

B U S I N E S S V O I C E



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September 2006

Oct. 17
NJBIA
Awards for
Excellence
Dinner

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NJBIA, Legislators Say 'Fairness Clause' Changes Could Hurt Business and Economy

Governor Jon Corzine and a bipartisan pair of legislators have expressed serious concerns about making any change to the property-tax "fairness clause" of the State Constitution, saying they fear it would have a negative impact on business and the economy. NJBIA also has made protection of the fairness clause its top priority. The Association sent an alert to its members in August urging them to contact their legislators on this issue. As of this writing, 2,300 messages had been sent to legislators.

The clause requires municipalities to tax all properties, commercial and residential, at the same rates. Rutgers University law professor Robert Williams also told a legislative committee that property tax reform is possible without changing the Constitution; he warned that amending the clause could result in higher property taxes on business with virtually no limits on how high those taxes might go. "The unintended consequences (of altering the fairness clause) are usually bad," Williams said.

This commentary on the fairness or "uniformity" clause came at an August 17 hearing held by the Legislature's Joint Committee on Constitutional Reform.

"The uniformity clause is the most important protection for fair treatment of all taxpayers," said NJBIA First Vice President

Arthur Maurice. "Without it, you would have discriminatory taxes on businesses, and there could be no limit on the amount of property taxes they would have to pay."

Two of the six lawmakers on the constitutional reform committee, Louis Manzo (D-Hudson County) and Richard Merkt (R-Morris County), said they opposed any change to the fairness clause. They noted that this would only shift more of the property-tax burden onto business in a State that already has a poor business climate.

One recent proposal would increase business-property taxes in one year by a whopping \$2 billion, a 40 percent increase. A tax increase of this magnitude would be devastating to business-property owners and renters.

Governor Corzine said in an August 17 news conference he was wary about making changes to the fairness clause. "I think that one would have to seriously consider its implications," Corzine said. "I believe it is absolutely essential that we grow our economy if we are to have long-run economic success, and we need to be doing those things that enhance it, not limit it."

Corzine earlier proposed a \$1.6 billion fund to provide direct property tax relief to senior citizens and middle-income families. He also called for the modernization of the

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"Without [the fairness clause] . . . there could be no limit on the amount of property taxes [businesses] would have to pay."

NJBIA First Vice President, Arthur Maurice

Bill to Ensure Contractors Are Paid Quickly Signed by Governor

Clients would have to pay contractors and subcontractors within 30 days after their billing date or be liable for the full amount of the payment plus interest, under legislation signed by Governor Jon Corzine on September 2.

S-1726 (Sweeney, Madden)/A-3174 (Caraballo, Watson Coleman) would ensure that contractors receive timely payment for their work on construction projects. Clients would have 20 days to dispute any part of the payments, but would have to notify the contractor in writing about the amount being withheld and the reasons why. Any contractor or subcontractor who is not paid as required would be allowed to suspend construction, after giving seven calendar day's written notice, without penalty for breach of contract if certain conditions are met. For more information, contact John Rogers at ext. 209, or jrogers@njbja.org.

New Health Insurance Reporting Law Targets Big NJ Companies

Legislation that would track companies whose employees receive State-funded healthcare has been signed into law by Governor Jon Corzine. NJBIA opposed **S-539 (Buono, Coniglio)/A-932 (Gusciora, Van Drew)** because it is nothing more than an effort to harass business and bolster support for a healthcare tax.

The law will track companies that have 50 or more employees enrolled in Medicaid and FamilyCare (the State's subsidized health insurance program for low-income working families) or receiving hospital-based charity care. Some legislators have criticized businesses for not providing generous enough benefits because some enrollees choose the government program over the benefits offered by their employer. These legislators have concluded that businesses should be forced to pay more for benefits or face a healthcare tax as proposed in **S-477 (Sweeney, Vitale)**, which requires payment of \$3.30/hour for health insurance for employees working 13 hours a week or more.

Both measures ignore the fact that the cost of health insurance is rising at three times the rate of inflation. Instead of bashing businesses that are struggling to keep up with out-of-control health insurance costs, legislators should take up the hard work of reforming New Jersey's health insurance system to make it more affordable.

For more information, contact Christine Stearns at ext. 260, or cstearns@njbja.org.

