

# **Cornyn-Kyl Bill signals immigration reform showdown in Congress**

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Another immigration reform bill has been introduced in the Senate by Senators John Cornyn (R-TX) and Jon Kyl (R-AZ), which will likely set the stage for a lively debate on immigration reform.

The bill, dubbed the "Comprehensive Enforcement and Immigration Reform Act" (hereafter, "Cornyn-Kyl Bill") is viewed by many to be more restrictive in comparison to the Secure America and Orderly Immigration Act of 2005 sponsored by Senators McCain and Kennedy and Representatives Kolbe, Flake and Gutierrez.

## **IMMIGRATION ENFORCEMENT**

At the outset, the Cornyn-Kyl Bill is apparently premised on the view that aliens generally pose a threat to national security. Its provisions seek to strengthen enforcement measures by increasing border patrol agents, enhancing the US-VISIT entry-exit system and canceling all visas in the possession of an alien should s/he fail to leave at the end of his or her authorized stay.

The bill hints at a looming crackdown on undocumented aliens as it earmarks funds for more detention beds as well as the number of immigration judges, Department of Homeland Security trial attorneys and investigators for smuggling and status violations. It has provisions for 10,000 additional agents over 5 years to investigate illegal employment of aliens and 1,000 agents to check fraudulent applications.

## **TEMPORARY WORKER PROGRAM**

To soften the tough enforcement provisions, the bill throws in a temporary worker or "W visa" program. The W visa is valid for two years and is renewable thrice

for a total stay of six years. Visits from family members are limited to 30 days per year. All applicants will be subject to thorough background and health checks. The US employer can hire an alien under the W visa for jobs where there are no available US workers. The employer must have offered the job to any eligible US worker who applies and must have posted the job opening in a national electronic job registry.

## **MANDATORY DEPARTURE**

The bill generally encourages aliens to return home. Aside from proposing an investment fund for this purpose, it sets up a Mandatory Departure program that would exempt undocumented aliens from the 3-year/10-year bar to reenter the US. An undocumented alien may apply for Mandatory Departure, which would give him or her five years to leave the US and reenter legally. The Mandatory Departure will serve as the alien's work authorization during the 5-year period. US employers may hire aliens issued with Mandatory Departure but must determine the availability of US workers as with the W visa program.

Before nationals of a country can participate in the Mandatory Departure or W visa program, such country must enter into a bilateral agreement with the US. That bilateral agreement will require the country to provide health coverage and housing incentives for its nationals who are returning home, help the US curb illegal immigration and provide database access.

An alien granted Mandatory Departure may not adjust his or her status to permanent resident, unless s/he qualifies under Section 241 (i).

## WHAT THE CORNYN-KYL BILL DOES NOT HAVE

Unlike the McCain-Kennedy Bill, the Cornyn-Kyl Bill does not increase the visa numbers for family-based and employment-based immigration. The Cornyn-Kyl Bill's proposal to recapture a small number of unused visas will not even make a dent on the tremendous visa backlogs in family-based immigration that leaves many US citizens waiting for decades before being reunited with their families.

The Cornyn-Kyl Bill also fails to provide aliens who have lived and worked in the US, paid taxes and contributed to their communities a means to adjust their status to permanent residents.

Increasing the number of visas and providing a means to adjust status are complementary measures that would, in the long run, discourage illegal entry or overstaying by aliens in the US. Moreover, the requirements for Mandatory Departure and the W visa programs are too stringent as to make these programs unattractive to their target alien beneficiaries.

Without a doubt, the Cornyn-Kyl Bill falls short of what we really need by way of immigration reform so much so that it can be considered a mere political foil to the McCain-Kennedy Bill.

In any event, the Cornyn-Kyl Bill sends a positive signal that our lawmakers are ready and able to buckle down to work on fixing our terribly broken immigration laws.