

Gutierrez, Ortiz Introduce Bill in House to Overhaul Nation's Immigration Laws

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Rep. Luis Gutierrez (D-Ill.) Dec. 15 announced the introduction of the Comprehensive Immigration Reform for America's Security and Prosperity Act of 2009 (bill number not yet available) that he said provides a "road to success" to overhaul the nation's broken immigration system, including measures to enhance employment verification, create a labor market commission, and update several visa programs.

At an event announcing the introduction of the 700-page bill, Gutierrez was joined by members of the Congressional Hispanic Caucus, the Black Caucus, the Asian Pacific American Caucus, and the Progressive Caucus. The bill, referred to by the acronym CIR ASAP, has 90 Democratic co-sponsors.

Although Gutierrez was the primary author of the bill, it will be formally introduced by Rep. Solomon P. Ortiz (D-Texas). Ortiz called the introduction of the bill a "historic moment." Ortiz said the bill includes methods to end the exploitation and abuse of immigrants, particularly in the workplace.

The bill's provisions relating to the workforce include increased worker protections, an enhanced employment verification program, and the creation of a commission on immigration and labor markets.

The bill also would provide undocumented immigrants in the United States with an earned path to legalization. In addition, the bill incorporates most of the AgJOBS bill to address the needs of farmworkers and the agricultural sector.

The bill also includes measures to increase border security, reunite families, and combat criminal activity carried out by immigrants.

Labor leaders and immigrant rights groups said that they support the bill, and are hopeful it will move through Congress quickly.

Meanwhile, the U.S. Chamber of Commerce and House Judiciary Committee Ranking Member Lamar Smith (R-Texas) criticized portions of the bill. In addition, the Center for Immigration Studies and Federation for American Immigration Reform, groups advocating lower levels of immigration, expressed opposition to the bill.

Renewed Hope for Passage.

Although comprehensive immigration bills were introduced in 2006 and 2007, Gutierrez said that he has "renewed hope" that the CIR ASAP bill will be passed by Congress and signed by President Obama.

"It is different this time," Gutierrez said, because the coalition that has come together in support of the CIR ASAP bill is the largest and most diverse yet.

Gutierrez said he expects Sen. Charles Schumer (D-N.Y.) to introduce a comprehensive immigration bill in the Senate in January, and that bill will likely move forward first. "But we will be ready, here in the House, when our time comes to move forward," he said.

Employment Verification.

The bill would set up an employment verification system for employers to verify each new hire's work authorization. The system would eventually apply to all new hires, rolled out in phases starting with critical infrastructure employees and large employers.

The employment verification program would include significant civil penalties for employers who do not comply with requirements under the program, increased privacy protections, and anti-discrimination provisions.

Employers would face criminal penalties for knowingly hiring unauthorized workers, and would be debarred from federal contracts and grants for repeat violations of the verification program.

The bill also would protect privacy by limiting the data that can be collected and stored in the database, requiring agencies to develop a system with maximum privacy protections, and prohibiting the creation of a national identification card.

Under the CIR ASAP bill, individuals also would be able to register with the Social Security Administration to obtain a personal identification number allowing them to electronically access their file to make corrections to information and lock their file for purposes of employment if identity theft is suspected.

Labor Market Commission.

The bill would establish a commission on immigration and labor markets to provide researched, unbiased recommendations for future flows of workers.

The commission would be independent, and would establish employment-based immigration policies, implement a policy-focused research agenda on the economic impact of immigration, and collect information about employment-based immigration.

The commission would make recommendations to Congress and the president about the number of foreign workers that should be admitted to the United States.

In April, the Economic Policy Institute released a report by Ray Marshall, former labor secretary in the Carter administration, outlining a framework for a comprehensive immigration overhaul that includes a labor market commission. The framework was endorsed by the AFL-CIO and Change to Win federations. On May 13, the Migration Policy Institute released a paper detailing its support for the creation of a commission to assess labor market conditions and make recommendations to Congress and the president for adjusting employment-based immigration levels.

Visa Program Changes.

The bill proposes changes to several visa types, including H-1B, H-2B, and L-1 visa program changes.

