

From: Melissa N. Benton on 03/03/99 07:36:22 PM

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Subject: LABOR Draft Bill on Alien Labor Certification User Fees

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**EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
Washington, D.C. 20503-0001**

Wednesday, March 3, 1999

LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer - See Distribution below

FROM: Janet R. Forsgren (for) Assistant Director for Legislative Reference

OMB CONTACT: Melissa N. Benton

PHONE: (202)395-7887 FAX: (202)395-6148

SUBJECT: **LABOR Draft Bill on Alien Labor Certification User Fees**

DEADLINE: 1 p.m. Friday, March 5, 1999

In accordance with OMB Circular A-19, OMB requests the views of your agency on the above subject before advising on its relationship to the program of the President. **Please advise us if this item will affect direct spending or receipts for purposes of the "Pay-As-You-Go" provisions of Title XIII of the Omnibus Budget Reconciliation Act of 1990.**

COMMENTS:

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Per ~~the~~ Deborah
Brock

John Fraiser John Seely - ESA

Have tried to propose in the past but ~~it~~

Tailored after HIB legislation

Admin + ^{regional} ALC Program + training for displaced worker

\$500⁰⁰ = similar to HIB cost.

In our budget - part of that exercise - looking at the

~~entire~~ vehicle.

Department - bigger something else - reconstruction

Moving Hourly wage from ETA to ~~Hourly~~ Wage & Hour

some controversy b/c ^{don't want} improvement in some

Sen. Abraham said would not let happen in the context of
ER not working improvement.

ASH AFL-CIO - want it to ~~be~~ be more difficult

ETA had this program. Moving it will make it better.

Let's Rishme feedback

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RESPONSE TO
LEGISLATIVE REFERRAL
MEMORANDUM

If your response to this request for views is short (e.g., concur/no comment), we prefer that you respond by e-mail or by faxing us this response sheet. If the response is short and you prefer to call, please call the branch-wide line shown below (NOT the analyst's line) to leave a message with a legislative assistant.

You may also respond by:

(1) calling the analyst/attorney's direct line (you will be connected to voice mail if the analyst does not answer); or

(2) sending us a memo or letter

Please include the LRM number shown above, and the subject shown below.

TO: Melissa N. Benton Phone: 395-7887 Fax: 395-6148
Office of Management and Budget
Branch-Wide Line (to reach legislative assistant): 395-7362

FROM:



(Date)

(Name)

(Agency)

(Telephone)

The following is the response of our agency to your request for views on the above-captioned subject:

_____ Concur

_____ No Objection

_____ No Comment

_____ See proposed edits on pages _____

_____ Other: _____

_____ FAX RETURN of _____ pages, attached to this response sheet



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DRAFT 3/3/99

SUBTITLE G-- ALIEN LABOR CERTIFICATION USER FEES

SEC. __ ESTABLISHMENT OF FEES.

(a) PERMANENT IMMIGRANT APPLICATION FEES.-- Section 212(a)(5)(A) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(5)(A) is amended--

(1) in clause (i), by--

(A) striking "and" at the end of subclause (I),

(B) striking the period at the end of subclause (II) and inserting
", and", and

(C) by adding at the end the following:

"(III) the employer has submitted an application for
certification of the alien under this paragraph and has paid an
application fee in accordance with clause (iv)."; and

(2) by adding at the end the following:

"(iv)(I) The Secretary of Labor shall impose a fee of \$500 on an
employer that--

"(aa) submits an application to the Secretary of Labor for
certification under this subparagraph on or after October 1, 1999, or

"(bb) requests a review pursuant to an expedited process
established by the Secretary of Labor of an application that was submitted
to the Secretary of Labor for certification under this subparagraph prior to
October 1, 1999.

"(II)(aa) The employer submitting the application under this
subparagraph shall not require or accept payment, directly or indirectly,

of the fees established pursuant to subclause (I) by the alien who is the beneficiary of the certification.

“(bb) If the Secretary of Labor determines, after notice and opportunity for a hearing, that a violation of sub-subclause (aa) has occurred, the Secretary of Labor may impose a civil penalty in an amount not to exceed \$1,000 per violation

and an administrative order requiring the return of any amounts received in violation of sub-subclause (aa) to the alien, or if the alien cannot be located, to the general fund of the Treasury.

“(III) Fees collected under this clause shall be deposited in the Treasury in

accordance with section 286(u).”.

(b) H-2B NONIMMIGRANT APPLICATION FEES.-- Section 214(c) of the Immigration and Nationality Act (8 U.S.C. 1184(c)) is amended by adding at the end the following:

“(10)(A) Pursuant to the consultation process described in paragraph (1), the Secretary of Labor shall impose a fee of \$500 on employers that submit an application to the Secretary of Labor for certification of a nonimmigrant temporary worker as described in section 101(a)(15)(H)(ii)(b).

“(B)(i) The employer submitting the application under this subsection shall not require or accept payment of the fee established under subparagraph (A), directly or indirectly, by the alien who is the beneficiary of the certification.

“(ii) If the Secretary of Labor determines, after notice and opportunity for a hearing, that a violation of clause (i) has occurred, the Secretary of Labor may impose a civil penalty in an amount not to exceed \$1,000 per violation and administrative order requiring the return of any amounts received in violation

of clause (i) to the alien, or if the alien cannot be located, to the general fund of the Treasury.

“(C) Fees collected under this paragraph shall be deposited in the Treasury in accordance with section 286(u).”.

SEC. __. ESTABLISHMENT OF ACCOUNT AND USE OF FUNDS.

Section 286 of the Immigration and Nationality Act (8 U.S.C. 1356) is amended by adding at the end the following:

“(u) ALIEN LABOR CERTIFICATION USER FEE ACCOUNT.

“(1) ESTABLISHMENT.-- There is established in the general fund of the Treasury a separate account, which shall be known as the ‘Alien Labor Certification User Fee Account’. Notwithstanding any other section of this title, there shall be deposited as offsetting receipts into the account all fees collected under sections 212(a)(5)(A) and 214(c)(10).

“(2) USE OF FEES.-- The fees deposited into the Alien Labor Certification User Fee Account shall be available to the Secretary of Labor for the costs of administering alien labor certification activities under sections 212(a)(5)(A) and 214(c)(10). In addition, if , in any fiscal year, the Secretary of Labor determines that there are amounts in the account in excess of the amounts necessary to carry out the certification activities for such year, the excess shall be available to the Secretary of Labor to carry out activities for dislocated workers in accordance section 171(d) of the Workforce Investment Act of 1998.

“(3) AVAILABILITY OF FUNDS.-- The fees deposited into the Alien Labor Certification User Fee account under this subsection shall

remain available

until expended for the activities described in paragraph

(2).".