Guest column: Immigration bill makes serious progress

By Greg Siskind, Special to The Commercial Appeal

Thursday, April 18, 2013

The last time Congress passed major immigration reform legislation, the Berlin Wall was still standing, no one had ever heard of e-mail and disco was still a fresh memory.

Back in 1986, President Ronald Reagan signed the Immigration Reform and Control Act, which legalized 3 million people without status and created the I-9 system employers in the United States still use to document that their workers are legal. The bill was supposed to finally resolve the nation's problem with illegal immigration.

But we know it did not. Immigration opponents often point to the failure of that bill to stop illegal immigration as evidence that Congress' latest effort to reform the system will achieve a similar result. But the real reason we didn't fix the problem back in 1986 was because Congress decided to defer one critical piece — how to address the future flow of immigration to the U.S.

For the past 50 years, we have lacked a guest worker program in this country that allows employers a legal way to bring in the workers they need. Yes, we have programs for those on the high end of the skills spectrum, but not something for lesser-skilled fields. In 1986, Congress and the president hoped that within a year or two they would finally get that part of reform finished. Twenty-seven years and 11 million people later, we're still talking about it.

This week we're reading about the Senate's latest effort to address the nation's immigration problems, and it looks like 2013 might be the year we finally see some serious change. While we're reading about legalizing the millions of folks who have been here and about all of the new border enforcement and worksite compliance measures, less is being said about how employers in the years to come will be able to find immigrant workers when Americans are not interested in or available to do the jobs that need to be filled.

At least this time, the Senate has made an important start in dealing with the problem, even if the effort is too modest. In 2007, the last time the Senate tried to deal with immigration in a comprehensive way, the negotiations fell apart when labor unions decided to oppose the bill over the guest worker sections. This time Sen. Charles Schumer, D-N.Y., the leader of the so-called bipartisan Gang of Eight in the Senate crafting the bill, smartly got labor and business leaders to negotiate the details of a new guest worker program, and they were able to reach a compromise.

The bill introduced in the Senate this week is far from an ideal solution to the problem,
mainly because it starts at just 20,000 visas a year and has a cap of 200,000 if the unemployment rate goes down significantly. Keep in mind that just in the last few years, illegal entries to the U.S. were over 400,000 a year even in a bad economy. The market ought to dictate how many workers can come. If employers are paying the prevailing wage and can demonstrate that Americans are not available for the jobs, that should be enough.

Still, you have to start somewhere and, as the old refrain goes, “the perfect is the enemy of the good.” And the immigration reform bill filed early Wednesday in the Senate is very, very good indeed. It doesn't solve every problem, but it certainly represents serious progress.

For one, it deals with moving the millions of people living in the shadows. The bill is far from an amnesty. People will have to pay serious fines, learn English, go through a background check, pay back taxes and wait at least 10 years to apply for a green card and several more years for citizenship. Those currently in line for green cards will not be disadvantaged, and the people who broke immigration laws to get here will pay their debt for their violations. Anti-immigrants present exile as the only appropriate punishment, but most Americans think otherwise.

The bill also contains a number of new measures on the enforcement side. E-Verify, the Department of Homeland Security's electronic employment verification system, will become mandatory for all employers. New technologies will be deployed at the border. The patchwork of border fencing on the southwest border of the U.S. will be finished. And thousands of new Border Patrol officers will be deployed.

The bill also makes important improvements in immigration of high-skilled workers. There are provisions to make it easier for those with advanced degrees from American universities in science, technology, engineering and math to remain in the U.S. Rural and inner-city communities will have an easier time recruiting doctors. Entrepreneurs who start businesses employing American workers will be rewarded with residency.

The immigration bill has a long way to go before it becomes law, but the fact that so many people in both parties have been involved in the effort to craft the bill is encouraging. And there are still opportunities to address the bill's shortcomings so that we're not back talking about our failing immigration system in just a few years. Let's hope Congress and the president can finish the job.

Greg Siskind is an immigration lawyer in Memphis.