

# NFIB

The Voice of Small Business®

June 25, 2013

The Honorable Bob Goodlatte  
Chairman  
House Committee on the Judiciary  
2138 Rayburn House Office Building  
Washington, DC 20515

The Honorable John Conyers  
Ranking Member  
House Committee on the Judiciary  
B-351 Rayburn House Office Building  
Washington, DC 20515

Dear Chairman Goodlatte, Ranking Member Conyers and members of the committee,

On behalf of the National Federation of Independent Business (NFIB), the nation's leading small business advocacy organization, I am writing you to express our concerns regarding H.R. 1772, the Legal Workforce Act. While we appreciate the inclusion of a phone-in option and clear safe harbor language in the underlying bill, NFIB believes that specific improvements should be made to the bill that will reinforce the important role of small business in employing a legal workforce.

NFIB has long supported an E-Verify system that takes into account the size of an employer in its fee structure, includes a reasonable limit on small-business penalties and reduces such penalties on first-time offenders, prohibits penalties for good-faith violations, protects employers from liability if incorrect information on a worker is given by the E-Verify system, reduces paperwork burdens, and contains an appropriate phase-in time of the new E-Verify system. We remain concerned with the system's error rates and how the Department of Homeland Security would educate employers on their responsibilities.

NFIB agrees that a civil penalty structure should strongly deter businesses from hiring unauthorized workers. However, the penalty structure in H.R. 1772 only serves as a strong deterrent for big businesses. Applying the same penalty structure to small businesses has the potential to put them out of business. For example, the Occupational Health and Safety Administration (OSHA), housed within the Department of Labor, uses a separate fine structure for small business. NFIB strongly recommends amending H.R. 1772 to include a reduced fine structure based on business size.

NFIB supports a phase-in of four years after enactment for E-Verify. Unfortunately, H.R. 1772 forces even the smallest of employers into E-Verify two years after enactment. The bill's current language puts most businesses – almost 5.3 million employer firms – into the system in the last six months of the two-year phase in, compared to the approximately 20,000 businesses that will be phased in during the first year after enactment<sup>1</sup>. The commonsense approach is to spread such a large number of employer firms over two additional years. NFIB has previously supported phasing in firms with more than 50 employees in year three, and those with fewer than 50 employees in year four and we are open to variations of a slowed phase-in over four years. Since there is no penalty for early enrollment, any employer could enter the E-Verify system in advance of their phase-in date and alleviate some of the enrollment burden on the system.

Thank you again for keeping small business in mind as you mark-up H.R. 1772, the Legal Workforce Act. NFIB has a long history of supporting mandatory E-Verify for all businesses, and we hope to be able to support this bill, as well. I look forward to working with you on this and other issues important to small business as the 113<sup>th</sup> Congress continues.

Sincerely,



Susan Eckerly  
Senior Vice President  
Public Policy

<sup>1</sup> <http://www.census.gov/econ/smallbus.html>