Senate Committee on Labor and Business

February 13, 2025

Oregon Farm Bureau Supports Senate Bill 622

Oregon Farm Bureau (OFB) is the state's most inclusive agriculture organization, proudly representing over 6500 family farms and ranches that produce more than 220 agricultural commodities. From hops and hazelnuts to cattle, cranberries, and timber with operations spanning from just a few acres to thousands, our members utilize all farming methods including organic, conventional, regenerative, biotech, and even no-tech. OFB requests the Committee's support of SB 622.

Agricultural employers are increasingly looking to the foreign guest worker visa program to meet their temporary workforce needs, specifically when there is not a domestic workforce available. In Oregon, the Employment Department certifies foreign labor contracts in partnership with the U.S. Department of Labor, among other programs that the department manages.

- The **H-2A temporary agricultural program** allows agricultural employers who anticipate a shortage of local workers to bring nonimmigrant foreign workers to the U.S. to perform agricultural labor or services that are temporary or seasonal.
- The **H-2B temporary non-agricultural program** permits employers who meet the program requirements to hire nonimmigrant workers to temporarily come to the U.S. and perform non-agricultural services or labor based on the employer's temporary need.

What requirements apply to H-2A employers?

In order to employ guest workers on an H-2A visa, a farm employer must offer a job that is temporary or seasonal; ensure that domestic workers are not available for the same job; and show that employing H-2A workers will not adversely affect the wages and working conditions of similarly employed U.S. workers.[1]

The U.S. Department of Labor establishes rules and regulations for workers and employers who participate in the H-2A and H-2B visa programs. For instance, H-2A workers must be guaranteed at least 3/4 of the total hours of work stated in the work contract.[2] Employers are required to pay the Adverse Effect Wage Rate ($19.82 per hour in Oregon) and are responsible for inbound transportation and housing costs.

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[11] https://www.uscis.gov/working-in-the-united-states/temporary-workers/h-2a-temporary-agricultural-workers

[2] https://www.dol.gov/agencies/whd/fact-sheets/26-H2A#:~:text=H%2D2A%20employers%20must%20provide,offered%20to%20H%2D2A%20workers.

Do H-2A employees qualify for unemployment benefits?

In order to receive UI benefits, a person must generally be available for work. However, H-2A workers may not seek other employment in the U.S. after the expiration of the contract with a single, identified employer, and as such, they do not qualify for unemployment benefits.[3]

SB 622 aligns Oregon's treatment of H-2A employers with the IRS.

Oregon's H-2A employers have been paying Unemployment Insurance (UI) taxes for foreign guest workers since 1993, even though those workers do not qualify for unemployment benefits. Under federal law, guest workers under these programs are exempt from FUTA under IRS Publication 15, Chapter 14. And other specialty crop states, including Washington, Maine and New York,[4][5][6] exempt H-2A employees from SUTA. SB 622 ensures that Oregon employers are not paying employment taxes unnecessarily for employees who are unable to access UI benefits due to their participation in the H-2A foreign guest worker visa program.

This measure would assist farm employers by reducing their labor costs. The costs of operating a farm or ranch in Oregon have substantially increased over the last decade, and multigenerational farms are struggling to stay in business. Recent USDA data reveals that labor costs for Oregon farms are, on average, 70% higher on average than the rest of the U.S. Oregon farms have struggled with unpredictable markets, low yields, and natural disasters, and 69% of family farms and ranches in Oregon saw a net cash loss in 2022. Net cash income per farm was an average of 67% lower for Oregon farms compared to the U.S. Family farms across Oregon are begging for regulatory relief, and SB 622 is an opportunity to provide a small amount of tax relief to farms due to their employees' inability to access the benefit.

Exempting H-2A employers from paying UI taxes that their workforce does not benefit from is not only fair but would alleviate some of the cost pressures of doing business in Oregon. Other states exempt H-2A workers from SUTA, and OFB urges the legislature to adopt the same approach in Oregon.

OFB requests your support of SB 622.

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[3] https://www.irs.gov/individuals/international-taxpayers/aliens-employed-in-the-us-futa

[4] RCW 50.04.206

[5] Maine Public Law 637 (2010): https://www.maine.gov/labor/docs/2023/mwaw/Meeting3MaterialsPacket.pdf

[6] https://www.nysenate.gov/legislation/laws/LAB/564

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