

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

BILL: SB 1834

SPONSOR: Senators Miller and Campbell

SUBJECT: Farm Labor Contractors

DATE: April 5, 2001

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Weidenbenner</u>	<u>Poole</u>	<u>AG</u>	<u>Favorable</u>
2.	_____	_____	_____	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

This bill prohibits farm labor contractors from charging or deducting from a farm laborer's wages for described facilities. Prohibited facilities are those that are primarily for the benefit or convenience of the employer, including tools and other materials and services that are incidental to the employer's business, such as picking sacks, clippers, knives, protective clothing, transportation that is incidental and necessary to the employment, and recruiting fees paid to an agent of the employer.

This bill substantially amends, section 450.34 of the Florida Statutes:

II. Present Situation:

A farm labor contractor is a person who, for a fee, provides farm workers, who may work directly under his control or under the control of a third person. Chapter 450, F.S., which regulates activities concerning Minority Labor Groups, requires that farm labor contractors obtain a certificate of registration from the Department of Labor and Employment Security, upon completion of a program of education and examination. The office of Florida Legal Services, Inc., (FLS) in Tallahassee, reports that there are 3700 farm labor contractors registered pursuant to this law. The Chapter imposes duties on farm labor contractors and prohibits them from engaging in misrepresentations in their application for registration and in information about the terms of employment. Violators can be charged with a misdemeanor of the second degree and can be subjected to a civil penalty up to \$1,000 and an injunction.

The FLS asserts that there are farm labor practices wherein farm workers have been charged for items used in their work that have no benefit to the worker and primarily benefit the employer.

Farm producers often turn to intermediaries (labor subcontractors) for both management and workers. It is reported that some contractors recoup expenses by cost-saving measures such as charging workers for daily rides, check cashing, meals and lodging, in addition to charging for materials, equipment, and tools of the trade incidental to carrying out the employer's business. These type items are referred to generally as "facilities."

Under the federal Fair Labor Standards Act (FLSA), workers may not be charged for facilities which are primarily for the benefit or convenience of the employer but only to the extent that these deductions take the worker's wages below the federal minimum hourly wage in a given pay period. There is nothing in FLSA that would prohibit charges for facilities up to the point the worker's wages were reduced to the minimum wage. In addition, FLS reports that there are significantly more state compliance officers in this area than federal compliance officers.

III. Effect of Proposed Changes:

Section 1. Amends s. 450.34, F.S., to prohibit a farm labor contractor from making any charge or deduction from wages for any facilities that are primarily for the benefit or convenience of the employer. Facilities, under the bill, include tools and other materials and services that are incidental to the employer's business, such as picking sacks, clippers, knives, protective clothing, transportation that is incidental and necessary to the employment, and recruiting fees paid to an agent of the employer.

Section 2. Provides an effective date of July 1, 2001.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Indeterminate. The bill may cause employers to absorb some expenses that are presently passed on to the farm workers.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

Chapter 450, F.S., defines “farm labor contractors” and the purpose of the bill is to prohibit certain acts of farm labor contractors. The language of the bill prohibits certain “charges” for the benefit of the “employer” or arising out of the “employer’s” business. “Employer” is not defined in the bill or in Chapter 450, F.S., and it may not be clear who is covered by that word.

VII. Related Issues:

None.

VIII. Amendments:

None.

This Senate staff analysis does not reflect the intent or official position of the bill’s sponsor or the Florida Senate.
