

Pro-Immigrant Measures Available to State or Local Governments

A QUICK MENU OF AFFIRMATIVE IDEAS

September 2007

Congress's failure to enact a comprehensive reform of the federal immigration system has increased the pressure on state and local governments to address the issue of immigration in areas within their control. Some governments have undertaken purely restrictive and punitive measures aimed at making their communities less hospitable to immigrants — as if this approach were an effective, let alone desirable, solution to an immigration system that cries out for reform. On the other hand, an increasing number of state and local governments are also exploring ways to more effectively incorporate immigrants into their communities, investing in immigrants instead of marginalizing them. This reality-based approach recognizes immigrants as a key ingredient of shared prosperity and seeks to maximize the economic, social, and cultural benefits of such immigration on towns, cities, counties, and states.

What follows is a quick menu of affirmative, pro-immigrant measures that state and local governments can consider. Among these ideas:

- Many have already been successfully implemented in one or more places across the country.
- Some are boldly pro-immigrant with concrete and immediate impact; others are moderate, incremental steps with primarily symbolic value.
- Most benefit not only immigrants but also native-born persons, and therefore hold potential appeal to broad-based political constituencies.
- Some require legislative action; others are measures that can be initiated by executive bodies.
- While a small number of the measures need to be crafted with some care so as not to infringe on federal authority to regulate immigration (or

MENU

- Enforcement and enhancement of labor and employment law protection
- Promoting public safety and protecting confidentiality
- Promoting access to health, housing, legal, and social services
- Promoting English language instruction and access for English language learners
- Promoting community membership and civic participation
- Investing in students by facilitating access to the educational system
- Promoting entrepreneurialism, wealth-building, and utilization of mainstream financial services
- Improving government communication and coordination over programs promoting immigrant integration
- Protecting immigrants from exploitation
- Building greater appreciation for the contributions of immigrants and causes of immigration
- Signaling support for immigrants and humane immigration reform through resolutions



LOS ANGELES (Headquarters)

3435 Wilshire Boulevard
Suite 2850
Los Angeles, CA 90010
213 639-3900
213 639-3911 fax

WASHINGTON, DC

1101 14th Street, NW
Suite 410
Washington, DC 20005
202 216-0261
202 216-0266 fax

OAKLAND, CA

405 14th Street
Suite 1400
Oakland, CA 94612
510 663-8282
510 663-2028 fax

other federal laws), the vast majority address areas in which state and local governments have full power to act.

This is a rapidly evolving area. Please offer your feedback — e.g., measures to add or subtract from this menu, new examples of places in which the measures have been adopted, and the impact these measures have had where they have been implemented.

Enforcement and enhancement of labor and employment law protection

- Prohibit local “employer sanctions.” Bar localities from superseding federal law by enacting their own set of penalties (e.g., monetary fines, criminal prosecution, or revocation of business licenses or government contracts) against companies that employ undocumented immigrants.
- Prohibit individuals’ immigration status from being considered in any remedies, including damages, available under state law.
- Ensure that enforcement of state labor, employment, and civil rights statutes is conducted regardless of immigration status.
- To the maximum degree permitted under federal law, prohibit employers from taking adverse actions against workers based on their participation in the Basic Pilot employment eligibility verification program (recently renamed “E-Verify) or receipt of “no-match” letters from the Social Security Administration.
- Increase state and local enforcement of health/safety and wage/hour laws, and increase fines for violations.
- Increase or establish state and/or local minimum wage and local living wage (in states where localities have legal authority to do so), raising the floor for all workers.
- Prohibit state labor agencies from sharing immigration status information obtained in the course of a labor complaint or labor investigation with federal immigration authorities; and prohibit employers from turning over personnel information to federal immigration authorities without a warrant.
- Encourage state labor agencies to enter into an agreement with ICE requiring that, in the course of any immigration enforcement action that results in workers being detained, the agency will be notified of the existence of any labor violations and will be given the opportunity to interview the workers.
- Make it an unlawful employment practice under state law for an employer to retaliate against workers by contacting ICE to begin a worksite investigation of the employer’s records or to arrest current or former employees because the workers have exercised their workplace rights.
- Prohibit state labor agencies from cooperating with ICE in any manner that causes confusion between the mission of the state agency and immigration enforcement.
- Make it an unlawful employment practice under state law to discriminate against an employment-authorized worker in the hiring, terms and conditions, or termination of employment based on national origin or citizenship/immigration status.
- Make it an unlawful employment practice under state law for employers to request more or different documents than are required under federal law for the purpose of establishing employment eligibility.

