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The Beltway Small Business Report

Congress Faces Long Business 'Must Do' List

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Unfinished business awaits Congress when they reconvene on Jan. 15. There's a long list of priorities, among them key business measures that expired in 2007.

But, the first big splash on Capitol Hill won't be about business, or the economy. Anticipation is building about the upcoming House hearings on steroid use by Major League Baseball players. The House Committee on Oversight and Government Reform is **planning two days of hearings beginning on the morning of Jan. 15.**

Roger Clemens is set to testify on day one. His recent round of media appearances is fueling speculation of high drama in the hearing room. If nothing else, the two-day event could fill some TV programming holes if the writers' strike continues.

Rome (the economy) may be burning – or, so claim House and Senate leaders – but America's greatest pastime must be saved from itself.

OK, so I digress – back to business.

Business leaders and companies hope the Congress will focus on items it failed to address before the holiday break. For example, here are two measures that expired:

The Research and Development (R&D) Tax Credit

Every couple of years the business community returns to Capitol Hill, pleading their case to renew the R&D tax credit. This year is no exception.

The credit has always been temporary (despite efforts to make it permanent), and the current measure expired on Dec. 31, 2007. This marks the thirteenth time it has run out since its enactment in 1981. Once again, the lobbying push is frantic as businesses from diverse industries want certainty when it comes to executing on financial plans for their R&D projects.

Like the Alternative Minimum Tax "patch" and the Internet tax moratorium extension before it, Congress has a habit of waiting until the last hour before acting on deadlines. In the most previous effort to extend the R&D credit, it had expired for almost the entire year before Congress acted on Dec. 12, 2006. It was made retroactive for the year and extended for one more (through 2007).

Members on both sides of the aisle insist the tax credit will be extended. It just won't be done in a manner that is convenient for its users – that is, U.S. businesses.

The H-2B Returning Worker Exemption: On Sept. 30, 2007, the returning worker exemption for temporary foreign workers (H-2B visas) expired. This means many small firms will not have seamless access to temporary seasonal workers.

Because the annual H-2B visa cap is hit so quickly each year, legislation was advanced to exempt those who previously held H-2B status during one of the previous three years to return on the visa without counting against the cap. Now, however, the visa program reverts back to its original status, which means only 66,000 H-2B visas will be available in 2008. Of course, the need and demand is much higher.

In fact, the U.S. Citizenship and Immigration Services (**USCIS**) reported last week that it has received a sufficient number of applications to reach the congressionally mandated H-2B visa cap for the second half of 2008. In other words, the total cap for 2008 has already been reached.

In 2007 alone, according to International Personnel Resources (**IPR**), a company that specializes in H-2B visa processing,

nearly 250,000 employees in the landscaping, golf course maintenance, tourism and hospitality, seafood processing industries and other seasonal service-related fields participated in the H-2B program. IPR reports that small business owners are already suffering real consequences stemming from the program's expiration. If certain industries do not have access to a steady workforce, this could seriously harm firms, as well as local economies.

The "Save our Small and Seasonal Business Act" (S.988/H.R. 1843) has been introduced in the House and Senate. The legislation in the Senate provides for a 5 year extension of the H-2B extension, while the House bill proposes to make the exemption permanent.

Unfortunately, the extension of the H-2B returning worker exemption is mired in ugly "immigration politics." Some liberal members of Congress want to impose specific minimum wage requirements on firms using H-2B employees, while making them jump through more bureaucratic hoops in proving they can't find U.S. workers to fill these jobs. Anti-immigration sympathizers are so caught up in their "enforcement first" agenda, that they remain closed to the facts. That is, that the H-2B program is a legal avenue for foreign workers to help the U.S. meet its tight labor-market needs.

Extending the returning worker exemption is supported on a bipartisan basis, but Congress may not act until constituent and media pressure reaches a boiling point. Firms are already scaling back operations and planning for the worst, but until Congress "hears" this happening on a broader scale they will dither on the issue of extension.

Political leaders claim the "new direction Congress" is doing things that matter to average Americans. It seems fair to question their sincerity when the immediate focus is on professional athletes who do stupid things to destroy their careers and bodies.

Dear Readers: President Bush is reportedly developing an economic stimulus package – what do you think he should or should not include? Send your top ideas to kkerrigan@sbecouncil.org, and I will list them in my next Small Business Beltway Report.

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