

# Industry Needs Permanent Fixes to H-2B Visa Program



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It was fitting and perhaps ironic that the Department of Homeland Security announced the [availability of 15,000 additional H-2B visas for 2017](#) on July 17. That was the day that green industry professionals were reviewing the issues they were preparing to discuss with their legislators the very next day on Capitol Hill.

The H-2B visa program for seasonal, nonimmigrant, nonagricultural workers was top of mind for the small business owners participating in the annual Day On The Hill organized by the [National Association of Landscape Professionals](#).

These landscapers, lawn care pros and their supporters had spent that very morning in the heat and humidity beautifying Arlington National Cemetery and the U.S. Soldiers' and Airmen's Cemetery. They were volunteers in NALP's annual Renewal and Remembrance day of service. Many of the cemetery volunteers stay an extra day in Washington, D.C., to participate in NALP's Day On The Hill.

**Read more:** [Volunteers Give 'And Then Some' at Renewal And Remembrance 2017](#)

## **Day on the Hill goals**

The goal of the Day on the Hill legislative outreach is twofold:

1. To educate and seek the support of lawmakers on specific issues critical to the health of the green industry;
2. To establish ongoing relationships with lawmakers or, more typically, with their staff members whose role it is to keep lawmakers up to date (perhaps even influence them) on various issues.

Both goals are vitally important because legislators are always considering laws and rules that impact the green industry. These include labor (H-2B most

notably), plant health products (fertilizers and pest controls), equipment (safety, emissions, etc.) and water quality, availability and use.

In light of DHS's decision to make 15,000 more H-2B visas available to American employers for FIY 2017, let's dive deeper into that issue and save the others – in particular pesticides and water – for future coverage. The recent DHS decision is both encouraging and discouraging.

It's encouraging because it suggests that ongoing efforts by small business interests seeking expansion of the number of seasonal visas from the congressionally mandated 66,000 did result in some relief. The H-2B Workforce Coalition, comprised of a large number of industries that rely on seasonal employees to provide their services and led by NALP, campaigned long and hard this past winter and spring seeking passage of the so-called returning worker exemption, which would allow the issuance of work visas – beyond the mandated 66,000 – to seasonal employees who had worked under the program the previous three years.

## **Finally, success – kinda**

The efforts by the coalition seemed to bear some fruit this past May when a bipartisan deal to fund the federal government through the end of September resulted in legislation with language to allow the Secretary of Homeland Security in consultation with the Secretary of Labor to raise the cap from 66,000 to 129,547.

To this point, that hasn't happened, however. Instead employers are being offered just 15,000 visas, and with the caveat that petitioners must attest, under penalty of perjury, that their business is likely to suffer irreparable harm if it cannot employ H-2B nonimmigrant workers during fiscal year 2017.

While landscape and lawn servicers are busy well into autumn, it's not clear how much relief the availability of this relatively small number of additional H-2B workers will help short-handed companies. But more disappointing is the prospect that the H-2B visa program may remain as politicized and uncertain in FY 2018 as it was this past year.

## **Permanent fix needed**

Laurie Flanagan, speaking to landscapers and lawn care pros the afternoon before the Day On The Hill, explained why a fix to the H-2B program – including the adoption of a permanent returning worker exemption – is vital to the health not only to the green industry, its largest user, but also dozens of other seasonal businesses as well. Flanagan is co-chair of the H-2B Workforce Coalition, which counts as members more than 100 industries, associations and other employers with seasonal employee needs.

Most obviously, not knowing just how many workers a company will have the coming season makes budgeting incredibly difficult, said Flanagan. Business owners who rely on H-2B can't accurately estimate their labor costs, and they're also in the dark about how much they can sell and service and the amount of new equipment, trucks and products they will need.

And this uncertainty is coming at a time when unemployment is low (4.3 percent as of May 1, according to U.S. Bureau of Labor Statistics) and the green industry services industry is growing at a 3 percent clip – faster than the national growth average.

Flanagan pointed out that Congress implemented the H-2B visa program and the 60,000 visa cap at a time (1991) when the landscape and many other seasonal industries were much smaller than they are today. Indeed, the economy as a whole was much smaller. The U.S. GDP in 1991 was \$9.02 trillion, whereas in 2017 it's estimated at \$16.81 trillion. The services sector has been one of the main drivers of this expansion. The need for seasonal workers now is much greater than it was when Congress authorized the H-2B program.

Flanagan reminded the Day On The Hill participants to share with lawmakers the importance of the H-2B workers in growing their companies and, as a result, offering more and better job opportunities to U.S. citizens.