

## IMMIGRATION LAW REFORM: WHAT IT WILL MEAN TO EMPLOYERS IN SOUTH AND NORTH CAROLINA

Over the past several months, legislation has been introduced in Congress that would significantly reform the U.S. immigration system. The Senate Judiciary Committee is currently considering legislation that would overhaul the immigration system and could benefit United States employers generally – and Carolinas employers specifically.

### Current System Perpetuates Problem

Experts estimate approximately 400,000 individuals illegally enter the United States from Mexico each year; since 2000, illegal entry has increased by about 30 percent. Currently, there are an estimated 8 million to 12 million undocumented immigrants in the country. These immigrants are often separated from their families and live in a shadow culture where they are frequently subjected to exploitation.

Many employers have realized the current immigration system does not provide a temporary work visa option for non-professionals, an issue that often creates difficulty in filling skilled and unskilled positions in industries such as health care, construction, landscaping, and hospitality. In many business sectors, employers have difficulty finding qualified United States workers to fill skilled and unskilled positions and rely heavily on foreign nationals to fill these vacancies. As a result, the undocumented immigrant problem is often perpetuated by an endless cycle:

Employers who need workers; foreign nationals who seek to legally come to the United States to fill the positions; and a broken immigration system that does not provide a legal means for employers to bring skilled and/or unskilled workers into the country without waiting several years.

### Proposals Focus on Four Areas

There are several bills pending in Congress dealing with the issue of comprehensive immigration reform. These include S.1033 (McCain/Kennedy – Secure America and Orderly Immigration Act); S.1438 (Cornyn/Kyl – Comprehensive Enforcement and Immigration Act); H.4437 (Sensenbrenner – focusing on enforcement only); S.1916, 1917, 1918 and 1919 (Hagel bills); Chairman Specter's "Mark" (Comprehensive Immigration Reform Act), which is now being debated in the Senate Judiciary Committee; and S.2326 (Domenici – WISH Act).

The proposed immigration reform bills would change the employment verification and I-9 process; increase worksite and border enforcement measures; and possibly provide work visas and/or green cards for current undocumented workers seeking to fill skilled and/or unskilled positions. These bills address four primary areas:

- **Temporary Work Visa.** Most of the current legislative proposals provide a temporary work visa for individuals filling non-professional positions, recognizing the lack of such a visa under the current system. The visa would be valid for two to three years with the possibility of extension. Undocumented persons in the United States, as well as those seeking entry into the country, would be eligible for the work visa. Most proposals also include the opportunity for family members to accompany the foreign national.
- **Path to Green Card.** Some of the proposals also provide an avenue for foreign nationals to apply for a green card, which permits an individual to live and work in the United States indefinitely. Most of the proposals require foreign nationals to have a clean criminal history and demonstrate proficiency in English and civics. Also, employees must have a job offer and show a history of paying taxes. Some of the proposals require the foreign national to return to his or her home country before becoming eligible for this benefit.
- **Worksite Enforcement.** Most of the proposals implement a mandatory electronic employment verification system whereby employers would need to verify the immigration status of all employees. This system would likely involve a link between databases at the Department of Homeland Security and the Social Security Administration. The proposals increase the penalties for employers engaging in the unauthorized employment of foreign nationals. Other proposals reduce the type and number of documents used to establish identity and work eligibility on the I-9 form.
- **Border Enforcement.** These proposals also strengthen border enforcement efforts by authorizing additional funding, increased hiring of border patrol agents, and coordination of information sharing and enforcement authority with state and local law enforcement.

## Many Changes on the Horizon

As Congress considers these legislative proposals, employers should stay abreast of potential changes on the horizon. Comprehensive immigration reform would likely provide added legal options for hiring foreign nationals in certain positions and provide rights to current undocumented aliens. Also, employers may see changes to the I-9 form and be required to participate in a mandatory employment verification system.

## IMPORTANT MARCH 31, 2006 DEADLINE FOR GROUP HEALTH PLANS: MEDICARE PART D NOTIFICATION REQUIREMENT

Employers who sponsor group health plans are required to provide notice to the Centers for Medicare & Medicaid Services ("CMS") about the plans' prescription drug coverage. Employers must provide the first of these notices to CMS by March 31, 2006, and annual notices are required thereafter. Employers may obtain additional information about this notification requirement and the electronic form to be completed by visiting CMS' website at [www.cms.hhs.gov/CreditableCoverage](http://www.cms.hhs.gov/CreditableCoverage).

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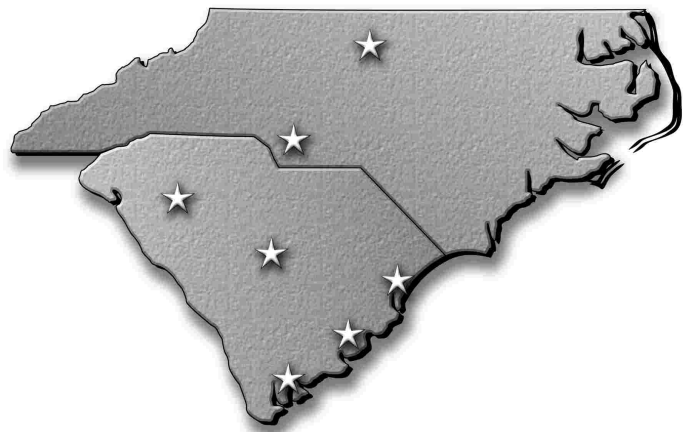
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