



Without worker visas, businesses scramble to fill labor void

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By Kevin Sieff/The Brownsville Herald

For years, Margaret Atkins has relied on 75 seasonal workers from southern Mexico to assemble carnival rides, sell cotton candy, and operate Ferris wheels and merry-go-rounds. But when Atkins' company, Thomas Carnival, visited Brownsville in March, the workers hadn't come, leaving the carnival badly understaffed.

Like a growing number of the American amusement industry, Thomas Carnival works through the H-2B visa program to enlist unskilled workers from Mexico and Central America. This year, the program has been drastically cut.

"Without our workers from Mexico, it's tough to continue operation," Atkins said. Instead of overseeing operation of the carnival, Atkins is now forced to fill a void in her labor force by selling nachos at the *Midway Diner*.

For several years, employers were able to rehire their former employees in the form of the "return worker exemption" without fear of reaching a cap on H-2B visas. But in September, the Congressional Hispanic Caucus blocked voting on legislation that would have renewed the exemption.

As a result, this year a cap of 66,000 H-2B visas will be enforced without exemptions, reducing the number of visas filled in 2007 by almost 70,000.

The implementation of the cap has already had far-reaching effects. Small cities in Mexico have lost a critical source of employment and remittances. Carnivals in the U.S. have been forced to either shut down or consider alternative sources of labor-including undocumented workers.

But while its repercussions have played out in disparate corners of North America, the origins of the H-2B visa crisis can be easily traced to Washington, D.C. The Congressional Hispanic Caucus' political maneuverings have created both unlikely allies and antagonists in Congress.

The CHC wants the ever-popular return worker exemption renewed - but only if it's attached to legislation related to its larger goals for immigration.

"It's unfair to piecemeal this thing out," said U.S. Rep Charles A. Gonzalez, D-San Antonio, the Congressional Hispanic Caucus' second vice chair. "A stand-alone H-2B remedy isn't going far enough."

According to Gonzalez, by withholding support for a quick-fix to the H-2B program, the Congressional Hispanic Caucus gains important allies in the business community.

"Business owners tell us, 'You guys are holding us hostage,'" he said. "But once H-1B and H-2B problems are solved, they won't feel any compulsion to support us with the entire program. ... We need proponents to come together."

Members of both parties say that comprehensive immigration reform will not likely receive due attention before the 2008 presidential election. But that hasn't stopped the CHC from withholding its support from a resolution that would maintain the H-2B program.

"I told my colleagues in June, 'If the business community is not behind us 100 percent we are not going to pass immigration reform,'" Gonzalez said. "Unfortunately, I was right."

Odd Bedfellows

While the H-2B program is paralyzed, in part, by the Congressional Hispanic Caucus' refusal to consider the issue independently of comprehensive reform, it faces more vehement opposition from a contingent of anti-immigration politicians and pundits. Guest worker programs, they say, are destructive to the domestic economy and open the door to illegal immigration.

"With a loss of 63,000 jobs nationwide last year, we need to be very cautious with any work visa program," said U.S. Rep. Tom Tancredo, R-Colo., the founder of the Immigration Reform Caucus. "And due to lack of enforcement, workers who come to the U.S. legally remain here illegally."

According to Tancredo, the circus and carnival industry would survive without an extensive guest worker program. "They may have to increase wages and prices," he said. "But that's what happens in a marketplace."

According to circuses and carnival owners, if they are forced to raise their prices to cover increased costs, it would be difficult to stay in business. "We could charge \$20 for an amusement ride, but is anyone going to pay that?" asked Jim Judkins, owner of Circus Chimera and JKJ Workforce, who recruits workers on behalf more than 100 amusement companies.

Some carnival owners point to marked wage increases in the last decade, both before and after the industry began utilizing the H-2B visa program. Such increases, they say, have not attracted a larger crop of American workers.

"It's not the wages that keep them away," Margaret Atkins said. "It's the lifestyle. They want full-time jobs, not just employment for six to nine months. Some don't want to be away from their families for that long. Others can't stay clean."

'I must be here illegally'

Accusations that H-2B workers are undercutting a native-born workforce might gain credence thanks to Tancredo and his congressional allies. But the sentiment in its most vicious form is thrust upon seasonal carnival workers from Mexico as they travel around the U.S.

"They call me 'wetback' and 'stupid Mexican.' They tell me I must be here illegally," said Pablo Juarez Mendoza, who has worked at Ray Cammack Shows for seven years. "'No,' I want to tell them. 'I am here legally. I am doing a job that you don't want.'"

But even when workers enter the country legally, opponents of guest worker programs claim, it doesn't mean they will leave when their visas expire.

The Migration Policy Institute estimates that between 2002 and 2006, 45,227 H-2B visa recipients were "likely to stay in the United States indefinitely." The estimate translates to roughly ten percent of all H-2B workers who entered the country during that period.

According to Judkins, of the 3,500 workers he recruited from Mexico last year, less than 30 overstayed their visas. Between 2002 and 2006, less than one percent of his workers stayed in the U.S. after their visas expired.

Like all other H-2B employers, Judkins is watched closely by those in charge of guest worker programs. If a large portion of his workers overstay their visas, he would have a difficult time acquiring visas in subsequent years.

Talk of solutions

Despite concerns about the potential failings of the H-2B program, congressmen are becoming increasingly responsive to the plight of their constituents that own small businesses. In Louisiana, U.S. Rep. Charles Boustany, R-La., recently introduced a resolution that would force voting on a proposal to resuscitate the H-2B program.

In September, Boustany started receiving calls from owners of shrimp boats, hotels and construction companies. Without H-2B workers, they told him, their businesses would be crippled. People from the state's crawfish and shrimp industries estimate that without the reinstatement of the return worker exemption, \$2.2 billion will be lost in the next year.

There has been no estimate of the economic impact of the H-2B visa freeze on South Texas businesses, but according to U.S. Rep. Solomon Ortiz, D-Corpus Christi, he and other Rio Grande Valley politicians have been made well-aware of the issue. Ortiz has fielded calls from a wide range of small businesses, including circuses and carnivals, that have urged him to act promptly.

"Industries in South Texas are deeply affected by the ongoing issue of the expiration of the H-2B visas, particularly those who work in shrimping, entertainment, and tourism, all staples of the South Texas economy," Ortiz wrote in a prepared statement. "That is why I have co-sponsored legislation (with Rep. Bart Stupak of Michigan) that would exempt returning guest workers on H-2B visas from being counted against the overall H-2B cap."

But Ortiz's position is politically precarious. Because he is a member of the Congressional Hispanic Caucus, many local business owners suspect that his support of Stupak's bill is little more than hollow political showmanship.

Now, among affected small business, emails are circulating with the names of the CHC's members, demanding, as a recent email sent throughout the carnival community was titled, "A call to action."

If that action isn't taken soon, circus and carnival owners fear their industry will change forever.