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Visa lapse causes work 'crisis'

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Frank Collinson's landscaping company probably won't have enough workers this spring.

That's because Collinson, of Sparta, has been relying on Costa Rican and Mexican workers in the H-2B visa program, a program that has been cut by more than half since Congress let a key exemption lapse this year.

"It's a crisis," said Miles Kuperus Jr., owner of Farmside Landscaping and Design in Wantage, who uses the workers for jobs he can't fill with Americans.

Now it looks like his supply of workers, and the supply for other seasonal industries, including ski resorts like Mountain Creek, is stuck in the middle of a larger political battle.

So Kuperus, who sits on the board of directors of the Professional Landcare Network (PLANET), a nationwide association of landscaping businesses, went to Washington earlier this month in an effort to get Congress to fix the problem.

Several local business owners went with him, including Collinson, and others from across the country. At the same time, several interest groups have been opposing the business lobby with more success.

The small business owners wanted Congress to extend an exemption that allowed workers who came to the U.S. in any of the last three years to come again without being counted toward the annual cap of 66,000 visas. The exemption, which expired on Sept. 30, had bolstered the ranks of seasonal, non-agricultural workers by almost 100,000, according to PLANET.

"There are some companies that very well may go out of business now," said Tom Delaney, director of government affairs for PLANET.

Landscaping is the top industry for H-2B workers, drawing 62,208 workers in the year ending Sept. 30, 2006.

One of the biggest obstacles to the provision's passage has been the Congressional Hispanic Caucus, a group that often focuses on immigration issues.

"The discussion over extending H-2B visas is inherently linked to our nation's greater immigration debate, and it must be resolved within that context," U.S. Rep. Joe Baca, the caucus' chairman, said in a prepared statement.

Caucus members say allowing fixes for some immigration issues to pass will allow politicians to avoid dealing with others, and worry that passing the H-2B exemption would pacify the business community and cause them to stop pushing for immigration issues.

Shai Goldstein, executive director of the New Jersey Immigration Policy Network, shared the caucus' concerns.

"These piecemeal approaches simply are not going to have any long-term impact on making our country competitive in the global market," Goldstein said.

Comprehensive immigration reform would bring enough legal workers into the country's workflow to make guest worker programs unnecessary, he said.

But Kuperus said the program should be continued because it's one part of the country's immigration policy that is working.

"We have an awesome program that actually works and Congress is just playing politics with it right now," he said.

On Thursday, U.S. Rep. Scott Garrett, of Wantage, sent a letter to the speaker of the house, Nancy Pelosi, in which he wrote that he was "very disappointed" that the provision had been stripped from an omnibus bill passed earlier this week. He urged her to push for the bill's passage as soon as possible after Congress returns from its winter recess.

"These are primarily small businesses that can use this program to fill their peak needs in the spring and fall, when traditional temporary workers, such as college students, are unavailable," he wrote. In a prepared statement he said: "There's strong bipartisan support for extending this visa program, and it shouldn't have been held hostage."

Kuperus said he was glad Garrett had written the letter. Since the trip, Sen. Frank Lautenberg is supporting the bill as well, Kuperus said, but Robert Menendez, New Jersey's junior senator, has not added his weight to the cause.

The AFL-CIO, one of the exemption's opponents, wants to see a permanent end to the problem.

"Our opposition to the H-2B system is that as a structure it's inherently abusive," said Ana Avendaño, AFL-CIO general counsel. "It's essentially institutional slavery."

She said that U.S. guest worker programs have a long history of worker abuse and that the caucus shouldn't fight the exemption in order to create leverage for comprehensive reform, but simply to abolish it.

Delaney argued a cut in the number of workers would encourage landscapers to hire illegal immigrants and have repercussions outside the world of landscaping.

"It's not just these companies that are suffering. It's the suppliers, the local economies that expect these workers to come back."

Collinson said many positions at his firm, Collinson Brothers Landscaping and Design, of Wharton, might be cut if he lost his Latin American help, which makes up "the bulk" of his manual laborers.

"If I don't have guys out in the field, I don't have a need for middle management, nor do I have a workforce that can support my overhead," he said.

And H-2B workers hold jobs beyond landscaping too, working as crab meat processors, stable attendants, dining room attendants, tree planters, construction workers and more.

Mountain Creek ski resort in Vernon is short about 15 workers this year, said Shannon McSweeney, the resort's communications manager.

"We're just making do with what we have," she said.

The resort's H-2B workers come from places like New Zealand, and they're highly skilled, working as ski patrol members and instructors, she said.

She said the resort has tried to step up domestic recruiting efforts, but to little avail.

"That's not that easy, to recruit people for a ski position in New Jersey when we're competing with places like Vail," she said.

Indeed, in order to hire H-2B workers, employers must first show that they have tried to get the workers from inside the U.S. and failed. Workers are also given background checks and required to hold passports.

American Pool Enterprises, which has an office in Edison, was the fourth-leading employer of H-2B workers in the year ending Sept. 30, 2006, and sent an employee on the same lobbying trip as Kuperus and Collinson. American Pool uses workers from a variety of countries as pool attendants and lifeguards. If those workers, who work roughly half of all the company's work hours, are denied entry, there will be a mad dash with competitors to snap up the few available American workers, said Kasey Simon, the company's foreign labor director.

While Mountain Creek has been stuck, due to the skilled nature of its H-2B employees, other resorts have switched to student visas for some of their workers, who come as a part of a cultural exchange, said Geraldine Link, director of public policy for the National Ski Areas Association.

But she said the fact that many students have to leave before the end of the ski season makes them less attractive workers.

Ideally, Link said, Congress should find a long-term solution.

"If you're not going to raise the cap, which I think is the most obvious solution, then you've got to make that returning worker exemption permanent."