

## **BUSINESS IMMIGRATION ALERT**

*A complimentary service of the McCandlish Holton Immigration Practice Group*

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#### **1. DOL Regulation Eliminates Labor Certification Substitutions, Limits Labor Certification Validity, and Requires Employers to Pay Fees**

A new Department of Labor regulation will end the practice of Labor Certification substitutions starting July 16. A Labor Certification substitution typically involves using a Labor Certification approval obtained on behalf of a prior employee for the benefit of a new employee in the same position. With very limited exceptions, the regulation also requires the sponsoring employer to bear all attorneys fees and advertising costs associated with the Labor Certification process. Finally, the regulation limits the validity of Labor Certifications to 180 days, requiring employers to file an Immigrant Petition within that time frame.

#### **2. USCIS to Increase Filing Fees on July 30**

Starting July 30, filing fees for immigration applications and petitions will increase by an average of 66% as a new USCIS fee structure goes into effect. For example, the filing fee for Form I-129 (the form used for most employment-based visas such as H-1B) will increase from \$190 to \$320. The USCIS claims that the additional revenue is necessary to continue to fund its operations and reduce current processing times.

The new fee structure is located at:

[www.uscis.gov/files/nativedocuments/FinalUSCISFeeSchedule052907.pdf](http://www.uscis.gov/files/nativedocuments/FinalUSCISFeeSchedule052907.pdf).

#### **3. Priority Dates for Employment Based Green Cards Advanced Significantly on June 1**

On June 1, the Department of State made available a large number of employment-based immigrant visas which had the effect of significantly reducing the green card backlog for certain employment-based categories. The increased numbers should be available through July and August, and will likely retrogress in the early Fall. As a result, many applicants who have been stuck in the green card backlog will now have the opportunity to file the final stage of the green card process, the Adjustment of Status. For more information on this topic, go to: <http://lawmh.com/publications/pdfs/Employment-Based%20Immigrant%20Visa%20Numbers%20Date%20Advances.pdf>

#### 4. Comprehensive Immigration Reform Legislation

A Comprehensive Immigration Reform (CIR) bill is currently being debated in the Senate. The bill aims to improve border security, increase sanctions for employers that hire unauthorized workers, introduce a new guest worker visa, and provide a path to citizenship for persons illegally present in the United States. Unfortunately, the bill in its current form is a net negative for employment-based immigration. For example, the bill eliminates the current employment-based preference category system and replaces it with a points-based system that contains no provisions for multinational managers, aliens of extraordinary ability, outstanding professors or researchers, Schedule A workers, or persons doing work in the national interest. In addition, the bill makes H-1B visas dramatically more difficult and expensive for employers to obtain on behalf of professional workers.

Procedurally, the CIR bill is still in the early stages of the legislative process. Members of the Senate have already introduced over 100 amendments. If the Senate passes the bill, it will be considered (and further amended) by the House. If the bill passes the House, any differences between the House and Senate bills must be reconciled in conference committee, followed by an up or down vote by the Senate and the House. Finally, the bill must be signed into law by the President. If CIR becomes law, it is expected to be passed this September/October. However, whether any CIR legislation will pass and what provisions it will contain are difficult to predict at this stage of the process. Since this bill has not become law, employers should be wary of any persons or organizations claiming to assist in applying for benefits under CIR.

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*This Alert is a summary of important developments in business immigration law for clients and friends of McCandlish Holton's Immigration Practice Group. This publication does not constitute legal advice. Please consult with an attorney before acting on any information in this Alert.*