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FISCAL IMPACT REPORT

SPONSOR Lujan, A. ORIGINAL DATE 1-19-07
LAST UPDATED _____ HB 80
SHORT TITLE FARM & RANCH WORKERS COMP COVERAGE SB _____
ANALYST Lucero

Duplicates Appropriation in the General Appropriation Act
Relates to Appropriation in the General Appropriation Act

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

| | FY07 | FY08 | FY09 | 3 Year Total Cost | Recurring or Non-Rec | Fund Affected |
|--------------|------|---------------|---------------|----------------------|-------------------------|------------------|
| Total | | \$150.0-275.0 | \$150.0-275.0 | \$300.0-550.0 | Recurring | |

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Worker's Compensation Administration (WCA)

SUMMARY

Synopsis of Bill

House Bill 80 amends the Workers' Compensation Act to include farm and ranch workers as covered employees under the Act. The bill also corrects gender specific language in the original Act.

FISCAL IMPLICATIONS

WCA believes that there could be a significant fiscal impact for employers who would be required to obtain workers' compensation coverage for workers who are currently exempt from coverage. While costs associated with the bill are unknown, WCA's best cost estimate has a \$150,000 to \$275,000 per year.

SIGNIFICANT ISSUES

WCA states that there would be a significant impact to the workers' compensation system. This bill would impact small and large employers; however, the bill would provide a safety net for workers in the event that they are injured.

PERFORMANCE IMPLICATIONS

The very nature of farm and ranch work is generally transitory and temporary; WCA would expect disputes to arise over whether the worker was considered a worker for purposes of the Workers' Compensation Act or an independent contractor. Additionally, the worker's legal status to work in the United States could ultimately affect the outcome of his or her benefits.

ADMINISTRATIVE IMPLICATIONS

WCA believes that this bill would significantly increase the caseload of the Agency. The Agency, at present staffing levels, could not absorb the increased number of claims. There could be an increase in the use of translators needed to process these claims and out of pocket expenses for workers. The locality of workers could be an issue for the agency and the parties when communication with the worker becomes necessary. It would increase the compliance caseload of the Agency as well.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Relates to SB153 "WORKERS COMP CALCULATIONS FOR IMPAIRMENT", and SB190 "WAGES FOR INJURED WORKERS RETURNING TO WORK", and SB208 "PROHIBIT CERTAIN WORKERS COMP PAYMENTS".

TECHNICAL ISSUES

The bill does not make a distinction between regular full time farm and ranch workers and part-time transitional/seasonal and or migrant employees.

OTHER SUBSTANTIVE ISSUES

This bill has not been approved by the Workers' Compensation Advisory Council.

According to the Farmworker Justice website:

http://www.fwjjustice.org/Health&Saftey/workers_comp.htm

Although agriculture is one of the nation's most hazardous industries, about half of all states allow agricultural employers to provide little or no workers compensation coverage for migrant and seasonal farm workers.

There are many obstacles preventing farm workers from securing needed workers compensation benefits. They include: lack of coverage; a small, but growing trend for states to reduce or deny benefits to undocumented workers; workers' reluctance to file claims for fear of employer retaliation; and the difficulty of finding a doctor who will keep farm workers off work long enough to allow them to fully recover. Without workers compensation benefits, however, injured farm workers often forgo needed treatment or go into debt to obtain it.

Many states do not require agricultural employers to provide workers compensation coverage for migrant and seasonal farm workers. The states are almost evenly split between those that provide all or most migrant and seasonal farm workers with workers

compensation coverage and those that require little or no coverage for this workforce. Specifically, only 13 states, the District of Columbia, Puerto Rico and the Virgin Islands require employers to cover seasonal agricultural workers to the same extent as all other workers. These jurisdictions are: Arizona, California, Colorado, Connecticut, the District of Columbia, Hawaii, Idaho, Massachusetts, Minnesota, Montana, New Hampshire, New Jersey, Ohio, Oregon, Puerto Rico and the Virgin Islands. In an additional 13 states (including Florida and New York), only small farmers are exempt from providing coverage to their migrant and seasonal farm workers. Moreover, employers who hire legal temporary foreign workers, under the H-2A visa program, are required to provide workers compensation insurance or equivalent benefits to their employees.

By contrast, 16 states do not require employers to provide any workers compensation insurance for migrant or seasonal farm workers. These states are: Alabama, Arkansas, Delaware, Georgia, Indiana, Kansas, Kentucky, Mississippi, Missouri, Nebraska, Nevada, New Mexico, North Dakota, South Carolina, Tennessee and Texas. In an additional eight states, coverage is limited to full-time workers (e.g., Maine), workers in specialty jobs (e.g., South Dakota), or those employed on large farms (e.g., Rhode Island).

ALTERNATIVES

The bill could differentiate between large and small farm and ranch employers and between full time employees and seasonal or migrant employees.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status quo.

DL/nt