

Sometimes writers and editorialists try to do the right thing, but they get duped. The iditorial that is appearing in small newspapers like the Palo Alto Daily News is a prime example.

The author appears to be a pro-labor liberal that probably intended well, but he relied on a website with faulty information called BrightFutureJobs. I could be giving the author too much credit for good will considering his comments on Tom Tancredo (see more on that below).

To find out more about the website in question go here:
<http://www.brightfuturejobs.org/>

BrightFutureJobs was founded and is directed by Donna Conroy. I'm not totally sure what her goal or purpose is, but it has something to do with ending discrimination against Americans -- which is definitely a worthwhile goal. Go to the website to see if you can figure what she is all about. Most of the webpages are sprinkled with Conroy's thoughts about how H-1B allows discriminatory employment practices -- and she doesn't let facts get in her way! You will also be given many opportunities to give money to the organization -- perhaps some of that money goes to efforts at fooling gullible journalists.

Donna Conroy sent a newsletter on behalf of BrightFutureJobs with gobs of braggadocio about where the writer got his information for the column. Since Conroy claims credit for the column I think it's fair game to blame her for the results. In this case the fault may have been just as much with the one who provided the information as with the one who wrote it.

This editorial is quite insightful. What's amazing about this column is that he was able to glean this information from our web site. He got every point we were making. In contrast, some journalists are confused forever. Thomas D. Elias saw how Brightfuturejobs.org is distinguishing itself.

I'm going to do this newsletter somewhat differently -- text of the article will appear with regular indentation, and my comments will be delineated with an offset and the title ">>>> FACT".

Norm Matloff just sent out a criticism of the editorial which you can read here:

<http://heather.cs.ucdavis.edu/Archive/WrongEliasColumn.txt>

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<http://www.highlandnews.net/articles/2007/10/18/opinion/04elias.txt>

or

<http://www.paloaltodailynews.com/article/2007-10-18-10-18-07>

Will H1-B immigration debacle be fixed?

By Thomas D. Elias

It's an open question now whether the egregious abuse of H-1B immigration visas by large corporations will ever be fixed.

That's because a small organization dedicated to helping American workers get jobs for which American companies are now importing foreign immigrants has uncovered a 2006 document demonstrating that letting foreigners take jobs Americans could fill is in fact the policy of the Bush Administration.

States the U.S. Department of Labor's Strategic Plan for the fiscal years 2006 to 2011, "H-1B workers may be hired even when a qualified U.S. worker wants the job, and a U.S. worker can be displaced from the job in favor of the foreign worker." The Federal Register adds that "the statute does not require employers to demonstrate that there are no available U.S. workers or to test the labor market for U.S. workers as required under the permanent labor certification program."

That damning language was uncovered by Donna Conroy of the organization Brightfuturejobs.org.

>>>> FACT: Elias is referring to the following document, which I was able to find thanks to the BrightFutureJobs website:

http://www.dol.gov/sec/stratplan/strat_plan_2006-2011.pdf

I haven't seen it before so let's say for the sake of argument that despite it being on the web, and indexed by every major search engine in the world, Conroy is the first person to discover it. Let's also assume that Elaine Chao wanted to hide it from the public so she thought the best way to do that was to post it on the internet.

Elias is getting a couple things confused. This "strategic" plan is nothing new for H-1B or for EB green cards. All that Chao is actually saying is that the H-1B policies that were

passed by Congress in 1990 are still in effect. No surprise there since Chao can't change laws that Congress passed. The fact that employers don't have to show a preference for US workers when hiring H-1Bs has only been a secret to most of the American public -- not to those who study H-1B.

It seems to confirm what thousands of displaced American engineers and technical workers have believed for years: Large U.S. companies including Cisco Systems, Sun Microsystems, Intel, Hewlett-Packard and other Silicon Valley stalwarts bring in thousands of skilled foreign workers each year not because they can't find American workers to fill their jobs, but because they can pay the immigrants less.

The actual intent of H-1B visas is to allow American companies to recruit immigrant labor when they can't find sufficient qualified U.S. citizens or legal residents to fill open positions. Each year, the electronic giants of the Silicon Valley lead a lobbying effort to get Congress to expand the limit on H-1Bs from 65,000 to some far higher figure.

>>>> FACT: Actually the yearly cap on H-1B is now 85,000, not 65,000. The 85,000 number doesn't include exempts, which pushes the actual number of visas issued well above 100,000.

These companies aim not merely to fill jobs for which they can't find U.S. citizens and green card holders, but to feather their financial nests, as the Labor Department documents indicate.

What happened early this year provides good evidence of who is really coming in on H-1B's: It is not principally Ph.D.'s and other highly educated persons. Rather, it is primarily factory workers, low-level draftsmen and the like.

The evidence is clear: Out of 132,000 applications received on the first day they were accepted for the 2007 quota of 65,000 visas, just 12,989 were from applicants with master's degrees or higher. That meant the vast bulk of applications came from workers with bachelor's degrees or less. These are not high-level researchers and software engineers, as they are often billed. They may be laboratory technicians or other skilled laborers, but there is no demonstrated shortage of Americans workers for those jobs.

