



www.njbia.org/recovery

Date: April 1, 2020

Re: New Jersey Business Coalition - COVID-19 Legislative and Administrative Relief Package

Dear Governor Phil Murphy, New Jersey State Senate and New Jersey General Assembly

From: New Jersey Business Coalition

African American Chamber of Commerce of New Jersey, Inc.

BioNJ

Cape May County Chamber of Commerce

Capital Region Minority Chamber of Commerce

Center for Non-Profits

Chamber of Commerce Southern New Jersey

Chemistry Council of New Jersey

Commerce and Industry Association of New Jersey

CrossState Credit Union Association

Early Childhood Education Advocates

Employers Association of NJ

Fuel Merchants Association of NJ

Garden State Pharmacy Owners, Inc.

Gloucester County Chamber of Commerce

Greater Atlantic City Chamber of Commerce

Greater Toms River Chamber of Commerce

Greater Westfield Area Chamber of Commerce

Health Care Association of NJ

Healthcare Institute of NJ

Home Care & Hospice Association of New Jersey

Hudson County Chamber of Commerce

Hunterdon County Chamber of Commerce

Insurance Council of New Jersey

Marine Trades Association of New Jersey

Monmouth-Ocean Development Council

NAIOP - NJ

Newark Regional Business Partnership

New Jersey Builders Association

New Jersey Business & Industry Association

New Jersey Campground Owners and Outdoor Lodging Association

New Jersey Child Care Association
New Jersey Civil Justice Institute
New Jersey Dental Association
New Jersey Hotel and Lodging Industry Association
New Jersey Food Council
New Jersey Gasoline-Convenience-Automotive Association
New Jersey Association of Mental Health and Addiction Agencies
New Jersey Association of Osteopathic Physicians and Surgeons
New Jersey Independent Electrical Contractors Association
New Jersey LGBT Chamber of Commerce
New Jersey Manufacturing Extension Program, Inc.
New Jersey Motor Truck Association
New Jersey Pharmacists Association
New Jersey Podiatric Medical Society
NJ Restaurant & Hospitality Association
New Jersey Realtors
New Jersey Retail Merchants Association
New Jersey Society of Certified Public Accountants
New Jersey State Funeral Directors Association
New Jersey Tech Council
New Jersey Tourism Industry Association
New Jersey Utilities Association
NJ State Veterans Chamber of Commerce
NFIB
New York Shipping Association, Inc.
Professional Insurance Agents of New Jersey
Salem County Chamber of Commerce
Somerset County Business Partnership
Southern Ocean County Chamber of Commerce
Union Township Chamber of Commerce
United Way of Northern New Jersey
Utility & Transportation Contractors Association

As the leaders of New Jersey’s major business organizations who collectively provide millions of jobs in the State, we want to first say that the health, welfare and safety of the people of New Jersey should be and is everyone’s priority in this unprecedented public health crisis. Our first goal is to flatten the curve of this dangerous virus. And, on behalf of the workforce that our members collectively employ who are being impacted by the necessity to close or limit business operations, we want to say thank you for your recent legislative actions to begin to address the

impacts from the coronavirus pandemic. These measures will provide some needed relief to employees across the State.

However, more relief is needed and it is needed quickly. Like us, you must be hearing from many of your constituents that the recent enactments do not go far enough to help the hundreds of thousands of small businesses being impacted today. They are frightened and need immediate assistance. While they are making every effort to stay in business and keep their employees on the payroll, this is an incredibly difficult task for many who have little or no revenue coming in and no cash reserves to fall back on. They need relief not only to protect their businesses, but to preserve the jobs for their employees and the State's economy as a whole.

We want to clarify that when we talk of small business, we include nonprofit organizations who employ nearly 10% of our State's private workforce. Independent contractors are also small businesses, who are being hit hard by this crisis and need to be recognized as such, similar to how the federal CARES Act of 2020 does. Small businesses represent over 98% of the State's business demographic and are the backbone of our economy, employing over 50% of our workforce.

We are not naïve to the fact that the State's budget was stretched even before this pandemic and will likely be even more challenged as a result of all the business closures and lack of economic activity. Business activity, and the jobs they produce, generate the tax revenues that fund the budget.

But we also need to be prepared to bounce back even stronger and the only way to do that is to ensure that our small businesses have the necessary resources to stay afloat during this crisis and are able to open their doors when the time arrives.

Federal assistance is essential to this effort, and we are actively digesting the breadth of the CARES Act. However, the State also has an essential role in ensuring that our businesses can expeditiously take advantage of federal relief efforts and provide small businesses with the temporary or longer-term resources they need to survive.

