
Immigration Law Update

Current Developments in Employment-Based Immigration

By Rosner and Associates, L.L.C.

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This periodic newsletter will feature current developments in employment-based immigration. It is designed to inform you of changes in immigration law that may affect your business.



H-1B Cap on the Horizon New Legislation May Provide Relief

As many of you already know from your work with us, the number of H-1Bs issued in FY2000 is fast approaching the visa cap. INS recently issued a statement saying that it would publish a notice in the Federal Register when the number of pending H-1Bs, plus those already issued, would reach the cap within 30 days. Within two days, INS retracted that statement, indicating that it would not give the 30-day warning. This has led to speculation that the cap will be reached by mid-March, if not sooner. In fact, on March 2, the Nebraska Service Center indicated that it was holding in abeyance all H-1B cases with a notice date of January 3 or later. Although there is no confirmation of this from the INS, it is very possible that this action signals that we are about to reach the cap. INS has not yet indicated how it expects to handle cases which are caught by the cap.

A bill to raise the cap was introduced in the U.S. Senate on February 9, 2000. S. 2045 would raise the cap by 80,000 in FY 2000, 87,500 in FY 2001, and 130,000 in FY 2002. The bill would also exempt from the cap all H-1B workers who are employed by institutions of higher education, nonprofit or governmental research organizations, and all workers who file the petition within the period 90 days before or 180 days after receiving a master's degree from a U.S. university. The bill would also allow H-1B workers to transfer from one employer to another without first receiving an approved

amended H-1B petition.

On March 1, Congressman Lamar Smith introduced a House bill which would raise the FY2000 cap by 45,000, provided the Department of Labor meets certain conditions. The bill, which has not yet been assigned a bill number, also imposes a number of unfair burdens on employers. For example, the bill will require the State Department to verify all foreign degrees, require H-1B aliens to work full-time, require petitioning employer to have gross assets of at least \$5 million, and raises fees for H-1Bs from \$610 to at least \$1,210.

For additional information, please contact Marin Ritter at Rosner and Associates.



Other H-1B News

On February 29, 2000, INS issued final regulations concerning the \$500 filing fee required by the American Competitiveness and Workforce Improvement Act of 1988 (ACWIA). The regulations, which become effective March 30, also require the filing of a new form, I-129W, with all H-1B petitions. The form is designed to gather data that Congress requires as part of the ACWIA, and is used to request an exemption of the \$500 filing fee for certain nonprofit entities. If you would like to obtain a copy of the regulations and/or Form I-129W, please contact Rosner and Associates.



INS Processing Delays Continue

Although H-1B processing is likely to speed up due to recent INS approval of overtime for H-1B adjudicators, processing of other types of applications has slowed considerably. Employment-based immigrant visa petitions, particularly in Nebraska, have slowed to a crawl. Current receipts show processing times of 408 to 438 days, and second preference (national

interest waivers) petitions are reportedly not being processed at all. There is no indication that this sorry state of affairs will change at any time in the near future.



What's This We Hear About Amnesty??

In a dramatic about-face, the AFL-CIO recently announced that it now supports granting amnesty to certain illegal immigrants and repealing the Form I-9 requirements implemented in 1986. The AFL-CIO was one of the prominent supporters of the I-9 requirements, with which all U.S. employers must comply to verify the employment eligibility of new hires. No legislation has been introduced to implement these changes, and it is unlikely that any such legislation will be passed this year. For additional information on the AFL-CIO policy, please see the organization's website at www.aflcio.org.

Rosner and Associates helps corporations to bring foreign nationals to the U.S., and to obtain employment visas for U.S. citizens transferred abroad. We also assist in obtaining permanent residence (green cards), student and exchange visitor visas, naturalization, and in preventing deportation. Please consider us for your immigration law needs.



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