With H-1B in limbo, congressional backers push green card fix

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(Computerworld) Efforts to increase the H-1B cap have been stuck in a legislative swamp, but U.S. Rep. Zoe Lofgren (D-Calif.) has introduced three bills in the past few weeks to help foreign nationals already working in the U.S. obtain permanent residency. She announced her latest legislative effort late Wednesday.

Fixing the permanent residency, or green card employment-based, visa program has been a top legislative goal of high-tech industry proponents, on par with their efforts to raise the H-1B cap.

And Lofgren, who heads the U.S. House Subcommittee on Immigration, is in the position to move legislation to the head of the class. But it remains to be seen whether she can jump over the legislative stalemate created by lawmakers who want comprehensive immigration reform or nothing at all.

Lofgren's latest bill, HR 6039, which is not yet available online, will exempt graduates of U.S. universities with advanced degrees in science and tech — the so called STEM degrees (science, technology, engineering and mathematics) — from the annual 140,000 limit on these permanent residency visas. The bill was officially introduced yesterday.

In a statement, Lofgren said that more than 50% of graduates with advanced degrees in science and engineering are foreign-born. "If we want our economy to continue competing in the global market, we have to retain these foreign students so they compete with us instead of against us in other countries. These men and women are the innovators of tomorrow, and we aren't the only ones looking to retain their talents. Increasingly, employers from Europe, Australia, Canada, and even China and India are beating U.S. employers for valuable talent," said Lofgren.

That bill is closely tied to legislation introduced earlier this month by Lofgren, HR 5921. That bill seeks to eliminate the per-country caps on employment-based visas. The U.S. caps at 7% per country the number of employment-based visas issued to would-be visiting workers. "Because of this cap, a Chinese or Indian post-graduate at the top of his/her class at MIT may have to wait half a decade or more for a green card, much longer than a student from a less-populated country," said Lofgren, in a statement released when the legislation was announced.

Although much of the focus has been on the H-1B cap and its 85,000-visa quota, which includes the 20,000 set aside for holders of advanced degrees, high-tech industry

proponents say the difficulty in getting permanent residency for their employees is as much a problem as getting H-1B visas.

Microsoft Corp. has about 4,000 employees for whom it is trying to gain permanent residency, said Jack Krumholtz, managing director of federal government affairs at Microsoft. They face long waits because of the green card backlog, suffering personal and professional frustrations along the way, Microsoft Chairman Bill Gates testified.

"We only hire people that we think can contribute to our innovation and corporate bottom line over the long haul, so we move immediately to apply for green cards for you and your family members," said Krumholtz, who said Microsoft is supporting Lofgren's legislative effort.

The typical path for a tech worker is, first, work after graduation on a student visa — a period that was recently extended by the Bush administration from a year to 29 months — and then an H-1B visa until employment-based permanent residency can be achieved.

Other legislative steps taken by Lofgren include a bill that would take unused employment-based green cards and essentially roll them over for reuse in a subsequent year. That bill is HR 5882. There are Republican co-sponsors for each of these bills.

Lofgren's across-the-aisle backers of these bills include U.S. Reps. Chris Cannon (R-Utah), Jim Sensenbrenner (R-Wis.) and Bob Goodlatte (R-Va.).

Ron Hira, an assistant professor of public policy at the Rochester Institute of Technology, said he believes the U.S. can absorb more highly skilled, permanent immigrants with green cards "without significantly harming the American workforce. But we have to do it the right way."

Among the issues, said Hira, is the thorny question of, "Who are we going to grant employment-based permanent residence to?" Educational level attained (bachelor's, master's or Ph.D.) and the academic area studied by potential residents are apt to be factors in that.

Hira said that one "significant problem" with the Lofgren bills "has to do with using exemptions as a way around tackling the decision of how many [to grant]," and he added the plan to "recapture" was a gimmick to get around the quota issue. Among the questions Congress should look at, said Hira, is the impact of the changes; he indicated, for instance, that the legislation may change incentives, prompting foreign nationals to seek degrees from any U.S. school they can because it will be seen as a path to permanent residency.