

APPENDIX B-4: REGULATORY POLICIES

Leading States

States with highly lauded regulatory environment share several characteristics in common:

- Laws with a common sense approach toward regulation
- Relatively low labor, unemployment insurance, worker's compensation costs
- Business friendly laws regarding tort reform
- Sensible business tax structures

Conversely, oft-criticized states have convoluted regulations and tax structures that serve as a deterrent to new business, laws exposing firms to expensive, unnecessary lawsuits, high worker's compensation, unemployment insurance, and other labor costs. The following are examples of states winning and losing regulatory efforts:

Tort Reform: Tort reform has been a priority for Florida. Some of the most recent successes include the elimination of joint and several liability rate reductions for workers' compensation insurance and class-action suit reform. Utah's legal system presents a relatively non-threatening atmosphere for business owners. The state is ranked 9th out of the 50 states in terms of the quality of its state liability system.¹

Labor Costs: Connecticut recently passed a package of health care reform measures, including several measures consistent with some of the business community's priorities for health care. In North Carolina, the state's Unit Labor Costs have continued to improve over the last few years, moving it from 8th in 2002 to its current 3rd.

Utility Rates: Energy costs are rising across the board, but the situation is worse in some states than it is in others. Especially in the most recent year, North Carolina experienced a continuous increase in industrial and commercial energy costs, ranking it at 18th, up from 27th. Utility rates can have a real effect on a state's overall attractiveness to businesses: Utah, ranked 17th best in Forbes for its regulatory environment.² Utah outranks all states in its region save for Washington, but Washington has the edge due to its lower utility costs.

Tax Regulation: Despite a 30 year history in Michigan of an obscure tax structure that has harmed job growth in the state; the state's regulatory policies have received a relatively positive ranking from most business surveys. The Forbes ranked Michigan's regulatory environment as the third best in the country.³ The Tax Foundation's 2007 State Business Tax Climate Index reinforces this data by showing moderate rankings for

¹ "Lawsuit Climate 2007: Rating the States" The Institute for Legal Reform. 2007,.

http://www.instituteforlegalreform.com/lawsuitclimate2007/pdf/Overall_Rankings_of_States.pdf

² Badenhausen. July, 2007.

³ Badenhausen, Kurt. "Special Report: The Best States for Business." *Forbes Magazine*. July 2007
http://www.forbes.com/business/2007/07/10/washington-virginia-utah-biz-cz_kb_0711bizstates.html

Michigan's Labor Cost with moderate costs for both worker's compensation⁴ and unemployment⁵.

North Carolina has been the one of the leading states in the lowest Business Tax Burden over the years as other states have increased their rates faster. Its State Business Tax Structure ranked it consistently in the middle of the states.

Concise Regulation: As Charles Gargano, chairman of the Empire State Development Corporation, stated "There's been a major change in the way New York state does business...[the state has] instituted much-needed fundamental economic reforms. We are...changing and eliminating burdensome regulations and reforming our workers' compensation system."⁶ Washington State recently turned to the New York state model to reform its regulatory environment. This has helped Washington State become noted as one of the turnaround states in this larger report.

Texas is known for having a favorable business environment. This is especially the case for small businesses. Forbes ranked the state as the seventh best regulatory environment in the country. The state attempts to take a common-sense approach to limited governmental regulation. Similarly, Virginia's regulations are reputed as being some of the least complicated in all 50 states, saving businesses time and money to comply with the state's laws. Washington has instituted a regulatory improvement program, portions of which include a one-stop-portal for businesses to use for licensing, permitting, approvals, filings and tax collections. The state is also instituting a streamlined permitting process so that firms only have one point of contact across multiple agencies.

Challenged States

Small businesses seem to bear the majority of the burden when it comes to shortfalls in a state's regulatory environment. Energy costs, regulatory costs such as licensing fees and meeting state standards, and taxes cut into their profits more greatly than large firms, who enjoy the advantage of economies of scale.

Generally, a few states stand out as being ready for regulatory reforms in some areas: California, Florida, New Jersey, Michigan, Pennsylvania, and Rhode Island. Some of the challenges these states face are explicated here:

Convolutd Regulations: Small businesses employ the largest percentage of New Jersey's workforce, but the regulatory cost per employee to these firms is approximately 60% more than the cost to large firms.⁷ Businesses in New Jersey complain of what they perceive as:

- Excessive fees and fines
- High costs of compliance with state regulations

⁴ Keating, 37.

⁵ Keating, 38.

