

CAPITOL INSIGHT

GOVERNMENT AFFAIRS COMMITTEE REPORT



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Greater Manchester Chamber of Commerce

WELCOME TO CAPITOL INSIGHT

Welcome to the Greater Manchester Chamber of Commerce Capitol Insight, a recap of the 2010 legislative session. This report is designed to give you a recap of the major issues that were debated in Concord that impact your business. The Chamber is proud to be once again on the front line fighting for your business interests. Of course, the Chamber's efforts would not be possible without the Chamber's Government Affairs Committee (GAC). The GAC is a dedicated group of Chamber volunteers

that serve as a "watchdog" on legislative issues that impact your bottom line. The GAC is part of an entire department at the GMCC dedicated to improving the economic opportunities available within the greater Manchester region, and advocating on behalf of your interest to policymakers at the federal, state, and local levels.

The GAC is always on the lookout for new volunteers interested in protecting the interests of the business community. We also need your guidance and input

on what issues are important to you and your business. Our number one priority is to ensure our advocacy work is in line with the concerns and interests of the Chamber's membership. Please do not hesitate to contact Michael Skelton, Chamber Vice President of Economic Development and Advocacy, at 603.792.4107 to volunteer on the GAC or just to let us know your thoughts and concerns on pending business issues. You do not have to have government or political experience. A strong committee represents

knowledge and leadership across many industries.

As you will see, a lot of key issues were at stake for the business community in 2010. We hope you find this report informative and please be sure to read our weekly Capitol Insight legislative e-bulletin sent to all members weekly from January to July.

Sean Owen, *Wedü* Chairman, Government Affairs Committee



LLC TAX DEBATE

The "LLC tax" debate began with the end of the 2009 legislative session and proved to also be the defining business issue of the 2010 legislative session. The Chamber of course opposed this measure in 2009, and continued to do so in 2010, making the repeal of the LLC tax its top priority.

This harmful measure, originally framed as closing a loophole as part of the 2009 budget, was passed without the benefit of the normal legislative process or review by the public and business community. Furthermore, the LLC tax is simply bad public policy that

hurts our state's ability to attract new business while at the same time negatively impacting the very backbone of our economy – the small business.

How did this issue all get started? Rewind to last June during the final days of the legislative session as House and Senate negotiators were trying to hammer out a compromise budget. Department of Revenue Administration (DRA) Commissioner Kevin Clougherty was brought in to present various options that would create new tax revenue for the state. One of the options DRA brought

forward during this presentation was extending the 5% Interest and Dividends tax to LLCs and partnerships (now commonly referred to as the LLC tax).

Days later during a late night negotiating session the LLC tax was added to the budget with no debate or advance notice to the business community. The budget was passed soon afterwards and the LLC tax became law. DRA was then tasked with creating administrative rules for implementing the tax, a task that carried on throughout the summer and fall of 2009.

Fast forward to the outset of the 2010 session. Business organizations across New Hampshire made repealing the LLC tax a top priority. Originally thought of as a long shot, repealing the LLC tax eventually became thought of as "highly likely" as House and Senate leadership along with the Governor signaled their support. Of course the road to the actual repeal ended up being not nearly as easy.

Repeal efforts began this session with SB 497, a proposal that was one integrated solution to dealing

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REASONABLE COMPENSATION

While the LLC tax was and is the most newsworthy business issue of the past year, the related issue of reasonable compensation is perhaps of equal or greater importance to the business community. The reasonable compensation issue, or how much a business owner can deduct as compensation when paying their business taxes, exploded onto the scene during the LLC tax debate.

Current reasonable compensation laws in New Hampshire are ambiguous and offer business owners no clear direction. Additionally, the NH Department of Revenue Administration has taken a more aggressive tact in recent years in pursuing compensation audits. These audits are costly, time consuming, and offer no real answers to business owners. Clearly, this is not how an equitable tax system should function. The Chamber believes that our tax laws need predictability and clarity so that business owners can budget

costs properly, and be treated fairly when paying their taxes. As mentioned earlier, SB 497 (supported by the Chamber) attempted to address this issue along with the LLC tax as part of one integrated solution.

