

MOTION BY SUPERVISORS HILDA L. SOLIS

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Inclusive Hiring: Waiver of Citizenship Requirements for Los Angeles County

Employment

Los Angeles County is a community of immigrants from each corner of the world. They have made Los Angeles County what it is – a county rich in culture, diverse in history, and innovative in so many facets. For instance, immigrants make up 44 percent of the County’s workforce, run small businesses that generate 40 percent of the County’s self-employed income, and pay billions of dollars in federal taxes every year. Additionally, nearly 60 percent of children born in the County have at least one immigrant parent, and 44 percent of households are headed by an immigrant. Our County workforce reflects the community it represents. But there is room for improvement.

As of 2018, an estimated 880,000 non-citizens had made the County their home, contributing significantly to improving the lives of us all. Yet there are barriers to County employment for them. For example, during its annual recruitment cycles to fill vacant entry-level deputy public defender positions, the Public Defender receives applications

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from otherwise qualified non-U.S. citizens who, although permitted to practice law in California, are disqualified from the examination process due to the Public Defender's legacy citizenship requirement.

These applicants, who often express deep interest for public service and a sincere desire to pursue a career representing indigent LA County residents, reflect the County's values of inclusivity and compassion. Further, their lived experience as immigrants places them in a unique position to relate to and connect with the diverse communities the County serves. The competition to recruit well-qualified attorneys is extremely high and the citizenship restriction represents a significant missed opportunity for the Public Defender and the County. This could be changed and, in fact, should be changed to ensure the County workforce continues to best represent those it serves.

The United States Supreme Court has long recognized that a public entity may impose a citizenship requirement for certain public employment positions when employees in those positions perform special governmental functions. Separately, California Government Code section 24001 generally requires that persons elected or appointed to County office, including department heads, be registered voters of the county in which the duties of the offices are to be exercised.

The effect of this statute is to impose a voter registration requirement, which also includes a County residence requirement, on any individual who is appointed by the Board of Supervisors to serve as a County officer or department head. Historically, this language has reasonably been interpreted to effectively impose a citizenship requirement, since a person must be a citizen to register to vote in the County. For these positions – and where there is no citizenship requirement under state law – a

public entity may waive a citizenship requirement.

Similarly, California Government Code section 24001 also authorizes the Board to waive a voter registration requirement, which, in turn, may be reasonably interpreted as authority to waive a citizenship requirement for appointed County officers. However, as currently written, the law precludes the Board from waiving this voter registration requirement as to elected County officers or where another law imposes a voter registration or similar requirement for an appointed County office.

Additionally, all public employees in the State of California are considered Disaster Service Workers (DSWs). The term “disaster service worker”, however, does not include public employees who are non-citizens. This is because Government Code Section 3101, part of the statutory scheme which governs DSWs, excludes “aliens legally employed” from the definition of public employees who are declared to be DSWs.

Waiving a citizenship requirement (where permitted by law) and the voter registration requirement for Board-appointed Department Heads (County officers) and amending the Government Code section to include non-citizens as DSWs will promote the retention of existing Board-appointed Department Heads, the recruitment of future Board appointed Department Heads, and will allow for more flexibility in ensuring County disaster coverage is comprehensive and, importantly, reflective of the communities that DSWs serve. Similarly, except where state law mandates citizenship, a Department Head, as the appointing authority for their department or office, has the authority to waive citizenship requirements as to their employees (deputies), so long as the Board has already waived the citizenship requirement for that Department Head.

It is in the best interests of the County to waive any citizenship requirement,

where permitted by law, and the registered voter requirements of California Government Code section 24001 for Board-appointed County officers. Additionally, the County should explore opportunities to make legislative changes that would open the opportunity for enable everyone who is otherwise qualified to be employed by the County, regardless of citizenship status. This would make it clear that the County, as one of the largest employers in the region, seeks an inclusive and diverse workforce and will not exclude nor allow citizenship to be a barrier to employment or disaster service coverage when citizenship is not otherwise required by law.

WE, THEREFORE, MOVE that the Board of Supervisors direct:

1. County Counsel, in consultation with the Department of Human Resources and the Chief Executive Office, to report back within 14 days with an analysis of:
 - a. The Board's authority to waive any citizenship requirement for Board-appointed County officers or Department Heads, unless a citizenship requirement is imposed by state law, and to direct County Officers to waive any citizenship requirement for employees they have or will appoint, unless state law explicitly imposes a citizenship requirement.
 - b. The effects of a Government Code section 24001 waiver for Board-appointed County office(s) and their employees/appointed deputies, and the method(s) to accomplish such a waiver.
2. Chief Executive Office Legislative Affairs, in consultation with County Counsel and the Department of Consumer and Business Affairs' Office of Immigrant Affairs, to seek legislative changes to amend the California Government Code to

either eliminate, or grant local entities the authority to eliminate, the citizenship requirement for Disaster Service Workers.

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