



LETTER FROM THE PRESIDENT

by Cindy Crompton-Barone, PHR

Happy New Year! It's going to be great in 2008

Many thanks to DESHRM 300 plus members and Board of Directors; 2007 was a productive year. The BOD surveyed members. Their responses led DESHRM to enhance its monthly programs, conference, newsletter, and website. In 2007 we advanced the profession with...

- Top HR experts at program meetings who spoke about retaining talent, job descriptions, EEOC reporting and Why Companies Fail
- Quarterly newsletters featuring articles on local HR leaders and legislative updates
- A two day State Conference in partnership with Delaware Economic Development Office
- A workshop for HR Students
- Sponsorship of 3 HR student scholarships
- A Diversity program in partnership with Wilmington University
- Member networking event
- Over 15 HRCI Certification credits for program and state conference learning sessions.

These initiatives were accomplished through the talent of volunteer board and committee members. Their time and commitment are greatly appreciated.

Stay with us in 2008. it is going to be great. If you haven't please renew your membership at www.deshrm.org and also see our slate of speakers planned for this years program meetings.

2008 MEETING SPONSORS

doeLegal, LLC <http://www.doelegal.com>

HRSmart, <http://www.hrsmart.com>

St. Joseph's University, <http://www.sju.edu/academics/hsb/hr>

Wilmington University, <http://www.wilmu.edu>

VISA RULE SPELLS OUT 'HELP WANTED' FOR SOME BUSINESSES

By Emily Bazar, USA TODAY

Businesses that rely on seasonal workers are scrambling to fill positions, and some are shutting down, because there are fewer visas for the foreign workers who usually fill the jobs.

Industries from coast to coast say the reduction in visas for temporary workers will hurt them and the economy.

"We're thinking about shuttering the daggone thing," says John Graham of his crab processing company Graham & Rollins in Hampton, Va. Graham couldn't get visas this year for 110 Mexican workers who work from April to November alongside 18 locals.

Graham says he's the last crab processor in town. "I've survived where the other 17 didn't," he says. "Now something out of my control is going to take me out."

Exemption expires

Each year, 66,000 visas are designated for temporary workers in non-agricultural labor. They're called H-2B visas. Temporary agricultural workers have their own category, H-2A.

For the past three years, Congress allowed businesses to get H-2B visas for some returning workers without counting them against that 66,000 cap. In 2006, that exemption allowed visas to be issued to 51,000 returning workers, the State Department says. In September, after immigration overhaul legislation failed, that exemption expired. As a result, the limit was reached before some

businesses were allowed to apply.

"As of this moment, we're not even going to be able to place one worker," says John Gallo, a consultant who helps businesses find up to 2,000 temporary workers each year.

Gallo says the H-2B program isn't controversial and offers businesses a legal way to bring in needed workers.

"This has nothing to do with immigration," he says. "Homeland Security knows who these people are. Social Security keeps on top of them. When their visa expires, they return home."

'We may have to scale back'

Gallo works with Gurney's Inn Resort, Spa & Conference Center in Montauk, N.Y., which applied for 90 workers from Jamaica, Ecuador and elsewhere for housekeeping, landscaping and other jobs. Most would have been returning workers. "We may have to scale back some on the amount of business we can accept in the prime season," general manager Paul Monte says.

Sen. Barbara Mikulski, a Maryland Democrat, and other lawmakers have tried to renew the exemption, but the Congressional Hispanic Caucus opposed it. Democrat Joe Baca, chairman of the caucus, says the caucus doesn't object to H-2B visas but believes they should be part of overall immigration changes.

Businesses that apply for H-2Bs must take steps such as advertising jobs locally to give Americans first crack.

Roy Beck of NumbersUSA, a group that advocates reduced immigration, believes H-2Bs hurt American workers. "Businesses should recruit from their own country," he says.

'You don't get a deal'

Michael Loukonen of Loukonen Bros. Stone in Lyons, Colo., which mines sandstone, says locals don't want the backbreaking jobs that seasonal workers take. Loukonen couldn't get visas this year for 30 workers who make up about 60% of the company's peak workforce. "In the last five years, we've had three (local) people apply," he says. "Two of them didn't show. One showed and worked one day and said it was too hard and quit."