Given the complexity of this issue and the state's budget issues, reasonable compensation reform was and is a tough sell to the legislature. Adding to this challenge is the inability of the NH Department of Revenue Administration (DRA) to provide accurate fiscal impact estimates of reasonable compensation reform. To the astonishment of supporters of SB 497, DRA unveiled a \$326 million fiscal impact on SB 497 in the House after estimating the impact to be around \$7 million earlier in the session. How is this possible? The likely answer involves a bit of politics as it appears the fiscal note was intended to put the brakes on any meaningful reasonable compensation reform during the

2010 legislative session.

HB 1607, a House approved reasonable compensation bill, appeared to be in limbo in the Senate but was eventually passed. HB 1607 creates a new \$50,000 "safe harbor" business owners can claim when determining their reasonable compensation. HB 1607 is at least a start of reasonable compensation reform, however, it does not go nearly far enough in providing the relief the business community needs.

The Governor's "Business Tax Commission," which was included in the budget bill, is expected to study this issue and other business tax issues. The commission is intended to meet through the summer and make recommendations to the legislature for the 2011 session. The Chamber is supportive of such a commission, but worries it takes the pressure off the legislature from making necessary reforms sooner rather than later.

STATE BUDGET

As mentioned above, balancing of the state budget was a key issue this legislative session that impacted related issues, like the LLC tax and various business tax reforms. By the closing weeks of the legislative session the budget deficit, once a moving target, was agreed to be \$295 million by House and Senate leadership. The question of course was what package of cuts and new revenue measures would legislators adopt in order to meet this deficit?

The Chamber's primary concern during the budget debate was the possibility of new or increased business taxes. Members may recall the 2009 budget season saw such business tax proposals as a capital gains tax, estate tax, and suspension of the Business Enterprise Tax credit all receiving serious consideration. Of course, the aforementioned LLC tax was eventually added to budget during the committee of

conference process. Clearly, the situation this past session was ripe for legislators to suggest similar proposals that would slow the state's economic recovery and further erode New Hampshire's position as a business friendly state.

While proposals like an estate tax, a local rooms and meals tax option, and a new electric generation tax were pitched during the budget debate (and in fact were included in the first House version of the budget bill), the final budget compromise was relatively "safe" for the business community and included no major new or increased business taxes. Expanded gambling failed to make it into the budget once again, despite the continued support of a majority of the Senate.

Looking ahead, the next budget cycle looks to be even more challenging than the last. Legislators

will return in January and immediately be charged with crafting a fiscal year 2012-2013 budget that will most certainly start with a significant shortfall. How big of a shortfall? That's debatable but most believe it will be well north of the \$300 million hole legislators just filled. This means the Chamber and other members of the business community must once again be on the lookout next session for attempts to increase business taxes.

The Chamber's Government Affairs Committee meets monthly on the first Friday of the month from 7:30-8:30 at 54 Hanover Street. The committee meets from September to June. To get involved or to learn more contact Mike Skelton at 603.792.4107 or at advocacy@manchester-chamber.org

AN ECONOMIC CATALYST...

RESTORING PASSENGER RAIL TO NH

The restoration of passenger rail service to NH continues to be one of the Chamber's top priorities in 2010. Along with providing a safe, reliable, efficient and environmentally friendly transportation option for New Hampshire citizens, this rail project presents a historic economic development opportunity for the state.

This initiative will provide passenger rail service from Boston's North Station to Nashua, Manchester-Boston Regional Airport, downtown Manchester, and Concord. Current plans call for 10 to 12 roundtrips per day with an initial daily ridership of 3000. To be sure, tremendous progress has been achieved to date in making this project a reality, but even more work remains. The NH Rail Transit Authority, a state sanctioned authority of unpaid volunteers, deserves credit for its tireless work on this initiative.

