

IMMIGRATION: A VIEW



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The Tennessee Chamber of Commerce and Industry, the state's largest broad-based statewide business and industry trade association, works proactively to find legislative solutions dealing with immigration issues.

by Bradley Jackson

Immigration is as old as America. It continues to be, as it has been for most of the past two centuries, debated in the cloakrooms and halls of Congress. However, as the demographics have shifted and national immigration policy failed, the discussion has noticeably moved to the nation's family rooms as citizens feel discouraged by Congress's inaction, threatened by the increased numbers of immigrants, and fearful of what a nation of illegal aliens would mean for their economic and social futures. The result has been a new and intense political interest in immigration—at the federal, state, and even local levels.

Immigration in Tennessee and throughout the nation is a topic of much passion and intense debate. As evident in the current presidential campaign, immigration is a policy issue that both positively and negatively impacts the business community. It is an issue we cannot ignore. Lawmakers and candidates hear about it frequently from their constituents, and polls show it is of great interest and concern. Employers are no different, knowing this is a highly salient issue and that bad public policy could have harmful consequences.

The Tennessee Chamber of Commerce and Industry, the state's largest broad-based statewide business and industry trade associa-

tion, works proactively to find legislative solutions dealing with immigration issues. Our first commitment is to our membership, working to maintain and improve the business climate so our companies can grow, prosper, and create jobs. We are also mindful of the practical needs of our elected officials, who must answer to a constituency that is demanding solutions. As our members so often point out, when businesses prosper and grow, we all benefit. For example, last year state revenues exceeded the budget estimate with more than \$300 million in additional revenue, mostly from franchise and excise taxes paid by business. This windfall was used to fund much needed education improvements and other needs in the state budget.

Immigration bills flooded the 105th General Assembly. In fact, hundreds of bills have been filed to deal with the problem of illegal immigration. The Tennessee Chamber and its members review these bills for their immediate and long-term impact on employers in the state.

First, the Tennessee Chamber believes it is wrong for employers to knowingly violate federal and state employment law with the intent to hire illegal aliens. In Tennessee, laws have been on our books for more than 20 years stating that "businesses who knowingly employ or refer for employment any individual who has illegally entered the United States" commit "a Class B misdemeanor," and "in addition the license of any person violating this section shall be revoked and such person shall be forever barred from doing business in the state." This law by itself is a significant penalty for any employer in the state who knowingly violates it.

Employers are as concerned as individual citizens about the breakdown in immigration policy; however, they generally believe immigration is a federal issue that should be addressed with one uniform solution rather than a myriad of approaches at state and local levels. Employers realize this problem is inherent in the system since federal laws prohibit an employer from asking questions about documentation or identification used for hiring purposes. Complicating this situation is the current need for a readily available workforce to address the immediate needs of commerce and growth.

We have seen the results of enacting harmful immigration legislation in other states. Ari-

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zona and Oklahoma are examples of state immigration reform gone bad. Newspaper articles and stories have cited examples of how corporate assets have moved from Arizona to Utah to avoid overly punitive immigration laws, thereby eroding a substantial tax base in Arizona. In addition, the U.S. Chamber of Commerce brought litigation on behalf of employers in Oklahoma arguing that its recently enacted immigration law impedes interstate commerce. This lengthy and costly litigation does not provide a good business climate and removes one element important to business: predictability of future laws and policy. Similar proposals have been introduced in Tennessee but have gotten little traction due to the result of hard work by the business community and the various chambers and other trade associations that represent its interests.

With the General Assembly, the Tennessee Chamber and its business allies work to develop meaningful state legislation. One example is Public Chapter 529, signed into law last year, prohibiting employers from knowingly hiring illegal immigrants with the potential of losing their business license and allowing for local governments to train with Federal Homeland Security officials on the detention and removal of criminal illegal immigrants. Public Chapter 529 creates safe harbors or protections for business in that employers who have followed federal immigration hiring requirements, used the E-verify federal government database, or been presented with false documents are deemed to have complied with the law. This law, in effect, seeks to penalize those who knowingly hire illegal immigrants.

We review immigration proposals at the state level based on the following criteria:

- How will this proposal affect Tennessee's competitiveness compared to other or surrounding states? Would this proposal be cumbersome for a multistate employer and create a substantial burden on commerce?
- Would the proposal deter growth and appear harmful to potential employers looking to expand or relocate to Tennessee? Would it cost our citizens jobs?
- Is the proposal constitutional or inconsistent with federal employment law, i.e., the

1986 Federal Immigration Reform and Control Act?

- Is the employer liable for the hiring and employment actions of subcontractors?
- Is the employer penalized for fraudulent actions by prospective employees such as false documentation, illegal documents, etc.?
- Are investigations based on accusations rather than substantial evidence?

If the answer to any of these statements is "yes, it would harm business," then rather than create a legislative stalemate, the Tennessee Chamber works to add language into these bills that would help solve immigration concerns while minimizing the harmful results to business in Tennessee.

We know good state immigration proposals need not always center around employers. Immigration laws are being considered dealing with individuals who knowingly manufacture and distribute false identification. Last year, the General Assembly passed laws about those who traffic in illegal immigrants and force servitude or involuntary labor, and another immigration law passed that provided resources for state troopers to obtain training through the Federal Homeland Security Department to deal with criminal illegal immigrants. In 2006, Governor Bredesen signed Executive Order No. 41 on compliance of federal and state laws related to employing and contracting with illegal immigrants.

Tennessee is a good place to work and do business, and our goal is to keep it that way. We applaud the efforts of our elected officials to maintain our strong business climate while dealing with an issue that impacts so many of our citizens. We will continue to actively work with the General Assembly to define an acceptable state role in a federal problem while working to ensure that the solutions do not negatively impact economic growth and jobs creation.

The Tennessee Chamber of Commerce and Industry is working through its members to ensure a strong economic future for Tennessee and more and better jobs for Tennesseans. ■

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