Jonathan Zeyl, president of Landscape Creations of Rhode Island, says businesses that use H-2B visas pay fair wages and the workers pay taxes. Zeyl wasn't able to get visas for 40 workers, nearly all of his peak-season labor.

"My wife and I and my managers have fairly strong feelings about operating within the law," he says. "I'm bitter about having the rug pulled out from under me."

"My payroll can run over \$25,000 a week," he says. "You don't get a deal on the labor. What you do get is

... guys who work all day long and don't complain about the heavy, monotonous work."

Circus Chimera canceled its season this year. James Judkins, owner of the no-animal circus, which performs mostly in the Southwest and West, had to lay off local, year-round employees because he couldn't get 50 visas for workers who perform, put up tents and do other jobs. They were 90% of his staff.

Canceling his season will hurt other businesses, too, he says. "I'm not going to be buying circus posters from the printing company," he says. "I'm not going to be buying advertising in the newspaper."

LETTER FROM THE DELAWARE STATE COUNCIL DIRECTOR

by Frank Ingraham, SPHR

Greetings fellow HR Professionals!

Your SHRM Delaware State Council held its first quarter board meeting in January and is working on providing another great year of enriching networking and developmental opportunities, directly supporting our HR professionals. Specifically, the Delaware State Council (DESC) has identified the following for our 2008 goals:

1. Host two networking events (upstate & downstate) for At-Large members/HR Students/HR Professionals focused for recruiting new SHRM Members within Delaware.
2. Host three half-day developmental workshops, in alliance with selected area businesses.
3. Host the 2nd Annual SHRM Leadership Conference in recognition of our Delaware volunteers holding current Board positions within the Delaware SHRM Chapter, DelMarVa SHRM Chapter, Delaware State Council, Goldey Beacom College Student Chapter and Wilmington University Student Chapter.

I encourage you to view our DESC website at <http://delawareesc.shrm.org>. See first hand the HR leaders dedicated at advancing the profession and holding DESC Board position. You may submit your nominations for the 2008 Ron Shane HR Lifetime Achievement Award, as well as express interest in becoming more involved in your state's SHRM Chapters or State Council.

While at the next SHRM Chapter meeting, stop and thank your Board members. They are working to make SHRM the BEST HR organization and ensuring we deliver member benefits that excel in every way. Here's to a fantastic 2008. I wish you much continued success. See you at a meeting soon.

Frank B. Ingraham, SPHR
Delaware State Council Director

FEDERAL LEGISLATIVE UPDATE

by Nancy Bestwick

Military Leave Hits Snag

In the December 14 edition of the HR Issues Update, we reported military leave was on the verge of becoming law, but this has not yet occurred. In a surprise move, President George W. Bush vetoed the bill (National Defense Authorization Act for Fiscal Year 2008 – H.R. 1585) that included the military leave provisions for reasons unrelated to the expansion of the Family and Medical Leave Act (FMLA).

Congressional leaders have signaled a willingness to work with the Administration to resolve concerns with the final bill when Congress reconvenes on January 22. This suggests that it is only a matter of time before the military leave provisions become law.

House Votes to Expand Employer WARN Act

Back in the late-1980s, one of the most contentious labor law reforms enacted by Congress was the Worker Adjustment and Retraining Notification (WARN) Act. Enacted in 1988, the law requires employers to provide employees and localities with advanced notice of a plant closure. The House of Representatives revisited the requirement on employers when it passed the Trade and Globalization Act of 2007 - a bill that also contains the provisions of the Early Warning and Health Care for Workers Affected by Globalization Act (H.R. 3796).

The Early Warning legislation would lengthen the notice period requirement under the WARN Act. Specifically, the bill would require employers to give 90-days written notice to employees and appropriate government agencies before ordering a plant closing or mass layoff, as compared to 60 days notice under current law. The House-passed bill also clarifies the threshold by stating that these provisions are triggered when 50 or more full or part-time employees are affected.

Employers covered under H.R. 3796 would also need to provide affected employees with information about benefits and services available to them upon losing their

jobs, including unemployment compensation and COBRA benefits. Employers who fail to comply could be required to pay double back wages to affected employees over the 90-day period.

