



ALERT

Rehoboth Beach-Dewey Beach Chamber of Commerce

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WORKERS' COMPENSATION REFORMS NOW LAW

A bill intended to curtail the recent escalation of Workers' Compensation Insurance premiums is now law. Employers are mandated to carry the coverage to safeguard the interests of their workers that are killed, injured or become ill while performing their jobs. The rates paid vary according to occupational risk. Signed into law by Gov. Jack Markell on Thursday, June 27, House Bill 175 contains a number of reforms resulting from the work of a joint public-private task force that was formed in January to examine dramatic rate hikes in Workers' Compensation premiums each of the last two years. The new law will impose tighter controls on medical costs; increase scrutiny of rate hike requests; and help doctors to determine if injured workers could safely return to work sooner by performing alternative tasks. It also creates a business advocate to represent the interests of Delaware employers and plead their case during the state's rate-setting process. The law extends the life of the task force so it can assess the impact of the reforms and possibly suggest new corrective action.

JUST IN FROM COUNCIL ON INTERNATIONAL EXCHANGE (CIEE)

Last Thursday, the Senate passed S.744 which is the comprehensive immigration reform bill. The original version of this bill had very concerning language that would have effectively shut down J-1 Summer Work Travel (SWT), Intern, and Trainee and made it more difficult to run Au Pair and Camp Counselor programs. The bill that was passed is quite different from the original – in some very important ways for the Exchange Visitor Program. Assuming the provisions of the Senate bill remain more or less intact after the House of Representative process is complete, sponsors can still operate the SWT program and we will all benefit from some common sense protections for participants which have been added to the bill. CIEE, along with other sponsors and the Alliance, have reached out to SWT stakeholders (employers, Chambers of Commerce, industry associations, and so on) and our Senators to engage them on the topic and express our concerns. We were able to develop an alternative set of provisions for the Exchange Visitor Program. The original language that was in the bill was in Subtitle F and lumped the Exchange Visitor Program in with labor visas, referring to sponsors as “Foreign Labor Contractors” and prohibited collecting fees, among other things. We have managed to remove the EVP from Subtitle F. In its place, we developed Subtitle I, which addresses protections for EVP participants. Subtitle I was included in the Corker-Hoeven amendment which was voted and adopted on Wednesday.

Subtitle I includes a lot of detail. The important pieces are:

- Definitions:
 - o Sponsors are no longer “foreign labor contractors”; Exchange visitors are no longer “foreign workers”.
- Fees:
 - o Sponsors can collect fees from participants; The Department of State will put in place regulations within two years to set maximum fees by country by category to prevent excessive fees.
- Disclosures:
 - o A three-party agreement will be created that will detail the mandatory and optional fees a participant will pay. This will be signed by the sponsor, agent, and participant.
 - o Sponsors will be required to disclose all the details of the job placement to participants including all deductions, training, conditions of work, etc.; Sponsors will be required to provide details of workers comp coverage and other insurance and how to pursue claims; Sponsors will be required to disclose any sanctions the sponsor is subject to.
- Enforcement:
 - o Sponsors have responsibility for actions and representations of third-parties we have contracted with (agents).
 - o Sponsors may not retaliate against a participant who complains.
- Audits:
 - o Audits will be required every two years.

A lot of what is included was already in the regulations, or anticipated in upcoming regulations. In some places it has been strengthened in this legislation. Every point was a negotiation and there were many compromises made. Overall, the changes will result in a stronger program, though we still have a short list of items that we are seeking to change. In addition to Subtitle I, there was an amendment to reduce the \$500 SWT fee to \$100 and allow for the cost to be passed on to the participant.