

SENATE BILL REPORT

SB 6087

**AS REPORTED BY COMMITTEE ON HEALTH & HUMAN SERVICES,
FEBRUARY 3, 1994**

Brief Description: Concerning the health and safety of farmworkers' housing.

SPONSORS: Senators Prentice, Winsley, Moyer, Talmadge and Pelz

SENATE COMMITTEE ON HEALTH & HUMAN SERVICES

Majority Report: That Substitute Senate Bill No. 6087 be substituted therefor, and the substitute bill do pass.

Signed by Senators Talmadge, Chairman; Wojahn, Vice Chairman; Deccio, Erwin, Franklin, Fraser, McAuliffe, McDonald, Moyer, Niemi, Prentice, Quigley and Winsley.

Staff: Don Sloma (786-7319)

Hearing Dates: January 26, 1994; February 3, 1994

BACKGROUND:

Under current law, the state Board of Health establishes rules under which the state Health Department regulates labor camps (RCW 70.54.110). These rules must include standards developed by the Washington Industrial Safety and Health Act related to sanitation and temporary labor camps.

The rules now apply to some 160 sites, housing about 8,000 persons in temporary housing. They do not apply to housing that consists of four or less units, or that houses less than ten occupants. They do not apply to year-round housing.

Board of Health rules require annual licenses, fees and inspections of temporary worker housing. A system of penalties and sanctions is authorized.

Critics of the current program say the effort lacks adequate inspections, is too lax on operators of the housing, and does not cover many of the living situations in which farmworkers sometimes find themselves.

SUMMARY:

Several terms are defined for the purposes of the Department of Health's farmworker housing regulatory program.

"Agricultural employee" is defined as under RCW 19.30.010(5). It includes any person working for an agricultural employer in the growing, producing, or harvesting of farm or nursery products, or engaged in the forestation or reforestation of

lands, the harvesting of Christmas trees and other related activities.

"Farmworker housing" is defined to include housing of any size provided by operators on a year-round or seasonal basis.

"Operator" means the owner, grower, employer, manager, or any person who owns or controls farmworker housing. The term does not include public or private nonprofit agencies who own or manage farmworker housing that is publicly financed and monitored.

The Department of Health is granted authority to enter farmworker housing at any time for inspection purposes, after making reasonable efforts to locate the tenant, if any, and requesting entry. If an operator of such housing refuses to allow entry by the department, the license to operate such housing must be withdrawn.

No operator of a farmworker housing site may house agricultural employees without first obtaining a license from the state Department of Health. Time periods and general terms and conditions for licensure are outlined.

If the department finds a failure to obtain the necessary license before allowing occupancy of a farmworker housing site, the department must assess civil and monetary penalties in an amount equal to the license plus \$1,000. A second violation within five years doubles the fine.

The Department of Labor and Industries is removed from any role in inspecting farmworker housing. The Department of Health must inspect each farmworker housing site annually and again within 45 days prior to occupancy each year. In addition, the department must inspect 25 percent of sites during occupancy annually.

If the department finds a violation of essential public health standards in an inspection (defined as level I violations), the department must inspect again. Timelines are established for operators to respond to deficiencies found in inspections ranging from 24 hours for a lack of heat, hot water or imminent health hazards to 14 days for all other violations.

If violations are not corrected after notice and a compliance schedule has been established, the department may establish penalties which may be no less than \$100 per day for level I violations.

The department may revoke the license of an operator with uncorrected level I violations, and for other uncorrected violations. If this is done, the operator must locate and pay for housing for the displaced agricultural employees through the end of the period for which the employees are employed. The department may waive civil monetary penalties upon proof that the operator has repaired the violations.

The department may increase the fees charged for inspections to comply with the act. Minimum fees are set at \$100 per farmworker housing site per year when a site contains six or less units, \$175 for sites of six to ten units, and \$225 for sites with ten units or more or which house 25 people or more.

EFFECT OF PROPOSED SUBSTITUTE:

The original bill is stricken and replaced with the following provisions:

The number and type of housing units regulated by the Department of Health is expanded to include housing for a more broadly defined group of seasonal and intermittent workers, including timber harvesters, Christmas tree planters and harvesters and other forestry workers.

Housing regulated by the Department of Health is expanded to include year round housing supplied to temporary or intermittent agricultural workers, as well as permanent camp sites used to accommodate individually worker-supplied housing units.

Timelines for the licensing process are clarified, as is the department's authority to inspect housing they regulate.

A joint legislative task force on farmworker housing is established. The task force is composed of three Senate members, appointed by the Chairman of the Senate Health and Human Services Committee and three House members, appointed by the Chairman of the House Agriculture Committee. The task force must submit draft legislation by January 30, 1995 to improve the quality, supply and affordability of farmworker housing.

Appropriation: none

Revenue: none

Fiscal Note: available

TESTIMONY FOR:

The original bill is needed to expand, strengthen and clarify the Department of Health's role in overseeing farmworker housing, to guarantee access to housing units for inspection, even if operators of the housing are resistant, to increase the frequency of inspections, to create penalties short of license revocation, and to extend control over seasonal worker housing in forest industries.

TESTIMONY AGAINST:

Recent moves by the state Department of Health to more aggressively regulate farmworker housing have resulted in some growers simply closing down their housing. Since providing housing to farmworkers is optional for growers, a punitive approach to the problem is counterproductive. While it may

remove a small minority of truly substandard units, it will also increase costs and irritation of essentially responsible growers who provide housing. The state should provide incentives for growers to build and maintain housing. It should not approve this legislation as originally introduced.

TESTIFIED: Rebecca Smith, Evergreen Legal Services (pro); Rogelio Rojar, Sea-Mar Community Health (pro); Randy Smith, WA State Horticultural Association (con); Leo Sax, WA Growers Clearinghouse (con); Bob Mathison, grower (con)