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Foreign labor left in limbo

Who will do the work?

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Most Aprils, 360 Mexicans like Ricardo Ruiz Padilla arrive at Delaware Park to groom and hotwalk the 1,400 horses stabled at the track during the spring and summer race season.

They are legal guest workers on temporary visas who pay taxes, contribute to Social Security, and return home at the end of the season. By law, they must be paid prevailing wages.

But this year, most won't be back. Neither will thousands of foreign gardeners, resort waiters, fence installers and hotel housekeepers.

The last of the year's supply of visas - 33,000 out of 66,000 permitted by law - were snapped up Jan. 2, the day they became available but before workers who would arrive in the spring were allowed to apply.

Measures to expand the program, which brought 122,541 workers into the country in 2006, got run over by the frenzy to pass an omnibus spending bill before Congress recessed last month.



MICHAEL S. WIRTZ / Inquirer
Staff Photographer

Jerred D. Golden, grounds director at Hershey's Mill in West Chester, needs foreign workers for its golf course.

"I don't know what is going to happen," said Bessie Gruwell, executive director of the Delaware Thoroughbred Horsemen's Association.

She is not the only one who is worried.

All across the country, landscapers, resort owners and golf course operators are lobbying desperately to get Congress to lift the limit on the number of seasonal guest-worker visas issued this year.

In West Chester, the operator of a formalwear rental business wonders who will iron tuxedo shirts during prom season. He will have to do without 50 workers who would have come from Mexico from April through July.

Ken Pagurek planned to spend \$200,000 for new trucks and mowers to expand his \$2 million landscaping business, HPK Property Maintenance, in Montgomery County. But without his 25 workers, known as H-2B laborers, from Mexico, the equipment is on hold. Pagurek figures he will work a weed whacker himself.

"Now we're trying to put ourselves in survival mode," he said.

Trade associations are pushing a bill whose name sounds like a business version of Mom and Apple Pie - the Save our Small and Seasonal Businesses Act.

Legalized seasonal foreign labor is a win-win situation, they say. Business owners need help. They cannot find it here. The foreign workers want the opportunity. The businesses grow, feeding the economy. Where's the harm?

"This is the legal way to do it," said Michael Glah, president of IPR International Personnel Resources Inc., a West Chester labor recruiter with an office in Mexico City. Without the visas, "you are essentially pushing people into the undocumented labor force."

But, the H-2B program, like other guest-worker programs, is controversial. Last year, the Alabama-based Southern Poverty Law Center, which has spent decades advocating for migrant laborers and guest workers, published a 50-page report titled "Close to Slavery - Guest Worker Programs in the U.S."

"It's almost like indentured servitude," said Cornell University professor emeritus Vernon M. Briggs, a labor economist.

"The guys that are abusing the H-2B workers should be in jail," said Glah, "but that doesn't mean that all employers of H-2B workers are slave drivers."

For a long time, the visa program operated under the radar, but in this election year, it is not that simple.

"It's all about politics, and it has become one of the issues that no one wants to address without addressing all the other vexing components of immigration reform," said Robert Sakaniwa, associate director at the American Immigration Lawyers Association.

The United States has relied on foreign labor for decades.

In 1943, Congress created H-2 guest-worker visas when Florida sugar growers needed Caribbean workers to cut cane. Labor shortages during World War II gave rise to the Mexican *bracero* program.

In 1986, two H-2 categories were created: H-2A for agricultural help and H-2B for other seasonal work.

An annual H-2B limit was set at 66,000 visas, but the program was undersubscribed until 2002.

"It was a gradual thing," said Jerred D. Golden, grounds director at Hershey's Mill, an adult community built around a 120-acre golf course in West Chester.

"At first, we could staff with college kids," he said. "Then there was a fair amount of Puerto Rican help, but the Puerto Ricans started to develop trades. They didn't need these entry-level jobs.

"We went through a real tough phase in the 1990s," he said. "The problem with the bottom of the employment ladder is that you end up with guys with drinking problems.

