
Labor & Workplace Standards Committee

ESB 6421

Brief Description: Extending the farm internship program.

Sponsors: Senators Muzzall, Hunt, Warnick, Takko, Schoesler, Wagoner, Padden, Hasegawa and Saldaña.

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| <p>Brief Summary of Engrossed Bill</p> <ul style="list-style-type: none">• Reestablishes the farm internship pilot project until December 31, 2025. |
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Hearing Date: 2/20/20

Staff: Trudes Tango (786-7384).

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. Although the acts define who is covered in different ways, the acts generally cover persons who provide services to for-profit businesses. 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.

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,

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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 in two counties. The pilot project was eventually extended beyond its original expiration date and, by 2019, expanded to include the following 20 counties: San Juan, Skagit, King, Whatcom, Kitsap, Pierce, Jefferson, Spokane, Yakima, Chelan, Grant, Island, Snohomish, Kittitas, Lincoln, Thurston, Walla Walla, Clark, Cowlitz, and Lewis.

Under the pilot project, qualified small farms were allowed to employ up to three farm interns at any time, working under special certificates. Farms seeking to employ interns had to apply for special certificates issued by the Department and sign agreements with the interns setting forth specified information. The special certificate must specify its terms and conditions, including the duration of the internship, the wage rate, if any, and any room, board, stipends, or other remuneration.

The farm had to have met specified criteria, including:

- the farm qualifies as a small farm (annual sales of less than \$250,000 and other criteria);
- 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.

Under the pilot project, farm interns were not considered employees under the MWA and the labor provided by a farm intern was not considered "employment" for purposes of unemployment insurance. The Department provided a special industrial insurance risk class for farm interns. The Director of the Department was authorized to revoke a certificate for a farm's failure to pay industrial insurance premiums for interns or non-interns, and for other reasons.

The farm internship pilot project expired December 31, 2019.

Summary of Bill:

The Director of the Department must reestablish the farm internship pilot project, which will expire on December 31, 2025. The Department must provide a report on the project to the appropriate committees of the Legislature by December 31, 2024.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill contains an emergency clause and takes effect immediately.