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LEGISLATIVE MEMO

SB 6261 unfairly targets Washington farmers and ranchers and would reduce job opportunities for migrant workers

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Key Findings

1. **SB 6261 would add nothing to existing legal protections for agricultural workers and would only serve to denigrate Washington farmers and ranchers.**

2. **The Federal Migrant and Seasonal Agricultural Worker Protection Act (MSPA) already protects agricultural workers from discrimination, threats, and hostile work environments.**

3. **Punishing employers who follow current law would not help workers.**

Introduction

There are approximately 164,000 jobs in agriculture in Washington state.[1] Most of these jobs, about 100,000, are filled by people working in the fields, pastures, and barns throughout the state. Of the 100,000 farm employees directly involved in crop and livestock production in our state, approximately 25 percent were hired through the federal H-2A jobs program and have come from outside the United States on a work visa provided through a recruitment agency. The H-2A program provides foreign workers to U.S. employers when the domestic labor force falls short.

Washington farmers and ranchers pay these agricultural workers either the state minimum wage of $13.50 an hour or the current Adverse Effect Wage Rate (AEWR) of $15.83 an hour, depending upon their employment status. Many workers earn more due to competition in the labor market.[2]

In addition to providing competitive wages, agricultural employers who hire H-2A workers provide housing and transportation for their employees. They are also required to pass mandatory health and safety inspections of their housing facilities and farming and ranching operations.

As with any government program, there are people who do not follow the rules and may take actions that harm workers. Employers who break the rules are punished under existing laws. Imposing new laws, as the sponsors of SB 6261 want to do, only punishes the employers who are doing the right thing and overly burdens a regulatory system that is already brimming with work restrictions.

SB 6261 would require non-profit organizations as well as recruiters and some employers to register with the state as farm labor contractors, making the employment process needlessly complicated for both employees and employers. In the original bill, employers would have been unable to make employment changes for any worker who filed a complaint against that employer during the growing season; the employer would also have been required to hire that employee again the following year. Legislation like SB 6261 adds complications to an already cumbersome hiring process but does little to protect the workers it is purportedly meant to help.

1 Washington Farm Bureau. Agriculture's Contribution to Washington's Economy. Accessed Feb. 14, 2020. https://wsfb.com/agricultures-contribution-to-washingtons-economy/

2 Western Growers Association. Federal Register U.S. Department of Labor, Employment and Training Administration. Labor Certification Process for the Temporary Employment of Aliens in Agriculture in the United States: 2020 Adverse Effect Wage Rates for Non-Range Occupations. Accessed Feb. 14, 2020. https://www.wga.com/sites/default/files/12%2019%202019%20AEWR%20Notice%20%28Hourly%29.pdf

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Current rules – the Migrant and Seasonal Agricultural Worker Protection Act

Farm workers already have extensive protections in law. The federal Migrant and Seasonal Agricultural Worker Protection Act (MSPA) was enacted in 1983 to "provide for the protection of migrant and seasonal agricultural workers and for the registration of contractors of migrant and seasonal agricultural labor."[3]

Under the MSPA, migrant and seasonal agricultural workers receive a written description of the terms and conditions of employment. In addition, the terms and conditions of employment are posted in a conspicuous location at the job site, often in more than one language.

Employees are paid in full and on time, and housing, safety and health requirements meet the requirements of state and federal agencies and, under the law, all migrant and seasonal workers,

> "...have the right to file a complaint with the Wage and Hour Division, file a private lawsuit under the Act, or testify or cooperate with an investigation or lawsuit in other ways without being intimidated, threatened, restrained, coerced, blacklisted, discharged, or discriminated against in any manner."[4]

In addition to these protections for workers, farm labor contractors register their operations with the U.S. Department of Labor and follow federal guidelines for the recruitment of foreign workers. Agricultural employers confirm the validity of any labor contractor before entering into any formal agreement. This safeguard allows employers to avoid being drawn into illegal or "underground" hiring arrangements.

Conclusion

This legislation duplicates current federal legislation. The best protections for migrant and seasonal workers already exist under the MSPA, which covers all agricultural employers throughout our state.

Passing redundant state-level legislation, like SB 6261, would not benefit workers but rather it would punish employers who are doing the right thing every day. Instead, this harsh and unnecessary bill would curtail opportunities to hire migrant and seasonal workers in the future, harming migrant employees and putting additional stress on the agricultural workforce in Washington state.

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3 Public Law 97-470. Jan. 14, 1983. 97th Congress. Migrant and Seasonal Agricultural Worker Protection Act. Accessed Feb. 14, 2020. https://www.govinfo.gov/content/pkg/STATUTE-96/pdf/STATUTE-96-Pg2583.pdf

4 United States Department of Labor Wage and Hour Division. Migrant and Seasonal Agricultural Worker Protection Act. Accessed Feb. 14, 2020. https://webapps.dol.gov/elaws/elg/mspa.htm