

# Farm laborers ruled eligible for jobless pay

JAN 1 1985

FT WORTH STAR TELEGRAM

From Staff and Wire Reports

AUSTIN — Texas' seasonal farm laborers are eligible to draw unemployment pay just like other workers in the state, State District Judge Harley Clark ruled Thursday.

Clark said portions of the Texas Unemployment Compensation Act that exclude farm workers are unconstitutional.

He also ordered the Texas Employment Commission to consider jobless payment claims from about 104,000 migrant and seasonal workers who are among the 250,000 farm and ranch laborers in the state.

A TEC spokesman said the agency doesn't really know how many new potential claimants the ruling could bring into TEC offices. The 104,000 figure is just an estimate, and many of these workers also have other jobs during the year when the farm-

ers don't need their labor, the TEC said.

Clark's ruling Thursday, following a four-day trial, was similar to his decision in March 1984 that farm and ranch laborers can get benefits for on-the-job injuries.

Efforts by the state and the Texas Farm Bureau to delay action on the unemployment pay issue until the current legislature had a chance to act on it were brushed aside by Clark.

"I believe the (Texas) Supreme Court will be looking at the purpose of the legislation (Texas Unemployment Compensation Act), and I do believe the purpose of the legislation is not being served by the exclusion of agricultural workers," Clark said.

Attorney Jim Harrington, repre-

senting the United Farm Workers union which brought the suit for 10 Rio Grande Valley workers, told a news conference later that the ruling apparently will affect directly about 104,000 farm workers, out of the total 250,000 in the state. Seasonal workers on small farms and permanent workers are not covered under the state law.

Harrington estimated about 30,000 employers, most of them in the Valley, would be brought under the act.

Rep. Lloyd Criss, D-LaMarque, author of a pending bill to make the unemployment compensation act cover all Texas workers, estimated the growers would pay about \$97.20 a year per worker or 27 cents a day. He told the news conference the average farm worker gets only \$58 weekly.

Criss said the growers' payments would compare to the average \$3,489 that other employers are now paying for each worker per year.

TEC rules require newly-covered employers to pay 2.7 percent of each employee's annual salary or 2.7 percent of \$7,000, whichever is larger, per year to cover their workers with unemployment insurance.

The United Farm Workers Union, based in San Juan, estimated that the 30,000 employers would be required to pay a total of \$11.3 million in unemployment insurance taxes each year to cover their workers. The average paid by each employer

for each worker would be about \$364 a year, a union spokesman said.

Most of these farm workers earn \$1.50 to \$2.50 an hour, while others earn as much as the federal minimum wage of \$3.35 an hour, said Sister Maureen Leach, a union spokeswoman in San Juan. The state minimum wage for most farm workers is \$1.40 an hour, she said.

ALL MEMBERS OF the United Farm Workers Union would be covered by the ruling, Leach said. The union was one of the plaintiffs in the lawsuit.

Criss said his bill, if approved by the legislature, would make a farmer and the crew leader of farm workers equally responsible for payment of the state unemployment tax. The union said the judge's ruling also struck down the state's rule which took farmers and ranchers off the unemployment book if they used crew leaders to hire workers.

"This guarantees that adequate taxes will be paid into the unemployment compensation fund to cover the costs of the farm worker benefits," Criss said.

Harrington said in his final court arguments that the present law hurts both seasonal workers and their communities.

"It also discriminates against the counties and the taxpayers who have to provide medical needs, food and other economic essentials for these unemployed workers," he said.

Harrington said the Texas Equal

Rights Amendment, added to the state constitution in 1972, prohibits denial of equal rights because of national origin.

"Texas has a policy of attracting Mexican farm workers to work in their fields and these workers are suffering," he said.

Prior to the ruling, unemployment benefits were denied farm workers unless they worked for an employer who paid \$20,000 or more in wages in any one quarter during the calendar year or who had 10 or more workers employed one day in each of 20 different weeks of a calendar year.

EVEN IF FARM hands had worked for employers covered by the act, however, they had trouble qualifying for unemployment benefits, a TEC spokesman said.

The rules have stipulated that the workers must have had wages during three quarters of the year equaling one and a half times their highest quarterly wages for the same year. The rules also required the workers to have been employed at

least nine out of the 15 months prior to filing unemployment claims.

The law also stipulated that farm labor contractors, or crew leaders, were considered to be the farm employers when farmers or ranchers used their services rather than directly hiring laborers.

Last winter, the Rio Grande Valley workers who were not qualified for regular unemployment benefits were eligible to file claims for federal benefits known as disaster unemployment assistance. The TEC estimated that about 8,000 farm workers qualified for this assistance when they otherwise would have not qualified for regular benefits.

The TEC paid out about \$14.2 million to a total of 15,878 farm workers who filed claims under the disaster program, said Bill Grossenbacher, TEC administrator in Austin.