In order to address the concerns of our small business community, we have compiled a list of legislative and executive initiatives for your consideration. This list is constantly being updated based on the needs of our members and developments on the federal level. It serves as a starting point for addressing the economic challenges our members face. Each of these ideas is not necessarily endorsed by every signatory to this letter, but this list embodies a comprehensive overview of what we think the State of New Jersey can do to best assist our beleaguered economy. We hope that you will be supportive and act with the same speed and urgency as you did for the recently adopted package of bills.

Thank you so much for your consideration of our collective ideas!

Ideas for COVID-19 Legislative and Administrative Relief Package

New Jersey small businesses, including non-profits and independent contractors, are used to challenges, but clearly their collective fortitude is being put to the ultimate test in the State's efforts to flatten the coronavirus curve. The efforts of our many employers to keep their workforce intact and their customers satisfied should be roundly applauded. Sadly, some are looking at an unfortunate numbers game. Thousands of our members throughout the State have many legitimate concerns about how long, or if, they can survive with limited or even zero revenue coming in. Some have been forced to lay off their workers and even worse, consider closing their doors. Given these unprecedented times, the New Jersey Business Coalition (comprised of leading employer advocates throughout the State) is encouraging our lawmakers to adopt policies to assist these job creators who are in need of an immediate capital infusion and regulatory relief if they are going to navigate the new norm and survive the coronavirus pandemic. These ideas may not be endorsed by every signatory to the above letter, but this list represents a comprehensive overview of what we all believe the government can do to best support our employers and employees.

Business Relief Without Impacting State Revenues:

- 1) Ensure that an employer's UI experience rating (or the unemployment claim reimbursements for certain nonprofits that have chosen a UI alternative) is not negatively impacted by layoffs during a public health crisis to avoid increased unemployment insurance taxes. (STATE)
- 2) Create an "Economic Recovery Coordinator" position in the Governor's Office to serve as the point person for all economic relief initiatives after the emergency has passed. This position should support the Governor and oversee executive branch action to help the economy, including acting as the "one stop" to coordinate cross department/agency needs, fast-tracking permits for projects that could get people back to work sooner, and the like. (STATE)
- 3) Extend state and local permits on projects that may be delayed until after the COVID-19 crisis passes, and extend all rule-making timelines, both in regulation and statute, past the current public health crisis. Furthermore, actions should be taken to ensure that local permitting does not interfere with business openings during the recovery. (STATE)
 - This action would resemble the Executive Order from Maryland Governor Larry Hogan (<https://governor.maryland.gov/wp-content/uploads/2020/03/Licenses-Permits-Registration.pdf>).

- 4) Relax rules in regulations and statutes where appropriate regarding workforce licenses and reporting during and after this COVID-19 crisis to: *(STATE)*
 - allow more students in the healthcare industry to assist hospitals in need;
 - allow non-profits to address new priorities and/or unanticipated expenses stemming from the outbreak and expediting their approval process for contract budget modifications that do not increase costs;
 - focus health and social service efforts on public health and safety instead of paperwork; and
 - extend expiring licenses and relax rules on current licenses to make it easier to maintain jobs without having to visit an office and/or take away focus from providing important services.
- 5) Loosen hours-worked rules in regulation and statute so an increase in hours to deal with an emergency, such as in a hospital or food store, does not trigger a slew of new labor mandates that an employer or employee may not want or be able to afford. *(STATE)*
- 6) Clarify and enhance in statute that all businesses are permitted to carry forward their COVID-19 financial losses for tax purposes, including both CBT and GIT paying businesses. *(STATE & FED)*
- 7) Better facilitate remote workplace dynamics by providing waivers for any statute that requires a physical presence where one is no longer necessary to conduct business because of new technology. *(STATE)*
 - For example, businesses have requested permission to allow some pharmacists that can do their job remotely to work from home.
- 8) Allow businesses that need government signoffs to continue their work with government involvement continuing remotely, and require government entities to accept electronic payments. This would include ensuring that quasi-judicial local boards, such as planning and zoning boards, have the ability to conduct virtual public meetings to allow projects to proceed (as outlined in the DCA's Operational Guidance issued March 25). *(STATE)*
 - For example, realtors are concerned about real estate closings not proceeding when municipal and county governments are closed. A solution could be to temporarily transition proceedings to licensed third parties where appropriate or sign affidavits with towns that require a buyer to complete a CO as soon as the emergency order is lifted.
- 9) Address/clarify the WARN Act and its recent expansion to address what is "reasonably foreseeable" to prevent unintended consequences from hurting both employees and employers, as did California. *(STATE)*

