

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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SENATE BILL 881*

Agriculture/Environment/Natural Resources Committee Substitute Adopted 5/4/09
PROPOSED COMMITTEE SUBSTITUTE S881-PCS55399-SBf-39

Short Title: AgRELIEF Act/Cost Share Program.

(Public)

Sponsors:

Referred to:

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 The Temporary Agricultural Labor Cost Share Program is established. The Program shall
15 provide cost share funds to assist North Carolina farmers who use the federal H-2A visa
16 program under the federal Immigration and Nationality Act, 8 U.S.C. §
17 1324(a)(1)(A)(iv)(b)(iii), in North Carolina to legally fulfill their need for temporary
18 agricultural labor to perform agricultural labor or services of a temporary or seasonal nature on
19 North Carolina farms. The Temporary Agricultural Labor Cost Share Program shall, subject to
20 the requirements and limitations under G.S. 106-842, assist North Carolina farmers with only
21 the following costs that are paid exclusively by the North Carolina farmer and that are
22 associated with using the federal H-2A visa program:

23 (1) All round-trip transportation and subsistence costs for an H-2A worker, to
24 and from the worker's country of origin, if paid by the North Carolina
25 farmer, but which shall be limited to a total reimbursable expense that does
26 not exceed three hundred dollars (\$300.00) for each round trip for each
27 H-2A worker;

28 (2) All processing charges and administrative fees and dues, including, but not
29 limited to, advertising and recruitment costs, charged by an agricultural trade
30 association that is exempt from taxation under section 501(c) of the Internal
31 Revenue Code, to a North Carolina farmer, if paid by the North Carolina
32 farmer, but which shall be limited to a total reimbursable expense that does



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1 not exceed three hundred twenty-five dollars (\$325.00) for each H-2A
2 worker;

3 (3) Any United States State Department Visa fees and Border Patrol Crossing
4 fees for each H-2A worker, if paid by the North Carolina farmer; and

5 (4) Any United States Consulate application and appointment fees for each
6 H-2A worker, if paid by the North Carolina farmer.

7 **"§ 106-842. Temporary Agricultural Labor Cost Share Advisory Committee;**
8 **administration of Program; requirements and limitations.**

9 (a) The Temporary Agricultural Labor Cost Share Advisory Committee is established.
10 The Advisory Committee shall be administratively located in the Department of Agriculture
11 and Consumer Services but shall exercise its statutory powers and duties independent of the
12 Department. The Advisory Committee shall consist of seven members as follows:

13 (1) The Commissioner of Agriculture or the Commissioner's designee.

14 (2) The President of the North Carolina Rural Economic Development Center,
15 Inc., or the President's designee.

16 (3) The Commissioner of Labor or the Commissioner's designee.

17 (4) The Chairman of the Employment Security Commission or the Chairman's
18 designee.

19 (5) The Executive Vice President of the North Carolina Agribusiness Council or
20 the Executive Vice President's designee.

21 (6) The President of the North Carolina State Grange or the President's designee.

22 (7) The President of the North Carolina Farm Bureau Federation, Inc., or the
23 President's designee.

24 The Commissioner of Agriculture or the Commissioner's designee shall serve as the Chair
25 of the Advisory Committee. A majority of the members of the Advisory Council shall
26 constitute a quorum for the transaction of business.

27 (b) The Advisory Committee shall develop and administer the Temporary Agricultural
28 Labor Cost Share Program and shall have the following powers and duties:

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

31 a. Reimbursements shall be limited to:

32 1. Fifty percent (50%) of the costs as provided in G.S. 106-841
33 for each H2-A worker per year with the applicant providing
34 fifty percent (50%) of these costs.

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

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

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

45 1. The applicant has obtained federal certification to employ an
46 H-2A visa worker and complies with all federal requirements
47 for ensuring that no legally authorized United States worker
48 is available, able, and willing to meet the temporary
49 agricultural labor job requirements.

