

Agenda Report

TO: CITY COUNCIL **DATE:** March 6, 2006
THROUGH: LEGISLATIVE POLICY COMMITTEE
FROM: CITY MANAGER
SUBJECT: OPPOSE THE BORDER PROTECTION, ANTITERRORISM, AND
ILLEGAL IMMIGRATION CONTROL ACT OF 2005 (HR 4437)

RECOMMENDATION

It is recommended that the City Council:

1. Oppose HR 4437 in its current form, as it proposes overly punitive measures while ignoring the positive role that immigrants play in society; and
2. Urge Congress to approve comprehensive immigration reform legislation that acknowledges and enables the continuation of the significant contributions immigrants have made to local economies and culture, while also reaffirming that enforcement of federal immigration law should not be a local responsibility.

BACKGROUND:

The Border Protection, Antiterrorism, and Illegal Immigration Control Act of 2005 (HR 4437) was approved by the House of Representatives on December 16, 2005 by a vote of 239-182, with Rep. Adam Schiff voting against the bill. The measure, crafted by House Judiciary Committee Chairman James Sensenbrenner (R-WI) is the result of a combination of border security legislation (HR 4312) approved by the House Homeland Security Committee in November 2005 and provisions crafted by Sensenbrenner that are designed to discourage illegal immigration into the United States.

The measure has elicited strong opposition from human rights groups, as well as the U.S. Chamber of Commerce, because it essentially ignores the idea of creating a “guest worker” visa program that would allow illegal immigrants to become citizens or even residents. Instead, the bill would require that businesses, day laborer centers, and non-profit organizations verify potential employees’ immigration status and levy fines against businesses that fail to do so. The bill would also make “unlawful presence” in the United States a crime; revise definitions to make it easier to define undocumented immigrants as aggravated felons; provide mandatory minimum sentences on smuggling convictions; make it easier for illegal immigrants to be defined as gang members, and provide mandatory minimum sentences for aliens convicted of reentry after removal.

During House floor consideration of HR 4437, an amendment was approved by voice vote that would withhold federal law enforcement assistance to communities that enact policies that prevent local public safety agencies from sharing immigration information with the federal government that was determined through the normal course of law enforcement.

In the Senate, Judiciary Committee Chairman Arlen Specter (R-PA) is planning on releasing a draft of his immigration proposal to committee members on February 23. Specter will then begin committee consideration of the bill on March 2, with the goal of having it ready for Senate floor debate by March 27, per the wishes of Senate Majority Leader Bill Frist (R-TN). However, given the high profile of the issue, many observers feel that this schedule may be overly optimistic.

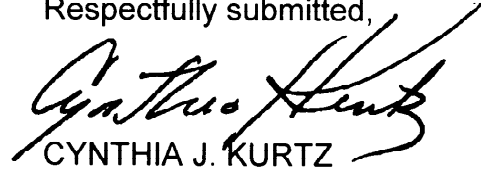
Specter’s bill is not expected to be a companion to HR 4437, but rather a compilation of Senate bills already pending, including a bill (S 1458) sponsored by Senators John Cornyn (R-TX) and Jon Kyl (R-AZ), as well as a bill (S 1033) crafted by Senators John McCain (R-AZ) and Edward Kennedy (D-MA) that focus on the guest worker issue. The Kyl-Cornyn bill would require illegal immigrants to return home before applying for a temporary guest worker permit, while the McCain-Kennedy bill would allow them to remain in the country while they apply for a work visa, and under some circumstances earn permanent legal status. The White House has also signaled its preference for a guest worker program.

Senator Feinstein is a member of the Judiciary Committee and she has already indicated her opposition to HR 4437, as well as the McCain-Kennedy guest worker bill. According to her staff, she will focus her energies during the debate on the legalization of agricultural workers. Senate debate of this issue is expected to be long and drawn out, and many are expecting filibusters.

FISCAL IMPACT:

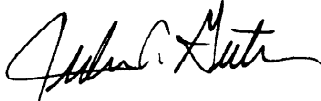
No fiscal impact will be incurred as a result of opposing HR 4437.

Respectfully submitted,



CYNTHIA J. KURTZ
City Manager

Prepared and approved by:



Julie A. Gutierrez
Assistant City Manager