

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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SENATE BILL 881*

Short Title: AgRELIEF Act/Cost Share Program. (Public)

Sponsors: Senator Atwater.

Referred to: Agriculture/Environment/Natural Resources.

March 26, 2009

1 A BILL TO BE ENTITLED
2 AN ACT TO ESTABLISH THE TEMPORARY AGRICULTURAL LABOR COST SHARE
3 PROGRAM TO PROVIDE REIMBURSEMENT OF EXPENSES FOR THE LEGAL
4 INTERIM EMPLOYMENT OF FARMWORKERS.

5 The General Assembly of North Carolina enacts:

6 SECTION 1. Chapter 106 of the General Statutes is amended by adding a new
7 article to read:

8 "Article 70.

9 "AgRELIEF Act; Temporary Agricultural Labor Cost Share Program.

10 "§ 106-840. Title.

11 This may be referred to as the Agricultural Reimbursement of Expenses for Legal Interim
12 Employment of Farmworkers Act (AgRELIEF Act).

13 "§ 106-841. Temporary Agricultural Labor Cost Share Program established.

14 (a) The Temporary Agricultural Labor Cost Share Program is established. The Program
15 shall provide cost share funds to assist North Carolina farmers who use the federal H2-A visa
16 program, under INA sec. 101(a)(15)(H)(ii)(a), in North Carolina to legally fulfill their need for
17 temporary agricultural labor to perform agricultural labor or services of a temporary or seasonal
18 nature on North Carolina farms. The Temporary Agricultural Labor Cost Share Program shall,
19 subject to the requirements and limitations under G.S. 106-842, assist North Carolina farmers
20 with only the following costs that are paid exclusively by the North Carolina farmer and that
21 are associated with using the federal H2-A visa program:

- 22 (1) All round-trip transportation and subsistence costs for an H2-A worker, to
23 and from the worker's country of origin, if paid by the North Carolina
24 farmer, but which shall be limited to a total reimbursable expense that does
25 not exceed three hundred dollars (\$300.00) for each round trip for each
26 H2-A worker; and
- 27 (2) All processing charges and administrative fees and dues, including but not
28 limited to, advertising and recruitment costs, charged by an agricultural trade
29 association with IRS nonprofit 501(c) classification, to a North Carolina
30 farmer, if paid by the North Carolina farmer, but which shall be limited to a
31 total reimbursable expense that does not exceed three hundred twenty-five
32 dollars (\$325.00) for each H2-A worker; and
- 33 (3) Any United States State Department Visa fees and Border Patrol Crossing
34 fees for each H2-A worker, if paid by the North Carolina farmer; and
- 35 (4) Any United States Consulate application and appointment fees for each
36 H2-A worker, if paid by the North Carolina farmer.



1 "§ 106-842. Temporary Agricultural Labor Cost Share Program; administration;
2 requirements and limitations.

3 (a) The Temporary Agricultural Labor Cost Share Program shall be developed and
4 administered by the Temporary Agricultural Labor Cost Share Advisory Committee established
5 under G.S. 106-845.

6 (b) Program Functions. – Under the Temporary Agricultural Labor Cost Share Program,
7 the Advisory Committee shall:

8 (1) Within funds available to this program, provide cost share funds to
9 applicants, subject to all of the following limitations and requirements:

10 a. Reimbursements shall be limited to:

11 1. Fifty percent (50%) of the costs as provided in subsection (b)
12 of this section for each H2-A worker per year with the
13 applicant providing fifty percent (50%) of these costs.

14 2. A maximum of fifty thousand dollars (\$50,000) per applicant
15 per year.

16 b. Applicants shall be limited to farmers who have an adjusted gross
17 income in each of the previous two years that is at or below two
18 hundred fifty thousand dollars (\$250,000), unless at least
19 seventy-five percent (75%) of this adjusted gross income is derived
20 directly from farming, ranching, or forestry operations.

21 c. To be eligible for cost share funds under this section, an applicant
22 shall produce documentation for review that substantiates the
23 applicant's compliance with all of the following requirements:

24 1. The applicant has obtained federal certification to employ a
25 H2-A visa worker and complies with all federal requirements
26 for ensuring that no legally authorized United States worker
27 is available, able, and willing to meet the temporary
28 agricultural labor job requirements.

