

SENATE BILL REPORT

HB 1906

As of March 21, 2017

Title: An act relating to the expansion of counties qualifying for the farm internship program, including certain southwest Washington counties.

Brief Description: Allowing the expansion of counties qualifying for the farm internship program, including certain southwest Washington counties.

Sponsors: Representatives Orcutt, Blake, McDonald, Pike and Doglio.

Brief History: Passed House: 3/03/17, 97-0.

Committee Activity: Commerce, Labor & Sports: 3/09/17.

Brief Summary of Bill

- Extends the farm internship pilot project from December 31, 2017, to December 31, 2019.
- Adds Clark, Cowlitz, and Lewis counties to the pilot project.

SENATE COMMITTEE ON COMMERCE, LABOR & SPORTS

Staff: Susan Jones (786-7404)

Background: Employment Laws. A number of laws provide employment protections to workers. These include the Minimum Wage Act (MWA), the Industrial Insurance Act, and the Employment Security Act. While these acts define who is covered in different ways, generally a person who provides services to a for-profit business is covered by the acts. Exemptions apply to each act. Referring to an individual as an intern or volunteer does not exempt the employer or the worker from the respective acts.

The MWA establishes a minimum wage which must be paid to all employees, unless they are exempt. Exempt employees include certain agricultural employees and volunteers for nonprofit organizations. In addition, the Director of the Department of Labor and Industries (Department) may, to prevent curtailment of opportunities for employment, issue special certificates to employers allowing them to pay wages lower than the minimum wage to learners.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Industrial insurance provides medical and time loss benefits to workers injured in the course of their employment. Employers insure through the State Fund administered by the Department or, if qualified, may self-insure. State Fund premiums are calculated based on the industry risk classification and the employer's experience rating.

Under the Employment Security Act, qualified individuals who have lost their jobs through no fault of their own, or who quit for good cause, are entitled to unemployment insurance benefits. Benefits are funded by contributions collected from employers. Exemptions include certain agricultural labor performed by students.

Farm Internship Program. In 2010, legislation directed the Department to establish a farm internship pilot project. Eligible farms were those located in Skagit or San Juan County. That pilot project expired on December 31, 2011. In 2014, legislation reauthorized the pilot project for the following counties: Chelan, Grant, Island, Jefferson, King, Kitsap, Kittitas, Lincoln, Pierce, San Juan, Skagit, Snohomish, Spokane, Thurston, Whatcom, and Yakima.

Under the pilot project, a farm may apply to the Department for a special certificate authorizing no more than three farm interns at a time. The farm must meet specified criteria, including the following:

- the farm qualifies as a small farm—gross sales under \$250,000;
- the farm had no serious violations of the MWA or the Industrial Insurance Act;
- the issuance of a certificate would not create unfair competitive cost advantages or impair or depress wages or working standards for experienced farm workers; and
- the intern would perform work under an internship program designed to teach interns about farming practices and farm enterprises, based on the bona fide curriculum of an educational or vocational institution.

The special certificate must specify its terms and conditions, including the duration of a certificate; the duration of an internship; the wage rate, if any; and any room, board, stipends, or other remuneration.

Farm interns are not employees under the MWA. Similarly, labor provided by a farm intern is not employment for purposes of unemployment insurance. The Department must provide a special industrial insurance risk class for farm interns. The Director of the Department may revoke a certificate for a farm's failure to pay industrial insurance premiums for interns or non-interns, and for other reasons.

The Department must submit a report to the Legislature by December 31, 2017, when the pilot project expires.

Summary of Bill: The farm internship pilot project is extended until December 31, 2019. Farms in Clark, Cowlitz, and Lewis counties are added to the pilot project.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

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

Staff Summary of Public Testimony: PRO: A constituent thought it was a great program but didn't qualify because the constituent's county, Lewis County, was not included. On talking with staff about changing this, I found out that the program is due to expire. The bill extends the program out for another two years.

This is a model for children on what happens when you write a letter to a representative; the representative may ask you to testify. Our farm encourages local growing and supports the local economy. We found ourselves in the position of many small farmers, full-time work outside the home, paying for the cost of the property, equipment, livestock, and seed, and forget about labor. We had to figure out how to run a business as efficiently as possible by reading things on the Internet.

One hundred years ago, our farm would have been commonplace. You could have sustained a family without seeking employment outside of the farm. According to the 2012 USDA census, there are 3.2 million farmers operating 2.1 million farms. Seventy-five percent of those farms reported less than \$50,000 per year. Fifty-six percent of those farms make less than \$10,000. The average age of farmers is going up. One out of three farmers is over the age of 65. The number of young farmers decreased by 20 percent. We need to encourage younger farmers and support the next generation. The bill supports the next generation of farmers and small farms like ours.

OTHER: If the participation rate in the three additional counties is the same as the current counties, this might add 50 or so farms. The cost is to review the applications and make sure there are no current wage and hour and L&I violations. L&I also reviews the curriculum. The additional cost includes the fact that the FTE would go away at the end of the year because the program expires. If the program continues, the cost of the FTE will continue.

Persons Testifying: PRO: Representative Ed Orcutt, Prime Sponsor; Julie Gullett, Seedpod Farm/ Owner.

OTHER: Tammy Fellin, Dept. of Labor and Industries.

Persons Signed In To Testify But Not Testifying: No one.