

Business Immigration Weekly for December 18, 2015

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Practices: Immigration

VARIOUS IMMIGRATION PROVISIONS INCLUDED IN FY2016 OMNIBUS APPROPRIATIONS BILL

Last week Congress passed the Omnibus Appropriations Bill for FY2016 which included several important immigration provisions. First, employers with more than 50 employees, of whom more than 50% are L or H1B nonimmigrants, will have to pay an additional fee of \$4,500 for the L-1 program and \$4,000 for the H-1B program. These fees were increased from the prior fees enacted in 10/1/2014, which were \$2,250 and \$2,000 for the L-1 and H-1B programs, respectively. Second, the new legislation makes several important changes to the H-2B, Temporary Non-Agricultural Workers program, including making returning workers exempt from the 66,000 annual cap, permitting the use of private wage surveys (prohibited under the final H-2B wage rule), provides a definition for "seasonal" as exactly ten months, among several other provisions. Third, the new legislation will prohibit nationals from using the Visa Waiver Program if they have travelled to Syria, Iraq or "any other country or area of concern" after March 1, 2011. Lastly, the bill extends several programs through September 30, 2016, including E-Verify, the EB-5 Regional Center Program, Conrad 30 J-1 waiver program and the special immigration visa for religious workers.

NEW COUNTRIES ADDED TO H-2A AND H-2B PROGRAMS

Effective January 18, 2016, foreign nationals from sixteen additional countries will be allowed to participate in the H-2A and H-2B programs. The H-2A Temporary Agricultural Workers program permits U.S. companies to employ foreign workers in the United States in temporary agricultural jobs while the H-2B Temporary Non-Agricultural Workers program is for non-agricultural fields. The newly eligible countries are: Andorra, Belgium, Brunei, Colombia, Finland, France, Germany, Greece, Lichtenstein, Luxembourg, Malta, Moldova*, Monaco, San Marino, Singapore, Taiwan, and Timor-Leste. These will be added to the currently eligible countries: Argentina, Australia, Austria, Barbados, Belize, Brazil, Bulgaria, Canada, Chile, Costa Rica, Croatia, Czech Republic, Denmark, Dominican Republic, Ecuador, El Salvador, Estonia, Ethiopia, Fiji, Grenada, Guatemala, Haiti, Honduras, Hungary, Iceland, Ireland, Israel, Italy, Jamaica, Japan, Kiribati, Latvia, Lithuania, Macedonia, Madagascar, Mexico, Moldova, Montenegro, Nauru, The Netherlands, New Zealand, Norway, Panama, Papua New Guinea, Peru, The Philippines, Poland, Portugal, Romania, Samoa, Serbia, Slovakia, Slovenia, Solomon Islands, South Africa, South Korea, Spain, Sweden, Switzerland, Thailand, Tonga, Turkey, Tuvalu, Ukraine, United Kingdom, Uruguay and Vanuatu. Exceptions can be made for approval of an H-2A and H-2B petition on behalf of a beneficiary from a country not on this list under limited circumstances.

* Moldova was added to the H-2B list, but not to the H-2A list.

