

SENATE BILL REPORT

SB 5123

As Reported by Senate Committee On:
Commerce & Labor, February 15, 2013
Ways & Means, March 1, 2013

Title: An act relating to a farm internship program.

Brief Description: Establishing a farm internship program.

Sponsors: Senators Ranker, Hatfield, Hobbs, Parlette and Conway.

Brief History:

Committee Activity: Commerce & Labor: 2/06/13, 2/15/13 [DP-WM].
Ways & Means: 2/25/13, 3/01/13 [DPS, w/oRec].

SENATE COMMITTEE ON COMMERCE & LABOR

Majority Report: Do pass and be referred to Committee on Ways & Means.

Signed by Senators Holmquist Newbry, Chair; Braun, Vice Chair; Conway, Ranking Member; Hasegawa, Hewitt, Keiser and King.

Staff: Mac Nicholson (786-7445)

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: That Substitute Senate Bill No. 5123 be substituted therefor, and the substitute bill do pass.

Signed by Senators Hill, Chair; Baumgartner, Vice Chair; Hargrove, Ranking Member; Nelson, Assistant Ranking Member; Bailey, Becker, Braun, Conway, Dammeier, Fraser, Hatfield, Hewitt, Keiser, Kohl-Welles, Murray, Parlette, Ranker, Rivers, Schoesler and Tom.

Minority Report: That it be referred without recommendation.

Signed by Senator Padden.

Staff: Dianne Criswell (786-7433)

Background: Generally, an individual who acts directly or indirectly in the interest of a for-profit business is considered an employee of that business, and a business that permits an individual to work is considered an employer, subjecting both the employee and employer to

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a number of state employment laws, including the Minimum Wage Act, the Industrial Insurance Act, the Employment Security Act, and the Industrial Welfare Act. Many of the different employment acts contain exemptions for specific groups of employees and employers. Referring to an individual as an intern or volunteer, or allowing an individual to provide services without compensation, does not exempt the employer or the employee from provisions of the respective acts.

Minimum Wage Act (MWA). The MWA establishes a minimum wage that must be paid to all employees in the state. Under the MWA, an employee is any individual employed by an employer except those specifically excluded in statute. Consequently, any individual who is engaged or permitted to work for an employer is entitled to the state minimum wage. A number of individuals are exempt from the MWA, including certain agricultural employees and volunteers for educational, charitable, religious, governmental, and nonprofit organizations.

Industrial Insurance Act. Industrial insurance provides medical and time-loss benefits to workers injured in the course of their employment. Industrial insurance coverage is mandatory, and employers that maintain coverage generally cannot be sued for damages when an employee suffers a work-related injury. All employers, except for self-insured employers, must purchase industrial insurance through the Department of Labor and Industries (L&I), and the workers' compensation system is funded by premiums collected from employers and employees. Premiums are calculated based on the industry risk classification and the employer's experience rating. Exemptions to mandatory coverage are specified in statute.

Employment Security Act. Under the Employment Security Act, qualified individuals who have lost their job through no fault of their own, or for good cause, can collect unemployment insurance benefits. Benefits are funded by contributions collected from all employers in the state. Exemptions to unemployment insurance coverage are specified in statute, and include an exemption for agricultural labor performed by students.

Industrial Welfare Act (IWA). The IWA regulates hours and conditions of labor and other wage issues not specifically covered by the MWA. The IWA applies to all employers and employees in the state unless specifically exempt. Agricultural workers exempt from unemployment insurance are also exempt from the IWA.

Farm Internship Program. In 2010 the Legislature directed L&I to establish a farm internship pilot project for San Juan and Skagit counties. The pilot project expired on December 31, 2011.

Summary of Bill (Recommended Substitute): Farm Internship Program. Qualified small farms in the following counties are eligible to participate in a farm internship pilot project: San Juan, Skagit, King, Whatcom, Kitsap, Pierce, Jefferson, Spokane, Yakima, Chelan, Grant, Kittitas, Lincoln, Thurston, Island, and Snohomish.

Qualified small farms may employ up to three farm interns at any time, working under special certificates issued by L&I. A farm intern is an individual who provides services to a small farm under a written agreement and primarily as a means of learning about farming

practices and farm enterprises. Farms seeking to employ interns must submit an application to L&I and execute an agreement with the intern that sets forth specific information including a description of the work to be performed, any wages to be paid, and a description of the farm internship program. The written agreement must explicitly state that the intern is not entitled to unemployment benefits or wages and must provide the anticipated number of work and instruction hours per week.

The internship program must:

- provide a curriculum and supervised participation in farm activities designed to teach interns about farming practices;
- be based on the bona fide curriculum of an educational or vocational institution; and
- be reasonably designed to provide the intern with vocational knowledge and skills about farming practices.

Upon receiving an application from a small farm, L&I must review the application and issue a certificate within 15 days if:

- the farm qualifies as a small farm;
- there have been no serious MWA or Industrial Insurance Act violations that provide grounds to believe the terms of the internship would not be followed;
- the certificate will not create unfair competitive labor cost advantages not impair nor depress wage or working standards established for experienced workers in the same industry or occupation;
- the intern will not displace an experienced worker; and
- the farm has an acceptable internship program.

Under the pilot project, farm interns providing services under a farm internship program were not considered employees under the MWA during the effective period of a certificate. Similarly, agricultural labor provided by a farm intern for a for-profit farm is not considered employment for unemployment insurance purposes. L&I must adopt a special industrial insurance risk class for farm interns. L&I must limit the administrative costs of implementing the farm internship pilot program by relying on farm organizations and other stakeholders to perform outreach and inform the community of the program, and by limiting employee travel to the investigation of allegations of noncompliance with program requirements.

L&I must monitor and evaluate the pilot project and report back to the Legislature by December 31, 2017.

EFFECT OF CHANGES MADE BY WAYS & MEANS COMMITTEE (Recommended Substitute): L&I must limit the administrative costs of implementing the farm internship pilot program by relying on farm organizations and other stakeholders to perform outreach and inform the community of the program, and by limiting employee travel to the investigation of allegations of noncompliance with program requirements. Removes the requirement that appropriation be made only from the state general fund.

Island County and Snohomish County are added to the 14 other counties eligible to participate in the pilot project.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

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

Staff Summary of Public Testimony on Original Bill (Commerce & Labor): PRO: The average farmer is 57 years old, and young people are not getting into farming. This bill would make sure opportunities for internships exist and it expands the successful pilot program from a few years ago. The intern programs provide housing, a stipend, a garden plot, and a diverse learning experience. The bill would help grow a new generation of farmers.

Persons Testifying (Commerce & Labor): PRO: Senator Ranker, prime sponsor; Susan Soltes, Skagit Intern Program, Bow Hill Blueberries; Addie Candib, WA Young Farmers Coalition.

Staff Summary of Public Testimony on Original Bill (Ways & Means): PRO: This proposal would broaden the successful pilot to other counties. The average farmer is 57 years old, and young people are not getting into farming. Young people want to learn these skills, and this bill allows them a legal framework in which to do a farm internship. This bill would create opportunities for internships and encourage young people to farm.

Persons Testifying (Ways & Means): PRO: Senator Ranker, prime sponsor.