

To H2B or Not to H2B

State leaders are working different avenues and coalitions to solve this year's critical shortage of seasonal immigrant workers.

By Nathan Stubbs

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With a pending economic crisis at home and an ongoing political standoff in Washington, D.C., Louisiana's congressional delegation is in a tight spot as it tries to solve this year's critical shortage of seasonal immigrant workers. South Louisiana is home to hundreds of small businesses — including seafood processors, rice and sugar farms, and construction crews — that use temporary immigrant laborers who come to the United States each year through the H2B visa program. H2B visas are given to qualifying workers who contract with U.S. businesses unable to fill seasonal jobs with local employees.

Each year, federal law allows for a total of 66,000 H2B visas. But over the past several years — with the demand far exceeding that number — Congress has routinely passed legislation that allows past H2B workers to return without counting toward the cap. In 2006, this provision allowed for approximately 200,000 more H2B visas.

This year, however, Congress hasn't yet voted on that extension, and thousands of businesses are being left in the lurch to fill labor shortages. The situation is particularly dire in Louisiana, with seafood processors already feeling the sting and sugar cane harvest only a few months away.

Michael Hensgens, legislative chairman for the crawfish processors alliance, has been pushing all of Louisiana's congressional delegation to act quickly on the issue. "Come April 1, Lent's over," Hensgens says, "and that's normally when the crawfish peeling plants are buying 75 percent of the catch. We've already seen where the slowdown in the peeling plants has caused the crawfish farmers problems because the price dropped so fast and they can't sell their product. They're literally having to dump crawfish back into the ponds."

Hensgens says Louisiana's elected leaders appear to be working the problem from multiple angles in hopes of a resolution. "The president can issue an executive order at any time to give some relief," he says. "We were hoping that our congressional delegation and our governor would speak directly to President Bush and try to get that measure done as a matter of economic relief for Louisiana. It has not happened yet."

Hensgens has been in contact with U.S. Reps. Charles Boustany and Charlie Melancon, as well as the governor's office. "They won't tell me the details," Hensgens says of the effort to lobby President Bush on the issue. "They're not going to talk about what's in process; they're going to talk about results." Jindal Press Secretary Melissa Sellers did not respond to an inquiry about the governor's involvement.

Republican Boustany recently called the H2B visa issue "a crisis for small businesses in southwest Louisiana and around the country." He added, "Congress must renew our commitment to small businesses and quickly increase the legal limit for these seasonal workers. American small businesses and entrepreneurs depend on these temporary workers, in the country legally, to fill untaken jobs."

On Capitol Hill, the H2B visa program has been a pawn in the larger political battle over comprehensive immigration reform. The Congressional Hispanic Caucus is using its clout to prevent a vote on extending the H2B visa cap; the CHC is trying to force Congress to take action on broader immigration reform proposals. "This is the first year that we've actually faced this," says Boustany spokesman Rick Curtsinger. "Congress has acted quickly in the past and gotten it taken care of, and it hasn't been an issue. But this year, the Congressional Hispanic Caucus has decided that they're basically going to hold H2B visas as a political hostage."

Because of the Hispanic Caucus' concerns, Curtsinger says, the Democratic Party leadership and Speaker of the House Nancy Pelosi have refused to bring up a vote for legislation that would restore H2B visas to last year's numbers. A bipartisan bill by Rep. Bart Stupak, a Democrat from Michigan, has been parked in committee for almost a year now. Boustany, as well as fellow Louisiana Republican U.S. Rep. Rodney Alexander, are among the bill's 141 cosponsors.

In an effort to end the gridlock, Boustany recently filed a resolution formally requesting a vote on the Stupak bill. According to House rules, if Stupak's bill is not brought to the floor within seven legislative days, Boustany can file a discharge petition to try and force action on the bill. To be successful, a discharge petition requires an absolute majority of Congress — 218 members — to sign on. Curtsinger says in all likelihood, Boustany expects to be filing the discharge petition on the Monday following Easter.

"It will be tough to get 218 signatures," Curtsinger acknowledges. Discharge petitions are rarely successful because they require members of the majority party to sign on and effectively bypass their leadership. However, there have been rare examples of discharge petitions ushering in new laws — the most notable being the recent McCain-Feingold campaign finance reform bill. Curtsinger says Boustany is working with several national organizations including the American Farm Bureau and the Save Small Business group to try and build a coalition of support for a likely petition.

"Making sure [members of Congress] understand that it's affecting folks in their district is how we can best put pressure on them to buck their leadership in Washington," Curtsinger says.

One of those Democrats Boustany will be trying to pressure is Melancon. The Napoleonville congressman represents the 3rd Congressional district, which runs from Iberia to St. Bernard Parish and contains the vast majority of the state's sugar cane industry. Melancon press secretary Robin Winchell says he has been working for a continued exemption of past H2B workers for more than a year. However, Melancon is not supporting the Stupak bill due to a technicality he fears could lead to a dramatic increase in the number of H2B visas being issued.

The Stupak bill provides that H2B visa holders from the past three years not count toward the annual cap of 66,000. Without no cap on returning workers and no end date on the legislation, critics contend the Stupak bill would compound the number of temporary immigrant workers in coming years. "We want a solution," Winchell says, "but it's important not to go too far in the other direction. At what point is it just basically a guest worker program, which we're not in support of."

Boustany's office counters that history has shown that the numbers of H2B workers will not dramatically increase each year and that any bill can be amended once it gets to the House floor. Curtsinger also points out that employers who use H2B workers have to go through an extensive qualifying process, including advertising to first fill their jobs with U.S. workers. That limits the number of H2B visas, he says.

"The market allows us to dictate who's coming to work and who's filling these jobs that are so critical for our [agriculture] processing folks, for our small businesses," says Curtsinger. "And I think that's a much higher priority than the argument that Congressman Melancon's office is making."

Winchell notes that Melancon is working with the influential Blue Dog Coalition of Democrats, which supports increasing this year's H2B visas but has not yet decided on a specific bill to support. "Up here [in Washington, D.C.], it's all a matter of just balancing different people's priorities," Winchell says. "There's a group of people that have been working for the past year to try to solve this H2B issue, and it's both Democrats and Republicans, and there's even people in the leadership that support this. So, I'm optimistic that we'll have a compromise to actually move on this issue before the discharge petition gets much further."

Back in Louisiana, Hensgens sees members of his crawfish processors alliance already struggling. He says the situation is so pressing that Louisiana's elected officials cannot afford to let the issue linger.

"It'd be at least \$2 billion worth of damage to the economy of Louisiana alone by not having H2B at all this year," he says. "I mean the sugar industry alone is over \$1 billion. There's just too much slowdown in the economy that's going to happen if it doesn't get addressed quickly."