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## High-tech workers feel betrayed by visa hires

### New bills side with group that says programs give foreigners unfair edge

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DAILY RECORD

An organized group of engineers and computer programmers is backing federal legislation to cap the number of skilled foreign workers who are allowed to enter the United States.

To them it's personally urgent, and, they say, it's crucial for the entire country.

"The future is in jeopardy," said Sona Shah of Montclair, a programmer who has been out of work for two years.

"If engineers are laid off, the innovators, the designers are out of work. It is a loss of one overall function, one engine of the country's economy."

Shah said she lost training and promotion opportunities -- and then her job -- as her former employer hired foreign workers through the H-1B visa program and outsourcing.

"There is great concern about the loss of manufacturing jobs, but what needs to be understood is that 50 percent of engineers work in the manufacturing sector," Shah said.

Two U.S. representatives from North Jersey said last week that they have taken up the cause of the displaced American workers with legislation that would close loopholes in the visa programs.

Rep. Bill Pascrell, D-Paterson, has filed legislation that would address issues with the H-1B visa program, and Rep. Rodney P. Frelinghuysen, R-Harding, is co-sponsor of a bill that would make changes in the administration of the L-1 visa program.

Shah, a member of the Programmer's Guild -- the group of engineers and programmers that meets monthly at the Morris County Library -- said the group supports a Pascrell bill filed in November that would cap the annual H-1B limit at 65,000 and offer other worker protections.

"H-1B workers are essentially indentured servants," said Shah, who worked with Pascrell's staff for two years to help develop the bill.

#### Basics of H-1B and L-1

The federal H-1B visa program allows skilled foreign workers to take jobs in the United States for three years if an employer can show that an American worker cannot be found for that job. In 2001, the U.S. Immigration and Naturalization Service said that of 164,000 H-1B workers allowed into the country that year, 55 percent worked in the informational technology industry, 13 percent were engineers, 8 percent were administrators and 6 percent were college and university educators.

The L-1 visa program allows companies operating in the United States and abroad to transfer certain classes of employee from its foreign to its U.S. operations for up to seven years. From 1999 to 2004, 3.9 million foreign workers entered the United States under this program, according to federal immigration reports.

In New Jersey during that period, 99,810 workers were given jobs on H-1B visas, and 105,170 foreign workers were transferred to in-state operations, immigration reports said.

The current nationwide limit of annual H-1B visas is 65,000, set in 2003. Congress in 2001 set the limit at 195,000 for three years. A provision to remove that 65,000 cap was taken out of a Senate budget bill in late December.

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"They cannot switch jobs easily, are made captives by the requirements of the law, are paid low wages and salaries and are exploited," she said.

### **Dual beneficiaries**

Shah said reform of the H-1B program would help two groups of workers: Americans who are being displaced by foreign workers -- and the foreign H-1B workers.

She has firsthand experience with the situation of H-1B workers: Her fiancé was hired by her former employer as an H-1B worker. He had more experience and higher educational degrees, Shah said, but he was paid \$27,000 to perform the same job she did, for which she was paid \$48,000.

"In my experience, employers want H-1B workers because they want a captive workforce. If this continues it is the end of at-will employment," she said.

John Miano, a programmer and software industry author from Somerset County, said in a December article for the Center for Immigration Studies that on average H-1B workers make \$13,000 less than American workers in the same occupation and state. He also said federal immigration data showed that wages for 85 percent of the foreign computer programmers hired under H-1B visas were less than the median U.S. wage for the same occupations and state.

### **Industry perspective**

Computer industry leaders have called for increasing or eliminating the annual H-1B cap.

In previous lobbying efforts, industry groups claimed that 840,000 U.S. technology jobs are unfilled annually. In letters to U.S. senators supporting legislation that would raise the H-1B ceiling, officials from 11 technology and electronics industry associations sought the removal of the cap to address this shortfall through legislation that also would raise funds for additional training for U.S. workers.

In 2000, the National Association of State Universities and Land Grant Colleges sent a cover letter to members of Congress supporting a bill that at that time called for increased H-1B visas. The letter, written on behalf of the American Business for Legal Immigration Coalition, also was signed by about 360 U.S. corporations and universities.

