

HOUSE BILL REPORT

HJM 4017

As Reported by House Committee On:
Commerce & Labor

Brief Description: Requesting that the United States Congress enact the AgJOBS legislation.

Sponsors: Representatives Chandler, Conway, Cox, Warnick, Bailey, Kenney, Johnson and Ross.

Brief History:

Committee Activity:

Commerce & Labor: 1/12/10, 1/22/10 [DP].

Brief Summary of Bill

- Petitions the U.S. Congress to enact the Agricultural Job Opportunities, Benefits, and Security legislation to address the need for immigration reform to protect the agricultural industry and farm workers.

HOUSE COMMITTEE ON COMMERCE & LABOR

Majority Report: Do pass. Signed by 6 members: Representatives Conway, Chair; Wood, Vice Chair; Chandler, Green, Moeller and Williams.

Minority Report: Without recommendation. Signed by 2 members: Representatives Condotta, Ranking Minority Member; Crouse.

Staff: Jill Reinmuth (786-7134).

Background:

The federal Agricultural Job Opportunities, Benefits, and Security (AgJOBS) Act was first introduced in the U.S. Congress in 2003. Similar bills were introduced in 2005, 2007, and 2009. The AgJOBS Act of 2009 addresses both the immigration status of agricultural workers and the H-2A visa program for agricultural guest workers.

Pilot Program for Earned Status Adjustment of Agricultural Workers.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

A pilot program that provides for a two-step earned adjustment of status is established. Through the pilot program, agricultural workers may apply for temporary residence (blue card status), and then legal residence (green card status).

For blue card status, a worker must: (1) have worked for a minimum number of days or hours in or earned a minimum amount from United States agriculture during a specified period; (2) apply for blue card status during a specified period; (3) not be barred from entry based on certain immigration law provisions; (4) not have been convicted of any felony or certain misdemeanors; and (5) pay a fine of \$100. Once an agricultural worker is granted blue card status, the Secretary of Homeland Security provides the worker with an employment authorized endorsement or other work permit. The number of blue cards that may be issued is limited to 1,350,000 during the five-year period following enactment.

For green card status, a worker who has been granted blue card status must perform agricultural work for a minimum number of work days per year for a minimum number of years. The worker must also: (1) apply for adjustment of status within seven years; (2) pay a fine of \$400; and (3) establish that no federal tax liability is owed.

Other provisions address the termination of blue card or green card status, the immigration status of spouses and minor children, travel outside the United States, and exemptions from prosecution for certain violations of the Social Security Act.

Reform of the H-2A Worker Program.

An H-2A employer application process is established in place of the H-2A labor certification process. An employer is required to file an application containing: (1) a description of the nature and location of the work to be performed; (2) the anticipated period for which the workers will be needed; (3) the number of job opportunities in which the employer seeks to employ the workers; and (4) certain assurances. For a job covered by a collective bargaining agreement, the assurances include that the employer has offered or will offer the job to an equally or better qualified United States applicant. For a job that is not covered, the assurances include that the employer will provide the required benefits, wages, and working conditions to all workers in the jobs, and that the employer will take certain steps to recruit and hire United States workers for the jobs.

The H-2A employment requirements are also modified. An employer continues to be required to pay an H-2A worker the greater of the adverse effect wage rate or the prevailing wage rate, but not less than the federal or state minimum wage rate. However, for three years, the adverse effect wage rate is set at the rate in effect on January 1, 2009. Then, if a new wage standard is not enacted, the adverse effect wage rate is adjusted annually by the lesser of the change in the Consumer Price Index for All Urban Consumers (CPI-U) or 4 percent. Other provisions allow housing allowances in lieu of housing, establish transportation safety standards, and provide enforcement authority.

Summary of Bill:

The Washington Legislature requests the U.S. Congress to enact the federal Agricultural Job Opportunities, Benefits and Security (AgJOBS) Act, based on legislative findings.

Legislative findings include that:

- agriculture is a cornerstone of the economy and farm workers are an essential part of the agricultural industry;
- agriculture created over \$8 billion in on-farm production value and employed over 100,000 workers in 2007;
- large sectors of agriculture are labor-intensive and rely on seasonal and immigrant workers to perform vital labor;
- the agricultural industry requires access to a legal and stable workforce, and farm workers require legal and stable employment;
- immigration reform is required to protect the viability of the agricultural industry and thousands of immigrant farm workers; and
- there is an urgent need for immigration reform as proposed in the AgJOBS Act.

Appropriation: None.

Fiscal Note: Not requested.

Staff Summary of Public Testimony:

(In support) It is essential for Washington agriculture to have a stable, legal workforce. What we are doing now is not working. No one is satisfied with the status quo.

A memorial expressing support for the AgJOBS Act would be helpful. The timing of the memorial is key. There is a window between late February and early April during which the AgJOBS Act may move forward. A proactive approach is needed to push this over the top.

The AgJOBS Act establishes a two-step process that secures for employers a documented workforce and eliminates their fears of audits and penalties. It also helps bring undocumented workers out of the shadows and helps eliminate their fears of deportation.

The AgJOBS Act is a careful and good compromise that will advance employer and employee interests.

This is the best opportunity we have for a stable, legal workforce.

(With concerns) The AgJOBS Act, by itself, is insufficient because it does not address the issue of future flow. The AgJOBS Act is needed in conjunction with legislation that addresses long-term labor supply issues. The memorial should address those issues.

(Opposed) None.

Persons Testifying: (In support) Representative Chandler, prime sponsor; Jeff Johnson, Washington State Labor Council; Andrea Schmitt, Columbia Legal Services; and Chris Cheney, Washington Growers League.

(With concerns) Scott Dilley, Washington Farm Bureau.

Persons Signed In To Testify But Not Testifying: None.