
Legislative Update

By Rob Nixon, Princeton Public Affairs Group, Inc.

The Senate and General Assembly are currently on a brief recess to allow the Budget Committees to take testimony from the public and Departments of State government on the FY 10 State Budget. The reports of tax collections and unemployment figures have not been positive for the State. This has led the Governor to propose a \$29.8 billion budget that reflects a multi-billion cut from the FY 09 budget that contains significant “pain on every page” as described by the Assembly Speaker. While the Budget will not be formally adopted by the Legislature until late June, the realities of the economy are expected to lead to even deeper cuts or higher taxes or both for next year.

The Budget that the Legislature is currently reviewing contains the following proposals:

\$1.8 billion mandated increases (debt, benefits, education, Medicaid)

\$1 billion+ projected loss of sales/income tax

\$2 billion in aid from the Federal Stimulus package

\$4 billion cut from 850 line items, employee furloughs, consolidation, etc. and this number is expected to rise over the next few weeks

Freezes on employee salaries and spending on existing programs

The Budget proposal also contains \$1 billion in “revenue solutions” or taxes and fee increases. These include a roughly 25% increase in Unemployment Insurance (UI) tax amounting of between \$70 and \$90 per employee to offset losses to the UI Fund from previous government raids and growing unemployment numbers. An extension of a 4% surcharge on the Corporation Business Tax which was due to expire this year is expected to be continued for another year. The Governor has also proposed an income tax hike for individuals making more than \$500K for 2010.

Recreational boaters will also be impacted as the boat title fee has been increased to \$60 by the regulatory authority of the Motor Vehicle Commission (this increase, along with a number of other fee hikes is expected to raise \$20 million for the State Budget). As mentioned previously, I BOAT NJ also faces a significant transfer of money to the General Fund and MTANJ will be meeting with the Commissioner of the Department Transportation to discuss the Program and the impact any cuts to it will have on the boating community. Since the Legislature can still make changes to the proposed Budget and since revenue figures may decline again when they are again announced in mid May, it is too soon to say what, if any, further taxes/fees will increase that will impact businesses and taxpayers alike.

In addition, business owners are already dealing with the enactment of the Paid Family Leave law that went into effect in January. Paid Family Leave (PFL) was proposed as an additional “insurance program” to augment the Temporary Disability Insurance (TDI) law to which it is similar. PFL offers employees up to 6 weeks of coverage for care of newborn or adoptive child or for the care of a “seriously ill” family member at a rate of 2/3 salary/wages (up to \$524 week (adjusted annually)).

All private and governmental employers that are subject to the “unemployment compensation law” are required to participate. Full time and certain Part Time Employees become eligible to make claims under PFL on July 1, 2009 but employers were required to begin collecting the PFL withholding tax on January 1, 2009. The tax is .09% on taxable wage base for 2009 but will rise to .12% on taxable wage base for 2010 and beyond on January 1, 2010.

The law has several conditions. An employee can't receive BOTH family leave coverage AND TDI/unemployment simultaneously. An employer can require an employee to use UP TO 2 weeks of paid vacation/sick leave/administrative leave before coverage can commence. The law does not require an employer to maintain a position for the employee at the end of the leave period. The impact of the PFL is difficult to gauge but will become apparent this summer.

Finally, the General Assembly and the Governor are up for election this year and once they have adopted the Budget we anticipate a significant recess on legislative activity while the November 2009 campaign gets into full gear.

On The Federal Front

Floorplan Loans Included in Revised TALF Rules

The U.S. Treasury Department has included non-auto floorplan loans in the latest revision to the Term Asset-Based Securities Lending Facility, TALF, program. TALF is a Federal Reserve credit facility authorized under the Federal Reserve Act. TALF is intended to make credit available to consumers and businesses on more favorable terms by facilitating the issuance of asset-backed securities and generally improving their market condition.

Included in the announcement the Federal Reserve Bank of New York will make available up to \$200 billion in new loans under TALF. These loans will have a term of up to three years. Floor plan loans will include revolving lines of credit to finance dealer inventories. To be eligible, loans must be issued to re-finance floorplans maturing in 2009 and must be issued in amounts no greater than existing floorplans and have an expected life of no more than five years.

Estate Tax Relief Amendments Pass Senate

Two amendments to the Senate 2010 budget resolution, aimed at providing estate tax relief, were passed on April 2nd, 2009 in the Senate. Sen. Blanche Lincoln (D-Ark.) and Sen. Jon Kyl (R-Ariz.) offered the amendment to decrease the top tax rate that a person must pay on transfers of property at death to 35% and raise the values for individual exemption of the tax to \$5 million, and the exemption for couples to \$10 million. This means any estate worth less than \$5/\$10 million would be exempt from estate taxes, and those estates worth more would be taxed for the portion above \$5/\$10 million at a rate of 35%

Currently the top tax rate is 45% with an individual exemption of \$3.5 million and couple exemption of \$7 million. Under current rules, in 2011 these rates would have to revert back to pre-2001 levels of 55% tax rate and \$1 million exemption. President Obama's budget calls for keeping the rates at 2009 levels and an earlier amendment to this budget by Senator Max Baucus (D-Mont) supported retaining the current rates but added indexing for inflation.

Immediately following passage of Lincoln/Kyl, Senator Durbin offered another amendment to create a budget point of order against any increased estate tax relief that does not also include equivalent tax relief for middle class taxpayers.

Passage of these amendments does not guarantee they will be made into law, but rather establishes a sense of what the Senate would approve. No one seems to support the current rule of reverting the estate tax back to pre-2001 levels, but there remains controversy on how to move forward. Both the Senate and Congress will continue to amend and negotiate the budget to its final version.