NOVEMBER 5, 2019 4:33PM

H-2A Farmers Will Benefit From House Reform Bill

BY **DAVID BIER**

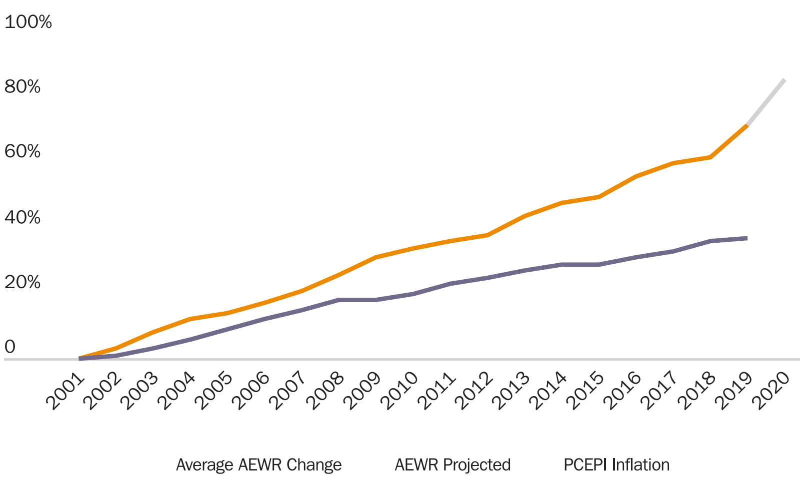
A bipartisan group of House members introduced the Farm Worker Modernization Act. The legislation will expand eligibility for the H-2A program to year-round industries, but it also contains several welcomed reforms that will bring down the costs of using the H-2A program, as I've detailed in my general review **here**. One set of reforms that will benefit current H-2A users in particular will change the government-established H-2A wage called the Adverse Effect Wage Rate (AEWR) that employers must pay to all H-2A workers and U.S. workers in "corresponding employment."

The Department of Labor (DOL) **calculates** the AEWR using the Farm Labor Survey, a quarterly survey of farms conducted by the Department of Agriculture. It has several problems, including that the AEWR, unlike most immigration programs, relies on statewide estimates rather than local estimates and creates a single wage floor without regard to skill level. Ultimately, farmers are most frustrated by escalating labor expenses forced on them by the AEWR and high volatility in the AEWR estimates.

Figure 1 shows how much faster the AEWR has increased relative to price inflation. 2019 saw a particularly sharp increase, and based on a half year of surveys, 2020 is predicted to have an even larger increase. Overall, the AEWR is increasing at more than twice the rate of inflation.

Figure 1

H-2A National Average Adverse Effect Wage Rate and Inflation Change Since 2001



Source: Congressional Research Service (1990-2008); Department of Labor (2009-12, 2013-19); Department of Labor (2020); Personal Consumption Expenditures Price Index

To address this problem, the Farm Worker Modernization Act (**p. 58**) freezes the AEWR for 2020 and bans increases in the AEWR greater than 3.25 percent in a single year (or decreases greater than 1.5 percent), limiting volatility and reducing labor expenses of H-2A employers trying to follow immigration law. For context, 2019 saw a 6.2 percent increase over the AEWR in 2018, and 2020 is expected—based on a half year of data—to see 7-8 percent increase.

To see how important this would be to farmers, consider that from 1991 to 2019, the AEWR has increased by more than 3.25 percent for an average of 27 states annually, and it has decreased by more than 1.5 percent in for average of just 2 states annually. Figure 2 shows the number of states meeting these criteria by year. In 2019, 37 states had increases greater than 3.25 percent, while none had decreases larger than 1.5 percent.

