

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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HOUSE BILL 1364*

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

Sponsors: Representatives Bell, Howard, Randleman, Brown (Primary Sponsors); Adams, K. Alexander, M. Alexander, Allen, Allred, Blackwood, Blust, Boles, Braxton, Brubaker, Bryant, Burr, Burris-Floyd, Cleveland, Cole, Cotham, Crawford, Current, Daughtry, Dickson, Dockham, Dollar, Earle, England, Faison, Farmer-Butterfield, E. Floyd, Frye, Gillespie, Glazier, Goforth, Goodwin, Guice, Gulley, Haire, Hall, Harrell, Harrison, Hill, Hilton, Holliman, Holloway, Hurley, Insko, Jackson, Jeffus, Johnson, Jones, Justice, Justus, Killian, Langdon, Lewis, Love, Lucas, McCormick, McElraft, McGee, McLawhorn, Mills, Mobley, Moore, Neumann, Parmon, Pierce, Rapp, Ross, Sager, Samuelson, Setzer, Spear, Starnes, Steen, Stevens, Stewart, Stiller, Sutton, Tarleton, Tillis, Tolson, Tucker, Underhill, Wainwright, R. Warren, West, Whilden, Wiley, Wilkins, Williams, Womble, Wray, and Yongue.

Referred to: Agriculture, if favorable, Appropriations.

April 9, 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



- 1 (2) All processing charges and administrative fees and dues, including but not
2 limited to, advertising and recruitment costs, charged by an agricultural trade
3 association with IRS nonprofit 501(c) classification, to a North Carolina
4 farmer, if paid by the North Carolina farmer, but which shall be limited to a
5 total reimbursable expense that does not exceed three hundred twenty-five
6 dollars (\$325.00) for each H2-A worker; and
7 (3) Any United States State Department Visa fees and Border Patrol Crossing
8 fees for each H2-A worker, if paid by the North Carolina farmer; and
9 (4) Any United States Consulate application and appointment fees for each
10 H2-A worker, if paid by the North Carolina farmer.

11 **"§ 106-842. Temporary Agricultural Labor Cost Share Program; administration;**
12 **requirements and limitations.**

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

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

- 18 (1) Within funds available to this program, provide cost share funds to
19 applicants, subject to all of the following limitations and requirements:
20 a. Reimbursements shall be limited to:
21 1. Fifty percent (50%) of the costs as provided in subsection (b)
22 of this section for each H2-A worker per year with the
23 applicant providing fifty percent (50%) of these costs.
24 2. A maximum of fifty thousand dollars (\$50,000) per applicant
25 per year.
26 b. Applicants shall be limited to farmers who have an adjusted gross
27 income in each of the previous two years that is at or below two
28 hundred fifty thousand dollars (\$250,000), unless at least
29 seventy-five percent (75%) of this adjusted gross income is derived
30 directly from farming, ranching, or forestry operations.
31 c. To be eligible for cost share funds under this section, an applicant
32 shall produce documentation for review that substantiates the
33 applicant's compliance with all of the following requirements:
34 1. The applicant has obtained federal certification to employ a
35 H2-A visa worker and complies with all federal requirements
36 for ensuring that no legally authorized United States worker
37 is available, able, and willing to meet the temporary
38 agricultural labor job requirements.
39 2. The applicant provides housing for the H2-A workers that
40 have been registered, inspected, and certified by North
41 Carolina Department of Labor ASH for occupancy by
42 workers during their time period of employment. Housing
43 does not have to be owned by the applicant in order to meet
44 this requirement.
45 3. The applicant provides each H2-A worker with workers'
46 compensation insurance.
47 4. The applicant provides insurance mandated for vehicles
48 transporting any H2-A worker.
49 5. The applicant provides training under EPA mandated
50 pesticide worker protection standards for any H2-A worker.

- 1 6. The applicant inspects documentation to ensure that all H2-A
2 visa documentation is valid and each worker is legally
3 authorized to work on the applicant's farm during the time
4 period of employment.
- 5 d. An applicant requesting cost share funds for fees and costs incurred
6 by the applicant and eligible for reimbursement under G.S. 106-841
7 shall provide, to the satisfaction of the Advisory Committee,
8 documentation to substantiate proof of payment by the North
9 Carolina farmer of these costs, not to exceed number of H2-A
10 workers employed by the applicant during the applicable year.
11 Documentation under this sub-subdivision shall not exceed standards
12 beyond what a majority of applicants can reasonably obtain and
13 submit as proof of payment.
- 14 e. Nothing in this Article shall be construed to preclude an applicant
15 from submitting an application each year and being eligible each year
16 to receive cost share funding under this program. Further, an
17 application that includes costs for an H2-A worker who returns in
18 subsequent years shall also be eligible to apply for the cost share
19 funding during the subsequent years.
- 20 (2) Develop a process for soliciting and reviewing applications and for selecting
21 farmers to participate in the Temporary Agricultural Labor Cost Share
22 Program based on the eligibility requirements and limitations under
23 G.S. 106-841 and this section. Approved applications shall be processed
24 based on the date of submission of the completed application until and as
25 long as funding is available for this program.
- 26 (3) Receive public and private donations, appropriations, grants, and revenues to
27 be credited to the Temporary Agricultural Labor Cost Share Program Fund
28 under G.S. 106-844.
- 29 (4) Limit the eligibility for submission of an application for Temporary
30 Agricultural Labor Cost Share Program funds to only the applicant who was
31 listed as the employer on the H2-A visa application, except individual and
32 group applications submitted by an agricultural trade association with IRS
33 nonprofit 501(c) classification shall be eligible, provided such group is also
34 listed on all of the applicable H2-A visa applications as a joint employer.

35 **"§ 106-843. Temporary Agricultural Labor Cost Share Program; report.**

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

40 **"§ 106-844. Temporary Agricultural Labor Cost Share Program Fund.**

41 The Temporary Agricultural Labor Cost Share Program Fund is established as a
42 nonreverting special fund in the Office of the State Treasurer and shall consist of all funds and
43 monies received from any federal, State, or local agency or institution, and from any other
44 source, whether as a grant, appropriation, gift, contribution, or bequest; provided these funds
45 are designated for the Temporary Agricultural Labor Cost Share Program Fund.
46 Notwithstanding any provisions of law which might prohibit a transfer or donation, the
47 Temporary Agricultural Labor Cost Share Program Fund also may receive funds from public
48 and private sources. Funds in the Temporary Agricultural Labor Cost Share Program Fund shall
49 be used for only the reimbursement to North Carolina farmers for fees and costs in accordance
50 with G.S. 106-841 and G.S. 106-842. Any funds received in the Temporary Agricultural Labor
51 Cost Share Program Fund shall be held separate and apart from all other moneys, funds, and

1 accounts in an interest-bearing account and shall carry forward any balance remaining in the
2 Fund at the end of any fiscal year for the next succeeding fiscal year."

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