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FROM: THE H2AUSA FRONT DESK:

Department of Labor Comes Bearing Gifts

Seemingly in the spirit of giving, the U.S. Department of Labor has granted an easing of the provision concerning agricultural employers. In particular, not requiring agricultural jobs to be advertised via media outlets to surrounding areas outside the immediate state where farm workers are employed. A costly expense to those who hire farm laborers, this provision has been deplored by many.

This change is welcome by all, considering the worries raised by legislative failures earlier this

year, such as BusinessWeek.com explains:

“Many agriculture employers fear crackdowns on illegal immigrant workers will leave them with labor shortages. Meanwhile, farm workers are nervous about planned changes by the Bush administration to a visa program that dictates their pay, work conditions and job competition.

“Fingers are being pointed at Congress, which failed to pass a comprehensive immigration reform bill this summer and left

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for a two-week recess without renewing the farm bill."¹

Then, there is the inexorable trend toward increased border security and the tightening of rules, cracking down on illegal immigrants and putting the burden of criminality upon employers. Here are a few of the regulations already imposed and some future concerns as well, from DeltaFarmPress.com:

"Increased immigration enforcement has some farmers experiencing worker shortages, with worries that the situation could get worse as Homeland Security Secretary Michael Chertoff "You must hire all eligible applicants for these jobs – no one gets left out. And you have to provide Workers Compensation, which isn't required in all states. Georgia doesn't require Workers Compensation, but you must provide it if you participate in the guest workers program. After about 60 days of jumping through all these hoops, workers will arrive at your place. It's a complicated process, but there is a process available for farmers to hire legal workers on the farm."

..."It's coming. We're about two years away from any reform. They tried to pass some immigration reform, and anyone who said 'immigration' was chastised. So they're scared to death of it in Washington. But you can bet there will be more enforcement on the border and the interior. That will happen because the president

controls the Department of Homeland Security."

"Agriculture has special needs when it comes to labor...and farmers should make that clear to their representatives and senators. "Don't leave the final wording to Washington. Farmers should have the final say on this issue."²

According to the Politico.com, the provision change does not arrive without its detractors. Some feel that the interests of the American worker will be supplanted by relaxing the rules on hiring immigrants—even those that are here legally with visas:

"Rep. George Miller (D-Calif.) sent a strongly worded letter earlier this week to Secretary of Labor Elaine Chao, objecting to an administrative attempt to loosen rules on companies that hire guest workers. The Department of Labor rejected Miller's assertion that its interpretation is illegal.

"At issue is whether agricultural employers can hire foreign guest workers without first doing multistate recruiting of U.S. citizens or other legal residents. Miller, chairman of the House Education and Labor Committee, argues that the law is clear and that the agency must require recruiting. The Labor Department says not necessarily.

"Immigration reform proved too difficult an issue for Congress to

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deal with this session; the squabble over the relatively small guest-worker program — known as H-2A — shows how tough comprehensive reform will be.

"The recent jostling over recruitment is just the pre-season. The Department of Labor is set to announce broad reforms any day now, although agency spokeswoman Jennifer Coxe said she is not sure when the regulations — which are almost finished — will be released.

"But Bruce Goldstein, executive director of Washington-based Farmworker Justice, said he suspects they will be dropped in the next few days.

"The GOP has long had to tiptoe through a pass with... business on one side and its conservative talk-radio base on the other."³

The former welcomes the needed labor. The latter wants only American workers, even if it means jobs and entire industries going overseas.

Then, there is this outlook on the new adjustment:

"The (Labor Department) ...quietly proposed last week that employers no longer be required to place ads for available agricultural jobs with print and broadcast media outside of where they plan to use the workers.

"Advocates for farm workers say the change violates a 1986 federal law that requires employers to look for U.S. workers in designated multistate regions before they resort to hiring foreign workers.

"Such a move could hurt farm workers who are U.S. citizens or legal residents, said Bruce Goldstein, executive director of Farmworker Justice Fund Inc.

"The Department of Labor is now saying the employers need not recruit beyond the local area," ...A Labor Department spokesman did not immediately respond to a request for comment.

"The proposed change was contained in a memo sent to state workforce agencies about the H2A visa program on Nov. 6. The Labor and Homeland Security departments proposed other changes to the program and are awaiting approval from the White House before releasing them for public review.

"...The National Council of Agricultural Employers had asked the White House to end the requirement for out-of-state advertising in print and broadcast.

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"The group said the advertisements are expensive and unproductive. At times, the outlets where employers are told by the Labor Department to advertise, already are running several dozen virtually identical ads, Sharon Hughes, the council's executive vice president, said in an August letter to President Bush.

"Also the states where employers are required to advertise, considered traditional labor states, are states where in-state agriculture employers are also looking for H2A workers."⁴

¹Betsy Blaney and Suzanne Gamboa, "Agriculture industry, workers worried," November 21, 2007, BusinessWeek.com, <http://www.businessweek.com/ap/financialnews/D8T2DFJG0.htm>. (accessed 12-3-07)

²Paul L. Hollis, "Labor a contentious issue for agriculture," November 30, 2007, <http://deltafarmpress.com/news/071130-farm-labor/>. (accessed 12-3-07)

³Ryan Grim, "Guest worker rules challenged," November 23, 2007, Politico.com, <http://www.politico.com/news/stories/1107/7014.html>. (accessed 12-3-07)

⁴Suzanne Gamboa, "Govt. Seeks Changes in Ag Worker Hiring," November 15, 2007, http://ap.google.com/article/ALeqM5h9GynzRwKzYFLPk_U9nYepc3ZRAD8SU04Q00. (accessed 12-3-07)

SAVE Act Proposed

Three senators are presently engaged in promoting a piece of legislation entitled, SAVE (Secure

America through Verification and Enforcement) Act. With 112 co-sponsors in Congress, this bill represents the first of what will eventually evolve into a backlash of anti-illegal alien bills.

"Known as the S.A.V.E. Act (Secure America with Verification and Enforcement), Representative Shuler's legislation would increase the number of Border Patrol agents...increase aerial surveillance of the border, establish a "Tunnel Task Force", expand the E-Verify program, make the E-Verify a requirement in four years' time, expand ICE resources and capabilities, expand detention facilities and implement a Spanish-language media campaign to target the illegal immigrant community to alert them of the new laws and consequences of the S.A.V.E. Act. This piece of legislation has an impressive amount of bipartisan support amongst its co-sponsors, including most of the Texas Republican contingent (Burgess, Conway, Gohmert, Hall, Marchant, McCaul, Neugebauer, Poe, Sessions and Smith)."¹

¹Patrick M McLeod, "S.A.V.E. Us," 11/16/2007, TheTexasBlue.com, <http://www.thetexasblue.com/s-v-e-us>. (accessed 12-3-2007)

