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THE WHITE HOUSE

ACTION

WASHINGTON

Last Day - October 29

October 26, 1974

MEMORANDUM FOR: THE PRESIDENT
FROM: KEN COLE
SUBJECT: Enrolled Bill H.R. 13342
Farm Labor Contractor Registration
Act Amendments of 1974

BACKGROUND

This bill would amend the Farm Labor Contractor Registration Act of 1963 by extending coverage, strengthening enforcement mechanisms, and establishing a Federal civil remedy for persons aggrieved by violation of the act. In addition, it contains a rider which would make claims under Labor's "black lung" program subject to the Administrative Procedure Act and upgrades all Labor Department Hearing Examiner positions to Administrative Law Judges at the GS 16 level.

PROVISIONS

The enrolled bill increases the coverage of the 1963 Act by removing present exemptions for crew leaders operating within one state or recruiting less than ten workers. It also increases the Secretary of Labor's responsibility and power of enforcement of the regulations and strengthens the penalty provisions of the Act. The Secretary of Labor is also granted injunction powers where violations have occurred.

Registration requirements of crew leaders are strengthened and requirements for increased insurance on vehicles used in transporting farm workers are mandated.

The personnel rider to H.R. 13342 requires that claims under the "black lung" program will be adjudicated under the provisions of the Administrative Procedure Act and that Labor Department employees hearing these cases be upgraded to GS 16.



DISCUSSION

The Farm Labor Contractor Registration Act of 1963 sought to curtail the many abuses against migrant and seasonal farm laborers by placing certain registration requirements and controls upon them. Although provision was made for penalties to be imposed for violations, enforcement has been extremely difficult because of inadequate statutory authority to deter and correct any abuses. These amendments would greatly improve our efforts to protect the rights of our seasonal migrant workers and the farmers.

However, the rider which was added in the Senate Committee without opportunity for comment by the Executive Branch generates the serious objection to the overall bill despite no opposition to the main provisions and purpose of the bill affecting farm laborers. Black lung claims are in fact already adjudicated by the Department of Labor under the formal provisions of the Administrative Procedure Act and the rider is solely intended to circumvent the Civil Service Commission and upgrade the hearing examiners and make them the same grade regardless of their specific responsibilities and puts people into those positions regardless of their qualifications.

ADDITIONAL COSTS

H.R. 13342 would require an estimated additional \$405,000 for the current fiscal year, rising to \$515,000 in FY 1976.

RECOMMENDATIONS

The Labor Department (Brennan), the Agriculture Department (Campbell), recommend approval.

OMB (Ash), Civil Service Commission (Hampton), Bill Timmons and Domestic Council all recommend disapproval.

Commerce, Justice and the Interstate Commerce Commission either defer to Labor or have no objection, and the Department of Transportation specifically supports those provisions impacting upon registration and insurance for vehicles.



I recommend disapproval of H.R. 13342. A veto message at Tab A strongly supports the farm labor provisions in the bill and emphasizes the inappropriateness and inadvisability of the personnel rider. The message also requests the Congress to return the farm labor amendments to you without delay.

DECISION

_____ Sign

_____ Veto (Veto message at Tab A)

VETOED
10/29/74
(Delivered to the Clerk of the
House of Representatives - Mr. Thompson
5:25 pm 10/29/74)

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

OCT 25 1974

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill H.R. 13342 - Farm Labor Contractor
Registration Act Amendments of 1974
Sponsor - Rep. Ford (D) Michigan and 12 others

Last Day for Action

October 29, 1974 - Tuesday



Purpose

Amends the Farm Labor Contractor Registration Act of 1963 by extending coverage, strengthening enforcement mechanisms, and establishing a Federal civil remedy for persons aggrieved by violations of the Act; contains a rider which would make claims under Labor's "black lung" program subject to the Administrative Procedure Act and upgrade all Labor Department hearing examiner positions to Administrative Law Judges at the GS-16 level.

Agency Recommendations

Office of Management and Budget	Disapproval (Veto message attached)
Civil Service Commission	Disapproval (Veto message attached)
Department of Labor	Approval (Signing statement attached)
Department of Agriculture	Approval
Department of Commerce	Defers to Labor
Department of Justice	Defers to Labor
Administrative Conference of the United States	No objection to Sec. 13
Interstate Commerce Commission	No objection
Department of Transportation	Supports Sec. 5 and 6

Discussion

The Labor Department, in testimony before the House and Senate Committees, expressed support for most of the



amendments to the Farm Labor Contractor Registration Act embodied in H.R. 13342. The rider, which is highly objectionable, was added in the Senate Committee, without opportunity for formal comment by the Executive Branch.

The Farm Labor Contractor Registration Act of 1963 sought to curb widespread abuses against migrant and seasonal farm laborers and the farmers who employ them by requiring that all crew leaders who contract with farmers to provide laborers register with the Secretary of Labor. Registration can be denied if an applicant has been convicted of certain crimes, fails to perform contracts with farm operators, or gives false or misleading information to migrant workers concerning the terms of farm employment. The Act requires all crew leaders to inform each worker at the time of recruitment of specified terms of employment, and post these terms at the worksite. If the crew leader is the paymaster, he is required to keep payroll records and follow tax withholding laws. Violation of any of the requirements can result in the revocation of the certificate or in criminal prosecution, with a fine of up to \$500.

