

SUBJECT: Increasing regulation of migrant labor housing facilities

COMMITTEE: Urban Affairs — favorable, without amendment

VOTE: 5 ayes — Cortez, Bernal, Campos, Jarvis Johnson, Minjarez

3 nays — Holland, Gates, Slaton

1 absent — Morales Shaw

WITNESSES: For — Abel Beccerra; Jim Harrington; (*Registered, but did not testify*:
Rene Lara, Texas AFL-CIO)

Against — Dante Galezazzi, Texas International Produce Association;
Ryan Skrobarczyk, Texas Nursery and Landscape Association;
(*Registered, but did not testify*: Kody Bessent, Plains Cotton Growers,
Inc.; Tommy Engelke, Texas Agricultural Cooperative Council; Joe
Morris, Texas Beekeepers Association and Texas Forestry Association;
Shayne Woodard, Texas Cotton Ginners Association; Rob Hughes, Texas
Forestry Association)

On — Daniela Dwyer and Dave Mauch, Texas Rio Grande Legal Aid,
Inc.; Courtney Arbour, Texas Workforce Commission; (*Registered, but
did not testify*: Homero Cabello, Texas Department of Housing and
Community Affairs)

BACKGROUND: Government Code sec. 2306.922 requires a person operating a migrant
labor housing facility to obtain a license from the Texas Department of
Housing and Community Affairs. Some have called for improved
inspection procedures to enforce basic living conditions and safety
standards in temporary housing for migrant agricultural workers.

DIGEST: HB 862 would revise and add requirements for licensed temporary
housing for migrant agricultural workers. The bill would authorize an
increase in the license fee and change the amount of a civil penalty for
violations of housing standards.

License. HB 862 would require a person who procured, made arrangements for, or otherwise provided housing for migrant agricultural workers to ensure that the applicable migrant labor housing facility was licensed.

Application, fee. The bill would require an applicant who sought to substitute an inspection conducted by the U.S. Department of Labor or the Texas Workforce Commission for a pre-occupation inspection by the Texas Department of Housing and Community Affairs (TDHCA) to include certain information with the application.

The TDHCA governing board would have to establish the license application fee in an amount sufficient to cover the costs of administering the bill's requirements, including costs associated with conducting required inspections and re-inspections.

A license holder would have to post in the migrant labor housing facility a copy of the license and information in English and Spanish about complaint procedures.

Third-party appeals. The department by rule would have to adopt procedures through which third parties, including migrant agricultural workers and advocacy groups, could appeal the issuance or denial of a license or the imposition of a condition on a license.

Complaints. The bill would require TDHCA to establish procedures for the submission, investigation, and resolution of complaints of alleged housing violations. It would specify requirements for a standard complaint form and procedures for the submission of complaints, including those made anonymously or by a third party.

The bill would prohibit an operator of a migrant housing facility, an employer of a migrant agricultural worker, or a farm labor contractor from retaliating against a person for filing a complaint or providing information in good faith relating to a possible violation.

Inspections. HB 862 would require TDHCA to notify a license applicant in writing of the reasons the facility did not meet standards during a pre-occupation inspection. The applicant could remedy the deficiency and request a re-inspection not later than the 10th day after the date on which the reasons were given.

Before conducting an inspection of a migrant labor housing facility, an authorized representative of TDHCA would have to give or make a reasonable attempt to give notice to the housing facility providers. After giving notice, an authorized representative of TDHCA would have to inspect a facility on receipt of a complaint, including a report of an unlicensed migrant labor housing facility, and at least once during the probable period the facility was used. The bill would specify what actions an inspector would have to complete related to a complaint.

The department would have to establish an annual quota of proactive inspections of suspected unlicensed or noncompliant migrant labor housing facilities. The quota could not be less than 50 percent of the number of licensed facilities in the preceding state fiscal year.

After an inspection, the inspector would have to submit a report to TDHCA containing information specified in the bill. The report would have to be posted on the department's website with certain personal information redacted.

License suspension, revocation. TDHCA would have to provide for the immediate suspension or revocation of a license for certain violations that constituted threats to the health and safety of persons living in migrant labor housing facilities. The department would have to establish procedures requiring the facility owner or provider to relocate the occupants to another facility that met occupancy standards and was located in the same area as the vacated facility.

Civil penalty. HB 862 would specify that the penalty for violating a provision of the bill or a related rule would be not less than \$50 for each

person occupying the migrant labor housing facility. An action to collect a penalty could be brought by various parties, including a worker who lived in the facility, as specified by the bill. A person against whom a penalty was assessed would be liable for paying the costs and attorney fees of the person who brought the action.

Outreach. TDHCA would have to provide outreach and education about requirements for migrant labor housing as specified in the bill.

The department would have to adopt rules necessary to implement the bill by March 1, 2022.

The bill would take effect September 1, 2021, and would apply only to an administrative or regulatory action taken on or after that date.

NOTES:

The Legislative Budget Board estimates that the bill would have a positive impact of \$35,150 to general revenue through the biennium ending August 31, 2023.