The average payment received was \$50 to \$60 a week per applicant for up to 52 weeks, with the average farm worker getting the benefits for 28 to 30 weeks.

BUT GROSSENBACHER said the disaster program wouldn't be a clear indication of how the new court ruling would affect farm workers or the TEC's work load.

Prior to 1978, when the state's unemployment benefits rules were amended, none of the state's farm workers were covered by the law.

Several farm workers testified during the trial that they were forced to find work in other states after the 1983 freeze that wiped out valley crops. Other states paid unemployment compensation, they said.

"What we have in Texas is a brand of servitude on a class of people in the state," Harrington said.

Assistant Attorney General Bob Barbisch argued the suit was brought by a "subclass within a class." A legal brief submitted by the Texas Farm Bureau contended, among other things, that the plaintiffs did not adequately represent farm workers in Texas.

According to surveys, Hispanics make up about 90 percent of the state's migrant seasonal workers but only about 52.5 percent of all farm and ranch laborers, and only 20 percent of permanent, year-round workers, Barbisch said.

Barbisch said 97 percent of Texas farms are medium and small size while only 2.7 percent are classified as large farms. He said most seasonal workers are used by the large farms and hired and directed by crew leaders, who do not pay unemployment taxes.

"IF THIS EXCLUSION is removed, the taxes levied on some farm employers would be astronomical because the rates are based on their experience of unemployment," Barbisch said. "There is a cap on what each pays so all Texas employers would have to help pay for seasonal workers in the Valley."

Barbisch said there might be a reason for agriculture workers to be treated differently from other employees "but that is a social policy question that should be settled by the legislature."

"For the court to interpose its own judgment in this taxing question is to overstep this court's responsibility," Barbisch said.

Resource ID#: 248

Farm Laborers Ruled Eligible for Jobless Pay

# Judge rejects farm benefit rules as unfair

DALLAS TIMES HERALD

By BOB DRUMMOND

Austin Bureau JAN 11 1985

AUSTIN — A state district court judge Thursday declared unconstitutional a Texas law he said prevented most of the state's seasonal migrant workers from getting unemployment benefits.

State District Court Judge Harley Clark said the state unemployment law discriminated against farm workers, 90 percent of whom are Hispanic, by making them subject to different eligibility standards than other workers.

Attorney General Jim Mattox's office said it probably would appeal Clark's decision, which could make an estimated 100,000 farm workers in Texas eligible to begin receiving jobless benefits.

The effect of the ruling is clouded by questions about whether the action filed by the United Farm Workers Union is a class action suit affecting all Texas farm workers. Clark earlier ruled that the case could be heard as a class action suit, but the attorney general's office already has appealed that ruling.

Clark gave attorneys for both sides until next week to negotiate terms of an injunction telling the Texas Employment Commission how to implement his ruling.

Meanwhile, state Rep. Lloyd Criss, D-LaMarque, announced Thursday that he would push a bill in the current legislative session to amend the unemployment law to include farm workers.

In 1984, the Legislature for the first time made farm workers eligible to receive workers' compensation for on-the-job injuries. That action followed Clark's 1984 ruling to strike down a law preventing farm laborers from receiving workers' compensation for on-the-job injuries.

James C. Harrington, director of the state American Civil Liberties Union chapter, said Clark's decision on unemployment compensation was a landmark ruling.

"It's an enormous victory for farm workers in Texas," said Harrington, who represented the union and nine Rio Grande Valley farm workers who filed the suit. "It's far-reaching, and it's a symbol to the Texas Legislature and the people of Texas that this sort of discrimination has got to stop."

"There's no justification to treat farm workers like we've treated people who lived on plantations in the past. The brand of servitude has got to go."

The employment commission has estimated that if the ruling survives appeal, 100,000 farmworkers would become eligible for the benefits and about 20,000 employers would have to begin paying unemployment taxes. Those employers, previously exempt from the taxes, would pay about \$11 million in payroll taxes in the year after they come under the law.

Commission officials estimate that only 12 percent of the 200,000 farm workers in the state meet the requirements of the current law.

The ruling drew fire from the Texas Farm Bureau, which represents many of the state's agricultural employers and filed briefs with the court in support of the law.

Joe M. Jey, a spokesman for the farm bureau, said the unemployment taxes farm employers would have to pay could force many of the state's troubled farmers out of business, adding his group would urge an appeal of the ruling.

"It's going to put a lot of the marginal producers over the brink," he said. "It's going to be a real hardship for a lot of people."

The provisions of the law that Clark found to be unconstitutional set a stringent standard in determining which agricultural employers were subject to the state unemployment laws.

The law now says that farm businesses are not required to pay unemployment taxes — and that their employees aren't eligible for unemployment benefits — unless the business employs at least 20 workers for 20 weeks a year and has a quarterly payroll of at least \$20,000.

