

# FINAL BILL REPORT

## SSB 6349

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### PARTIAL VETO

C 160 L 10

Synopsis as Enacted

**Brief Description:** Establishing a farm internship program.

**Sponsors:** Senate Committee on Labor, Commerce & Consumer Protection (originally sponsored by Senators Ranker, Holmquist, Haugen, Hobbs, Becker, Shin and Roach).

**Senate Committee on Labor, Commerce & Consumer Protection**

**House Committee on Commerce & Labor**

**House Committee on Health & Human Services Appropriations**

**Background:** Generally, an individual who acts directly or indirectly in the interest of a for-profit business is considered an employee of that business, and a business that permits an individual to work is considered an employer, subjecting both the employee and employer to a number of state employment laws, including the Minimum Wage Act, the Industrial Insurance Act, the Employment Security Act, and the Industrial Welfare Act. Many of the different employment acts contain exemptions for specific groups of employees and employers. Referring to an individual as an intern or volunteer, or allowing an individual to provide services without compensation, does not exempt the employer or the employee from provisions of the respective acts.

Minimum Wage Act (MWA). The MWA establishes a minimum wage which must be paid to all employees in the state. Under the MWA, an employee is any individual employed by an employer except those specifically excluded in statute. Consequently, any individual who is engaged or permitted to work by an employer is entitled to the state minimum wage. A number of individuals are exempt from the MWA, including certain agricultural employees and volunteers for educational, charitable, religious, governmental, and nonprofit organizations.

Industrial Insurance Act. Industrial insurance provides medical and time loss benefits to workers injured in the course of their employment. Industrial insurance coverage is mandatory, and employers that maintain coverage generally cannot be sued for damages when an employee suffers a work-related injury. All employers (except for self-insured employers) must purchase industrial insurance through the Department of Labor and Industries (L&I), and the workers compensation system is funded by premiums collected from employers and employees. Premiums are calculated based on the industry risk

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classification and the employer's experience rating. Exemptions to mandatory coverage are specified in statute.

Employment Security Act. Under the Employment Security Act, qualified individuals who have lost their job through no fault of their own, or for good cause, can collect unemployment insurance benefits. Benefits are funded by contributions collected from all employers in the state. Exemptions to unemployment insurance coverage are specified in statute, and include an exemption for agricultural labor performed by students.

Industrial Welfare Act (IWA). The IWA regulates hours and conditions of labor and other wage issues not specifically covered by the MWA. The IWA applies to all employers and employees in the state unless specifically exempt. Agricultural workers exempt from unemployment insurance are also exempt from the IWA.

**Summary:** Farm Internships. L&I must establish a farm internship pilot project for San Juan and Skagit counties and report back to the Legislature by December 31, 2011. Pursuant to the pilot project, small farms can employ up to three farm interns per year under special certificates. A farm intern is an individual who provides services to a small farm under a written agreement and primarily as a means of learning about farming practices and farm enterprises. Farms seeking to employ interns must submit an application to L&I that sets forth specific information including a description of the work to be performed, any wages to be paid, and a description of the farm internship program.

A farm internship program is an educational program that provides a curriculum of learning modules and supervised participation in farm work activities designed to teach interns about farming practices and enterprises and is based on the bona fide curriculum of an educational or vocational institution. Farms eligible to offer farm internship programs must meet specified eligibility criteria.

Prior to the start of any farm internship program, the farm and the intern must execute a written agreement that describes the program offered by the farm; explicitly states that the intern is not entitled to minimum wages; describes the expectations and obligations of the intern and the farm; and describes any wages, room and board, stipends, and other remuneration that will be provided to the intern. A copy of this written agreement must be submitted to L&I prior to the start of any intern program. The farm must also submit a statement that the farm understands the requirements of the IWA, that the farm must pay workers' compensation as applicable, and that noncompliance may result in revocation of the special certificate.

Upon receipt of an application, L&I must review the application within 15 days and issue a certificate if it determines the farm is an eligible farm without any serious violations of the MWA or Industrial Insurance Act, that the internship program is reasonably designed to provide the intern with vocational knowledge and skills about farming practices, that the issuance of a certificate will not create unfair competitive labor cost advantages nor have the effect of impairing or depressing wage or working standards established for experienced farm workers, and that a farm intern will not displace an experienced farm worker. A farm may appeal the denial of a certificate.

Farm intern certificates must specify the name of the farm, the nature of the program, the authorized wage rate and the period of time during which the rate may be paid, the authorized number of interns, and any room and board and other remuneration provided to the intern.

Minimum Wage Act. A farm intern providing his or her services under a farm internship program is not considered an employee under the MWA. A farm intern can be paid at subminimum wages only during the effective period of a certificate issued by L&I.

Industrial Insurance. L&I must provide a special risk class or classes for farm interns by rule. Requirements for obtaining a special risk class must be included in the rule.

Unemployment Compensation. Agricultural labor provided by a farm intern under an internship program is not considered employment for unemployment insurance purposes. For farm interns, agricultural labor includes direct local sales of any agricultural or horticultural commodity after its delivery to a terminal market for distribution or consumption.

**Votes on Final Passage:**

Senate	46	0	
House	95	2	(House amended)
House	96	2	(House reconsidered)
Senate	44	0	(Senate concurred)

**Effective:** June 10, 2010

**Partial Veto Summary:** The Governor vetoed the requirement that any funds provided for the program be appropriated from the state General Fund.