

SENATE BILL REPORT

ESSB 5599

As Passed Senate, March 12, 1999

Title: An act relating to agricultural worker protection regulatory duties.

Brief Description: Regulating temporary worker housing.

Sponsors: Senate Committee on Commerce, Trade, Housing & Financial Institutions (originally sponsored by Senators Prentice, Deccio, Rasmussen, Jacobsen, Hale and Winsley; by request of Governor Locke).

Brief History:

Committee Activity: Commerce, Trade, Housing & Financial Institutions: 2/9/99, 2/11/99 [DPS].

Ways & Means: 2/24/99, 3/1/99 [DPS (CTHF)].

Passed Senate, 3/12/99, 49-0.

SENATE COMMITTEE ON COMMERCE, TRADE, HOUSING & FINANCIAL INSTITUTIONS

Majority Report: That Substitute Senate Bill No. 5599 be substituted therefor, and the substitute bill do pass.

Signed by Senators Prentice, Chair; Shin, Vice Chair; Benton, Gardner, Hale, Heavey, T. Sheldon, West and Winsley.

Staff: Dave Cheal (786-7576)

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: That Substitute Senate Bill No. 5599 as recommended by Committee on Commerce, Trade, Housing & Financial Institutions be substituted therefor, and the substitute bill do pass.

Signed by Senators Loveland, Chair; Bauer, Vice Chair; Brown, Vice Chair; Fairley, Fraser, Honeyford, Kline, Kohl-Welles, Long, McDonald, Rasmussen, Rossi, B. Sheldon, Snyder, Spanel, Thibaudeau, Winsley and Wojahn.

Staff: Brian Sims (786-7431)

Background: In 1995 the Legislature enacted several initiatives to deal with the chronic shortage of decent housing for farm workers. These included regulatory streamlining, and the development of a Farm Worker Housing Code according to certain guidelines.

In 1996 the Legislature exempted goods and services used to construct, repair or improve housing for temporary farm workers from sales and use tax.

In 1998 the Legislature authorized the adoption, by administrative rule, of a Farm Worker Housing Code that had been developed by a special task force created by the 1995 act mentioned above. This code was designed to stimulate the production of housing for temporary workers through certain economies of design without compromising health and safety standards.

In 1995 an agreement was negotiated between several state agencies and the Occupational Safety and Health Administration to allow the use of worker-supplied shelter, primarily tents and campers, for the cherry harvest, if the grower provided showers, toilets, potable water, and food storage, refrigeration and preparation facilities. The cherry harvest is very labor intensive and very short in duration.

The Occupational Safety and Health Act allows the states to administer worker protection standards so long as state standards are as effective as those established under the federal act. Generally, a single state agency is required to adopt and administer these standards.

The Legislature has designated the Department of Health as the single state agency responsible for encouraging the development of additional farm worker housing and coordinating state and local agencies to assure a regulatory system free of duplication.

The Board of Health and the Department of Labor and Industries have rule-making authority for temporary labor camps, including those which house farm workers.

Summary of Bill: The Departments of Health and Labor and Industries are directed to adopt joint rules for the licensing, operation and inspection of farm worker housing, and to adopt a formal agreement that identifies the roles of each of the two agencies with respect to the enforcement of temporary worker housing operation standards.

The Departments of Health and Labor and Industries are directed to adopt joint rules to establish worker protection standards for temporary labor camps for the cherry harvest, which are defined as a place where housing is provided for agricultural employees by agricultural employers for a period of no more than 21 days in any calendar year. Occupancy of temporary labor camps may be extended for an additional seven days under certain conditions, with the joint approval of the Department of Health and the local health officer.

Definitions of "agricultural employee" and "agricultural employer" are provided. The current definition of "temporary worker housing" is amended to limit it to agricultural worker housing.

The Department of Health must report to the Legislature on utilization of the Farm Worker Housing Building Code authorized by the Legislature in 1998. The report must be completed by December 15, 2000.

The authority of the Board of Health to adopt rules related to temporary labor camps is repealed. A direction to four agencies to develop an interagency agreement regarding inspection of farm worker housing is repealed.

Appropriation: None.

Fiscal Note: Available.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: Clear regulatory responsibility and authority among affected agencies will make farm worker housing regulation predictable and efficient. This will benefit both farm workers and growers, and will stimulate both the production housing and related facilities and worker safety. Clear authority is needed to develop a short-term harvest licensing program. Rule-making needs to be shifted from the Board of Health to the Department of Health.

Testimony Against: This bill will further legitimize regulatory standards that allow third-world living conditions for farm workers. On-farm substandard housing is promoted at the expense of community-based permanent housing. Refrigeration and food storage are not adequately dealt with.

Testified: PRO: Michael Silvestein, L&I; Mary Selecky, DOH; Julie Murray, WA Farm Bureau; Chris Cheney, WA Growers League; Rich Nafziger, Office of Governor; Peter Antolin, OFM; Jeff Johnson, WSLC, AFL-CIO (concerns); CON: Rogelio Riojas, SEN-MAR Community Health.

House Amendment(s): Two references to standards at least as effective— as the Washington Industrial Safety and Health Act are changed to as effective.—