Of course, the Labor Department has made it clear to the companies they don't have to demonstrate any shortage of U.S. workers; they can hire all the cheap labor they can somehow bring into this country.

It's not that the foreign workers they bring in lack merit. In fact, most are dedicated employees and become taxpaying contributors to American society. But the many Americans either bumped out of their jobs by this Bush-sanctioned corporate welfare are also dedicated employees and taxpayers.

>>>> FACT: Elias wrote that bad H-1B is a policy of the Bush administration, which is false. H-1B is a law passed by Congress. Elias is showing an appalling lack of understanding of our legislative process. I'm not even sure Elias knows which Bush he is talking about either since it was George HW Bush who signed H-1B into law in 1990. Could Elias be confusing big Daddy Bush with Dubya? If so, he is giving Dubya way to much credit!

Interestingly, no one has heard Colorado's Republican Rep. Tom Tancredo, now running for President on a jingoistic anti-immigrant platform, complain about the government-backed misuse of H-1Bs. Nor any of the other groups now trying loudly to tighten up both the Mexican and Canadian borders.

>>>> FACT: I am greatly offended that he called Tancredo a jingoistic anti-immigrant. That is totally untrue -- Tancredo has made it clear many times that he welcomes LEGAL immigrants. I emailed Elias to protest his characterization of Tancredo and this is how he responded back: "You can be as offended as you like at what I call Mr. Tancredo. He is what he is and I have seen his ilk many times before."

Elias is also wrong in his assertion that Tancredo hasn't taken a position against H-1B. He has spoken out against H-1B so often I really don't want to waste my time with this one.

What Elias should have written, and it would have been factually correct is the following: "Only one candidate for president has spoken out against expanding the H-1B program -- Tom Tancredo. Every other candidate from both major parties wants to expand H-1B and EB."

Rather, it is two liberal Democratic politicians, Illinois Sen. Dick Durbin and New Jersey Rep. Bill Pascrell, who are carrying similar bills to wipe out the Labor Department language that now subverts the plain intent of the H-1B visas.

For now, companies that discriminate against American citizens when hiring are legally protected by the Bush administration, which kept its disgraceful and possibly illegal rules quiet until Conroy discovered them.

>>>> FACT: Companies are not protected from discrimination laws just because they hire H-1Bs. H-1B explicitly says that all Title VII laws on discrimination apply to H-1B. I have argued many times that Title VII doesn't adequately protect Americans from discrimination based on nationality, but that's actually a separate issue from H-1B.

That said, H-1B does help to facilitate discrimination by giving employers lots of cheap young fresh blood to exploit, but the law in no way condones discrimination.

Donna Conroy claims that H-1B allows discrimination. I and many others have tried to correct her but she simply refuses to acknowledge the facts. In her newsletter Conroy stated that "some journalists are confused forever". That's well said, and it could just as easily be said that some activists are confused forever!

Companies are not protected from discrimination laws just because they hire H-1Bs. All our laws on discrimination apply to H-1B and the regulations explicitly say so. Having said so, as we all know employers do break laws and often get away with it. Let me reiterate -- there is NOTHING IN H-1B THAT ALLOWS OR CONDONES DISCRIMINATION.

Only if the Durbin-Pascrell legislation passes will citizens and legal immigrants have an opportunity to compete for the top dollar, white collar jobs at stake here.

>>>> FACT: The Durbin-Pascrell bill make a few incremental improvements on the existing regulations, but they won't change the fact that employers can hire H-1Bs instead of qualified and willing Americans. The bills don't change the number of H-1Bs allowed into the U.S., and they don't make it any easier for Americans to file lawsuits.

And even if their bills should succeed in Congress, they would still need the signature of President Bush to end illegal discrimination against Americans and green card holders. Of course, if Bush wants to fix the problem, he need not wait for Congress to act. All he'd have to do is pick

up his telephone and order his labor secretary to change the rules back to what they are supposed to be.

>>>> FACT: Bush cannot fix the problem by making a phone call to Chao. He isn't a dictator (at least not yet :-)) and can't change laws without Congressional approval. Nothing has changed since the second Bush took office. For the most part, H-1B laws haven't changed much since 1990, and when it did change it was because Congress changed it.

He's had years to do this, but has shown no inclination because he knows who his campaign donors have been. So it's unlikely he would sign such a bill even if it reached him.

Which means there will probably be no change in the current anti-American discrimination by American companies until there is a new President.

>>>> FACT: Elias seems to think that a new president will solve the H-1B problem. This shows a certain amount of ignorance of our legislative process. Again, Elias seems to think that all that needs to be done to correct the injustices of the H-1B program is for the president to give a phone call to the Secretary of Labor. I wish it were really that simple!

Presidents don't write laws, Congress does.

Bush is terrible on the H-1B issue and his desire to expand H-1B is shared by every other candidate but Tancredo. If there is ever an improvement in the H-1B program it will probably be despite whoever is our next president.

Elias is author of the current book "The Burzynski Breakthrough: The Most Promising Cancer Treatment and the Government's Campaign to Squelch It," now available in an updated second edition. His e-mail address is tdelias@aol.com.

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