

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 1307 w/CS Migrant labor  
**SPONSOR(S):** Rep. Poppell  
**TIED BILLS:** None **IDEN./SIM. BILLS:**

---

| REFERENCE                                  | ACTION    | ANALYST | STAFF DIRECTOR |
|--|-----------|---------|----------------|
| 1) Agriculture                             | 14 Y, 0 N | Kaiser  | Reese          |
| 2) State Administration                    |           |         |                |
| 3) Transportation & Econ. Dev. Apps. (Sub) |           |         |                |
| 4) Appropriations                          |           |         |                |
| 5)   |           |         |                |

---

### SUMMARY ANALYSIS

HB 1307 CS is the Governor's farm worker initiative. The proposed legislation has many components, which all work towards protecting the livelihood of farm workers while providing efficient government services.

The bill reactivates the Legislative Commission on Migrant Labor (commission). The membership of the advisory committee to the commission is revised to include representatives from various state agencies, as well as interested parties from the agricultural industry, farm workers, and farm worker advocates.

The bill directs the Department of Business and Professional Regulation (DBPR) to establish a best practices program for farm labor contractors. This requires farm labor contractors desiring this designation to meet certain requirements established by DBPR. The bill allows recipients of the designation to use the designation when soliciting business, as long as the designation is in effect. Additionally, the designation may be revoked if DBPR determines the recipient has failed to comply with any of the requirements. The unauthorized use of the designation is prohibited.

The bill further amends current statute relating to farm labor contractors to:

- Provide DBPR the authority to inspect books, ledgers, and other documents related to farm labor contractor activities.
- Prohibit a farm labor contractor from contracting with, or employing, a person acting as a farm labor contractor without a current certificate of registration.
- Require a farm labor contractor, or his/her agent, to be available to receive service of process and other legal documents.
- Establish definitions for minor violation and major violation.
- Increase the fee for a certificate of registration from \$75 to \$125.

In addition, the proposed legislation creates the Florida Agricultural Worker Safety Act (act) to be administered by the Department of Agriculture and Consumer Services (DACs). The purpose of the act is to protect farm workers in the state from exposure to agricultural pesticides.

For the fiscal impact of this legislation, please refer to Section II., "Fiscal Analysis and Economic Impact Statement" on page 6 of this analysis.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

**STORAGE NAME:** h1307a.ag.doc  
**DATE:** March 26, 2004

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. DOES THE BILL:

- |                                      |   |  |                              |
|--------------------------------------|---|--|------------------------------|
| 1. Reduce government?                | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/>            | N/A <input type="checkbox"/> |
| 2. Lower taxes?                      | Yes <input type="checkbox"/>            | No <input checked="" type="checkbox"/> | N/A <input type="checkbox"/> |
| 3. Expand individual freedom?        | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/>            | N/A <input type="checkbox"/> |
| 4. Increase personal responsibility? | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/>            | N/A <input type="checkbox"/> |
| 5. Empower families?                 | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/>            | N/A <input type="checkbox"/> |

For any principle that received a "no" above, please explain:

**Lower Taxes:** The bill provides for an increase of \$50 in the fee for a certificate of registration for farm labor contractors.

#### B. EFFECT OF PROPOSED CHANGES:

CS/HB 1307 is the Governor's farm worker initiative. The proposed legislation has many components, which all work towards protecting the livelihood of farm workers while providing efficient government services.

The bill reactivates the Legislative Commission on Migrant Labor (commission). It provides that appointments to the commission be made no later than March 1, 2005 and the first meeting be held no later than July 1, 2005. In addition, the membership of the advisory committee to the commission is revised to include representatives from various state agencies, as well as interested parties from the agricultural industry, farm workers, and farm worker advocates. The bill further states the commission shall provide a report to the Legislature no later than February 1 of each year beginning in 2006.

The bill defines violations to be minor violations and major violations. Minor violation means a violation of a specific statute or rule which does not present an imminent threat to the health, safety, or welfare of any employee of a farm labor contractor. The penalty for a first "minor" violation is a warning. The second and subsequent violations start at \$250, rising in increments of \$250 and are capped at \$2,500.

Major violation means a violation of a specific statute or rule that presents an imminent threat to the health, safety, or welfare of any employee of a farm labor contractor. The bill requires a farm labor contractor to retake the examination for renewal of a certificate of registration if he/she has been assessed a civil monetary penalty for a major violation. The penalty for a first "major" violation is a fine of at least \$750. The second violation results in a fine of at least \$1,500. Subsequent violations may be fined not more than \$2,500.

The bill states that fees collected for the education and examination program will be deposited into the Professional Regulation Trust Fund. Previously, these fees were deposited into the Crew Chief Registration Trust Fund. In addition, the fee for a certificate of registration is increased from \$75 to \$125 and must be paid by cashier's check, certified check or money order.

The bill requires the farm labor contractor, or his/her designated agent, to be available during regular business hours, Monday to Friday, to receive service of process and other legal documents. In addition, the Department of Business and Professional Regulation (DBPR) may revoke or refuse to issue or renew any certificate of registration for a farm labor contractor who has:

- A civil fine, assessed by DBPR, which remains unpaid.
- Failed to pay unemployment compensation taxes as determined by the Agency for Workforce Innovation.

