so this implies that 1.4 million were born in Mexico and 340,000 were born in the U.S. There are another 700,000 workers employed on livestock farms, and 800,000 of the estimated 2.5 million U.S. workers employed sometime during a typical year on farms are in California.

Farm workers were asked a series of questions about their place of birth and legal status, and the National Agricultural Workers' Survey (NAWS) inferred whether they were authorized to work in the U.S. from their answers. About 48 percent of the crop workers interviewed in 1997-98 were authorized to work in the U.S., and 52 percent were not. The unauthorized percentage in California is similar.

In 1989, the NAWS found that fewer than 10 percent of crop workers were unauthorized, and over one-third were Special Agricultural Workers (SAWs), mostly Mexicans who were legalized in 1987-88. During the 1990s, most SAWs left the

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Table 1. Average Employment in California Agriculture

	-----Workers Employed-----				% change 1985-2000
	1985	1990	1995	2000	
Farm Production	232,700	229,700	228,400	228,500	-2%
Farm Services	102,700	133,800	145,100	179,500	75%
Total	335,400	363,500	373,500	408,000	22%
Farm Services Share	31%	37%	39%	44%	

Source: EDD Annual Wage and Salary Employment

farm work force, and they were often replaced by unauthorized workers.

The H-2A Program

There is a guest worker program available to farmers, but it is little used in California. The H-2A program, named after the section of immigration law that authorizes it, permits U.S. farmers to receive Department of Labor (DOL) permission (certification) to have foreign workers admitted to the U.S. to fill vacant farm jobs if: (1) U.S. workers are not available; and (2) the presence of the foreign workers will have no adverse effects on similar U.S. workers.

The DOL requires farmers to notify them of anticipated labor shortages at least 45 days before work is to begin. The farmer and the Employment Service attempt to recruit U.S. workers and, if this recruitment is not successful, the farmer receives certification to have H-2A foreign workers admitted to fill the jobs.

DOL will not consider applications for H-2A workers unless the farmer promises: (1) to pay the higher of the minimum, prevailing or Adverse Effect Wage Rate (\$7.56 an hour in California in 2001); (2) to offer U.S. and H-2A workers free approved housing; and (3) to pay round-trip transportation. Very few California farmers use the H-2A program—481 California farm jobs were certified to be filled with foreign workers in 2000, including 440 shepherd jobs.

Guest Workers and Legalization

Farmers have been seeking an alternative to the H-2A program for decades, and they may succeed in 2001. Bills that would create alternatives to or modify the H-2A program have been introduced in the U.S. Congress for a decade, justified by the rising percentage of unauthorized workers, which made farmers vulnerable to crop losses if the Immigration and Naturalization Service inspected their operations and removed unauthorized workers.

The common thread in these proposals was avoidance of DOL certification. Instead of certification, farmers would self-certify their need for foreign workers or, in one plan, obtain certification by asking newly established farm worker registries in each state for legally authorized workers. If a farmer requested 100 workers, and the registry could supply only 40, then the farmer would be certified to have 60 workers admitted.

In July 1998, the U.S. Senate approved one of these proposals, the Agricultural Job Opportunity Benefits and Security Act (AgJOBS). AgJOBS included farm worker registries and introduced the concept of withholding some of the foreign workers' wages to encourage them to return at the end of the season—up to 20 percent of worker earnings could be withheld, and returned only when the worker surrendered his work permit in his country of origin. President Clinton threatened a veto, and AgJOBS was not enacted.

The outlook for a guest worker program was changed by the election of Vicente Fox as president of Mexico in July 2000, and George W. Bush as U.S. president in November 2000. These election results prompted employer and worker advocates to agree on a compromise version of AgJOBS in December 2000 that introduced a new concept: earned legalization. The compromise offered temporary legal status to unauthorized workers who had done at least 100 days of farm work the previous year, and allowed them to become immigrants if they did at least 360 more days of farm work in the next six years. Earned legalization satisfied employers, who were assured that newly legalized farm workers would not immediately leave for nonfarm jobs, and worker advocates, who wanted farm workers to eventually have the same rights as other workers.

The AgJOBS compromise was blocked in Congress by Republicans who opposed "rewarding lawbreakers." Led by Senator Phil Gramm (R-TX), they instead proposed a guest worker only policy. Under Gramm's

Table 2. Monthly Employment in California Agriculture

	-----2000-----				-----1993-----			
	Max	Min	Difference	Ratio	Max	Min	Difference	Ratio
Farm Production	266,400	179,600	86,800	1.5	267,200	175,500	91,700	1.5
Farm Services	219,900	133,000	86,900	1.7	176,700	103,500	73,200	1.7
Total	486,000	312,600	173,400	1.6	443,900	279,000	164,900	1.6

Source: EDD

Table 3. Major Immigration Reform Options and their Impacts

	Farmers	Workers	Communities
Status Quo	Uncertainty, risk	Danger entering U.S.	Solo males living in worker communities
Guest Workers	Certainty, government-set wages and housing	Certainty of employment; dependence on employer	Few impacts if growers provide seasonal housing
Legalization	Workers may leave for non-farm jobs	More opportunities in US; right to unify families	Schooling impacts with family unification
Earned Legalization	Slower exit from farm jobs	Eventually earn immigrant status	Delays family unification and its impacts

proposal, unauthorized Mexicans already in the U.S. could obtain seasonal work permits that allow them to return to the U.S. indefinitely. The guest workers and their employers would continue to pay social security taxes, but these would be used to provide emergency medical care to guest workers.

A second option is legalization for all unauthorized foreigners in the U.S. before a key date. This option, favored by the AFL-CIO and most church and union groups, would repeat the legalization of 1987-88. After legalization, there are no restrictions on where foreigners can live and work.

President Fox made Mexico's wishes clear: "as many rights as possible, for as many Mexican immigrants as possible, as soon as possible." President Bush in July 2001 said he would consider guest worker and earned legalization plans that include more than Mexicans, but ruled out legalization: "when we find a willing employer and a willing employee, we ought to match the two. We ought to make it easier for people who want to employ somebody, who are looking for workers, to be able to hire people who want to work. And I know we can do so in a humane way that treats people with respect." His spokesperson said Bush also wants to "provide a way for some of the workers to achieve permanent status over time."

Table 3 summarizes the prospective impacts of the immigration decisions of 2001 on farmers, workers and rural communities. The status quo promises uncertainty and risk for farm employers, forces workers to make often dangerous crossings of the Mexico-U.S. border, and winds up with solo male workers concentrated in farm worker communities.

Guest worker programs can provide growers with a legal farm work force that must remain on their

farms, but at the cost of providing housing and paying government-set wages; farm employers may also become more vulnerable to inspections by government agencies. Guest workers obtain certainty of employment, but they are dependent on their U.S. employer to remain in the U.S. There may be few community impacts, especially if guest workers are housed on farms.

Legalization is associated with speeding up the revolving door through which farm workers pass en route to the nonfarm labor market—immigrants have more opportunities, but farmers must then find replacement workers. There are also impacts on communities to which legalized workers move, especially if they unify their families. It is in this sense that earned legalization tries to slow exits from agriculture, and delay family unification impacts on communities.

Past labor supply decisions helped to shape California agriculture. The Bracero program of 1942-64 allowed labor-intensive agriculture to expand without driving farm wages up in the southwestern states. After the Bracero program ended, farm worker wages rose sharply, and there was a wave of labor-saving mechanization and union activity. Illegal immigration in the 1980s and 1990s slowed mechanization and union activities. Thus, the decisions on immigrant farm workers taken in 2001 will help to shape labor-intensive agriculture for the first decades of the 21st century.

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