

Governor's Council on Migrant Labor Minutes  
Wednesday, April 25, 2018  
10:00 AM – 12:00 PM  
State Capitol  
Room 225 NW  
Madison, WI

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Call to order: 10:00 a.m.

Roll Call

**MEMBERS PRESENT:**

Senator Jerry Petrowski, Representative Bob Kulp, John Bauknecht, Kevin Magee, Erica Kunze, Lupe Martinez, Guadalupe "Wally" Rendon, and Steve Ziobro

**MEMBERS ABSENT:**

Representative JoCasta Zamarripa, Senator Bob Wirch, Melissa Cuevas, Jeanine McCain, Teresa Tellez-Giron.

**DWD STAFF PRESENT:**

Naul Segovia (DWD/Job Service), Rosa Ortega (DWD/Job Service), Angelica Vasquez (DWD/Job Service), Pedro Albiter (DWD/Job Service), BJ Dernbach (Assistant Deputy Secretary), Joseph Ledger (WDA 10-Director), and Andy Janssen (DWD/Job Service).

**GUESTS:**

Emily Montgomery (UMOS), Janie Velasquez (UMOS), Mariah Hennen (Legal Action of WI), Rod Ritcherson (UMOS), Prissilla Trevins (Bonduelle), Bill Joe Valdez (Bonduelle), Jane Larson (WI DATCP), Erika Delgadillo (UMOS), Livia Schomber (McKay Nursery), Erica Sweitzer-Beckman (Legal Action of WI), Darlene Waldsmith-Tagliapietra (UMOS), Leslie Ptak (OSHA), Paula McGuire (Office of State Sen. Wirch), and Lindsey Brabender (Office of Sen. Petrowski)

**1. Call to Order/Roll Call:**

Lupe Martinez called the meeting to order. Quorum was established.

**2. Approval of Agenda:**

- Approval of Agenda for April 25, 2018

- **Wally Rendon** moved approval
- **Kevin Magee** seconded
- Agenda was approved on a voice vote

### **3. Approval of Minutes:**

- Approval of Minutes of January 31, 2018
  - **Steve Ziobro** moved approval
  - **Rep. Kulp** seconded
  - Minutes approved on a voice vote

### **4. Legislative Updates:**

**Rep. Kulp** – Stated that he did not really have any updates other than the Legislature being out of session for the year. He is looking forward to continuing to have the discussions and dialogues with this group and other to hopefully advance the agenda.

**Senator Petrowski** – Stated that the Legislature is not in session but there are Legislative Council Study Committees going on. He asked questions about the purpose and missions of the Governor's Council on Migrant Labor. What are the goals of the Council? What would we like to accomplish and how would we like to accomplish the goals?

**Lupe Martinez** – Responded by saying that if Sen. Petrowski had questions, he could contact Angelica Vasquez. In addition, his office was provided with an informational binder about the Council. He then opened the discussion to other Council members who may wish to share additional information with Sen. Petrowski.

**Kevin Magee** – Responded to Senator Petrowski giving his background and experience both on the Council and professionally. He has been attending these Council meetings for about 30 years. He stated that the Council has been involved in making recommendations to change laws related to migrant and seasonal workers. Specifically, he cited changes in the laws regarding migrant housing that the Council recommended to update the code passed in the late 1970s.

**Sen. Petrowski** asked if a lot of the Council work was involved with H2A and H2B workers.

**Kevin Magee** explained that a few years ago there were discussions with the Council and DWD, there were some on the Council that urged DWD to recognize H2A workers under WI law because they met all the definitions of foreign laborers. DWD did agree the H2A workers did fall under the definitions and now are considered to fall under the scope of Wisconsin law. H2B are not generally considered to be agricultural workers, though some workers in the food processing industry are considered agricultural workers under federal law.

**Senator Petrowski** requested that Kevin Magee follow up with him and provide additional information on this topic as did not wish to take up more time from the Council's agenda.

**Representative Kulp** Asked whether the Council had any purview or interest in people in the U.S. who have Temporary Protected Status (TPS).

**Lupe Martinez** responded by saying he did not believe we would have jurisdiction in these cases.

**Kevin Magee** responded to Representative Kulps question by saying those with TPS would only fall under the jurisdiction of the state migrant laws if they were here for 10 months or less to perform agricultural work.

**Erica Kunze** – Stated that this Council was an open opportunity for employers and DWD. Our purpose is to make the situation with migrant workers in the state better. She believed that the Council members, DWD, and migrant worker advocates were generally on the same page and work to address important issues.

**Senator Petrowski** – Asked a question about how this Council weighs in on both state and federal issues. He also asked about issues of driver permits.

**Lupe Martinez** responded that the Council does weigh in on legislative matters insofar as it relates to the duties and missions of the Council. In addition, he commented that the Council generally moves on issues of both state and federal matters by consensus. He stated that the Council relies heavily on the legislative representatives of the Council and the DWD regarding policy matters.

**Kevin Magee** weighed in that he believes that the Council also serves as a forum to discuss issues that impact migrant workers on both the state and federal level.

**Lupe Martinez** also responded to Senator Petrowski's comments about how the Council addresses state and federal issues. He stated that the Council works with DWD and the legislative members of the Council to address issues that impact migrant and seasonal workers.

**Senator Petrowski** asked about issues of driver permits and working with Mexico for example to get driving records of migrants. When an employer wants a migrant or seasonal worker to operate a vehicle, the cost is high due to lack of driving records. He wondered if the Council weighed in on this issue.

**Kevin Magee and Lupe Martinez** both confirmed that representatives from the Mexican Consulate in Milwaukee have attended meetings of the Council in the past to discuss issues such as driving permits.

