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BILL ANALYSIS

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Senate Bill 134 (Substitute S-3 as passed by the Senate)

Sponsor: Senator Frederick Dillingham

Committee: Human Resources and Senior Citizens

Date Completed: 6-22-89

RATIONALE

In 1987, the Federal government enacted guidelines governing field sanitation facilities, i.e., the number and location of toilet, hand-washing, and drinking water facilities for agricultural workers, who often are migrant farmers. The regulations were considered by many to be necessary to ensure that migrant workers had sufficient access to sanitary facilities to meet basic human needs. There were complaints, however, that the Federal regulations did not go far enough. For example, the regulations apply only to agricultural employers who employ 11 or more workers. Further, some have contended that Federal agencies have not enforced the Federal regulations even on those agricultural operations that are subject to them. To address these issues and other concerns that were raised, the State's Occupational Health Standards Commission drafted rules for field sanitation facilities in Michigan that were more stringent than the Federal regulations and that would have given the State the authority to enforce field hygiene practices. Since, however, the Joint Committee on Administrative Rules reached an impasse on passage of the rules, concurrent resolutions (SCR 79 and HCR 99) to approve the rules were introduced in both houses, as required by law. In the meantime, however, there are no rules establishing State standards for field sanitation facilities and the State currently does not have the power to enforce the Federal regulations. It has been suggested, therefore, that guidelines for field sanitation facilities be established in statute.

CONTENT

The bill would amend the Michigan Occupational Safety and Health Act to require agricultural employers to do the following:

- Provide, at no cost to agricultural employees, drinking water in locations readily accessible to all employees, as well as one toilet facility and one hand-washing facility for each 20 employees or fraction of 20 employees.
- Maintain water, toilet, and washing facilities according to appropriate public health sanitation practices and practices specified in the bill.
- Inform employees of the importance of good hygiene practices.

"Agricultural employer" would mean a person, corporation, association, or other legal entity that employed at least 11 agricultural employees in the production of food, fiber, or other agricultural products including seed, seedlings, plants, or parts of plants. "Agricultural employee" would mean a person paid to work in hand labor operations (e.g., cultivating, planting, harvesting, or packing produce), whether paid on an hourly or piece-rate basis. For hand labor operations involving fewer than 11 persons, the term would apply only to nonfamily members. "Family member" would mean an agricultural employer, his or her spouse, or one or more of the following persons related to the employer or his or her spouse: grandparents, parents, children and

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their spouse and children, siblings and their spouse and children, first and second cousins and their spouse.

Agricultural employers would be required to notify each agricultural employee of the location of the potable water (water that meets the standards for drinking water prescribed in the Safe Drinking Water Act) and the toilet and hand-washing facilities, and allow each employee reasonable opportunities during the workday to use them. The potable water would have to be suitably cool and in sufficient amounts, taking into account the air temperature, humidity, and nature of the work performed, to meet the needs of all agricultural employees, and it would have to be dispensed in single-use drinking cups or by fountains.

Toilet facilities would have to be adequately ventilated, screened, and constructed to ensure privacy, and have doors that could be closed and latched from the inside. Toilet and washing facilities would have to be accessible to agricultural employees and be located not more than one-quarter mile from the field or place of work "except in the case of agricultural employees while engaged in activities or operations performed in conjunction with hand labor operations". Where, due to terrain, it was not feasible to locate facilities as the bill would require, they would have to be located at the point of closest vehicular access. Toilet and washing facilities would not be required for employees who performed field work for three hours or less during the day, including transportation time to and from the field. If the employer employed fewer than 11 workers, he or she would have the option of either complying with the bill's requirements concerning the construction and location of toilet and hand washing facilities or providing the transportation or ensuring that transportation to such facilities was available. Transportation to the facilities could not require longer than five minutes travel time.

Potable water, toilet facilities, and hand-washing facilities would have to be maintained in accordance with appropriate public health sanitation practices, including all of the following:

- Potable water containers would have to be constructed of materials that maintain

water quality, refilled daily or as often as necessary, covered, and regularly cleaned.

- Toilet facilities would have to be operational and maintained in a clean and sanitary condition.
- Hand-washing facilities would have to be refilled with potable water as necessary to ensure an adequate supply and would have to be maintained in a clean and sanitary condition.
- The waste from toilet and washing facilities would have to be disposed of in a manner that would not cause unsanitary conditions.

If there were fewer than 11 employees, the term "potable water" would mean water used by the employer or his or her family and the toilet facility used by the employer and his or her family would be an acceptable facility for purposes of the bill.

Agricultural employers would have to inform each agricultural employee of the importance of all of the following good hygiene practices to minimize exposure in the field to the hazards of heat, communicable diseases, retention of urine, and agrichemical residues:

- Using water and facilities provided for drinking, hand-washing, and elimination.
- Drinking water frequently, especially during hot weather.
- Urinating as frequently as necessary.
- Washing hands both before and after the use of toilet facilities.
- Washing hands before eating and smoking.

Proposed MCL 408.1025-408.1025e

FISCAL IMPACT

The bill would have no fiscal impact on State or local government.

ARGUMENTS

Supporting Argument

By providing much needed standards for field sanitation facilities and promoting good hygiene practices, the bill would help to ensure that field workers had adequate access to safe, clean toilet and drinking water facilities, and to

protect their general health and welfare.

Response: If it is important to provide field workers with safe, sanitary drinking and toilet facilities, then it is important to provide them to all workers, not just those who work on farming operations that employ more than 11 workers as proposed by the bill. Allowing farmers on small operations the option of providing transportation to toilet facilities, or just making transportation available, would simply not be enough to ensure that the workers had adequate access to the facilities. The rules drafted by the Occupational Health Standards Commission would protect the right of all field workers to healthy, hygienic working conditions, and efforts should be made to ensure that those rules are promptly approved, implemented, and enforced.

Supporting Argument:

The bill would put into statute field sanitation standards that were developed at the Federal level after considerable discussion and deliberation by representatives of all the interested parties. The Federal standards take into consideration the right of workers to be employed under safe, sanitary working conditions, the cost to the farmers to provide those conditions, and the need for the State to remain competitive in providing attractive working conditions for laborers and producing agricultural products efficiently and economically. It is unfair and unnecessary to impose on small farmers sanitation standards that simply are too costly for them to implement, particularly considering the relatively small number of workers those rules are likely to affect. The inadvertent effect of implementing such stringent standards as those proposed by the rules could be an even greater exodus of small farmers from farming and an increase in the number of unemployed migrant workers. No one wants to deny workers access to sanitary toilet and drinking facilities; small farmers, however, should be granted some flexibility in deciding how best they can provide those facilities to their workers.

Response: The field sanitation guidelines established in Washington should be considered the minimum acceptable standards, not the definitive standards, for sanitation facilities. There is no reason why a State cannot or should not establish more stringent standards if it feels that they are warranted and consistent with the State's philosophy of

protecting the interests of its citizens and providing a desirable place to live and work. The field sanitation standards proposed by the rules would protect the rights of all field workers and would do so at a minimum cost to the farmers, especially when one considers that satisfied workers are more likely to be productive, cost-efficient workers. The bill would neither protect the rights of all workers nor necessarily result in a cost savings to farmers, even the small farm operators, since they still would have to provide either the facilities or transportation to the facilities, which can be costly and time-consuming.

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.