

SENATE BILL REPORT

SB 5689

As Reported by Senate Committee On:
Commerce, Labor & Sports
Labor & Commerce, January 17, 2018
Ways & Means, February 6, 2018

Title: An act relating to establishing a statewide policy supporting Washington state's economy and immigrants' role in the workplace.

Brief Description: Establishing a statewide policy supporting Washington state's economy and immigrants' role in the workplace.

Sponsors: Senators Wellman, Saldaña, Nelson, Keiser, Hasegawa, McCoy, Carlyle, Pedersen, Chase, Ranker, Conway, Darneille and Kuderer.

Brief History:

Committee Activity: Commerce, Labor & Sports: 2/16/17.
Labor & Commerce: 1/10/18, 1/17/18 [DPS-WM, DNP].
Ways & Means: 2/05/18, 2/06/18 [DP2S, DNP, w/oRec].

Brief Summary of Second Substitute Bill

- Enacts the Keep Washington Working Act.
- Establishes a Keep Washington Working Statewide workgroup to develop strategies, conduct research, support various organizations, and make recommendations.
- Requires the attorney general (AG) to publish model policies for limiting immigration enforcement to the fullest extent possible consistent with the law for certain entities.
- Requires the AG to publish guidance for law enforcement to limit the availability of information for immigration enforcement.
- Restricts the use of state resources to assist in registration or surveillance programs or any other laws, rules, or policies targeting Washington residents on the basis of protected class, or immigration or citizenship status.
- Prohibits certain actions by law enforcement agencies.

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

SENATE COMMITTEE ON COMMERCE, LABOR & SPORTS

Staff: Susan Jones (786-7404)

SENATE COMMITTEE ON LABOR & COMMERCE

Majority Report: That Substitute Senate Bill No. 5689 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators Keiser, Chair; Hasegawa, Vice Chair; Conway, Kuderer and Saldaña.

Minority Report: Do not pass.

Signed by Senators Braun, King and Wilson.

Staff: Susan Jones (786-7404)

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: That Second Substitute Senate Bill No. 5689 be substituted therefor, and the second substitute bill do pass.

Signed by Senators Rolfes, Chair; Frockt, Vice Chair; Billig, Carlyle, Conway, Darneille, Hasegawa, Hunt, Keiser, Mullet, Palumbo, Pedersen, Ranker and Van De Wege.

Minority Report: Do not pass.

Signed by Senators Braun, Ranking Member; Bailey, Becker, Brown, Schoesler, Wagoner and Warnick.

Minority Report: That it be referred without recommendation.

Signed by Senator Rivers.

Staff: Claire Goodwin (786-7736)

Background: The Legislature has recognized:

- that Washington is one of the most productive growing regions in the country;
- that Washington's agriculture is an integral part of this state's economic health; and
- the agricultural industry's need for skilled workers and the workers' need in upgrading their agricultural skills and marketability; and
- that providing skills and safety training for Washington agricultural workers helps ensure their success and safety and helps to ensure the continued success of Washington's agricultural industry.

In 2002, the Homeland Security Act was enacted and established the U.S. Department of Homeland Security (DHS). In 2003, the U.S. Immigration and Customs Enforcement (ICE) was established as DHS' investigative agency and is charged with administering the nation's immigration system. In addition, DHS's Priority Enforcement Program (PEP) enables DHS to work with state and local law enforcement to take custody of certain individuals before they are released.

Summary of Bill (Second Substitute): The Keep Washington Working Act is enacted. A Keep Washington Working Statewide workgroup (workgroup) is established within the Department of Commerce (Commerce). The workgroup must:

- develop strategies to support current and future industries across the state;
- conduct research on methods to strengthen career pathways for immigrants and work on partnerships with projected growth industries;
- support business and agriculture leadership, civic groups, government, and immigrant advocacy organizations in a statewide effort to provide predictability and stability to the workforce in the agriculture industry;
- recommend approaches to improve Washington's ability to attract and retain immigrant business owners that provide new business and trade opportunities;
- consist of representatives of various stakeholders;
- meet at least four times a year in various locations; and
- make reports to the Commerce and annually to the legislature.

