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Employers fight tough measures on immigration

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Under pressure from the toughest crackdown on illegal immigration in two decades, employers across the country are fighting back in state legislatures, the federal courts and city halls.

Business groups have resisted measures that would revoke the licenses of employers of illegal immigrants. They are proposing alternatives that would revise federal rules for verifying the identity documents of new hires and would expand programs to bring legal immigrant laborers.

Though the pushback is coming from both Democrats and Republicans, in many places it is reopening the rift over immigration that troubled the Republican Party last year. Businesses, generally Republican stalwarts, are standing up to others within the party who accuse them of undercutting border enforcement and jeopardizing American jobs by hiring illegal immigrants as cheap labor.

Employers in Arizona were stung by a law passed last year by the Republican-controlled Legislature that revokes the licenses of businesses caught twice with illegal immigrants. They won approval in this year's session of a narrowing of that law making clear that it did not apply to workers hired before this year.

Last week, an Arizona employers' group submitted more than 284,000 signatures — far more than needed — for a November ballot initiative that would make the 2007 law even friendlier to employers.

Also in recent months, immigration bills were defeated in Indiana and Kentucky — states where control of the legislatures is split between Democrats and Republicans — due in part to warnings from business groups that the measures could hurt the economy.

In Oklahoma, chambers of commerce went to federal court and last month won an order suspending sections of a 2007 state law that would require employers to use a federal database to check the immigration status of new hires. In California, businesses have turned to elected officials, including the Democratic mayor of Los Angeles, to lobby federal immigration authorities against raiding long-established companies.

While much of the employer activity has been at the grass-roots level, a national federation has been created to bring together the local and state business groups that have sprung up over the last year.

“These employers are now starting to realize that nobody is in a better position than they are to make the case that they do need the workers and they do want to be on the right side of the law,” said Tamar Jacoby, president of the new federation, ImmigrationWorks USA.

After years of laissez-faire enforcement, federal immigration agents have been conducting raids at a brisk pace, with 4,940 arrests in workplaces last year. Although immigration has long been a federal issue, more than 175 bills were introduced in states this year concerning the employment of immigrants, according to the National Conference of State Legislatures.

State lawmakers said they had acted against businesses, often in response to fervent demands from voters, to curb job incentives that were attracting shadow populations of illegal immigrants.

“Illegal immigration is a threat to the safety of Missouri families and the security of their jobs,” Gov. Matt Blunt, a Republican, said after the Missouri Legislature passed a crackdown law in May. “I am pleased that lawmakers heeded my call to continue the fight where Washington has failed to act.”

But because of the mobilization of businesses, the state proposals this year have increasingly reflected their concerns. State lawmakers “are starting to be more responsive to the employer community because of its engagement in the issue,” said Ann Morse, who monitors immigration for the national legislature conference.

The offensive by businesses has been spurred by the federal enforcement crackdown, by inaction in Congress on immigration legislation and by a rush of punitive state measures last year that created a checkerboard of conflicting requirements. Many employers found themselves on the political defensive as they grappled, even in an economic downturn, with shortages of low-wage labor.



Mike Gilsdorf, Chair of Colorado Employers for Immigration Reform

Mike Gilsdorf, the owner of a 37-year-old landscaping nursery in Littleton, Colo., saw the need for action by businesses last winter when he advertised with the Labor Department, as he does every year, for 40 seasonal workers at market-rate wages to plant, prune and carry his shrubs in the summer heat. Only one local worker responded to the notice, he said, and then did not show up for the job.

Mr. Gilsdorf was able to fill his labor force with legal immigrants from Mexico through a federal guest worker program. But that program has a tight annual cap, and Mr. Gilsdorf realized that he might not be so lucky next year. His business could fail, he said, and then even his American workers would lose their jobs.

"We're not hiring illegals, we're not paying under the table," Mr. Gilsdorf said. "But if we don't get in under the cap and nobody is answering our ads, we don't have employees." His group, Colorado Employers for Immigration Reform, is pressing Congress for a much larger and more flexible guest worker program.

Unhappy California businesses won the support of Mayor Antonio R. Villaraigosa of Los Angeles, who wrote a letter in March to Homeland Security Secretary Michael Chertoff criticizing immigration agents for aiming raids at "established, responsible employers" in the city and urging him to focus on those with a record of labor violations.

