

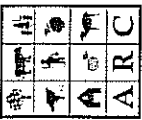
March 2, 2010

RE: ARC Annual Report to SJCC

Enclosed, you will find the following documents:

- 1) 2010 ARC Work Plan.
- 2) Copy of SSB 6349, establishing a pilot program for interns on small farms in SJC and Skagit County.
- 3) Documents regarding recommendations to SJCC and SJCCDPD on changes to UDC Chapter 18, specifically regarding sales on Agricultural Resource Lands.

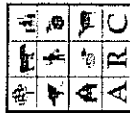
Action: ARC requests that SJCC take action to prioritize adoption of proposed changes to Chapter 18.20.10 "A" Definitions; 18.20.180 "R" Definitions; 18.30.040 Land use table- Rural, resource, and special land use districts.



Agricultural
Resources
Committee
of San Juan County

2010 Work Plan

Program	Project (by priority)	Description	Lead	Partners	Status
Strategic Planning	SJC Agricultural Strategic Action Plan	Draft five year strategic action plan for recovery & expansion of agricultural enterprises in SJC; coordinate input & review from agencies, organizations & key stakeholders	ARC	EDC, SJICD, WSU, AG Guild, SJCLB & others	Funding req'd
	Permanent Farmer's Market	Continue to work with SJC AG Guild to support establishment of permanent farmer's market	ARC	EDC, SJC AG Guild, NABC	
	Island Certified Local (ICL) Program	Develop & expand ICL Program to promote markets for SJC agricultural products; coordinate with NABC & EDC to improve visibility of program & member benefits	ARC	EDC, NABC, WSU	Funding req'd
	Agritourism	Develop & promote farm-friendly tourism in SJC, tapping into national tourism movement with focus on farms & culinary opportunities	ARC	EDC, WSU, SJCVB, SJC CoC	
	Agricultural Guide	Develop county-wide guide of SJC farms & agricultural businesses; seek funding to develop & publish guide; support development & distribution of island-specific guides	ARC	EDC, WSU, LCLT, NABC	Funding req'd
Farmland protection	Farm to School Programs	Coordinate meeting with SJC Farm to School Programs to promote collaboration and increase use of local farm products	ARC	WSU, LIFE, FEAST, SJI	
	No Net Loss of Farmland	Recommend resolution to SJCC regarding No Net Loss of Farmland	ARC		
	Property tax incentives	Coordinate with SJCC to promote property tax incentives for farmland; coordinate with SJC Assessor to assist landowners interested in agricultural open space programs	ARC	EDC, SJICD	
	Program connecting farmers to farmland	Develop & promote program to help farmers lease farmland, and public and private farmland owners to find farmers seeking land to lease; assist with lease agreements and selection of farmers; provide resource material such as model leases	ARC	SJICD, SJPT, SJCLB, Port	
Regulations & policies	Farm Labor	Advance policies that support farm labor; coordinate with SJCC to implement legislation establishing pilot intern programs on small farms in SJC	ARC	EDC, SJCC	
	Land-use policies	Support & recommend policies that protect farm resources and business	ARC	EDC, SJICD, WSU	
	Farm businesses	Support amendments to UDC & comprehensive plan to support appropriate businesses on agricultural lands	ARC	EDC	
	Regulatory assistance	Assist farmers to interpret regulations; coordinate meetings with appropriate agency staff; seek resolution of conflicts; advocate legislative solutions as appropriate	ARC	EDC	



Agricultural Resources Committee of San Juan County

2010 Work Plan

Program	Project (by priority)	Description	Lead	Partners	Status
Administration	Annual report	Summarize activities & accomplishments of ARC for SJCC & public.	ARC		
	Annual work plan	Define ARC work priorities & objectives.	ARC	EDC	
	Annual budget	Prepare annual budget for ARC operations & programs.	ARC	EDC	
	Communication & outreach	Provide regular communication & outreach to keep SJCC & public informed of ARC issues & priorities; prepare annual newsletter for direct mail & distribution at SJCC Fair; maintain & update ARC website.	ARC	EDC	Funding req'd
	Coordination & collaboration	Coordinate ARC meetings; recruit new members; coordinate & collaborate with partner organizations.	ARC	EDC, WSU, SJCCD,	

Mission: The mission of San Juan County Agricultural Resources Committee is to protect and restore the agricultural resources of San Juan County.

HOUSE BILL REPORT

SSB 6349

As Reported by House Committee On:
Commerce & Labor

Title: An act relating to a farm internship program.

Brief Description: Establishing a farm internship program.

Sponsors: Senate Committee on Labor, Commerce & Consumer Protection (originally sponsored by Senators Ranker, Holmquist, Haugen, Hobbs, Becker, Shin and Roach).