Within three months after the effective date, the AG must publish model policies for limiting immigration enforcement to the fullest extent possible consistent with federal and state law at public schools, state operated health facilities, courthouses, and shelters to ensure they remain safe and accessible to all Washington residents, regardless of immigration or citizenship status. All state facilities and courthouses must implement the policy. Other organizations are encouraged to adopt the policy.

Within six months after the effective date, state agencies that regularly receive requests for assistance with immigration enforcement must review their confidentiality policies and identify any changes to ensure that information collected is limited to that necessary to perform agency duties and is not used or disclosed for other purposes. These policies must make clear that public employees may not condition services or request information or proof regarding a person's immigration or citizenship status, or place of birth, except as required by law.

The AG must publish guidance for law enforcement agencies to limit the availability of information for immigration enforcement. The agencies must adopt the necessary changes consistent with that guidance or notify the AG that it will not adopt the changes and its reasons.

No state agency or department may use funds or resources to investigate or assist in the enforcement of any registration or surveillance programs or any other laws that target Washington residents solely on the basis of a protected class, or immigration or citizenship status. In addition, law enforcement agencies, school resource officers, and security departments may not:

- inquire into or collect information about an individual's immigration or citizenship status or place of birth;
- respond to notification requests from immigration authorities; or
- transfer or detain an individual to immigration authorities absent a judicial warrant establishing probable cause to believe that the person has committed a criminal offense.

Except as required by law, law enforcement agencies may not:

- provide nonpublicly available personal information about an individual to immigration authorities in a noncriminal matter; or
- give federal immigration authorities access to interview individuals in custody in a noncriminal matter.

An agency may respond to a request from immigration authorities for information about a person's criminal arrests or convictions where allowed by state law or from responding to a subpoena.

An individual must be provided all rights due to the individual and may not be:

- detained solely for the purpose of determining immigration status; or
- taken into custody, or held in custody, based solely on a civil immigration warrant.

An agency may not deny services and other benefits to individuals in custody or probation status, on the basis of the presence of an immigration detainer, hold, notification request, or civil immigration warrant.

No law enforcement officer may be placed under the supervision of federal agencies solely for immigration enforcement. Any officer placed under the supervision remains subject to Washington law governing officers' conduct. Nothing prohibits any state or local agency or agent from sending to, or receiving from, immigration authorities a person's citizenship or immigration status or from exchanging those statuses with any other government agency.

Legislature findings are made. Definitions are provided for various terms. Statutes related to notice to immigration authorities of persons committed to prisons or jails; and related to requiring court clerks to furnish records to immigration authorities upon request are repealed.

EFFECT OF CHANGES MADE BY WAYS & MEANS COMMITTEE (Second Substitute):

- Changes the term "school police" to "school resource officers" and removes the definition of immigration enforcement.
- Changes the committee to a workgroup and its reporting; makes terms staggered; limits the minimum number of meetings to four from six.
- Limits the state agencies that must review their confidentiality policies and identify any changes to limit information collected to those agencies that regularly receive requests from a federal immigration authority for assistance with immigration enforcement.
- Adds that by January 1, 2019, the AG must publish guidance for law enforcement agencies to ensure their databases limit the availability of information for immigration enforcement; and that the agencies must adopt necessary changes consistent with that guidance or notify the AG that it will not adopt the changes and its reasons.
- Removes the terms unconstitutional or illegal for the prohibition on using resources for investigation or enforcement of registration or surveillance programs and laws targeting Washington residents based on protected, immigration, and citizenship status.
- Removes the provision prohibiting sharing data databases for agencies.

- Modifies the prohibitions on law enforcement and school police.
- Adds a reference to Title 8 U.S.C. Section 1373 for requirements for agencies sending or receiving information about citizenship or immigration status; and adds that the act does not prohibit agencies from exchanging an individual's citizenship or immigration status with any other federal, state, or local government agencies.
- Makes technical changes.

EFFECT OF CHANGES MADE BY LABOR & COMMERCE COMMITTEE (First Substitute):

- Provides that the steering committee support various groups in a statewide effort to provide predictability and stability to the workforce, rather than to provide the agriculture industry with a predictable and stable workforce.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: Yes.

Effective Date: The bill contains an emergency clause and takes effect immediately.