NJBIA, Kirschner Named 'Mover and Shaker' in NJ Tax Debate

The Star-Ledger on July 28 named NJBIA and its President Philip Kirschner as one of the "movers and shakers" in the debate over property tax reform. The Star-Ledger said NJBIA was working hard to prevent a shifting of the property-tax burden onto business through new business taxes or higher rates on commercial properties. NJBIA was the only business group named. Kirschner said he was pleased with the recognition and praised the Association's lobbying team for its aggressive efforts on the issue.

Reminder: Fax-Blast Ban, Restrictions in Effect

Businesses are reminded that they are prohibited from sending unsolicited fax messages or advertisements under a new State law that took effect last year. Businesses can still send unsolicited fax messages to those recipients with whom they have an existing business relationship. Likewise, nonprofit organizations and business, professional or trade associations can also use blast faxes to contact their members. However, any of these exempt faxed messages or advertisements must include a notice that recipients can request to be taken off the list and no longer receive unsolicited faxes. Recipients who continue to receive unsolicited faxes after "opting out" can take legal action against the sender. Certain business organizations report that they have been sued in recent months for failing to adhere to the requirements of this new law. **To obtain an NJBIA Fast Facts paper explaining the requirements of the new law in more detail, contact NJBIA's Lisa Figatner at 609-393-7707, ext. 237.**

WORKPLACE REPORT

Labor-Management News for New Jersey Employers

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State Law Prohibits Mandatory Employee Meetings on Political, Religious Matters

On July 26, 2006, Governor Corzine signed into law the Worker Freedom from Intimidation Act. This law prohibits an employer from requiring their employees to attend any meeting in which the purpose of the meeting is to communicate the employer's opinion about "religious or political matters." In addition, the law prohibits an employer from requiring employees to participate in any communications with the employer concerning the employer's view of "religious or political matters."

The law defines a "political matter" as "political party affiliation and decisions to join or not join or participate in any lawful political, social or community activity." Thus, the law's broad definition could very easily include employer-sponsored charitable activities, such as a United Way campaign.

Unfortunately, the law does not define the term "communication" as used in the statute, which presented several questions for employers. For example, it was unclear if company-wide e-mails, posters displayed in break rooms or notices included with employee paychecks were sufficient to constitute a communication and trigger the requirements of the law. The law does contain an important exemption that allows employers to host meetings and send communications to employees about "religious or political matters" provided the employer notifies employees of their right to refuse to attend the meeting or disregard the communication.

While this exemption was welcomed, NJBIA was still concerned that some employers could inadvertently run afoul of the new law. Thankfully, Governor Corzine issued a signing statement, which explains his interpretation of the types of "communications" covered by the law. This provides limited

guidance for employers looking to comply with the spirit of the law. The statement says the language of the law does not prohibit "the mere sending of an e-mail by an employer, which employees are free to delete or disregard." It further notes that "communications" "...is intended to cover interactive communications such as video-conferences and teleconferences, and not simple e-mails."

What penalties might an employer face for violating the law? The law provides that an aggrieved employee must file a civil action within 90 days of the date of any alleged violation. Employees who prevail in court are eligible to receive payment of any lost wages or benefits, restraints against further violations, reinstatement to a former or equivalent position within the company, and payment of attorney's fees. Employers who violate the law may face either triple damages or a civil fine of up to \$1,000 for a first violation and up to \$5,000 for each subsequent violation. The law also prohibits retaliation by employ-

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Oct. 25 NJBIA Hot Legal Topics for Employers Seminar

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160 Attend Family Leave Seminar



Members Karen Brown (middle) and Rosemarie Toscano of SBLI USA Mutual Life Insurance Company get help sorting through bewildering levels of leave regulations at NJBIA's June 7 seminar, Making Sense of Family & Disability Leave. Answering their questions is Ian D. Meklinsky, Esq. of Fox Rothschild LLP, a featured speaker.



GETTING THE FULL BENEFIT

Spotlight on NJBIA Member Benefits

NJBIA Partners with County Colleges to Provide Workforce Training to Members

Since 1992, hundreds of employers have received State grants enabling their workers to keep pace with changes in technology and skills. NJBIA is now working with the State community colleges' Consortium for Workforce and Economic Development to bring customized training to NJBIA members statewide.

