

April 2, 2013

Practice Groups:

*Labor, Employment
and Workplace
Safety;*

*Public Policy and
Law;*

Immigration;

*Global Government
Solutions*

Comprehensive Immigration Reform Provides Opportunities for President, Republicans, High-Tech Companies, Labor Unions

By: Steven R. Valentine and Stephen P. Roberts

With the current Congressional focus on discretionary spending and revenue issues surrounding Sequestration, it may seem like little attention can be paid to other policy reforms. In comprehensive immigration reform, however, a traditionally divergent group of interests see tremendous political gain. Both the President and Republicans believe that their leadership on immigration reform will reap political benefits into the foreseeable future that capitalize on the country's changing demographics. Corporate interests and investors believe that an influx of STEM (science, technology, engineering, or math) trained workers could result in a new wave of American innovation. And now, labor unions see new workers in the U.S. as a way to bolster their membership rosters while supporting the interests of their workers.

Recently, a key bipartisan group of eight Senators (Senators Schumer, McCain, Durbin, Graham, Menendez, Rubio, Bennet, and Flake) agreed to a framework to achieve immigration reform. A reform deal based on that framework would include the following features:

- A plan that focuses on attracting and retaining the best and brightest from anywhere in the world, by awarding a green card to those immigrants who have earned a Ph. D. or Master's degree in any STEM field from any American university;
- Increased access to visas for highly skilled workers;
- Priority visas for agricultural workers who are already in the U.S. without legal status;
- Employer hiring for lower-skilled immigrant employees under certain circumstances prescribed by the reforms: Where a company can demonstrate that it was unsuccessful in recruiting an American to fill an open position, and where hiring an immigrant will not displace an American worker.

Similar discussions are occurring among Members of the House of Representatives. And broad immigration reform appears even closer, with key outside interests represented by the Chamber of Commerce and the AFL-CIO recently agreeing to certain "shared principles" for any reform package brought to the Hill.

As a key part of the bipartisan framework, the eight Senators agreed that a worker verification system must be in place that would hold the employer accountable for hiring undocumented workers. Currently, the Department of Homeland Security maintains an online "E-Verify" system that checks certain information based on Social Security Administration records and other sources to confirm an individual's employment eligibility. This system is currently voluntary for most employers, but mandating the nationwide use of an expanded version of this system is widely seen as the lynchpin to moving the ball forward on immigration reform.

Comprehensive Immigration Reform Provides Opportunities for President, Republicans, High-Tech Companies, Labor Unions

The Senators also want some kind of system to be in place that would make it more difficult for workers to falsify documents. This might ultimately occur by replacing traditional citizenship documents with some sort of “Safe ID” card (compliant with the Real ID Act of 2005), or an enhanced Social Security card. Significant policy disagreements emerged, however, during the original consideration of the Real ID Act regarding whether that law would create a “national ID” system. Those debates could be rekindled as immigration reform legislation takes shape.

Some points of disagreement remain. For instance, while many House and Senate members believe that the resources of American talent in STEM-trained areas are thin, others claim that increasing foreign visas would have the effect of flooding the talent pool with cheap, foreign labor in highly skilled industries.

If Congress fails to reach a bipartisan agreement, many of these same reforms may result through a series of executive actions. Since early 2011, President Obama has endorsed a plan with specific methods of reforming the immigration system. In the middle of 2012, the President took executive action to prohibit deporting many people who were brought to the country as minors under 16 years old. Since then, the Administration has also announced a series of policy changes that ease deportation rules for those already in the U.S. If Congress is unsuccessful in its efforts to reach a reform deal in the coming months, the President may choose to make additional reforms to immigration enforcement policies.

Authors:

Steven R. Valentine

rick.valentine@klgates.com
+1.202.661.3802

Stephen P. Roberts

steve.roberts@klgates.com
+1.202.778.9357

Comprehensive Immigration Reform Provides Opportunities for President, Republicans, High-Tech Companies, Labor Unions

K&L GATES

Anchorage Austin Beijing Berlin Boston Brisbane Brussels Charleston Charlotte Chicago Dallas Doha Dubai Fort Worth Frankfurt Harrisburg Hong Kong Houston London Los Angeles Melbourne Miami Milan Moscow Newark New York Orange County Palo Alto Paris Perth Pittsburgh Portland Raleigh Research Triangle Park San Diego San Francisco São Paulo Seattle Seoul Shanghai Singapore Spokane Sydney Taipei Tokyo Warsaw Washington, D.C. Wilmington

K&L Gates practices out of 48 fully integrated offices located in the United States, Asia, Australia, Europe, the Middle East and South America and represents leading global corporations, growth and middle-market companies, capital markets participants and entrepreneurs in every major industry group as well as public sector entities, educational institutions, philanthropic organizations and individuals. For more information about K&L Gates or its locations, practices and registrations, visit www.klgates.com.

This publication is for informational purposes and does not contain or convey legal advice. The information herein should not be used or relied upon in regard to any particular facts or circumstances without first consulting a lawyer.

©2013 K&L Gates LLP. All Rights Reserved.