



Michigan needs more workers from abroad, but migrant worker authorization rare, costly

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Michigan's reputation for fruit production, reliable vehicles and idyllic lakeshore vacations relies on workers who don't call the state home.

Employers aren't turning away American workers – they can't find them.

Business groups say eliminating roadblocks for migrants eager to get to work in Michigan could fill gaps in the workforce as the baby boomer generation approaches retirement.

Washington politics have long stood in the way of comprehensive immigration reform, but fixing flaws in work visa programs and creating pathways to permanent citizenship could be Michigan's best hope to weather worker shortages and build business.

Michigan's hospitality and agriculture industries have leaned into the use of temporary work visas in the last decade. The shift was partly out of necessity as migrant workers, many of whom are undocumented, traveled in smaller numbers to find seasonal jobs in Michigan.

Elizabeth Strater, director of alternative organizing at United Farm Workers, said an obvious solution to the labor shortage would be to provide legal status for millions of undocumented immigrants. Democrats in Congress have been pushing to give millions a path to citizenship by adding provisions to a budget reconciliation bill. But that measure was blocked last week by the Senate parliamentarian.

“It's been 35 years since we've had any sort of comprehensive look at the immigration system in this country,” Strater said. “Bringing 11 million people out of the shadows is not only keeping industries resilient, but it's going to be a huge economic driver.”

In the tourism industry, foreign labor used to be a safety net to cover a small number of vacancies. Now, vacation hot spots like Traverse City rely on those workers to make up their summer staff, said Matthew McClellan, Grand Traverse Hotel Human Resources Director.

“Nowadays with the shortage of local labor, we have to,” he said. “In the past, it used to be that way, where it was just filling the gap for the summer season, and we’d have plenty of workforce here in the offseason. That just isn’t the case anymore.”

‘It’s just becoming too expensive’

Navigating federal visa programs requires an abundance of time, patience and money from employers.

Hospitality and agriculture businesses generally use two types of visas. H-2A visas are for seasonal workers in agriculture while H-2B visas fill temporary jobs in other industries. Kim Clark, an attorney at Varnum Law who grew up on a farm and advises employers on immigration labor issues, said farms were initially hesitant to use the H-2A program because it’s expensive and complex. Now they don’t have much of a choice.

“Michigan was slow to adapt to H-2A because employers were able to scrape by with the relationships they’ve built over time with their workers,” Clark said. “As those workers are aging out of the workforce, that’s when we’ve seen a rise in H-2A. There’s not available workers that are willing to do the seasonal farm work.”

Some employers frustrated by labor shortages point to increased unemployment benefits as the culprit, but those in Michigan’s agriculture and hospitality industries say they couldn’t find domestic job applicants before the pandemic.

Rising wages are also a concern for employers.

Competition for labor has also led to higher hourly rates, and because federal guidelines require a prevailing wage, guest workers have benefitted, too.

Guest workers receiving higher pay is not an entirely new trend. The CATO Institute, a public policy research group, estimated wages for H-2A workers exceed every state’s minimum wage by an average of 57%.

Jason Ruhlig, a second-generation grower at his family farm in Monroe County, worries about being able to afford H-2A workers as wages rise each year. He’d prefer to have employers set their own wages and let workers decide whether they want to take contracts.

Farmworker wages vary across regions, determined by the U.S. Department of Labor based on the weighted average of crop and livestock workers. Michigan’s wage in 2021 is \$14.72 per hour, toward the top of the list.

Hiring immigration lawyers, paying processing fees, financing travel and arranging housing are also causing financial headaches for farmers, Ruhlig said.

“While they’re great workers and we can get people in the number that we need, we’re in a bad place because it’s just becoming too expensive,” Ruhlig said. “The biggest thing is the cost of the program.”

Farmington Hills-based attorney Justin Casagrande has watched both political parties propose numerous changes to fix the immigration system during his two decades in immigration law. Regardless of whether the objective was opening or closing borders, neither party has made the work visa process easier, he said.

Adding more regulations and fees is not a fail-safe to avoid corruption either, he said.

“The legitimate companies are priced out,” he said. “Illegitimate companies can do whatever, you can put whatever rules in place, they’re not following them anyway. The more rules you make, the more you chase away the honest not the crooked.”

CATO’s 2020 assessment of non-agriculture visas found the program has more than 175 bureaucratically complex rules that inflate labor costs far higher than they would be for most similar U.S. hires. The report suggests high costs push employers into hiring workers illegally with fraudulent or borrowed documents.

CATO economists suggest the federal government use median wage, rather than averages, to benchmark prevailing wages. Another suggestion would be to stop using average wages for entire job categories and revert to using skill levels to determine wages, which the Labor Department did previously.

Housing another hurdle

Finding a place for workers to stay when they’re off the clock is its own challenge.

Securing housing for visa workers requires a separate licensing process to find or construct housing. Meeting those standards adds time and costs, said Ben Tirrell, associate legislative counsel at the Michigan Farm Bureau.

“It is more of a complicated business decision an employer has to make before using this type of labor,” he said.

Hector Arroyo manages agricultural and foreign labor services for the Michigan Department of Labor and Economic Opportunity. He said state officials see an urgent need for affordable housing in rural farm towns.

The Michigan Department of Agriculture and Rural Development created a task force in 2019 to address the issue. It recommended building more affordable housing to help recruit domestic workers and visa workers.

