



# APS

Agri-Placement Services, Inc.

## THE APS ADVISOR: RECENT NEWS

A WORKFORCE YOU CAN RELY ON!

JULY 2013

OUR MISSION IS TO ENSURE A STABLE AND CONSISTENT LABOR FORCE FOR DAIRY FARMS AND OTHER BUSINESSES, IMPLEMENTING MORALLY SOUND PRINCIPLES OF HUMAN RESOURCES MANAGEMENT FOR EMPLOYERS AND THEIR EMPLOYEES.

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## Immigration Reform: Give It to Me Straight *By F. B. Mallory*

The media machine is in full swing with no holds barred in this wrestling match, which is not only the Senate debate but also the public debate over this nation's future immigration policy. Simply put, it comes down to two fundamentally different ideologies: the radical, anti-immigration group fueled by ignorance, fear, or bigotry and the non-partisan, common sense informed group. I have been a part of the fight for an adequate, agricultural labor supply for 20 years. Those in the trenches have experienced, like no other, an inadequate, agricultural workforce.

Essentially, for the last 30 years, it is a fact that the U.S agricultural industry has not had enough ready, willing, able, and legal workers to plant, cultivate and harvest its crops, milk its cows or tend to its myriad of other labor needs. Yet the former of the aforementioned groups would work to further destabilize

agriculture's fundamental labor needs and threaten our food supply! Why?

What is actually in S. 744, the comprehensive immigration reform bill that is so objectionable? There is quite a bit about border security, reformation of general business immigration policy and new employer procedures. These items are beyond the scope of this article. The purpose of this editorial is to provide a straight-forward position of what the bill says about agriculture's current and future workforce. The following is my attempt at doing that.

### What will immigration reform mean for agricultural workers and what conditions must the workers meet to qualify for an adjustment in status and obtain a Blue Card (work authorization)?

- Have not been convicted of a felony or 3 or more

misdemeanors, and would need to pay a \$100 fine;

- Have worked in agriculture for at least 100 total days since before Dec. 31, 2012;
- Farmer must help to demonstrate that worker has met work day requirement;
- After receiving a Blue Card, can live, work, and travel to and from home country without threat of deportation or imprisonment;
- If worked under a Blue Card for at least 150 days per year for an agricultural employer and pay a \$400 fine, can apply for a Green Card (permanent residence in the U.S.) after 5 years;
- If worked under a Blue Card for at least 100 days per year for an agricultural employer and pay a \$400 fine, can apply for a Green Card (permanent residence in the U.S.) after 7 years;
- Spouses and children would be able to receive adjusted status in addition to the worker. **Con't p. 2**

## A Call to Action

*By Peter Conlon*

As immigration reform dominates the debate in Washington, D.C., it is becoming imperative that members of the House of Representatives need to hear from their constituents in agriculture about the importance of immigrant workers on their farms and the need for them to have a legal way to be in the U.S. That is because many have not chosen a position, and thus so far there has not been legislation to react to.

This became apparent for me last week while on a lobbying trip to Washington D.C. with Bob Gray, a lobbyist for the Council of Northeast Dairy Cooperatives. Bob, his partner Mike Oscar, and 3 of us from the Northeast agriculture industry, visited 9 offices of House members from the Northeast to discuss the importance and opportunity of immigration reform, especially the provisions in the S. 744 that appeared to be on a bumpy road to passage. The S. 744 includes 2 key provisions for agriculture: a new visa for year-round workers who have been working in agriculture since before Dec. 31, 2012 and could remain in place; and a new guest-worker program that would provide a 3-year visa that could be renewed once before a worker had to return to his home country. **Con't p. 2**

## What will immigration reform do to ensure a future workforce?

- The Agricultural Worker Visa Program will ensure agriculture's future legal workforce by offering both parties choice and flexibility through two different work options: a Portable ("At-Will") Visa and a Contract Visa;
- These 3-year visas would be valid for employment with agricultural employers;
- Portable "At-Will" Visa workers have the freedom to move from employer to employer without any contractual commitment, replicating the current labor market;
- Contract Visa workers commit to work for an employer for a fixed period, giving both parties increased stability where it is mutually preferred;
- These future workers are subject to higher minimum wage rates so as not to negatively affect U.S. citizens, Green Card workers, and Blue Card workers.

## Immigration Reform . . . (con't)

Many House members are on the sidelines of this issue, awaiting what may emerge from the House Judiciary Committee, which is looking at a much different piecemeal approach that has not benefited from the long, thoughtful debate that has occurred in the Senate process, and a yet undisclosed proposal from a group of House members who have been working for more than a year in secret on immigration reform. Meanwhile, these House members need to hear, and want to hear, from agriculture, especially those in more urban areas who have less contact with the farming community. Bob Gray, in our meetings with the staff members in each House office, repeated a simple mantra that House members need to hear from their constituents: Agriculture really needs the provisions of the S. 744, a new guest-worker program to replace the H-2A Visa Program, and the Blue Card for current year-round agricultural workers.