The Consortium serves as a "one-stop" contact for New Jersey businesses seeking customized training for their workers. The Consortium will even write New Jersey Customized Training grant applications for NJBIA members at no cost to them, a value-added benefit for Association members. To apply for training grants, contact Bob Bowman at the Consortium at 1-800-821-6683. You may also go online to learn more about the program by visiting www.njtraining.org.

The consortium is also working with the NJ Department of Labor & Workforce Development to promote skills training in seven specific areas: pharmaceuticals/biotechnology, science/technology, information technology, logistics, energy, finance, and hospitality/tourism. Applicants must pay for at least 50 percent of training costs. The first group of applications is due on October 6, 2006. The second cycle will commence on January 2, 2007, with applications due on January 27. You can access more information at the Department of Labor & Workforce Development Web site: <http://www.state.nj.us/labor/press/2006/0907WorkforceGrowth.htm>. For more information, contact Christopher Emigholz at ext. 201.

Mandatory Employee Meetings *(cont'd. from pg. W1)*

ers. An employer may not terminate, discipline or penalize an employee because the employee makes a good faith report of a violation or suspected violation of the statute.

The original purpose of this act was to prohibit employers from communicating with their employees during union drives. As originally conceived, the bill would have included labor organizations within the definition of religious or political matters. NJBIA successfully argued to have these provisions removed from the legislation since the right to communicate with your employees about labor matters is expressly protected by the National Labor Relations Act. Employ-

ers should consider instituting company-wide policies regarding meetings and e-mails in order to demonstrate their commitment to compliance. For example, employers may wish to explore including disclaimers in e-mails and materials regarding charitable fundraising that remind employees that they need not participate in these activities. Alterations to an employee handbook or manual may also serve as a useful reminder to managers and employees of the laws requirements.

For more information, contact John Rogers at ext. 209 or jrogers@njbja.org. You can access the Governor's entire signing statement by visiting www.njbja.org/bills/072706a.pdf.

HOT LEGAL TOPICS Seminar for Employers

Wed., Oct. 25, 2006

Attention HR Managers and Business Owners!

Learn How to Protect Yourself and Your Company at this NJBIA Seminar

Come hear legal experts provide you with important legal information about hiring and firing decisions, employee handbooks, changes to the immigration laws, wage and hour compliance, and discrimination and harassment. This half-day seminar, which will be held from 8:00 a.m. until 12:30 p.m. at the Holiday Inn in Tinton Falls, will provide an overview of these topics and include ample time to have your questions answered.

To register, contact Katie Wittkamp at 609-393-7707, ext. 239. You can also register online by visiting "Events and Programs" at www.njbja.org.

DON'T FORGET!

Minimum Wage Set to Increase October 1

On October 1, 2006, the New Jersey minimum wage will increase from \$6.15 to \$7.15 per hour. Employers should prepare for this increase accordingly. Additionally, the law requires a State committee to recommend if further increases are warranted in 2007 or beyond.

Other Workplace Issues to Watch

NJBIA continually monitors legislation that will impact your business. Below are some of the bills opposed by NJBIA that could significantly add to the cost of running your workplace.

Mandatory Rest and Meal Breaks

S-1021 (Sweeney)

This bill would require every business to provide a paid 15-minute rest break every four hours and an unpaid 30 minute meal break every six hours. The bill would make it more difficult for employers and employees to organize flexible work schedules to attend doctors' appointments or meet child care needs. For example, an employee who requests to work through lunch in order to leave early to pick up a child could have the request denied in light of the bill's rigid break-time requirements.

This attempt to micromanage every workplace in the State in an identical manner sends the wrong message to both employers and employees. Businesses often work with their employees to provide flexible work arrangements and allow for break periods. However, treating every single workplace in an identical fashion would disrupt the workplace for workers and employers alike. It would also have a negative impact on the State economy by making it difficult to attract new businesses.

Mandatory Health Insurance For Large Employers

S-477 (Sweeney)

This bill would require employers with 1,000 or more employees to pay \$3.30 per hour per employee for health insurance. Employers who fail to provide this amount would have to pay the difference

to the State. The bill's definition of employee includes full- and part-time employees, as well as independent contractors. Thus, many businesses that believe that they fall below the 1,000-employee threshold would find that they are impacted by this legislation. Mandating levels of health insurance will not solve New Jersey's health insurance crisis. The State needs to reform the system to make insurance more affordable for New Jersey businesses.