⁶ Site Selection Magazine. <http://www.siteselection.com/>

⁷ NFIB – New Jersey Legislative Agenda, 2007. www.NFIB.org

- Overlapping, redundant regulations, and onerous paperwork accompanying them
- Technology and environmental regulations that impose high costs on small businesses
- A legislature with a reputation for having an adversarial relationship with the business community

California ranks in Forbes as one of the worst regulatory environments. The state is ranked 39th out of 50 states.⁸ Meanwhile, the surrounding states of Arizona, Nevada, Oregon and Washington rank 37th, 34th, 31st and 5th respectively.⁹ Surprisingly, despite its favorable tax laws and growing economy, the 2007 Small Business Survival Index ranked Florida as the 5th worst state for its business environment.¹⁰ This index took into account government spending trends, tax policy, regulatory policy, workforce issues, and cost of doing business.

Georgia is somewhat weak in the area of regulatory affairs, but the state appears to be improving. It is currently ranked 28th for number of health insurance mandates (tied with Illinois, Missouri and Montana), but was ranked 30th in the same category a year before.¹¹ Also, the number of bureaucrats (per 100 residents) jumped to 22nd in the nation, up four spots from 2006.¹² Georgia is particularly weak in its security, being ranked 39th overall in the Beacon Hill State Competitiveness Report (SCR) index.¹³ More specifically, the state is ranked 40th in the crime index and 36th in the murder index.

Litigation Laws: California is in dire need of reform. The state is ranked 44th out of the 50 states in terms of the quality of the state liability system.¹⁴ California is an extremely litigious society. Particularly disturbing was the area of “punitive” (monetary punishment beyond compensation) awards. Out of the 44 states that allow these types of awards, California is ranked 42nd.¹⁵ The state’s abysmal ranking suggests that corporations found liable for specific claims may be required to pay large monetary awards. Tort reform and lawsuit abuse are also major issues in Pennsylvania. In 2006, the state was rated 47th out of the 50 states in terms of the overall tort system by the U.S. Tort Liability Index compiled by the Pacific Research Institute.¹⁶

Utility Costs: California suffers some of the worst utility rates in the country when comparing gas and electric rates to those in other states. Electricity shortages crippled the state in the earlier part of this decade and California consumers continue to pay

⁸ Badenhausen.

⁹ Badenhausen.

¹⁰ Keating, Raymond J. Small Business Survival Index 2006: Ranking the Policy Environment for Entrepreneurship Across the Nation 11th Annual Edition. Small Business & Entrepreneurial Council, Washington, DC, 2006. 2.
http://sbecouncil.org/Media/pdf/SBSI_2007.pdf?CFID=514256&CFTOKEN=91743709

¹¹ Keating, 35.

¹² Keating, 39.

¹³ Beacon, 29.

¹⁴ “Lawsuit Climate 2007: Rating the States” The Institute for Legal Reform. 2007.
<http://www.instituteforlegalreform.com/lawsuitclimate2007/pdf>

¹⁵ Lawsuit Climate 2007.

¹⁶ The Pacific Research Institute. “U.S. Tort and Liability Index” 2006.
<http://www.pacificresearch.org/>

among the highest rates in the nation. Firms establishing their business in Rhode Island will also pay some of the nation's highest energy costs as well. Additionally, Michigan also suffers from some of the highest energy costs in the country,¹⁷ and more specifically falls in the bottom half of the nation for electric utility costs.

Labor Costs: Most California businessmen find the states labor laws particularly stringent.¹⁸ California was the first state in the nation to adopt a state family leave plan, which took effect in 2004.¹⁹

Tax Regulation: In Pennsylvania, concern about taxes and rising healthcare premiums dominates the minds of most employers in the state according to the 2007 Pennsylvania Chamber of Business and Industry Economic Survey.²⁰ Rhode Island was ranked next to last in *Forbes* Magazine's, "The Best States for Business" and among the nation's worst for business regulation practices. Employers will be paying one of the top ten worst unemployment insurance rates in the country. Furthermore, they will face steep corporate income taxes and property taxes which are ranked 44th and 47th nationally in terms of business favorability.²¹

¹⁷ Keating, 40.

¹⁸ "Labor and Employment." Business Issues. California Chamber of Commerce.

<http://www.calchamber.com/cc/governmentrelations/businessissues/laborandemployment.htm>

¹⁹ Sappenfield, Mark. "California's Paid Family Leave Act." NPR. 24 Sept. 2002.

<http://www.npr.org/templates/story/story.php?storyId=1150569>.

²⁰ The Pennsylvania Chamber.

²¹ Keating, 31-2.