

- SUBJECT:** Transferring regulation of migrant labor housing to TDHCA
- COMMITTEE:** Border and International Affairs — favorable, without amendment
- VOTE:** 6 ayes — Chavez, Griggs, Castro, Merritt, J. Moreno, Vo
0 nays
1 absent — Alonzo
- WITNESSES:** For — Robert Doggett, Texas Low Income Housing Information Service; Rebecca Flores, United Farm Workers and AFL-CIO; John Henneberger, Texas Low Income Housing Information Service and Border Low Income Housing Coalition; *Registered, but did not testify:* Deborah Kastrin, YWCA El Paso

Against — None

On — Elías Briseño, Texas Department of State Health Services; Edwina Carrington, Timothy Irvine, Texas Department of Housing and Community Affairs
- BACKGROUND:** Health and Safety Code, Ch. 147 authorizes the Texas Department of State Health Services (TDSHS) to license and inspect migrant labor housing in the state. To be licensed, a facility must meet minimum standards for construction, sanitation, safety, and equipment, which are set by the TDSHS board, and the operator must pay a fee. The fee for a two-year license is \$1,200, with an additional \$36 fee to subscribe to Texas Online, a web site where license fees can be paid and government services accessed. TDSHS also may bring an application for injunctive relief in district court to prohibit a person from violating the chapter.

Health and Safety Code, ch. 147 limits the application fee for a migrant labor housing facility license to no more than \$100 and states that this license is to be good for a period of one year. However, in 2003 the 78th Legislature enacted HB 2292 by Wohlgemuth, which directed the Department of State Health Services to issue two-year licenses and set its license fees at the amount necessary to recover all direct and indirect costs of administering and enforcing its programs, notwithstanding any other

law. To comply with these provisions, on January 1, 2005, the department raised its migrant labor housing facility license fee from \$50 for a one-year license to \$1,200 for a two-year license.

DIGEST:

HB 1099 would transfer authority to license and inspect migrant labor housing facilities from TDSHS to the Texas Department of Housing and Community Affairs (TDHCA). All current rules, policies, procedures, and decisions relating to licensing and inspection of this type of housing would remain in place unless and until changed by the board or executive director of TDHCA. The transfer would not affect current liabilities, licenses, penalties, investigations, or proceedings. The agency would be required to study the quantity, availability, need, and quality of migrant labor facilities in Texas and report back to the Legislature by September 1, 2006.

TDHCA would have to adopt fees, rules, and standards for licensing and inspection no later than January 1, 2006, and could impose a license fee up to \$250.

HB 1099 would authorize a migrant agricultural worker or the worker's representative to bring an application for injunctive relief.

The bill would take effect September 1, 2005.

SUPPORTERS
SAY:

HB 1099 would ensure the enforcement of standards for migrant farm worker housing while reducing costs for the operators and offering them more access to funding for housing improvements.

HB 1099 would protect the health and safety of migrant farm workers and surrounding communities by ensuring enforcement of minimum standards for migrant farm worker housing. Under current law, TDSHS must conduct annual inspections of migrant housing to ensure compliance with state standards. However, inadequate resources have prevented the agency from fulfilling this responsibility. Many facilities have received or renewed licenses without being inspected. Some facilities have fallen into such disrepair as to be virtually uninhabitable. In at least one instance, children living in a labor camp were found to be covered with rat bites.

Moving regulation and inspection to TDHCA, which has several offices around the state that conduct housing inspections, would ensure annual inspections as required by law and at a significantly lower cost than under

TDSHS. This lower cost would allow a reduction in the maximum cost of the license for housing operators. TDHCA has indicated that it could cover its costs through an annual license fee of about \$150 (the bill would cap the fee at no more than \$250), less than the current \$1,200 required for a two-year license from TDSHS.

By placing regulatory authority over migrant housing in the same agency that funds housing construction and improvements, HB 1099 would facilitate access to funding. As the state's primary agency for housing, TDHCA has knowledge of state and federal programs that could be used to improve these housing facilities. Despite having one of the largest populations of migrant farm workers in the United States, Texas lags behind other states in the supply of federally funded migrant housing. The agency could help with improvements, rather than simply take away operators' licenses as is the case under TDSHS.

HB 1099 would ensure upkeep of housing between inspections by allowing a worker or the worker's representative to file suit in district court for injunctive relief. The migrant farm worker is the person most familiar with the condition of the housing, yet the state currently provides no private right of action for a farm worker to obtain relief if the housing does not meet state standards. Farm workers often face eviction if they complain about housing conditions. This bill would ensure that operators properly maintain migrant housing and would protect workers from retribution. Migrant workers would be unlikely to bring frivolous suits because they could confirm with housing information services whether their housing conformed to state housing standards. These non-profit services do not have substantial funding for suits against operators.

**OPPONENTS
SAY:**

Allowing migrant farm workers or their representatives to sue for injunctive relief would increase costs for farmers who would have to defend themselves from potentially frivolous suits. Although the migrant worker may be the most knowledgeable person about the condition of this housing, farm workers are not likely to be well informed about specific state standards and could bring suit in instances where the housing already met these standards. Moreover, because migrant workers likely would receive help in their suits from local non-profit services, they would not bear the cost and would thus be more inclined to petition for injunctive relief. To defend themselves, farmers either would have to hire lawyers and pay court fees or undertake costly improvements to the housing to

avoid going to court. It would be better to leave the right to file for injunctive relief with a neutral state agency.