



With Hillary Clinton's June 7th announcement that her campaign has ceased operations, the presidential election has evolved into a head-to-head battle. The Republican candidate, John McCain, is a Senator from Arizona whose positions on immigration have been well-established over his 25-year career in Congress. His Democratic rival Barack Obama, a Senator from Illinois, is rather new to the Washington scene and his immigration record is less detailed. For both candidates immigration will be an enormous issue, since immigration is one of the most polarizing issues on the American political scene.

As the long-time Senator of a border state, John McCain has long made immigration one of his main issues. McCain's thinking on immigration came to the forefront with the McCain-Kennedy Comprehensive Immigration Reform Bill (CIR), which was offered in 2007, and had predecessor legislation going back a few years before that. Although CIR would fail, McCain's leading position on the bill provides a look at how a McCain presidency would deal with immigration.

CIR controversially dealt with the 12-15 million undocumented workers in this country by allowing those who had been in the United States for more than two years the ability to obtain Permanent Residency, albeit with certain fines and conditions attached to their applications. This track to Permanent Residency was branded by some to be a "path to citizenship" and ultimately was the death notice for CIR.

For business immigration practitioners, CIR would have radically changed immigration processing by taking the employer, and the current Labor Market Test, out of the immigration process and substituting in a points-based system established by the government. Under this system, a prospective immigrant's educational and life qualities would be awarded points. In any given year the leading points' scorers would be awarded US Permanent Residency.

Many in the business community were concerned that CIR's "point system" would over-reward the over-educated and take visas from less skilled, but necessary, workers. Commentators were concerned that the "point system" would create a class of foreign-born PhD waiters who were granted visas instead of sorely-needed IT workers, healthcare workers, and engineers. This was an odd turn of events for the maverick McCain, who ordinarily would have been against the government intrusion into the realm of employment-based visa processing.

Subsequent to CIR's collapse last summer, McCain quickly backed off from the legislation. In a January 30, 2008 debate, McCain even indicated that he would no longer support his own CIR proposal if it were re-offered. Keep in mind, however, that at that point in the primary campaign McCain's presidential prospects were in doubt and he may have been pandering to the anti-immigration wing of the Republican Party.

It seems clear that McCain likely would not support any future comprehensive immigration reform if it included legalization for a significant number of illegal and undocumented workers unless the legislation included some substantial concessions in order to appease the anti-immigration wing of the Republican Party. McCain has generally been pro-professional business immigration and would almost certainly sign any bills relating to increased employment-based immigration quotas.

Because Barack Obama has only been in the Senate for a few years, his record on immigration is much smaller than Senator McCain's. Obama's personal history may provide a hint about his thoughts on immigration. Obama arguably is the most multi-cultural major party presidential candidate. Born in Hawaii, Obama's father is Kenyan, and his mother is American. He also spent time living in Indonesia growing up. He ultimately settled in Chicago, one of this country's most immigration-friendly metropolitan areas.

Obama's immigration record shows that he once offered a proposal to create a system whereby employers can verify that their employees are legally eligible to work in the U.S. Obama has also introduced legislation in order to improve the speed and accuracy of FBI background checks for intending immigrants. Obama also has joined with Rep. Gutierrez to introduce the Citizenship Promotion Act, which was aimed at keeping immigration application fees low.

Because Obama's legislative history is scarce, it will be interesting how nuanced Obama's outlook on immigration becomes. What we know for sure is that immigration will play a large role in the two Senator's future debates and in the next President's term.

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