90-Day Advance Notice for Business Layoffs

S-472 (Sweeney)/

A-1044 (Van Drew)

This bill would establish a State-wide layoff/closing procedure for businesses with at least 100 employees. Specifically, the bill would require businesses to provide 90 days notice prior to the closing of its facility or the layoff of 50 or more employees in any 30-day period. Federal law only requires 60 days notice. The notice would be provided to the employee, the NJ Department of Labor and Work Force Development and to local officials.

Requiring a business that is struggling financially to provide an extra 30 days notice would actually worsen its financial problems. Suppliers and customers change their business practices if they learn that a business is experiencing financial difficulty. For instance, suppliers might demand cash payment for all deliveries.

The bill also contains a penalty

scheme that would be particularly burdensome for employers. The bill would require employers who miss even a single day's notice to pay covered employees one week's worth of wages for each year of employment. This could cost an employer many thousands of dollars. In cases where a business is struggling to remain solvent, such a severe penalty could lead to the loss of even more jobs.

Mandatory Leave for Certain Crime Victims

S-1194 (Madden, Karcher)/ A-434 (Mayer)

This bill would require every business to provide four weeks of leave to victims of domestic violence and their immediate family members. In some cases, this new leave would be in addition to the 12 weeks which already exists under the New Jersey Family Leave Act or the federal Family and Medical Leave Act, which currently apply to employers with 50 or more employees. Further, smaller businesses with limited staffs and resources may not be able to provide this additional required leave in addition to existing paid time off.

NJBIA understands that victims of domestic violence have special needs and encourages employers to do everything within their power to accommodate them. However, the Association remains concerned that the bill would create a third mandated leave program that would apply to every employer in the State.

EMPLOYMENT WATCH

Loss of 2,500 Private-Sector Jobs in July Slowed An Already Weak Employment Expansion in NJ

Employment in the State's private sector declined by 2,500 jobs in July, ending a hopeful run of job gains earlier in the year, according to information released by the NJ Department of Labor in its monthly employment report.

The July loss ended five months of modest gains, leaving the State with an overall increase in private-sector employment of 10,900 jobs so far this year, a gain of just three tenths of one percent. If job growth remains stuck at this low level, 2006 would become one of the weakest non-recession years for employment growth in a quarter century.

managed a small gain of 900 jobs in July and are up by 16,400 jobs for the first seven months of the year.

One way to gauge how weak private-sector job growth has been in New Jersey is to compare current employment levels to the previous employment peak reached in December 2000, just before the onset of the last recession.

In July, private-sector employment totaled 3,433,000 jobs. This is a mere 3,000 jobs above the previous peak reached six years and seven months ago.

The current private-sector em-

ployment expansion is also producing many fewer jobs than the two expansions that preceded it. Since it got underway in April 2003, this expansion (40 months

construction trades and in certain service industries, particularly in education and health, as well as in leisure and hospitality. Most losses have come in manufacturing and information services.

Since December 2000, construction employment has grown by 20,000 jobs for a gain of 13.2 percent. Education and health services have added 67,500 jobs for a gain of 13.4 percent, and companies in the leisure and hospitality industries have added 40,900 jobs, an increase of 13.5 percent.

But the professional and business services sub-sector, an important engine of job growth in the 1990s, has lagged. Modest gains over the last three and a half years have failed to offset sharp recession losses, leaving that sector only 500 jobs above its pre-recession peak of 602,300 jobs.

Manufacturing employment has declined steadily throughout the period although losses have moderated over the last two years. The State's manufacturers now employ 317,200 people, 104,800 fewer than they employed six and a half years ago. The information-services sector, which includes computer and telecommunications services, has lost 32,500 jobs since December 2000, one quarter of its pre-recession total of 127,500.

Even as employment growth in the private sector has slowed over the last six and a half years, government employment has soared. Since December 2000, public-sector employment in New Jersey has expanded by a net 53,200 jobs, a 9 percent increase.