As with any major project that requires a significant investment of financial resources, skeptics and naysayers question the viability and necessity of passenger rail

service from New Hampshire to Boston's North Station and beyond. Fortunately, there is substantial information and examples available to answer these types of questions.

One such example can be found a short commute from Manchester: Amtrak's Downeaster railroad. In March of 2008 the Center for Neighborhood Technology, a Chicago based research firm, was commissioned to conduct an economic impact study of the Downeaster. The results? The Downeaster is projected to generate \$3.3 billion in construction investments and create more than 8,000 jobs over the next two decades for the state of Maine. In the meantime, ridership on the Downeaster has increased over the past three years and multiple transit orientated developments have broken ground in several areas along the rail corridor in Maine. Similar information tailored specifically to the New Hampshire Capital Corridor was completed earlier this year by the New Hampshire Rail Transit Authority. According to this economic impact overview,

the Capitol Corridor is projected to have a base economic impact of \$2 billion over its first two decades of services while creating thousands of jobs. A more comprehensive economic study is under consideration that would project that economic impact of new development and connectivity with the airport. By any measure, the Capitol Corridor project is an economic win for New Hampshire.

The expansion of freight rail opportunities in New Hampshire is another important positive impact of this project. By upgrading the tracks from a grade 1 level, which are only capable of carrying trains at minimal speeds to grade 5 tracks capable of carrying trains at 60+ miles per hour, products will be moved across Southern New Hampshire more efficiently while relieving our congested highways, reducing pollution, and saving energy. Manchester-Boston Regional Airport already moves 200 million pounds of freight annually. This rail link would further enhance that.

This brings us to perhaps the most significant benefit of the

proposed rail project – the creation of a new transportation link between Manchester Boston Regional Airport and the Greater Boston region. The airport is the undisputed economic engine of New Hampshire, generating 1.24 billion dollars in economic impact annually. Yet because the airport is only accessible by car, this critical economic engine isn't firing on all cylinders. A rail link will bring new customers and economic activity to the airport, further enhancing its already significant positive economic impact on the region.

Opportunities with as much promise to enhance our state's economy, quality of life, and transportation infrastructure don't come around often. It's time we all get on board and support this important economic development project. The Greater Manchester Chamber of Commerce has counted rail as one of its top strategic goals for the past three years and looks forward to seeing this project come to fruition. Join us and other stakeholders in supporting the NH Capitol Corridor and helping make it a reality.

HEALTHCARE

The rising cost of healthcare is annually cited by business owners as one of the top challenges facing the business community. While much of the attention on this issue in 2009 and 2010 was focused on federal healthcare reform, several healthcare proposals were considered in Concord this year.

SB 505, as introduced, garnered a lot of attention early in the legislative session. Under SB 505 as introduced, a PUC-like commission would be established to review and set the rates hospitals charge health insurers for various medical procedures. Not surprisingly, this measure was met with resistance from

several fronts and eventually was amended to become a study commission aimed at investigating hospital rate setting and potential cost control solutions.

Two other bills of note include SB 408 and SB 390. SB 408 deals with the issue of creating purchasing alliances for the purposes of purchasing healthcare while SB 390 gives small employers who do not offer health insurance the ability to implement cafeteria style plans employees can use to purchase insurance. Both measures passed the House and Senate and survived the committee of conference process.

Finally, the legislature continues to pass new healthcare mandates, despite warnings from those in the industry and the business community that mandates will increase costs in the long run. Two new mandates – HB 561, requiring insurance coverage for hearing evaluations, hearing aids, and the dispensing and fitting of hearing aids, and HB 569, specifying the insurance coverage required for diagnosis and treatment of autism spectrum disorders – were passed.

GREATER MANCHESTER CHAMBER OF COMMERCE

It is the mission of the Greater Manchester Chamber of Commerce to be a member-focused organization that drives the greater Manchester business environment and the economic health and vitality of the region by supporting business growth, professional development, and networking opportunities, while advocating for our membership.