SHRM joined the HR Policy Association in [sending a letter](#) to the House Education and Labor Committee expressing concerns that the bill would be an unwarranted expansion of the WARN Act and cause serious challenges for HR professionals in large and small organizations. The White House also [issued a statement](#) saying the legislation's "expanded coverage, notice period, and increased penalties could impair the ability of employers to recover from restructuring or to negotiate arrangements that would keep their companies viable and remaining workers employed."

New Coalition Forms to Preserve ERISA

HR professionals are keenly aware of the importance of the Employee Retirement Income Security Act (ERISA) of 1974 in providing health and retirement benefits to employees. As federal and state policy-makers devise health care initiatives to cover uninsured individuals, however, the ability of employers to offer uniform employee benefit plans under ERISA is increasingly in jeopardy.

To help preserve the ERISA framework which ensures health care coverage for over 100 million Americans, SHRM has joined the National Coalition on Benefits, a new coalition dedicated to maintaining employers' ability to provide uniform health and retirement benefits to employees and retirees across state and local lines.

The National Coalition on Benefits already has more than 100 employer and association members, and SHRM invites your organization to join this growing membership list.

Family and Medical Leave Act Regulations

The U.S. Department of Labor (DOL) sent the Office of Management and Budget (OMB) proposed regulations on the Family and Medical Leave Act (FMLA). Under Executive Order 12866, the Office of Information and Regulatory Affairs (OIRA) within the OMB reviews any proposed regulation to determine the cost/benefit of the proposal. The OIRA review is limited to 90 days, although a review extension is possible. After the OMB review is complete, the proposed regulation will be printed in the Federal Register for comment.

The regulatory notice appears on the OMB website, although the content of the proposal will not be available until it is published in the Federal Register. Follow this link <http://www.reginfo.gov/public/do/eoPackageMain> and select Department of Labor to view the notice.

Since the DOL included the FMLA regulations on their work agenda published in December 2007, SHRM and the National Coalition to Protect Family Leave (<http://www.protectfamilyleave.org>) have taken steps to prepare for this proposed rule. As the date for publication in the Federal Register becomes clearer, Government Affairs will work with other departments across the organization to alert our members to these proposed changes.

Americans with Disabilities Act Expansion Poised for Debate in 2008

You may have heard some fellow HR professionals refer to the Americans with Disabilities Act (ADA), the Family and Medical Leave Act (FMLA) and Workers' Compensation laws as the "Bermuda Triangle of HR" due to the complexity and interconnection of each of the statutes. As you are aware, Congress has already expressed interest in making changes to the FMLA. Now, Congress is poised to consider reforms to another one of these laws — the ADA.

The ADA was signed into law by President George H.W. Bush in 1990 and is intended to prohibit employment discrimination against people with disabilities. The law defines "disability" as "a physical or mental impairment that substantially limits one or more of the major life activities of such individual." Under the ADA, employers are required to make a reasonable effort to provide appropriate accommodations to employees who have known disabilities.

The proposed ADA Restoration Act, sponsored by House Majority Leader Steny Hoyer (D-MD), would simplify the definition of "disability" to mean "a mental or physical impairment." Such a definition would result in the ADA covering more Americans, and thus, requiring employers to provide accommodations to more employees.

Proponents of the legislation argue that decisions by the U.S. Supreme Court have gradually chipped away at the protections of the ADA since its enactment. In particular, disability advocates have criticized the high court's ruling in *Toyota Motor Manufacturing Kentucky Inc. v. Williams* in 2001 that held an employee with carpal tunnel was not disabled under the ADA because the employee was not substantially limited in a major life activity.

Representative Hoyer's bill has gained substantial support in Congress.

SHRM and other associations have urged Congress to take a prudent approach to any changes in the ADA. The letter cautions that changing the definition of "disability" might negatively impact the very individuals it purports to help. For example, by expanding the meaning of "disability," the ADA may cover individuals with extremely minor impairments and consequently dilute an

employer's ability to provide appropriate accommodations to persons with more serious disabilities.

