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Immigration Reform: Guest Worker Program Considered As Part Of Deal

By: Dave Jamieson - January 31, 2013

As lawmakers on Capitol Hill try to hammer out a comprehensive immigration package, business and labor groups are trying to settle what's historically been a contentious piece of the overall puzzle: what the nation's foreign guest worker programs should look like.

Each year, tens of thousands of foreign workers come to the U.S. on temporary visas to work in low-wage, short-term capacities, such as housekeeping, landscaping and seafood processing, to fill what employers say are gaps in the U.S. labor force.

Neither the business lobby nor organized labor is thrilled with how these visa programs currently operate. Businesses complain there's too much red tape and too few visas to go around, while unions and worker advocates say the programs in their current forms drag down the wage floor and fail to protect vulnerable workers from exploitation.

The Senate has signaled that it intends to take up the guest worker issue in its package. Without providing much detail, a bi-partisan Senate plan said the legislation "will provide businesses with the ability to hire lower-skilled workers in a timely manner when Americans are unavailable or unwilling to fill those jobs."

When lawmakers last considered such a package in 2007, guest worker visas became one of the most divisive issues. At the behest of businesses, GOP lawmakers had written a guest worker program into the legislation, though Sen. Byron Dorgan (D-N.D.), with the backing of labor groups, proposed an amendment that would have phased that program out after five years, arguing that it would depress wages.

As PolitiFact has noted, Dorgan's amendment was narrowly adopted, with conservative critics calling it a "poison pill," and the overall package later failed.

On Thursday, Sen. Dick Durbin (D-Ill.) acknowledged the contentiousness of worker visas during previous talks. The discussion around "future flow" -- how to bring new workers into the country -- "tore us up" in 2007, Durbin said. He added that he was encouraged that the AFL-CIO and the Chamber were at the same table negotiating right now.

"Future flow is an important one because, you know, the reason it tore us up last time is because we want to make sure American workers have the first chance at jobs, but we also know that

there's some jobs they won't take, so we're trying to strike the right balance," Durbin said. "The good news is that union leaders like [AFL-CIO President Richard] Trumka and business leaders like [Chamber President Thomas] Donohue are talking to one another. They may help us through this."

Labor groups sitting at the table this time around would be loathe to push a plan on guest workers that could politically complicate the larger package. The AFL-CIO and the Service Employees International Union (SEIU) have made a pathway to citizenship for undocumented workers one of their primary objectives under an Obama administration, likely leaving them flexible when it comes to the guest worker portion of the program.

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Asked where guest worker reform stood on its list of priorities, an official at one union involved in the talks said, "Our priority is a pathway to citizenship."

But if a guest worker overhaul becomes part of the larger proposal, unions may seek a way to limit the number of visas available during times of high U.S. unemployment -- an idea generally opposed by business groups.

Critics of the guest worker program have argued that employers have relied too heavily on cheap foreign labor when millions of Americans are out of work. Given that domestic unemployment remains stubbornly high at 7.8 percent, business groups like the U.S. Chamber of Commerce may find it more difficult to argue that employers can't find willing and able American workers to do the job.

"We want it to be flexible, to reflect labor market reality," said one labor official, requesting anonymity due to the private nature of the talks. "You wouldn't treat Nevada and North Dakota the same in January 2013, and you wouldn't treat four percent Clinton-era unemployment the same as eight percent Obama-era unemployment."

The Obama Labor Department has already tried to address a number of unions' concerns with the current programs, including implementing a new methodology that would raise guest worker wages, requiring businesses to foot the bill for workers' travel costs, and making employers show more diligence in seeking U.S. workers for their open positions. Such measures have been blocked by ongoing litigation brought by trade groups and delayed by lawmakers on both sides of the aisle.

One idea that unions support is the establishment of a commission to determine the number of visas for certain geographical areas during certain time spans. A lobbyist for the Chamber told the Wall Street Journal that the group would not support the concept of a commission, arguing there shouldn't be any limits set on visas.

Alex Nowrasteh, an immigration analyst at the libertarian Cato Institute, said he'd like to see lighter regulations on the visa program, though he's pessimistic about any kind of major guest worker overhaul going into the immigration package. Noting the heated politics of guest worker visas during the 2007 talks, Nowrasteh pointed out that President Obama didn't mention the guest worker issue while making his case for immigration reform in Nevada this week.