

GROWERTALKS

JZ on D.C.

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A Virtual Check-in With Rep. Spanberger

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In mid-September, I was invited to sit in on a virtual meeting with members of AmericanHort and Congresswoman Abigail Spanberger (D-VA). Since the COVID-19 pandemic began, AmericanHort has been holding virtual check-in meetings and fundraisers with Washington D.C. legislators.

The goal of these small events is to stay top-of-mind of those policy makers who have a direct effect on the issues important to horticulture. AmericanHort has always been a non-partisan organization, supporting representatives and senators from both parties who've been involved in legislation related to our industry.

"These events are targeting key champions for us," explained Craig Regelbrugge, AmericanHort's Senior VP of Government Relations. "These are the 'go-to' folks that we rely on to help move horticulture industry priorities forward. Our primary goal is to strengthen and deepen the relationships and, of course, to help key champions—on both sides of the aisle—to get reelected."

During "the conversation" with Congresswoman Spanberger, a handful of growers from around the country took turns updating her on their current challenges. Labor continues to be a major issue, along with problems relating to COVID-19, which are putting added pressure to an already stressed situation. As a member of the Problem-Solvers Caucus, Rep. Spanberger has played a key part in negotiations including agriculture and horticulture in COVID-relief bills. Both sides of the aisle have been receptive because the discussions center around programs instead of down-and-dirty legislation, she said.

Craig mentioned that there's been a lot of negative publicity around ag businesses and COVID-19, and he's concerned that the public isn't hearing the positive stories that generally outweigh the bad ones.

"Growers are doing so much to keep workers safe," he said, but they need help. Access to more testing and prevention resources are key to controlling the spread in greenhouses and nurseries—a point that the congresswoman acknowledged is a problem, especially since money allocated for testing in the CARES Act has yet to be utilized.

Growers said that trying to adhere to HIPAA laws, and long testing and wait times for results have bogged down their businesses. But a couple have had success by partnering with local health agencies, which helps them to be more proactive and avoid outbreaks. And when a viable vaccine is eventually available, Craig said that AmericanHort is

taking the position that ag workers should be in line to receive them in the first round of distribution along with elderly citizens, after first responders and frontline healthcare workers.

Looking ahead to peak production, the No. 1 challenge for growers is getting workers, some of them wondering aloud if they'll be able to get them on time and in the numbers that they need. The hope for the congresswoman and the growers on the call is that the Senate puts the Workforce Modernization bill on the floor for a vote after the election. —JZ

Lobbying for the Produce Market

September was a busy month, as the United Fresh Produce Association held their annual Washington Conference as a virtual platform. The week-long event included committee meetings, educational and networking sessions, and a “virtual march on Capitol Hill” where members had online appointments with legislators.

The three general sessions included some big names in Washington, with the first one opening up the event with Secretary of Agriculture Sonny Perdue. The secretary's focus was on the COVID-19 pandemic, and its effect on farmers and growers.

“Americans have learned more about our food supply during COVID, and how food service and restaurants are important,” said Mr. Perdue. “Now people know where their food comes from and what it takes to produce it and get it to market.”

It takes flexibility to pivot, said the secretary, but the produce sector is a “whatever-it-takes kind of industry.”

Secretary Perdue mentioned a few of the programs developed to help producers, including adding more crops to the Coronavirus Food Assistance Program. And as the industry continues to navigate through COVID-19, United Fresh's President & CEO Tom Stenzel said that they will be pushing for farm/ag workers to be one of the first ones in line when a viable vaccine is available.

Another session was on bi-partisan governing, focusing on the “bromance” between two congressmen—Rodney Davis (R-IL) and Jimmy Panetta (D-CA). Both have a strong agriculture presence in their districts, but in very different parts of the country and very different types of crops. In Illinois, farming is extremely automated because of the nature of crops like corn and soybeans; in California's Salinas Valley (known as “The Salad Bowl” of the U.S.), growers rely heavily on manual labor to help harvest everything from strawberries to broccoli, much of that labor coming from other countries.

But both representatives understand the need for a seasonal guestworker program and immigration reform, which is why both helped to sponsor the Workforce Modernization Act that was passed last December 2019.

“We have a good camaraderie and that's not something you see all the time,” said Mr. Panetta. “It proves that most people don't really know what happens behind the scenes. It's all about relationships.”

Mr. Davis agreed: “People go to their partisan corners much more than we do. You don't get to hear how members of Congress get along because it doesn't make the news.”

The conversation centered around the pandemic and how it's hurt constituents in their districts. As a member of the Problem-Solvers Caucus (an independent group of Republicans and Democrats who work to find common ground on policies), Rep. Panetta has been working with other legislators to develop additional COVID relief for families and businesses. And Rep. Davis introduced the Feed Our Kids Act, which provides school lunches for all low-income children under age 18.

