



ATTORNEYS AT LAW

June 10, 2013

**CONGRESS CONSIDERS BORDER SECURITY, ECONOMIC OPPORTUNITY,
AND IMMIGRATION MODERNIZATION ACT**

The United States Senate is currently considering passing a new law that would make significant changes to current immigration and employment law. The Border Security, Economic Opportunity, and Immigration Modernization Act is a bill sponsored by a bipartisan group of four democrat and four republican Senators, dubbed the “Gang of Eight.” While the bill has moved out of the Senate Judiciary Committee and onto the Senate floor, it still faces tough opposition before possible passage through the Senate. It would then still need to pass the House of Representatives and be signed by the President before becoming law.

The bill, which is over 1,000 pages long, includes many provisions that could affect employers and employees. Three of the most important of these are the Path to Citizenship, the DREAM Act, and required use of E-Verify. Some of the key aspects of these are listed below, as well as other provisions which may affect employers.

PATH TO CITIZENSHIP:

The bill provides a “path to citizenship” for unauthorized immigrants currently in the U.S. at the time of passage of the bill. Eligibility requirements include: (1) physical presence in the U.S.; (2) no convictions for felonies or for three or more misdemeanors; (3) no foreign convictions; (4) no prior, or potential for future, terrorist activity; and (5) payment of federal taxes. Once an unauthorized immigrant obtained registered provisional status, his or her spouse and children would also receive registered provisional status, provided they also met the eligibility requirements.

An immigrant who received registered provisional status would also be eligible for a work permit and limited travel outside of the U.S, as well as military service. Spouses of those who receive registered provisional status would also be eligible for a work permit. Registered provisional status could be revoked at any time for inability to meet the eligibility requirements, certain criminal convictions, or prolonged absence from the U.S. Immigrants with registered provisional status would not be eligible for public benefits.

Under the bill, those with registered provisional status could, after ten years, become legal permanent residents, at the behest of the Department of Homeland Security upon meeting certain criteria, including: (1) no absences from the U.S. for greater than 180 days; (2) no federal tax liability; (3) establishment of regular employment during registered provisional status; or

alternatively full-time school attendance; (4) requisite English and civics skills; (5) registration for selective service; and (6) payment of a \$1,000 fine. Immigrants could apply for citizenship three years after becoming legal permanent residents.

DREAM ACT:

The DREAM Act, another component of the bill pending before Congress, provides relaxed requirements for unauthorized immigrants under the age of thirty who were brought to the U.S. under the age of sixteen. These persons would be eligible to become legal permanent residents after five years (rather than ten), provided they met additional criteria, including: (1) attainment of a high school diploma or equivalent alternative, including GED; and (2) either a degree from an institute of higher education or two years of completion towards such degree and continued enrollment, or four years of military service.

E-VERIFY:

E-Verify, a citizenship verification program already required by law for most North Carolina employers, would be required for employers across the country. Employers who are exempt from using E-Verify under North Carolina law would likely be required to participate under federal law.

As mentioned above, this article highlights only some of the major provisions in the Act regarding employers and employees. Further, the bill may undergo changes as it makes its way through both the Senate and the House, and there is no guarantee it will become law. Tuggle Duggins, P.A. will continue to update employers on the status of the bill. If you have any questions concerning The Border Security, Economic Opportunity, and Immigration Modernization Act and how it affects you or your business, please contact Ross Hamilton [(336) 271-5279] or Brandy Mills [(336) 271-5212] of the Labor and Employment Law Practice Group.

© 2013 Tuggle Duggins P.A. All Rights Reserved. The purpose of this bulletin is to provide a general summary of significant legal developments. It is not intended to constitute legal advice or a recommended course of action in any given situation. It is not intended to be, and should not be, relied upon by the recipient in making decisions of a legal nature. Moreover, information contained in this bulletin may have changed subsequent to its publication. This bulletin does not create an attorney-client relationship between Tuggle Duggins P.A. and the recipient. Therefore, please consult legal counsel before making any decisions or taking any action concerning the issues discussed herein.