

New Immigration Reform Bill Seeks to Legalize Undocumented Migrants

By Reuben S. Seguritan

Another immigration reform bill granting permanent resident status to millions of undocumented alien workers was introduced this week in Congress by Senator Edward Kennedy (D-MA), and Representatives Robert Menendez (D-NJ) and Luis Gutierrez (D-IL).

The Safe, Orderly, Legal Visas and Enforcement Act of 2004, the SOLVE Act, is considered far more sweeping and comprehensive than the guest worker program proposed by President George Bush and the bipartisan Hagel-Daschle Bill.

Among the salient provisions of the proposed SOLVE Act are: earned legalization for undocumented workers in the US; green cards for their spouses and children; transitional legalization for those who cannot meet the residency requirements for earned legalization; green cards for temporary workers after two years of work; and a temporary worker program. The SOLVE Act also has provisions to address the serious backlog in family-based petitions.

The SOLVE Act protects employers of undocumented migrants from civil and criminal tax liability arising from the latter's employment.

Several organizations have expressed their support for the SOLVE Act including the American Immigration Lawyers Association (AILA), and the National Federation of Filipino American Associations (NaFFAA), the largest umbrella organization of Filipino American groups in the US.

"The SOLVE Act would bring us laws that make sense, make us safer, support our economy and help family reunify," AILA said in a statement.

Another statement signed by some 25 national organizations, including NaFFAA lauded the SOLVE Act as a "measure that will fix an unworkable and outdated system, (that will) make immigration safe, legal and orderly."

Earned Adjustment

Under the earned adjustment provision of the SOLVE Act, those who have been here for at least five years from the date of introduction of the bill (May 4, 2004) and have worked for at least two years, including self-employment, and paid taxes may be eligible to apply for green cards. The applicant's spouse and unmarried minor children are also eligible for green cards. This earned adjustment will not be included in the numerical limits set for visas.

The Bush proposal has no provision on earned adjustment. The earned adjustment provision of the Hagel-Daschle Bill requires three years of employment before the introduction of the bill and one year after enactment of the bill into law. The SOLVE Act, however, requires only two years of employment and has no future work requirement.

Applicants for earned adjustment would have to undergo thorough criminal background checks, medical examination and register with the so-called Selective Services. They will be granted work authorization and permission to travel abroad while their applications are pending.

Temporary workers may be eligible for green cards after two years of work under the SOLVE Act. No similar provision is made in the Bush plan while the Hagel-Daschle Bill requires three years of work before temporary workers can apply for a green card.

Transitional Status

Under the SOLVE Act, those who have been in the US for less than five years, or who do not meet the two-year work history may apply for transitional status ("TS") after a thorough background check. The transitional status is good for five years. TS immigrants will be granted work authorization and permission to travel abroad. After two additional years of work, the SOLVE Act allows TS immigrants to apply for green cards.

In contrast, the Bush guest worker proposal has no similar provision. The Hagel-Daschle Bill, however, provides for transitional status if the applicant is employed for more than two years.

Backlog Reduction in Family-Based Petitions

To address the serious backlog in processing family-based immigration, the SOLVE Act exempts immediate relatives from the 480,000 limit on family-based visas. Also, visa applications pending for more than five years would be approved, regardless of per-country numerical limits.

The SOLVE Act also reduced the income requirement for sponsors of family-based immigration from 125% to 100% of the poverty level. Unused family-based visas in any given year will be applied to future regardless of per-country limits as well.

In contrast, the Hagel-Daschle Bill does not contain as much details in addressing the backlog in family-based petitions. The Bush plan does not address this issue at all.

Temporary Worker Program

The SOLVE Act established two worker visa programs called the H-1D and H-2B for low-skilled positions. Workers who qualify for other visas will not be included in these programs. The H-1D visa is for a period of two years, renewable for a period of two additional terms for a total period of six years, while the H-2B visa is for a period of nine months, renewable for up to 40 months.

The temporary worker program is the centerpiece of the Bush proposal and has an unlimited number of visas per year. The Hagel-Daschle Bill provides for 250,000 H-1D visas per year and 100,000 H-2B visas per year, but the program will sunset in five years. The SOLVE Act, on the other hand, would have the same number of H-1D and H-2B visas per year, but unlike the Hagel-Daschle Bill, its program has no sunset provision.

With three major immigration reform proposals under consideration, many political observers opine that the passage of a comprehensive immigration reform law would be a remote possibility in an election year. The competing proposals, however, serve to open the discussion on immigration issues to public debate.