As members of the House Agriculture Committee, the congressmen spoke about how vital ag workers are—and how vulnerable they've shown to be during the pandemic. They closed with some thoughts on why it's so important to meet with your representatives.

"We don't do enough to tout that we have a safe, reliable food supply," said Mr. Davis. "People need to understand agriculture in this country—that farmers and producers continue to feed the world, not just the U.S."

"Tell your reps your story, tell them your challenges," stated Mr. Panetta. "People forget where their food comes from and we need to continue to remind them. And we have to continue to create legislation that helps producers." —JZ

The Road Ahead on the Seasonal Workforce

Right before an election is an interesting time to have a webinar that focuses on the future, so AmericanHort made that the theme for one in September that addressed visa policy and workforce planning for 2021.

AmericanHort's Senior VP of Government Relations Craig Regelbrugge admitted that "we all know we live in an unknown world" and that the three big unknowns (at the time) were the outcome of the election, the trajectory of COVID-19 and the workforce moving forward.

One thing we do know is how many more growers are taking advantage of the worker visa programs. In the last 10 years, applications for the H-2A program alone have increased significantly. Between 2019 and 2020, there were over 900 more applications. If you take a look at the month of January—the peak application time—in 2010, there were 750 applications; in 2020, there were over 3,000.

The H-2A and H-2B programs are all funded through federal appropriations and Shawn Packer, a representative from the Department of Labor (DOL), said they fully expect to have another 6,000 applications for H-2A in January 2021.

Growers and business owners who utilize H-2A have been waiting for the DOL to publish a final rule on "modernizing" the program, which was announced in July of 2019. Some of the proposed changes that AmericanHort supports are electronic filing, limiting the "50% rule" (where an employer must continue to hire any willing and qualified domestic workers who apply during the first half of the contract, which doesn't work for a seasonal workforce whose positions last between six and nine months), and "staggered" entry for workers during the first 120 days of a contract.

The comment period for the changes ended at the end of September 2019 and since then nothing has been announced. Mr. Packer said that DOL is still working to develop the final ruling and didn't commit to a set deadline. AmericanHort and its legal counsel Lynn Jacquez from CJ Lake said that they're hoping it will be before the peak application time in January.

The biggest short-term concern is funding levels through the appropriations bill; funding has either decreased or remained steady despite the significant increase in applications. Because of the election and COVID-19, the 2021 filing season will be in flux, explained Lynn. However, this will be more for the other visa programs, including H-2B; H-2A won't be as impacted because the workers in this program directly affect the U.S. food supply chain.

And speaking of COVID, Tom Bortnyk of Más Labor spoke for a few minutes on some of the challenges some growers may face because of the pandemic, including adhering to safety protocols in an ever-changing environment (not just in the workplace, but in worker housing as well), filing extensions and expanded E-verify rules, and

transportation issues because of travel restrictions. Tom suggested that if you're going to request workers through H-2A in 2021, lean toward Mexico because travel is easier with options via air and land. There are quite a few travel restrictions with other countries that provide labor through H-2A, including El Salvador, Guatemala and Jamaica.

Craig ended the session assuring attendees of AmericanHort's continued focus going into 2021.

"Our goal is to have your back and to advocate on your behalf to make sure you have access to a reliable workforce," he said. —JZ

New Round of Funds for Pandemic Costs to Growers

The Trump Administration announced a new round of at least \$13 billion in Coronavirus Food Assistance Program (CFAP) funding for direct payments to growers and producers facing pandemic-related losses or costs. AmericanHort participated in a mid-September briefing call by the White House and USDA, which outlined how the new funding will work.

The new "CFAP-2" funds are available irrespective of whether a producer applied for or received funding under the original CFAP. USDA has streamlined and refined its approach for various commodities; for nursery and floriculture, 2019 sales are the basis for calculating payment.

The payment rate starts at 10.6% for the first \$50,000 in sales; the rate declines modestly on a sliding scale for each increment of sales above that. The same per-entity payment limits (\$250,000 per entity; potentially up to \$750,000 depending on business structure) and AGI limits apply as under the original program. A program summary is provided in a new AmericanHort/K·Coe Isom guidance document at growertalks.com/AmericanHortCFAP. Other details are also available at the USDA website at growertalks.com/CFAPprogram.

The application period runs from September 21 to December 11. AmericanHort premium members can speak directly with K·Coe Isom for high-level guidance. Contact Tal Coley at TalC@americanhort.com for more details.

—Craig Regelbrugge, Senior VP of Government Relations & Research, AmericanHort