Agriculture visa programs require employers to provide free housing. Many temporary workers live in labor camps. State data shows the number of units held steady during the last five years, but capacity increased, suggesting larger dormitory and barracks-style housing projects.

Arroyo said building separated units is more important due to a 2020 emergency rule that allows visa workers to remain in the U.S. for up to three years. Dependents of those workers can apply for a visa that allows them to accompany farmworkers, creating a need for more family housing.

Finding affordable housing that's not offered by employers is difficult in rural areas where housing options are slim, or in vacation areas where housing is expensive. MDARD determined workers with limited options are often forced to endure substandard housing conditions, overcrowding and exposure to pesticides. Putting workers in close quarters also raised sanitation concerns during the COVID-19 pandemic.

The lack of affordable housing is a root problem for recruiting American workers in tourist towns.

Rental rates have skyrocketed, and Michigan had a record high summer for home prices as the median jumped to \$244,000 for residential houses. Traverse City's median skyrocketed past that to \$350,000.

As the HR Director of the Grand Traverse Hotel, McClellan realizes it's a lot to ask of a new employee to move at that high cost, especially if it's for a six-month job.

"I think the Traverse City area is starting to realize that too," he said. "It's a little late, but better late than never to identify that and figure out how we can become a more attractive market for those families or single individuals to be able to move this area to help out with the workforce."

'Work with us, not against us'

As Michigan asserts itself a premiere vacation destination, it isn't just competing for tourists. It's competing for workers.

Unlike visas for agriculture workers, the federal government only allows a limited number of H-2B visas for other industries. The demand far outstrips the cap of 66,000 H-2B visas, leaving employers to compete. The cap has not changed in three decades.

In 2019, the Department of Labor implemented a lottery system for H-2B visas in which applications were randomly ordered for processing. Previously, applications were being sent in at the stroke of midnight on New Year's Eve in hopes of getting to the front of the line.

This year, Patti Ann Moskwa was approved for 18 workers for her two restaurants. It was the first time in the last five years she was approved for that many, she said.

Moskwa and her husband, Steven, own Horn's Bar and Yankee Rebel Tavern on Mackinac Island and have used the temporary visa program for two decades.

A big win, like 18 workers, is a private celebration. The luck could run out next year, Moskwa said.

“It’s happened to all of us on the island,” she said. “At the end you just you pray for your fellow businessperson. You just go ‘Thank you Lord, that it wasn’t me this year.’”

Mackinac Island businesses have a symbiotic relationship – if hotels have enough workers to be at full capacity, then guests will patronize restaurants and utilize horse carriage rides. But if one element is out of balance, the ecosystem is thrown off.

Moskwa said business owners don’t feel competitive with each other on the island. Instead, they’re competing with all the other tourist towns fighting to provide a “Pure Michigan” experience during a labor shortage.

The federal cap on H-2B workers hasn’t changed since 1990. Employers are tired of the minimal progress made by the government.

“Come on government; you got to work with us, not against us,” Moskwa said.

Can there be change?

Exemptions and expansions have been proposed to work around the H-2B worker cap.

One bill proposed in Congress would exempt workers from the cap on non-agriculture visas if they have worked in the U.S. during one of the three previous fiscal years. A similar cap exemption was put in place in 2015, but wasn’t reinstated the next year.

Another bill seeks to expand the definition of agricultural work to include current jobs like seafood processing, horticultural commodities and the care of horses. The bill would move approximately 60% of the current demand on the H-2B program to the H-2A program.

Neither of these proposals have been voted upon.

Gray Delany, executive director of Seasonal Employment Alliance, advocates for more H-2B workers, but he’s not optimistic that the system will get easier. He called hope for a streamlined process “unrealistic.”

“Government never gets smaller. It only gets bigger,” he said. “I don’t foresee any opportunity to make this program less burdensome, or less regulated.”

Instead, the nonprofit’s main goal is to eliminate the outdated cap on workers. Employers currently undergo a labor market test to prove American workers turned down the jobs H-2B workers would fill. The nonprofit is in favor of the process and is open to it becoming even more stringent, Delany said.

A robust labor market test will prove what employers already know – guest workers aren’t replacing Americans.

“Every employer needs as many workers as they can have and they would never turn away an American worker,” Delany said. “It does not take American jobs.”

Congress is also considering legislation that would offer citizenship to millions of undocumented farm workers. If passed, the Farm Workforce Modernization Act would create an opportunity for workers to earn legal status through continued employment. The bill would also make the visa program more flexible and user-friendly for employers.

U.S. Reps. Fred Upton, R-St. Joseph, and Peter Meijer, R-Grand Rapids, broke with the rest of Michigan's House Republicans by voting for the bill. Upton and Meijer, who represent West Michigan communities that produce much of the state's crops, said helping temporary workers become permanent citizens would address the agriculture industry's labor shortage.

Most Republicans objected to rewarding farm workers with a pathway to citizenship. U.S. Rep. Lisa McClain, R-Bruce Township, voiced her support for reforming the agricultural guest worker program, but criticized "granting mass amnesty" to farm workers who may be undocumented.

Strater, the United Farm Workers organizer, said there are people in Michigan who can fill agriculture and food production jobs; they're just not legal citizens.

"They are Michiganders," Strater said. "It's time for Michiganders to look around and recognize their neighbors."