



# A View from the Capitol

Transportation, labor and immigration continue to be hot topics for the politicians in Washington during an unpredictable election year.

BY CRAIG REGELBRUGGE

A good friend often says, “It’s OK to look back ... just don’t stare!” Usually she means something bad that happened, from which there is a lesson to be learned. Just to mix it up, let’s look briefly at the end of 2015 for a bit of good news out of — yes, it’s true — Congress!

While often vilified as the “do-nothing Congress,” our nation’s elected leaders did manage to end last year with a brief flurry of accomplishment.

In November, they passed a multi-year transportation funding bill that helps our industry in several ways. A functioning transportation grid helps us to deliver plants and services to our customers. Transportation funding itself usually includes some investments in plant purchases and landscape installation services, though we’ll feel those benefits only slowly since our contribution comes toward the end of most projects.

One bit of further good news — in the debate, we beat back an amendment offered by Rep. Hartzler (R-Missouri), which would have prohibited federal funds

going toward “vegetative enhancements” (landscaping).

What was she thinking? That plants and landscaping are a frivolous, rather than necessary, expenditure of funds. We won — thanks to unified opposition to the amendment by every single House Democrat joined by one third of Republicans.

Still, this was a fresh reminder that, as an industry, we have a long way to go to educate policymakers that plants and landscaping, or living green infrastructure, offer economic, environmental, and human health and wellness benefits that greatly exceed the initial investment over time.

At years’ end Congress also managed to pass two policy amendments that were helpful to our landscape members turning to the H-2B visa program for supplemental seasonal labor. And, many expiring tax provisions, such as Section 179 direct expensing and the research and development tax credit, were either made permanent or extended for several years (see your tax advisor for details).

## CONGRESS HERE TO DECEMBER

As expected in this epic presidential election year, the House of Representatives passed a number of messaging bills, many of them pushing back against the Obama Administration’s regulatory initiatives. However, with a nearly evenly divided Senate, little reaches the President’s desk and even less is signed into law.

The looming question is how the two parties and two chambers will interact to keep the federal government funded and running beyond Oct. 1. For now, Senate and House Appropriations committees are hard at work developing and passing individual bills, but with few legislative days left, there is virtually no chance of a normal appropriations process running full course.

So we expect at some point Congress will pass one or more “continuing resolutions” extending current funding levels beyond Oct. 1, probably into December, and possibly into March 2017 and into the next administration.

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One policy priority for us in this process is convincing Congress to extend, through 2017, the special H-2B provisions approved last December — the returning worker exemption from the visa cap, and regulatory relief. The landscape industry is the largest user of these visas; failure of Congress to renew the cap exemption for returning workers will prompt a serious seasonal worker shortage next spring. It's a heavy but important lift.

**IMMIGRATION SOLUTIONS — GOING NOWHERE FAST**

A sad byproduct of the state of our politics is that major challenges facing our country simply can't or won't be addressed. One of those is immigration. Most Americans understand that our immigration system and priorities could use an overhaul. What they might not understand is the degree to which demographic shifts make this a true imperative.

Last fall, the Wall Street Journal reported that this year (2016) is the year in which "... the world's advanced economies will reach a critical milestone. For the first time since 1950, their combined working-age population will decline, according to the U.N., and by 2050, will shrink by 5 percent."

Soon thereafter, the non-partisan Congressional Budget Office projected that the United States will be looking at an average of no more than 2 percent growth in the coming years unless policy changes are embraced to enable something like a more comfortable 3 or 4 percent. In speeches this past winter, I joked that one option is for baby boomers to work beyond death!

In reality, an immigration system that better meets the needs of our economy is the best strategy available. And we're not just talking about STEM — science, technology, engineering and math.

