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VISA PLAN ANGERS SILICON VALLEY

Immigration bill would limit employers' choice of workers

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(06-07) 04:00 PDT Washington -- Silicon Valley technology companies, usually savvy in the ways of Washington, were shocked to find they had been in their view burned -- badly -- in the Senate's giant immigration overhaul.

Scrambling to catch up, they are lobbying vigorously, enlisting California's Republican Gov. Arnold Schwarzenegger, to persuade Republicans to preserve their ability to import skilled workers.

"The way in which the whole package was described tended to mislead people about what was being done to whom," said Bruce Morrison, a former Democratic chairman of the House immigration committee now lobbying to change the bill. "And what they've done is quite a disaster."

What the bill does with little public attention is upend the entire employment-based immigration system established in 1952. No longer would employers be able to select their workers; the workers would select them.

All new immigrants would gain permanent admission -- the coveted green card -- through a new merit-based point system that would admit people by their skills, education, English proficiency and other factors. The idea is to raise the skill and education level of immigrants.

Yet rather than winning praise from tech companies seeking skilled workers, the idea has provoked their fury. They want to recruit their own workers, not choose from a pool, and are excoriating the point system as Soviet-style folly.

"We've seen centrally planned economies before -- I believe that's why we fought and won the Cold War," said Robert Hoffman, vice president of government relations for software giant Oracle, based in Redwood Shores. "To scrap the employer-sponsored green cards would seem to suggest that there is something inherently wrong with employers picking the skill set needed for our economy."

Tech companies were surprised by the replacement of the employer-sponsored system with the new point system. While they had complained of green card shortages, they did not ask to change the basic structure of the system.

"Nobody was saying, 'Gee, we really don't like it that IBM gets to decide what computer engineer they need,' " Morrison said. "We don't want people to come sit in the corner and think great thoughts because they have a Ph.D. in something. We want people to come in and be productive. The way we do that in the American economy is we let the market work, and we let people make marketplace decisions about who fits in what job."

High tech companies also are angry over the bill's treatment of the H-1B visa for temporary skilled workers. Even though the over-subscribed annual H-1B quota would almost be doubled in the new bill from 65,000 to 115,000, the bill would remove exemptions for foreigners holding higher degrees, increase fees to \$5,000 and generally make the visa harder to use.

The revolutionary changes to employment-based immigration have been widely overlooked amid the uproar over how the point system would affect family migration.

That's because the point system is aimed at curtailing the "chain migration" of extended families. Visas for a future immigrant's brothers, sisters and adult children would be eliminated, and future immigrants would be admitted on the basis of the points they earn for skills, education and other factors.

The plan has drawn howls from immigrant rights groups. But experts point out that the legislation provides extraordinary numbers of new green cards to clear existing family backlogs -- 567,000 permanent slots for each of the next eight years -- before the point system really bites into family migration.

Work-based immigrants, by contrast, would get 260,000 green cards for the next five years, dropping to 140,000 for the three years after that as the estimated 12 million newly legalized workers get a chance at a green card. After eight years in all, visas for work-based immigrants would rise to 380,000, but more than half of those are for spouses and minor children of the worker.

Gary Endelman, a business immigration attorney who writes for the Web site www.ilw.com, called the bill the "wonder drug that family migration advocates have been praying for, and when they finally get it, they walk sightless among the miracle."

Employers and the hundreds of thousands of H-1B workers from India and China seeking green cards contend they're the ones getting short-changed.

Immigration Voice, a group representing H-1B workers, is sending out mass e-mails complaining that skilled immigrants would remain bogged down in long backlogs for green cards and that farm workers, who get special advantages under the bill, could earn 2 1/2 times more points for their U.S. work experience than H-1B workers.

The point system is a key element of the "grand bargain" on immigration reached between the White House and a bipartisan group of senators after months of negotiations. Moving to a merit-based system for future immigration was the pivotal trade-off for Republicans who agreed to grant legalization to the estimated 12 million mainly low-skilled illegal immigrants now in the country.

Morrison, the former congressman, contends the Senate points plan, unlike others, was written "by staff members of Congress who decided how many points a Ph.D. is worth. I mean, how do they know? Where did that come from? There have been no studies, no hearings, no nothing. This isn't from the Bureau of Labor Statistics. This is from a bunch of lawyers sitting around a table on Capitol Hill. It's not the way to manage the precious resource of scarce admissions to the United States."

Stuart Anderson, executive director of the **National Foundation for American Policy**, a pro-business immigration think tank, said per-country limits will drive up the points that Indian and Chinese workers would need to enter, and that heavy weightings for high-demand occupations like maids and waiters could lead to other distortions.

"Literally a Nobel Prize in chemistry could get more points if he said he was coming to work at McDonald's rather than MIT," Anderson said.

Silicon Valley is waging an all-out campaign to change the bill, resting its hopes on Sens. Maria Cantwell, D-Wash., and John Cornyn, R-Texas. The Cantwell-Cornyn

amendment would add a parallel system of employer-sponsored green cards to the point system -- doubling work-based visas. It would also remove some of the new hurdles in the H-1B program.

Neither of California's two Democratic senators, Dianne Feinstein and Barbara Boxer, has spoken about the amendment.

"There's a strong tech presence in Texas, and obviously here's a little company in Redmond, Wash., that is important to our economy," Oracle's Hoffman said, referring to Microsoft. "Honestly I don't know where the two California senators are on the amendment."

Schwarzenegger stepped in Monday with a letter to Senate leaders raising "some urgent concerns for California, especially the needs of innovation-based industries that are the backbone of our economic competitiveness."

The Schwarzenegger letter "was a punch in the gut of a lot of Republicans who were part of the grand bargain," said Ralph Hellman, a lobbyist with the Information Technology Industry Council and former GOP aide. "As a leading Republican in a leading high-tech state, it was taken very seriously."

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