

HOUSE BILL REPORT

ESSB 6261

As Passed House:

March 3, 2020

Title: An act relating to strengthening the farm labor contractor system by removing an exemption for nonprofits, prohibiting retaliation and the use of farm labor contractors in certain circumstances, and establishing liability for related violations.

Brief Description: Strengthening the farm labor contractor system by removing an exemption for nonprofits.

Sponsors: Senate Committee on Labor & Commerce (originally sponsored by Senators McCoy, Saldaña, Conway, Kuderer, Hasegawa, Wilson, C., Das, Nguyen and Keiser).

Brief History:

Committee Activity:

Labor & Workplace Standards: 2/25/20, 2/27/20 [DP].

Floor Activity:

Passed House: 3/3/20, 57-39.

Brief Summary of Engrossed Substitute Bill

- Removes the nonprofit organization exemption from the application of the farm labor contractor laws.
- Modifies the definition of agricultural employee to include a person who has rendered personal services in connection with an employer's agricultural activities.

HOUSE COMMITTEE ON LABOR & WORKPLACE STANDARDS

Majority Report: Do pass. Signed by 4 members: Representatives Sells, Chair; Chapman, Vice Chair; Gregerson and Ormsby.

Minority Report: Do not pass. Signed by 2 members: Representatives Mosbrucker, Ranking Minority Member; Hoff.

Staff: Lily Smith (786-7175).

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.

Background:

A "farm labor contractor" is a person who, for a fee, recruits, solicits, employs, supplies, transports, or hires agricultural employees. An "agricultural employee" is any person who renders personal services to, or under the direction of, an agricultural employer in connection with the employer's agricultural activity.

The Department of Labor and Industries licenses and regulates farm labor contractors. To be eligible for a farm labor contractor license, applicants must meet certain surety bond and insurance requirements.

Farm labor contractors must give agricultural employees information about their compensation and conditions of employment, as well as other work-related information. Farm labor contractors must also keep employment records. Farm labor contractors are prohibited from discriminating against agricultural employees for pursuing their rights under the state farm labor contractor law.

The farm labor contractor laws do not apply to a nonprofit corporation or organization which performs certain functions for its members where: none of its directors, officers, or employees are deriving any profit beyond a reasonable salary; and membership dues and fees are used solely for the maintenance of the association or corporation.

Summary of Bill:

The nonprofit exemption from the application of the farm labor contractor laws is removed.

The definition of agricultural employee is modified to include any person who has rendered, in addition to any person who renders, personal services to an agricultural employer in connection with the employer's agricultural activity.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) The bill is simple and small and strengthens the farm labor contracting laws by ending a loophole for nonprofits. These laws are necessary because they require disclosures and prohibit false information regarding important information for workers, particularly those facing large risks from taking a job far away. There is no reason a nonprofit should not be subject to these standards. The bar for becoming an exempt nonprofit is low, as one only has to register with the Secretary of State, not incorporate as a federal 501(c)(3) nonprofit, to qualify. The original bill also addressed retaliation, but even with that removed, what remains is important.

(Opposed) The exemption for nonprofits is in place so that trade associations and labor organizations who have no actual contact with workers are not burdened by the many regulations in place for actual farm labor contractors that have interactions with workers. These nonprofits may serve as an interface and arrange paperwork and transportation. The proponents of the bill have shown no reason or evidence as to why removing this exemption is helpful or necessary. It is unlikely that removing the exemption will help workers or farmers.

Persons Testifying: (In support) Andrea Schmitt, Columbia Legal Services.

(Opposed) Tom Kwieciak, Washington Farm Labor Association.

Persons Signed In To Testify But Not Testifying: None.