All non-farm businesses are required to provide unemployment benefits if they have one employee for 20 weeks a year and a quarterly payroll of only \$1,500.

Clark also struck down a section of the law that considers farm crew leaders to be employers rather than farm operators. The farm workers union said the provision provides a loophole allowing large Valley growers to stay under the 20-worker threshold by

## Wilderness Bill:

## Trees for Tomorrow

DALLAS NEWS JAN 11 1985

Like the tree that falls in the forest with no one to hear it, the passage of the Texas Wilderness Bill last fall did not make a loud impact with the media or the public.

The successful effort by Texas leaders to protect scenic forests in East Texas will gain some deserved recognition Jan. 18 with the dedication of 34,346 acres as a "protected wilderness."

That means some of the most beautiful woodlands in the state will be protected from commercial development and clear-cutting — but will be accessible for camping, hunting, fishing and hiking for more than 10 million people who live within a five-hour drive.

Much credit should go to Rep. John Bryant, D-Dallas, who sponsored the bill and

splitting field workers into smaller groups assigned to a crew leader as their employer.

Another provision struck down by Clark required a worker's annual earnings to equal at least 150 percent of his highest earnings in any one quarter before he became eligible for unemployment benefits. The union argued that the provision was a "subterfuge" to create standards making farm workers ineligible for unemployment benefits.

Criss, who already has filed a bill to make farm workers eligible for unemployment compensation, said the farm employers would be required to pay an average of \$97.20 for each employee into the unemployment system in the first year. After that, their payments would be based on the number and size of unemployment claims against them to a ceiling of about 6 percent of the first \$7,000 in earnings.

Opponents say that because all seasonal farm workers will draw unemployment at some time during the year, the tax payments by farm employers will eventually reach the ceiling. Unemployment taxes, they argued, might be increased for all employers.

The average unemployed farm worker would receive a weekly benefit check of about \$58, Criss said.

The head of the Legislature's Hispanic Caucus, Rep. Al Luna, D-Houston, said he was "extremely pleased, happy and delighted" with Clark's ruling, and said Hispanic lawmakers probably would "not have any problems throwing the full weight and support of the caucus" behind Criss' bill.

Harrington said that making seasonal farm workers ineligible for unemployment benefits during the months between harvests impoverishes their families and hurts the communities they live in.

refereed a compromise between environmentalists and Rep. Charles Wilson, D-Lufkin, whose district includes most of the protected land. Bryant gained valuable support across the aisle from co-sponsor Rep. Steve Bartlett, R-Dallas, and had the support in the Senate of Texas Sens. John Tower, a Republican, and Lloyd Bentsen, a Democrat.

President Reagan, belying the criticism of environmental groups that he is anti-tree, signed the bill into law Oct. 30.

The result was a small success story that will benefit future generations of Texans. And it shows what some old-fashioned bipartisan cooperation can do. In this case, the good that men did will live after them.

# Migrant workers eligible for benefits: judge

By MARK SANDERS

Post Austin Bureau

HOUSTON POST

JAN 11 1985

AUSTIN — A state law that denies unemployment benefits to seasonal and migrant farm workers is unconstitutional, a state district judge ruled Thursday.

Although District Judge Harley Clark of Austin struck down the state law, he did not decide how unemployment taxes should be collected from employers and how they should be used to fund work-relief programs for migrant workers. He will issue an order on the matter for the state unemployment compensation fund.

Clark's order clears the way for the predominantly Mexican-American group of workers to collect unemployment checks during the months they are not harvesting crops, said attorney Jim Harrington, who represented the United Farm Workers Union, which brought the lawsuit.

Harrington said 104,000 migrant and seasonal workers should now be able to receive the weekly payment of about \$58 while not working.

However, Assistant Attorney General Bill Barbisch said the state probably will appeal the court's decision.

"I'll be pretty amazed if we don't appeal this," Barbisch said. "And I think there is a good chance it will be overturned."

The Texas Farm Bureau, which sided with the state in opposing benefits for farm workers, will urge the attorney general to appeal the order, according to attorney Mary Joe Carroll.

Farmers who hire the migrant and seasonal workers could be ordered to pay \$97.20 a year for each employee to the state's unemployment compensation fund. If farmers are told to pick up the tab, the Farm Bureau estimates it will total \$11 million a year.

Clark's ruling was hailed by state Rep. Al Luna, D-Houston, who chairs the Mexican-American Caucus in the House, and by Rep. Lloyd Criss, D-Texas City.

"I think it is a sad commentary on the Legislature ... when the courts have to be our last resort," Luna said.

Criss has introduced a bill that would order the Texas Employment Commission to collect money from farmers to benefit unemployed farm workers.

