



Fix New York: The 2015 Legislative and Regulatory Agenda

Working to create economic growth, good jobs
and strong communities across New York State.

Your Voice, Our Voice, One Voice.



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On the following pages we present The Business Council's 2015 Legislative and Regulatory Agenda. It reflects both the diversity of our statewide membership, as well as the broad public policy agenda confronting the business community. It includes proactive initiatives to improve the state's business climate, promote new private sector investment and job creation, and identifies proposals damaging to business that we will work against.

During the 2014 Legislative Session there was real progress toward improving the state's business climate including a fourth consecutive low-growth, on-time budget and significant business and estate tax reform.

Our challenge in the 2015 Legislative Session will be to continue that progress on other issues that our members tell us are critical to growing and strengthening New York's economy, while countering calls for increased state spending, new taxes and new employer mandates.

The Business Council's legislative priorities for 2015 include state fiscal restraint, targeted spending for infrastructure improvements and regulatory reform. As always, we welcome members involvement in our advocacy efforts.

Heather C. Briccetti, Esq.
President and CEO

The Business Council “Top Ten” Objectives

1. Keep state budget growth under 2-percent and resist temptation to spend more.
2. Pass an on-time budget.
3. Reduce energy costs by repealing the 18-a assessment on energy which increases energy costs for all businesses; authorize the development and deployment of Liquefied Natural Gas (LNG) infrastructure and expand the state’s natural gas distribution network.
4. Direct spending of the \$5 billion financial settlement windfall to badly needed improvements to roads, bridges and other public infrastructure.
5. Simplify and ease the regulatory burden that businesses face by conforming state regulations to federal regulations wherever possible and eliminating unnecessary over-regulation.
6. Enact statutory and regulatory workers compensation reforms that will lower employer costs while preserving quality care for workers injured on the job.
7. Reform the state’s antiquated Scaffold Law by adopting a standard that assigns comparative negligence similar to that in place for other forms of liability.
8. Reject calls for additional wage mandates such as further increases to the state minimum wage and mandatory paid family leave.
9. Extend and reform the highly successful Brownfield Cleanup Program.
10. Advance education and workforce development initiatives, which include expanding the NYS P-TECH program, lifting the cap on charter schools and supporting the continued implementation of the Common Core standards.

Progress on these key items would keep New York State moving in a positive direction, toward increased economic growth, good jobs and stronger communities. The following provides a more detailed review of the issues The Business Council will be advocating for during the 2015 Legislative Session.

We look forward to working with our members to advocate for change while engaging with the broader business community and legislators statewide on our 2015 advocacy efforts.

Campaign Finance Reform

The call for campaign finance reform has been renewed in the wake of additional scandals involving elected officials. Many proposals to “fix corruption,” have a flawed approach; they focus on a taxpayer financed campaign system, similar to the New York City system, and do not address changes necessary for true reform and parity amongst all parties impacted by elections. The Business Council:

- Supports the fair and equal treatment of all participants in political advocacy with regard to the ability to generate and use resources. We oppose proposals to impose significantly disparate rules on participants in political advocacy.
- Supports adoption of four-year legislative terms as a means to reduce campaign spending and fundraising, as an alternative to more onerous “reform” proposals that would limit political advocacy.
- Opposes proposals to use enforcement-related revenues to support public campaign financing.
- Opposes taxpayer financing of campaigns.

Corporate Governance

It is critical that the state promote public confidence in corporate governance while avoiding mandates that make New York uncompetitive with other states. The Business Council:

- Opposes mandates for remote shareholder participation and proxy voting at shareholder meetings.
- Opposes new compliance burdens on New York State businesses, such as, requiring companies to obtain majority shareholder approval for political donations or communications on public policy issues.

Economic Development

As New York works to improve its overall business climate, The Business Council backs measures that support new investment in strategic industries. The Business Council:

- Supports legislation that assures that new economic development project assistance is made available to significant development projects statewide.
- Supports in-state pharma clinical trials through tax and financial incentives.
- Supports the adoption of a new, as of right, refundable research and development tax credit for both capital and other qualified research expenses.
- Opposes amendment of eminent domain laws that would apply new, broad definitions of “blight.”
- Opposes legislation to impose unnecessary procedural and substantive requirements on economic development assistance provided by state and local public authorities.

