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U.S. Immigration Plan Encounters Business-Labor Rift

By: Heidi Przybyla and Kathleen Hunter – May 20, 2013

Movement in the House and Senate on revising U.S. immigration law belies a long-running rift between business and labor that could derail the bill.

After four years of negotiations, a bipartisan group of House members who struck a deal on a broader immigration bill last week have given up on finding a compromise over how many temporary workers to allow into the U.S.

As another bipartisan measure advances in the Senate, a series of amendments backed by technology and construction companies and opposed by the AFL-CIO labor federation risk upsetting a delicate balance.

With Democrats and Republicans in both chambers intent this year on achieving the first major revision of immigration law in a generation, the reopening of fissures between business and labor serves as a reminder of how tough the challenge is. That divide is the one that scuttled the last attempt in 2007.

“The same looming threats that were there in 2007 are present,” said Ana Navarro, a former adviser on Hispanic issues to Arizona Senator John McCain, who recently met with President Barack Obama before his trip to Latin America. McCain is among a group of eight senators who wrote the bipartisan immigration bill.

“Everybody’s keenly aware it could end up being a really significant issue,” Navarro said of the labor-business divide.

Numerous obstacles mark the road to a new immigration system. Senator Marco Rubio, a Florida Republican and member of the bipartisan Senate team, has said he supports a biometric data proposal designed to toughen U.S. border security that Democrats call a poison pill.

Possible Deal-Breaker

Senator Patrick Leahy, a Vermont Democrat and Judiciary Committee chairman, may offer a measure to give foreign nationals in same-sex marriages with U.S. citizens the same benefits as heterosexual couples, which Rubio and other Republicans have said would be a deal-breaker.

Also, while the Senate is advancing comprehensive legislation -- offering a path to citizenship for the 11 million undocumented immigrants in the U.S., toughening border security and providing for temporary workers -- House leaders plan to offer a series of stand-alone bills. One would focus on border security and others on temporary worker programs that fall short of Obama's call for a far-reaching plan.

Unions Splintering

Union support also is splintering. The union representing more than 12,000 immigration agents today joined with the union representing customs and deportation agents in opposing the Senate bill, according to a letter from the National Citizenship and Immigration Services Council.

The union is responsible for processing the applications of people seeking visas and applying to become citizens or permanent residents. Union President Kenneth Palinkas said the legislation doesn't address some of his members' most pressing concerns, including the pressure to perform only minimal scrutiny of applicants. It is the first time that union is joining the National Immigration and Customs Enforcement Council in opposing the bill.

"The legislation will provide legal status to millions who have committed serious immigration and criminal offenses while dramatically boosting future immigration without correcting the flaws in our current legal immigration process," Palinkas said in a statement today.

Finally, there are lawmakers on both sides of the debate who probably don't even want a deal, said Mario Lopez, president of the Hispanic Leadership Fund and former executive director of the House Congressional Hispanic Conference.

'Status Quo'

"Some Republicans just don't want reform at all and are happier with the status quo," said Lopez, a Republican. "There's also a certain segment of the left that doesn't want to solve the issue. They'd like to set it up so that what happened in 2007 happens again."

Even so, supporters say a changed political landscape since 2007 can help overcome those differences. Republican leaders still reeling from the 2012 election in which Hispanics gave Obama 71 percent of their vote for his re-election are convinced they need to champion an immigration overhaul.

"There is an acceptance that it's now or never, and that is forcing unprecedented compromise despite the partisan environment going on in Washington in practically every other realm," Navarro said.

Still, business and labor groups are girding for complications in both chambers.

Visa Dispute

The U.S. Chamber of Commerce, which agreed to a deal with the AFL-CIO during private negotiations on the Senate bill, wanted to double the number of visas allowed for lower-skilled guest workers, and now some business lobbyists and House Republicans are seeking to reopen that agreement.

“What’s happening all over town is that business is just frantically trying to get better deals for themselves,” said Ana Avendano, the AFL-CIO’s director of immigration. “Every piece of the bill they’re trying to change.”

The bipartisan group of senators “did the best they could” to resolve differences between business and labor, said Tamar Jacoby, president of ImmigrationWorks USA, a federation of state-based business groups advocating revising U.S. laws. It “is going to be one of the biggest ongoing debates until they’re finished.”

