

# National Journal

## Why a Messed Up Immigration Bill Could Still Pass

By: Fawn Johnson – April 14, 2013

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Only one thing really matters in the immigration bill that a bipartisan group of eight senators will unveil this week—11 million immigrants living in the United States without papers who fear deportation every day. Give them a break, and the rest will sort itself out. That's the nascent attitude of business, labor, immigration-reform advocates, the religious community, most Democrats, and even a few Republicans. Some of the more liberal lobbying forces would be perfectly happy if an immigration bill did nothing *but* legalize the undocumented population. Forget border security and guest workers.

That's why conservative darling Sen. Marco Rubio, R-Fla., appeared on all five Sunday news programs in advance of the "Gang of Eight's" rollout of the bill, slated for Tuesday. Rubio is the GOP's go-to guy for assuring wary conservatives that he won't let the liberals run away with the legislation. He made sure that viewers knew that the Senate measure has the toughest border security provisions ever proposed. (They are so tough that analysts say they are impossible to meet, but that is not a political problem Rubio needs to worry about right now.)

Rubio also repeatedly insisted Sunday that the unauthorized population will get no special treatment—except, of course, the right to remain here and, eventually, become citizens.

"They don't get anything. What they get is the opportunity to apply for it. They have to pass a background check. They have to pay a registration fee. They don't qualify for any federal benefits. No federal benefits. No food stamps. No welfare. No Obamacare. They have to prove that they are employed. And they will have to stay in that status until at least 10 years," he said on Fox News Sunday.

Why would they bother, asked CNN's Candy Crowley. "Life is not OK right now for them. They're living in the shadows. They have to lie," Rubio replied.

That is the crux of the entire debate. That is the reason that 72 percent of Hispanics voted for President Obama. Without legalization for unauthorized immigrants, Congress's talks on border conditions, work visas, and employment verification are going nowhere. With legalization, those items can be worked out and probably changed in the future.

"It will make a significant difference if the issue of the undocumented is being dealt with and is taken off the table," said Angela Kelley, vice president for immigration policy at the left-leaning Center for American Progress. "If the titles that are alongside them in the

bill aren't functioning, it may be easier to correct them because you're not going to have the influence of illegal immigration operating in quite the same way than it is now."

Rep. Mario Diaz-Balart, R-Fla., a colleague of Rubio's who is helping craft similar immigration legislation in the House, said the Senate's swift movement on its bill will "leave a lot of issues open" that will have to change before House Republicans can sign off.

"I'm not so concerned as long as we're on the same planet," he told *National Journal*. "There's nothing there that I don't think we can work out."

Diaz-Balart also believes the prospects for success on immigration are greater than ever before. "There are a few fringe individuals out there" who are good at blocking immigration legislation, he said. "In the past, there was a reluctance to take them on. That has changed."

A veteran on immigration issues, Diaz-Balart is still bracing for a "long, painful, complicated" process in which he will field lots of "ugly reactions" from opponents. "The extremes are going to be fuming," he predicted.

Business groups are trying to keep a big-picture approach as they buffer complaints from the right and the left. Even though employers desperately want new work visas, legalization of the undocumented workforce by itself would solve a host of their problems. They would not have to worry about raids, and they could feel free to hire loyal foreign workers for the long term. The immigrants themselves would have more money and opportunities to contribute to the economy. Legal workers make 15 percent more than unauthorized workers, on average.

"People are going to go and get legalized and raise their hands and have the opportunity to become citizens, and then go out and get a burger or a taco or whatever," said Angelo Amador, vice president of labor and workforce policy at the National Restaurant Association. "You can get a license. You can get on a plane. That helps restaurants. That helps the hospitality industry."

Make no mistake. There is a lot of hand-wringing among immigration-reform advocates that the legislation will wind up doing more harm than good. Republicans are holding their noses over an agreement on low-skilled work visas between the U.S. Chamber of Commerce and the AFL-CIO. That portion of the bill is a mess and everybody knows it, but supporters are holding their fire because they don't want labor to walk away from the table.

The proposed new work visa system doesn't accommodate the robust "future flow" of immigrants envisioned by free-market conservatives. "I don't think it's going to work," said Alex Nowrasteh, immigration policy analyst for the libertarian Cato Institute.

Labor-supported provisions designed to protect American job seekers would make it virtually impossible to attain work visas for low-skilled foreign workers. The proposal would not allow any work visas to be issued if the unemployment rate in a certain area is above 8.5 percent, which is the norm in many cities. And it sets the annual cap on visas in the initial years at 20,000, significantly lower than businesses' request for 400,000 to 500,000.

Without an easy way for low-skilled job seekers to come into the country legally, 90 percent benchmark for border apprehensions in the Senate bill “is probably impossible to achieve,” Nowrasteh said.

On the positive side, the 90 percent threshold would be easily accomplished if the new work visa system actually created trouble-free, legal border crossings, Nowrasteh added.

But that might not happen, at least in the Senate.

Businesses and civil rights groups also are worried that a new requirement for employers to electronically verify all new employees won't protect people if the computer system fails. On a purely logistical level, the computer check system could cause headaches for legal immigrants (and the employers who want to hire them) if they have hyphenated names or alternative spellings or if they are in the country on special visas.

Smaller employers, who are used to a simple paper I-9 form, might find themselves coping with technical and bureaucratic burdens that could harm their bottom lines.

The error rate for the now-voluntary electronic verification system is low, but it isn't perfect. Lawmakers are already talking about amendments to the Senate bill that would require the error rate to be better than 99 percent before small employers must comply. The business community will insist that employers would not be penalized if they unwittingly hire an unauthorized worker who has the fake IDs to get through the system.