50 2. The applicant provides housing for the H-2A workers that
51 have been registered, inspected, and certified by the

- 1 Agricultural Safety and Health Bureau of the North Carolina
2 Department of Labor for occupancy by workers during their
3 time period of employment. Housing does not have to be
4 owned by the applicant in order to meet this requirement.
5 3. The applicant provides each H-2A worker with workers'
6 compensation insurance.
7 4. The applicant provides insurance mandated for vehicles
8 transporting any H-2A worker.
9 5. The applicant provides training pursuant to pesticide worker
10 protection standards mandated by the Environmental
11 Protection Agency for any H-2A worker.
12 6. The applicant inspects documentation to ensure that all H-2A
13 visa documentation is valid and each worker is legally
14 authorized to work on the applicant's farm during the time
15 period of employment.
16 d. An applicant requesting cost share funds for fees and costs incurred
17 by the applicant and eligible for reimbursement under G.S. 106-841
18 shall provide, to the satisfaction of the Advisory Committee,
19 documentation to substantiate payment by the North Carolina farmer
20 of these costs, not to exceed the number of H-2A workers employed
21 by the applicant during the applicable year. Documentation required
22 under this sub-subdivision shall not exceed standards beyond what a
23 majority of applicants can reasonably obtain and submit as proof of
24 payment.
25 e. Nothing in this Article shall be construed to preclude an applicant
26 from submitting an application each year and being eligible each year
27 to receive cost share funding under this program. An application that
28 includes costs for an H-2A worker who returns in subsequent years
29 shall also be eligible to apply for the cost share funding during the
30 subsequent years.
31 (2) Develop a process for soliciting and reviewing applications and for selecting
32 farmers to participate in the Temporary Agricultural Labor Cost Share
33 Program based on the eligibility requirements and limitations under
34 G.S. 106-841 and this section. An application fee of ten dollars (\$10.00) may
35 be charged for each application submitted to the Advisory Committee.
36 Approved applications shall be processed based on the date of submission of
37 the completed application until and as long as funding is available for this
38 program.
39 (3) Receive public and private donations, grants, and revenues to be credited to
40 the Temporary Agricultural Labor Cost Share Program Fund under
41 G.S. 106-844.
42 (4) Limit the eligibility for submission of an application for Temporary
43 Agricultural Labor Cost Share Program funds to only the applicant who was
44 listed as the employer on the H-2A visa application, except individual and
45 group applications submitted by an agricultural trade association that is
46 exempt from taxation under section 501(c) of the Internal Revenue Code,
47 shall be eligible, provided such group is also listed on all of the applicable
48 H-2A visa applications as a joint employer.

49 **"§ 106-843. Temporary Agricultural Labor Cost Share Program; report.**

50 No later than March 31 of each year, the Advisory Committee shall prepare a
51 comprehensive report on the implementation of the Temporary Agricultural Labor Cost Share

1 Program for the previous calendar year and submit the report to the House of Representatives
2 and the Senate Appropriations Subcommittees on Natural and Economic Resources.

3 **"§ 106-844. Temporary Agricultural Labor Cost Share Program Fund.**

4 There is established a "Temporary Agricultural Labor Cost Share Program Fund" to be
5 administered by the Commissioner of Agriculture. The Fund shall consist of all funds and
6 monies received from any source, whether as a grant, gift, contribution, or bequest; provided
7 these funds are designated for the Temporary Agricultural Labor Cost Share Program Fund.
8 Notwithstanding any provisions of law which might prohibit a transfer or donation, the
9 Temporary Agricultural Labor Cost Share Program Fund also may receive funds from public
10 and private sources. However, no State monies shall be appropriated to the Fund. Funds in the
11 Temporary Agricultural Labor Cost Share Program Fund shall be used for only the
12 reimbursement to North Carolina farmers for fees and costs in accordance with G.S. 106-841
13 and G.S. 106-842. Any funds received in the Temporary Agricultural Labor Cost Share
14 Program Fund shall be held separate and apart from all other moneys, funds, and accounts in an
15 interest-bearing account and shall carry forward any balance remaining in the Fund at the end
16 of any fiscal year for the next succeeding fiscal year."

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