

AMERICAN FEDERATION OF LABOR AND CONGRESS OF INDUSTRIAL ORGANIZATIONS



815 Sixteenth Street, N.W. • Washington, D.C. 20006 • (202) 637-5000 • www.aflcio.org

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RICHARD L. TRUMKA
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ELIZABETH H. SHULER
SECRETARY-TREASURER

TEFERE GEBRE
EXECUTIVE VICE PRESIDENT

LEGISLATIVE ALERT

January 20, 2015

Dear Senator:

I am writing to urge you to refrain from co-sponsoring the Immigration Innovation Act of 2015 (S. 153), or “I-Squared,” which the AFL-CIO strongly opposes. We believe it is imperative for the Senate to hold firm to its commitment to comprehensive, common-sense immigration reform. Not only would the I-Squared bill seriously erode incentives to return to a bipartisan compromise that includes a pathway to citizenship for the 11 million undocumented, but it also runs counter to a raising wages agenda. Congress should consider legislation to reform the H-1B program rather than expand it.

The continued employer demand for more guest worker visas says more about what is wrong with our economy than about the most urgent problems with our immigration system. As currently structured, the H-1B visa program allows employers to stifle wages, create a captive workforce, and make previously full time jobs insecure and temporary. At a time when we face unprecedented levels of inequality and decades of wage stagnation, it is irresponsible to expand access to employment-based temporary work programs that will continue to hold down wages, increase worker vulnerability, and reduce social mobility for deserving workers.

We have a straightforward set of reform recommendations that we believe would help to protect all workers:

Employers should be required to fill jobs with the most qualified local applicant, and should be permitted to recruit from abroad only when a real need exists – and can be documented. In order to ensure that all workers on American soil feel connected and protected, it is essential to prevent employer practices that exploit guest worker programs to undercut or displace an existing local workforce. If the need for workers with a specific skill set is real, then we see no reason employers should object to a real process to verify that. We ask you, if employers are seeking to hire immigrant workers on temporary visas for reasons other than shortage, what are their motives? Hiring that seeks to suppress standards for wages and working conditions harms workers on all sides, and it harms our economy. That is why we have insisted that the availability of employment-based visas should be tied to the real needs of the U.S. labor market, as determined by a commission of experts – not politicians or high paid lobbyists.

Employers should be required to pay workers in the H-1B program at the same rate they would pay local workers. As long as we allow guest workers to be paid less than their local counterparts for the same work, we create clear and perverse incentives to prefer to hire through the H-1B program. If the shortage so touted by the tech lobby were real, we should expect to see wages raising in an effort to attract scarce workers. Yet high tech workers today earn the same amount they did in 1998, and face increased insecurity on the job.

Workers in the H-1B program should have increased job mobility and the right to self-petition for legal permanent resident status, rather than having to rely upon an employer to petition for them. At present, not only are H-1B workers tied to a single employer who can essentially fire them at will by terminating their visa, but even after six years of employment, the power to decide whether that worker can stay in the country and obtain a green card rests in the hands of the employer. Low rates of retention of H-1B workers for permanence make clear that this program is being misused to replace stable, middle class jobs with a contingent, disposable workforce that employers can underpay and then replace at will.

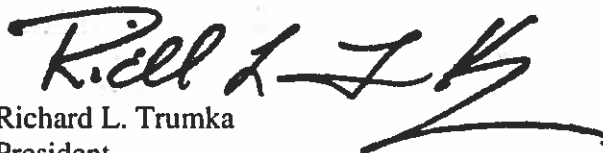
For these reasons the AFL-CIO continues to insist on reforms to the H-1B program before it is expanded, and we have many good models out there. The H-1B and L-1 Visa Reform Act put forward by Sens. Durbin and Grassley in the 111th Congress would increase recruitment of, and investment in, U.S. workers; improve wage standards; and strengthen the Department of Labor's audit authority and ability to prevent and penalize obvious fraud and misrepresentation. In addition, the worker protections included in S. 744 would have protected workers from exploitation by foreign labor recruiters, and afforded H-1B workers the right to self-petition for permanence.

Yet instead of enacting commonsense reforms such as these, Sen. Hatch's I-Squared bill would more than triple the number of H-1B visas, at a time the U.S. Census indicates that only one in four STEM degree holders in the U.S. is able to find work in the field. Perhaps acknowledging the lack of empirical evidence of shortage, the "market-based escalator" in the I-Squared bill would peg visa caps to employer demand, rather than actual labor market needs – essentially saying to employers that the more H-1B workers they apply for, the more they can get.

Yet it bears noting that many of the very employers in which the bill would vest such power have a documented record of collusion to suppress wages, as the recent \$300 million legal settlement makes clear. Indeed, high tech employers are actively lobbying for increased access to H-1B workers even as we see significant layoffs in the industry, signaling that it is yet another strategy to prevent the normal escalation of wages for highly skilled employees working in a highly profitable industry. This is particularly problematic since tech jobs have historically been an important channel for social mobility for communities of color.

As Congress resumes the debate on immigration reform, we hope the Senate will maintain its focus on fixing our broken system, rather than advancing low road employment models that have contributed to the erosion of the middle class. We look forward to working with you to advance comprehensive immigration reform that protects workers and provides a broad and inclusive pathway to citizenship, and we urge you to oppose the Immigration Innovation Act.

Sincerely,



Richard L. Trumka
President

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