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Senate Panel Advances Immigration Bill With Hatch Changes

By: Heidi Przybyla and Kathleen Hunter – May 22, 2013

The Senate Judiciary Committee advanced what would be the biggest change to U.S. immigration law in a generation, easing hiring requirements for technology companies and keeping provisions out of the bill that could imperil its fragile balance of support.

The committee approved the measure yesterday, 13-5, sending it to consideration by the full Senate, after adopting an amendment from Republican Senator Orrin Hatch on visas for high-skilled foreign workers. It was among the compromises Democratic panel members made in an attempt to strengthen the legislation's appeal to Republicans.

“The bill has moved to the right in the committee and that will help its chances on the floor and put it in a better position as it moves to the House of Representatives,” said Alex Nowrasteh, an immigration analyst at the libertarian Cato Institute in Washington.

The legislation seeks to balance a path to citizenship for an estimated 11 million undocumented immigrants in the U.S., sought by Democrats, with enough border-security improvements to satisfy Republicans. Written by a group of four Republican and four Democratic senators, the measure is expected to come to a vote on the Senate floor next month.

Republican Senators Jeff Flake of Arizona and Lindsey Graham of South Carolina, among the bill's authors, worked with Democrats to adopt about 100 amendments while defeating others that could undermine its prospects before the full Senate and in the Republican-led House. That included an attempt by Iowa Republican Senator Charles Grassley to make a path to citizenship contingent on securing the U.S. border.

Defeating Amendments

“Members of the group that put this together have stood together and voted against amendments that they felt would be a violation of the bipartisan agreement,” said California Senator Dianne Feinstein, who sits on the committee. Senator Patrick Leahy, the panel's chairman and a Vermont Democrat, yesterday withdrew an amendment to provide immigrants in same-sex marriages with U.S.

citizens equal benefits to heterosexual couples after Democrats and Republicans spoke against it.

“We now know this is going to blow the agreement apart,” Feinstein said. “I don’t want to blow this bill apart.”

In 2007, the last time Congress tried to enact a major revision of immigration law, a number of lawmakers switched their votes on the Senate floor because of amendments they couldn’t support, she said.

Republicans in both chambers say they will reject border security enhancements they deem insufficient and a measure creating a temporary worker program they consider too limited for U.S. companies that need more lower-skilled workers.

House Concerns

In the House, Republicans crafting immigration legislation, including Representative John Carter of Texas, have criticized the Senate legislation. Senate opponents previewed some of those arguments during the panel debate. “No one disputes that this bill is legalization first, enforcement later,” Grassley said. “Absent significant changes on the Senate floor, the House should take up their own process.”

Senator John Cornyn of Texas cited his support for a biometric exit and entry system that was among the rejected amendments. Flake of Arizona, who voted for the bill, said the Senate must consider proposed changes from Hatch regarding the taxes immigrants must pay and U.S. benefits they receive.

Hatch of Utah said if these “conflicts” aren’t resolved, “I will have to vote against the bill on the floor.”

Democratic Amendments

Meanwhile, some Democrats including Senator Al Franken of Minnesota, concerned that the compromise with Hatch to expand visas to fill jobs in the high-tech industry will hurt the job security of U.S. workers, may offer amendments that could undermine Republican support.

Still, the legislation, S.744, stands a chance of becoming law as Democrats and Republicans still reeling from the 2012 election in which Hispanics overwhelmingly voted for President Barack Obama say they want to reach a compromise.

The bill “has made a substantial contribution to moving the issue forward,” Senate Minority Leader Mitch McConnell told reporters yesterday. “I am hopeful we can get a bill that we can pass here in the Senate.”

The broader legislation “has withstood attacks” and is now ready to be considered in both chambers, Frank Sharry, executive director at America’s Voice, said in a statement.

Nowrasteh said, “You’re now going to see input from other senators who’ve been on the sidelines.”

Withdrawn Proposals

Committee members withdrew some proposals before the vote. Senator Richard Blumenthal, a Connecticut Democrat, agreed not to force a vote on his proposal to move the cutoff date for undocumented immigrants to seek citizenship from 2011 to 2013.

Other proposals that were defeated could re-emerge, including Texas Republican Ted Cruz’s call for eliminating the pathway to citizenship for undocumented immigrants. Cruz’s amendment was rejected 5-13.

In the House, a bipartisan group of lawmakers who struck a deal on a broader bill last week gave up on seeking a compromise on how many temporary workers to allow into the U.S., a disagreement that will likely be debated in both the House and Senate.

Several amendments adopted in the committee were intended to make the bill more palatable to moderate Republicans seen as crucial to passage in the full Senate. The provisions include two proposals to help prevent foreign citizens from staying in the U.S. on expired visas.

Biometric Screening

One proposal would set up a biometric screening system at the nation’s 30 busiest airports to track the departure of foreigners on international flights. Such systems can include fingerprinting or facial-recognition scans. About 40 percent of the undocumented in the U.S. have stayed after their visas expired.

The committee also authorized \$4.5 billion over the next five years for tighter border security while requiring a 90 percent apprehension rate along the full U.S.-Mexico border.

Senators Dick Durbin of Illinois and Charles Schumer of New York, along with other authors of the bill, had courted Hatch’s vote in hopes he would bring other Republicans with him.

The agreement with Hatch would change the formula for calculating the number of visas for foreign technology workers while keeping the bill’s limit of 180,000 a year.

It also would lift a requirement that companies seek a U.S. worker before hiring a foreign visa holder for all companies except those whose workforce is more than 15 percent foreign. The amendment included Hatch's proposal requiring employers to show that a U.S. worker wasn't available only when they initially hire a foreign employee, not with each visa extension.

Union Concerns

Unions led by the AFL-CIO labor federation said technology companies are seeking to undermine job security and opportunities for U.S. workers.

Hatch's amendments "are unambiguous attacks on American workers," AFL-CIO President Richard Trumka said in an e-mailed statement. The amendments "would mean that American corporations could fire American workers in order to bring in H-1B visa holders at lower wages," he said.

The bill's authors said they will remain open to changes on the Senate floor.

Democrats "have an open ear and an open mind to other amendments," Schumer said.