

# Government Affairs: Congressional budget deal contains some H-2B relief

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A compromise bill to fund the federal government and avoid a government shutdown contains some relief for those companies that use the H-2B guest worker program.

Late Sunday night, April 30, Congressional negotiators reached a deal to fund the federal government through the end of the current fiscal year, Sept. 30. The bill implementing the deal is expected to pass before May 5, the date that federal funding authority would expire, avoiding a government shutdown.

The new language in the budget bill resulted from an all-out effort by landscape contractors and other H-2B users to lobby Congress during an April 26 “fly-in” to Washington, D.C.

The language in the bill dealing with the H-2B program, however, falls short of the complete exemption for returning workers that expired last fiscal year on Sept. 30. Advocates of the H-2B program had been working to have the full exemption restored.

## Why the returning worker provision is important

The returning worker exemption effectively doubles the 66,000 statutory limit on the number of visas available under the H-2B guest worker program. The returning worker exemption exempted workers who had worked under an H-2B visa during the past three years from the cap.

With the U.S. economy approaching full employment, demand for H-2B workers is intense. In addition to landscape contractors, the hospitality industry and other seasonal businesses use the program. Because the returning worker exemption expired for this fiscal year, available visas were gobbled up by mid-March. This left many landscape contractors without workers just as the spring season was starting.

## What the new language says

The language in the budget bill agreed upon by congressional negotiators gives the Secretaries of Labor and Homeland Security authority to raise the H-2B visa limit of 66,000 if they determine that there is a “need.” Exactly how the two secretaries will arrive at the determination of need is not defined by the bill’s language.

The bill limits the total number of H-2B workers that may enter the U.S. under this provision to the number of new and returning H-2B workers admitted to the U.S. in fiscal 2007: 129,547.

## Time is running out

The introduction of a subjective determination of need by two cabinet secretaries into the H-2B cap issue could delay the implementation of an expanded cap. Under prior returning worker provisions, the definition of a returning worker was defined in the legislation and the cap expansion was virtually automatic once the legislation passed.

There are only five months left in the federal fiscal year. This new H-2B cap expansion provision will expire as the fiscal year ends at midnight Sept. 30. The speed with which the Labor and Homeland Security secretaries move to make their determination of need will determine how much actual help this new provision will provide. Landscape contractors are already well into their season.

## What’s next

Advocacy groups such as AmericanHort and the National Association of Landscape Professionals (NALP) are already gearing up efforts to encourage a quick determination of need by the Secretaries of Labor and Homeland Security. They are also starting their lobbying efforts with Congress to have the H-2B cap raised permanently for 2018 and beyond.

A bill containing returning worker provisions and other H-2B reforms was recently introduced by a bipartisan group of Senators. The Save our Small and Seasonal Businesses Act of 2017 (S. 792) would make long-sought-after reforms in the H-2B program.

Call your Senators, and ask them to support S. 792!

*Photo: Jeffrey<sup>[3]</sup> via Foter.com<sup>[4]</sup> / CC BY-NC-ND<sup>[5]</sup>*

### Links

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