Insight

H.R. 6201: Big Costs for Small Businesses

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Executive Summary

- The paid sick and childcare leave benefit included in H.R. 6201, the Families First Coronavirus Response Act, is expected to go into effect on April 3rd, 2020.
- The legislation has outlined a funding mechanism of refunds from the Treasury in the form of tax credits, but it remains unclear how well this method will work and if businesses will be able to remain in operation as they wait for refunds.
- The leave benefit will increase costs for small businesses, making it likely that more of them close or lay off workers to deal with the added costs.
- Congress is considering several proposals for the next relief bill that could offer additional support to small businesses, incentivize them to keep workers on their payroll, and provide aid to those who are now unemployed through existing time-tested systems

Introduction

On Wednesday, March 18th, President Trump signed the second coronavirus aid package, H.R. 6201 (The Families First Coronavirus Response Act), into law. Among other things, the bill creates a new emergency paid sick leave benefit that would allow workers to take up to two weeks of paid leave at 100 percent wage replacement in the event of coronavirus symptoms, being subject to federal state or local quarantine, being advised to self-quarantine, or needing to provide coronavirus-related care to a child or family member. An additional 10 weeks of leave at two-thirds wage replacement would be accessible only for workers who need to provide childcare as a result of school closures.

A previous AAF analysis estimated the cost of this new benefit. The question now is how

quickly will the buildup of paid sick and childcare leave happen, and will small businesses receive the support they need to mitigate the billions of dollars in additional expenses that this program requires?

Paid Leave Benefit Challenges

The main point of disagreement on emergency paid sick leave comes down to eligibility requirements and reimbursement. Only workers who are employed by businesses with fewer than 500 workers are eligible for the proposed benefit. Not only could this restriction keep over 10 million workers from receiving any kind of paid sick leave, but it also places significant cash flow constraints on small businesses as they wait for reimbursements. The International Franchise Association has estimated there could be a loss of 26,500 businesses due to COVID-19, with an additional 6,700 business closures as a result of the Emergency Paid Sick Leave Act included in H.R. 6201. As currently written, the funding for paid sick or childcare leave comes from employers first, to be reimbursed later by the Treasury through tax credits. While recent technical corrections allow for advanced refunds and potential exemptions for businesses of 50 employees or fewer, the burden still lies on small businesses to cover the upfront cost of leave.

The cashflow problem is the primary concern for small businesses. Now that so many businesses in the service, hospitality, and retail industry have closed, their revenues have come to a standstill. Small businesses can barely afford to keep up with their daily expenses. Forcing them to be responsible for two to 12 weeks leave of paid leave without any kind of guarantee they will receive that money back in a timely fashion makes the choice between layoffs and paying employees for leave an easy one.

One of the "technical fixes" made in the bill was that employers would receive a refund in tax credits for every dollar spent on coronavirus related leave and that the Secretary of Treasury could issue guidance to provide certain businesses with advanced tax credits. Without adequate support and confidence in the Treasury's ability to distribute reimbursements, the bill could further aggravate the unemployment situation. This week's jobless claims report totaled 281,000 claims nationally, a greater than 70,000 increase from last week, and the number of claims is only expected to rise as the virus spreads and forces more businesses to close or limit their normal operation. Additionally, it's unknown how quickly small businesses would receive their refunds even with these changes in place.

On a different note, there seems to be no method of verification included in the final version of the legislation, which could lead to benefits being doled out for coronavirus in addition to people with the seasonal flu or just bad allergies. Even if there were verification clauses included, there's the challenge of rapid and accessible testing. Cases of improper benefit

distribution, however, are likely not of huge concern given that the country is in the midst of a pandemic and needs to provide relief sooner rather than later.

One additional concern is that there is no way of knowing exactly how many individuals currently face or will face job losses as a result of the pandemic. This poses a challenge in understanding precisely how much a measure like this or any other relief package could cost. Furthermore, without a method of verification to control benefit use, costs could be far beyond what they would be were any checks in place.

Now that the new paid sick and childcare leave is law, it's imperative that the country rapidly build up an entirely new system, be sure it works, and ensure that the Treasury has the capacity to make payments quickly enough to keep businesses from closing. Otherwise the risk is incentivizing rapid layoffs to prepare for the costs associated with the paid leave mandate.

Moving Forward

A third coronavirus relief bill is in the works, and there have been several proposals focused on supporting small businesses. While paid leave has been a talking point for the last few years, it's likely not be the best way to provide assistance in a crisis. The United States may be better off relying on a time-tested benefit program to distribute assistance. Expanding federal assistance to state unemployment insurance programs paired with incentives for businesses to keep workers, such as increasing Small business Administration (SBA) loan limits, would provide aid to those who are experiencing job losses without making the problem worse by putting additional costs on small business or disconnecting people from work. While H.R. 6201 does give $1 billion to support state unemployment programs more support may be needed.

When it comes to putting expanded benefits through unemployment insurance, it's important to understand that the infrastructure is already in place and would not necessitate creation of a new system as is necessary in the case of paid sick and childcare leave. A proposal from Senators Marco Rubio and Susan Collins also makes use of existing SBA programs. It focuses on providing small businesses several different supports totaling $300 billion to allow them to maintain payroll for at least a six-week period and keeping employees in their jobs and employers with available workers. The strength of this proposal is that it focuses on reducing the rising unemployment numbers and helps employers by allowing them to retain the workers they have already trained.

Conclusion

While the paid sick and childcare leave in H.R. 6201 may be helpful in the short term and

could reduce the spread of COVID-19, the mandate it places on employers does little to help workers keep their jobs or small business continue to operate. The focus of the upcoming proposals should be on getting money to people who need it when they need it without putting additional financial pressure on small businesses or unnecessarily disconnecting people from work. As Congress develops the third relief package, it is imperative that it provide adequate support for those in the economy who are facing job insecurity or are unemployed.