The Act is enforced by compliance officers in the Labor Department's Wage-Hour Division, who check for a certificate of registration or make a detailed investigation when a complaint is received. Violations of the Act have been widespread. Only 2,000 of an estimated 5,000 crew leaders have registered. Enforcement is difficult because of inadequate statutory authority to deter and correct any abuses.

Provisions of the enrolled bill

H.R. 13342 would amend the Act in the following major respects:

(1) Coverage--Removes the present exemptions for crew leaders operating within one State or recruiting less than 10 workers.

(2) Enforcement--Imposes affirmative duties upon the Secretary of Labor to monitor and investigate activities of contractors, and provides him with subpoena powers.

(3) Penalties--Strengthens penalty provisions of the Act by (a) adding a possible one-year prison sentence to the present \$500 fine; (b) adding a new \$10,000 fine,



imprisonment not to exceed three years, or both, for subsequent violations of the Act, and for contractors who knowingly hire illegal aliens; (c) empowering the Secretary to assess a civil penalty for violation of regulations under the Act, subject to judicial review.

(4) Civil relief--Empowers the Secretary of Labor to seek injunctive relief in any U.S. District Court when he determines that a violation of the Act has occurred; allows persons aggrieved by violations of the Act to bring civil suits in U.S. District Courts.

(5) Registration requirements--Adds requirements that crew leaders must (1) post a minimum \$5,000 bond; (2) provide proof that vehicles and housing under the ownership or control of the applicant meet Federal and State health and safety standards.

(6) Insurance--Increases required insurance on vehicles transporting farm workers to that required for other interstate passenger vehicles by the Interstate Commerce Commission.

(7) Other Farm Labor Contractor Registration Act Amendments--The enrolled bill would impose new obligations on registered farm labor contractors, such as more detailed disclosure of employment information--including the existence of a strike--in a language in which the worker is fluent; increased reporting requirements; and the prohibition of retaliation against any migrant worker for the exercise of a right secured under the Act. A grower who uses workers supplied by a crew leader would be required to maintain payroll records, and assure that the crew leader has a valid registration certificate.

Personnel rider--H.R. 13342 would require that the provisions of the Administrative Procedure Act (APA) be followed in the adjudication of claims under the "Black Lung" program and require Labor Department employees who hear these and other claims to be GS-16's. More specifically, Section 17 of H.R. 13342 would:

(1) Require that any hearing held under the authority of the Longshore and Harbor Workers Compensation Act--including amendments or extensions thereto, such as black lung benefits--be conducted by Administrative Law Judges in accordance with the APA, rather than the informal procedures now used. The Senate Committee report on H.R. 13342 states that this amendment will bring proceedings

of the Black Lung Benefits Act of 1972 into conformance with similar proceedings under the Longshoremen's and Harbor Workers' Compensation Act, "which was the original intention of the Congress."

(2) Provide that the hearing officers who are presently employed by Labor to adjudicate claims under the current informal procedures and who are not now subject to competitive hiring, would be deemed to be qualified Administrative Law Judges (ALJ's) without having to be subject to the regular competitive, merit procedures of the civil service.

(3) Make all ALJ positions in the Department of Labor GS-16's, as well as the members of the Benefits Review Board established by the Longshore Amendments of 1972. Present ALJ's and hearing examiners who cannot qualify as GS-16's could remain in these positions at their present grades. Moreover, the Department of Labor could in the future add to its supergrade positions the number it believes necessary for any APA hearings.

Cost--Added costs resulting from approval of H.R. 13342 would be associated with increased enforcement and administration of the Act. The Labor Department estimates these to be \$405,000 for the current fiscal year, rising to \$515,000 in fiscal year 1976.

Agency recommendations

Labor, which endorsed the goals of this legislation in congressional hearings, recommends approval, citing the many areas in which the enrolled bill would strengthen the Act.

Agriculture also recommends approval, stating:

"This legislation may require some short-run adjustments in traditional labor management practices of certain labor users (farmers, processors, etc.)...But, over time the benefits from these Amendments should far outweigh any disadvantages and bring about a greater degree of rationality in agricultural labor management relations. This should ultimately increase production efficiency."



Justice, Commerce, Transportation, the Interstate Commerce Commission, and the Administrative Conference of the United States--either defer to Labor or indicate no objection to enactment.

Civil Service Commission recommends veto on the basis of strong objection to the personnel rider in Section 17 of the enrolled bill. CSC points out that this rider to the bill--which has nothing to do with farm workers--would formalize claims proceedings under an unrelated program which should be conducted in an informal, non-legalistic setting so as not to inhibit the claimant. The result of these changes, in CSC's view, would be to unduly delay decisions to the detriment of claimants who are entitled to speedy and fair resolution of their cases. Moreover, CSC believes that the feature which would classify and pay all of Labor's Administrative Law Judges at the GS-16 level, would be disruptive to the principle of equal pay for equal work by overclassifying these positions relative to hundreds of similar positions in other agencies. CSC also takes strong exception to that part of Section 17 of H.R. 13342 which would authorize Labor any additional supergrade positions (GS-16, 17 and 18) that they would deem necessary for any APA hearings.

* * * * *

We fully share the concern of CSC with regard to the personnel rider in the enrolled bill in principle and in terms of precedents it will establish for hundreds of similar positions in the Social Security Administration and other agencies. We believe the provision is sufficiently objectionable that the bill should be disapproved despite the merits of the provisions amending the Farm Labor Contractor Registration Act.

