

FUTURE FLOW

WHAT EMPLOYERS NEED IN A BILL

ALL VERSIONS OF COMPREHENSIVE IMMIGRATION REFORM ARE NOT EQUAL

- In 2006 and 2007, all serious reform advocates, led by Sens. McCain and Kennedy, agreed that a workable bill should have three pillars: effective enforcement on the border and in the workplace, a practical answer for the 12 million unauthorized immigrants already in the country and more visas for foreign workers arriving in the future – enough visas to bring the legal supply of workers into sync with the number needed to keep U.S. businesses open and growing.
- This year, unlike in the past, the AFL-CIO will be a key player in the reform coalition, and it opposes the third pillar – it wants a bill with few if any additional visas for workers other than agricultural workers. Instead of program to admit workers, the AFL proposes that we create a commission to set immigration quotas.
- The Democrats' commanding majorities in Congress – and the fact that the debate is taking place in an economic downturn – dramatically increase the chances of such a bill getting through. The likely result: legislation that provides virtually no new visas for future workers.

WHY A BILL WITHOUT ADDITIONAL EMPLOYMENT-BASED VISAS WILL NOT WORK – FOR EMPLOYERS OR THE ECONOMY

- It's extremely difficult to enforce unrealistic quotas. Think about other unrealistic limits – Prohibition, or a 500-calorie-a-day diet – and how hard it is to make them stick.
- We've made this mistake before. The last major attempt to overhaul the immigration system, the 1986 Immigration Reform and Control Act, failed for this very reason: because without an adequate pipeline for future workers, the U.S. could not make immigration enforcement stick, and 23 years later we are grappling with the inevitable result – 12 million unauthorized foreigners living and working in our midst.
- The dynamism of the global economy will always be stronger than government mandates. If needed workers cannot enter the country legally, they will find ways to come illegally – and within a few years, the U.S. will find itself facing a new unauthorized underground population.

WHY CREATING A COMMISSION TO SET VISA QUOTAS WOULD BE CAUSE FOR CONCERN

- The data does not exist to assess our true labor-market needs for immigrant workers.
 - The U.S. Department of Labor does not predict labor shortages.

- The best data we have about future labor needs is updated by the federal government only every two years – far too late to help a business fill an empty job. And the only data the federal government generates is national data. A commission trying to predict openings in a variety of sectors across the U.S. would need much more detailed information.
- The government cannot effectively predict booms and busts.
 - Counting available jobs is not like counting empty chairs around a table – jobs don't exist in a vacuum. On the contrary, many jobs are created only when workers are available to fill them: available labor, capital and consumer demand combine – or better yet, combust – to create growth. Just think about the construction boom or the dot.com era in Silicon Valley. A commission trying to predict how many workers we needed in either case would have fallen far short, and there would have been no growth.
 - The government can't predict technical innovation or the jobs it creates.
- Few Washington commissions are truly insulated from politics. Far more often, they transpose politics to another arena – one where the players are less accountable to voters.

WHAT EMPLOYERS NEED TO ASK ABOUT THE THIRD PILLAR OF A REFORM BILL

- Would a commission do a better job than Congress, or even worse?
- Would a commission make our immigration system more responsive to the market, or less?
- Is the group required to answer to Congress and the public if it fails to meet bona fide U.S. labor-market needs?
 - The best way to insure it does: create a reliable numeric indicator of labor needs to which the commission's quota can be easily compared – by the public, the media and concerned lawmakers.
- Is the commission truly insulated from politics – or does it merely move what should be politically mediated conflicts to a less accountable realm?

Bottom line: the free market is far and away the best tool for setting immigration quotas and picking immigrants. In the wake of the economic collapse, markets are politically suspect. But employers still need to fight for a market-based immigration system. The alternative would be a bill not worth the paper it's written on.

GOVERNMENT COMMISSIONS ARE OFTEN POLITICIZED AND COSTLY

- Case study: the Base Realignment and Closure Commission (BRAC)
 - In the 1990s, New Jersey legislators successfully prevented closure of several bases by changing selection criteria.ⁱ
 - President Clinton intervened to save 22,000 jobs at McClellan and Kelly Air Force bases, both in districts he deemed “vital in the 1996 election.”ⁱⁱ
- Harvard professor Tom McGraw estimated that the Interstate Commerce Commission cost taxpayers \$4 to \$10 billion a year in the 1970s because of its reluctance to respond to market forces.ⁱⁱⁱ

THE DATA AN IMMIGRATION COMMISSION WOULD NEED IS HARD TO COME BY AND OFTEN OUT OF DATE

- Bureau of Labor Statistics (BLS) data is spotty and infrequent.
 - The BLS does not project future labor shortages. It makes labor force projections and employment projections, but only every two years and only on a national basis. And the agency cautions these statistics should not be used to predict labor shortages.^{iv}
 - BLS issues a monthly job turnover survey, but it includes only the total number of job openings in the U.S. – it doesn’t break the information down by occupation or state or metro area.^v
 - BLS no longer collects jobs data for 65 smaller metropolitan areas.^{vi}
 - Employment and unemployment information by occupation and metro area is available only on a yearly basis.^{vii}
- The Government Accountability Office, Congress’s investigating arm, has previously found existing data insufficient to set immigration quotas.
 - A 1988 bill asked the Attorney General to submit immigration data to help Congress set annual immigration limits. The GAO found existing data “not adequate” and recommended removing the provision from the measure.^{viii}

ⁱ Steve Schwalbe, “Independent Commissions: Their History, Utilization and Effectiveness,” Auburn University, p. 23

ⁱⁱ Kenneth R. Mayer, “The Base Realignment And Closure Process: Is It Possible To Make Rational Policy,” December 2007 and James Kitfield, “Off Base,” *Government Executive*, 6/1/98

ⁱⁱⁱ Schwalbe, p. 25-26

^{iv} Bureau of Labor Statistics Website, <http://www.bls.gov/emp/empfaq01.htm#1>, Accessed 5/7/09

^v Bureau of Labor Statistics Website, <http://www.bls.gov/jlt/>, Accessed 5/7/09.

^{vi} Ibid.

^{vii} Bureau of Labor Statistics Website, <http://www.bls.gov/guide/geography/>, Accessed 5/7/09.

^{viii} “Immigration: Data Not Sufficient For Proposed Legislation,” Government Accounting Office, December 1988, pgs. 2, 48