NJ Private-Sector Employment Net 3,000 Jobs Added in Six and a Half Years (in thousands of jobs)

	Pre-Recession Peak		Change	% Differ.
	Dec-00	July 06		
MAJOR SECTORS				
Construction	151.4	171.4	20.0	13.2%
Manufacturing	422.0	317.2	-104.8	-24.8%
Services	2,854.7	2,942.5	87.8	3.1%
SERVICES SUBSECTORS				
Trade, Transportation & Utilities	908.0	884.4	-23.6	-2.6%
Professional & Business Services	602.3	602.8	0.5	0.1%
Education & Health Services	505.1	572.6	67.5	13.4%
Leisure & Hospitality	303.6	344.5	40.9	13.5%
Financial Activities	266.1	283.2	17.1	6.4%
Information	127.5	95.0	-32.5	-25.5%
TOTAL PRIVATE SECTOR	3,430.0	3,433.0	3.0	0.1%

Source: NJ Department of Labor, seasonally adjusted nonfarm employment

New Jersey's unemployment rate rose to 5.1 percent in July, up from 4.9 percent in June. The unemployment rate has been rising fitfully since hitting an expansion low of 4.2 percent in May 2005.

Virtually all of this year's private-sector job gains have come in the service industries, which

old as of July) has produced an average of about 26,000 private-sector jobs a year. In comparison, the 1990s expansion produced an average of 63,800 private-sector jobs a year and the 1980s expansion, close to 90,000.

Most of the job growth in the current expansion has come in the

Meet Our Members *A periodic profile of the people who make NJBIA the State's premier business association.*



Charlene Brown
Vice President, External Affairs
AT&T

With the development of a middle school business curriculum and special research reports, the New Jersey Policy Research Organization Foundation (NJPRO), an affiliate of NJBIA, has been moving quickly toward its goal of becoming a major player in the public policy scene.

Instrumental in realizing this vision, according to Executive Director Sara Bluhm, is Board Chair Charlene Brown, who hopes to lead NJPRO to a position of influence in State decision-making for the betterment of the business climate.

"Charlene is a fabulous person who is always coming up with new and innovative ideas to push NJPRO to new heights," Bluhm said. "She helps attract new board members, raises much needed

funds and facilitates research projects that will help the Foundation become a powerhouse in

the policy arena."

Brown's diverse background makes her perfect for spearheading the Foundation's efforts. In addition to being vice president of external affairs with AT&T, she is a charter member of the NJ300, an organization comprised of women leaders in the State, and a board member of the Christine Todd Whitman Excellence in Public Service series, which helps women run for political office. She is a former press secretary for the NJ Department of Human Services, counsel to the Governor, and public information officer for the NJ Department of Education.

"You blend your life," Brown said. "You're not just in silos where you have your business life, family life and personal life, but you intertwine and you weave them together so that everything

you do becomes who you are and helps you achieve your goals."

Brown has also been active with NJBIA for the past six years as a member of the Government Affairs committee and the Mercer and Hunterdon ELCs. She recommends being active to others looking to get the most out of their NJBIA membership.

"I got involved because of (NJBIA's) strong advocacy on all of the issues that impact business and for the ability to share insight and information on various legislative matters," she said. "In truth, what you get out of your membership is what you put in."

POLICY COMMITTEE MEETINGS, OCTOBER

To join an NJBIA policy committee, call Sandy Lavery at 609-393-7707, ext. 221.

NJBIA's **Energy Council** will meet Friday, October 20, at the Forsgate Country Club. Topics of discussion are scheduled to include the impact of the Regional Greenhouse Gas Initiative agreement, the energy master plan, progress on making the BPU more business-friendly, pending matters at PJM, and the likely impact on New Jersey business.

NJBIA's **Government Affairs Committee** will meet Tuesday, October 24, at the Forsgate Country Club. Assemblyman Louis Manzo will speak along with two invited guests, Assemblyman Joseph Cryan and State GOP Chairman Tom Wilson, who will discuss the November elections.

Fairness Clause *(cont'd. from pg. 1)*

public-employee pension and health benefit programs. He proposed creating a defined-contribution retirement savings program for new public employees, raising the retirement age from 55 to 60, and requiring public employees to share in the cost of health benefits.

The Legislature has passed a resolution, **ACR 1 (Roberts, Watson Coleman)/SCR 1 (Karcher, Bryant)**, that would constitutionally dedicate one half of the 1-cent, sales-tax increase to property tax relief. The measure must be approved by voters in November. The Legislature also established four joint legislative committees, one of which is the constitutional reform committee, to review different aspects of the property tax problem and recommend legislative action by the end of the year.