Staff Summary of Public Testimony (Commerce, Labor & Sports): *Testimony from 2017 Regular Session.* PRO: This bill is intended to keep Washington working and our economy thriving. Immigrants play a vital part in our state's economy. One in every seven employees is an immigrant. Thirty-three percent of Microsoft employees in Washington are here on work visas. Seventy-five top employees are from countries listed in the recent executive order. Hearing that Microsoft is considering moving these employees to Canada and expanding their footprint there because of a potentially hostile work environment in Washington state was deeply troubling.

Immigrant communities are living in fear, harassed openly, and children afraid that their parents will be ripped from their families. Law abiding immigrants should never fear interacting with their government, especially state and local government, or in the education community. Immigration policy is the national government's purview and should not be the state's.

This is a job bill that will keep Washingtonians working without disruption. Immigrants make contributions to all sectors of Washington's economy, including service, food processing, education, high tech, hospitality, agriculture, health care, retail, and building, construction, and infrastructure. Our state is dependent on our exports to foreign countries, business travel, and tourism. We have heard a lot of employer concerns about the impact federal policies are having on their businesses.

Washington is one of the top agricultural exporters in the country. We are concerned that without the protections of this act, Washington's agricultural labor supply, which is heavily dependent on immigrant communities, will collapse, causing food prices to skyrocket and

significantly limit growers abilities to plant, harvest, and sell their food. The combined effect of high prices and food supply scarcity will be devastating.

Restaurant employees, whether they immigrated here yesterday or generations ago, are critical to our industry success and in our state's economic success. In Washington state, 23 percent of the restaurant industry's workforce are born outside of the United States. Creating the Keep Washington Working Steering Committee will allow us to continue to hire, promote, and advance our valuable employees, strengthening our businesses, our economy, and our communities.

This bill would do a lot for foreign educated immigrants. Research from the Migration Policy Institute indicates that approximately 32 percent of adult immigrants in Washington state come with internationally obtained degrees and tens of thousands of these degrees are not being utilized. This is brain waste. It's bad for our economy and our communities.

Public education is a civil right. The bill requires that every school district in the state have a policy to keep every public school safe and accessible to all Washington residents regardless of immigration status or citizen status; districts aren't forced to use funding for something other than education; or schools are not used to interrogate, detain, or arrest students and families for immigration enforcement purposes. The School Directors Association has a policy that clearly delineates the necessary relationship between law enforcement and schools and in order to best protect students and avoid disruptions in their learning environments. This bill adds clarification and eases fears of our students.

This bill would help immigrant students by supporting them once they finish college in the future and also helps them now with their immigrant families who are either working on their own or own their own businesses. It will also encourage more students who are immigrants to stay within the state for work. By ensuring stability in the immigrant workforce and stopping harassment and profiling, we can create a climate where people are successful and productive. We must treat our immigrant workforce like native born citizens with respect and security.

CON: This bill conflates lawful immigration with entering and remaining in this country illegally and unconstitutional registries on the basis of race or religion with enforcement of lawful immigration statutes. This bill would cripple enforcement of reasonable and lawful immigration enforcement. We are a nation of laws. Our Constitution grants the federal government, not the individual states, the responsibility for setting immigration policy. We should comply with both the letter and spirit of the Constitution by supporting the federal government in enforcement of immigration laws and not seek to circumvent or abet the violation of those laws. While I hope that our country will continue to be a beacon of hope for refugees and other immigrants, I also believe that the entry of immigrants may be regulated and is important for national security that those wishing to live here be screened prior to entry. By concealing those who enter unlawfully, it would make it more difficult for the federal government to do this job.

Persons Testifying (Commerce, Labor & Sports): PRO: Senator Lisa Wellman, Prime Sponsor; Vy Nguyen, OneAmerica; Kim Mead, Washington Education Association; Will Rice, Vice-President, Catholic Community Services; Paul Benz, Faith Action Network; Jorge

Baron, Northwest Immigrant Rights Project; Julia Gorton, Washington Hospitality Association; Jessica Vavrus, Washington State School Directors' Association; Bob Cooper, Washington Defender Association; Christina Wong, Northwest Harvest; Jahkari Aujla-Singh, Associated Students of Bellevue College/External Legislative Affairs Representative; Jimmy Matta, Latino Civic Alliance.