HR VOICE

IT'S EASY with the SHRM Governmental Affairs web site!! Follow the instructions below to voice your opinion on the current hot topics

Follow these simple steps:

1. Log on to <http://www.shrm.org>
2. You will be prompted to enter your SHRM member ID and last name to log in.
3. Click on the "Government Affairs" tab on the left side of the screen.
4. Scroll down to the "HR Voice" tab that appears after selecting Government Affairs.
5. Choose "Write your Elected Officials"
6. Select which topic you'd like to discuss with your Representative and/or Senator.
7. Choose the recipients of your message and whether you plan to e-mail or print your letter. (You may select "none" if you choose not to send your message to an individual.)
8. Please know you may be asked to categorize your letter by topic.
9. Click on the "Send Message" to send and/or print your message
10. A confirmation email will be sent to you.

Suggested Legislative WebCasts

For those with access to the SHRM National website, the following are some Webcasts topics planned for 2008. Review of such Webcasts will give members a solid foundation for the future. These are accessible from from SHRM Home, Education:

- What New FMLA Rules Mean for Military Families and Their Employers

February 5, 2008, 2-3 p.m. Eastern Time

- Applicant Tracking and Systemic Discrimination: What you Don't Know Can Hurt You

February 27, 2008, 2-3 p.m. Eastern Time

- Military Leave and USERRA Compliance: An HR Survival Guide

Now Available

- New Proposed Cafeteria Plan Regulations

Now Available

Link to information on educational sessions: <http://www.shrm.org/conferences/leg/education.asp>

SHRM FOUNDATION

Currently Funded HR Research Projects

As of January 2008 – <http://www.deshrm.org/foundation>

The Delaware State Council of SHRM along with its member chapters are committed to aiding in the support of the SHRM Foundation. This Foundation promotes research, innovation and the use of research-based knowledge. With an annual budget of approximately \$1 million, it funds [major research projects](#) that have a direct and practical impact in advancing the HR profession.

The details for the following major research projects supported by the foundation can be found at <http://www.shrm.org/foundation>

AGING WORKFORCE

TECHNOLOGY & HR

CHANGES IN THE HR FUNCTION AND ROLES

GLOBAL HR

RON SHANE LIFETIME ACHIEVEMENT AWARD

Each year since 2002, the Delaware State SHRM Council has presented the Ron Shane HR Lifetime Achievement Award to an individual who best represents the Human Resources Professional in his or her daily life, exhibiting qualities such as:

- Dedication to the Human Resources profession
- Professional credentials and accomplishments
- Professional involvement, and
- Demonstrated leadership.

Individuals who have received the award are:

Year	Recipient
2002	Ronald M. Shane, SPHR
2003	William Dodds, SPHR
2004	Dr. Scott Cawood, SPHR
2005	Dr. Patricia Buhler
2006	Rita Johnson-Chase, PHR
2007	Vickie McCardell, PHR

Nominations must be submitted (post marked) by September 15, 2008:

- Electronically to Frank Ingraham at frank.b.ingraham-jr-1@usa.dupont.com, or
- US Mail to: Frank B. Ingraham, Jr., SPHR; RE: Ron Shane Lifetime Award; 44 Willow Creek Lane; Newark, DE 19711-3422

The winner will be announced at the 2008 Delaware SHRM State Conference in November 2008.

SAVE THE DATE!

8th Annual Delaware State Human Resource Conference

November 19th and 20th 2008

Co-Chairs Rich Burton and Gail Klee are excited to host this annual event in partnership with the Governor's 3R Event, Delaware SHRM and DelMarVa SHRM volunteers.

Be sure to check the website <http://www.deshrm.org> for programming, location and registration information along with sponsorship and exhibitor opportunities and student scholarship criteria!

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2008 DELAWARE SHRM MEETING DATES

All DE SHRM Monthly Meetings will be held at the Cavalier Country Club unless otherwise noted on <http://www.deshrm.org> or in the monthly meeting notice. See website for directions to Cavalier Country Club.

Date	Time/Location	Topic	Presenter	Sponsor
March 11	BREAKFAST MEETING 7:30am Registration 8:00am Breakfast	Disaster Recovery/Business Continuation	Tom Cloud United Electric	St. Joseph's University
April 8	DINNER MEETING 5:30pm Networking 6:20pm Dinner 6:45pm Speaker	The HR Manager as Coach	Kathleen Moore TJA Consulting	
May 13	DINNER MEETING 5:30pm Networking 6:20pm Dinner 6:45pm Speaker	Discrimination	Bill Bowser & Scott Holt Young, Conaway, Startgatt & Taylor	