SMALL BUSINESS LEGISLATIVE COUNCIL

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HELLO BILL

Big bill? Little bill? No bill? The Senate returns to work this week and the supposed priority is passage of a jobs bill.

Before the recess, Senators Max Baucus (D-MT) and Charles Grassley (R-IA) circulated a bi-partisan draft bill, the Hiring Incentives to Restore Employment (HIRE) Act. The draft is 362 pages long and contains well over a hundred provisions to extend or introduce new various tax credits and deductions that one would not generally associate with a jobs bill. Among them are extensions for this year of the Research and Development Credit and one that allows leasehold improvements and improvements to retailer-owned buildings to be depreciated over 15 years instead of 39 years.

Literally just hours later, the Senate Majority Leader, Harry Reid (D-NV), indicated he wanted the Senate to proceed on two bills. The first bill would include four items from the bigger draft bill: a jobs tax credit, a temporary boost in what businesses can write off in the first year of an equipment purchase, some highway infrastructure spending, and expansion of the "Build America" bond program. The second bill is to include all of the other provisions from the bi-partisan draft and probably some others.

Reid pulled the big bill because his liberal wing said, "Why are we giving everything to the Republicans. Let's call them out by offering just the least controversial provisions and see if they still support it. If they don't, the American public will see who is bi-partisan and who is not." Senator Orrin Hatch (R-UT) who is the bi-partisan author of the jobs tax credit portion promptly said he will vote against the smaller bill.

In yet another illustration of the perilous nature of majorities, the illness of Senator Frank Lautenberg (D-NJ), now diagnosed with a treatable stomach cancer, means the Majority Leader has one less vote for any package, or for that matter, any legislation for a few weeks. So hence, that is why the bill is the “supposed” priority for the week.

I do not know who is right and who is wrong about the current state of the Senate, but it is pretty clear the Senate has lost control of itself and petty politics prevails. Something has to change.

While we would like to see a little more beef in the infrastructure spending, infrastructure, direct expensing and the Build America bonds come off our wish list. And we have said we would support a jobs tax credit. While no one is going to create a job because of it, it is payroll tax relief with no significant direct downside. It is not like there is a penalty if you do not create a job. While I can make an argument for keeping the $12 billion and not adding to the deficit, what else you going to do with it? Divide it up among the 140 million plus taxpayers? We did that already with a bigger pot of money. Divide it up among 20 million plus taxpayers that filed some sort of business tax return? Well, now the tax relief gets a bit more robust, but it is still a blip. Seems reasonable to go with a smaller universe, each getting some heftier relief and say “You have to do something specific to get it.”

The centerpiece of the jobs creation title of the bill is a temporary combination new-hire payroll tax reduction/job retention credit. The payroll tax reduction is based on hiring someone who has been unemployed for at least 60 days. The individual has to "certify by signed affidavit, under penalties of perjury, that such individual has not been employed for more than 40 hours during the 60-day period ending on the date such individual begins such employment." The employer would not have to pay the employer share (6.2 percent of wages) of Federal Income Contributions Act (FICA) taxes for that individual. The forgiveness is for taxes on wages paid during the rest of this calendar year. In addition, if the employer retains newly hired employees that meet the qualifications of the law for at least 52 weeks and the individual's wages for such employment during the last 26 weeks of such period equaled at least 80 percent of such wages for the first 26 weeks of such period, the employer is entitled to a one- time $1,000 tax credit for each such employee.

WE GET LETTERS

SBLC past chairman, Ralph Nappi writes, "What happened to the President's proposal to start a new lending program using TARP money? He talked about it in State of the Union."

The answer is: "While the President announced a proposal to use TARP money for small business, it would require legislation passed by Congress to create the new fund and use the TARP money. The President called on Congress to create a new Small Business Lending Fund. Under this proposal, $30 billion in TARP funds would be transferred, through legislation, to a new program outside of TARP to support small business lending. Weather and Washington politics have slowed things down quite a bit. There was some thought that when the Senate debated its version of a 'jobs' bill, it would include creation of the new program. As you have read, Senators Baucus and Grassley floated a 362 page 'pared-back' jobs bill. It did not have the TARP in it. Then almost minutes later, the Senate Majority Leader Harry Reid announced that he would follow a bi-furcated approach with an even smaller first bill, followed by a larger second bill. With respect to TARP and small business, the House has basically said 'We will wait to see what the Senate does.' Bottom line: Nothing has happened."

The Administration's proposal would be to use the Small Business Lending Fund to offer capital investments to community and smaller banks with an incentive structure to support new small business lending, as described below:

Banks Would Be Eligible to Receive Up to 3% to 5% of Risk-Weighted Assets

* Banks with less than $1 billion in assets would be eligible to receive capital investments up to 5% of their risk-weighted assets.

* Banks with between $1 and $10 billion in assets would be eligible to receive up to 3% of risk-weighted assets.

* To participate, banks would have to be approved by their primary federal regulator. Existing Capital Purchase Program participants with less than $10 billion in assets would be permitted to convert their capital to the new program.

The Cost of Capital Would Be Reduced As Lending Increases: The dividend rate for a capital investment provided under the program would begin at 5%, but with reductions to as low as 1% if a bank demonstrates increased small business lending relative to a baseline set in 2009.

* Banks could receive a 1% point decrease in their dividend rate for every 2.5% increase in incremental business lending they achieve over a two-year period, down to a minimum dividend rate of 1%.

* Banks would realize this reduction in dividend rate sooner if they make early, but consistent progress towards increased lending.

* For purposes of the program, banks would be able to receive the incentive on the basis of new lending beginning Jan. 1, 2010.

* After five years, the dividend rate would be increased to encourage timely repayment.

SBLC incoming chair Paula Calimafde writes "I know we are big supporters of the direct expensing allowance. Are there any special reasons to support a temporary increase in the amount?"

The answer is: "The small businesses that make the equipment are often overlooked in the discussion. They have been absolutely running on fumes for the last year and a half too. Down to skeleton workforces, everybody working less than forty hours. They are desperate for orders to survive. This helps them convince their customers on the bubble. It is a win-win. Good for the small company that fabricates the machinery and for the small manufacturer that buys it and uses it for production."