

FINAL BILL REPORT

E2SSB 5438

C 441 L 19
Synopsis as Enacted

Brief Description: Establishing the office of agricultural and seasonal workforce services within the employment security department.

Sponsors: Senate Committee on Ways & Means (originally sponsored by Senators McCoy, Saldaña, Conway, Van De Wege, Keiser, Rolfes, Wellman, Dhingra, Hasegawa and Kuderer; by request of Employment Security Department).

Senate Committee on Labor & Commerce
Senate Committee on Ways & Means
House Committee on Labor & Workplace Standards
House Committee on Appropriations

Background: The federal Immigration and Nationality Act provides for various classifications of non-immigrant visas. Classifications for temporary guest workers include the H-2A classification for seasonal agricultural workers. The H-2A program allows agricultural employers to bring in foreign workers temporarily when there are insufficient qualified U.S. workers. Employers using H-2A workers must pay specified rates of pay, provide the workers housing and transportation, guarantee employment for a specified period of time, and meet other requirements.

A prospective employer of H-2A workers submits a U.S. Department of Labor form ETA 790 to the Employment Security Department (ESD) and upon approval, ESD initiates recruitment of domestic workers. The employer also submits an application to the U.S. Department of Labor, which certifies the employment of H-2A workers. ESD also conducts surveys to help establish pay rates, and conducts field checks to review wages, hours, and other working conditions. The state departments of Health and Labor and Industries have regulatory responsibility over temporary farmworker housing.

ESD predicts more than 30,000 H-2A workers will request to work in Washington during 2019. ESD receives an average annual funding level of about \$300,000 from the U.S. Department of Labor.

Summary: The Office of Agricultural and Seasonal Workforce Services is established within ESD to:

- process and adjudicate applications;
- process complaints;

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- conduct field checks and visit, as required by the U.S. Department of Labor, in coordination with other state agencies in order to limit disruption to agricultural employers and efficiently use government resources;
- administer the discontinuation and reinstatement of services process; and
- conduct training and outreach activities to employers using seasonal workforce services and ESD programs.

The ESD may not process an H-2A application if the:

- employer refuses to agree to be subject to field checks and field visits; or
- ESD discontinued services to the employer and that discontinuation remains in effect.

The ESD commissioner must appoint an advisory committee to review issues related to H-2A workers. The committee members will be:

- four voting members representing agricultural workers' interests in the H-2A temporary agricultural program; including one farmworker and all from a list of at least four names submitted by a recognized statewide organization of workers;
- four voting members representing agricultural employers, including one agricultural employer; and all from a list of at least four names submitted by a recognized statewide organization of agricultural employers; and
- one ex officio member, without a vote, to represent ESD and serve as the chair.

The departments of Labor and Industries, Health, and Agriculture each have one nonvoting ex officio member on the committee.

The committee will provide comment on rule making, policies, implementation of this act, and initiatives, and study other issues.

The committee must submit a report, in even years, to the Governor and the Legislature by October 31st. The report must:

- identify and recommend approaches to increase the effectiveness of ESD's process as part of the H-2A application, and if necessary include recommended changes to state law; and
- analyze the costs incurred by the office to administer the H-2A program, the funds to administer other department programs for farmworkers, and the amount of funds allocated by the federal government to administer the H-2A program and all other agricultural programs within the department.

Committee members serve without compensation, but are entitled to reimbursement for travel expenses. The committee may utilize ESD staff and facilities without charge.

Votes on Final Passage:

Senate	26	21	
House	96	0	(House amended)
Senate	35	12	(Senate concurred)

Effective: July 28, 2019