Accordingly, we have drafted a veto message which indicates that you would approve a "clean" bill directed only toward strengthening that Act.



[Handwritten signature]
Director

Enclosures

To
Harrison
10-25-74
10:10 a.m.

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

OCT 25 1974

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill H.R. 13342 - Farm Labor Contractor
Registration Act Amendments of 1974
Sponsor - Rep. Ford (D) Michigan and 12 others

Last Day for Action

October 29, 1974 - Tuesday

Purpose

Amends the Farm Labor Contractor Registration Act of 1963 by extending coverage, strengthening enforcement mechanisms, and establishing a Federal civil remedy for persons aggrieved by violations of the Act; contains a rider which would make claims under Labor's "black lung" program subject to the Administrative Procedure Act and upgrade all Labor Department hearing examiner positions to Administrative Law Judges at the GS-16 level.

Agency Recommendations

Office of Management and Budget	Disapproval (Veto message attached)
Civil Service Commission	Disapproval (Veto message attached)
Department of Labor	Approval (Signing statement attached)
Department of Agriculture	Approval
Department of Commerce	Defers to Labor
Department of Justice	Defers to Labor
Administrative Conference of the United States	No objection to Sec. 13
Interstate Commerce Commission	No objection
Department of Transportation	Supports Sec. 5 and 6

Discussion

The Labor Department, in testimony before the House and Senate Committees, expressed support for most of the



TO THE HOUSE OF REPRESENTATIVES

We assume that the form of this message including the title and the first paragraph, will be revised to conform with the approach taken in the veto message on H.R. 11541--the National Wildlife Refuge System, dated October 22, 1974.

I am returning today, without my approval, H.R. 13342, The Farm Labor Contractor Registration Act Amendments of 1974. This bill contains provisions designed to strengthen the protections of migrant farm workers under that Act, which I support. I cannot approve the bill, however, because it contains an unrelated rider which creates serious inequities and distortions in the Federal personnel system.

In the decade since the enactment of the Farm Labor Contractor Registration Act of 1963, it has become apparent that the provisions of that law have not been adequate to accomplish its purpose of protecting migrant farm workers from abuses by farm labor contractors. For nearly a year, the Administration has been working with the Congress to develop legislation which would improve the Act, and there has been give and take on all sides. I am pleased with this spirit of cooperation, and endorse those provisions of H.R. 13342 which apply to migrant farm workers.

Unfortunately, the Congress has seen fit to add a rider to this bill, which I cannot accept, totally unrelated to the needs of migrant farm workers.

Section 17 of the bill would, among other things, require that the formal judicial-type proceedings of the Administrative Procedure Act be applied to claim adjudication under the Labor Department's "black lung" benefits program. Such claimants are entitled to and should receive fair and speedy resolution of their cases rather than be inhibited and delayed by the formality inherent in the Administrative Procedure Act. On several occasions I have expressed my concern with the increasing cost of carrying

out Government procedures and regulatory requirements. The rider to this bill is another example of how Government regulations and procedures--rather than expediting the business of the people--can delay resolution of issues and add to costs.

I am also gravely disturbed by another part of Section 17 relating to the hearing officers now employed by the Labor Department to hear and decide "black lung" claims. These employees would by fiat be declared to be Administrative Law Judges without regard to their capacity to fill such positions. Since Administrative Law Judges hired in the usual manner must demonstrate such capacity, this feature would be contrary to all principles of a civil service system based upon merit and competition among candidates.

Finally, I cannot accept the feature of Section 17 which would legislatively classify and pay at the GS-16 level these newly designated Administrative Law Judges for the "black lung" program, as well as those who currently hear claims under the Longshoremen's and Harbor Workers' Compensation Act and the members of the Benefits Review Board established by the Longshore Amendments of 1972. Such a provision would arbitrarily impose a grade level without due regard for the relative complexity and difficulty of the work involved. By over-classifying certain positions, it would be disruptive of the principle of equal pay for equal work. This would create inequities within the Labor Department, and between positions of that agency and those in a number of other agencies, including over 400 GS-15 Administrative Law Judges in the Social Security Administration.

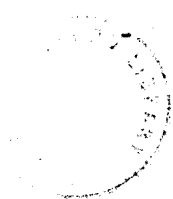
My concern about legislating classifications and pay of special groups of employees was the basis for my disapproving H.R. 5094, which provided for an arbitrary and inequitable reclassification of deputy U.S. marshalls. In my first veto upon assuming the Presidency, I expressed my strong concern about granting preferential pay treatment by statute, and indicated that our policy must be to provide equal salaries for equal work. The rider to H.R. 13342 contains deficiencies similar to those in H.R. 5094.

In summary, I cannot accept a legislative provision which would disrupt sound principles of personnel administration, would create serious pay inequities by providing overly liberal salaries to employees in one agency leading to demands for similar treatment by large numbers of employees in other agencies, and would not effectively serve the public interest.

I urge the Congress, upon its return next month, to send me a bill--which I will promptly approve--without the unacceptable personnel provision I have described, a bill which is directed only toward strengthening the Farm Labor Contractor Registration Act.

THE WHITE HOUSE

October , 1974



ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

2120 L STREET, N.W., SUITE 500
WASHINGTON, D.C. 20037

OFFICE OF
THE CHAIRMAN

October 18, 1974

Mr. W. H. Rommel
Assistant Director
for Legislative Reference
Office of Management and Budget
Washington, D.C. 20503

Dear Mr. Rommel:

This is in response to your request for our comments on enrolled bill H.R. 13342, the Farm Labor Contractor Registration Act Amendments of 1974. In view of our unfamiliarity with the substantive aspects of this legislation, we will limit our comments to sections 13 and 17 of the bill.