CON: Rebecca Faust.

Persons Signed In To Testify But Not Testifying (Commerce, Labor & Sports): No one.

Staff Summary of Public Testimony on Original Bill (Labor & Commerce): *The committee recommended a different version of the bill than what was heard.* PRO: This is an important bill for our state and country. Other than native Americans, all of us or our families came as immigrants for a better life. When it is a hostile environment, it is bad for our economy. Our hospitality and technology industries could not continue without our immigrant population. Many have applied for citizenship, which can take eight to ten years, and their pending visas may be ended. Microsoft is talking about moving those people to Vancouver, B.C. Because of fear of the uncertainty, people are resisting buying homes. This is not meant to harbor people who have committed crimes.

The agricultural industry requires a large workforce, many who are seasonal with 70 percent being migrant. These jobs support other industries as well. Congress has failed to act on meaningful immigration reform. That failure will have a devastating impact on Washington. The bill will help educators to focus on educating students. The hospitality industry's workforce includes a large percentage of immigrants. The steering committee will help the industry. Many people are too afraid to report crimes to law enforcement. This bill helps people feel safe. The economy is strong when all workers are strong. The bill protects the workforce.

CON: Some parts of sections 6, 7, and 9 may cause law enforcement to violate federal law and some treaties.

Persons Testifying (Labor & Commerce): PRO: Lucinda Young, Washington Education Association; Alberto Yaque, citizen; Tim Warden-Hertz, Directing Attorney, Northwest Immigrant Rights Project-Tacoma Office; Eric Gonzalez Alfaro, Legislative and Policy Director, Washington State Labor Council, AFL-CIO; Julia Gorton, Washington Hospitality Association; Jon DeVaney, President, Washington State Tree Fruit Association; Bob Zeigler, citizen.

CON: James McMahan, Washington Association of Sheriffs & Police Chiefs.

Persons Signed In To Testify But Not Testifying (Labor & Commerce): No one.

Staff Summary of Public Testimony on First Substitute (Ways & Means): *The committee recommended a different version of the bill than what was heard.* PRO: Immigrants are a vital part of our economy. Industries want immigrants to feel comfortable in the workplace. Georgia changed its immigration policies and people were not comfortable, resulting in crops left in the fields. This was a \$300 million impact to farmers and loss of tax

revenues. Here shellfish growers do not have enough labor. The bill creates security for workers. Microsoft has 30 percent immigrants. Now people are going to other countries. Canada implemented an immigration policy that was successful. We want people to feel safe. Police are not sure what laws to implement. This gives structure to the Governor's executive order. The bill has many beneficial impacts. Section 9 repeals laws that were enacted in 1924 as part of the anti-Japanese hysteria. It corrects mistakes made by the Legislature and a black mark on our state. The job of an educator is to inspire students to learn. Students need to feel safe. Economically, there is little time in the classroom and the immigration issues take away from that time. The committee will involve stakeholders. Agencies will be held to account and keep information confidential. There is propaganda of fear mongering. Washingtonians believe this is not the case. We should address this at the state level. The current administration targets vulnerable people. People in Washington should be allowed to live in a state where immigrants are not targeted. We need to ensure state level protections to support certain groups.

OTHER: Some cities have policies in place. The bill does not deal with active law enforcement cases. We need safeguards for law enforcement and active criminal investigations.

CON: We are concerned about the databases and the unintended consequences for enforcing criminal laws.

Persons Testifying (Ways & Means): PRO: Senator Lisa Wellman, Prime Sponsor; Lucinda Young, Washington Education Association; Victor Minjares, Latino/a Bar Association of Washington; Tim Warden-Hertz, Directing Attorney, Northwest Immigrant Rights Project - Tacoma Office; Jim Scott Goddard, citizen; Lin Nelson, citizen; Bob Zeigler, citizen; Jimmy Matta, LCA Vice Chair; Salvador Salazar Cano, citizen.

CON: James McMahan, Washington Association Sheriffs & Police Chiefs.

OTHER: Doug Levy, Cities of Kent, Everett, Renton.

Persons Signed In To Testify But Not Testifying (Ways & Means): No one.