Client ALERT

July 2003

Immigration Newsflash

More Legislation to be Introduced to Restrict L-1 Visa Category; Senator Chambliss' hearings

More Legislation to be Introduced to Restrict L-1 Visa Category

Representative Rosa L. DeLauro (D-CT) will apparently be introducing a comprehensive bill in the House of Representatives which is even more restrictive in nature than the one introduced by Rep. Mica, as reported in our June Client Alert.

The proposed legislation includes the following:

- an annual quota or cap of 35,000 L-1 visas;
- a limitation of a four-year stay in L-1 status (currently, L-1 "specialized knowledge" individuals may remain in the U.S. for a total of five years, and L-1 managers may remain in the U.S. for a total of seven years);
- prohibition of "outsourcing," *i.e.*, the subcontracting out of L-1 visa holders by the employing company;
- elimination of the blanket L-1 program;
- a prohibition on the hiring of L-1 status holders by any company where the company has laid off a U.S. worker within the preceding six months, and for six months after the application is filed;
- the introduction of a prevailing wage requirement similar to that for the H-1B visa category;
- a requirement that the proposed L-1 status holder have been employed by the petitioning entity for three full-time, continuous years prior to the filing of the petition (the current requirement is one year within the past three years, and six months within the past three years under the blanket petition procedure);
- Department of Labor enforcement authority with respect to L-1 compliance, and the ability of the Department of Labor to impose monetary penalties and to disqualify a company from filing petitions.

This severe proposal, like the Bill introduced by Rep. Mica, is a response to several articles that have appeared and continue to appear in the news media. Specifically, these articles allege that L-1 visas are being used to allow employers to import foreign labor, particularly in the IT industry, as a means to reduce labor costs. In particular, accusations are being leveled at companies in India which transfer their employees to the U.S. in the L-1 visa category as intracompany transferees, and then contract these employees out to third parties. The argument is that this practice allows employers to avoid Department of Labor regulations relating to wage considerations in connection with the H-1B visa category, thus allowing employers to bring in cheaper labor and to displace U.S. workers.

Senator Chambliss' hearings

While no L-1 bill has yet been introduced in the Senate, the Chairman of the Senate immigration subcommittee, Senator Saxby Chambliss (R-GA), has announced that he will hold hearings on the L-1 issue during July. Chairman Chambliss has indicated that the committee will be interested in hearing about the importance of the L-1 program from "legitimate users." Subcommittee staff do appear to be cognizant of the importance of the L-1 visa to U.S. companies operating internationally, and to the efforts of States to attract job-creating foreign investment. Our discussions with the subcommittee staff give us reason to believe that there is, at least in the Senate, interest in a "balanced" approach. We are also working closely with the newly formed Global Personnel Alliance (GPA), a voluntary consortium of employers interested in immigration issues, to develop a common position on the L-1 issue and to assist the group in drafting testimony for the Senate hearings. Companies or individuals interested in participating in this effort, or in joining GPA, should contact Christine Sisco at christinesisco@paulhastings.com.

The information in this Alert is not intended to be legal advice. However, if you require legal assistance or would like additional information about immigration matters, please contact your local Paul Hastings representative or ***Daryl Buffenstein*** *at 404-815-2232 or via email at darylbuffenstein@paulhastings.com.*