

SENATE BILL REPORT

SB 5396

As of February 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: Senators Lovelett, Saldaña, Conway, Das, Kuderer, Nguyen and Wilson, C..

Brief History:

Committee Activity: Housing & Local Government: 2/09/21.

Brief Summary of Bill

- Extends the farmworker housing sales and use tax exemption to include new or existing structures in which at least 50 percent of the housing units are used as farmworker housing.
- Defines farmworker and amends the definition of agricultural employer to include any employer engaged in aquaculture.

SENATE COMMITTEE ON HOUSING & LOCAL GOVERNMENT

Staff: Jeff Olsen (786-7428)

Background: Farmworker housing providers may use a sales and use tax exemption for building, repairing, decorating, or improving new or existing agricultural employee housing. The tax exemption applies to labor and services related to construction and sales of items that become part of housing structures. Agricultural housing must be used to house agricultural employees for at least five years from the date the housing is approved for occupancy. Housing built for family members and people with an ownership in the farm is not eligible for the tax exemption. Agricultural employee housing includes facilities provided by an agricultural employer on a year-round or seasonal basis to the employer's agricultural employees.

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.

Summary of Bill: The farmworker housing sales and use tax exemption applies to new or existing structures in which at least 50 percent of the housing units are used as farmworker housing. An agricultural employer includes any employer engaged in aquaculture. Farmworker housing includes housing occupied by a household with at least one member who is a farmworker, or housing occupied by a farmworker on a seasonal basis where the housing is not used as farmworker housing for a portion of the year. The sales and use tax exemption does not apply to housing built for workers in the United States on an H-2A visa.

The term agricultural employee is replaced with the term farmworker. A farmworker includes a single person, family, or unrelated persons living together with incomes derived from farm work of at least \$3,000 per year. Farm work is defined to include cultivating the soil, raising or harvesting any agricultural or aquacultural commodity, delivering to market any agricultural or aquacultural commodity, or working in an agricultural processing plant.

The farmworker sales and use tax exemption expires on January 1, 2032.

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: Farmworker housing is a critical need in Washington. There are inconsistent definitions not in alignment with other policies and programs for farmworkers, and the changes in the bill align definitions with other programs and makes it easier to administer. The tax incentive benefits both permanent and seasonal farmworker housing. The changes in the bill will provide incentives to build more farmworker housing units.

CON: The ban on housing provided for H-2A workers should be removed. Farmworker housing needs to be flexible to meet the demands for agricultural employers. Costs will increase if housing may not be used for H-2A workers. An agricultural employer must hire all willing and able domestic workers before applying for a H-2A permit. The H-2A program is expensive, and Washington needs to work on fixing the state's labor shortage.

Persons Testifying: PRO: Senator Liz Lovelett, Prime Sponsor; Marty Miller, Office of Rural and Farmworker Housing; Cindy Proctor, Member of Affordable Housing Advisory Board.

CON: Rosella Mosby, Mosby Farms; Albert Zepeda, Kyle Mathison Orchards Inc; Bre Elsey, Washington Farm Bureau.

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