"This bill guarantees that adequate taxes will be paid into the unemployment compensation fund to cover the costs of farm workers' benefits," he said. "Employers of other types will not be required, if my bill passes, to subsidize farmers."

Harrington called the ruling a major victory for farm workers, most of whom are in the Lower Rio Grand Valley.

"In the 11 years I have been a lawyer I have never heard a judge be more compassionate and more courageous in the type of comments he made and the understanding he showed for people that suffer the kind of economic and ethnic discrimination that historically characterizes farm workers in Texas," Harrington said.

Clark said he was impressed with the 11 individual farm workers who joined the union in bringing the lawsuit.

He said they could not speak

English; they were shy, like children, when approaching the court; their clothes were "not fashionable and stylish but clean and adequate; their eyes were good — they were not mean eyes, they were not pouty eyes, they were not belligerent eyes."

He said: "I'm not sure these people can take up for themselves

against a bewildering set of rules," he said. "Left to their own devices, these men and women have brought this as far as they can," he said.

Clark had earlier certified the lawsuit as a class action applying to all farm workers in the state. The state has already appealed that decision. Nevertheless, Harrington said he was confident the ruling Thursday would cover all farm workers.

## Nursing home, health agency sued

### Deceased woman's kin alleging negligence

By JOHN MECKLIN

Post Reporter

JAN 11 1985

The daughters of a woman who allegedly developed a maggot-filled bed sore as a result of inadequate treatment at a Houston nursing home have charged the state health department and the home with negligence in connection with the woman's death.

The state attorney general's office is investigating operations at that nursing home, and will decide in the near future whether to take civil legal action, an assistant attorney general said Thursday.

The daughters of Jeannie Jones allege in a lawsuit filed this week that their mother, who had lived in the Blalock Nursing Home North, now known as the Northway Health Care Center, was so poorly cared for at the home that she developed a large maggot-infested bed sore and later died.

Attorneys for the plaintiffs in the suit charged Thursday that the Texas Department of Health was notified of the problem, but did not adequately investigate. The suit also alleges that all defendants in the case fraudulently concealed the circumstances surrounding Jones' death. The plaintiffs' attorneys said that was the reason the suit was not filed for more than two years after the woman's death.

David Brenner, assistant general counsel for ARA Health/Care Inc., the parent company for Blalock nursing homes, declined comment Thursday on the suit, saying he had not seen it.

Jeannie Jones died April 12, 1982, at Citizens General Hospital in Houston, after being taken there from the Blalock Nursing Home North five days earlier. She was 84, a quadriplegic, and had heart problems. She also had been a stroke victim, records indicate.

Attorneys for the plaintiffs in the suit quoted the report of a social worker who was at the hospital as saying one of Jones' bed sores was full of maggots when the woman arrived.

"It was quite deep, and a foul odor filled the room," the social worker's report said.

A report from the nursing home indicates Jones was not suffering from bed sores when she was admitted to the home, about three months before her death, plaintiffs' attorneys said.

A hospital report quoted by the plaintiff's attorneys, John O'Quinn and Ed McAninch, claimed that Jones' major problems on admittance to the hospital were four bed sores.

Jones' death certificate lists kidney failure as the primary cause of death.

But the certificate also lists the bed sores as among many factors that may have contributed to the death.

McAninch said Thursday the suit was expanded to include the Texas Department of Health because the department did not respond appropriately to problems at the home.

"They (the health department) did an inadequate job of investigating. All they had to do was go to the hospital and check the records. Instead they went to the nursing home after she (Jones) was already dead," McAninch said.

Dave Talbot, special assistant for the attorney general's consumer affairs group, said there have been numerous complaints about operations at the former Blalock North home, "some of which have been substantiated by the Texas Department of Health."

Talbot said the health department has at times taken punitive action against the home.

But Talbot admitted the suit involving Jones presents a problem for the attorney general's office, because the suit includes the state health department as a defendant. The attorney general has a duty to defend the state health department in litigation, Talbot said.

He said he did not know what law enforcement agency could investigate to see whether the health department was negligent in regard to enforcing nursing home statutes.

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# Governor pledges veto to protect school reform

SAN ANTONIO EXPRESS JAN 11 1985

Express-News Austin Bureau

AUSTIN — Gov. Mark White said Thursday he will veto any attempt by the Legislature to dismantle the education reform law adopted by the Legislature last summer.

During the special session of the Legislature, legislators passed the largest tax bill in the history of the state to fund sweeping public education reforms and highway improvements.

"There will be no dismantling," White said. When asked if that meant he would veto any major changes in the law, White said, "Yes."

White did say athletic directors and coaches in West Texas did have a legitimate concern about the rule that allows eight hours of practice per school week, including travel time to games.

White said some schools in rural areas have to travel long distances to participate in extracurricular activities.

The original draft of the eight-hour rule by the State Board of Education called for travel time to be assessed against the eight-hour limit.

