

Colorado may hire Mexican farm workers

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DENVER — Each year, when many people are finishing up their Christmas lists, Colorado rancher Angela Ryden starts wading through red tape so she can get two legal guest workers from Mexico to help her during calving season in March.

That's the plan. Last year, even with the help of an employment agency, the two workers from Michoacan arrived a month late because of a paperwork problem. By then, half of Ryden's calves had been born and three had died at her New Castle ranch on the western slope of the Rocky Mountains.

"It's something every year and it seems like they change the rules all the time," Ryden said of the federal H2-A visa program for farm workers.

Frustrated with the federal bureaucracy and Congress' failure to pass immigration reform, two Colorado lawmakers have proposed taking over a large part of the application process and opening offices in Mexico to find people who can arrive in time to pick the state's crops and run cattle. Arizona is considering setting up its own temporary worker program to help all kinds of businesses suffering labor shortages.

Colorado's bipartisan bill essentially mirrors the federal H2-A program — including requirements that employers pay for food, housing and transportation and pay a set wage. But it puts the state in charge of recruiting and selecting workers.

Lawmakers see the first office possibly opening in Guadalajara, where Colorado already has an economic development office. The new office would give workers medical screenings and check to make sure they return home.

The change would require approval from the federal government, which isn't commenting on the plan.

Supporters stress that it's not a new path to U.S. citizenship or amnesty for undocumented immigrants. Workers who don't return home on time would be punished by losing 20 percent of their pay, money which would be withheld by the state during their stay in Colorado.

Workers also would get state-issued identification cards, and police would have access to a cardholder database. Employers would have to notify law enforcement within 48 hours if a worker doesn't show up for work or be fined.

Colorado would recruit 1,000 farm workers in the first year of the program and expand it to 5,000 workers by the fifth year — still short of the 9,000 temporary workers who are believed to be working on Colorado farms and ranches each year.

Bill sponsor Rep. Marsha Looper, a Republican from Calhan, a town on the plains east of Colorado Springs, said she didn't want to start out with an unrealistic goal.

Nationally, according to the U.S. Department of Labor, only about 75,000 farm workers have H2-A visas, compared to an estimated 600,000 to 800,000 illegal immigrant farm workers. There are no limits on the number of H2-A workers who can enter the country, but many farmers avoid the cumbersome process and hire workers on their own. According to labor department documents, the agency approved applications for all but 28 of 1,953 workers requested by Colorado farmers and ranchers in 2007.

Landon Gates, public policy director for the Colorado Farm Bureau, thinks farmers are having a more difficult time finding workers partly because laborers have been scared away by immigration laws passed by Colorado in 2006. Gates also believes more farmers fear being accused of hiring illegal workers, following recent federal raids on workplaces.

To get workers through the H2-A program, a farmer or rancher must apply to the Labor Department each year for a certification that there aren't enough U.S. workers available for the jobs they want to fill. They still must try to find local workers by advertising and with help from the state labor department. If they still can't find workers, the Labor Department will then grant them permission to hire enough foreign workers to fill their positions, but they must continue to look for domestic workers until the foreign ones arrive.

So far, the Colorado bill is having a tough time. The AFL-CIO and the United Farm Workers oppose it because of the pay withholding and because it could open up the door for other states to run their own programs with possibly weaker rules.

Even though the H2-A program has safeguards that are supposed to protect workers, Erik Nicholson of the United Farm Workers said immigrant workers can't realistically challenge their employers because they need their jobs to remain in the country. "This to us could set us down a road that is only going to get worse for farm workers," he said.

Some lawmakers fear the state won't get federal permission for the idea anyway because of proposed rule changes being considered by the Labor Department intended to improve the system. Looper isn't convinced federal changes will happen, at least not very quickly. Rule changes proposed earlier this month include one to allow farmers to pay foreign workers less.

The H-2A system requires that above-average wages be paid to those workers. In 2007, the highest such wage was \$10.32 in Hawaii; Arizona was the lowest at \$8.27. Colorado's was \$8.64. The federal minimum wage is \$5.85.

Farmers and ranchers would also be able file applications for workers directly to the Labor Department, rather than go through state agencies first.

Another provision would allow farmers to provide housing vouchers rather than housing for workers themselves, a rule that has been a problem in states with pricey land such as California and Florida, said Paul Schlegel, public policy director for the American Farm Bureau Federation.

A Labor Department spokesman declined to comment directly on the Colorado proposal, pointing instead to the proposed federal reforms.

"We welcome Colorado's comments on that proposal," spokesman Terry Shawn said in a written statement.

State Rep. Kent Lambert, R-Colorado Springs, said the federal government, with all the funding that has gone to homeland security, should continue to run the program. If states adopt their own programs, he said they could end up competing with each other to recruit workers.

Bill co-sponsor Sen. Abel Tapia, D-Pueblo, said if farmers don't have enough workers, they may start growing less labor-intensive crops, weakening the state's agriculture industry, which now brings in about \$6 billion a year. He said the bill would also give farm workers more security than they have now.

"They risk their lives to come to this country to get work on our farms and they are constantly looking over their shoulder to see if they'll be turned in," Tapia said.

Without more legal workers, Looper said the state could ultimately end up importing food from other states and countries.

"I wonder if some legislators even care about the quality of our food. I wonder if some legislators don't care about keeping our farms in Colorado," she said.

Angela Ryden's fortunes depend on an efficient H2-A program. At 62 and 66, respectively, she and her husband would quit ranching if it weren't for their two regular guest workers, a 36-year-old farmer and his 54-year-old father-in-law.

During the winter, the Rydens feed their cattle and start the round-the-clock watch for heifers giving birth to their first calves. But the rest of the year, their workers do everything from cleaning ditches and irrigating hay fields to fixing fences so they can graze cattle on the 40,000 acres they own and lease.

"I'm the free hired hand. It's always a relief when they get here," Ryden said.