H-1B visas are available to highly skilled, temporary workers with a bachelor's degree or higher; H-2B visas are available to low-skilled, temporary workers; and L-1 visas allow intracompany job transfers for individuals with managerial, executive, or specialized knowledge.

Under the bill, the H-1B visa program would be updated to ensure that before an employer can hire an H-1B worker, the employer meets strict requirements for the recruitment of American workers.

Gutierrez said that he wants to "make sure American workers get the first chance at every American job."

The bill also would authorize the Labor Department to initiate investigations into possible H-1B fraud and abuse in the absence of a formal complaint, increase penalties for violations, and authorize DOL to conduct annual audits of employers that rely heavily on the H-1B program.

The bill also would allow the Department of Homeland Security to audit L-1 visa participants. It would reform the H-2B visa program to require more stringent recruitment efforts of American workers before a foreign worker is hired for an H-2B position, and would prevent employers from participating in the program if they have conducted a mass layoff in the past year.

The bill also would exempt several categories of highly skilled immigrants from the employment-based immigrant visa cap, and would allow current nonimmigrant skilled workers whose employer has petitioned for an employment-based green card on their behalf to file an application for adjustment of status regardless of whether or not a visa number is immediately available.

In addition, the bill would create a Prevent Unauthorized Migration (PUM) visa as a "stop-gap" measure to provide for safe, humanitarian migration during the three-year transition period before the implementation of recommendations made by the new labor commission.

The bill would authorize 100,000 PUM visas annually for three years, to be awarded through a lottery system. Individuals eligible for the visas may not have any other legal means of immigration, and those awarded the PUM visa would be admitted to the United States as conditional residents and may petition to remove the condition after three years upon meeting several requirements.

Earned Legalization.

Under the bill, a program would be established to award conditional nonimmigrant status for a period of six years to undocumented immigrants already in the United States.

To qualify for conditional nonimmigrant status, an alien would confirm their presence in the United States; attest to contributions to the United States through employment, education, military service, or community service; complete a criminal and security background check; and pay a \$500 fine and necessary application fees.

An immigrant would not be eligible for the legalization program if they have been convicted of a serious crime. In addition, there is a penalty of up to five years in prison for anyone who willfully falsifies information on an application for conditional nonimmigrant status.

The bill would also provide a pathway for conditional nonimmigrants to eventually apply for lawful permanent residence status and then to apply for U.S. citizenship.

Enhanced Worker Protections.

The bill includes provisions that would protect workers by providing temporary visas and work authorization for detained workers when they have been retaliated against by their employer for asserting labor rights.

The bill would also expand U visas that are available to the victims of

certain crimes, to include whistleblower protections with regard to worker exploitation, civil rights violations, and retaliation.

The bill would also preempt any state or local law that discriminates against an individual based on immigration status or imposes sanctions on any employer based on the immigration status of its employees. The bill would repeal the 287(g) program that allows local law enforcement to enforce federal immigration laws, and would clarify that the authority to enforce federal immigration law lies solely with the federal government.

The CIR ASAP bill would establish the American Worker Recruit and Match System to match qualified individuals with job opportunities in fields that have traditionally relied on unauthorized labor, and would establish an account for funds collected as fines in the earned legalization program to fortify the American workforce and enhance border security.

Labor Leaders Express Support.

AFL-CIO President Richard Trumka Dec. 15 called the immigration overhaul bill a "long overdue" and "sensible approach to immigration reform that protects the interests of all workers."

Trumka said that the current immigration system "strips workers of their rights on the job, robs them of wages and endangers their lives with unsafe working conditions." In addition, law abiding businesses face unfair competition from companies that "violate workers' rights for profit and then use the excuse of immigration status to avoid penalties or prosecution," he said.

Trumka applauded Gutierrez for including in the bill "key elements" of an immigration overhaul framework endorsed by the AFL-CIO and the Change to Win labor federations (70 DLR AA-1, 4/15/09).

