

STORAGE NAME: h0565a.ag.doc
DATE: January 8, 2002

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
AGRICULTURE AND CONSUMER AFFAIRS (CCC)
ANALYSIS**

BILL #: HB 565
RELATING TO: Farm Labor Contractors
SPONSOR(S): Representative(s) Peterman
TIED BILL(S): None

ORIGINATING COMMITTEE(S)/COUNCIL(S)/COMMITTEE(S) OF REFERENCE:
(1) AGRICULTURE AND CONSUMER AFFAIRS (CCC) YEAS 8 NAYS 1
(2) BUSINESS REGULATION (CSG)
(3) COUNCIL FOR COMPETITIVE COMMERCE
(4)
(5)

I. SUMMARY:

HB 565 prohibits farm labor contractors from making a charge or deduction from wages for any tools, equipment, transportation, or recruiting fees determined to be to the benefit of the employer.

This legislation does not appear to have a fiscal impact and will take effect on July 1, 2002.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|---|-----------------------------|---|
| 1. <u>Less Government</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

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

B. 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., regulates activities concerning Minority Labor Groups. One of its requirements is 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 applications for registration and in information about the terms of employment. Violators can be charged with a misdemeanor of the second degree and subjected to a civil penalty up to \$1000, as well as an injunction.

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.

There is no prohibition under the federal Fair Labor Standards Act (FLSA), against charging workers for items such as those described above, as long as these deductions do not take the worker's wages below the federal minimum hourly wage in a given pay period. In addition, FLS reports that there are significantly more state compliance officers in this area than federal compliance officers.

C. EFFECT OF PROPOSED CHANGES:

Section 1: Amends s. 450.34, F.S., prohibiting farm labor contractors from making a charge or deduction from wages for any tools, equipment, transportation, or recruiting fees that are determined under the federal Fair Labor Standards Act to be to the benefit of the employer.

Section 2: Provides an effective date of July 1, 2002.

D. SECTION-BY-SECTION ANALYSIS:

Please see Section C. (Effect of Proposed Changes).

III. 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:

Some expenses currently absorbed by the farm workers may be passed to the employers.

D. FISCAL COMMENTS:

N/A

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to spend funds or to take action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that municipalities or counties have to raise revenue in the aggregate.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce any state tax shared with counties or municipalities.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

N/A

B. RULE-MAKING AUTHORITY:

N/A

C. OTHER COMMENTS:

The purpose of this legislation is to prohibit certain acts of farm labor contractors, such as charges for items deemed to be for the benefit of the employer. While Chapter 450, F.S., provides a definition for "farm labor contractor", no definition for "employer" is provided. This may raise questions over who is covered by the word "employer".

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

Representative Kendrick offered two amendments, which were adopted, to HB 565. Amendment 1 conformed the House bill to the Senate bill by changing "shall" to "may". And, Amendment 2 clarified that the state law will mirror the federal Fair Labor Standards Act.

VII. SIGNATURES:

COMMITTEE ON AGRICULTURE AND CONSUMER AFFAIRS (CCC):

Prepared by:

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