- Been denied a federal certificate of registration as a farm labor contractor or the certificate has been suspended or revoked.
- Failed to pay federal employee taxes as determined by the Internal Revenue Service.

DBPR may permanently refuse to issue, renew, or revoke the certificate of registration if an applicant or certificate holder has been convicted within the preceding five years:

- Of any crime under state or federal law relating to gambling, or to the sale, distribution or possession of alcoholic beverages, in connection with, or incident to, any farm labor contracting activities; or
- Of any felony under state or federal law involving robbery, bribery, extortion, embezzlement, grand larceny, burglary, arson, violation of narcotics laws, murder, rape, assault with intent to kill, assault which inflicts grievous bodily injury, prostitution, peonage, or smuggling or harboring individuals who have entered the country illegally.

In addition, DBPR is given the authority to inspect books, ledgers and other documents related to farm labor contractor activities.

The bill directs DBPR to establish a best practices program for farm labor contractors. This requires farm labor contractors desiring this designation to meet certain requirements established by DBPR. The bill allows recipients of the designation to use the designation when soliciting business, as long as the designation is in effect. Additionally, the designation may be revoked if DBPR determines the recipient has failed to comply with any of the requirements. The unauthorized use of the designation is prohibited.

The bill further provides that DBPR may not be held liable in any civil action for any damages resulting from the granting, denying, suspending, or revoking of a designation as a best practices farm labor contractor. DBPR is further authorized to establish an incentive program for farm labor contractors receiving best practice designation.

In addition to the duties of a farm labor contractor already prescribed in statute, the bill requires a farm labor contractor to maintain an accurate daily field record for each employee actually paid by the farm labor contractor. This record must reflect the hours worked for the farm labor contractor and, if paid by unit, the number of units harvested and amount paid per unit.

The bill prohibits farm labor contractors from retaliating against any person because that person has filed a complaint or aided in an investigation against the farm labor contractor. Nor may a farm labor contractor contract with or employ any person acting in the capacity of a farm labor contractor who does not hold a current certificate of registration with DBPR. The bill provides penalties for these violations.

The bill further prohibits farm labor contractors from requiring farm workers to purchase goods or services solely from him/her. Nor may a farm labor contractor charge a farm worker more than a reasonable cost for any commodity, including housing, food, water or other consumables. The bill defines reasonable cost as not being able to make a profit off the product supplied to the farm worker. Penalties are provided for violations of these provisions.

Under current Department of Health law, "residential migrant housing" is defined as housing that is rented or reserved for occupancy by five or more farm workers. The bill changes this definition to include "seasonal" workers. The bill also exempts a single home that houses a migrant family from the definition of "residential migrant housing." In addition, the bill includes language grandfathering in housing covered by the former Department of Labor's Employment and Training Administration.

In addition, the proposed legislation creates the Florida Agricultural Worker Safety Act (act) to be administered by the Department of Agriculture and Consumer Services (DACs). The purpose of the

act is to protect farm workers in the state from exposure to agricultural pesticides. The bill provides definitions to aid in the implementation of the act.

DACS is required, to the extent that resources are available, to continue to monitor for compliance. In addition, agricultural employers are required to make information regarding agricultural pesticides available to farm workers who come into contact with areas where said pesticides have been applied. The bill provides criteria for making the pesticide information available.

The bill prohibits any person from failing to provide agricultural pesticide information as provided for in this part of Chapter 487, F.S. Nor may any person take retaliatory action against any worker for exercising his/her right under the Environmental Protection Agency Worker Protection Standard or this part of Chapter 487, F.S. The bill also provides penalties for violations of these provisions.

And lastly, the bill directs DACS to monitor all complaints of retaliation and report its findings to the Legislature on or before October 1, 2008.

C. SECTION DIRECTORY:

**Section 1:** Amending s. 381.008, F.S.; amending definition of residential migrant housing.

**Section 2:** Amending s. 381.0086, F.S.; conforming language to reflect change in definition of residential migrant housing; and, providing exception for structural variance.

**Section 3:** Amending s. 381.0087, F.S.; authorizing DBPR to provide notice of suspected violations to appropriate entity.

**Section 4:** Amending s. 403.088, F.S.; correcting a cross-reference.

**Section 5:** Amending s. 420.507, F.S.; authorizing the Florida Housing Finance Corporation to utilize federal and state resources in a manner that maximizes funding opportunities in the state.

**Section 6:** Amending s. 450.191, F.S.; amending the powers and duties of the Executive Office of the Governor in regards to dealing with migrant workers and farm labor registration.

**Section 7:** Amending s. 450.201, F.S.; requiring appointments to the Legislative Commission on Migrant Labor to be made no later than March 1, 2005; and, setting the date for the first meeting of the Commission to be no later than July 1, 2005.

**Section 8:** Amending s. 450.211, F.S.; amending the membership of the advisory committee to the Legislative Commission on Migrant Labor.

