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: | CS/SB 168 | | | | |
|----------------------------------|---|----------------|-----------|--------------|---|
| SPONSOR: | Senate Agriculture and Consumer Services Committee and Senator Miller | | | | |
| SUBJECT: Farm Labor Co | | ontractors | | | |
| DATE: November 29, 2001 REVISED: | | | | | |
| | NALYST | STAFF DIRECTOR | REFERENCE | ACTION | |
| 1. Weidenbenner | | Poole | AG | Favorable/CS | |
| 2. | | | | | |
| 3. | | | | | |
| 4. | | | | | |
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I. Summary:

The committee substitute 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.

The committee substitute 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., 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 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.

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.

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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.

III. Effect of Proposed Changes:

Section 1. Amends s. 450.34, F.S., to prohibit a farm labor contractor from making a charge or deduction from wages for any tools, equipment, transportation, or recruiting fees that are determined under the FLSA to be to the benefit of the employer.

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

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 committee substitute may cause employers to absorb some expenses that are presently passed on to the farm workers.

C. Government Sector Impact:

None.

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VI. Technical Deficiencies:

Chapter 450, F.S., defines "farm labor contractor" as any person who, for a fee, provides farm workers, who may work directly under his control or under the control of a third person. The purpose of the committee substitute is to prohibit certain acts of farm labor contractors. The language of the committee substitute prohibits charges for certain items determined to be for the benefit of the "employer." "Employer" is not defined in the committee substitute 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.