

# HOUSE BILL REPORT

## SSB 5156

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### As Passed House - Amended:

April 12, 2023

**Title:** An act relating to expanding the farm internship program.

**Brief Description:** Expanding the farm internship program.

**Sponsors:** Senate Committee on Labor & Commerce (originally sponsored by Senators Torres, Dhingra, Hasegawa, Hunt, Muzzall, Nobles, Randall, Rolfes, Schoesler, Shewmake, Wagoner, Warnick, Wellman and Wilson, L.).

### Brief History:

#### Committee Activity:

Labor & Workplace Standards: 3/17/23, 3/28/23 [DPA].

#### Floor Activity:

Passed House: 4/12/23, 97-0.

### Brief Summary of Substitute Bill (As Amended by House)

- Expands the farm internship pilot project to include all counties, makes the program permanent, and adds additional requirements.
- Requires that for small farms in certain counties, at least one intern must have experience as a migrant farmworker or have a parent or grandparent with such experience, subject to certain exceptions.
- Raises the annual sales threshold to qualify as a small farm from \$250,000 to \$265,000.

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## HOUSE COMMITTEE ON LABOR & WORKPLACE STANDARDS

**Majority Report:** Do pass as amended. Signed by 9 members: Representatives Berry, Chair; Fosse, Vice Chair; Robertson, Ranking Minority Member; Schmidt, Assistant

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*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.*

Ranking Minority Member; Bronoske, Connors, Doglio, Ormsby and Ortiz-Self.

**Staff:** Trudes Tango (786-7384).

**Background:**

Employment Laws.

A number of laws provide workers with protections and benefits. These include the Minimum Wage Act (MWA); the Industrial Insurance Act, commonly referred to as workers' compensation; and the Employment Security Act for unemployment insurance. These acts define who is covered in different ways; however, generally a person who provides services to a for-profit business is covered by these acts. Referring to an individual as an intern or volunteer does not automatically exempt the employer or the worker from the respective acts.

The MWA establishes a minimum wage that must be paid to all employees, unless they are exempt. Exempt employees include volunteers for nonprofit organizations. In addition, the Director of the Department of Labor and Industries (Department) may, to prevent curtailment of opportunities for employment, issue special certificates to employers allowing them to pay wages lower than the minimum wage to learners. Industrial insurance provides medical and time loss benefits to workers injured in the course of their employment. Employers insure through the State Fund administered by the Department or, if qualified, may self-insure. State Fund premiums are calculated based on the industry risk classification and the employer's experience rating. Under the Employment Security Act, qualified individuals who have lost their jobs through no fault of their own, or who quit for good cause, are entitled to unemployment insurance benefits. Benefits are funded by contributions collected from employers. Exemptions include certain agricultural labor performed by students.

Farm Internship Program.

In 2010 the farm internship pilot project was created that allowed small farms in certain counties to employ interns under special certificates, issued by the Department. To qualify as a "small farm," the farm must, among other things, have annual sales less than \$250,000.

To issue a special certificate to a small farm, the Department must find that: (1) the small farm has no serious violations of the MWA or the Industrial Insurance Act that provide reasonable grounds to believe the farm would not comply with terms of an internship agreement; (2) the issuance of a certificate will not create unfair competitive labor cost advantages, nor impair or depress wages or working standards established for experienced workers; and (3) an intern will not displace an experienced worker. The small farm must also demonstrate that, among other things, its internship program provides a curriculum of learning modules and supervised participation in farm work activities designed to teach interns about farming practices and enterprises, and the internship program is based on the bona fide curriculum of an educational or vocational institution.

A small farm may employ no more than three interns at one time under a special certificate. The small farm must submit a statement to the Department confirming that the farm understands the workers' compensation requirements. The small farm and the intern must sign a written agreement, explicitly stating that the intern is not entitled to unemployment insurance or minimum wages. The special certificate must specify, among other things, the terms and conditions under which it was issued, the wage rate, if any, that would be paid to the intern, any room and board, stipends, and other remuneration the farm would provide.

Under the pilot project, farm interns are not considered employees under the MWA and the labor provided by a farm intern is not considered "employment" for purposes of unemployment insurance. For the purposes of workers' compensation, the Department provides a special industrial insurance risk class for farm interns.

Since its creation, the farm internship pilot project has been expanded to 20 counties, and its expiration date has been extended to December 31, 2025. The 19 counties not included in the pilot are: Adams, Asotin, Benton, Clallam, Columbia, Douglas, Ferry, Franklin, Garfield, Grays Harbor, Klickitat, Mason, Okanagan, Pacific, Pen Oreille, Skamania, Stevens, Wahkiakum, and Whitman.

#### **Summary of Amended Bill:**

The farm internship pilot project is expanded to include all counties and is made a permanent program.

For small farms located in the counties that become eligible to participate in the program upon the effective date of the bill, at least one of the farm interns must be an individual who has direct experience working as a migrant farm worker or whose parent or grandparent has direct experience working as a migrant farm worker. The farm's application to the Department must include the intern's attestation stating that the intern meets the requirement regarding migrant farm work experience. The migrant farm work experience requirement does not apply if the farm is employing only one intern and the farm did not receive any applications from individuals meeting the criteria.

To obtain a certificate, all small farms must also demonstrate that the internship program encourages the interns to participate in career and technical education or other educational content with courses in agriculture or related programs of study at a community or technical college.

The annual sales threshold to qualify as a small farm is raised from \$250,000 to \$265,000.

Expiration dates are removed from the provisions related to the farm intern project and unemployment insurance, the MWA, and special workers' compensation risk classifications.

**Appropriation:** None.

**Fiscal Note:** Available.

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

**Staff Summary of Public Testimony:**

(In support) None.

(Opposed) None.

**Persons Testifying:** None.

**Persons Signed In To Testify But Not Testifying:** None.