### **Employee advocate**

But some engineering groups dispute the claim that there are not enough American engineers to fill available jobs. In its position paper on H-1B visas, IEEE-USA said that from 2001 to 2004, while federal immigration officials processed 856,000 H-1B visa applications, national unemployment among high tech managers and professionals increased from 725,000 in 2001 to 1.3 million in 2004.

"It appears that substantial numbers of foreign professionals admitted on the H-1B and other temporary visas are competing with growing numbers of displaced citizens and legal permanent residents for jobs in the troubled high-tech labor markets," the IEEE concluded.

Pat Kunz of Monmouth County, who is living on her retirement funds and savings after losing her consumer services consulting job at AT&T three years ago, became unemployed in a two-step process in which her division was sold to an in-state company that later shipped the jobs to Asia.

"I was not hurt by the H-1B visa program, but by off-shoring," Kunz said.

"It is a symptom of the same disease. People in other countries are willing to work for one-fifth of that we make here."

Kunz said she feels abandoned, which is why she is supporting the bill to cap H-1B visas and to make other changes in a program that critics say is rife with loopholes that foster abuses of the system and workers.

"This was our future. We were told that manufacturing jobs would be sent overseas, but knowledge jobs would remain here," Kunz said.

"Now the knowledge jobs are being sent away. We can't all be doctors."

### **Middle-class impact**

The effect, said Mike Rinaldi of Hanover, who now teaches science and math in Rutherford after a career as a computer programmer with Lucent Technologies, is that "the middle class is under attack."

As a teacher, he asked: "What do I tell my students when they ask why should I study math or science?"

Rinaldi, a member of the Programmers Guild, met with Frelinghuysen in December to discuss the H-1B visa bill. He said he is disappointed with the elected officials he has contacted in the lobbying effort, his first venture into political action.

"I want my elected officials in Washington to be leaders, but they show no foresight," he said.

"It's the same for teachers. They just think of the next quarter or the next election. What will they do when the middle class is gone? Who will pay for the new schools?"

### **Pascrell's solution**

Shah said she began talking to Pascrell and his staff in November 2004 after she attended a town meeting. The effort produced a bill that addressed the key loopholes in the visa program, she said.

Pascrell's bill would:

- Limit the number of H-1B visas annually to 65,000.
- Put in better wage guarantees.
- Require employers to actively seek U.S. workers first.
- Consolidate administration of the program under the U.S. Department of Labor.
- Limit authorized stays to a single, three-year, non-renewable term, or for two years, renewable for additional years, for a total of four years.

Pascrell said his bill would put an end to practices allowed by loopholes in the current law that allow employers to hire foreign workers over Americans.

He said his bill would mean that 15,000 to 20,000 American workers who have lost jobs to H-1B workers would have a chance to get those jobs back.

### **'Americans first'**

"Companies need to hire Americans first," Pascrell said. He disputed the industry claims that there aren't enough trained American technology workers.

Pascrell said his bill represents an effort in Congress to begin to address those immigration issues.

"We need to work together and compromise," he said. His bill is not an anti-immigration bill, but one aimed at addressing serious issues facing American workers who are losing their jobs, and the rights of foreign workers who enter the country legally.

The irony of Shah's job loss, Pascrell said, was that she was born in India, is a naturalized U.S. citizen, and lost her job to an H-1B worker from India.

### **Another focus**

Frelinghuysen said he shares Pascrell's concerns, but is a co-sponsor of a bill filed by U.S. Rep. Nancy Johnson of Connecticut that seeks changes in the L-1 visa program.

"Johnson's bill offers similar job protections to Pascrell's bill, but covers more ground with more training funds," Frelinghuysen said. "The L-1 visa program is very open-ended."

Pascrell said the L-1 visa program has substantial loopholes that need to be closed.

Pascrell and Frelinghuysen said they were pleased that the H-1B cap waiver provision was taken out of the Senate budget bill.

That provision was not in the House version of the budget bill, Frelinghuysen said.

"I told Mike Rinaldi that I would not vote for anything that included that provision," Frelinghuysen said.

Frelinghuysen praised the Programmer's Group. "They are performing a public service," he said.

"This is an issue with national interest. I am dead set against raising H-1B limits and continuing the L-1 program. I have told local industry and Chamber of Commerce officials that the system has to be corrected. I understand we are in a global economy, but they need to hire Americans first."