Brief History:

Committee Activity:

Commerce & Labor: 2/19/10, 2/23/10 [DPA].

**Brief Summary of Substitute Bill
(As Amended by House)**

- Requires the Department of Labor and Industries (Department) to establish a farm internship pilot project in San Juan and Skagit Counties.
- Sets standards for farm internship programs.
- Exempts services of farm interns from the Minimum Wage Act and from covered employment for purposes of unemployment insurance.
- Requires the Department to report to the Legislature by December 31, 2011.

HOUSE COMMITTEE ON COMMERCE & LABOR

Majority Report: Do pass as amended. Signed by 8 members: Representatives Conway, Chair; Wood, Vice Chair; Condotta, Ranking Minority Member; Chandler, Crouse, Green, Moeller and Williams.

Staff: Joan Elgee (786-7106).

Background:

Several laws address the obligation of an employer to persons working for the employer. These include the Minimum Wage Act (MWA), the Industrial Insurance Act, the

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Employment Security Act, and the Industrial Welfare Act (IWA). Exemptions apply to all of these laws.

Minimum Wage Act.

The MWA establishes a minimum wage which must be paid to all employees, unless exempt. Exempt employees include certain agricultural employees and volunteers for educational, charitable, religious, governmental, and nonprofit organizations. In addition, the Director of the Department of Labor and Industries may, to prevent curtailment of opportunities for employment, provide for the employment of learners under special certificates allowing wages lower than the minimum wage.

Industrial Insurance Act.

Industrial insurance provides medical and time-loss benefits to covered workers injured in the course of employment. Coverage is mandatory unless an exemption applies. Exemptions include certain persons working around the employer's private home, certain corporate officers, and a child between the ages of 18 - 20 years of age working in agricultural activities on the family farm. Employers must either insure through the state fund, or may self insure if qualified.

Employment Security Act.

Qualified individuals who become unemployed are entitled to unemployment benefits. Benefits are funded by contributions collected from most employers in the state. Exemptions include certain agriculture labor performed by students.

Industrial Welfare Act.

The IWA regulates hours and conditions of labor, and wages not covered by the MWA. The IWA also covers minor work permits, the family care law, and other matters. The provisions of the IWA relating to hours and conditions of labor and wages do not apply to certain agricultural labor by students.

Summary of Amended Bill:

Farm Internships.

The Department of Labor and Industries (Department) must establish a farm internship project in San Juan and Skagit Counties until December 1, 2011. Under the pilot project, the Department issues special certificates to small farms to employ farm interns at wages, if any, and subject to time, number, proportion, and length of service limits as specified by the Department. A "farm intern" is an individual who provides services to a small farm under a written agreement and primarily as a means of learning about farming practices and farm enterprises. A "small farm" has annual sales under \$250,000.

Farms must submit an application to the Department. The application must set forth:

- the name of the farm and a description of the activities of the farm;
- the type of work to be performed by a farm intern;
- a description of the internship program;
- the period of time for a certificate and the duration of an internship;

- wages, if any, that will be paid;
- any room and board, stipends, and other remuneration;
- the total number of interns sought; and
- the total number of workers employed on the farm.

The Department must issue a special certificate within 15 days if it finds that:

- the farm qualifies as a small farm;
- the farm has had no serious violations of the Minimum Wage Act or the Industrial Insurance Act that provide reasonable grounds to believe the terms of an agreement may not be complied with;
- the issuance of a certificate will not create unfair competitive cost advantages, or impair or depress wage or working standards for experienced farm workers;
- a farm intern will not displace an experienced worker; and
- the interns will perform work under an internship program that is designed to teach farm interns about farming practices and farm enterprises, is based on the bona fide curriculum of an educational or vocational institution, and is reasonably designed to provide the intern with knowledge and skills about farming practices and enterprises. The Department may consult with relevant college and university departments and programs, and state and local government agencies.

A special certificate issued by the Department must state the terms and conditions of the certificate, including the authorized wage rate, if any, the duration of an internship, and other specified matters. A farm may employ no more than three interns per year. A farm intern may be paid at wages specified in the certificate only during the effective period of the certificate and for the duration of the internship.

Procedures are set forth for a farm to appeal if the Department denies an application for a special certificate.

The Department may revoke a special certificate if a farm fails to comply with the Industrial Welfare Act or pay workers' compensation premiums for intern or non-intern work hours. The farm is required to sign a statement indicating that the farm understands these requirements.

A farm and farm intern must sign a written agreement which describes the internship program offered; explicitly states that the intern is not entitled to the minimum wage; describes the mutual responsibilities, expectations, and obligations, including the number of hours per week; describes the activities of the farm and the work the intern will perform; and describes any wages, room and board, stipends, and other remunerations.