Education/Workforce Development

The Business Council supports innovative educational models to better prepare students for entrance into college and/or career. The Business Council:

- Supports federal immigration reform, including expansion of the H-1B visa program.
- Supports metrics that measure the effectiveness of existing state workforce training investments in meeting regional workforce needs.
- Supports reductions in burdensome state mandates on school districts, to allow them to better function under the 2-percent real property tax cap.
- Opposes legislative efforts to delay Common Core implementation.
- Supports legislation to enable charter schools to form consortia or to pool resources to better serve children with special needs under the Charter School Students with Special Needs Act.
- Encourages public-private partnerships, using alternative education models such as the Pathways to Technology Early College High School (PTECH).
- Supports improved alignment of existing state and federal workforce training resources with regional economic development needs.
- Promotes increased public awareness that “middle skills” positions — those that require more than a high school diploma but less than a four-year degree — are good-paying, high-demand jobs.

Energy

Reducing energy costs and promoting adequate and diverse energy supplies will help support economic growth. The Business Council:

- ▶ Supports expedited phase-out of the Section 18-a assessment.
- ▶ Supports reducing the nearly \$1 Billion in current ratepayer assessments collected to fund Energy Efficiency Portfolio Standard (EEPS) and System Benefits Charge (SBC) and the Renewable Portfolio Standard (RPS) through the adoption of more cost effective and market driven solutions to achieving social objectives.
- ▶ Supports finalization and implementation of liquefied natural gas (LNG) storage rules, and a repeal of statutory requirements for state approval of transportation routes.
- ▶ Supports relicensing of Indian Point (and recognizes the value of New York’s nuclear energy generation units.)
- ▶ Supports adoption of new methodology for real property tax assessments for transmission upgrades.
- ▶ Supports a comprehensive review of the imposition and use of energy assessments, including past use of funds and current program fund balances, before any extension of increase is considered.
- ▶ Opposes legislation creating a “Citizen Utility Board,” a duplicative consumer advocate function within the Department of Public Service, funded by additional utility assessments.

Environment

New York has a stringent environmental regulatory program that imposes costs and operational restrictions on businesses and impedes capital investment and job growth. The Business Council:

- ▶ Supports extension of the brownfield remediation and redevelopment tax credits; reforming the brownfield program to include Superfund and RCRA sites, and to expedite review and approval of remediation projects.
- ▶ Supports improving SEQRA and permitting programs to give business a more certain, workable timetable for the environmental review of development projects.
- ▶ Supports legislative incentives for asbestos abatement in redevelopment projects.
- ▶ Supports reforms to air emission regulations including Part 212 regulation of air toxics and updated reportable qualities for release reporting.
- ▶ Opposes new state-level chemical/product use restrictions.
- ▶ Opposes legislation that requires GHG emissions reporting from virtually all emission sources in the state, and imposes an enforceable limit (no higher than 1990 total emissions) on the aggregate greenhouse gas emissions from all in-state sources.





Financial Services

To promote continued growth and economic activity in the financial services industry, The Business Council:

- Supports legislation authorizing minority non-CPA ownership in public accountancy firms.
- Supports no-fault insurance reform.
- Supports the adoption of workable standards for use of pay cards by employers.
- Opposes any expansion of the Martin Act, including but not limited to, provisions allowing pension fund initiation of enforcement actions.
- Opposes post-Sandy disaster insurance reforms.
- Opposes the whistleblower protection act.
- Supports expedited foreclosure legislation, focused on abandoned property.

Government Procurement

The process of selling goods and services to state government is increasingly cumbersome, with more businesses, including Minority and Women's Business Enterprises (MWBs), bypassing this significant business opportunity. To make the procurement process more efficient. The Business Council:

- Supports legislation to required more detailed de-briefing after contract awards.
- Supports expansion of state programs that allow affordable performance bonds for small business contractors.
- Supports flexibility in types of performance guarantees and other provisions required for procurement contracts.
- Promotes leasing of technology equipment by state and municipal government entities.
- Opposes legislation to prohibit state contracts from being awarded to a vendor if they require employees to engage in arbitration for alleged violations under Title VII of the Civil Rights Act of 1964 or Article XV of the Executive Law.

