

The Canary in the Coal Mine

Caged canaries were taken into coal mines as an early warning system for miners. The tiny birds were very sensitive to buildups of methane and carbon monoxide. So long as the canaries were singing, miners could have some confidence that dangerous levels of silent, but deadly, toxic emissions were not present in their working environment. The miners would mine while the canaries would sing.

I think agricultural employers have our own “canaries in the coal mine”. Our canaries are, and unfortunately for them, the farmers and ranchers in California and Washington. And the toxic emissions for which they are our “early warning system”, are those expelled by their state legislatures.

In fact, I am so convinced of the import of this “early warning system” that this year, like at our last Ag Labor Forum in Las Vegas, I am going to ask attorneys from those two states to present to attendees the crazy anti-farmer goings on in their State Capitols.

And, when I say crazy, I mean truly, amazingly crazy!

Our membership’s weekly H-2A conference calls have lately examined what’s going on in Washington state as if their legislature is fighting tooth and nail to prove they are the wackiest.

Last Summer, under significant pressure from anti-farmer activists, the Washington Employment Security Department (ESD) started promoting the notion of charging fees to farmers and ranchers involved in the federal H-2A Temporary Agriculture Worker Visa program.

The fees being proposed would be used to generate funds for the ESD to supplement work done on H2-A application processing but would also duplicate regulatory efforts of the US Department of Labor on Washington farms and ranches. These duplicative regulatory efforts, please keep in mind, have never been delegated to the state by the federal government.

The National Council of Agricultural Employer’s (NCAE) legal counsel developed a legal memorandum on the notion last summer for NCAE members in the state identifying the action’s Constitutional failings.

This year, legislation was introduced to authorize these fees in the Washington state legislature. The legislation would authorize ESD to impose fees on H2-A employers sufficient to cover whatever the agency determined its costs and activities related to the program to be. Some initial agency estimates put this at approximately \$3.5 million in new tax burden on users of the program. And, veering wildly out of their defined lane, the ESD would initiate new, added compliance regimes costing agriculture millions more.

The bill has passed out of the Washington Senate but has yet to pass out of the House.

As if that bill wasn't crazy enough, SB 5693 in the Washington Senate tries to outdo it. In yet another shot at agriculture, this bill would require some retail sellers and manufacturers of agricultural products to require their farmers to report "violations of employment-related laws and incidents of slavery, peonage and human trafficking."

I'm not kidding. I guess the anti-farmer advocates have been working overtime to convince Washington legislators that agricultural workers are routinely enslaved and trafficked. Of course, not only is this bill offensive to agricultural employers (as its author and cohorts likely intended), it seeks to add yet another burden on farmers to address an evil that exists in only sick minds.

But in one of life's great ironies, a significant human trafficking problem was revealed on February 28th in Seattle, when eleven Asian massage parlors were raided in a prostitution sting. Twenty-six women were freed from being trafficked and forced into prostitution. None of them worked in agriculture, but all of them were being trafficked in the district represented by the sponsor of SB 5693.

Fortunately, this bill did not advance further and is dead—for now.

Canaries in the coal mine.

Thankfully, this is one of the benefits to members of NCAE. We search out, with our members' help, and identify threats to agricultural employers such as these that too often arise and educate members on their rights and how best to inoculate their businesses.

It's nice to have canaries helping to keep us safe.