- 10) Ensure that social distancing policies are clear and do not go too far as to devastate the economy without a strong public health reason. Ensure that Governor Murphy's Executive Orders related to business closures/social distancing are the only operative guidelines and pre-empt any local efforts. (*STATE*)
 - For example, Governor Murphy's Executive Order 107 strikes a nice balance of what business could be open and what needs to close, while Executive Order 110 can be seen as inconsistent with 107, about which workers will need child care.
- 11) Provide litigation protection for employers and healthcare providers who act in good faith, following public health guidance. A plaintiff should have to show gross negligence to recover for a COVID-19-related injury. (*STATE & FED*)
 - No business or health care provider knows all the right answers in this unprecedented public health emergency. Public health guidance has evolved significantly over the course of the crisis and reliance on that advice should be protected. Liability protection would also give employers the confidence to rehire workers and resume economic activity once the crisis has passed.
- 12) Clarify in law that all state tax deadlines are extended. (*STATE & FED*)
 - This recommendation has been partially addressed in A-3841/S-2300, which recently passed the Legislature. However, it needs to be determined how the bill interacts with the recent federal deadline extension and confirm that this does not limit existing extension flexibilities such as common corporate extensions to October.
- 13) Adjust COBRA and health care continuation laws to mirror what was done during the Great Recession. (*STATE & FED*)
- 14) Maintain a labor force for burdened industries as much as possible in current economic uncertainty by: (*STATE*)
 - administering working papers for minors despite school closures;
 - job matching laid off workers with high demand industries;
 - providing unique and appropriate childcare options; and
 - educating the public on which businesses are open and where there are job openings.

Economic Relief Dependent on Federal Aid to Cover New State Spending or Foregone State Revenues:

- 1) Short-term suspension of sales, payroll (income tax withholdings, UI, FICA, etc.) and gas tax remittance for small businesses forced to close or significantly scale back their

business model; such as, hospitality, personal care service, non-essential retail businesses and other hard-hit employers who have lost business as a result of the COVID-19 health crisis. (*STATE & FED*)

- If federal aid is large enough, forgiveness of the collected tax for employers that maintained their FTE and wage levels should be considered.
- 2) Provide tax credits for businesses paying employees who cannot work. (*STATE & FED*)
 - This could include paying:
 - an employee who is quarantined and can't work;
 - an employee of a business that closes its worksite and/or can't operate remotely.
 - This recommendation has been partially addressed in A-3846/S-2293, which was passed by the Legislature.
 - 3) Support the creation of a federal "Business Continuity Protection Recovery Fund" which would provide direct grants to businesses suffering from corona virus-related losses. A federal program would be preferable to avoid disparate treatment of businesses from state-to-state. This Recovery Fund is supported by a wide coalition of business and insurance trades, all of whom signed a letter to the White House and Congressional leaders. (*FED*)
 - 4) Create a new fund to support sole proprietors, independent contractors, corporate officers (who work for small businesses that do not permanently cease operations) and other workers that may not currently fit the UI system when they lose their work in a public health crisis with a declared state of emergency and are not permitted to go on unemployment insurance. (*STATE & FED*)
 - This recommendation could be partially addressed with A-3846/S-2293 that passed the Legislature if the bill's compensation for individuals with lost wages includes sole proprietors and independent contractors.
 - 5) Provide support for businesses that have to pay increased state and federal sick leave costs, but are struggling just to meet all payroll obligations. (*STATE*)
 - 6) Provide grants to small businesses and non-profits that have donated and/or were required to contribute PPE supplies as per government order. Many have depleted their own PPE supplies and this would allow them to restock and get back up and running as quickly as possible after this crisis passes. (*STATE*)
 - 7) Clarify in state and federal law that grants and forgiven loans from the State and federal government are not considered taxable income. (*STATE & FED*)

8) Support social service providers. (*STATE & FED*)

- Social service providers could lose significant money due to the looming government revenue shortage and the economic impacts of COVID-19. The shift away from upfront state payments to fee-for-service hurts more in an environment where fewer services are allowed to be provided because of COVID-19. Could there be some way to temporarily restore some upfront payments to them, or if the fee-for-service transition is too hard to adjust to, could there be some other support provided to these businesses that lose patient-load but are important for the social fabric of our communities? In any event, NJ social service providers must be seen as priority payment recipients in this time of social crisis.
- It is also important to support non-profit social service organizations that are not contracting with government but provide a critical mission supplementing government services.

9) Support healthcare providers. (*STATE & FED*)

- Provide hospitals and long-term care facilities, community-based care, etc., with enhanced reimbursement to cover the additional cost that they encountered in order to care for patients testing positive for COVID-19 and to prevent the spread of the virus to other patients and workers.

10) Allow state charitable deductions to help support non-profit businesses that often are on the front lines of the COVID-19 response. (*STATE*)

Questions, comments, concerns?

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