Tech firms sweat details on immigration reform

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SAN FRANCISCO — When the Senate Gang of Eight's comprehensive immigration reform bill was introduced, the technology industry applauded and signaled its general support for the effort.

Despite the outward calm, many in Silicon Valley are screaming on the inside.

The Border Security, Economic Opportunity, and Immigration Modernization Act of 2013 offers the promise of more temporary visas and green cards to tech companies that say they're starved for engineering talent. But new restrictions on the programs, designed to ensure companies make an effort to hire American workers first, have the tech industry feverishly working to change provisions of the legislation.

"The Senate bill is at best a mixed bag for tech companies, and it's actually very negative for H-1B and L-1 visas," said Stuart Anderson, executive director of the **National Foundation for American Policy**, a research group that focuses on immigration and other issues. "And rather than spending time getting support for the bill, it is clear the tech companies are spending time to get the bill fixed."

How the behind-the-scenes lobbying effort plays out may be a significant factor for the Gang of Eight bill, which covers everything from undocumented workers to border security. The tech industry is one of the major forces backing the immigration reform effort, and its full-throated support could help sell the legislation to congressional Republicans — and the public at large. Already, the FWD.us group founded by Facebook's Mark Zuckerberg is launching a TV ad blitz supporting conservative backers of immigration reform.

The tech industry is one of many constituencies seeking to shape immigration reform, and its narrowly focused concerns may be drowned out in larger political battles. For now, the industry is jockeying to get the revisions it wants as the Senate Judiciary Committee prepares to begin marking up the Gang of Eight bill this week.

Tech lobbyists have been talking up the bill's "unintended consequences" and offered the Gang of Eight senators their redlined version of the measure, aiming for changes during markup. But the sponsors' amendment released by the Judiciary Committee doesn't include the major revisions tech is seeking, according to industry sources.

For example, tech companies worry about how their current practice of recruiting — particularly on U.S. college campuses — would have to change if the bill passes. Tech recruiters often do not go looking to fill specific jobs but instead seek out talented individuals — regardless of their immigration status.

But the bill requires an employer to attest that it tried to recruit and offer a job to a U.S. citizen before giving it to a foreign national needing a temporary work visa. The provision means the Labor Department will be able to scrutinize companies' specific hiring decisions for two years after the hire itself, and it may open companies to a flood of litigation, the industry fears.

Tech groups and their lobbyists declined to speak on the record about their efforts to change the Senate bill, and a spokeswoman for the Senate Judiciary Committee declined

to comment.

There have been some public hints of the industry's misgivings. Brad Smith, Microsoft's general counsel, hit on the "unintended consequences" theme in his testimony during a Senate Judiciary hearing last month.

"When I hear people raising concerns, it's what the Department of Labor may look at in years later," Smith said. "It's that kind of uncertainty that gives people pause."

Critics say the H-1B program is being overused to hire cheap workers from abroad, and they reject what they see as the tech industry's push to weaken the bill's proposed restrictions.

The industry's revision efforts "clearly expose the tech community as being the enemy of U.S. workers," said Paul Almeida, president of the Department for Professional Employees at the AFL-CIO. "They don't want to have to offer jobs to U.S. workers who are equally or better qualified than H-1B workers, and they don't want to have to demonstrate that H-1B workers are not being used to displace U.S. workers."

But tech industry lobbyists say in key places the bill shows a lack of practical understanding about their hiring needs — and that the quickest way to get people on the job is to offer them a temporary visa because green cards require a lengthier bureaucratic process.

Sen. Orrin Hatch (R-Utah), the Judiciary Committee's ranking member, is considering filing an amendment dealing with some of the high-tech provisions of the bill, according to his office. Tech lobbyists hope Hatch will introduce language from the Immigration Innovation Act, known as I-Squared, which he introduced with other senators in January.

I-Squared, which has broad support in Silicon Valley, would raise the cap on H-1B visas much higher than the Gang of Eight bill and doesn't include new restrictions on the H-1B program. A Hatch spokesman declined to comment on the amendment specifics.

The tech industry is trying to tread a different path than it did during the failed effort to pass comprehensive immigration reform in 2007, when it was more publicly critical of legislation. This time, the industry wants to be broadly supportive of reform while quietly pressing for specific fixes, mindful that any bill has a long road before it reaches the president's desk.

"We are walking and chewing gum," said Scott Corley, executive director of Compete America, a tech industry group whose members include Microsoft, Intel and Google. "We are supporting a solid framework and fighting for specific but important changes."

http://www.politico.com/story/2013/05/tech-firms-immigration-reform-silicon-valley-90936.html