The final draft stated two hours would be deducted from the eight



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hours for travel, no matter how many hours were spent on travel.

"I'm glad the governor is opposed to dismantling House Bill 72, but that's subject to his interpretations of the bill, and that bothers me," said Rep. Frank Madla, D-San Antonio.

Madla was a member of the Select Committee on Public Education that drafted the groundwork for the Legislature to write the Equal Education Opportunity Act of 1984.

"If House Bill 72 is dismantled, then we ought to repeal the tax bill that funds the reforms. If we're not going to demand academic excellence, we shouldn't tax people," Madla said.

Concerning the eight-hour rule, Madla said it should not be a blanket change.

The two San Antonio area members of the State Board of Education told the Express-News Thursday they do not anticipate any major changes in the law from the Legislature.

"I think there will be some minor adjustments. I think there is support for the bill by the legislators from Bexar County," said William McBride, a retired Air Force general and president of the Greater San Antonio Chamber of Commerce.

# Migrant farm workers eligible to receive unemployment pay

HOUSTON CHRONICLE

By RAUL REYES JAN 11 1985  
Houston Chronicle Austin Bureau

AUSTIN — A state district judge has ruled that migrant farm workers are eligible to receive unemployment payments like other workers in Texas.

State District Judge Harley Clark on Thursday said that sections of the Texas Unemployment Compensation Act that exclude farm workers are unconstitutional.

Clark last year ruled that a state law that excluded farm workers from receiving compensation for injuries sustained on a job was unconstitutional. The Legislature previously had rejected several efforts to change that law and did so only after Clark's ruling. Jim Harrington, an attorney repre-

senting the United Farm Workers union, which brought the lawsuit for 10 Rio Grande Valley workers, said the Thursday ruling apparently will affect about 104,000 of the state's 250,000 farm workers. Seasonal workers on small farms and permanent workers are not covered under the state law.

Since most of the affected farm workers are Hispanic, Harrington had argued that the state was violating the Texas Equal Rights Amendment, which prohibits denial of equal rights because of national origin.

Harrington estimated about 30,000 growers, most of them in the Valley, would be brought under the act.

Rep. Lloyd Criss, D-La Marque, who has filed a bill to make the unemployment compensation act cover all Texas workers, estimated the growers would

pay about \$97.20 a year per worker or 27 cents per day. He said the average farm worker gets only \$58 weekly.

He said the growers' payments would compare to the average \$3,489 that other employers are now paying for each worker per year.

Ridge Pate, an attorney for the Texas Farm Bureau, which joined the state in defending the law, said farm workers could be hurt more than helped by the ruling.

"Our feeling is that it would be an added cost of doing business that could not be passed on to other consumers," he said.

"We want farm workers to have jobs, but how can they when their employers have the added costs," Pate said. "This might cost farm workers their jobs in the long run."

# Legislative delays

SAN ANTONIO EXPRESS JAN 11 1985

Legislative continuances, a device to delay trials, were a factor in the November defeats of state Sen. Bob Vale and state Rep. Joe Hernandez.

Both men were known for taking on legal clients while the Legislature was in session, thus gaining automatic delays.

State Rep. Donald Uher of Bay City has joined the defense of a San Antonio woman

accused of solicitation of capital murder. Her trial is set for Jan. 28, but a legislative continuance is likely.

District Attorney Sam Millap was properly outraged, saying the woman already was well represented.

This latest episode should mount more support for legislation introduced by state Sen. Cyndi Taylor Krier to abolish legislative continuances.

# State told to review farm worker jobless

DALLAS NEWS

JAN 1 1 1985

By Terrence Stutz

Austin Bureau of The News

AUSTIN — A Texas law prohibiting unemployment pay for farm workers was declared unconstitutional by a state judge Thursday in a ruling that could bring jobless benefits to more than 100,000 farm employees.

District Judge Harley Clark, rejecting arguments that such action would devastate small farm operations in the state, ruled that the Texas Employment Commission must consider claims for compensation by unemployed migrant farm workers.

The decision followed four days of testimony in a lawsuit brought by a group of South Texas agricultural workers and the United Farm Workers Union.

Clark said he would issue an injunction against the employment commission next week, ordering the agency to begin considering claims from the plaintiffs in the case.

Assistant Attorney General Bill Barbisch, who defended the state law during the trial, said the decision probably will be appealed.

A representative for the Texas

## claims

Farm Bureau, which joined the state in defending the 48-year-old law, said the ruling would be "disastrous" to Texas farmers if upheld.

However, Texas Civil Liberties Union attorney Jim Harrington, who represented the plaintiffs, said the ruling will lift the "mark of servitude" that farm workers have been living under for decades.

Rep. Lloyd Criss, D-LaMarque, meanwhile, announced at a news conference after Clark's ruling that he has introduced legislation to include farm workers under the Texas Unemployment Compensation Act.