According to Trumka, one of the "greatest failures" of the current employment-based immigration system is that it "uses arbitrary caps based on political compromises and not the needs of the labor market." Trumka applauded Gutierrez for including in the bill an independent commission to recommend the number of foreign workers that should be allowed into the United States based on labor market need.

Ross Eisenbrey, vice president of the Economic Policy Institute, called the CIR ASAP bill "almost everything progressives might hope for."

Eisenbrey pointed out that the bill "addresses the future flow of

employment-based immigrants in the most sensible way -- by turning to expert fact-finders to determine the nation's needs, balancing the benefits of immigrant talent and energy against the legitimate desire of America's working people that their own wages and working conditions be preserved or improved."

EPI worked with the AFL-CIO and Change to Win in proposing a labor market commission similar to the one outlined in the CIR ASAP bill.

"An independent commission that recommends immigration levels to Congress and forces action will be in the best interest of employees, businesses, and immigrants alike," Eisenbrey said.

Joe Hansen, president of the United Food and Commercial Workers, said the bill "would help create an immigration system that works for American workers."

"For too long, our nation's immigration system has fueled exploitation, discrimination and abuse," Hansen said in a Dec. 15 statement. "It has allowed unscrupulous employers to drive down wages and working conditions in industries across the nation, while creating an underground economy where labor laws are shredded and workers are forced to toil in fear," he said.

CIR ASAP "charts a new course for our country" that "protects workers" and "upholds our values as a nation of immigrants and embraces the vitality and diversity that are the fabric of a vibrant and strong society," Hansen said.

"We are one step closer to passing the smart immigration reform that American workers need," said Eliseo Medina, executive vice president of the Service Employees International Union.

Medina said that he has not yet studied all the details of the bill, but it appears that Gutierrez has "crafted a sensible and realistic solution to our long-festering immigration problems, one that promises to restore order, end worker exploitation, and create a fair, workable immigration system."

Groups Applaud Inclusion of AgJOBS.

United Farm Workers President Arturo Rodriguez said in a Dec. 15 statement that he is pleased the bill includes a version of AgJOBS, the proposed Agricultural Job Opportunities and Benefits Act, that would reform the H-2A agricultural visa program to provide farmers and growers with a legal path to bring guestworkers to the United States to harvest their crops.

"Congressman Gutierrez knows and understands the plight of hundreds of thousands of undocumented farm workers who harvest the fruits and vegetables Americans put on their tables," Rodriguez said.

In a Dec. 15 statement the Agriculture Coalition for Immigration Reform expressed thanks to Gutierrez for including AgJOBS language in the comprehensive bill.

"The agricultural industry years ago recognized the need to sit down with historic adversaries and work through our differences," John Young, co-chair of ACIR, said. "It was tough, but the result has stood the test of time" he said.

"We are grateful that Rep. Gutierrez has embraced our efforts, in essence saying that 'if the question is immigration reform for American agriculture, the answer is AgJOBS,' " Young said.

Immigrant Rights Groups Urge Swift Action.

Statements poured in Dec. 15 from immigrant rights advocates praising the bill. Deepak Bhargava of the Fair Immigration Reform Movement said the "common sense bill restores fairness to our labor markets, recognizes the contribution of immigrant workers and families and helps get the economy back on track."

"The grassroots community is ready to make this happen," Bhargava said. "It is now up to Congress to make reform a reality," and "we'll be there every step of the way nudging them forward," he said.

Marielena Hincapie, executive director of the National Immigration Law Center, praised Gutierrez for introducing a bill that will "improve the lives of millions of low-income immigrants."

Hincapie said that the bill "recognizes that, by protecting the rights of immigrant workers when they assert their labor rights, we enhance all workers' rights."

Janet Murguia, president of the National Council of La Raza, said that "in reality, most Americans are in consensus about immigration and are in a much more pragmatic place than Congress has been on this issue."

"Fixing the system can help level the playing field for American workers, lift wages, increase tax revenues, and end the exploitation and demonization of immigrant families and anyone perceived to be immigrant," Murguia said.

"We need to move forward, even in tough economic times, if we wish to ensure the future growth and prosperity of our nation," said Mary Giovagnoli, director of the Immigration Policy Center.

