

EB-5 Regional Center Program Reauthorization Gives Congress a Golden Opportunity

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Immigration & Compliance

On Sept. 28, 2012, just two days shy of its expiration, the EB-5 Regional Center Program was extended for three years when President Obama signed S.3245 into law. The bill was sponsored by Senator Patrick Leahy, and cosponsored by Senators Grassley, Kohl, Hatch, Rubio, Schumer, Lee, Conrad, and Collins. It had no short title, listed as a bill “[t]o extend by 3 years the authorization of the EB-5 Regional Center Program, the E-Verify Program, the Special Immigrant Nonminister Religious Worker Program, and the Conrad State 30 J-1 Visa Waiver Program.”

Senate bill 3245’s unanimous approval in the Senate and overwhelming passage in the House on a vote of 412-3 did not reflect the challenges and compromises that were made along the way. For example, when the [bill](#) was first introduced in the Senate on May 24, 2012, it provided permanent reauthorization for the four expiring programs. Section 5 of the bill, which provides that “nothing in this Act may be construed to authorize the planning, testing, piloting, or development of a national identification card,” was an addition by a senator, who leveraged the ability all senators have to single-handedly block a unanimous consent agreement.

In the years following the enactment of S.3245, the EB-5 Regional Center Program has experienced tremendous growth. According to a recent report commissioned by the EB-5 Investment Coalition, and authored by U.S. Policy Metrics/Hamilton Place Strategies, which Laura Reiff wrote about here, the EB-5 Program generated \$5.2 billion in private investment between 2005 and 2013, with \$1.6 billion invested in 2013 alone. It is only since 2008 during the height of the financial crisis that the program began approaching its full potential as a driver of economic growth. The U.S. Department of State’s collection of annual visa issuance data is illustrative of the program’s trends. By all accounts the upward trajectory will continue as EB-5 has increasingly become a credible and mainstream source of capital for developers and other entrepreneurs. In light of the EB-5 Program’s growth between 2012 and 2015, the senators and representatives who voted in favor of S.3254 over-delivered on the promise of jobs and capital investment.

The EB-5 Regional Center Program’s economic track record since 2012 is impressive. But recent increased scrutiny on the program from lawmakers, the Government Accountability Office, and the Department of Homeland Security Inspector General—in part symptoms of its own rapid growth and success—have made the reauthorization process more complex. This, combined with a variety of competing policy ideas about improving the program, counsels all stakeholders to expect an equally,

if not more unpredictable and bumpy road to the next reauthorization.

Even against a complicated legislative backdrop, however, the impending sunset of the EB-5 Regional Center Program presents lawmakers with a real opportunity to work together to strengthen the economy, reduce unemployment, and bolster the confidence of those who wish to invest in the United States. And this opportunity is an entirely deficit-neutral way for elected officials to benefit the national interest in a very direct and immediate way. As senators and representatives return to their states for the August recess, EB-5 stakeholders should take the opportunity to share the good work they have been doing with their elected officials.

September 30, 2015 is edging closer as the legislative days in Congress are waning. But there is time for Congress to act swiftly to sustain the EB-5 Regional Center Program as a vital engine for economic growth and avoid the disruption a lapse would cause. If we have observed anything over the past few years in Congress, it is that senators and representatives are capable of coming together and making law where and when it counts.

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