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At Issue

Coming This Fall: Costly New Workplace Mandates

Net operating loss deductions are back in full force and the alternative minimum assessment is gone. S corporations are getting tax relief. And for the first time in 13 years, all of employers' unemployment insurance taxes are going to the Unemployment Insurance (UI) fund. (Past Legislatures have diverted billions of dollars in UI contributions.) On balance, the State's fiscal year 2007 budget will substantially lower the tax burden on New Jersey businesses. Those savings could be short-lived, however, if the Legislature enacts costly new workplace mandates that proponents are pushing this fall. Right now, NJBIA is fighting against paid family leave, mandated paid rest breaks, and expanded business layoff notices.

Paid family leave is again rearing its head. Under one proposal, all employees would be eligible for up to 12 weeks of paid leave to care for a family member. Not only would it cost businesses in lost productivity, increased overtime payments, and the hiring of temporary workers, it could potentially lead to higher payroll taxes. In previous years, paid-leave advocates wanted to finance the program through the UI fund, but 13 years of diversions have left the fund balance dangerously low. Any significant diversions from the fund could threaten insolvency and trigger an automatic payroll tax increase that would cost businesses an estimated \$350 to \$400 million annually. Thankfully, both the Governor and the Legislature said "hands off" the UI fund this year.

Now proponents want to fund paid leave through an increase in employee payroll taxes for the Temporary Disability Insurance Fund (TDI), which compensates employees who become legally disabled outside the workplace. Like the beleaguered UI fund, however, New Jersey's TDI program has also been the victim of over \$400 million in diversions in tax contributions for the State budget's general operating expenses, including \$50 million diverted in this year's budget. Should the TDI fund become unable to meet its obligations because of this new benefit, employers would get hit with a tax increase.

Then there's the mandated rest breaks, S-1021 (Sweeney). This legislation would require every employer provide a paid 15-minute rest break every four hours.

This bill would be extremely disruptive to both private and public workplaces. It would apply to both hourly and salaried employees and impact every profession, even those that provide lifesaving services. It would make it difficult for employers and employees to organize flexible work schedules to attend doctors' appointments or meet child care needs.

The attempt to micromanage every workplace in the state sends the wrong message. Businesses often work with their employees to provide flexible work arrangements for family care, advanced notice of employment changes and reasonable time for rest and meal breaks. It makes good business sense to do so and the system works fine just the way it is. The Legislature should leave it that way.

Legislators are also looking to increase the penalties for not providing enough notice about layoffs. One bill, S-472 (Sweeney, Doria)/A-1044 (Van Drew, Johnson), would require employers with 100 or more employees to provide 90 days notice prior to the layoff of 50 or more employees. If an employer should miss that notice by so much as one day, he or she would be required to pay each employee one week's wages for each year worked. In cases where a business is struggling to remain solvent, such a severe penalty could lead to the loss of even more jobs. A struggling business would be forced to reduce its remaining capital to satisfy the bill's penalty scheme. While the Assembly version has been substantially amended to address many of NJBIA's concerns, it still fails to address provisions inconsistent with federal law.

New Jersey already has an unfortunate reputation as a high cost state for business. Lawmakers helped ease the burden a little this spring. But it cannot continue to enact costly new mandates and still expect to keep employers here and attract new businesses. ❧