29 2. The applicant provides housing for the H2-A workers that
30 have been registered, inspected, and certified by North
31 Carolina Department of Labor ASH for occupancy by
32 workers during their time period of employment. Housing
33 does not have to be owned by the applicant in order to meet
34 this requirement.

35 3. The applicant provides each H2-A worker with workers'
36 compensation insurance.

37 4. The applicant provides insurance mandated for vehicles
38 transporting any H2-A worker.

39 5. The applicant provides training under EPA mandated
40 pesticide worker protection standards for any H2-A worker.

41 6. The applicant inspects documentation to ensure that all H2-A
42 visa documentation is valid and each worker is legally
43 authorized to work on the applicant's farm during the time
44 period of employment.

45 d. An applicant requesting cost share funds for fees and costs incurred
46 by the applicant and eligible for reimbursement under G.S. 106-841
47 shall provide, to the satisfaction of the Advisory Committee,
48 documentation to substantiate proof of payment by the North
49 Carolina farmer of these costs, not to exceed number of H2-A
50 workers employed by the applicant during the applicable year.
51 Documentation under this sub-subdivision shall not exceed standards

1 beyond what a majority of applicants can reasonably obtain and
2 submit as proof of payment.

3 e. Nothing in this Article shall be construed to preclude an applicant
4 from submitting an application each year and being eligible each year
5 to receive cost share funding under this program. Further, an
6 application that includes costs for an H2-A worker who returns in
7 subsequent years shall also be eligible to apply for the cost share
8 funding during the subsequent years.

9 (2) Develop a process for soliciting and reviewing applications and for selecting
10 farmers to participate in the Temporary Agricultural Labor Cost Share
11 Program based on the eligibility requirements and limitations under
12 G.S. 106-841 and this section. Approved applications shall be processed
13 based on the date of submission of the completed application until and as
14 long as funding is available for this program.

15 (3) Receive public and private donations, appropriations, grants, and revenues to
16 be credited to the Temporary Agricultural Labor Cost Share Program Fund
17 under G.S. 106-844.

18 (4) Limit the eligibility for submission of an application for Temporary
19 Agricultural Labor Cost Share Program funds to only the applicant who was
20 listed as the employer on the H2-A visa application, except individual and
21 group applications submitted by an agricultural trade association with IRS
22 nonprofit 501(c) classification shall be eligible, provided such group is also
23 listed on all of the applicable H2-A visa applications as a joint employer.

24 **"§ 106-843. Temporary Agricultural Labor Cost Share Program; report.**

25 No later than March 31 of each year, the Advisory Committee shall prepare a
26 comprehensive report on the implementation of the Temporary Agricultural Labor Cost Share
27 Program for the previous calendar year and submit the report to the House of Representatives
28 and the Senate Appropriations Subcommittees on Natural and Economic Resources.

29 **"§ 106-844. Temporary Agricultural Labor Cost Share Program Fund.**

30 The Temporary Agricultural Labor Cost Share Program Fund is established as a
31 nonreverting special fund in the Office of the State Treasurer and shall consist of all funds and
32 monies received from any federal, State, or local agency or institution, and from any other
33 source, whether as a grant, appropriation, gift, contribution, or bequest; provided these funds
34 are designated for the Temporary Agricultural Labor Cost Share Program Fund.
35 Notwithstanding any provisions of law which might prohibit a transfer or donation, the
36 Temporary Agricultural Labor Cost Share Program Fund also may receive funds from public
37 and private sources. Funds in the Temporary Agricultural Labor Cost Share Program Fund shall
38 be used for only the reimbursement to North Carolina farmers for fees and costs in accordance
39 with G.S. 106-841 and G.S. 106-842. Any funds received in the Temporary Agricultural Labor
40 Cost Share Program Fund shall be held separate and apart from all other moneys, funds, and
41 accounts in an interest-bearing account and shall carry forward any balance remaining in the
42 Fund at the end of any fiscal year for the next succeeding fiscal year."

43 **SECTION 2.** This act becomes effective July 1, 2009.