

HOUSE BLOCKS RULE TO PROTECT WORKERS, BOWS TO EMPLOYER PRESSURE



Following the Senate's approval of Bill that would temporarily block implementation of a new rule that seemed to be favorably inclined towards foreign workers, the House too is looking to follow suit. A Labor/Department of Health and Human Services spending bill is approaching concluding actions by the House Appropriations Committee. However, it carries a condition that blocks enforcement of a rule that would make companies employing foreign workers to bear their transportation costs and visa fees and pay them for a minimum of three quarters of their contracted hours. Companies desirous of employing foreign workers would have to advertise for American workers for up to 21 days before the jobs are scheduled to commence, only after the expiry of this period, and if they can prove that they have been unable to find US workers for the advertised jobs would they be permitted to employ non-American workers under the H-2B visa program. "We would love to have it like we had it back in the 1960s and 1970s when we had all the American workers we could get," said Jack Brooks, a crab processor from the Chesapeake Bay in Maryland, "Now our search for American workers is never-ending. At the end of the day we can't find local workers." The Labor Department also put to an end the practice of the certification process that allowed employers to just say that they had searched for American workers and are now employing foreigners because the search proved futile. The new rules require that the employers consult formally with State Workforce Agencies to validate that they could not find Americans for the jobs. The H-2B working visa is a nonimmigrant visa which allows foreign nationals to enter into the U.S. temporarily and engage in nonagricultural employment which is seasonal, intermittent, a peak load need, or a one-time occurrence. Small and seasonal businesses, like the seafood industry, amusement parks, hotels and landscapers for long has been employing foreigners under the H-2B program. Officials of the Obama administration that such a rule is required to ensure that American's get priority over foreigners in jobs and that they should, by right, get first shot at available jobs, especially in these times of a depressed employment scenario. Moreover, the compulsory hours of work payment also provides protection to the foreign workers, who cannot make additional money as they are barred from taking other jobs. Many a time, at the end of their contracts, they find themselves so strapped of cash, owing to working hours being slashed, that they don't have enough to even buy passage back home. The rule that the employers will be required to pay the foreign workers for at least 75 percent of their contracted hours, even if there is no work, is what the employers find pretty alarming and harmful to their businesses. Many business groups, prominent among them the Louisiana seafood operators have criticized the bill saying that it would add to their expenses, impacting the cost of operations to such an extent that could make their businesses financially unviable. Mr. Brooks, the crab processor said, "This is another log in the road to derail the whole industry here. If you take the seafood people away, tens of thousands of American jobs are at risk." In Rep. Steve Scalise, R-Jefferson, they have found a supportive ally. He said, "I've talked to many small business owners throughout Southeast Louisiana who have said that these labor department wage mandates will force thousands more jobs overseas, and this is another clear example of President Obama's hostility towards hard-working Americans who build their own businesses." Saket Soni, executive director of the New Orleans based National Guestworker Alliance that far from protecting the rights of American workers, it was more likely that companies would hire more foreigners than before. He accused the government of putting "corporate greed ahead of struggling workers" Soni said that the rule was a welcome one as it would assist in ending the exploitation of guest workers and the unfair exclusion of U.S. workers. However, he said that there are businesses that exploit workforces to make a profit and it is they, for serving self-interests at the cost of the larger worker interest, who are trying to block the rules and it seems that a House subcommittee is inclined to their line of thinking. Many case of exploitation of workers under the H-2B program have come to light. Exploitation of guest workers at Wal-Mart supply chains made national headlines. The Labor department is seeking to eliminate the modus operandi of foreign recruiters who saddle the migrants with huge debts, and then exploit them as they attempt to pay off debts by working long hours and in often hazardous conditions. The rule barring foreign recruiters from charging fees to workers who will come to the United States under the H-2B program is a step in this direction. Earlier, Congress voted to postpone a bill that would have increased the wages of the foreign workers. Increased wages would also mean that the local Americans would start finding these jobs lucrative and worth applying for. But businesses that depend greatly on foreign workers, especially the seafood industry, hotels, farms and timber companies, complained that the wages were already very high. Saket Soni, said that it was especially frustrating that the vote has come, even though the outrage following the revelation of forced labor among H-2B guest workers in Wal-Mart supply chains had hardly died down. He said that the new rules were designed to prevent such abuse. He expressed hope that in the end the DOL rules would be turned into law, because they were called for and much needed. "We continue to believe that the DOL's common-sense rules will prevail in the end. U.S. workers need them as much as guest workers do. In the meantime, this vote will hurt business owners who aren't abusing the H-2B program to turn a profit—and will cheer corporations like Wal-Mart that profit from forced labor," he concluded.