- Require employers to provide employees access to their personnel files.
- Ban harassment of day laborers and day labor sites, including overly intrusive videotaping and photographing.

Promoting public safety and protecting confidentiality

- Implement policies to protect victims of and witnesses to crime by limiting police inquiry into immigration status.
- Implement policies to prevent and combat racial profiling by law enforcement.
- Establish a system of reports, audits, and complaint procedures to address improper police inquiry about immigration information.
- Combat identify fraud through state and local “Privacy Acts” limiting the circumstances under which a person is required to provide his or her Social Security number (SSN).
- Implement a policy prohibiting local law enforcement agencies from participating in U.S. Immigration and Customs Enforcement (ICE) raids.
- Promote community policing practices that engage all community members fighting crime by combating fears and addressing concerns of all communities.
- Pass a bill or resolution rejecting the federal REAL ID Act and state adoption of REAL ID driver’s licenses and ID cards.
- Enact a law removing immigration-related barriers to driver’s licenses (promoting safe driving, vehicle registration, ability to purchase insurance).
- Conduct anticrime education and outreach programs educating immigrants on how to avoid becoming victims of crime (e.g., opening bank accounts rather than carrying cash), how to report crimes when they have been victimized; how to avoid unknowingly violating city ordinances (e.g., cars on front lawns, overcrowded housing), and how to steer children away from gangs.

Promoting access to health, housing, legal, and social services

- Pursue policies and resolutions that limit questioning and recording of immigration status and SSN requirements by village/city/state agencies except where required by federal law.
- Establish state and local programs that provide assistance to lawfully present immigrants who are ineligible for federally funded services (health coverage, food stamps, and/or subsistence income) due to arbitrary restrictions such as the five-year waiting period.
- Expand county and state public health insurance programs (especially those serving children, pregnant women, and families) so that coverage is available regardless of their status.
- Conduct outreach (preferably face-to-face) to immigrant communities and those with limited English proficiency to inform families about benefits and services offered by local, state, and federal programs, especially to ensure participation in public health insurance programs of families already eligible but not enrolled.
- Require that training and continuing education for students and clinicians in health professions includes cultural and linguistic competency.
- Implement payments from Medicaid and State Children’s Health Insurance Program (SCHIP) funds for interpreter services for Medicaid and SCHIP enrollees in clinical health settings (many states already use such funds to help pay for interpreting and translating expenses incurred by agencies administering these programs).

- Increase funding for community health centers providing primary care to all persons in need.
- Enact policies that increase the proportion of workers who have access to affordable health coverage — e.g., by establishing a minimum expenditure requirement under which employers must spend at least a set minimum amount to cover their employees' health care costs.
- Provide funding for legal services, including immigration assistance, to immigrants ineligible for assistance from programs funded by the Legal Services Corporation.
- Pass legislation or adopt rulings adding immigration and citizenship status to the grounds of prohibited discrimination under fair housing laws and/or prohibiting cities, counties, and landlords from making inquiries into immigration status.

Promoting English language instruction and access for English language learners

- Increase funding for affordable and accessible adult English language instruction.
- Offer tax credits for employers offering job-based English language instruction to workers.
- Enact laws and guidance requiring public agencies to provide language services (interpretation and translation) to persons with limited English proficiency and establishing a private right of action for individuals to enforce these rules when such services are denied. (More focused measures could address access in key areas such as public safety, hospitals/health settings, courts.)
- Pool language service resources into “interpreter banks” to facilitate and make more efficient procurement of interpreters and translation by publicly funded agencies.
- Fund vocational English instruction programs, including collaborations between community colleges, community-based organizations, and employers
- Increase funding for training of interpreters and translators (states can use Medicaid funds as one source).
- Implement professional competency standards for interpreters and translators in health and legal settings.