Section 13 would amend the Farm Labor Contractor Registration Act of 1963 to provide authority and procedure for administrative imposition of civil penalties. The provision is consistent with Conference Recommendation 72-6, 1 C.F.R. §305.72-6, and closely follows a model civil penalty statute distributed by this office. The only question we might raise is with respect to placing judicial review in the United States District Courts. Where judicial review of agency action is based on the evidentiary record developed in the agency proceeding, it is usually preferable to place review in the United States Courts of Appeals for the reasons set forth in Polcover v. Secretary of the Treasury, 477 F.2d 1223, 1227 (D.C. Cir. 1973). However, review in the district court is by no means rare and may be the better choice in situations where there are unlikely to be many appeals beyond the first level of judicial review. At any rate we have no objection to section 13.

While we are not sure we entirely understand the effect of section 17 of the bill, it would appear to require all administrative law judges in the Department of Labor eventually to be compensated at at least the GS-16 level. This provision, aside from its own merits, may have implications for the classification of the approximately 400 administrative law judges at the Social Security Administration, who are, we understand, nearly all GS-15's. We suggest, therefore, that you consult the Civil Service Commission and the Department of Health, Education and Welfare regarding the desirability of section 17.

Sincerely yours,

Richard K. Berg

Richard K. Berg
Executive Secretary





OFFICE OF THE SECRETARY OF TRANSPORTATION

WASHINGTON, D.C. 20590

OCT 18 1974

Honorable Roy L. Ash
Director
Office of Management and Budget
Washington, D.C. 20503

Dear Mr. Ash:

You have asked for our comments on H.R. 13342, an enrolled bill

"To amend the Farm Labor Contractor Registration Act of 1963 by extending its coverage and effectuating its enforcement."

Of primary concern to this Department are Sections 5 and 6 of the bill which amend Section 5 of the Act. These sections add additional requirements for the issuance by the Secretary of Labor of a certificate of registration to a farm labor contractor applicant. Section 5 of the bill requires among other things, proof that the applicant's vehicles for the transportation of migrant workers conform to applicable Federal and state safety standards. Vehicles' failure to conform would be sufficient grounds for the Secretary to refuse to issue or renew, as well as to suspend or revoke a certificate.

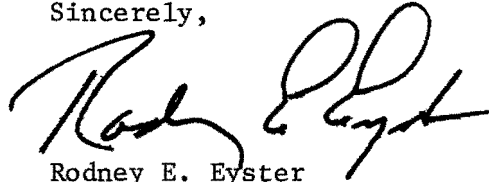
Section 6 of the bill increases the present insurance minimums to require that an applicant would have to obtain insurance in the amounts currently required by the Interstate Commerce Act and regulations promulgated pursuant thereto, for vehicles used in the transportation of passengers in interstate commerce. However, the bill also provides that the Secretary of Labor would have the discretion to issue regulations requiring insurance in lesser amounts if he determines that the insurance coverage required by the Interstate Commerce Commission is not available to such applicants in the same manner and in the same amounts as it is to other common carriers.



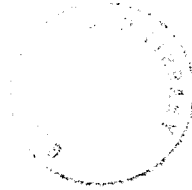
We support the requirements imposed by Sections 5 and 6 of the enrolled bill because they will provide additional transportation safety and insurance protection to migrant workers which was not available before, and on this basis, recommend that the President sign the enrolled bill.

We note that Section 2 of the bill amends Section 3 of the Act to exclude from the definition of "farm labor contractor" any common carrier or any full-time regular employee thereof engaged solely in the transportation of migrant workers. We have no objection to this exclusion since such carriers are already subject to applicable Federal and state safety standards. As to the other provisions in the enrolled bill, we defer to the Department of Labor.

Sincerely,



Rodney E. Eyster
General Counsel





DEPARTMENT OF AGRICULTURE
OFFICE OF THE SECRETARY
WASHINGTON, D. C. 20250

October 21, 1974

Honorable Roy L. Ash
Director, Office of Management
and Budget
Washington, D. C. 20503

Dear Mr. Ash:

In reply to the request of your office, the following report is submitted on the enrolled enactment H. R. 13342, "To amend the Farm Labor Contractor Registration Act of 1963 by extending its coverage and effectuating its enforcement."

This Department recommends that the President approve the bill.

The overall intent of the Amendments is to increase the role and responsibility of the actual user of labor in the employment of both inter and intrastate migrant workers. At the same time it also provides specific measures designed to increase transportation safety and improve the working environment of migrant workers.

The Amendments, by more stringent licensing regulations, will have the effect of reducing the number of registered labor contractors. This bill will cover labor contractors operating completely within one state and removes the previous exclusion of labor contractors recruiting less than ten workers. This should have the greatest impact in California where much migrant labor movement is completely within state lines. The most likely impact on these newly covered contractors will be to induce a change in status from that of an independent labor recruiter and manager of labor to that of a foreman in the employ of the farmer or processor. Family crews appear to be exempt.

The potential for change in status is further strengthened by the requirement that payroll records be kept by the labor contractor and furnished to the final labor user. The final user is also required to maintain these records. These provisions involve the formalization of the intent of recent court decisions that place greater employment responsibility on the user rather than the procurer of labor. Failure to comply may make the user as well as the procurer subject to prosecution under the Act.



