

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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SENATE DRS55296-LD-77B* (03/12)

Short Title: AgRELIEF Act/Cost Share Program.

(Public)

Sponsors: Senator Atwater.

Referred to:

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

27 (2) All processing charges and administrative fees and dues, including but not
28 limited to, advertising and recruitment costs, charged by an agricultural trade
29 association with IRS nonprofit 501(c) classification, to a North Carolina
30 farmer, if paid by the North Carolina farmer, but which shall be limited to a
31 total reimbursable expense that does not exceed three hundred twenty-five
32 dollars (\$325.00) for each H2-A worker; and

33 (3) Any United States State Department Visa fees and Border Patrol Crossing
34 fees for each H2-A worker, if paid by the North Carolina farmer; and



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- 1 (4) Any United States Consulate application and appointment fees for each
2 H2-A worker, if paid by the North Carolina farmer.

3 "**§ 106-842. Temporary Agricultural Labor Cost Share Program; administration;**
4 **requirements and limitations.**

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

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

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

12 a. Reimbursements shall be limited to:

13 1. Fifty percent (50%) of the costs as provided in subsection (b)
14 of this section for each H2-A worker per year with the
15 applicant providing fifty percent (50%) of these costs.

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

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

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

26 1. The applicant has obtained federal certification to employ a
27 H2-A visa worker and complies with all federal requirements
28 for ensuring that no legally authorized United States worker
29 is available, able, and willing to meet the temporary
30 agricultural labor job requirements.

31 2. The applicant provides housing for the H2-A workers that
32 have been registered, inspected, and certified by North
33 Carolina Department of Labor ASH for occupancy by
34 workers during their time period of employment. Housing
35 does not have to be owned by the applicant in order to meet
36 this requirement.

37 3. The applicant provides each H2-A worker with workers'
38 compensation insurance.

39 4. The applicant provides insurance mandated for vehicles
40 transporting any H2-A worker.

41 5. The applicant provides training under EPA mandated
42 pesticide worker protection standards for any H2-A worker.

43 6. The applicant inspects documentation to ensure that all H2-A
44 visa documentation is valid and each worker is legally
45 authorized to work on the applicant's farm during the time
46 period of employment.

47 d. An applicant requesting cost share funds for fees and costs incurred
48 by the applicant and eligible for reimbursement under G.S. 106-841
49 shall provide, to the satisfaction of the Advisory Committee,
50 documentation to substantiate proof of payment by the North
51 Carolina farmer of these costs, not to exceed number of H2-A

workers employed by the applicant during the applicable year. Documentation under this sub-subdivision shall not exceed standards beyond what a majority of applicants can reasonably obtain and submit as proof of payment.

e. Nothing in this Article shall be construed to preclude an applicant from submitting an application each year and being eligible each year to receive cost share funding under this program. Further, an application that includes costs for an H2-A worker who returns in subsequent years shall also be eligible to apply for the cost share funding during the subsequent years.

(2) Develop a process for soliciting and reviewing applications and for selecting farmers to participate in the Temporary Agricultural Labor Cost Share Program based on the eligibility requirements and limitations under G.S. 106-841 and this section. Approved applications shall be processed based on the date of submission of the completed application until and as long as funding is available for this program.

(3) Receive public and private donations, appropriations, grants, and revenues to be credited to the Temporary Agricultural Labor Cost Share Program Fund under G.S. 106-844.

(4) Limit the eligibility for submission of an application for Temporary Agricultural Labor Cost Share Program funds to only the applicant who was listed as the employer on the H2-A visa application, except individual and group applications submitted by an agricultural trade association with IRS nonprofit 501(c) classification shall be eligible, provided such group is also listed on all of the applicable H2-A visa applications as a joint employer.

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

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

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

The Temporary Agricultural Labor Cost Share Program Fund is established as a nonreverting special fund in the Office of the State Treasurer and shall consist of all funds and monies received from any federal, State, or local agency or institution, and from any other source, whether as a grant, appropriation, gift, contribution, or bequest; provided these funds are designated for the Temporary Agricultural Labor Cost Share Program Fund. Notwithstanding any provisions of law which might prohibit a transfer or donation, the Temporary Agricultural Labor Cost Share Program Fund also may receive funds from public and private sources. Funds in the Temporary Agricultural Labor Cost Share Program Fund shall be used for only the reimbursement to North Carolina farmers for fees and costs in accordance with G.S. 106-841 and G.S. 106-842. Any funds received in the Temporary Agricultural Labor Cost Share Program Fund shall be held separate and apart from all other moneys, funds, and accounts in an interest-bearing account and shall carry forward any balance remaining in the Fund at the end of any fiscal year for the next succeeding fiscal year."

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