The Department must report to the appropriate committees of the Legislature by December 31, 2011, on various matters relating to the pilot project, including the:

- number of farm interns;
- nature of the educational activities provided to farm interns;
- wages and other remuneration paid to farm interns;
- number of and type of workers' compensation claims for farm interns; and
- employment of farm interns following farm internships.

Minimum Wage Act.

A farm intern providing services to a farm that has a special certificate is not an employee for purposes of the Minimum Wage Act.

Industrial Insurance Act.

The Department must provide a special risk class or classes for farm interns by rule. The rules must include any requirements for a small farm to obtain a special risk class.

Employment Security Act.

Agricultural labor provided by a farm intern under an internship program is not considered covered employment for unemployment insurance purposes. Agricultural labor includes direct local sales of an agricultural or horticultural commodity after its delivery to a terminal market.

Other.

The provisions expire December 31, 2011.

Amended Bill Compared to Substitute Bill:

The amended bill does the following:

- changes the authorization to a pilot project;
- limits the number of interns a farm may have to three per year;
- adds the requirement that a farm intern will not displace an experienced worker;
- removes the exemption from the wages, hours, and working conditions provisions of the Industrial Welfare Act;
- adds the requirement that an internship program be based on the bona fide curriculum of an educational or vocational institution;
- adds provisions for revocation of special certificates and a farm's acknowledgement of circumstances under which a certificate may be revoked;
- eliminates rule-making authority except with respect to the special industrial insurance risk class or classes;
- provides that the Department of Labor and Industries (Department) may consult with colleges, as well as university departments and extension programs;
- adds the requirement for a report to the appropriate committees of the Legislature;
- makes clarifying changes including specifying that the wages are those authorized by the Department, providing that the intern may be paid the wage specified in the certificate only during the internship, and clarifying the Minimum Wage Act exemption language;
- makes technical changes such as correcting grammatical errors; and
- provides an expiration date of December 31, 2011.

Appropriation: None.

Fiscal Note: Available on substitute bill. New fiscal note requested on February 23, 2010.

Effective Date of Amended Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) Farms have used interns for years. Interns are college-age students who want to get their hands dirty. The average age of a farmer in Washington is 57 years old and a way is needed to pass on knowledge to the next generation. If these people were employees, a farmer would have to hire someone to manage employee standards. This bill provides a structure for agricultural education with oversight from the Department of Labor and Industries (Department). The United States Department of Agriculture's definition of a "small farm" is used. This bill has significant support from farms and from interns. Some farmers were told by the Department that interns were employees and sought legislation. Without this bill, the state will lose the ability to have farm interns.

(Available for questions) Available for questions.

(Opposed) None.

Persons Testifying: (In support) Senator Ranker, prime sponsor; Scott Dilley, Washington Farm Bureau; and Sue Lani Madsen.

(Available for questions) Vickie Kennedy and Suchi Sharma, Department of Labor and Industries.

Persons Signed In To Testify But Not Testifying: None.

March 2, 2010

TO: Members of SJC Council

FROM: Peggy Bill, ARC Coordinator

RE: Summary of Farm Stand issue on Agricultural Resource Lands

Action requested: ARC is requesting SJCC to take action to prioritize approval of recommended changes to Chapter 18 of the UDC and Comprehensive Plan to allow farm stands and farm stores on agricultural resource lands. The proposed changes are currently ranked #16 in Prioritized Planning Tasks adopted by SJCC on January 20, 2010.

Please note that "Agricultural Activities" as defined in Chapter 18.20.10, currently allows "sales".

"Agricultural activities" means land preparation for agricultural purposes, such as clearing, grading, contouring, ditching, fencing, plowing, tilling, planting, cultivating, fertilizing, weed pest and disease control, spraying, pruning, trimming, harvesting, processing, packing, **sales** and construction of farm and stock ponds, irrigation ditches and systems; livestock management, such as breeding, birthing, feeding and care of animals, birds, honeybees, and fish; the repair and maintenance of equipment, structures, and machinery used to perform agricultural or husbandry operations; and the storage of agricultural products and machinery."

Current Issue: Recent actions taken by SJC CDPD regarding the Farm Stand owned by Jones Family Farms on Agricultural Resource Lands on Lopez Island has prompted ARC's request for action. CDPD has informed Jones Family Farms that a Discretionary Use Permit will be required to allow them to operate their Farm Stand. The Jones Family was operating with the understanding that this issue had been resolved with adoption of UDC and Comprehensive Plan changes, as recommended by ARC in 2007.

History: In the fall of 2006, the San Juan County Agricultural Resources Committee (ARC) undertook a review and analysis of the regulatory provisions applied to Farm Stands in the County because of permitting issues faced by Synergy Farm in its operation of a "Farm Store" on San Juan Island. In addressing this issue, the ARC reviewed the current applicable UDC land use requirements, County Board of Health requirements,

and fire-inspection fee structure as they appear to relate to “Farm Stands and “Farm Stores.”