## **5. DWD Migrant Seasonal Farmworker (MSFW) Services:**

- **MSFW Report** – Joe Ledger gave the reports of the Migrant camps inspections. They changed a lot of the processes to make things more efficient. They are making the forms fillable PDFs due to employer requests. Four outreach staff are starting to plan orientations with employers. Engaging early with employers to make things run smoothly. They engage with employers so they can better understand the system and what DWD does and how this all works together. Initial, mid-season, post season with UI. Creating a database with this information. Created a map with the location of the employers to get a handle on density and so that the employers know where the local job centers are.

### **Migrant Labor Camps:**

2017: 84 Migrant Camp Applications were received

2018: 80 Migrant Camp Applications have been received

- 15 inspections, 14 certified

#### **Housing Projects:**

- Seneca Foods – Clyman (New Barrack) DWD Approved
- Oakwood Fruit Farm – Richland Center (New Barrack) DWD Approved
- Seneca Foods – Janesville (New Camp) decision pending

### **Migrant Labor Contractors/Crew Leaders:**

2017: 54 Crew Leader Applications were received and certified

2018: 41 Crew Leader Applications received, 33 certified

### **Migrant and Seasonal Farmworker Outreach:**

Agricultural: 173

Food Processing: 57

Employer Support: 3

**Pedro Albiter** – Expressed that they are here to work with both the employers and workers. With the new system we are working closely with employers to do outreach and refer questions to other members of the team.

**Angelica Vasquez** - talked about her role as State Migrant advocate. She works closely with the US DOL. She is here to educate the employer and work with the employer to keep them in compliance. Under most cases, they resolve issues locally rather than referring them to the US DOL (wage and hours). The key is collaboration, partnership, and communication.

**Joe Ledger** – For the coming season most of the information will be online and hopefully we will be moving to a pay online option. They are trying to have less meetings, be

more efficient, and work with employers to help businesses. This year they northern and southern pre-season meetings and it worked out well. They are currently starting to plan for the post-season meeting that will be consolidated and located in the central Wisconsin area, possibly Stevens Point. The meeting will also allow for staff training and addressing issues, questions, and concerns that the employers may have.

**Sen. Petrowski** asked whether H2B are considered legal. Are employees/workers considered legal?

**Rosa Ortega** – H-2B workers are in the country with a visa that allows them to work legally.

**Naul Segovia** – Under the Wisconsin migrant laws, we work with the migrant and seasonal worker populations. It is the employer's responsibility to verify an employee's eligibility to work. Most employers use e-verify.

**Sen. Petrowski** – How long can the workers be here? Are they citizens or residents.

**Kevin Magee** responded that H2A workers are here seasonally and must be here less than a year and can be renewed for up to three years. He added that other domestic type workers were mostly citizens or permanent residents.

**Senator Petrowski** asked about the types of benefits that the workers receive.

**Erica Kunze** stated that seasonal employees don't get benefits but if they work so many hours or become permanent employees, they would get benefits offered to any other employee.

**Sen. Petrowski** asked about health care off the worksite?

**Erica Kunze** responded that some are using BadgerCare or they go to local community care clinics.

**Erica Kunze** asked Joe Ledger about the pre-season meetings. She used to attend but no longer receives invitation.

**Joe Ledger** requested Erica Kunze's contact information so that she can be invited to future meetings.

**Kevin Magee** asked Rosa Ortega if the H2A numbers (that are about 850) were higher this year.

**Rosa Ortega** confirmed that the numbers were higher this year.

**Erica Kunze** asked if H2B prevailing wage is local.

**Rosa Ortega** responded that it is local based on county and occupation but the rules are federal.

**Sen. Petrowski** asked Rosa Ortega if the wage was local and if it is varied.

**Rosa Ortega** stated that the wage was \$13.06 per hour with no overtime for H2A.

**Kevin Magee** said that Fair Labor Standards Act overtime applies to food processing workers but not agricultural field workers.

**John Bauknecht** asked Rosa Ortega why on the hand out for her Foreign Labor Certification report did it show that 858 workers requested certification but 869 were approved.

**Rosa Ortega** stated that those numbers should be reversed in the document and that it was a mistake. She then stated that she updated the numbers today and that there were 1,028 workers were requested for certification and 569 have been approved.

#### **6. Old Business:**

There was no old business discussed.

#### **7. New Business:**

**Lupe Martinez** asked a question about a contact from Florida about workers being recruited to work at Del Monte. He wondered if DWD was in the loop. Lupe warned them that they seemed to be acting as recruiters and they may be non-compliant with the law. He has been in contact with DWD about this issue so that they are aware of what is going on.

**Naul Segovia** responded the employer/ recruiter does not have to notify the department as to where they are recruiting. Employers / recruiters promote their recruitment events through passing out flyers.

**Lupe Martinez** discussed membership on this council. Steve Ziobro is leaving in 17 months and the process for approval for the Council is lengthy.

**Lupe Martinez** discussed the Farmworker's Appreciation Day.

- Migrant Labor Council 2018 Dates

**Lupe Martinez**

- Sunday, August 5, 2018 (Public Hearing In conjunction with the Farmworker's Appreciation Day Picnic. Location: UMOS Montello Head Start Center, N2898 State Road 22, Montello, WI 53949
- Wednesday, October 24, 2018 at the State Capitol (room number to be announced)

#### **8. Announcements:**

**Rod Ritcherson** announced the 2018 WI Farmworker's Coalition Summit and said to be on the lookout for further details.

**Lupe Martinez** - Stated that they had these Coalition meetings for many years but stopped. When people began to ask to have it be done again, they decided that it was time to resume these meetings.

#### **11. Adjournment:**

The Council adjourned at 10:48 a.m.