Clark's decision would affect about 30,000 employers and 104,000 workers, the Texas Employment Commission estimates.

Based on their average annual salary of \$3,600 a year, farm workers will be entitled to about \$50 a week in benefits if their eligibility is upheld.

Harrington stressed that Clark's ruling would not apply to "mom-and-pop" farms with an annual payroll of less than \$6,000.

For farmers affected by the decision, the tax would be 27 cents a day per worker, he said.

# Hiring freeze, spending cuts get firm push

JUST: AMERICAN STATESMAN

JAN 1 1 1985

By LAYLAN COPELIN

American-Statesman Staff

Texas House leaders, in their harshest warning to agency heads so far, are urging them to cut expenditures and to stop hiring employees immediately.

Speaker Gib Lewis and Rep. Jim Rudd, chairman of the House Appropriations Committee, issued the warning in a letter mailed to all agency and university chiefs.

"We're telling them, 'You're accountable, and if we think you're wrong, be prepared to pay the church,'" Rudd said.

THE LETTER calls for a moratorium on hiring and the elimination of "the less important programs" in state agencies and universities. Similar warnings were sent to agency leaders in March and August.

But state officials and employee leaders are fearful that agency chiefs have ignored the budget crisis that could cause layoffs in September, when a new budget year begins.

State revenue is projected to fall \$1.1 billion short of current fund-

ing needs, and the state leadership opposes raising taxes.

As chief budget writer for the House, Rudd said that when budget hearings begin next week, agency chiefs will be held accountable for their lack of action.

"It's not our intention for any state employee to lose his job," Rudd said. But he said he would not hesitate to write a budget that causes layoffs if the agencies fail to respond to the warning.

THE TEXAS Public Employees Association has said six months of attrition would be needed for the state to avoid layoffs under an austere budget.

The moratorium request is not absolute. Rudd said critical jobs, including those in agencies under federal court order to improve services, must be refilled.

Lewis said earlier warnings were not always taken seriously.

"The word's got back to me that state agency heads say, 'Aw, they're not going to do that.' Well, we are going to do that. It's not a bluff by any means."

## DON POLITICO

SAN ANTONIO LIGHT

JAN 1 1 1985

### Kothmann turns radio(in)active



Bexar County's own state Sen. Glenn Kothmann, who never has had the reputation of blabbing to the press, maintained silence for WOAI-AM freelancer Barbara Garrison ... who caught Kothmann's dead air on tape ... WOAI aired the quiet interview at 5:15 p.m. yesterday, along with a commen-

tary by News Director Mark Watkins ... Garrison approached Kothmann after Wednesday's session, looking for the senator's stand on issues such as the budget crunch, water planning and parimutuel betting ... but her questions were met with what she described as "stony silence" ... and at one point, Garrison could be heard asking, "Sen. Kothmann, are you there?" ... Kothmann later complained to a third party that "Garrison was rude." Watkins told drive-time listeners, but he refused to return calls made by WOAI's news staff ... Watkins simply referred to the incident as "the way of things sometimes as reporters attempt to ply their trade in the name of the public's right to know" ... perhaps fortunately for Kothmann, the latter part of the standoff was not aired, in which Garrison asks the senator if "this is the way you are going to behave for the rest of the session ... I guess you figure you're going to be re-elected anyway."

In a promotional stunt announced by Attorney General Jim Mattox, Ernie, the Safeway Super Chicken, is walking from Houston to Austin ... the idea, Mattox said, was to focus public attention on child support enforcement in Texas ... but if Ernie only is a technical fowl, Mattox isn't chicken either ... the walk was scheduled to be completed today ... and Mattox said he would join Super Chicken for the final leg.

# Farm workers ruled eligible for jobless aid

DATE: AMERICAN STATESMAN

By MIKE HAILEY JAN 1 1 1985  
American Statesman Staff

More than 100,000 Texas farm workers are expected to qualify for unemployment pay after a decision Thursday that struck down a 48-year-old law that blocked most agricultural workers from collecting unemployment benefits.

State District Judge Harley Clark of Austin ruled that the Texas Constitution bars the exclusion of most farm workers from the state unemployment compensation law. Clark instructed the Texas Employment Commission to begin considering

claims by farm workers.

Lawyer Jim Harrington, who represented nine plaintiffs and the United Farm Workers union for the Texas Civil Liberties Union, said 30,000 employers would be affected by the decision.

An estimated \$11 million in unemployment claims will be paid during the first year that farm workers can receive benefits, he said.

About half of the farm workers in the state will be eligible for the benefits, Harrington said. Most farm workers employed at large farms already are covered by the

law, and those employed by small operations still will not qualify.