Mr. Roy L. Ash

2

This legislation may require some short-run adjustments in traditional labor management practices of certain labor users (farmers, processors, etc.). The greatest impact will be on employers in fruit and vegetable production and processing. But, over time the benefits from these Amendments should far outweigh any disadvantages and bring about a greater degree of rationality in agricultural labor management relations. This should ultimately increase production efficiency.

Sincerely,



J. Phil Campbell
Under Secretary





**GENERAL COUNSEL OF THE
DEPARTMENT OF COMMERCE**
Washington, D.C. 20230

OCT 21 1974

Honorable Roy L. Ash
Director, Office of Management
and Budget
Washington, D. C. 20503

Attention: Assistant Director for Legislative Reference

Dear Mr. Ash:

This is in reply to your request for the views of this Department concerning H. R. 13342, an enrolled enactment

"To amend the Farm Labor Contractor Registration Act of 1963 by extending its coverage and effectuating its enforcement,"

to be cited as the "Farm Labor Contractor Registration Act Amendments of 1974".

While this Department has no objection to H. R. 13342, we would defer to the views of the Department of Labor as to whether the bill should be approved by the President.

Enactment of this legislation would not involve any increase in the budgetary requirement of this Department.

Sincerely,

Karl E. Bakke

General Counsel



Department of Justice
Washington, D.C. 20530

OCT 22 1974

Honorable Roy L. Ash
Director, Office of Management
and Budget
Washington, D.C. 20530

Dear Mr. Ash:

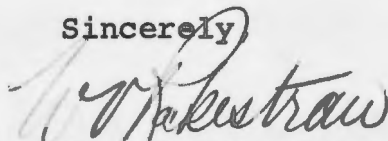
In compliance with your request, I have examined a facsimile of the enrolled bill (H.R. 13342), "To amend the Farm Labor Contractor Registration Act of 1963 by extending its coverage and effectuating its enforcement."

The enrolled bill amends the Farm Labor Contractor Registration Act of 1963, as amended, 7 U.S.C. §§2041 et seq. (the "Act"). This new legislation would extend the coverage of the Act to intrastate, as well as interstate, agricultural employment of migrant workers.

Effectuation of the Act would appear enhanced by the provision of the enrolled bill for increased criminal sanctions and the availability of civil remedies, e.g., temporary or permanent injunctive relief, for violations of the Act or its regulations. Additionally, the bill empowers the Secretary of Labor with subpoena powers to aid in investigating compliance with the Act's requirements.

The Department of Justice defers to the Department of Labor as to whether this bill should receive Executive approval.

Sincerely,



W. Vincent Rakestraw
Assistant Attorney General



RECEIVED
OCT 25 1974
LEGISLATIVE AFFAIRS

Interstate Commerce Commission
Washington, D.C. 20423

OFFICE OF THE GENERAL COUNSEL

October 22, 1974

Mr. W. H. Rommel
Assistant Director
for Legislative Reference
Office of Management and Budget
Washington, DC 20503

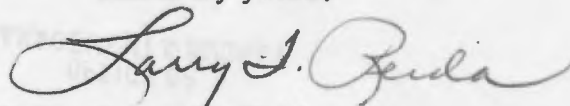
Dear Mr. Rommel:

This is in response to your request for the Commission's comments on H.R. 13342, an enrolled bill "to amend the Farm Labor Contractor Act of 1963 by extending its coverage and effectuating its enforcement." The legislation does not effect the functions, powers, or duties of the Interstate Commerce Commission. The Commission's views on the proposal were not requested by the Congress. Because of the time constraints, this letter has not been cleared with the Commission, but I am confident that they would have no objection to Presidential signature.

I note that there is a provision in the legislation which would exempt from the requirements of the Farm Labor Contractor Registration Act a common carrier engaged solely in the transporting, and not the recruiting, soliciting, hiring, or furnishing of migrant workers. I assume that this provision is included because such carriers are already subject to the safety regulations of the Department of Transportation and the respective states. I believe that where only transportation services are involved, current safety regulations imposed on common carriers afford adequate safeguards.

If I can be of further assistance, please let me know.

Sincerely yours,



Larry T. Reida
Associate General Counsel
for Legislation
by Barbara S. Bannister



U. S. DEPARTMENT OF LABOR
OFFICE OF THE SECRETARY
WASHINGTON

OCT 22 1974

Honorable Roy L. Ash
Director
Office of Management and Budget
Washington, D.C. 20503

Dear Mr. Ash:

This is in response to your request for our views on the enrolled enactment of H.R. 13342, the "Farm Labor Contractor Registration Act Amendments of 1974."

This Department has supported legislation to improve the Farm Labor Contractor Registration Act of 1963. On November 9, 1973 and April 8, 1974, Assistant Secretary DeLury testified before the House and Senate Subcommittees involved, respectively. In both statements, he expressed our basic support for many of the concepts embodied in this legislation. We have also provided technical assistance to the Senate Labor and Public Welfare Committee.

H.R. 13342 would strengthen the Farm Labor Contractor Registration Act in the following five major areas:

First, the Act's coverage would be extended by deleting the present limitation to contractors working interstate and recruiting 10 or more workers at any one time.

