



FUBA iSSUES

Florida United Businesses Association

OUR BUSINESS IS SMALL BUSINESS

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LEGISLATIVE UPDATE

The Florida Legislature recently concluded its 2010 Regular Session. During the Session, lawmakers considered a number of bills affecting small businesses. In this edition of ISSUES, we summarize some of the bills that were approved by the Legislature and will become law, unless they are vetoed by the Governor. Look for additional summaries next month. If you have any questions about the bills summarized below, please call the FUBA offices and ask for Karen, Lance or Erin.

Unemployment Compensation

Senate bill 1736 makes several important changes to Florida's unemployment compensation law that will affect employers:

- **Employer Response to Notice of Claim:** When someone files for unemployment benefits, the state Agency for Workforce Innovation sends the former employer notice of the claim. Currently, employers have 10 days to respond to the notice and provide their side of the story. Under this bill, employers will have 20 days to respond. If an employer does not respond within 20 days, the employee will be awarded benefits, and the employer's account will be charged.
- **Filing Penalties:** Employers with 10 or more employees are required to file their unemployment tax return and pay their taxes electronically, unless they have received a waiver from the Department of Revenue. This bill increases the penalties from \$10 to \$50 on employers who are required to file electronically and do not do so (the penalties don't apply if you have a waiver).
- **Incomplete Reports:** Employers who file incomplete quarterly reports (also call the UCT-6) with the state will be subject to new

finer of \$50 or 10% of the tax due. The penalty will be waived if the employer files an accurate and complete report within 30 days of the penalty notice. Employers will not be penalized for incorrect information supplied by their employees, as long as the employer was not aware of the inaccuracy.

Taxes

House Bills 483 and 469 re-create the sales-tax holiday, but for only 3 days this year. From August 13th through the 15th, the following items will be exempt from the state sales tax as well as county sales taxes:

- Books that cost \$50 or less
- Clothing and footwear that cost \$50 or less
- Wallets and bags (like backpacks and purses) that cost \$50 or less
- School supplies that cost \$10 or less

House Bill 5505 affects all corporations and Limited Liability Companies (LLC's) that file their Annual Report to the state Division of Corporations after the due date of May 1st. Under this bill, the state will no longer waive the \$400 late fee that is charged when a corporation or LLC files its Annual Report late. Because the state no longer sends postcards to companies reminding them to file their Annual Report, all corporations and LLC's should mark their calendars to make sure their Annual Report is filed no later than May 1st of each year. Otherwise, you will have to pay a \$400 late fee, in addition to the filing fee.

House Bill 5801 creates a state tax amnesty program for 3 months from July 1, 2010 through September 30, 2010. During these 3 months, a taxpayer (including a business) who has an outstanding tax liability can pay the taxes due and receive a reduction in the interest that

is due. Also, all penalties on back taxes will be waived.

House Bill 7157 is a general tax bill that addresses a number of areas.

- Unemployment Tax – If a business owes outstanding unemployment taxes, the Department of Revenue can reduce a refund or credit owed the business for other taxes by the amount of the unemployment taxes due.
- Vending Machines – The bill removes certain identifying taxpayer information from vending machine notice decals that are required to be publicly displayed.
- Suspensions of Licenses – The bill allows the state Department of Business and Professional Regulation to suspend a license or deny an application for a new license if the license holder owes back taxes.
- Limited Liability Companies – The bill requires that single-member LLC's be treated as employers for unemployment tax purposes.

Construction

House Bill 1157 makes changes to the Local Government Prompt Pay law, including:

- The bill provides that a local government entity must identify the agent or employee of their office to whom a contractor may submit its payment request or invoice. This provision will result in having a single receiving agent that would be identified in advance to contractors doing work for city or county governments.
- The bill revises the definitions of "payment request" and "proper invoice" to provide that these requirements must be included in the contract for the construction project.
- The bill provides that the contract must provide for the development of a single punch list for the construction services purchased by the local government entity. The contract must specify a date for the delivery of the punch list, not to exceed 5 days after the punch list have been developed and reviewed.

Regulation

House Bill 33 affects businesses that sell alcoholic beverages. Under the bill, it will be a

second degree misdemeanor to sell or serve alcoholic beverages to someone under 21. However, the bill creates a defense for a person charged with this crime: if the buyer provided a fake ID, appeared to be over 21, and the person carefully checked the buyer's ID card.

House Bill 1565 is an anti-regulation bill that requires state agencies to analyze their regulations to determine whether they will have an adverse impact on small businesses. Under the bill, agencies are required to consider lower-cost alternatives.

Senate Bill 2086 relates to collecting consumer debts. It requires written notice provided to the debtor prior to taking action to collect a debt.

Lawsuit Abuse

House Bill 689 is pro-business bill dealing with "slip and fall" lawsuits where customers sue businesses for injuries they receive from slipping on something and falling on the business premises. The bill makes it easier for businesses to defend this kind of lawsuits and puts the burden of proof back on the injured person.

Economic Development

Senate Bill 1752 encourages the state's economic recovery by encouraging business growth. It contains numerous provisions, including:

- \$3 million in grants to assist small businesses seeking federal research and development funding.
- 2-year sales tax refund program for manufacturing businesses.
- Tax credits to any new or existing qualified targeted industry business that hires a new employee who is unemployed.
- Florida residents given hiring preference in public construction projects.
- 2-year extension of all permits issued by local governments.

Health Care

House Joint Resolution 37 is a reaction to the federal health care law. It proposes an amendment to the Florida Constitution that would prohibit any employer from being forced to participate in any health care system or to pay for health care services.