



## HISPANIC BAR ASSOCIATION OF THE DISTRICT OF COLUMBIA

P.O. Box 1011 | Washington, D.C. 20013-1011  
www.hbadc.org

August 5, 2011

The Honorable Elton Gallegly  
Chairman, Subcommittee on Immigration  
Policy and Enforcement  
2309 Rayburn House Office Building  
Washington, DC 20515-0523  
Facsimile 202-225-1100

The Honorable Zoe Lofgren  
Ranking Member, Subcommittee on  
Immigration Policy and Enforcement  
1401 Longworth House Office Building  
Washington, D.C. 20515  
Facsimile 202-225-3336

The Honorable Steve King  
Vice-Chairman, Subcommittee on Immigration Policy and Enforcement  
1131 Longworth Office Building  
Washington, DC 20515  
Facsimile 202-225-3193

*Via First Class Mail and Facsimile*

**Re: H.R. 2164, The Legal Workforce Act**

Dear Chairman Gallegly, Ranking Member Lofgren, and Vice-Chairman King:

On behalf of the Hispanic Bar Association of DC, we write to express our concerns regarding H.R. 2164, “The Legal Workforce Act” (commonly known as “E-Verify”), and its unintended impact on Hispanics, including naturalized Americans and authorized foreign-born workers. Before advancing this legislation further, it is critical that the House Judiciary Subcommittee on Immigration Policy and Enforcement address the serious, documented problems inherent in E-Verify.

First, the national implementation of E-Verify will lead to the loss of substantial tax revenue. To wit, the Congressional Budget Office found that \$17.8 billion dollars in revenue will be lost as a result of mandatory E-Verify, largely because employers will pay their workers outside the tax system.<sup>1</sup> At this time of unprecedented fiscal challenges to our national budget, we can all agree that such a result would be economically counterproductive.

The second issue concerns the significant incidence of material errors produced by E-Verify. The assessment prepared for the Department of Homeland Security (“DHS”) found erroneous eligibility determinations for nearly 1 in every 100 workers, approximately 0.8%

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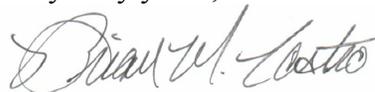
<sup>1</sup> Letter to Rep. John Conyers, Chair, Committee on the Judiciary, U.S. House of Representatives, from Peter Orszag, Director, Congressional Budget Office, Apr. 4, 2008, *available at* <http://www.cbo.gov/ftpdocs/91xx/doc9100/hr4088ltr.pdf>.

overall.<sup>2</sup> Moreover, of those impacted by errors, error rates were at least *30 times higher* for naturalized citizens and *50 times higher* for legal foreign-born workers than for native-born citizens, a clear and grossly disproportionate adverse impact on Americans and legal workers whose full employment and contributions to the U.S. labor market are vital to our economic recovery.<sup>3</sup> Still worse, under H.R. 2164, the burden of correcting these faulty determinations falls on those least likely to have the resources necessary to successfully take on the bureaucratic challenge of correcting erroneous data held by the Social Security Administration and DHS.<sup>4</sup>

Given the documented errors that have the potential to devastate workers by rendering them unemployable, it is especially problematic that the legislation fails to assure due process protections and appropriate remedies for those wrongly deemed ineligible to work. In its current form, H.R. 2164 bans class actions; requires exhaustion of administrative remedies before claims for compensation may proceed to court; and does so with no assurances that the relevant administrative agencies will be adequately resourced to provide fair and expeditious consideration of such claims.<sup>5</sup> As a consequence, the bill as drafted would impose an unnecessarily heavy burden and protracted process on workers at the very time they are precluded from employment.

For these reasons – lost tax revenues, an unacceptably high rate of material errors, and the lack of efficient and reasonable protections for those harmed – we respectfully urge you to re-evaluate this legislation, its unintended consequences, and the likelihood that it will accomplish the stated aims of protecting U.S. jobs and deterring illegal immigration. Thank you for considering the views of the HBA-DC on this important matter.

Very truly yours,



Brian M. Castro, Chairperson  
Legislative & Policy Issues Committee

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<sup>2</sup> Westat, *Findings of the E-Verify Program Evaluation: Report Submitted to U.S. Department of Homeland Security*, at 117 (2009). This analysis of E-Verify is relevant because H.R. 2164 would introduce the same system, with the same deficiencies, on a national scale.

<sup>3</sup> Marc Rosenblum, *E-Verify: Strengths, Weaknesses, and Proposals for Report*, at 7 (Migration Policy Institute, Feb. 17, 2011) available at <http://www.migrationpolicy.org/pubs/E-Verify-Insight.pdf>.

<sup>4</sup> H.R. 2164(2)(C)(ii)(II), 112th Cong. (2011).

<sup>5</sup> *Id.* at (2)(10).