Second, H.R. 13342 imposes additional requirements on applicants for certificates of registration. Applicants would be required to obtain increased insurance equivalent to that required under regulations issued pursuant to the Interstate Commerce Act, to provide greater protection to those injured as a result of their operation of motor vehicles. This requirement may be waived by the Secretary of Labor. Applicants would also be required to certify that vehicles and housing under their ownership or control



to be used by migrant workers satisfy all relevant State and Federal health and safety standards. Applicants are further required to consent to substitute service of process on the Secretary of Labor when they are unavailable for service.

Third, the bill imposes a number of new obligations on registered contractors. Disclosure of information about employment required to be given to migrant workers by the contractor is expanded to include the existence of a strike or other work stoppage, and the existence of various special arrangements with merchants. The disclosure provision is also expanded to require written disclosure in a language in which the worker is fluent. Registered contractors must refrain from hiring illegal aliens. They are also required to notify the Secretary of any change of address and certify any new vehicles or housing acquired to be used by migrant workers within 10 days. Further, they must promptly pay to workers all moneys entrusted to the contractor for the benefit of the workers, and refrain from requiring workers to purchase goods exclusively from any person.

Fourth, the remedies for enforcement of the Act would also be expanded. The criminal penalties for violation of the Act are expanded by adding a possible 1-year prison sentence to the present \$500 fine. The bill also provides for a possible 3-year prison term and \$10,000 fine for those convicted of a subsequent violation and for unregistered contractors hiring illegal aliens. The Secretary of Labor would also be given authority to assess administrative civil money penalties against violators of regulations prescribed under the Act. He could additionally obtain injunctive relief, and is given increased investigatory powers. The bill also provides an independent private right to bring civil suits for persons aggrieved by violations of the Act and further provides remedies for those discriminated against for exercising their rights under the Act.

Fifth, growers using workers supplied by farm labor contractors are given increased responsibilities. They are required to maintain all Federal payroll records pertaining



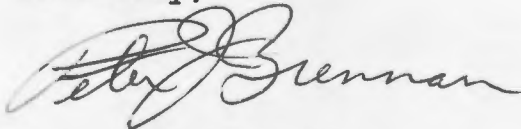
to migrant workers recruited for their benefit. Further, growers would have to observe valid certificates of registration in the possession of contractors before using the contractors. If the growers fail to do so, they would be refused the services of the Federal-State Employment Service for up to 3 years.

In addition, the bill makes certain changes in the Longshoremen's and Harbor Workers' Compensation Act to make it clear that those hearing cases under amendments or extensions of that Act, including those newly hired individuals hearing black lung benefits cases, be hearing examiners. Qualified hearing examiners under existing Department statutes will be paid at the GS-16 level, as would members of the Benefits Review Board.

Certain provisions of this bill do not reflect the views of this Department. Other provisions contain technical difficulties. However, we believe that the bill substantially improves the effectiveness of the Act and affords needed protections for the Nation's migrant workers.

Accordingly, we strongly recommend that the President sign this bill.

Sincerely,



Secretary of Labor



PRESIDENTIAL SIGNING STATEMENT ON H.R. 13342
THE "FARM LABOR CONTRACTOR
REGISTRATION ACT AMENDMENTS OF 1974"

In the decade since the enactment of the "Farm Labor Contractor Registration Act of 1963", it has become apparent that the provisions of the law have not been adequate to accomplish its purpose of protecting migrant farm workers from abuses by farm labor contractors and crew leaders. For nearly a year, the Administration has been working with the Congress to develop legislation to improve the Act, and there has been give and take on all sides. I am pleased that the spirit of cooperation has resulted in legislation greatly strengthening the Act. H.R. 13342, the "Farm Labor Contractor Registration Act Amendments of 1974", is before me today for my signature.

This legislation makes the following improvements in the Act:

-- The Act's coverage is expanded. Under the existing law, a crew leader had to be recruiting migrant workers on an interstate basis, and recruiting 10 or more workers at any one time before being required to register as a farm labor contractor. This bill removes these restrictions to provide protection for many more migrant workers under the Act.

-- Remedies against violators are expanded. The only penalty which could be imposed against crew leaders who violated the present law was a \$500 fine. This has proven to be a relatively ineffective deterrent against violations. This legislation adds a jail sentence of up to 1 year to the present \$500 criminal fine, and a maximum fine of \$10,000 as well as a maximum 3-year jail sentence for subsequent violations of the Act. In addition to the expanded criminal penalties, the Labor Department will now be authorized to seek injunctions and assess administrative civil money penalties. Private individuals will also have the right to bring civil suits, and remedies are provided for those discriminated against for exercising their rights under the Act. The Labor Department is also given increased investigatory authority. These provisions should go a long way toward providing the weapons needed to assure that crew leaders live up to their responsibilities toward the migrant workers they recruit.

-- Crew leaders' responsibilities are increased. Under this legislation, crew leaders will be required to obtain increased vehicle insurance coverage, and provide transportation and housing which satisfies applicable State and Federal health and safety requirements. Crew leaders will be required to make a more complete disclosure to migrant workers they recruit concerning their employment. In addition, the

disclosure will now have to be written, and in a language in which the workers are fluent. These provisions should afford workers additional needed protections and assure them greater information about the work for which they are being recruited.

-- Farmers are given increased responsibilities. Under the present Act, farmers may use unregistered crew leaders. This legislation requires them to observe a valid registration certificate before using crew leaders. This provision will make it more difficult for unregistered crew leaders to operate.

