

# HOUSE BILL REPORT

## 2SSB 5396

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### As Passed House:

April 9, 2021

**Title:** An act relating to expanding the sales and use tax exemption for farmworker housing.

**Brief Description:** Expanding the sales and use tax exemption for farmworker housing.

**Sponsors:** Senate Committee on Ways & Means (originally sponsored by Senators Lovelett, Saldaña, Conway, Das, Kuderer, Nguyen and Wilson, C.).

### Brief History:

#### Committee Activity:

Finance: 3/11/21, 3/29/21 [DP].

#### Floor Activity:

Passed House: 4/9/21, 57-41.

### Brief Summary of Second Substitute Bill

- Expands and modifies the farmworker housing sales and use tax exemption in several ways, including expanding the exemption to apply to new or existing structures in which at least 50 percent of the housing units are used as farmworker housing.
- Provides that the farmworker housing sales and use tax exemption expires January 1, 2032.

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## HOUSE COMMITTEE ON FINANCE

**Majority Report:** Do pass. Signed by 11 members: Representatives Frame, Chair; Berg, Vice Chair; Walen, Vice Chair; Chopp, Harris-Talley, Morgan, Orwall, Ramel, Springer, Thai and Wylie.

**Minority Report:** Do not pass. Signed by 5 members: Representatives Orcutt, Ranking Minority Member; Dufault, Assistant Ranking Minority Member; Chase, Stokesbary and

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

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**Staff:** Nick Tucker (786-7383).

**Background:**

Retail Sales and Use Tax.

Retail sales taxes are imposed on retail sales of most articles of tangible personal property, digital products, and some services. A retail sale is a sale to the final consumer or end user of the property, digital product, or service. If retail sales taxes were not collected when the user acquired the property, digital products, or services, then use tax applies to the value of property, digital product, or service when used in this state.

Farmworker Housing Sales and Use Tax Exemption.

Purchases of goods and services used in constructing, repairing, decorating, or improving new or existing structures used as agricultural employee housing are exempt from sales and use tax. The tax exemption also applies to labor and services related to construction and sales of items that become part of the housing structures. Agricultural employers, governmental entities, nonprofit organizations, or for-profit housing providers may provide agricultural employee housing.

Agricultural housing must be used to house agricultural employees for at least five years from the date the housing is approved for occupancy. If at any time agricultural housing not located on agricultural land ceases to meet program requirements, the full amount of tax exempted is immediately due and payable with interest but not penalties.

Agricultural housing provided on a year-round basis must meet applicable building codes. For agricultural housing provided by a housing authority, at least 80 percent of the occupants must have an adjusted income less than 50 percent of county median income. Housing built for family members and people with an ownership in the farm is not eligible for the tax exemption. Agricultural employee housing does not include housing regularly provided on a commercial basis to the general public.

**Summary of Bill:**

Farmworker Housing Sales and Use Tax Exemption.

The exemption is expanded to include new or existing structures in which at least 50 percent of the housing units are used as farmworker housing. Farmworker housing is expanded to include housing occupied by a household with at least one member who is a farmworker and seasonal farmworker housing where the housing is not used as farmworker housing for a portion of the year. "Agricultural employer" is expanded to include any employer engaged in aquaculture.

The exemption does not apply to housing built exclusively for workers on an H-2A visa.

Housing is not considered to be exclusively built for workers on an H-2A visa, if during any agricultural season in the first five years following approval for an exemption the housing is occupied by a farmworker who does not have an H-2A visa.

If at any time agricultural housing ceases to meet program requirements the full amount of tax exempted is immediately due and payable with interest but not penalties, regardless of whether the housing is located on or off agricultural land.

The term "agricultural employee" is replaced with the term "farmworker." A farmworker is a single person, family, or unrelated persons living together, with combined household income earned from farm work of at least \$3,000 per year.

Farm work includes services related to:

- cultivating the soil, raising or harvesting, or catching, netting, handling, planting, drying, packing, grading, storing, or preserving in its unmanufactured state any agricultural or aquacultural commodity;
- delivering to storage, market, or a carrier for transportation to market or to processing any agricultural or aquacultural commodity; or
- working in a processing plant and directly handling agricultural or aquacultural product.

The exemption expires January 1, 2032. A tax preference performance statement is included.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** The bill takes effect on October 1, 2021.

**Staff Summary of Public Testimony:**

(In support) The bill helps to provide quality, community-based housing for farmworkers in the state and incorporates the recommendations of a Joint Legislative Audit and Review Committee report. The current farmworker housing stock is inadequate and unsafe, resulting in negative health impacts. There have been instances of individuals dying as a result of poor-quality farmworker housing. The bill has had bipartisan support and includes mechanisms to ensure that the farmworker housing will actually be utilized by those who need it most. There are specific provisions to prevent state subsidy of the federal H-2A visa program and additional flexibility to allow for the seasonal changes in how the farmworker housing stock is used.

(Opposed) The bill could be improved by providing additional clarity so that taxpayers utilizing the exemption do not inadvertently fail to comply with the requirements of the

program. Failure to comply with the program requirements would result in the loss of the incentive. In particular, it is not clear how long you must house a farmworker not on an H-2A visa to qualify for the exemption. Additionally, the effective date of the bill occurs in the middle of the apple harvest, which might cause challenges for certain farms.

**Persons Testifying:** (In support) Senator Lovelett, prime sponsor; and Jose Ortiz, Catholic Community Services.

(Opposed) Stephanie Swanberg, Tri-City Regional Chamber of Commerce.

**Persons Signed In To Testify But Not Testifying:** None.