SENATE ECONOMIC GROWTH COMMITTEE

STATEMENT TO

SENATE, No. 2602

with committee amendments

STATE OF NEW JERSEY

DATED: JULY 23, 2020

The Senate Economic Growth Committee reports favorably and with committee amendments Senate Bill No. 2602.

As amended and reported, this bill, designated as the "Farm Worker Epidemic Health and Safety Act," directs the Commissioner of Health (commissioner), as part of commissioner's responsibility to protect the health of the public by regulating the detection, prevention, and control of communicable, infectious and preventable diseases, to utilize the commissioner's powers during a public health emergency or state of emergency related to epidemic or pandemic disease to do the following with respect to "farm workers" and "farm employers", as those terms are defined in the bill:

1) Designate farm workers as being among the groups with the highest priority for testing for communicable disease during the emergency, and conduct or require the testing of all of those workers in their workplace, or in farm employer-sponsored or farm employer-authorized housing facilities, upon the commencement of their employment, and repeat as frequently as the commissioner deems appropriate, and, in a timely manner, make the testing results of the testing public and provide them to local boards of health and to the farm employers as permitted under the federal "Health Insurance Portability and Accountability Act of 1996" (HIPAA) and farm employers who will be required to notify any employee who might have come in contact with or been exposed to a person who tests positive for a pandemic disease consistent with the confidentiality requirements of the federal "Americans with Disabilities Act of 1990" (ADA) and any other applicable laws;

2) Conduct, or have other entities conduct, inspections of each worksite and facility, and of employer records, to determine whether each farm employer is meeting all standards, guidelines and guidances required by law or issued by the commissioner or other authority declaring the emergency, which include that the farm employer: cooperates fully in permitting access to the worksites, facilities, and records for the inspections and educational activities; implements, and provides necessary supplies for, good hygiene and infection control practices; does not direct farm workers to work when sick, and has exposed, infected or symptomatic farm workers quarantined or

separated as directed by public health officials; implements policies to promote social distancing at worksites and in farm employer-sponsored or farm employer-authorized housing, transportation, and dining facilities; and provides farm workers with recommended personal protective equipment; and

3) Collaborate with the Commissioners of Labor and Workforce Development, Community Affairs, and Environmental Protection, and the Secretary of Agriculture to develop a comprehensive program of publicity and education, including on-site training, to ensure that all farm employers and farm workers are informed about their rights and responsibilities under the bill and other public health, environmental, or labor laws applicable to farm employment.

The bill directs the commissioner to collaborate during the emergency with the Commissioners of Labor and Workforce Development, Community Affairs, and Environmental Protection, and the Secretary of Agriculture to establish a system to ensure that those departments, on a timely basis, share with each other information regarding violations of public health, environmental, or labor laws applicable to worksites at farms, migrant labor camps, and other housing, transportation or dining facilities of farm employers, including the information from local boards of health and other entities authorized to assist department inspection or enforcement efforts. The commissioners are directed to maximize coordination of enforcement efforts when conducting inspections, making determinations regarding violations, and imposing penalties.

As an alternative to or in addition to any other sanctions provided by law, the bill provides that, when the commissioner finds that a farm employer has taken any retaliatory action against farm worker for exercising rights provided by the provisions of the bill, or has willfully violated any other provisions of the bill, or any procedures contained therein, the commissioner is authorized to take an action to assess and collect an administrative fine of up to a maximum of $250 for a first violation and up to a maximum of $500 for each subsequent violation, specified in a schedule of penalties to be promulgated as a rule or regulation by the commissioner.

The committee amended the bill to clarify that the requirement to report test results to farm employers is subject to the limitations of the HIPAA and that farm employers are required to use test results to notify potentially exposed employees consistent with the confidentiality requirements of the ADA and any other applicable laws.