

HOUSE BILL REPORT

HB 1287

As Reported By House Committee On:
Commerce & Labor

Title: An act relating to agricultural labor relations.

Brief Description: Providing for collective bargaining for agricultural employees.

Sponsors: Representatives Heavey, Thibaudeau, Franklin, Flemming, G. Cole, Riley and H. Myers.

Brief History:

Reported by House Committee on:
Commerce & Labor, March 2, 1993, DPS.

HOUSE COMMITTEE ON COMMERCE & LABOR

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 5 members: Representatives Heavey, Chair; G. Cole, Vice Chair; King; Springer; and Veloria.

Minority Report: Do not pass. Signed by 4 members: Representatives Lisk, Ranking Minority Member; Chandler, Assistant Ranking Minority Member; Conway; and Horn.

Staff: Russ Lehman (786-7449).

Background: Under Washington law, employees are permitted to organize and form labor unions for the purpose of improving their working conditions. However, no specific procedures are provided for implementing or enforcing collective bargaining between agricultural employees and employers.

Agricultural employees are not covered by the National Labor Relations Act (NLRA). Several states, including California, Arizona, Idaho, and Kansas, have statutes governing agricultural collective bargaining. Two states, Hawaii and Wisconsin, include agricultural employees under general collective bargaining laws.

Summary of Substitute Bill: All agricultural employees are granted the right to collectively bargain over wages, hours and working conditions. Agricultural employers engaged in

farming, dairying, and harvesting of agricultural or horticultural products are covered.

Agricultural employees are granted the right to form, join or assist employee organizations. Elections are by secret ballot only. The board created by the bill makes the determination of the appropriate unit for bargaining purposes. Appeals of the board's determination are allowed after five days past the election. An election may occur only if no election has been held within the previous 12 months. The employee organization may meet with the employees on the employer's premises for a period of one-half hour for organizing purposes, with 24-hour advance notice. Replacement workers are not allowed to vote. Elections for either a "raid" by another union or a decertification of the existing union may occur only after the first year of certification and then only in a window period of one month, two months prior to the conclusion of the current contract.

An agricultural labor relations board is created to administer the law. The board is composed of three "neutral" members, to be picked by the governor from a list agreed to by both employees and employers. The members will serve part-time and be compensated pursuant to RCW 43.03 250. The board shall appoint an executive director, operating in the same manner as the Public Employee Relations Commission. The board is to follow applicable National Labor Relations Board precedents. The board is directed to establish an expedited process for Unfair Labor Practice (ULP) determinations to occur within 30 days, and to report recommendations to the Legislature for implementation of this process.

The board is directed to appoint mediators to assist in preventing or minimizing disruptions from labor disputes. The parties reserve the right to agree to their own mediator or arbitrator at their own cost at any time.

The following actions on the part of an employee organization are Unfair Labor Practices: (1) restraining, coercing or interfering with employees in the exercise of their rights; (2) requiring an excessive union shop fee; (3) engaging in a strike or refusing to handle certain products with the object of forcing a self-employed person to join a union, or with the object of forcing an employer to assign certain work to a particular employee organization; (4) bargaining not in good faith; (5) refusing to bargain or cooperate with an employer in the implementation of an affirmative action plan; and (6) striking during the harvest period unless notice is given five days prior to the intended strike and mediation during those five days fails.

The following actions on the part of an employer are Unfair Labor Practices: (1) interfering with employees in the exercise of their rights under the bill; (2) interfering with the formation of an employee organization; (3) discriminating in regard to hiring on the basis of union membership; (4) discharging an employee for filing charges under the bill; (5) refusing to bargain collectively; and (6) hiring permanent replacement workers before the expiration of one year after the beginning of a strike.

Any contracts currently in effect remain unaffected by the bill.

Supervisors are permitted to belong to a union, but not to be in the same union as nonsupervisors.

Substitute Bill Compared to Original Bill: The substitute bill makes the following major changes to the original bill: (1) there is no numerical threshold for coverage of employers; (2) the board determines the unit; (3) certification continues until an election dictates otherwise; (4) there is no presumption of unit preference when a majority of employees is on strike; (5) the board is composed of three neutral, part-time members; (6) remedy is limited to back pay and reinstatement; (7) the board must consider NLRA where applicable; (8) the ULP procedure is expedited; (9) no arbitration procedures are provided; (10) no provision is made for recognition strikes; (11) harvest strikes are authorized only after notice and mediation; (12) a one-year ban on permanent replacements is added; and (13) all secondary boycotts are prohibited.

Fiscal Note: Requested for substitute bill March 3, 1993.

Effective Date of Substitute Bill: Ninety days after adjournment of session in which bill is passed.

Testimony For: Farmworkers are denied rights that have been granted to other American workers since 1935. Working conditions on some farms are deplorable. Employers ignore the unions now because there is no law requiring the employers to bargain with the workers, and employers are free to ignore the collective bargaining process. It's a human rights issue. A similar bill passed the House of Representatives in 1991.

Testimony Against: There is no need for the bill. The workers do not want collective bargaining. Unions will inhibit the relationship between employees and employers. Employers are good to employees now and a union is not needed. Harvest strikes would cripple the industry.

Agriculture can't afford to become less competitive than it is, and unions will force up costs.

Witnesses: (original bill): Tomas Villaneuva, United Farm Workers; Lupe Gamboa, Evergreen Legal Services; Jeff Johnson, Washington State Labor Council; Father John H. Henehan, Catholic Conference; Maria Quevas; Manuel Cortez, United Farm Workers; Tony Lee, Washington Association of Churches; Mrs. Diaz; Luis Cerron; George Finch, Centro Compensano; Pepe Lopez; and Angi Serrone. (all in favor)

Mark Jennings, Stimson Lane (in favor of concept with concerns); and Vicki Chiechi, Washington Wine Institute.

(original bill): Randy Smith, Grower; Frank Ochoa, Grower; Grant Daniel, Orchardist; Tom Auvil, Trout Incorporated; Jorge Valencia, George Robles; Refugio Cabavas; Gary Middleton, Middleton Farms, Inc.; Larry Dacca, Dacca Farms; John Clayton, Red Apple Orchard; Samuel Luper; Doug Stockwell, Horticultural Association; Marcus Boldt, Majesty Blueberry Farm and Clark County Farm Bureau; and Robert Sarmiento, Bonny Farms (all opposed).