

ASSEMBLY BILL

No. 1170

Introduced by Assembly Member Alejo

February 27, 2015

An act to add Section 3700.2 to the Labor Code, relating to workers' compensation, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 1170, as introduced, Alejo. Workers' compensation.

Existing law requires every employer, except the state, to secure the payment of workers' compensation as provided by law. Existing law authorizes an employer, pursuant to this provision, to insure against liability in insurers duly authorized to write compensation insurance in the state or to secure from the Director of Industrial Relations a certificate of consent to self-insure.

This bill would exempt agricultural employers, as defined, from the requirement to secure payment of workers' compensation and would create the Pilot Program for the Care of Agricultural Workers. This bill would create the Care of Agricultural Workers Fund, a continuously appropriated fund. This bill would require the Administrative Director of the Department of Industrial Relations to evaluate the amount spent by agricultural employers on workers' compensation and the amount spent on workers' compensation medical coverage. This bill would require that the amount that would otherwise have been spent by agricultural employers on workers' compensation medical coverage be placed in the Care of Agricultural Workers Fund. This bill would require that the fund be used to provide essential health benefits for agricultural workers. This bill would require agricultural employers to deposit additional moneys into the Care of Agricultural Workers Fund, as

determined necessary by the administrative director to provide essential health benefits. This bill would require the administrative director to make a report to the Legislature after the 2nd year of the pilot program and at the completion of the pilot program.

Vote: majority. Appropriation: yes. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 3700.2 is added to the Labor Code, to
2 read:

3 3700.2. (a) (1) “Agricultural employer” means an agricultural
4 employer as defined by subdivision (c) of Section 1140.4.

5 (2) “Agricultural worker” means the employee of an agricultural
6 employer.

7 (3) “Pilot program” means the Care of Agricultural Workers
8 program established by subdivision (b).

9 (b) A pilot program is hereby authorized, for a duration of up
10 to 36 months, under regulations to be developed and implemented
11 by the administrative director. The purpose of the pilot project is
12 to authorize the administrative director to contract with a licensed
13 health care service plan to be the exclusive provider of medical,
14 surgical, and hospital treatment for occupational and
15 nonoccupational injuries and illnesses incurred by agricultural
16 workers. The health care service plan shall provide all
17 occupationally related medical treatment coverage required by this
18 division without any payment by the agricultural workers of
19 deductibles, copayments, or any share of the premium. Employers
20 participating in the pilot program shall make available health plan
21 coverage for their employees’ dependents for the treatment of
22 nonindustrial injuries and illnesses.

23 (c) The Care of Agricultural Workers Fund is hereby created.
24 Notwithstanding Section 13340 of the Government Code, the
25 money in the fund is continuously appropriated to the
26 administrative director to carry out this pilot program.

27 (d) (1) The administrative director shall determine the amount
28 to be deposited into the Care of Agricultural Workers Fund by
29 determining all of the following:

1 (A) The approximate total premiums paid by agricultural
2 employers for all workers' compensation insurance for the
3 2011–12, 2012–13, 2013–14 fiscal years.

4 (B) The amount paid for workers' compensation medical
5 expenses for agricultural workers for the previous three years for
6 the 2011–12, 2012–13, 2013–14 fiscal years.

7 (2) The administrative director shall allocate portions of the
8 amount described in subparagraph (B) of paragraph (1) to each
9 agricultural employer based on factors that fairly reflect the
10 agricultural employer's number of agricultural workers. The
11 agricultural employer shall deposit that amount into the Care of
12 Agricultural Workers Fund.

13 (e) (1) The administrative director shall use moneys in the Care
14 of Agricultural Workers Fund to contract with one licensed health
15 care service plan to be the exclusive provider of medical, surgical,
16 and hospital treatment for occupational and nonoccupational
17 injuries and illnesses incurred by its agricultural workers. The
18 health care service plan shall provide all occupational-related
19 medical treatment coverage required by this division without any
20 payment by the employees of deductibles, copayments, or any
21 share of the premium. Agricultural employers shall make available
22 health plan coverage for their employees' dependents for the
23 treatment of nonindustrial injuries and illnesses. This section does
24 not require an employer to pay for that dependent coverage.

25 (2) The medical care provided shall meet the essential health
26 benefits as described by Article 5 (commencing with Section 1367),
27 of Chapter 2.2 of Division 2 of the Health and Safety Code. The
28 administrative director shall monitor the fund on a continuous
29 basis. If the level of moneys in the fund becomes insufficient to
30 support the pilot program, the administrative director shall
31 determine the amount of money necessary to continue the program
32 and shall allocate that amount among agricultural employers
33 pursuant to paragraph (2) of subdivision (d).

34 (f) This section does not exempt an employer from providing
35 nonmedical workers' compensation benefits.

36 (g) (1) The administrative director shall, at the completion of
37 the second year of the pilot project, and at the completion of the
38 program, prepare a report to be submitted to the Legislature.

1 (2) A report to be submitted pursuant to paragraph (1) shall be
2 submitted in compliance with Section 9795 of the Government
3 Code.

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