

Hill Impasse Spurs States to Tackle Illegal Immigration

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Body

State legislatures around the nation are considering hundreds of proposals dealing with illegal immigration, reflecting the exasperation of many local officials with Congress's failure to contend with the millions of undocumented workers who have entered the nation in recent years.

Here in Arizona, the House has passed a proposal to set fines and other penalties for companies that hire undocumented workers. The bill, which had regularly failed in previous years, is expected to win Senate approval within days and is only one of many plans under consideration.

Others include bills to erect an 80-mile fence and a multimillion-dollar radar system along the Mexican border, designed to slow the nightly flow of migrants across the desert. Another bill would require police to check the citizenship of anyone stopped for a traffic offense. The state House, by a vote of 43 to 12, has passed a resolution calling on Washington to dispatch the U.S. Coast Guard to this landlocked, coast-free state to assist in patrolling the border.

For the most part, the new state measures are designed to get tough on illegal immigrants, on employers who give them jobs and on state officials who give them benefits. In some states, illegal immigrants can buy lottery tickets but cannot collect if they win a significant prize.

At the same time, though, some states are moving in the other direction -- making life easier for immigrants, legal or otherwise. In April, Nebraska's legislature overrode a gubernatorial veto to offer in-state college tuition rates to the children of illegal immigrants. Nine other states have formally authorized tuition breaks for undocumented immigrants, and many public universities employ a "don't ask, don't tell" policy for graduates of high schools in the states.

Maryland and Virginia lawmakers considered proposals to crack down on illegal immigrants in their recently concluded legislative sessions, but none passed.

The multistate approach, with some states at variance with others, threatens to create a maze of laws and regulations at a time when the nation as a whole is struggling with how to contend with an unprecedented wave of illegal immigration.

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"We're not going to solve this problem with a patchwork approach at the state level. It's a national problem, and the need is to repair the national system," said Josh Bernstein of the National Immigration Law Center, which works to promote the rights of low-income immigrants. "We're not going to erect barriers between states."

Advocates on both sides said that Monday's economic boycott and rallies will work to their advantage. Opponents of illegal immigration said the protests hardened their resolve, while immigrants' rights activists predicted that the large turnout will sway lawmakers to their side.

The National Conference of State Legislatures has tallied 463 bills introduced this year in 43 states, by far the biggest crop of state immigration proposals ever recorded. Ann Morse, who tracks the issue for the NCSL, said this rush of legislation demonstrates that state legislators are no longer willing to cede this high-profile political concern to Congress.

Morse cited three reasons for the unprecedented interest in immigration at the state level. "First, there's the reaction to 9/11 and the concern that our borders are not safe," she said. "Another factor is the number of immigrants and a general sense that the influx is growing rapidly. And finally, we seem to have a Congress in gridlock on the issue. State legislators feel if they don't act, nobody will."

That last concern has been crucial in the legislature here, noted state Rep. Russell K. Pearce, a Republican who says he is "fed up" with his own party's management of the issue in Washington.

"We had high hopes that Congress would do something this year," Pearce said. "But Washington is ducking its responsibility. Our constituents are outraged about that. So they are demanding -- and I mean demanding -- that we do the job instead."

With opinion surveys showing intense public concern about immigration this year, Congress has been sharply divided. The House passed a tough anti-immigration bill that included stiff criminal measures and costly new efforts in border control. In the Senate, many lawmakers favor a guest-worker program and finding a way to allow some illegal immigrants to seek citizenship. So far, however, the legislation has been mired in committee.

With the two houses seeming to be on divergent paths, state officials are losing hope for federal immigration initiatives this year. "If Congress were able to act, there would be much less activity in the state legislatures," Bernstein said.

The most common approach to immigration at the state level this year, the NCSL tally shows, is criminal legislation to impose sanctions on employers who knowingly hire illegal immigrants. More than half the states are considering employment legislation in various forms, and many bills are expected to pass.

On April 17, Georgia Gov. Sonny Perdue (R) signed a law that imposes fines on employers of undocumented workers and requires any company with a state contract to fire any employee who is not a legal resident. The Georgia law also requires that state offices verify an employee's status before paying unemployment benefits or workers' compensation. Similar provisions are found in pending bills in several other states.

Legislatures in Ohio, South Dakota and Arizona have passed bills this year requiring that state or local police check the immigration status of everybody they encounter, and report suspected illegal immigrants to U.S. Immigration and Customs Enforcement. Several other states have similar bills pending.

Many police chiefs and mayors oppose this approach, fearing that immigrants will be frightened to contact the police when they need help. But proponents say that the initial police contact is the best time to catch somebody who should not be here. As Pearce puts it, "Deportation should start with the traffic stop."

More than a dozen states are considering legislation that would require proof of citizenship or of legal-resident status for anybody seeking a driver's license. Some would simply deny illegal immigrants the right to drive. Other proposals are similar to a bill that passed in Utah last year, offering undocumented applicants only a "driving privilege" certificate that is not supposed to be treated as legal identification. Virginia requires license applicants to offer proof of legal status.

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There are also bills pending in several state capitols to help undocumented workers deal with the problems that come with their status. Several states seek to get tough on "notarios," people without a law degree who sell costly "consulting" services to immigrants seeking legal-residence status or citizenship. Some state governments help employers fill out the I-9 form that is required for immigrant workers under federal law.

Polls show that immigration is considered a bigger problem in Arizona than gasoline prices. Republican Sen. Jon Kyl and Jim Pederson, his Democratic challenger, are already saturating the airwaves for the November election -- and the ads deal mainly with immigration.

So far this year, the Republican-controlled legislature has passed several bills designed to crack down on illegal immigration; Democratic Gov. Janet Napolitano has vetoed several of them. Pearce, sponsor of the employer-crackdown legislation, said the anti-illegal-immigration majority in the legislature plans to package all the measures into a comprehensive bill. That would set up a new confrontation with the governor.

The bill that seems most likely to become law here this session is Pearce's employer-sanction plan. Napolitano said in January that she would sign an employer-sanction bill. Even business groups concede that approval is likely.

"Our position has been that employment of immigrants is a federal issue, and it deserves a federal response," said Farrell Quinlan of the Arizona Chamber of Commerce and Industry. "But if the federal government doesn't act, you're going to see the states try to fill the void."

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