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Is E-Verify bill in conflict with conservative ideals?

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FILE - In this Dec. 10, 2008, file photo Shawn Coburn, a farmer who grows thousands of acres of almonds on the west side of Central California's Fresno County, and his foreman, Juan Guadian, right, inspect an almond orchard in Mendota, Calif. Coburn, who is politically active, said the mandatory E-Verify plan, which would require all American businesses to confirm their employees are legally entitled to work in the U.S., would be disastrous. "I don't think it's going to happen, but if it does it would throw the California economy for a loop," he said of an industry where 80 percent of the field workers are illegal immigrants. (AP Photo/Marcio Jose Sanchez, File)

When Rep. Lamar Smith, Texas Republican, proposed the Legal Workforce Act earlier this month, the bill was co-sponsored by 11 House Republicans — a number that now has grown to 26 — and hailed by some as a solution to illegal workers.

But a vocal minority thinks it flies in the face of core conservative values to promote small federal government and states' rights, and some predict a shoot-out between senior congressmen and the freshmen who were elected by a Tea Party constituency sick of Washington overreaching.

The bill would require all employers to check the Social Security numbers of potential hires using the Internet-based E-Verify system, which has been voluntary since 1997.

The mandatory program would roll out in several waves, depending on size and industry. Federal, state and municipal government employers, and companies with more than 10,000 workers, would have to comply within six months. All other employers would have to comply within one to two years, with the exception of the immigrant-heavy agricultural industry, which would have three years.

It also would pre-empt state laws that impose civil or criminal penalties on employers who fail to use E-Verify although states would retain the authority to strip noncompliant employers of their business licenses.

Rep. Lou Barletta, Pennsylvania Republican, is crying foul. He says that until current federal immigration laws are enforced, passing another one is pointless. **(GOP congressman on stopping illegal immigration: I'll do anything short of shooting them)**

"I'm not against E-Verify. My gripe is why must we pre-empt states' rights when they're the only government entity that's serious?"

Kris Kobach, lead counsel for the anti-immigration Immigration Reform Law Institute and Kansas secretary of state, sees a rising conflict amongst conservatives.

"I think there's going to be a large number of freshmen in Congress who agree, who were put there by a part of the electorate that was frustrated with the emasculation of states and an erosion of states' rights," said Kobach, a Republican.

In a press conference tomorrow morning, several influential Republicans, including former Rep. Bob Barr, Georgia Republican, and Jim Harper of the Cato Institute, will express their opposition to the bill, which they call "flawed and burdensome."

A House Judiciary Committee Republican staff member who did not wish to be identified argued that the Constitution grants the federal government authority over immigration policy. While the Constitution never mentions the word "immigration," the Supreme Court ruled in 1976 that the naturalization clause in Art. I, Sec. 8, grants that authority.

But that may be changing. In May, the Supreme Court ruled that an Arizona law mandating the use of E-Verify does not conflict with federal law. On June 6, it voided a lower court ruling against a similar law in Hazleton, Pa.

The former mayor of Hazelton Lou Barletta had banned employers from hiring illegal immigrants. **(Congressman calls for IRS investigation of CAIR)**

"I believe the municipal, state and federal government can work in harmony, but it's a huge warning sign to stop that effort [in the bill]," Barletta said.

Kobach, who wrote the Arizona law, agreed that all levels of government should work cooperatively. In addition, he and Barletta point to a clause in the Smith bill exempting agricultural workers from verification if their employer says they are being rehired—in essence, being "grandfathered in," they say.

"The bill would establish a fairly toothless E-Verify requirement while de-fanging [the states]," Kobach wrote in a recent op-ed piece.

Democratic critics of the proposal say it could cost hundreds of millions of dollars and an even more bloated bureaucracy—a charge usually lodged by Republicans. In a recent Government Accountability Office report, the Customs and Immigration Services estimated the annual program management would cost $70 million and as much as $400 million in compliance activities and staff, depending on how the law was implemented.

The Social Security Administration is still refining its numbers but says the increased workload could get expensive.

While the E-Verify program is 99.5 percent accurate, critics of the bill note that still means tens of thousands of legal workers, including U.S. citizens, could be mistakenly flagged and require further investigation every year.

Smith cites a recent Rasmussen poll showing 82 percent of voters support the bill, but his opponents on both sides of the aisle have questioned those numbers.

Meanwhile, Barletta, currently a congressman representing Pennsylvania's 11th district, is offering his own bill — the Mobilizing Against Sanctuary Cities Act — which would strip federal funding from local governments that don't enforce the national laws already on the books.