"We started to take the Mexicans off the street. They would come in with paperwork and it would look official," he said. "Then it would become apparent they were illegal. The government started to crack down."

So when Golden learned about the IPR's H-2B program, he signed on. There was a lot of paperwork, but the workforce was reliable, worth the \$1,000 it cost him per worker for fees and other expenses.

"They were very talented guys," he said. Last year, he had 24 H-2B workers.

Across the nation, others did the same. By 2003, the 66,000 cap was exceeded, but the government continued to issue visas.

In 2005, amid a big flap, Congress agreed to a returning-worker exemption that did not count returning workers against the 66,000 cap. That year, 89,135 came.

Last year, according to some estimates, more than 225,000 visas for new and returning workers were granted, although official records are not yet available.

It looked as if the pattern might continue for 2008. But in December, Congress left for its winter recess without passing the returning-worker exemption.

That jams up people like computer technician Rodolfo Velazquez Hernandez, 32, of Toluca, Mexico.

When his company closed its doors three years ago, he had to take work in the flower industry. His pay dropped from \$100 a week to \$75.

"In my country, there is no opportunity for me," he said in a phone interview from IPR's office in Mexico City. For the last two years, he has left his wife and two school-age daughters to spend 10 months working for a West Chester fence company. He sends his family \$300 of the \$500 he earns each week.

"It's bad for people to have this opportunity taken from them," Hernandez said.

That is how John McCaughey sees it, as well.

March will come, it will be time for his landscaping company to start spreading mulch, and he simply will not have the workers to get the job done. "Come spring, those that are using illegals are going to be rewarded," said McCaughey, who runs Terren Landscapes in Wynnewood.

His competitors' low-cost illegal, but experienced, workers will return, he said, but his legal crew of 30 experienced Mexicans on H-2B visas will not be back. He doubts he could find a reliable workforce locally, even if he upped his wages. Plus, he wonders, "are my clients going to be willing to pay more?"

To use the H-2B program, employers have to certify that they cannot find local help. Some are skeptical that a problem exists, and U.S. Labor statistics do not make the picture any clearer.

For example, unemployment is low in the Philadelphia suburbs, down to 3.1 percent in Chester County. But it is high, 7.6 percent nationally, for high school dropouts.

Employers "all complain that they can't find Americans who are willing to do work," said professor Briggs. "Well, of course not. If you have an H-2 worker, it puts all the power in the hands of the employers. You have a docile workforce."

That kind of comment infuriates Bill Simeral, owner of J. Franklin Styer Nurseries in Concordville. "I take it as a personal affront that people say I'm abusing [the workers]. They are like family to us. I've been to the doctor with them. I've been to the dentist with them.

"They are an integral part of this workforce," he said. "All they want to do is make a living."

That is why groom Ricardo Ruiz Padilla, 37, who has been coming to U.S. racetracks for 13 years, will probably go to Canada this summer. He would rather come to Delaware Park, where, he said, the living quarters are like a hotel.

It has been rough to be away from his wife and three children, but he is buying land for a farm so he can retire.

Padilla, speaking by phone from Mexico City, figures he will be OK, but for the U.S. racing season, "it looks like a disaster. The trainers will have a big problem."

Whatever happens with the immigration issue, everyone agrees there will be serious disruption in the interim, with collateral damage rippling beyond affected businesses to their suppliers and the local workforce.

Some landscapers, for example, get their paving stones from manufacturer Kennedy Concrete Inc., in Schuylkill County.

By this time of year, owner Alfred Kennedy Jr. typically has \$250,000 in orders and is getting ready to bring on his own crew of five H-2B workers to handle his "monster months," March and April.

This year, he has only \$65,000 in orders, and he will barely be able to keep his regular staff busy.

IPR, the West Chester labor broker, has laid off nine people, including its immigration lawyer. One executive had earned \$115,000 a year.

If the situation does not change, more will have to go, Glah said. "I can show you the empty desks."

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