NJBIA believes the only way to achieve real property tax reform is to curtail the government spending that drives those taxes higher in the first place, particularly spending on employee pension and health benefits, school aid, and administrative costs associated with multiple layers of government. For more information, contact Art Maurice at ext. 247.

NJBIA Programs & Benefits

Visit Events and Programs at www.njbias.org to register for these events online.

TUESDAY, OCTOBER 17 **Awards for Excellence** **Dinner**

On October 17, NJBIA member companies that have achieved excellence in activities related to human resources management, job creation, environmental quality, and public service will receive NJBIA's Award for Excellence during a dinner at the Hilton, East Brunswick (Exit 9, NJ Turnpike). This exciting program begins at 6:00 p.m. and will include a reception, dinner and the award presentations. Network with the award winners and dinner sponsors. The price is \$149 per person. Tables of ten are available. To register, call Stacy Wichner at 609-393-7707, ext. 213, or click on "Events and Programs" at www.njbias.org. To gain visibility as an event sponsor, contact Sherry Esteves, ext. 219.

WEDNESDAY, OCTOBER 25 **Hot Legal Topics for** **Employers**

This half-day seminar is a must for human resources managers, especially those at small- to medium-sized companies. NJBIA will bring together some of the State's foremost HR attorneys to cover all the latest developments in hiring and firing, employee handbooks, wage-and-hour compliance, immigration issues, and avoiding discrimination and harassment. Learn how to avoid costly legal landmines. Network with other HR professionals. The program, which will be held at the Holiday Inn in Tinton Falls (Exit 105, Garden State Parkway),

begins at 8:30 a.m. and ends at 12:30 p.m. The cost per person is \$109 for NJBIA members and \$139 for nonmembers. To register, call Katie Wittkamp at 609-393-7707, ext. 239.

FRIDAY, NOVEMBER 3 **Selling to the Top: Doing** **Business with Top NJ** **Companies and State** **Government**

Find out how you can sell your goods or services to State government and top New Jersey companies at this half-day seminar. Get practical tips from purchasing agents. Government officials will tell you how to become a certified minority- or women-owned business; you will also be able to register as a qualified business on the spot. Purchasing agents from the State of New Jersey and at least five large companies, including sanofi aventis and PSE&G, will be on hand to answer your individual questions. The event will be held from 8:00 a.m. until 12:30 p.m. at the Sheraton Newark Airport Hotel. The cost is \$109 per person for NJBIA members and \$139 for nonmembers. To register, call Katie Wittkamp at 609-393-7707, ext. 239. To become a high-profile sponsor, call Sherry Esteves, ext. 219.

WEDNESDAY, **NOVEMBER 15** **How to Comply with State** **Environmental Regulations**

Learn how to comply with New Jersey's strict environmental regulations and how to avoid costly fines and possible litigation

at this half-day NJBIA seminar. Our experts will answer your questions about air and water permits, solid and hazardous waste, chemicals, land use, and other vital topics. You will receive a list of key contacts at the NJDEP. The program will be held at Forsgate Country Club in Monroe Township (Exit 8A, NJ Turnpike) from 8:00 a.m. until 12:45 p.m. The cost per person is \$109 for NJBIA members and \$139 for nonmembers. To register, call Alex Hollywood at 609-393-7707, ext. 262. To become a high-profile sponsor, call Sherry Esteves at ext. 219.

TUESDAY, DECEMBER 12 **Public Policy Forum**

This annual high-level conference brings together New Jersey's top leaders in business and government for a thorough and lively discussion of current issues that have a great impact on New Jersey employers. Governor Jon Corzine and the state's top legislative leaders have been invited to speak. Don't miss this great opportunity to network with fellow business colleagues! The event will be held from 7:45 a.m. until 2:00 p.m. at the Sheraton at Woodbridge Place in Iselin (Exit 131A, Garden State Parkway). The cost is \$170 per person for NJBIA members and \$230 for nonmembers. Breakfast and lunch are included. To register, call Stacy Wichner at 609-393-7707, ext. 213. Gain high-profile exposure by becoming a sponsor; contact Sherry Esteves, ext. 219.