Health and Health Insurance

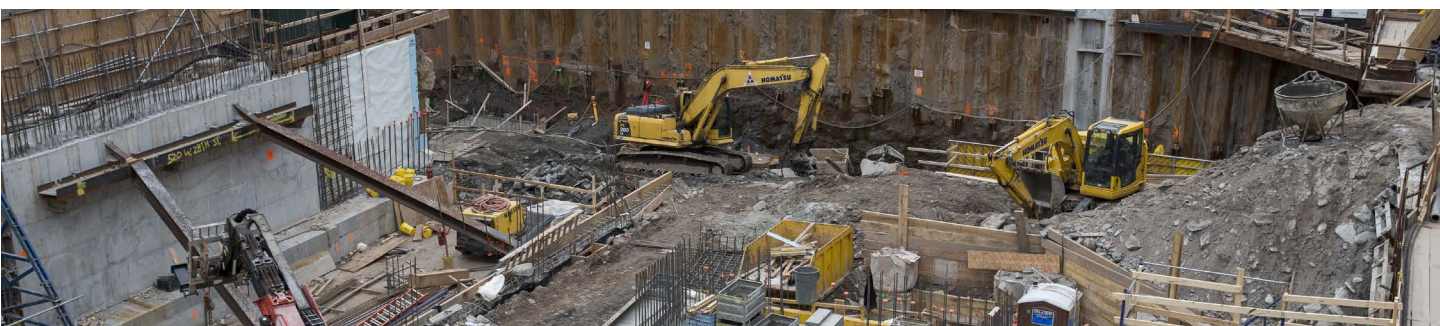
The cost of health care remains the number one concern among all Business Council members. The Business Council:

- Supports efforts to ensure that the Department of Financial Services (DFS) adheres to state laws, specifically the State Administrator Procedure Act, and not utilize non-SAPA documents to implement the law.
- Supports transparency in rate-setting by DFS.
- Supports efforts to redefine “small group” for purposes of purchasing stop-loss insurance as well as supporting state parity in definitions pursuant to any changes in the Affordable Care Act (ACA) federal law.
- Supports efforts to bring transparency to the Department of Health’s Medicaid Redesign Team: Basic Benefit Review Work Group.
- Supports an assessment of impact of the ACA on bad debt/charity care and support adoption of reductions in related New York Health Care Reform Act taxes.
- Opposes any cost shifting or new taxation for the benefit of sustaining New York’s health exchange/ marketplace.
- Opposes any unfunded mandates on private insurance that lead to cost increases, including mandates on nursing staff ratios.
- Opposes unnecessary and duplicative state efforts to regulate FDA-regulated products such as the imposition of mandatory warranties on medical devices.
- Opposes out-of-network reimbursement mandates.

Infrastructure (Transportation/Construction)

Significant investment in public infrastructure is necessary to ensure the efficient flow of goods, services and people. Rebuilding New York’s aging infrastructure requires alternatives to the standard approach of financing, constructing and operating our transportation systems. The Business Council:

- Supports renewal of the design-build method of project delivery.
- Supports reforming New York’s antiquated Scaffold Law by adopting a standard that assigns comparative negligence similar to that in place for other forms of liability.
- Supports adequate funding of the NYS DOT 5 year-capital plan and the MTA Capital Program.
- Supports reform in the method for determinations of public work prevailing wage rates.
- Supports the NYS Emergency Responder Act.
- Opposes any mandatory Project Labor Agreement (PLA) requirement.
- Opposes extension of prevailing wage mandates to private sector activities.



Labor/Human Resources

Employers need a stable Labor Law environment and the ability to design pay and benefit programs that fit their industry, size, location, profitability and competitive environment. To achieve these objectives, The Business Council:

- Supports adoption of reasonable provisions regarding wage equity, reasonable accommodations and other components of gender equity legislation ensuring that state standards conform to federal provisions.
- Supports reforms to ensure that “prevailing wage” determinations accurately reflect regional private sector wage levels.
- Opposes proposals for mandated leave, sick time, vacation time and other time-off.
- Opposes new pay mandates, including authorizing localities to increase their minimum wage, and any extension of public works prevailing wage to private sector activities.
- Opposes legislation creating specific staffing ratios for nurses and other direct care staff in hospitals and nursing homes.
- Opposes legislation adopting a single payer health program that eliminates private health insurance.
- Opposes legislation authorizing the Department of Labor to enforce conditions of contracts with independent contractors.
- Oppose legislation to extend state labor law provisions on collective bargaining, overtime and disability to farm employees.
- Encourages the use of voluntary best practice flexible workplace arrangements.