"Introduction of this bill jump starts the New Year, providing a vehicle for other lawmakers to react to and build upon," Giovagnoli said. "We expect many more proposals in the Senate and House in the coming months and urge lawmakers

to make this a fact-based debate with the goal of passing reform in 2010."

The introduction of the bill marks a "giant step forward" on three objectives: "creating a template for good policy that will influence future bills, putting pressure on the White House and leaders in both the House and the Senate to keep their promise of moving on immigration reform in this Congress, and ensuring a place for themselves at the final negotiations over what a final bill will look like," Frank Sharry, executive director of America's Voice, said.

Chamber, Rep. Smith Criticize the Bill.

Both the U.S. Chamber of Commerce and Rep. Lamar Smith (R-Texas), ranking member of the House Judiciary Committee, expressed concerns with the CIR ASAP bill.

"Our policies should put American workers, American taxpayers, and American citizens first, not those who are in the country illegally," Smith said in a Dec. 15 statement. "The amnesty bill does not hold any surprises and lays out the same vision for amnesty that President Obama and the Democrats have promised to the illegal immigrant lobby," he said.

According to Smith, the bill "proposes to reduce illegal immigration by making all illegal immigrants legal."

"Allowing millions of illegal immigrants to stay and take jobs away from citizens and legal immigrants is like giving a burglar a key to the house," Smith said. Illegal immigrants currently hold about eight million jobs that could be filled by U.S. citizens, Smith said. "We could cut the unemployment rate in half simply by enforcing immigration laws," he added.

Smith said that the bill "won't pass because the American people oppose rewarding lawbreakers, which then encourages even more illegal immigration."

Meanwhile, the chamber also expressed concerns with the bill's approach for temporary and seasonal worker programs.

Randel K. Johnson, the chamber's senior vice president of labor, immigration, and employee benefits, said that the chamber must still do a thorough analysis of the bill, but their initial reaction is that "immigration reform must be done right, not 'ASAP' or it is destined for failure."

"Allowing an additional 100,000 unemployed immigrants a year to enter the country permanently through a lottery, as proposed in this bill, disregards the current needs of the economy," Johnson said. "Immigration should be a demand-based system that permits employers to hire, as needed, when the economy

recovers fully, igniting job growth," he added.

The chamber also said that the current temporary and seasonal immigration policies are "well-functioning" and a commission as proposed in the CIR ASAP bill is a mistake. "Any new immigration program must reflect economic needs in a demand-based system responding to the U.S. labor market, not Congress or a commission, in determining how many workers enter the country annually," Johnson said.

"As our economy rebounds, the need for workers will rise. Visa restrictions and artificial caps, especially those for temporary H-1B high-skilled and H-2B low-skilled seasonal worker categories, hurt businesses and the markets they serve," he added.

Groups Advocating Decrease in Immigration Oppose Bill.

Mark Krikorian, executive director of the Center for Immigration Studies, a group that advocates lower levels of immigration, wrote on his blog through the center that "sometimes the status quo is better than proposed changes, and the new Democratic amnesty bill is a case in point."

Krikorian said that the path-to-legalization section of the bill is "laughably loose, including among its few requirements that immigrants 'attest to having made contributions to the U.S. through employment, education, military service, or other volunteer/community service.' " Krikorian asked "who would attest otherwise?"

"At a time when some 25 million Americans are either unemployed or relegated to part-time work, the last thing the Democratic majority ought to be focused on is a massive amnesty and immigration expansion bill," Dan Stein, president of the Federation for American Immigration Reform, a group seeking lower levels of immigration, said in a Dec. 15 statement.

"Legalizing millions of low-skill, low-wage workers who would depend heavily on government services is simply bad immigration policy at any point in time," he said.

"If congressional leaders were surprised by the intensity of public opposition to amnesty legislation in 2007, when unemployment hovered around 4.6 percent, they had better brace themselves for an even stronger reaction in 2010," Stein said. "CIR ASAP amounts to a fire sale on American citizenship and American jobs and the public will make its voice heard loudly again in 2010," he added.