I strongly believe that these and the other amendments to the Farm Labor Contractor Registration Act should go a long way toward improving the working conditions of our Nation's migrant farm workers. I therefore am pleased today to sign into law the "Farm Labor Contractor Registration Act Amendments of 1974."



UNITED STATES CIVIL SERVICE COMMISSION

IN REPLY PLEASE REFER TO

WASHINGTON, D.C. 20415

October 22, 1974

YOUR REFERENCE

Honorable Roy L. Ash
Director
Office of Management and Budget

Attention: Assistant Director for
Legislative Reference

Dear Mr. Ash:

This is in response to your request for the Commission's views and recommendations on Enrolled Bill H.R. 13342, an Enrolled Bill "to amend the Farm Labor Contractor Registration Act of 1963 by extending its coverage and effectuating its enforcement".

This measure, dealing generally with migrant agricultural labor, proposes to remedy deficiencies in the Farm Labor Contractor Registration Act of 1963 by including intrastate as well as interstate transactions, requiring the posting of security bonds by applicants and the issuance of certificates of registration to applicants, and it creates a Federal civil remedy for persons aggrieved by violations of the Act. In an unrelated area it also proposes to formalize the hearing of claims for certain benefits and it deals with classification of the personnel who are to preside over these proceedings. Apart from the provisions of the legislation dealing with migrant agricultural labor, the personnel provision of the measure would seriously affect the Commission's authority and responsibility under Sections 3105 and 5108 of Title 5, United States Code, in connection with the appointment of personnel and classification of positions under the Administrative Procedure Act. Because of the adverse effects of the measure on the program conducted by the Commission under the Administrative Procedure Act, the Commission opposes this measure and urges that it be disapproved. The bill:

- Would subvert competitive merit principles in the appointment of Administrative Law Judges;
- is contrary to the fundamental principles of position classification and pay administration in that it will result in significant overpayment of personnel in one agency and lead to unwarranted demands for similar overly liberal salaries by large numbers of employees in other Federal agencies;
- would thwart the concept of equal pay for equal work; and
- would over-judicialize claims proceedings and thereby unduly delay decisions to the detriment of claimants who are entitled to speedy and fair resolution of their cases.

On March 7, 1974, the Commission, after considering a request by the Department of Labor, determined that the provisions of Public Law 92-303 and Public Law 92-576 did not require the use of APA Administrative Law Judges for the adjudication of claims for Black Lung benefits. After this determination the Department of Labor appointed several attorneys as hearing officers for the resolution of these claims on an informal basis. Section 17(a) of H.R. 13342 proposes to make the adjudication of Black Lung cases subject to the provisions of the Administrative Procedure Act and further provides that the hearing officers previously appointed by the Department for these cases shall be "deemed" qualified Administrative Law Judges until such time as they vacate their positions. Neither of these proposals is in the public interest. The nature of the Black Lung claim best lends itself to resolution in an informal setting where the claimant is not inhibited by technical legal procedures or the judicialization inherent in the provisions of the Administrative Procedure Act. Further, the provision for grandfathering the hearing officers previously appointed by the Department as Administrative Law Judges for these cases would not be consonant with the provisions of Section 3105 of Title 5, United States Code, which requires the appointment of Administrative Law Judges on a competitive, merit basis.

Approximately one-half of the personnel currently occupying Administrative Law Judge positions in the Department of Labor hear and decide Longshoremen claims and are classified at the GS-15 grade level. H.R. 13342 provides GS-16 for these Administrative Law Judges and further provides that the GS-15 Administrative Law Judges unable to qualify at the higher level will continue in their positions at GS-15. This provision is wholly inconsistent with the provisions of the Administrative Procedure Act, now codified in Section 5362 of Title 5, United States Code, and is violative of the concept of equal pay for equal work. The establishment of a principle that an occupational group can be upgraded by preferential legislation with no regard for the difficulty, complexity and importance of their work is totally inconsistent with the concepts of proper pay administration, violates the concept of equal pay for equal work and it is a wedge leading to dismantling of the whole position classification system. The provisions of H.R. 13342 would place Administrative Law Judges adjudicating significantly different classes of cases in the same grade level.

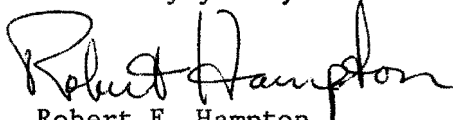
The legislation also authorizes the Department any additional supergrade positions deemed to be necessary for any Administrative Procedure Act hearings and to which its own GS-15 Administrative Law Judges who are qualified may be appointed. Furthermore, the members of its Benefits Review Board shall be placed in positions not less than grade GS-16. While the appointment by the Department of its own GS-15 Administrative Law Judges to the newly authorized GS-16 positions could be effected on

a non-competitive basis, it is not consistent with the concept of the selection of the best qualified individuals from the competitive registers maintained by the Commission on the basis of the provisions of Section 3105 of Title 5, United States Code. Furthermore, as indicated above, the legislative classification of the Board of Review positions is proposed without regard to the difficulty, responsibility and complexity of the work involved; and the legislative classification of these positions and the Administrative Law Judge positions could have a serious "domino" effect with regard to hundreds of similar positions existing in a number of other Federal agencies.