Lawsuit Reform

A state’s framework and policies for dealing with lawsuits and legal issues can have a significant issue on the state’s overall business climate. To improve its legal climate for investment and growth. The Business Council:

- Supports reforming the antiquated Scaffold Law by adopting a standard that assigns comparative negligence similar to that in place for other forms of liability.
- Supports the adoption of a \$250 million appeals bond cap regarding the Master Settlement Agreement.
- Opposes legislation amending the CPLR to allow a plaintiff to obtain an indirect recovery from a third-party-defendant when that plaintiff’s judgment against an original defendant was not satisfied within thirty days of the judgment being served.
- Opposes legislation to would reverse the recent Court of Appeals decision in *Auqui v. Seven Thirty One Limited Partnership*, which clarified the usage of “collateral estoppel.”
- Opposes legislation creating new private rights of action.



Taxation

The Business Council supports broad-based tax reform, as well as enhanced credits focused on key business sectors. The Business Council:

- Supports conforming New York City's general corporation and bank tax with state business tax reforms adopted in 2014.
- Supports permanently extending the real property tax cap.
- Supports ensuring that assessed values of real property improvements associated with PILOT agreements are included in calculation of the RPT cap "tax base growth factor."
- Supports the expedited final phase-out of the Section 18-a assessment on business energy consumers (assessment remains at 1.00% for 2015, and .73% for 2016.)
- Supports reducing business income tax rates, including the effective PIT rate on small business/pass-thru entities.
- Supports Improving and streamlining real property tax administration, including: providing for the escrow of challenged tax payments; county-level assessments; fixed reassessment cycles; uniform, full market value assessments for all property classes; and reforming the assessment challenge process.

Technology/Telecommunications

To promote continued reinvestment in New York's technology and telecommunications sectors. The Business Council:

- Supports legislation that would prohibit the state from imposing new regulations on phone services that use Voice over Internet Protocol (VoIP) technology.
- Opposes call centers mandates.
- Opposes online consumer data restrictions.
- Opposes ban on employer access of employee personal accounts in specific work-related circumstances.
- Promotes computer science in high school curriculum.

Travel and Tourism

New York has a broad tourism industry, including culture, history, restaurants, entertainment, destinations, parks and more. To help this statewide industry. The Business Council:

- Supports an increase in the discretionary program spending thresholds in the "I Love NY" program.
- Supports designation of a fourth casino site in the southern tier.
- Supports legislation to clarify the treatment of service charges added to dining bills, as to when such charges are considered receipts versus gratuities.



Workers' Compensation

The costs of the state's workers' comp system continue to grow year to year, due the more than doubling of maximum benefits and slow implementation of cost-saving reforms. Additional reform measures are needed to ensure that intended cost savings are achieved. The Business Council:

- ▶ Supports updating the Workers' Compensation Board's (WCB) scheduled loss of use awards impairment guidelines.
- ▶ Supports mandating the use of panel providers for the first ninety days of medical treatment.
- ▶ Supports repealing the Aggregate Trust Fund Deposit mandate on commercial workers' comp carriers.
- ▶ Supports continuing in the WCB process "re-engineering" process, to ensure that the proposed changes benefit employers.
- ▶ Supports either de-indexing or adoption of regional indexing for workers' comp program maximum weekly benefits, or elimination of high and low-wage outlier sectors from index calculation.
- ▶ Supports allowing apportionment of death benefits in cases where a non-compensable disability/injury is the basis of apportionment.
- ▶ Supports creating a rebuttable presumption of achievement of maximum medical improvement at two years from the date of injury, or alternative trigger for PPD classifications.
- ▶ Opposes any rollback of 2007 cost-savings measures, such as restrictions or delays in permanent partial disability classifications, restrictions on the use of pharmaceutical networks, or others.

The Business Council Government Affairs Team

The Business Council's government affairs team advocates for our members on both industry-specific and broad-based business issues. For additional information, please call 518.465.7511 or visit our website www.bcnys.org.



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