Against this backdrop, all the talk of walls and deportation makes no sense. If we can just survive here to November, we'll know what hand we've been dealt for addressing this issue in 2017 and beyond. Regardless, I believe that employers will need to consider every option, including but not limited to:

- Reducing overall labor needs and improving jobs through mechanization and automation;
- Exploring how to "flatten" seasonal hiring peaks;
- Considering whether and how to use the existing available visa programs (H-2A and H-2B);
- Considering focused outreach to potentially overlooked labor sources such as returning veterans or refugees; and
- Monitoring the Supreme Court decision on President Obama's deferred deportation programs.

As a society, we'd be wise to reprioritize vocational education and apprenticeship programs. And finally, until broader opportunities develop, AmericanHort is working hard to defend access to the existing visa programs, which have been under regulatory assault during the current administration.

**OVERTIME**

As part of the blizzard of regulatory initiatives the Obama administration is pushing forward while they can is the Labor Department's changes to the so-called "white collar" exemption from overtime pay.

Come Dec. 1, the new salary level required for the executive, administrative and professional exemptions will be \$913 per week, which comes to \$47,476 per year, nearly double current law though slightly less than Labor proposed.

Dec. 1 is a Thursday, which means that salary increases to ensure continued use of the exemption for weekly/biweekly employees must be made for the workweek (or pay period) that includes Dec. 1. The salary level will be increased automatically every three years, starting in 2020.

These changes will significantly challenge many of our landscape and retail members, not to mention our industry associations themselves. While legislation to block or slow the rule will surely be attempted, the path for legislation is doubtful at least until 2017.

**FIXING WHAT'S "BUGGING" US**

Pest and disease challenges are some of the toughest we deal with as an industry. With traditional research and development funding sources drying up, AmericanHort and our Horticultural Research Institute affiliate are hard at work to leverage solutions by combining direct industry funding with other sources.

Two of the best sources are rather new to us, courtesy of the Farm Bill. One is the Specialty Crop Research Initiative, which has recently funded key projects we support targeting downy mildew, rose rosette disease, and "intelligent" precision spray application technology. The other is called "Section 10007" and is focused mainly on regulated plant pests and pathogens. In addition to downy mildew and rose rosette, it has also funded major work to modernize the plant certification system, as well as specific projects on plagues like boxwood blight.

**AND, POLLINATORS**

The pollinator issue continues to be of major industry interest, part challenge and part opportunity. As EPA steps up its assessment of the neonicotinoids for

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honeybee and pollinator impacts, remember it's not just about neonics.

EPA is requiring data on literally 76 active ingredients — mostly insecticides, some fungicides, and even a couple herbicides. So when a grower tells us, "I've reduced my use of neonics" and we ask how, the answer often is, well, we're using more synthetic pyrethroids, and ... " They too are under scrutiny.

AmericanHort and our Horticultural Research Institute have launched the Grow Wise, Bee Smart stewardship initiative (growwise.org). Our goals are to fund and direct research into key questions for which we need better answers; encourage grower and landscape stewardship and "best practices," and partner toward improvement of pollinator habitat and forage.

Expanding habitat and forage is also a business opportunity for the industry. After all, we're best positioned to provide the plants and advice consumers need if they want to take action and make a difference! Check out more on the "Million Pollinator Garden Challenge" at [www.millionpollinatorgardens.org](http://www.millionpollinatorgardens.org).

In the months ahead, the science will continue to clarify, bit by bit. EPA's recent preliminary risk analysis on imidacloprid on a wide array of food crops found a clear threshold of 25 parts per billion, below which adverse effects were not seen in honeybees.

Meanwhile, research to date has generally found levels of neonics in pollen from honeybees of about 6 ppb, expressed in terms of imidacloprid equivalents. This is well under the emerging EPA threshold.

Looking at the bigger picture, a number of researchers are deepening their focus on the parasites like Varroa mite, the pathogens they vector, and underlying challenges such as genetic weakness from honeybee breeding practices.

So with this uncertain and evolving backdrop, it's all about having enough tools in the toolkit.

We'll keep you posted on our progress. ■

**Craig Regelbrugge is the senior vice president at AmericanHort. He can be reached at [craig@americanhort.org](mailto:craig@americanhort.org).**

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