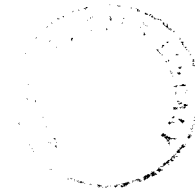
The proposal to remedy specific deficiencies in the Farm Labor Contractor Registration Act would not be objected to if the personnel provisions contained in Section 17 were eliminated. However, in view of the serious adverse effects of the personnel provisions of the Enrolled Bill on merit, competitive principles, the over-judicialization of proceedings which should be conducted in an informal, non-legalistic setting and the severe distortion of the principle of equal pay for equal work, the Civil Service Commission urges that the President disapprove H.R. 13342. A proposed veto message is enclosed.

By direction of the Commission:

Sincerely yours,


Robert E. Hampton
Chairman

Enclosure



TO THE HOUSE OF REPRESENTATIVES

I am returning to the Congress without my approval H.R. 13342, an enactment "To amend the Farm Labor Contractor Registration Act of 1963 by extending its coverage and effectuating its enforcement".

While I am sympathetic to the underlying purposes of this bill as it relates to migrant workers, the enactment of certain personnel provisions, totally unrelated to the basic bill, would disrupt sound principles of personnel administration, would create serious pay inequities by providing overly liberal salaries to employees in one agency thereby leading to demands for similar treatment by large numbers of employees in other agencies, and would not effectively serve the interests of certain of our citizens. Provisions in the bill having nothing to do with farm workers, would over-judicialize proceedings involving claimants of another kind who are entitled to and should receive fair and speedy resolution of their cases rather than the formality and delay inherent in the Administrative Procedure Act. The unrelated provisions would also be disruptive of the principle of equal pay for equal work by over-classifying certain positions in the Executive Branch without due regard for the complexity and difficulty of the work involved in those positions, thereby creating inequities within the agency where those positions are located and between positions of that agency and positions in a number of other agencies. In addition, the special status conferred on a small group of employees by the personnel provisions in the bill would not be consistent with time-honored competitive merit principles by which scores of others have been and now are appointed to positions under the Administrative Procedure Act.

Our concerns must be directed to furthering competitive merit principles, correcting in every way possible imbalances that adversely affect our economy and eliminating the delays that we are finding in the administrative agencies.

Accordingly, I must disapprove enactment of H.R. 13342 because of the serious adverse effects of its personnel provisions.

THE WHITE HOUSE

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.: 715

Date: October 25, 1974

Time: 11E30

FOR ACTION: Michael Duval
 Geoff Shepard
 Phil Buchen
 ✓ Bill Timmons
 Paul Theis

cc (for information): Warren K. Hendriks
 Jerry Jones

FROM THE STAFF SECRETARY

DUE: Date: Today, October 25, 1974

Time: 4:00 p.m.

SUBJECT: Enrolled Bill H.R. 13342 - Farm Labor Contractor
 Registration Act Amendments of 1974

ACTION REQUESTED:

 For Necessary Action For Your Recommendations Prepare Agenda and Brief Draft Reply For Your Comments Draft Remarks

REMARKS:

Please return to Kathy Tindle - West Wing



PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

 K. R. COLE, JR.
 For the President

THE WHITE HOUSE

WASHINGTON

October 25, 1974

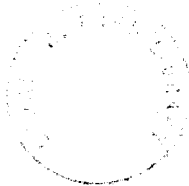
MEMORANDUM FOR: MR. WARREN HENDRIKS

FROM: WILLIAM E. TIMMONS *WT*

SUBJECT: Action Memorandum - Log No. 715
Enrolled Bill H. R. 13342 - Farm Labor
Contractor Registration Act Amendments
of 1974

The Office of Legislative Affairs concurs in the attached proposal and has no additional recommendations.

Attachment



THE WHITE HOUSE

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WASHINGTON

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Date: October 25, 1974

Time: 11:30

FOR ACTION: Michael Duval
Geoff Shepard
Phil Buchen
✓ Bill Timmons
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Time: 4:00 p.m.

SUBJECT: Enrolled Bill H.R. 13342 - Farm Labor Contractor
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ACTION REQUESTED:

..... For Necessary Action

For Your Recommendations

..... Prepare Agenda and Brief

..... Draft Reply

..... For Your Comments

..... Draft Remarks

REMARKS:

Please return to Kathy Tindle - West Wing

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Warren K. Hendriks
For the President

Date: October 25, 1974

Time: 11:30

FOR ACTION: Michael Duval
Geoff Shepard
Phil Buchen
Bill Timmons
Paul Theis

cc (for information): Warren K. Hendriks
Jerry Jones

Careman

FROM THE STAFF SECRETARY

DUE: Date: Today, October 25, 1974

Time: 4:00 p.m.

SUBJECT: Enrolled Bill H.R. 13342 - Farm Labor Contractor
Registration Act Amendments of 1974

ACTION REQUESTED:

___ For Necessary Action

XX For Your Recommendations

___ Prepare Agenda and Brief

___ Draft Reply

___ For Your Comments

___ Draft Remarks

REMARKS:

Please return to Kathy Tindle - West Wing

I'm checking on "black lung" Q re: coal strike; otherwise, defer to Careman/Duval



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Warren K. Hendriks
For the President

THE WHITE HOUSE

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WASHINGTON

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REMARKS:

Please return to Kathy Tindle - West Wing

*Farm signing. Upgrading. The hearing standards in black
 D.C. being cases should be regarded as an
 advantage. CSC and OMB views are
 not persuasive in view of Labor's position.*

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a
 delay in submitting the required material, please
 telephone the Staff Secretary immediately.

Warren K. Hendriks
 For the President