Promoting community membership and civic participation

- Establish municipal identification documents, provide them to local residents regardless of status, and promote their universal use.
- Fund organizations that assist immigrants to successfully complete the process of obtaining U.S. citizenship through naturalization (e.g., application assistance, English and civics classes for lawful permanent residents).
- Enact a state refundable tax credit for naturalization expenses.
- Promote voter registration of naturalized citizens and broader civic participation by immigrant communities.

Investing in students by facilitating access to the educational system

- Ban immigration status inquiries by public schools.
- Provide in-state college tuition to all graduates of high schools in the state, or at least those graduates who attended high school in the state for at least three years. (Similar policies can also be enacted for certain city and county community college systems offering preferential rate to residents.)
- Ensure access to state or locally funded financial aid/scholarships, regardless of immigration status, to those who attended high school and graduated in the state; and create alternative funding vehicles for students excluded from federal financial aid (especially merit-based aid).

Promoting entrepreneurialism, wealth-building, and utilization of mainstream financial services

- Encourage community outreach and education regarding financial services, e.g., by working with banks, worker centers, and other community institutions to create pamphlets and other materials accessible to immigrants and addressing immigrant questions and concerns regarding issues such as banking, borrowing, and home ownership.
- Encourage banks to implement flexible identification and documentation requirements, to the maximum degree permitted by federal law, to ensure that all people residing in the community can safeguard their money in a bank and benefit from having a checking account and other banking services.
- Pass regulatory law or facilitate creation of alternative financial mechanisms that lower the cost of remittances.
- Enact a state earned income tax credit program available to all low-income workers who file taxes.
- Promote cooperative ventures such as limited liability corporations, enabling persons without employment authorization to work without violating the law.
- Increase funding for new day labor and worker centers and additional services at existing sites.
- Support street vendors by opening more public space to vending, raising licensing caps, combating harassment of street vendors by enforcement agents, and creating language accessible information about what street vendors must do to comply with various laws and regulations.
- Encourage compliance with laws regulating businesses by educating immigrant communities about zoning, licensing, and small business rules.

Improving government communication and coordination over programs promoting immigrant integration

- Establish a government office promoting immigrant integration and coordination among agencies, e.g., an office or commission on immigrant affairs.
- Create an advisory council aimed at informing government of new approaches needed to promote immigrant integration and offering feedback on policy options under consideration.

- Conduct a survey of immigrant community needs that could be better addressed by state and local governments, e.g., language assistance, legal services, law enforcement special needs, antidiscrimination enforcement, and educational needs.

Protecting immigrants from exploitation

- Increase state and local protection for victims of trafficking and other serious crimes.
- Ensure access to state and local public benefits for immigrant victims of trafficking, domestic violence, and other serious crimes.
- Establish an interagency taskforce to address and combat trafficking and worker exploitation.
- Strengthen protections against abuses committed by “*notarios*” and others who harm community members by engaging in fraudulent and unauthorized practice of law.

Building greater appreciation for the contributions of immigrants and causes of immigration

- Conduct or commission studies on economic contributions of immigrants (e.g., workforce participation, business or jobs generated, buying power, revitalization of neighborhoods, full range of income, payroll, sales, and property taxes paid).
- Conduct or commission studies on the effectiveness of community policing and broad participation in crime-fighting efforts.
- Create, fund, or otherwise promote billboards, public service announcements, and flyers embracing immigration and promoting a welcoming tradition.
- Establish a sister city program with an immigrant-sending community.

Signaling support for immigrants and humane immigration reform through resolutions

- Urge Congress to pass comprehensive immigration reform, including a broad-based legalization program.
- Urge Congress to pass the DREAM Act, providing conditional status and a pathway to permanent residency to long-term undocumented students who graduate from U.S. high schools.
- Support a moratorium on raids and/or oppose enforcement-only approaches to addressing immigration.
- Acknowledge the economic, social, and intellectual contributions of immigrants.
- Condemn vigilante or hate activity targeting immigrants.

FOR MORE INFORMATION, CONTACT

Jonathan Blazer, public benefits policy attorney | blazer@nilc-dc.org