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...LLC TAX CONTINUED

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with both the repeal of the LLC tax and the controversial issue of reasonable compensation reform, which is necessary to provide businesses with the clarity and certainty they need when trying to pay their fair share of taxes. SB 497 was the preferred repeal vehicle for the GMCC, but unfortunately the proposal was derailed in the House by the DRA fiscal note that estimated the proposal's cost to be over \$300 million. For reasons unknown, the DRA decided to derail this proposal with this irresponsible and inaccurate fiscal note.

Repeal efforts then turned to the state budget via SB 450, a massive proposal from the Governor intended to balance the budget deficit which included a "strict" repeal (simply removing the language inserted from last year's budget) of the LLC tax. While it was heartening to see the Governor and legislative leadership including the repeal in such an important measure, attaching the LLC tax repeal to the budget was not without significant risk as SB 450 (and later HB 1128) failed to pass the House and Senate

Conference Committee process and ended up bringing down the LLC tax repeal with them.

With the state budget still out of balance and the LLC tax still in place, the Governor acted quickly and called for a special legislative session to be held on June 9th. Using the framework from SB 450 and HB 1128, legislators eventually passed a budget compromise that included a repeal of the LLC tax. The repeal of this harmful tax should be considered a victory for the business community. Despite once being thought of

as a long shot, the repeal of the LLC tax became a reality thanks to the hard work and partnership between the Chamber and fellow business organizations. Strategy meetings, press conferences, editorials, countless letters, and even a bus trip to Plymouth all were part of the Chamber's efforts to repeal this measure. Overall, the repeal of the LLC tax is a reminder of the lesson that there is strength in numbers and the value of having a central advocate for the business community like your local Chamber of Commerce.

RENEWABLE ENERGY FUND

Energy issues are annually among the most hotly debated in Concord and this past session is no different. The Chamber keeps tabs on these issues as rising energy costs are often cited by businesses as a major concern.

This year the Chamber took a keen interest in the various renewable energy proposals being debated in Concord. In 2007 the legislature passed landmark energy law known as the Renewable Portfolio Standard (RPS). This law requires NH to meet aggressive energy goals by generating 25% of its energy from renewable sources by 2025. To meet this goal, the RPS law created a renewable energy fund that all ratepayers pay into via their electric bills. This fund is

then dispersed through a variety of programs by the State's Public Utilities Commission to support renewable energy projects across the state.

At least this is how the system is supposed to work. To date, RPS dollars are only flowing back to ratepayers in the form of home solar/wind rebate programs. While these projects are great for those who can afford them, they don't make a measurable impact on our mandated RPS goals. Plans are underway for a commercial rebate program, though the details have not been released yet.

The Chamber believes that in order for NH to have a realistic shot at meeting its RPS goals, midsize and

utility size renewable projects are needed. Larger projects will not only make a measurable dent in our RPS goals, but they provide more value to ratepayers and additional positive economic impacts. To this end, the Chamber supported the Manchester Solar Project. This project involves the construction of one of the largest solar arrays in New England at a capped landfill in Manchester. SB 334, a measure which passed the Senate by voice vote early in the session, would have made this project a reality by allowing Public Service of NH to leverage future payments it will make to the RPS to fund the capital costs of the project. Unfortunately, SB 334 failed in the House. However, due in part to the advocacy efforts in

support of the Manchester Solar Project, language was added to another Senate bill creating a new RFP process that should allow for utility size renewable projects to access RPS fund dollars.

The Chamber plans to watch this issue closely over the next year. If the New Hampshire Public Utilities Commission and the legislature are not able to effectively distribute ratepayer dollars through the RPS and related programs like the Regional Green House Gas Initiative (RGGI), then it may be time for an overhaul. The business community, as the state's largest group of ratepayers, deserves to know whether the funds it pays into these programs are being used effectively.