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US IMMIGRATION & NATIONALITY LAW

# PRESIDENT SIGNS BORDER BILL THAT INCREASES FEES FOR CERTAIN COMPANIES USING MANY H-1B, L WORKERS

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On August 13, 2010, President Barack Obama signed into law a border enforcement funding bill, H.R. 6080, that would offset certain border security costs by raising fees for certain H-1B and L petitions. The bill was passed in the House of Representatives by voice vote on August 10, and was passed in the Senate by unanimous consent on August 12.

The new law raises by $2,250 for L nonimmigrants the "filing fee and fraud prevention and detection fee" paid by companies that employ 50 or more employees in the U.S. if more than 50 percent of the applicant's employees are nonimmigrants admitted on L or H-1B visas. The law also raises by $2,000 for H-1B nonimmigrants the fee paid by companies that employ 50 or more employees in the U.S. if more than 50 percent of the applicant's employees are nonimmigrants admitted on L visas. The fee increases will take effect as soon as U.S. Citizenship and Immigration Services issues implementing instructions and will stay in effect until September 30, 2014.

Indian businesses such as Infosys and Tata are expected to feel the bill's primary impact, and some feel it unfairly targets them. Nasscom, a trade association representing high-tech Indian companies, reportedly predicted that the legislation will result in a decrease in foreign investment in the U.S. and that educated foreign workers will seek jobs in other countries instead. The American Council on International Personnel reported that the Indian government is unhappy with the bill.

Sen. Charles Schumer (D-N.Y.) said in remarks before Senate passage of the bill, however, that "f you are using the H-1B visa to innovate new products and technologies for your own company to sell, that is a good thing regardless of whether the company was originally founded in India, Ireland, or Indiana. But if you are using the H-1B visa to run a glorified international temp agency for tech workers in contravention of the spirit of the program, I and my colleagues believe that you should have to pay a higher fee to ensure that American workers are not losing their jobs because of unintended uses of the visa program that were never contemplated when the program was created."

The full text of the bill is available at http://www.govtrack.us/congress/billtext.xpd?bill=h111-6080.

For further critical commentaries on the bill, please see: THE WORLD ACCORDING TO SENATOR SCHUMER: IF IT'S NOT A CHOP SHOP, IT'S A BODY SHOP by Gary Endelman and Cyrus D. Mehta, August 15, 2010, http://cyrusmehta.blogspot.com/2010/08/world-according-to-senator-schumer-if.html and SILENCE IN A TIME OF TORMENT: THROWING INDIAN IT FIRMS UNDER THE BUS by Gary Endelman and Cyrus D. Mehta, August 11, 2010, http://cyrusmehta.blogspot.com/2010/08/silence-in-time-of-torment-throwing.html