The order takes effect immediately, he said, but it could be stalled if Attorney General Jim Mattox appeals the case. Elna Christopher, Mattox's press secretary, said the decision probably will be appealed, but not until the formal order is examined.

Harrington praised Clark for showing compassion toward farm workers, most of whom are Hispanic.

The law was a "mark almost of servitude that farm workers have lived under in Texas," Harrington said. "Judge Clark's

comments today show that we have judges that are finally willing to act when the Legislature refused to act."

State Rep. Lloyd Criss, D-La Marque, has introduced a bill to give the Employment Commission the tools to enforce the decision.

The bill would give crew leaders and growers equal responsibility for providing unemployment insurance for workers. Until Clark's order, crew leaders, not growers, have been considered to be farm employers of farm workers.

"Texas has treated farm workers as second-class citizens, denying them equal

minimum wage, access to unemployment compensation, and until a year ago, workers compensation as well," Criss said. "Judge Clark's decision will help reverse a half-century of neglect."

Despite Clark's ruling, Criss said, the bill is needed to guarantee that adequate taxes are paid into the unemployment compensation fund. A Criss aide said the order was not clear about whether the Employment Commission could impose an unemployment tax on employers.

State Rep. Al Luna, chairman of the House Mexican American Caucus, said the

caucus would throw its full weight behind Criss' bill. Luna said it was a sad commentary that the Legislature had failed to address the problem.

The average annual payment for each worker will be \$97, or 2.7 percent of the average salary, Criss said.

The Farm Bureau has argued that the law is constitutional, and a representative of the organization said Clark's decision would strap an additional financial burden on farmers in the state.

"When they are already losing (money), that might just be the straw that breaks the camel's back,

and they say, 'Hey, I quit. I've had it,'" said Joe Maley, an assistant state director for the Farm Bureau.

Assistant Attorney General Bob Barbisch argued earlier Thursday that the issue should be handled by the Legislature, not in a courtroom. "For the court to interpose its own judgment in this taxing situation is to overstep the court's responsibility," he said.

The Legislature in 1983 refused to include farm workers under the state workers compensation act, but adopted a compensation measure for farm workers during the special session last summer.

## Legislature convenes

AMARILLO DAILY NEWS JAN 8 1985

The Texas Legislature convenes today for the 69th time. Its agenda includes a number of controversial matters, many of which will have a direct and quite noticeable effect on many Texans. Now is the best time for Texans to let legislators know their feelings on the issues of importance to them.

The most important issue the session will address is, of course, finances — how to keep the state government in operation. Texas Comptroller Bob Bullock estimates that the state's revenues will increase by 17 percent during 1986-87 over the current biennium. Due to planned growth, however, the state will overspend its budget by \$1 billion unless it cuts spending or enacts the second substantial tax increase in less than a year.

Many legislators are maintaining that another tax increase will be necessary. We disagree, and believe legislators capable of finding the necessary resolve to hold spending within present means, if they receive sufficient reinforcement for doing so from their constituents: Most of the Panhandle area representatives thus far are opposed to another tax increase, but it is difficult to be certain how they will act in Austin.

The Legislature is expected to consider about 5,000 bills this year, including proposals to: raise the legal drinking age to 21, require use of seat belts

by everyone in all vehicles, develop a comprehensive statewide water plan, increase tuition at state universities, strip voters of the authority to elect state judges, repeal the Blue Law, establish a state lottery, legalize horse race betting, outlaw open containers of alcohol in vehicles and repeal competency testing for teachers. Most of these issues obviously admit of considerable argument by reasonable people. Make your voice one of those heard.

Panhandle residents are represented in Austin by:

Sen. Bill Sarpalius, Office 326, State Capitol Bldg., Austin, 78769. (512) 475-3222.

Rep. J.W. Buchanan, Office G17-A1, State Capitol Bldg., Austin, 78769. (512) 475-3127. (Representing Carson, Dallam, Hansford, Hartley, Hemphill, Hutchinson, Lipscomb, Moore, Ochiltree, Oldham, Roberts, Sherman and Wheeler counties.)

Rep. Pete Laney, Office 404-D, State Capitol Bldg., Austin, 78769. (512) 475-5671. (Representing Bailey, Castro, Hale, Lamb, Parmer and Swisher counties.)

Rep. John Smithee, Office 114-C, State Capitol Bldg., Austin, 78769 (512) 475-3706. (Representing Randall and Deaf Smith counties.)

Rep. Chip Staniswalls, Office G59-B, State Capitol Bldg., Austin, 78769. (512) 475-3626. (Representing Potter County.)

Rep. Foster Whaley, Office 148-C, State Capitol Bldg., Austin, 78769. (512) 475-1488. (Representing Armstrong, Briscoe, Childress, Collingsworth, Crosby, Dickens, Donley, Floyd, Gray, Hall, Lubbock (part) and Motley counties.)

