Article published Apr 2, 2007

Guest worker program sparks criticism

JASON SPENCER, Staff Writer

A group of area farmers says the federal government's guest worker program treats them unfairly, in essence penalizing them for using foreign labor legally compared to those who would hire illegal immigrants at minimum wage, or less.

There are two types of guest worker programs -- one for temporary agricultural employment and one for temporary non-agricultural work. In governmentspeak, the first is called "H-2A" and the second is called "H-2B."

The farmers -- a band of a dozen-or-so who grow peaches, strawberries, cattle and sod -- are required to pay their foreign workers $8.51 an hour, plus provide housing, transportation, telephone and several other amenities as spelled out by the Immigration Control and Reform Act. They also have to guarantee payment for 30 hours a week, whether those hours are worked or not.

Employers of non-agricultural guest workers -- typically hospitality, construction and manufacturing companies -- usually pay less per hour for entry-level jobs, don't have to go through an extensive application process like their agricultural counterparts, and don't have to provide such

amenities as housing. And, no payment is guaranteed.

The solution, the farmers say, is a revised guest worker program that is fairer to all parties involved.

"We'd like for it to be in line for what the work really is," said Jamie Spears, who owns Inman Sod.

Farmers, like Spears, are required to advertise such jobs in the local labor market, though they say they rarely, if ever, get a response from an American. If they do, that person might show up for his or her first day of work, but they typically don't return for their second.

"People think we just want cheap labor, that we won't hire locals. That's not true," said James Cooley, whose family owns Strawberry Hill, a large farm based just outside of Chesnee. "Fast food is paying less than we are, and they don't have to house their employees."

Cooley is one of the largest employers of temporary workers, and expects to have about 130 of them by next week -- double what he had last year. This week, a team of Mexican workers finished pruning peach trees, thinning branches so that the best crop can grow and be picked.

Geary Jolley, who also owns a farm in the Cooley Springs community, said he advertised for 14 jobs last year. One American showed up, but didn't come back once he found out what the work was.

"People think that they're going to work 40 hours a week, and have their nights and weekends free," said Adrian Jolley, Geary's son. "These boys work when you tell them to, 80 to 90 hours a week, which is what agriculture is."

Adding insult to injury, the farmers say, is that they are trying to employ foreign labor legally, while some employers take advantage of the low (sometimes ultra-low) wages they can pay illegal immigrants.

The guest worker program is a small part of the immigration debate, though one that could be more important in Spartanburg County than in economies that aren't as rooted in agriculture.

Spartanburg, for instance, is the second-largest peach producing county in South Carolina, and this county ranks 16th among peach-producing counties across the United States, according to the U.S. Department of Agriculture.

Statewide, Spartanburg County also is among the top five counties producing cattle, horses, hay, corn for feed, and nursery stock -- trees, shrubs, vines and other plants grown for distribution.

Last week, Cooley and his like-minded counterparts took their concerns to U.S. Rep. Bob Inglis, R-S.C. Inglis for months has advocated a guest worker program as part of a larger immigration reform package, though he hadn't got into the specifics that worried this particular group of farmers.

Inglis said he was glad to hear their concerns -- but that while he would work to address those issues, a totally revised guest worker program probably would only come about as part of comprehensive immigration reform. Such reform, which Republicans have been making an issue for at least the last couple of years, in Inglis' mind would also include a way of controlling America's borders and requiring employers to verify their workers' Social Security numbers.

But, as far as the disparities in the two guest worker programs, Inglis said, "They're right. The agricultural program is far more difficult than the H-2B program."

"It's odd that it's set up this way," Inglis said. "Maybe originally the idea was that H-2B was for more highly skilled workers, but if it includes the hospitality workers and the lower levels of the construction industry, you have to wonder, why the distinction?"

A revised guest worker program would probably include a tamper-proof identification card -- one that includes finger prints and retina scans -- background checks and worker compensation insurance requirements, Inglis said.

He believes housing and transportation requirements on farmers should be reduced, cutting down on their added expenses. And farmers should have input as a new program is developed, Inglis said.

Pay rates for guest workers are set by each state. In South Carolina, those rates are set by the state Employment Security Commission.

Rates vary year to year. The $8.51 for H-2A employees is for all agriculture workers. That rate is

based on a national survey.

However, pay rates for non-agricultural employees depend on the area they are in and the type of job being done. An entry-level landscaper job in Spartanburg County, for instance, would pay $7.20 an hour.

Nonagricultural guest workers are capped at 66,000 people per year nationally.

There is no limit on the number of agricultural guest workers that can come here, though local farmers say they are having a harder time each year finding enough to meet their demand.

Jason Spencer can be reached at 562-7214 or jason.spencer@shj.com.