

Senators Struggle Over Work Visas

By Sara Murray

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The little-loved visa system for low-wage temporary workers is shaping up as one of the toughest tangles facing senators in their bid to overhaul U.S. immigration laws.

A bipartisan Senate group, labor unions and business groups all agree it is time to overhaul the visa system for foreign workers who come to the U.S. for low-wage jobs because it can be arduous, costly and offers few protections for workers. However, there are sharp divides over how to do it.

Competing interests abound. The Chamber of Commerce and businesses it represents are locked in negotiations with the AFL-CIO about workers in industries like hospitality and landscaping. Meanwhile, farm-worker unions have been quietly negotiating with growers associations about how to revamp short-term visas for agricultural workers. And senators from both sides of the aisle are weighing in to ensure their state industries are protected.

With just weeks until the Senate group expects to unveil its legislation in early April, work-visa programs have emerged as one of the most contentious issues.

"I'll be honest with you. I can't guarantee we'll get an agreement with the Chamber," Richard Trumka, the AFL-CIO president, said in a recent interview with Univision News.

Sen. John McCain (R., Ariz.), one of the group of eight senators working on bipartisan legislation, said there are still "significant obstacles" to reaching a deal on temporary workers.

The unions "have always been in strong opposition," to temporary worker programs, he said, and the results of the presidential election have emboldened them in the negotiations. "They feel that they are in a strong position as a result of the last election."

At issue are two main programs that provide a supply of temporary foreign workers to American businesses, one for agricultural laborers and one for nonagricultural workers. The talks share some of the same sticking points: how big the programs should be and how much to pay workers.

For nonagricultural businesses, each year the government permits 66,000 foreign workers to come to the U.S. for short-term stints in landscaping, food service, and other low-wage jobs.

Businesses have complained that the current system doesn't fill their labor needs because it permits too few foreign workers and doesn't allow for year-round jobs, such as home health-care workers. Last year about 50,000 such visas, known as H-2B visas, were approved, according to preliminary data.

Labor unions have been similarly unimpressed. They believe the system depresses wages and doesn't protect foreign workers because they are effectively tied to one job and can't apply for a permanent legal status.

The program has been the main focus for negotiations between the Chamber and AFL-CIO, which were hoping to issue joint recommendations for the Senate legislation.

Last month, the groups reached an agreement on broad principles that would form a new visa program for low-wage workers in year-round jobs. It would allow a path to a more permanent legal status for those workers. But the two sides failed to hash out the trickier details, such as how much to pay workers in this category.

Business tends to believe existing regulations generate a rate that is too high, while unions tend to believe the current calculation yields an artificially low rate that could depress wages for Americans.

Also, while unions and business agreed the program should expand or shrink based on how the U.S. economy is performing, they haven't landed on an overall cap.

"It's going to come down to how the wages are defined and how the caps on different categories are defined," said one Senate Republican aide familiar with the negotiations.

Groups are similarly dissatisfied with the short-term visa program for agricultural workers, known as the H-2A visa. It is regularly criticized for being unfriendly to workers and inflexible and expensive for employers. Some Democratic senators from dairy-producing states have been particularly vocal about expanding the program.

"Dairy farmers can't access the federal agricultural guest worker program because cows aren't seasonal. They have to be milked," Sen. Al Franken (D., Minn.) said at a recent congressional hearing on immigration. "If cows were milked seasonally you'd have a lot of uncomfortable cows."

The program has no annual cap and more than 65,000 workers came to the U.S. with such a visa last year, preliminary data show.

To redesign that program, farm-worker unions have been in confidential talks with growers. One issue is expanding the seasonal-worker program to include agricultural industries that need workers year round. Farm workers' unions also want to put a cap on the size of the program.

Here too, wages are a sensitive part of the negotiations.

"That's going to be one of the more difficult issues that we're going to have to tackle," said Jerry Kozak, chief executive of the National Milk Producers Federation.

Those who employ agricultural workers have to pay them the highest from a series of wage rates. In North Carolina for instance, the minimum wage is \$7.25 per hour. But another rate employers have to consider, one called the Adverse Effect Wage Rate, is \$9.68 per hour.

Farm workers' unions are also pushing for new labor protections for employees and a path to legal status for future immigrants who come to the U.S. through a visa program for year-round jobs.

"People who are working month after month and year after year are no longer temporary," said Giev Kashkooli, strategic campaigns director for the United Farm Workers of America.

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