S.6791 (Kaplan) / A.7788 (Zebrowski)

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BILL
S.6791 (Kaplan) / A.7788 (Zebrowski)
SUBJECT
Unemployment Insurance Tax Rates
DATE
May 21, 2021
SUPPORT

The Business Council supports this legislation that will provide additional relief to New York employers by holding down their state unemployment insurance tax rates in 2022, 2023 and 2024.

The principal source of funding for "regular" state-level unemployment insurance benefits is a payroll tax on employers. Each employer's state-imposed unemployment insurance tax is determined based on two factors: the employer's UI claims experience, and the overall cash balance in the state's UI account. The state applies a detailed twelve column, sixty-two row UI tax table, set forth in Labor Law §581, with the state's unemployment insurance **fund balance index** (indicating the ratio of the fund balance to aggregate state payroll, ranging from less than 0 percent to 5 percent or greater) on its x-axis, and the individual employer's "account percentage," or **experience rating** (measuring the employer's account balance against its average payroll, ranging from a negative 21 percent or greater, to a positive 10.5 percent or greater) on its y-axis. The tax is applied to the "taxable wage base" of each employee, set at $11,800 for 2021, increasing to $12,000 in 2023 and $12,500 in 2024.

Under this legislation, the fund balance index component of this calculation will be set at specific levels for FY 2022, 2023 and 2024, regardless of the actual fund balance calculation, unless using the actual size of the fund index would result in a lower rate of contribution for an employer, in which case such employer shall be liable for such lower rate of contribution (an unlikely occurrence given the fund's significant deficit). It would apply the "2.5 to 3 percent" fund index column for FY 2022, the "2 to 2.5 percent" column for FY 2023, and the "1.5 to 2 percent" column for FY 2024.

As a practical matter, this bill would set current year UI tax rates at their 2019 pre-pandemic levels, saving employers about $200 per employee per year, largely offsetting the tax increase that hit New York employers with their UI tax bills received earlier this year.

While this bill will provide welcome cash-flow relief to many businesses, especially smaller businesses in sectors most significantly impacted by COVID-related slowdowns or shutdown, it hardly fixes the overall problem of UI taxes. The state's UI account has taken more than $9 billion in advances from the federal government as benefit payments – driven by state government-directed shutdowns – far exceeded the state's fund balance and ongoing employer tax payments. Repayment of that federal debt will also be repaid exclusively by increases in state and federal UI payroll taxes. New York needs to consider approaches being applied by other states, such as use of federal COVID relief funds, or long-term refinancing measures, to provide more significant and permanent UI tax relief for New York employers.

For these reasons, The Business Council supports adoption of S.6791 (Kaplan) / A.7788 (Zebrowski), and looks forward to working with the legislature and administration on additional UI tax relief measures.