On **March 27, 2007**, the full ARC membership approved a recommendation to SJC CDPD and SJCC regarding changes to Chapter 18 of the UDC to allow farm stands and farm stores on agricultural Resource Lands. In the **fall of 2008**, SJCC reviewed and approved the recommendation. It was noted that the recommendation did not meet the requirements for proposed changes to UDC and Comprehensive Plan. The necessary changes were subsequently completed. SJC Health Dept. and Fire Dept. have already incorporated recommended changes in their requirements for Farm Stands and Farm Stores.

Attachment:

- Recommendations to SJCC from ARC, dated March 27, 2007

Recommendations to San Juan County Council and the
Community Development and Planning Department
on Changes/Additions to the UDC Chapter 18

Agricultural Resources Committee of San Juan County
March 27, 2007

Listed below are proposed changes to San Juan County Unified Development Code (UDC) (Title 18 SJCC) Chapter 18 as recommended by the Agricultural Resources Committee (ARC). The proposed changes are listed in underline/strikeout format.

The ARC is proposing the changes below for the following reasons: to clarify the definitions of retail and wholesale sales of agricultural products; to clarify the land use definitions provided for visitor serving facilities by replacing the current definition; and to clarify the land use designations where upon retail sales and agritourism activities and visitor serving facilities can occur.

The ARC recommends to the San Juan County Council and the Community Planning and Development Department (CDP) that the changes/additions below be incorporated onto the CDP's yearly docket to review/update the UDC.

Change/Add to San Juan County UDC Chapter 18.20 Definitions as follows:

18.20.10 "A" Definitions

"Agricultural activities" means land preparation for agricultural purposes, such as clearing, grading, contouring, ditching, fencing, plowing, tilling, planting, cultivating, fertilizing, weed pest and disease control, spraying, pruning, trimming, harvesting, processing, packing, sales (retail and wholesale), and construction of farm and stock ponds, irrigation ditches and systems; livestock management, such as breeding, birthing, feeding and care of animals, birds, honey bees, and fish; the repair and maintenance of equipment, structures, and machinery used to perform agricultural or husbandry operations; the storage of farm raised and produced agricultural products and machinery. Retail sales shall include agricultural products grown and raised on the farm, and processed on or off the farm. Retail sales can include fresh fruits and vegetables grown within San Juan County, accessory to the sale of farm raised products.

"Agritourism Activities and Visitor Serving Facilities" means on-going recreational activities and serving facilities that are directly dependent upon the agricultural activities of the farm. Facilities for agritourist activities and visitor serving facilities shall be located, designed and operated so as not to interfere with the agricultural uses and shall be accessory to growing of crops or raising of animals on site.

18.20.180 "R" Definitions

“Retail Sales of Agricultural Products” means the sales of agricultural products from one of more producers, products derived from regional agricultural production, products processed on or off site, including locally produced art and arts and crafts and items supporting agricultural activities, cottage enterprises that facilitate and sustain on-farm agricultural operations and production. Facilities for retail sales, storage, refrigeration, and processing shall be located, designed and operated so as not to interfere with agricultural uses and shall be accessory to the growing of crops or raising of animals on-site. Commercial accessory uses may operate out of existing or new buildings with parking and other supportive uses consistent with the size and scale of existing agricultural buildings on the site but shall not otherwise convert agricultural land to nonagricultural uses.

Change/Add to San Juan County UDC Chapter 18.30.040 Land use table – Rural, resource, and special land use districts:

Table 3.2. Allowable and Prohibited Uses in Rural, Resource, and Special Land Use Districts(1, 2, 3, 4, 5)

	RGU	RR	RFF	RI	RC	AG	FOR	C	N
Agricultural and Forestry Uses									
Agricultural processing, retail, and visitor-serving facilities for products <u>Agritourist activities and visitor serving facilities</u>	D	No	D	D	D	D(20)	D	No	No
Agricultural uses and activities	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No
Forest practices(14), no processing	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No
Lumber mills, portable	Yes	Yes	Yes	Yes	Yes	Yes	Yes	D	No
Nurseries	Yes	No	Yes	Yes	Yes	Yes	Yes	No	No
Retail sales of agricultural products	Yes	No	Yes	Yes	Yes	Prov(20) <u>Yes</u>	Prov <u>Yes</u>	No	No
Small-scale slaughterhouses	Prov	No	Prov	Yes	Yes	Prov	Prov	No	No
Unnamed agricultural and forestry uses	C	C	C	C	C	C	C	No	No

Adopted unanimously by formal motion of the ARC on March 27, 2007.

Ron Zee, ARC Chair