**Section 9:** Amending s. 450.231, F.S.; providing for the annual report to the Legislature be made no later than February 1 of each year beginning in 2006.

**Section 10:** Amending s. 450.27, F.S.; amending the name of Part II of Chapter 450, F.S. to the Farm Labor Contractor Registration Law.

**Section 11:** Amending s. 450.271, F.S.; changing a reference from the Department of Labor and Employment Security to the Department of Business and Professional Regulation (DBPR).

**Section 12:** Amending s. 450.28, F.S.; providing definitions for "minor violation" and "major violation."

**Section 13:** Amending s. 450.30, F.S.; referencing a penalty for a major violation; and, changing reference to trust fund.

**Section 14:** Amending s. 450.31, F.S.; requiring application fee to be paid by cashier's check rather than cash; referencing change in trust fund; requiring farm labor contractor to designate an agent to receive service of process and other official documents; providing times designated agent must be available; providing reasons a certificate of registration for a farm labor contract may be revoked, suspended, or not renewed; and, upon certificate of registration allowing DBPR to inspect books, ledgers, and other documents related to the performance of farm labor activities.

**Section 15:** Creating s. 450.321, F.S.; creating a best practices incentive program for farm labor contractors; providing designation of best practices farm labor contractor is not transferable; providing criteria for use of designation; and, providing for revocation of designation.

**Section 16:** Amending s. 450.33, F.S.; requiring farm labor contractor to maintain daily field records for each employee.

**Section 17:** Amending s. 450.34, F.S.; amending prohibited acts to include retaliation against a person for filing complaint or aiding in an investigation; and, contracting with or employing person in the capacity of a farm labor contractor who does not have a current certificate of registration.

**Section 18:** Amending s. 450.35, F.S.; providing for employment of farm labor contractor with current certificate of registration; and, providing for penalties for violation.

**Section 19:** Amending s. 450.37, F.S.; authorizing DBPR to work with other state agencies in carrying out the provisions of Chapter 450, F.S.

**Section 20:** Amending s. 450.38, F.S.; providing penalties for minor and major violations; requiring penalties to be paid by check rather than cash; allowing complaint to be filed in county where farm labor contractor resides or does business; providing degrees of penalties for minor and major violations; and, authorizing DBPR to provide notice of suspected violation of law to appropriate entity.

**Section 21:** Creating s. 450.39, F.S.; prohibiting farm labor contractor from requiring farm worker to purchase goods or services from farm labor contractor; prohibiting farm labor contractor from charging farm worker more than reasonable cost for any commodity; and, providing penalties for violations.

**Section 22-47:** Changing reference from "chapter" to "part."

**Section 48:** Creating s. 487.2011, F.S.; providing a title; and, providing the Department of Agriculture and Consumer Services (DACS) handle the administration of the act.

**Section 49:** Creating s. 487.2021, F.S.; providing legislative intent.

**Section 50:** Creating s. 487.2031, F.S.; providing definitions.

**Section 51:** Creating s. 487.2041, F.S.; requiring DACS, to the extent resources are available, to continue to operate under federal regulations.

**Section 52:** Creating s. 487.2051, F.S.; requiring agricultural employer to make agricultural pesticide information available to any worker who enters any agricultural pesticide treated area; providing format for agricultural pesticide information; and, providing criteria for dissemination of information.

**Section 53:** Creating s. 487.2061, F.S.; making it unlawful for agricultural employer to fail to provide agricultural pesticide information or to take retaliatory action against a worker for exercising right under EPA Worker Protection Standard.

**Section 54:** Creating s. 487.2071, F.S.; providing penalties for violations; providing for worker to file a complaint with DACS regarding being retaliated against; providing for DACS to monitor complaints of

retaliation and report findings to the Legislature on a date certain; and, providing information to be included in the report.

**Section 55:** Amending s. 500.03, F.S., correcting a cross-reference.

**Section 56:** Amending s. 570.44, F.S., correcting a cross-reference.

**Section 57:** Instructing the Division of Statutory Revision to designate ss. 487-011-487-175, F.S., as part I, the "Florida Pesticide Law," and ss. 487.2011-487.2071, F.S., as part II, the "Florida Agricultural Worker Safety Act."

**Section 58:** Providing an effective date of July 1, 2004.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

#### 1. Revenues:

None

#### 2. Expenditures:

None

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

#### 1. Revenues:

None

#### 2. Expenditures:

None

### C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None

### D. FISCAL COMMENTS:

None

## III. COMMENTS

### A. CONSTITUTIONAL ISSUES:

#### 1. Applicability of Municipality/County Mandates Provision:

The bill does not require counties or municipalities to take an action requiring the expenditure of funds, does not reduce the authority that counties or municipalities have to raise revenues in the aggregate, and does not reduce the percentage of state tax shared with counties or municipalities.

#### 2. Other:

None

B. RULE-MAKING AUTHORITY:

None

C. DRAFTING ISSUES OR OTHER COMMENTS:

None

**IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES**

On March 11, 2004, the Committee on Agriculture adopted a strike-all amendment and four amendments to the strike-all amendment. This analysis reflects the adoption of the strike-all amendment and amendments thereto.