Figure 2

State Adverse Effect of Wage Rates With Significant Increases or Decreases

State Increases > 3.25% State Decreases > -1.5%

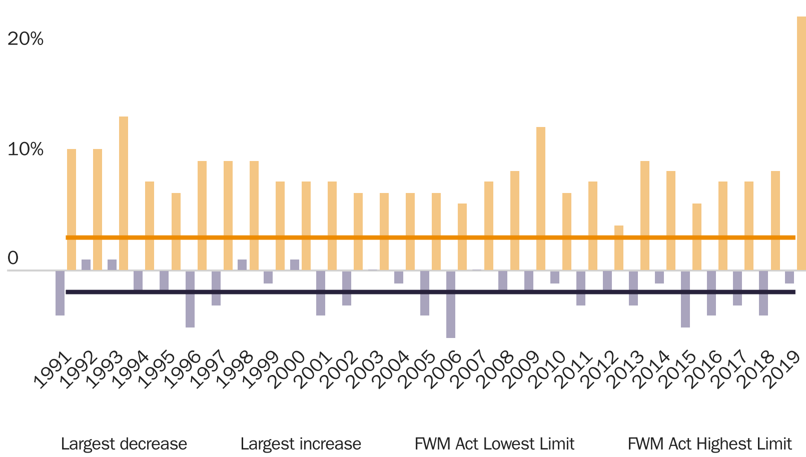
Source: Congressional Research Service (1990-2008); Department of Labor (2009-12, 2013-19); Department of Labor (2020); Personal Consumption Expenditures Price Index

The legislation would prevent the type of wild changes in the AEWR that frustrate farmers' ability to plan. The AEWR's wage estimates for farms are 20 percent more volatile than, for example, the **Quarterly Census of Employment and Wages**, based on the annual change in a state's AEWR relative to the state's average change for all years. Moreover, under current law, AEWR changes—no matter how big—become effective immediately, even in the middle of an H-2A contract—while the Farm Workforce Modernization Act would apply increases only to a new contract.

Figure 3 illustrates how much the AEWR can fluctuate up or down. The average difference between the highest and lowest change was 11 percent from 1990 to 2019. In 2019, it was 23 percent. The legislation would limit such increases to no more than 3.25 percent.

Figure 3

Highest and Lowest Change in State Adverse Effect Wage Rate, 1991-2019



Source: Congressional Research Service (1990-2008); Department of Labor (2009-12, 2013-19); Farm Workforce Modernization Act

Beyond the benefits for farmers wanting to be able to plan, the legislation would also reduce labor expenses. Figure 4 imagines how the AEWR would have developed differently from 1990 to 2020, if the Farm Workforce Modernization Act's rules were enacted in 1990. In 2019, the national average for all states would have been 11 percent lower. This would have saved H-2A farmers in 2019 about $324 million in labor expenses for H-2A workers alone. It would probably save them multiples of that amount for U.S. workers who must receive the same wage. In 2020, the AEWR would have likely been 15 percent lower, meaning even greater savings next year.

Figure 4

Adverse Effect of Wage Rate Under Current Law and Farm Workforce Modernization Act Rules (Enacted 1990)

AEWR AEWR Projection FWM Act AEWR FWM Act AEWR Projection

Source: Congressional Research Service (1990-2008); Department of Labor (2009-12, 2013-19); Department of Labor (2020); Farm Workforce Modernization Act

The Farm Workforce Modernization Act also disaggregates wage estimates based on the specific farmworker occupation. Currently, the AEWR relies on the combined field and livestock worker estimates, which inflates the wages for most H-2A workers by lumping in higher skilled equipment operators. This change would raise the AEWR for more skilled positions and lower it for the general farm laborers. Overall, this would produce possibly more reliable estimates, but in combination with the capped increases, this would likely not make a significant change in labor expenses.

The Farm Workforce Modernization Act improves the wage structure for H-2A farmers by reducing wage volatility and reducing labor expenses. Obviously, the legislation fails to stop all increases in the AEWR, but it is a manifest improvement over the status quo.

Topics: International Economics, Development & Immigration, Immigration

Tags: h2a program