# Harrington: Insurance Cost Not Unreasonable

Monday Last Day Of Testimony In Farm Workers Lawsuit

VALLEY MORNING STAR JAN 8 1981

By PEGGY FIKAC  
Star Capitol Bureau

AUSTIN — Broadening the unemployment insurance coverage of farm workers would cost Texas agriculture employers a maximum of \$378 each per year, the Texas Employment Commission administrator said Monday at a trial on the constitutionality of the state unemployment insurance law.

According to a fiscal note prepared in 1979, said William Grossenbacher, expanding benefits would affect 27,000 to 30,000 Texas agriculture employers, who would pay \$10.2 million to \$11.3 million annually in unemployment insurance taxes on 94,500 to 105,000 workers.

The fiscal note was projected to be accurate for five years in 1979.

The cost to employers "is not unreasonable," said Jim Harrington, Texas Civil Liberties Union legal director, who is representing the 10 Lower Rio Grande Valley farm workers and United Farm Workers, who filed the unemployment insurance lawsuit against the state.

However, Ed Small, Texas and Southwestern Cattle Raisers Association general counsel, said the annual cost of paying the unemployment insurance tax could make agriculture employers limit the number of workers they hire.

"It's not going to break me, but I know it will change operations," he said. "I'll go from a square baler to a round baler. That's going to cost some people some jobs." Changing to a machine that makes round bales of hay "takes one man on a tractor to move the bales, rather than five guys on the back of a truck," said Small.

For farmers, "cost is an issue," said Small. "When you're talking about \$10 million to \$11 million going out of agriculture in this day and time, that's going to put a bind on people."

State District Judge Harley Clark said he will make a decision in the case after hearing closing arguments on Thursday.

The case stems from a lawsuit charging that the Texas Unemployment Compensation Act is unconstitutional because it treats farm workers, who are primarily Mexican American in Texas, in a different manner from other workers.

Under the unemployment insurance

law, most employees are eligible for unemployment insurance if their employer has a payroll of \$1,500 per calendar year quarter or employs at least one person for 20 weeks.

However, a farm worker is eligible for unemployment insurance only if his employer has a payroll of at least \$20,000 per calendar year quarter or employs at least 10 workers for 20 weeks. In addition, the crew leader, rather than the grower, is considered the farm worker's employer.

If the restrictions on agriculture employees are ruled unconstitutional, agriculture employers would begin paying a state unemployment insurance tax of 2.7 percent on the first \$7,000 of each employee's salary. The tax rate would be adjusted for each employer after five calendar year quarters, according to how many of that employer's workers drew unemployment insurance benefits.

In addition to the state tax, employers pay a federal tax of 1.1 percent on the first \$7,000 of each employee's salary to finance

administration of the program.

The federal tax will be reduced to 0.8 percent next year if the state pays back to the federal government money it borrowed to finance the unemployment insurance program in 1981 and 1982, when claims exceeded the amount paid in by employers.

The state now expects to repay the federal government by April, said Grossenbacher.

Monday was the last day of testimony in the trial.

## It's hard to imagine furloughing killers

A little outraged indignation is in order upon reading that convicted murderers in Texas are being allowed furloughs, while their victims' families aren't even being notified.

In a wire service story in the Jan. 6 News-Globe, the judge who presided over the murder trial of James Newton Gay said he just couldn't believe Gay was allowed a four-day furlough over the recent holidays.

"I'm shocked," the judge said. "If I brought (his) jury back, they would come across the courtroom rail if they heard this."

If they did, who could blame them? Gay was convicted of murdering his estranged wife the day before the two were scheduled to go to court over custody of their two sons. Gay obviously had a violent way of proving that he was not a fit custodian, and the jury was so impressed that they sentenced him to the maximum punishment: 99 years in prison and a \$10,000 fine.

But a spokesman for the Texas Department of Corrections said the facts of a prisoner's crime has little bearing on whether to grant a furlough:

"It's not how violent they are or their sentence, it's a matter of the individual." How's that for double-talk?

What we suppose the spokesman meant is that the principal determinant in granting furloughs is the prisoner's behavior while in prison. We know such behavior is what leads to "good time," where actual time served is multiplied to hasten parole eligibility, but it really is news to find that good behavior can result in as much as 10 days out of prison each year — even for convicted murderers.

The sister of the victim in this case had this to say about the practice:

"I feel the family of the victim should know, because they need to protect themselves, and so they could be able to object."

"I think this is terrible. I think it's color television and two weeks' paid vacation a year."

If that's not exactly on the mark, it isn't off by much.

This hare-brained scheme ought to be stopped — immediately. No one convicted of a crime of violence should be allowed furloughs, no matter how exemplary his behavior while in prison — behavior, incidentally, that is constantly monitored by armed guards. The privilege should be granted only to non-violent offenders with good conduct in jail.