

SMALL BUSINESS

“Small business is the backbone of job creation in our state and one of our most vital economic engines.”

— Rep. Nikki Haley (R-Lexington)

According to the Small Business Administration, more than 97 percent of employers in South Carolina qualify as small businesses — having fewer than 500 employees. Small businesses are thus integral to maintaining economic prosperity in our state. Yet during the 2009 session, the General Assembly did little to promote small business. Indeed, many of the bills introduced this session were unfavorable to small employers. A large number of bills, for instance, sought to increase regulations over small businesses. But we could find very few (H 3429 and H 3492, for example) that would have deregulated small businesses, if only in minor ways. As for the much anticipated “Small Business Red Tape Reduction Bill” (H 3882), the final result was more of a whimper than a bang. The bill passed by the House did little more than create an arguably unnecessary website to take questions about permits, licensing, and regulations. And even this idea was deleted by the Senate.

Other bills, such as H 3669, that seemed to benefit small business in the short-term, would have had long-term adverse affects. As usual, the General Assembly also considered — and passed — several fee increases (cf. H 3452 and H 3635) that will disproportionately impact small businesses. Other legislation related to small business — especially as regards health care and the environment — is considered elsewhere in this report.



Cutting taxes on small businesses would spur job growth and innovation in South Carolina.

BEST IDEAS OF 2009



Lifting restrictions on small business

H 3429: Tattoo Regulations

Status: Referred to Medical, Military, Public & Municipal Affairs Committee

This bill would permit tattoo parlors to sell tattoo-related merchandise. Currently, tattoo parlors may only engage in tattooing.

► **Our take:** The government should not be choosing winners and losers in the marketplace. If tattoo parlors selling merchandise is a “bad thing,” then let consumers make that decision by not purchasing these goods.

H 3492: Residential Homebuilders

Status: Referred to Labor, Commerce & Industry Committee

This bill increases from \$5,000 to \$15,000 the amount a person may undertake in constructing, repairing or improving a residential building without being classified as a homebuilder subject to state licensing and regulations.

► **Our take:** H 3492 would help both homeowners and small businesses by making it possible for contractors to undertake small jobs without obtaining a homebuilder's license. The result will be lower costs for both parties.

The proposal would also help renters because only improvements made to a primary home are exempt from homebuilder regulations. Increasing the exemption threshold would make it easier for rental property owners to construct or repair their rental units.

✘ More bad bills that didn't pass:

S 198: Makes it a fraudulent trade practice to misrepresent the geographical location of a business (passed the Senate).

H 3309: Creates study committee to examine best practices for childcare facilities, with a focus on childcare costs. (It seems very likely the purpose of this committee is to justify additional government subsidies for childcare.)

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WORST IDEAS OF 2009

✘ Burdening small businesses with additional regulations

S 45: Regulation of Interior Designers

Status: Referred to Labor, Commerce & Industry Committee

This bill would bring all interior design businesses under the jurisdiction of the state, forcing designers to apply for permits and meet a number of re-

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Legislation most likely to come up:

A health insurance credit for small business is likely (see Health Care section), as is an increase in the renewal fee on underground storage tanks (see Environment section).

quirements, including paying an unspecified application fee to the Department of Labor, Licensing & Regulation.

► **Our take:** The alternative approach to government regulation is tort law. On the rare occasion when a consumer is wronged by an interior decorator, that person can use the civil court system to seek damages.

H 3106: Price Gouging

Status: Referred to Judiciary Committee

This bill would increase the maximum monetary penalty for price gouging from \$1,000 to \$5,000.

► **Our take:** Price gouging is an often misunderstood economic phenomenon. Assume, for instance, that a hurricane hits Charleston, increasing demand for generators. In order to encourage companies in Columbia to send generators to Charleston, consumers will need to pay more for generators. In addition, however, generators are now more valuable because demand has increased. This scenario is often termed price gouging, despite being a natural economic reaction. Price gouging laws will cause the generators to remain in Columbia because merchants won't have an incentive to overcome additional obstacles to sell their product.

H 3301: Payday Lending Regulations

Status: Governor's veto overridden by General Assembly

This law increased payday lending maximums from \$300 to \$550, banned multiple loans to individuals, and required a one-day waiting period before obtaining a loan. The legislation also creates a statewide database to track individual loans so companies can verify whether a consumer has any outstanding loans. Also see S 279

► **Our take:** According to Gov. Sanford's veto of this legislation, "Government's role is not to protect people from their own actions, unless

those actions in substantial form impact the lives of others.” The market for payday lending exists because people have a need for its services. If regulations are too strict and restrain supply, then consumers will turn to the black market for loans (e.g., loan sharks). A certified payday lender is more likely a safer alternative for those individuals this legislation aims to protect.

H 3452: Regulation of Micro-Distilleries

Status: Ratified by General Assembly and signed by governor

This law allows micro-distilleries to operate in the state, within a parameter of regulations and taxes. Also see S 396

Unions and South Carolina

Card Check

During the 2008 campaign, Barack Obama promised to make federal card check legislation “the law of the land when I’m president.” Also known as the Employee Free Choice Act (EFCA), such legislation would deny workers the right to participate in secret ballot elections when choosing whether to unionize and also require employers involved in a contract dispute to accept federally imposed binding arbitration. In response, the South Carolina House passed a concurrent resolution (H 3222) calling upon the state’s Congressional delegation to oppose EFCA and instead support secret ballot union elections. The House likewise passed a joint resolution (H 3305) supporting a state constitutional amendment guaranteeing “the fundamental right of individuals to vote by secret ballot,” including elections for employee representation. Also see S 316

Right to Work

South Carolina has had right to work laws on the books since 1954. By contrast, Senator Robert Ford (D-Charleston) introduced legislation (S 53) that would repeal these laws. Currently, South Carolina has the third-lowest union membership rate (3.9%) in the country, just behind North Carolina (3.5%) and Georgia (3.7%).

► **Our take:** This law increased the biennial license fee for manufacturers of alcoholic beverages from \$1,000 to \$50,000 — an increase so large it will likely lead to higher prices for consumers and push out small businesses. The law also assesses a \$5,000 fee on micro-distillers, again discouraging small distilleries. In addition, the legislation allows micro-distilleries — Firefly Vodka for example — to give tours and provide samples. But why should micro-distilleries be treated any differently than micro-breweries (currently banned from doing the same)?

“Government workers are nearly five times more likely to be unionized than are private sector employees, with those in the education and library occupations having the highest unionization rates.”

— Bureau of Labor Statistics

H 3669: Minimum Wage Law

Status: Referred to Ways & Means Committee

Under this bill, businesses would be eligible to receive a one-time only tax credit in the amount of the proposed increase in minimum wage.

► **Our take:** While this proposal also stipulated an increase in the minimum wage to \$7 per hour, that aspect of the bill would have been rendered moot with the federal minimum wage of \$7.25 per hour taking effect on July 27, 2009. Again, though, the real problem with this idea is that it encourages the government to pick winners and losers in the economy. This ends up stifling competition and raising prices.

S 150: Small Business Tax Credit

Status: Referred to Finance Committee

This bill would extend the job creation tax moratorium to small businesses that pay state income tax, including sole proprietorships, partnerships and limited liability companies.

► **Our take:** Another targeted tax credit for government directed economic development. At least, though, this bill would extend the credit to more businesses. Following out that logic, the better idea is to eliminate the corporate and personal income tax on all businesses. Also see S 230