The Senate Judiciary Committee, which resumed work today on amendments to prepare the bill for a Senate vote in June, rejected a series of amendments that pose the greatest risk to the bill last week. Still, Democrats and Republicans remain in a standoff over a package of measures sponsored by Senator Orrin Hatch, a Utah Republican, supported by technology companies and opposed by labor.

Hatch’s Amendments

Hatch, the one Republican on the Judiciary Committee whose vote is uncertain, may serve as a barometer for what it will take to win over other Republicans in the Senate. He is vowing to oppose the legislation unless Democrats agree to a series of amendments that favor the technology companies seeking greater flexibility to hire foreign workers.

“I think they’re taking me seriously,” Hatch said. “If they don’t, I’m not going to support this bill, it’s just that simple,” he said, maintaining that most of his amendments must be accepted, “if not all of them.”

Senator Dick Durbin, the chamber’s No. 2 Democrat and one of the bill’s sponsors, warns he can’t support the amendments, saying they would weaken job opportunities for U.S. workers.

Higher-Skilled Workers

The Senate bill would raise the annual H-1B visa limit for higher-skilled workers to 135,000 from 85,000 and require companies to recruit U.S. workers before hiring foreign ones. Technology companies say that invites bureaucratic scrutiny by the government and lawsuits from disgruntled U.S. workers.

The rules “may force individual employers to defend potentially hundreds of personnel decisions years after the fact,” said Stuart Anderson, an immigration analyst with the National Foundation for American Policy, a nonpartisan Arlington, Virginia-based group that researches trade, immigration and other issues. For instance, the Department of Labor would be empowered to determine whether a foreign worker or another worker is the most qualified person for the job.

One of Hatch's amendments would require employers to show a U.S. worker wasn't available only when a foreign employee is initially hired, not with each visa extension. Another would allow individuals who intend to immigrate to the U.S. to be counted as U.S. workers under certain circumstances.

Unions say technology companies are trying to undermine job security and opportunity for U.S. workers. Hatch is "selling his vote right now, and the price he's asking is protections for American workers," Avendano said.

Isn't 'Politics'

Hatch rejects such criticism, saying he's long been a supporter of the technology industry. "There isn't any politics involved in anything I'm doing," he said.

Among the companies behind the visa proposals Hatch is pushing is Oracle Corp (ORCL), Avendano said. Facebook Inc (FB). Chief Executive Officer Mark Zuckerberg has formed an advocacy group called Fwd.us to lobby for an increase in the H1-B visas for higher-skilled workers.

A spokeswoman for Oracle declined to comment.

In the House, Democrats and Republicans plan to offer separate plans to address another dispute between business and labor -- the number of lower-skilled workers entering the country under a temporary worker program, according to lawmakers involved in the negotiations.

Low-Skilled Visas

In talks during the drafting of the Senate bill, labor unions secured caps on the number of foreign, low-skilled workers allowed in the U.S., particularly in the construction industry suffering high unemployment. That agreement reached with the Chamber is drawing criticism from House Republicans.

"The Senate bill is a nonstarter in the House," said Texas Republican Representative John Carter, a member of the House's immigration negotiating group. "I'm not going to accept what the Senate and the Chamber came up with."

Geoff Burr, vice president of federal affairs for Associated Builders and Contractors, a group lobbying for higher caps, blamed Democrats for the impasse.

"They do have an incentive not to agree because then the Senate would be the only game in town," he said.

The matter may not be closed in the Senate either. Senator John Cornyn, a Texas Republican, said he would wait until the legislation reaches the Senate floor to make pro-business alterations to the temporary worker program -- eliminating a 15,000-worker annual cap on construction-industry visas.

Citizenship Path

For all their disputes, the bipartisan groups have reached a general agreement over the core of their bills: The path to citizenship for the undocumented.

The Senate plan envisions at least a 13-year path.

The House would require a 15-year wait to become a U.S. citizen, including a 10-year period after undocumented immigrants register with the government, according to two aides who spoke on condition of anonymity about a plan not yet released. Once immigrants register, they would be required to pay a fine and any taxes they owe the U.S. government and make an admission that they entered the U.S. illegally.

While the bill faces an uncertain path in the House, supporters are seeking a strong bipartisan vote for passage in the Senate to help convince lawmakers in the other chamber.

“As long as it passes the Senate, this is alive and well in the House,” said Alex Nowrasteh, an immigration policy analyst at the Cato Institute, a libertarian policy group in Washington.