## A Call . . . (con't)

What can you do to help? Call your House member's office, or go to [www.agworkforcecoalition.org](http://www.agworkforcecoalition.org) and click the "Take Action Now" button for talking points and a letter template. It only takes 5 minutes.



## Bottom Line Blurb: Senate Passes S. 744!

By Peter Conlon

On Thursday, June 27, the Senate passed S. 744, the Comprehensive Immigration Bill that includes several key provisions for agricultural employers and workers. The bill passed by a strong 68-32 margin, showing the bipartisan effort in the Senate to pass a bill.

The key provisions include the so-called Blue Card that would allow cur-

rent workers who have been working in agriculture since before Dec. 31, 2012, to remain in their jobs with a 5-year visa, assuming they pass a background check. The second provision is a new guest-worker visa that would allow foreign nationals to work in agriculture on 3-year visas for up to 6 years before having to return to their home countries for a short period of time and reapply. This would replace

the current H-2A Visa Program.

With the work done in the Senate, the focus is now on the House, where opposition to any legalization of undocumented workers is strong. The House is expected to come up with its own bill, on its own schedule.

Several organizations have lobbied House members on the importance of the agriculture provisions of the Senate bill so they can be included in a new proposal.

## Patient Protection and Affordable Care Act (PPACA)

By Alona Myers and Julia DeVries

If there is any truth to the old saying the only certainty in life is death and taxes, then it should come as no surprise that the IRS is going to have a leading role in enforcing the new healthcare reform law, **Patient Protection and Affordable Care Act** (PPACA), informally known as Obamacare, which goes into full effect Jan. 1, 2014. APS Managers recently attended an informative seminar on the topic to understand clearly the mandates for individuals and agribusinesses of all sizes. The guest speakers at the forum were a leading attorney and a health insurance professional and the primary audience was the agricultural community. The simple reality is that PPACA will impact just about everyone: large employers, small employers, and individuals. <http://www.hhs.gov/healthcare/rights/law/index.html>

Basically, 3 groups will interact with PPACA: large employers, small employers, and individuals. A large employer is considered one that has 51 or more full-time or full-time-equivalent (FTE) employees, thus making a small employer one that has 50 or less FTEs. The first step is to determine whether or not one is a large or a small employer based on the law's rules for correctly calculating FTEs. It is best to consult a specialist, such as a broker, a tax professional, or an attorney, for help in making this calculation. An exception for seasonal businesses may also apply allowing employers to exceed the over 50 threshold and still be considered small. Once FTEs are determined, large employers are subject to the law's "play or pay" mandate which means employers must offer "adequate and affordable" health insurance to all employees or face tax penalties. Small employers have the option of whether or not to offer (or continue

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## Medicare and Social Security Taxes

By Peter Conlon

Many agricultural employers have asked what becomes of the payroll taxes they and their employees pay into Medicare and Social Security, knowing that their employees, by and large, are not in the U.S. for the long term. Or they wonder what becomes of the collected money when people use false Social Security numbers. The answer is quite interesting. This money remains in Medicare and Social Security, helping prop them up as the U.S. population ages and puts more demands on these 2 funds. For

example, in 2007, just over \$11 billion was paid into Social Security and \$2.6 billion into Medicare by people the government assumes will not collect this money later in life. The government says 7.7 million people contributing to these 2 funds do not have Social Security numbers that match their names. These numbers were calculated just before the recession. For 4 years, the payroll tax rate was reduced by 2% and only recently returned to the 2007 levels.

Additionally, a new study by Harvard Medical School speaks to the current situation with Medicare. According to that study, in 2009 immigrants contributed \$33 billion to Medicare, but that

same population used just \$19 billion in benefits, for a \$14 billion surplus. The native U.S. population contributed \$192 billion to Medicare and used \$233 billion, for a \$31 billion loss to Medicare. This is largely because of demographics: there are many younger immigrants working than in retirement, while those numbers are much different for the aging native population.



## “El Face”

By Aaron TeCrony

In today's world it is almost unthinkable to not have a mobile phone as land lines and busy signals ease towards a thing of the past. As the Hispanic workforce integrates into U.S. society, they also have discovered how convenient it is to have a mobile phone with camera and internet capabilities to access social media websites such as Facebook.

Facebook is a polarizing topic that usually brings out 1 of 2 reactions: the excitement of “staying in touch” or a comment of “not being involved in that waste of time.” Whatever opinion, many Hispanic farmworkers have discovered the ease of communication via the internet and Facebook, or “El Face”, as they refer to it. Communication with friends and family on other farms or abroad is a positive social outlet during time-off from work, but a distraction and possible detriment if accessed during work hours.

