

**FOREIGN AG. WORKERS: CONFORM  
STATE TO FEDERAL LAW**

**House Bill 6115 as introduced  
First Analysis (11-30-00)**

**Sponsor: Rep. Steve Vear  
Committee: Agriculture and Resource  
Management**

***THE APPARENT PROBLEM:***

The federal Immigration Reform and Control Act (IRCA) of 1986 authorizes the temporary admission of nonimmigrant alien "guest" workers into the United States to work in the agriculture industry under the H2A Foreign Agricultural Worker Program. Effective January 1, 1995, a permanent directive was added to the federal Internal Revenue Code that excluded from the federal definition of "employment" these "H2A" agricultural workers for federal unemployment and Social Security insurance purposes.

Legislation has been introduced to similarly exempt these workers from the Michigan Employment Security Act.

***THE CONTENT OF THE BILL:***

The bill would amend the Michigan Employment Security Act (Public Act 1 of 1936 Extra Session) to exempt from the act's definition of "employment" – and thus exempt employers from having to pay unemployment taxes on workers engaged in such exempted employment – agricultural services performed by immigrants ("aliens") admitted to the United States to perform that service under the Immigration and Nationality Act [sections 214(c) and 101(a)(15)(H), 8 U.S.C. 1184 and 8 U.S.C. 1101]. Currently, the Michigan act specifies that such work is exempt only before January 1, 1980.

MCL 421.43

***FISCAL IMPLICATIONS:***

Fiscal information is not available.

***ARGUMENTS:***

***For:***

The bill would bring state law into conformity with federal law. The bill would not deny unemployment

benefits to eligible workers nor would it create additional labor shortages in the agricultural industry. It would, however, eliminate state unemployment taxes on these workers who already are ineligible for unemployment benefits. The purpose of the H2A program, which is administered by the federal Department of Labor and the Immigration and Naturalization Service, is to provide the agricultural industry with assurance of a legal and adequate labor force in times of labor shortages to harvest perishable agricultural crops only. Before authorizing the admission of any foreign workers into the United States under this program, the U.S. Department of Labor and the Michigan Employment Security Commission must first verify that there is an agricultural labor shortage. The program only admits nonimmigrant "alien guest workers" to work for one specific employer for a predetermined wage, minimum number of hours, and specific period of time, after which time they must return to their own countries. Since "H2A" workers are not eligible to draw unemployment benefits when they return to their countries after completing their specified work period in the United States under this program, the bill would not have any negative financial impact on the 182 H2A workers in Michigan. The seven affected agricultural employers in Michigan would benefit by no longer having to pay state unemployment insurance taxes on these ineligible foreign temporary workers. Although the number of Michigan agricultural employers that would be affected by the bill is small, the issue is very important to them.

***POSITIONS:***

The Michigan Farm Bureau indicated support for the bill. (11-29-00)

The Agricultural Producers of Michigan indicated support of the bill. (11-29-00)

Analyst: S. Ekstrom

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#This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.