

Colorado Seeks Own H-2A Program

Sources from the *Denver Post*, the *Denver Business Journal* and *The Gazette* from Colorado Springs are following the developments in Colorado concerning the attempt by that state's legislators to re-invent the wheel, so-to-speak, and come up with their own state-run H-2A program.

Here's the latest timeline:

On March 13, the discussion ensues:

"Colorado lawmakers on Thursday heard testimony on a bill that would create a pilot program intended to address seasonal labor shortages in the state's agricultural sector by getting state agencies more involved the recruitment of foreign workers.

"House Bill 1325, sponsored by Rep. Marsha Looper, R-Calhan, and Sen. Abel Tapia, D-Pueblo, would require government agencies to implement a non-immigrant agricultural seasonal worker pilot program to expedite recruitment of workers through the federal H-2A certification process.

... "The bill would require the Department of Labor and Employment and the Department of Agriculture to seek agreements between the state and foreign countries to assist in the recruitment and selection of H-2A workers.

... "The pilot program will be funded by employers' application fees.

... "Jennifer Rodriguez, an attorney representing farm workers, said the proposal would effectively expand what she called the "flawed" H-2A visa program.

... "Rodriguez also said a provision in the bill that would require employers to withhold 20 percent of workers' wages was unfair. The money will go back to workers' home countries or to local law enforcement agencies if the employees don't return to their country of origin.

... "Spokesmen for the Department of Labor and Employment and the Department of Agriculture testified in favor of the program, saying it addresses a critical problem in the agricultural industry."¹

Next, from March 14, the critics attack: from *The Denver Post*:

“Legislation meant to make it easier for Colorado farmers to legally import migrant laborers from other countries would violate federal law, immigration attorneys said Thursday during a hearing.

... “Critics testifying Thursday included immigrants' rights groups who said many workers are exploited under the H-2A program and the state should not help further the misery.

“Others said the bill might not withstand legal scrutiny.

“I don't see that this bill can legally pass because of its conflicts with federal law,” said Joy Athanasiou, a Denver immigration attorney.

“Jennifer Rodriguez, a staff attorney with Colorado Legal Services, said the bill runs afoul of federal law that requires laborers to be paid in full.

“Labor Department officials have said it's unclear whether Colorado could get such a waiver. No other state has done so.”²

Then, on March 18, House Bill 1325 is passed:

“The House State, Veterans and Military Affairs Committee voted 7-4 Tuesday to approve a bill that would allow the Colorado agriculture industry to recruit workers from Mexico and help them obtain visas to work legally in the United States. It was introduced by Rep. Marsha Looper, R-Calhan.

“HB1325 would establish a five-year pilot program that would allow the state to hire agents in Mexico. They would recruit potential workers, complete their applications and arrange their transportation to and housing in Colorado. In the first year, 1,000 workers could use the program; that number would increase to 5,000 in its final year.”³

Only, we learn that one key provision has been dropped in order to get the legislation passed. Again, from March 18, the *Denver Business Journal*:

“The AFL-CIO, which opposed an earlier version of the bill, changed its position to “neutral” after Looper dropped a provision that would require employers to withhold 20 percent of workers' wages to be sent back to workers' home countries or to law enforcement agencies.

“The bill now goes to the House Appropriations Committee for consideration.”⁴

And more language was dropped from the bill as well, we find out from this blurb on March 19 from the *Denver Post*:

“A bill intended to help Colorado farmers more easily hire foreign workers cleared its first major hurdle Tuesday, but only after its sponsor jettisoned some key provisions.

“Sponsored by Rep. Marsha Looper, R-Calhan, House Bill 1325 seeks to speed up the process for farmers to get federal H-2A visas for seasonal laborers by having the state coordinate health and background screening for foreign workers before they come to Colorado. The bill was stripped of language requesting a federal waiver to allow the state to help speed up the process to get H-2A visas for workers. Looper also deleted language that would have required farmers to withhold up to 20 percent of a worker's paycheck, which would have been refunded when the laborer returned to his or her home country.

“The House state affairs committee approved HB 1325 on a 7-4 vote, sending it to the House Appropriations Committee.”⁵

And that's where we will pick up our report on Colorado's progress next time.

¹ Bob Mook, “Committee reviews Colorado seasonal workers bill,” March 13, 2008. Website at: <http://www.bizjournals.com/denver/stories/2008/03/10/daily45.html>. (accessed 3-23-08)

² Tim Hoover, “Farmworker plan violates law, panel told,” 03/14/2008. Website at: http://www.denverpost.com/headlines/ci_8565248. (accessed 3-23-08)

³ Michael Davidson, “Bill allowing more seasonal farm workers in state passes House panel,” March 18, 2008. Website at: http://www.gazette.com/articles/workers_34351_article.html/bill_state.html. (accessed 3-23-08)

⁴ Bob Mook, “Colorado House committee OKs seasonal workforce plan,” March 18, 2008. Website at: <http://charlotte.bizjournals.com/denver/stories/2008/03/17/daily32.html>. (accessed 3-23-08)

⁵ Tim Hoover, “Foreign-worker bill drops some baggage, clears committee,” 03/19/2008. Website at: http://www.denverpost.com/headlines/ci_8619255.