Be aware that now more than ever it is important to pay a competitive wage and offer other incentives to prevent farmworkers from “leaving for greener pastures” made easier by many with access to a mobile phone. Also, a picture is worth a thousand words and although no harm may be intended from an innocent picture posted to the internet, it is possible to attract unwanted attention towards the farm. During the next APS visit, encourage the discussion of competitive wages and fringe benefits, the pros and cons of mobile phone use during work hours, and the posting of appropriate photos of the farm to sites such as Facebook.

offering) health insurance, but must decide what is most cost-effective for their businesses. If small employers choose not to offer health insurance but rather send their employees to one of the healthcare exchanges or “marketplaces” to purchase their own coverage, then these employees fall into the individual mandate category where they must navigate the health insurance market on their own or risk tax penalties if they choose to remain uninsured. This is where the IRS comes in. Tax records will play an increasingly important role in how this law is enforced through tax penalty or incentive. If employers and individuals choose to opt out the first year, penalties may be nominal but they will be assessed at tax season based on the 2014 tax year. The penalties will increase annually and will be adjusted upward for inflation. On the incentive end, however, some pretty hefty subsidies are available to individuals and some decent tax incentives are available to employers, but only when purchasing insurance through one of the new marketplaces.

## PPACA . . . (con't)

**HealthCare.gov**

Visit [HealthCare.gov](http://HealthCare.gov) for more info about PPACA and new healthcare marketplaces to be opened for enrollments beginning Oct. 1, 2013.

**In order to inform agricultural employers about the mandates of PPACA, APS is hosting a live webinar with guest speaker Andrew Elder at MVP Health Care. Visit the [APS website](#) and [register](#) for a 1.5 hour session for large employers or individuals and small employers (limited to 100 participants per session) during the month of July. Don't miss it!**

**APS Member Exclusive Benefit:** Currently being developed on our website as an added membership benefit is a members-only area that will soon be accessible with a unique login for each member user. Each member user will be emailed a login to have exclusive access to fresh content, useful tools, and helpful resources as they become available. This will include, but will not be limited to:

- Free training materials on a variety of relevant topics
- Quick and easy access to reference info
- Useful links to strategic partnerships in agriculture and ag-related industries
- Recorded webinars
- Downloadable eBooks



Visit us at [www.agri-placement.com](http://www.agri-placement.com) to see what's new and available.

## Please Welcome Our Three New APS Team Members!

May and June ushered in change and immense growth for APS as a company, but also as a team. As of May, we bid farewell to Jacqueline Luna, our Bilingual HR Support (BHRS) Manager for the Central NY/PA Region and welcomed 3 new team members: Francisco Ponce (BHRS Manager), Britney Henderson (BHRS Manager), and Erica Tobey (BHRS Assistant). Francisco comes to us with a strong background in HR management and beef ranching experience. Britney comes to us with a strong background in dairy farming as well as previous Hispanic farmworker support experience. Erica is doing worker recruitment for our placement programs and other support duties. With the addition of Ohio farms to our list of members, we will be advertising to hire a part-time BHRS Manager to cover the Mid-Atlantic states region.

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| <ul style="list-style-type: none"> <li>• <b>F. Brandon Mallory</b>, Company President/Director</li> <li>• <b>Dawna Mallory</b>, Office Assistant</li> <li>• <b>Julia DeVries</b>, Finance Manager/Assistant Director</li> <li>• <b>Alona Myers</b>, Marketing Manager</li> </ul> | <ul style="list-style-type: none"> <li>• <b>Erica Tobey</b>, BHRS Assistant</li> <li>• <b>Ivan Jaramillo</b>, Field Development and Support Manager</li> <li>• <b>Aaron TeCrony</b>, BHRS Manager, Western NY/PA and Mid-Atlantic Region (OH/VA/MD/DE)</li> </ul> | <ul style="list-style-type: none"> <li>• <b>Peter Conlon</b>, BHRS Manager, Northeast Region (VT/NH/ME/MA)</li> <li>• <b>Francisco Ponce</b>, BHRS Manager, Central NY/PA Region</li> <li>• <b>Britney Henderson</b>, BHRS Manager, Northern NY Region</li> </ul> |
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Common Dairy Farm  
Vocabulary and Phrases  
English/Spanish



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## Common Dairy Farm Vocabulary and Phrases Booklet

This compact, bilingual dairy dictionary contains key agricultural vocabulary, helpful phrases, basic questions, common verbs, useful adjectives, basic Spanish letter pronunciation guide, and much more designed specifically for dairy farms. Order booklets via the APS website.

### Hard Copy Features:

- 4"x5½" dimensions; 45 spiral-bound pages
- Light-weight construction; pocket-sized design
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### Booklet Prices:

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