In Virginia, an employers' coalition headed off bills that would have closed businesses that hire illegal immigrants and would have required all employers to participate in the federal system to check the working papers of new hires, which is known as E-Verify. Business groups nationwide oppose mandatory use of the system, which is now voluntary, because they say the Social Security Administration database it draws upon is full of errors that could lead to job denials for American citizens and legal immigrants and bureaucratic overload for the agency.

Virginia employers said they learned a lesson last year after the broad immigration bill they supported failed in Congress.

"The silent masses of businesses out there should have been on the phone with their Congressional representatives calling for rational reform," said Hobe Bauhan, president of the Virginia Poultry Federation, whose members include some of the biggest low-wage employers in the state. Virginia lawmakers ultimately adopted verification rules aimed at employers who systematically hire illegal immigrants.

In this legislative session, Arizona businesses rallied behind a bill to create what would have been the first state guest worker program in the country. Their advertising campaign used the slogan "What part of legal don't you understand?" — a tweak of the battle cry of their opponents, who use the same phrase with the word "illegal."

Arizona employers said they knew that passage would be difficult for the bill, because only the federal government can issue visas to immigrant workers.

Although the bill never came to a vote, employers said the debate helped make their views known in Washington.

"It's a message to the federal government," said Joe Sigg, director of government relations for the Arizona Farm Bureau, "that we need a legal and reliable means to recruit workers."

Employers' groups have not succeeded everywhere. Under a bill passed this year, Mississippi is the first state to make it a felony for an illegal immigrant to work. The measure also allows terminated employees to sue their employer if they were replaced by an illegal immigrant.

President Bush on June 9 ordered all federal contractors to check new workers with E-Verify. The administration is pressing forward with a rule that would pressure employers to fire within 90 days any worker whose identity information does not match the records of the Social Security Administration, as frequently happens with illegal immigrants. The first version of the rule was held up last year by a federal court injunction.

While many businesses have come forward, they say they speak for many others with immigrant workers that are lying low after finding that the crackdown has left them in a perilous legal bind. While raids and sanctions are increasing, employers with low-wage immigrant workers are barred by antidiscrimination rules from examining identity documents of new hires too closely or checking the immigration status of employees after they have been hired.

"The problem for business is that despite their complete compliance with the law, it is inevitable for employers with large numbers of immigrant workers that a certain percentage will be unauthorized workers using false documents," said Peter Schey, a lawyer who represents two California companies facing scrutiny by federal immigration agents. "The system is just as broken for employers as it is for immigrants."

One employer facing this problem is the chief executive of a \$20 million company on the outskirts of Los Angeles that assembles electronic parts. She said she had come to fear that her company — including its legal workers — is at risk of being crippled by an immigration raid.

The executive spoke on the condition that neither she nor her company be identified by name, for fear of attracting immigration authorities.

A human resources manager who worked for the company a decade ago hired a number of workers without conducting an extra check of their documents with the Social Security Administration, the executive said. Now she has received notices from the agency of mismatches in the identity documents of 20 workers who were hired 10 years ago, out of 90 workers on the assembly floor today.

Because of the antidiscrimination rules, the executive cannot check to be certain that the 20 workers, mainly Hispanic women, are illegal. Moreover, they have advanced through training, she said, and excel at their jobs, which require the repetitive assembly of tiny parts by hand, often under microscopes.

"I can't replace those people," the executive said. She said that despite offering competitive wages from \$9 to \$17 an hour, the company had failed over the years in repeated efforts to attract nonimmigrant workers because of the state's tight technology labor market and because of the nature of the work, exacting and tedious. If the workers were fired or arrested, she said, she could fail to meet her contracts.

"If we have to terminate 20 people, that's going to jeopardize 100 other jobs of people who are legal, Americans, people who are making a good living," she said.

Angelo Paparelli, an immigration lawyer who represents the company, said: "This is not an employer who wants to turn a blind eye to lawbreaking. She is facing a tightening of the enforcement vise that does not take into account Congress's failure to create a workable system."

California employers were shocked by the raid earlier this year at Micro Solutions Enterprises, an established manufacturer of printer cartridges that is based in Los Angeles and has more than 800 workers. Officials said 138 workers were arrested. In a message to his customers, Avi Wazana, the Micro Solutions owner, said the company had been verifying the legal status of all new hires through federal programs for nearly a year.

Bush administration officials said the crackdown was the price employers must pay to persuade voters to agree to open the gates to immigrant workers. In an interview, Mr. Chertoff, the homeland security secretary, said, "We are not going to be able to satisfy the American people on a legal temporary worker program until they are convinced that we will have a stick as well as a carrot."