

## Governor Reviewing Important Small-Business Legislation

**SEVERAL SMALL-BUSINESS BILLS**, both good and bad, passed the West Virginia Legislature this session. With the stroke of a pen, Gov. Joe Manchin will likely decide the fate of the business legislation.

### FRANCHISE-TAX REDUCTION PASSES LEGISLATURE

State businesses likely will see a reduction in their tax burden, thanks to legislation passed during the 2007 session. If enacted, the new law will reduce the business franchise tax over a five-year period, beginning in January 2009.

The reduction would cut an estimated \$75 million annually after the tax goes from its

current 0.55 percent to 0.2 percent. The bill also contains provisions that will establish a combined tax-reporting system that will likely save your business time and money.

Members who attended the governor's taxation study last summer listed the business franchise tax as one of their top troublesome business taxes. As you may recall, late last year, the governor called a special session, which led to a reduction of the tax from 0.75 percent to 0.55 percent.

### PRO-BUSINESS VENUE-SHOPPING REFORM APPROVED

A bill to place restrictions on out-of-state lawsuits filed in West Virginia gained

legislative approval. The Legislature passed the bill in response to a controversial decision by the state Supreme Court. Despite amicus briefs filed by NFIB's Legal Foundation and other business organizations, the court ruled against business in the *Crown Equipment* case.

The Foundation got involved in the case concerning a plaintiff who had been injured in Virginia while operating a forklift. He sued Crown Equipment, an Ohio corporation that manufactured the forklift, and a West Virginia company that distributed and serviced the forklift. The trial court dismissed the case on the ground that no substantial part of the acts at issue occurred in West Virginia.

The West Virginia Supreme Court of Appeals reversed the decision. Judges reasoned that a West Virginia resident would be allowed to bring suit in the state under the same facts.

We're hopeful the governor will sign this bill into law to address this anti-business situation resulting from a disappointing court ruling.

### UNAUTHORIZED WORKERS BILL ENACTED

Another important bill that passed would hold business owners accountable for employing unauthorized workers. Its purpose is to establish criminal penalties and fines for employers who hire unauthorized workers and revoke or suspend business licenses when the employer has been convicted of employing unauthorized workers.

The bill was amended in committee and now includes the phrase, "if an employer knowingly hires unauthorized or illegal workers," which makes the bill more business-friendly.

Employers should obtain any of the following forms of valid identification in order to ascertain a prospective worker's employability:

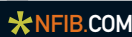
- Social Security card
- Immigration or nonimmigration visa, including photo identification
- Birth certificate
- Passport
- Photo identification card issued by a government agency
- Work permit or supervision permit authorized by the Division of Labor
- Permit issued by the Department of Justice
- Other valid document providing evidence of legal residence or authorization to work in the United States.

Like other bills, this legislation awaited the governor's signature at press time.

### MINIMUM-WAGE INCREASE STALLS

Businesses that are paying workers at or near the federal minimum wage are applauding inaction by the Senate Finance Committee.

Under the proposed legislation, workers who currently fall under the lower federal minimum wage would have been brought in line with legislation passed in 2006 to raise the minimum wage incrementally. The bill passed out of the Senate Labor Committee, but died when the Senate Finance Committee did not consider it.

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## INACTION CAN BE A VICTORY

**SOMETIMES NO ACTION** is a victory, especially when it comes to anti-business legislation. Fortunately, the following legislation did not advance this session:

**H.B. 2019:** Would have made the use of permanent replacements for striking workers an unfair labor practice in certain instances.

**H.B. 2113:** Would have changed the amount a person can earn while receiving unemployment-compensation benefits—without changing the benefits received—from \$60 a week to 40 percent of the person's weekly benefit rate.

**H.B. 2310:** Would have given the governor authority to grant an extension for

unemployment compensation benefits when special economic circumstances exist.

**H.B. 2347:** Would have prohibited the sale (at full retail price) of any damaged container or canned goods. Those convicted of this crime would be charged with a misdemeanor and fined \$100 per damaged item deliberately placed for sale.