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Visa denial lawsuit mulled

Louella Losinio | Post News Staff 13 hrs ago

With the recent denials of H-2B visa renewals and concerns over having an adequate workforce to meet islandwide labor demands, a movement among local employers mulling a lawsuit against the federal government has been growing.

During the budget hearing for the Guam Department of Labor yesterday, July 12, the ongoing struggles with the federal government over the H-2B visa concerns came to the fore as representatives from the department and the legislature touched on the issue toward the end of the budget discussion.

GDOL Director Shirley "Sam" Mabini, in response to an inquiry by Sen. Rory Respicio, said that the department will remain neutral.

Respicio, who chairs the legislature's Committee on Rules, Federal, Foreign and Micronesian Affairs asked the labor representatives whether they would support the growing movement in the business sector to sue the federal government.

Greg Massey, administrator of the GDOL's Alien Labor Processing and Certification Division, said the department has been involved in the H-2B process.

"In the H-2 process, we play a supporting role with immigration during labor certification. They gave us that delegated authority. We kind of don't want to become an aggressor and they turn around and decide that they are going to take away that labor certification authority," he said.

Exempted

At the end of April, there were about 1,460 workers with H-2B visas on Guam. While the federal government implements a nationwide hiring cap of 66,000 H-2B workers per year, Guam has been exempted from the cap.

However, since December 2015, there have been no approvals and little movement overall with H-2B petitions. According to recent reports, 19 employers have had 515 worker applications denied and 3 employers have 1,866 positions pending possible denial through the request-for-evidence process.

Impact

The H-2B visa situation has mostly affected the construction industry, but the health care industry was also impacted by the H-2B visa issue. Guam Regional Medical City lost a number of its nurses from the Philippines due to visa extension denials.

According to Massey, the department continues to work through government channels, citing the efforts of Guam Delegate Madeleine Bordallo to address the issue.

The Guam Contractors Association recently organized a meeting which was attended by representatives across industry sectors to discuss options for addressing the issue.

According to GCA President James Martinez, employers are exploring various options, including a recent Bordallo amendment to proposed federal legislation as a potential remedy.

Bordallo introduced an amendment to the National Defense Authorization Act (NDAA) for fiscal year 2017 that was passed by the House of Representatives that would give U.S. Citizenship and Immigration Services flexibility in renewing H-2B visas on Guam, specifically for workers in the construction and health care sectors.

Implementation of the provisions may not occur until April 2017, as the measure will have a 120-day grace period.

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