TOWARD A MARKET-BASED WORKER-VISA PROGRAM

OPTION ONE – AN AUTOMATIC REGULATOR

This was what was in McCain-Kennedy. Devised by members of the Washington business community – and still broadly supported by that community, including by the US Chamber, but opposed by labor. And never popular in the Senate – opposed in both 2006 and 2007 by an unholy alliance of pro-labor Democrats and anti-immigrant Republicans.

With respect to the numerical limitation set for the provisional visa program –

> *if the total number of visas allocated for a given fiscal year is issued during the first six months of that fiscal year, an additional 15 percent of the allocated number shall be made available immediately, and the allocated amount for the following fiscal year shall increase by 15 percent of the original allocated amount in the prior fiscal year;*
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> *if the total number of visas allocated for a given fiscal year is issued before the end of that fiscal year, the allocated amount for the following fiscal year shall increase by 10 percent of the original allocated amount in the prior fiscal year; and*
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> *if the number of visas issued in a given fiscal year is less than the number of visas allocated for that year and the reason for the shortfall is not processing delays or delays in promulgating regulations, then the allocated amount for the following fiscal year shall decrease by 10 percent of the number allocated in the prior fiscal year.*

OPTION TWO – UNEMPLOYMENT-BASED TIERS

This is what some reform senators started out with last year – this in combination with a commission that would find facts and research the issue but not actually determine levels.

The basic idea: three tiers or bands of unemployment, each with a corresponding annual worker-visa quota. Nobody has yet settled on any numbers, for the unemployment bands or the visa quotas – so these are purely wish-list ranges.

TIER ONE	< 4 percent unemployment	400,000 provisional worker visas
TIER TWO	4 to 8 percent unemployment	250,000 provisional worker visas
TIER THREE	> 8 percent unemployment	100,000 provisional worker visas

The problem with this idea: macro unemployment tells you so little about local reality. Sure, we're at close to 10 percent overall national unemployment. But what does that tell us about nurses in Los Angeles or asbestos workers in New York? Nothing.

OPTION THREE – A FEE-BASED SYSTEM

This is a new idea, not yet endorsed by any other business group – but gaining traction among IW's grassroots.

- Employers would pay a fee to the government for each worker visa.
- This would be hard evidence for anyone who doubted: this employer truly needs a foreign worker – so badly he is willing to pay cash money to hire a foreigner rather than an American.
- For the government agency wanting to make sure the employer had tried to hire an American first, this would be a much easier way to check than the current practice of monitoring where and how long the employer advertises for American workers.
- For employers, this would bring predictability – you could plan and budget for your labor needs rather than applying to the government, crossing your fingers and then waiting weeks or months for an uncertain outcome.
- What better way for the nation to measure demand for foreign labor than with a monetary system? That's why man invented money – it's a proxy for demand.
- The new fee-based process would all but replace the existing labor certification process. In an ideal world, it would replace it entirely, but that's unlikely in today's climate. Certainly, when combined with a fee, certification should be much quicker, easier and less burdensome for employers – a matter of attestation at most.
- The fees would go into a fund to train or retrain U.S. workers.
- Why a fee rather than a higher wage for foreign workers: US workers doing comparable work would soon (justifiably) ask for that same higher wage – and before long, wages would ratchet up through the entire workforce in the affected industry, defeating the whole purpose of a monetary method of determining the need for foreign workers.
- A reasonable fee, in my view: 5 percent of the first year's salary.
- How to combine this with "portability" - portable work visas that would allow immigrant workers to change employers after a first, time-limited work stint in the US? The employer who brings the worker into the country would pay, say, half the total fee – and the worker would have to stay with him six months. But if at that point the worker changed jobs, the new employer would take over the rest of the fee obligation.
- A compromise version of this idea: combine it with a three-tiered structure based on unemployment – but in each tier, make what's in the right-hand column in the chart above a range rather than a set figure. For example, at 4 to 8 percent unemployment, the quota could range from 250k to 400k. Then, within that range, the fee would kick in to determine the year's actual quota.

- A fee system could also be combined with a fact-finding commission – a government-run immigration research institute.

ADDITIONAL RESOURCES

- A new book about an auction-based system – same principle as a fee-based idea, only more complex. This would be more truly market-sensitive than a fee system – a still more accurate reflection of demand. The question: could it work in practice on a broad scale?