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It Leaves The Door Open To Agriculture

The United States is a nation of immigrants; yet efforts to change immigration policy are among the nation's most contentious public policy debates. Congressional debate often persists for years before a consensus reform is forged, so that major changes in immigration laws occur only once each generation. The most recent major immigration reforms were in 1952, 1965, and 1986.

Three Likely Effects

The Immigration Reform and Control Act (IRCA) of 1986 (PL 99-603) is complex legislation that will eventually affect all U.S. employers and employees. It is hard to predict its effects, but three patterns are likely: (1) sanctions will probably work unevenly; (2) fewer illegal aliens will receive amnesty than expected; and (3) labor costs in agriculture will increase. IRCA is also acknowledgment that farm and non-farm labor markets cannot be integrated in the sense that "Americans" are expected to fill farmworker jobs as they do construction jobs.

Sanctions on employers were included in the IRCA as a tacit admission that illegal entry across U.S. borders could not be stopped. If most illegal aliens enter the United States to work, then "closing the labor market door" with sanctions is expected to deter them. However, the history of sanctions indicates that sanctions work best where they are needed least: major employers who inadvertently hired an illegal alien worker are now likely to screen out such workers, but employers who depend on an illegal alien work force are not likely to be deterred.

For example, since the mid-1960s, farm labor contractors (FLCs) have been subject to Federal employer sanctions for knowingly hiring illegal alien workers. Instead of fewer FLCs as expected, there are now more FLCs (in the mid-1980s) apparently hiring more

illegal alien workers than ever before. Most observers believe that the majority of FLCs have work forces that are at least 50 percent illegal. Stricter enforcement is possible, but it has not been applied to FLCs.

Low Amnesty Yield

It is hard to predict the number of persons who will receive amnesty because reliable data on the population of illegal aliens is nonexistent. Amnesties in other nations, however, consistently

On The Way to Immigration Reform

1971-73—The House of Representatives approves legislation to impose sanctions or fines on employers who knowingly hire illegal alien workers. Senate does not act.

1979-81—Select Commission on Immigration and Refugee Policy (SCIRP) concludes that the "back door" of illegal immigration must be closed in order to keep open the "front door" of legal immigration.

1982—Senator Alan Simpson (R-WY) and Representative Romano Mazzoli (D-KY) introduce immigration reform proposals based on the SCIRP report vis-a-vis employer sanctions and amnesty for some of the illegal aliens in the United States.

1983—Agriculture begins to take an interest in immigration reform; Western growers form the Farm Labor Alliance (FLA) and lobby for a guestworker program.

1984—FLA gets a guestworker program included in the House of Representatives immigration reform bill. However, the guestworker program is dropped in the House-Senate Conference Committee in favor of changes in the H-2 temporary worker program. Immigration reform dies for other reasons.

1985—FLA gets a guestworker program in the Senate Immigration Reform bill.

1986—Schumer compromise substitutes a Special Agricultural Worker amnesty for guestworkers. IRCA enacted November 1986.

yield fewer new legal residents than predicted.

The reasons for these lower-than-expected amnesties vary, but factors frequently cited include: overestimates of the illegal alien population; stringent qualification requirements; and illegal alien fears about exposing themselves to the enforcement agency that they have been eluding.

Higher Labor Costs

If sanctions and amnesty are even partially successful, labor costs are likely to increase. The 1990's slowdown in labor force growth will put upward pressure on entry-level wages, with the minimum wage likely to jump from \$3.35 to \$4.45 or more, an increase of 33 percent. Many farmers who have depended on illegal alien workers have not raised wages since 1981, when the minimum wage became \$3.35 and most farm wages were adjusted to the minimum or a multiple of it. Agriculture's financial difficulties, an ample supply of labor, and low levels of union activity have reduced real farm wages in the 1980s so that a sudden jump in the minimum wage, which must be offered to all workers or to H-2A workers, would force adjustments.

The longer-term effects of the IRCA are even harder to predict. However, one effect is clear: the 1960s goal of

integrating farm and nonfarm labor markets is dead. Instead of encouraging farmers to offer fewer and better jobs and upgrade worker skills with training programs, Congress has de-

cided that an immigrant work force is an integral part of labor-intensive agriculture. IRCA will maintain and probably enlarge the role of immigrant farm workers.

What IRCA Says

On Employer Sanctions

All employees hired after November 6, 1986 must show their employers documents which affirm their right to work in the United States; employers and workers must sign an INS Form (I-9) asserting that the worker has shown the employer such documents to avoid employer fines of up to \$10,000 for "knowingly" hiring illegal alien workers (employers with completed I-9 forms are presumed not to have "knowingly" hired illegal alien workers.)

On General Amnesty or Legalization

Illegal aliens who have been continuously in the United States on or before January 1, 1982 may apply to become temporary U.S. residents between May 5, 1987 and May 4, 1988. An estimated 2 million aliens are expected to apply for general

amnesty; these temporary residents can become permanent residents and eventually U.S. citizens.

On Agricultural Workers

Special Agricultural Workers (SAW's) — Alien farmworkers who did at least 90 days of field work in "perishable commodities" between May 1, 1985 and May 1, 1988 can become temporary and eventually permanent U.S. residents. Perishable commodities are all crops except cotton, hay, soybeans, and sugarcane. An estimated 200,000 aliens will obtain SAW legal status.

H-2A Temporary Workers — Farm employers can also obtain foreign workers under this contractual program which requires employers to advertise for American workers and, if American workers are not available or if the employment of the alien workers will not adversely affect U.S. farm workers, the H-2A foreign workers can be admitted to fill specific farm job vacancies.