About The Franklin Partnership

• Bi-partisan Washington, D.C.-based government relations firm
• Provide direct lobbying services on Capitol Hill, White House, Federal Agencies
• Strategic consulting on impact of government actions on clients
• Speak to business, associations about impact of Washington on their operations
• Supply chain risk analysis
• Clients include:
  - Manufacturing companies and associations
  - Defense manufacturers
  - Hospitals
  - Cities
  - GSA Schedule/Government Contractors
Agenda

• Current State of the States
• Who Defines an Essential Business
• What are the States Doing
• What is Washington Doing to Help?
• Expansion of Paid Sick Leave/FMLA
• Economic Stimulus
• Questions
Current State of Washington

• All efforts focused on COVID-19 – Health and Economic Responses
  - McConnell, Schumer, Pelosi, Treasury Secretary Mnuchin key players
  - U.S. Senate likely to leave Washington shortly
  - U.S. House of Representatives cannot return to Washington now

• FEMA has now taken over COVID-19 Response

• Washington is focused on payrolls – preventing mass layoff

• Concern it could become a 2008 Financial Crisis plus nation-wide Katrina
Current State of the States
Counties Can Have Their Own Restrictions

https://ce.naco.org/?dset=COVID-19&ind=Emergency%20Declaration%20Types
Confusion Over Closures

• Businesses and other entities are being told to close their doors in some states
• People are being told to stay indoors in some cities, states
• Employees are uncertain about their futures

• Who determines which businesses remain open?
• How do you become listed as an essential/life critical business?
• Can we stay open if I want to?
• What is Washington doing to help?
Who Determines What is an Essential Business

• U.S. law gives cities, counties, and states the power to manage their own emergency preparedness

• All determinations as of right now are made by counties, states

• No input from Washington on who designated until March 19

• Some states have begun to voluntarily use federal definition

• However, some states go further
U.S. Department of Homeland Security
Cybersecurity & Infrastructure Security Agency (CISA) list:
Critical Manufacturing Definition:

“medical supply chains, and for supply chains associated with transportation, energy, communications, food and agriculture, chemical manufacturing, nuclear facilities, the operation of dams, water and wastewater treatment, emergency services, and the defense industrial base. Additionally, workers needed to maintain the continuity of these manufacturing functions and associated supply chains”

as of March 23, 2020
## States Set Their Own Guidelines

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States Set Their Own Guidelines

• Michigan “In Writing” Requirement
  - If a supplier, must have written (e-mail accepted) designation from your essential business customer
  - Only employees essential to that critical part/product may be at work

• Pennsylvania created its own list by NAICS codes, then added some of CISA

• Kansas City allows medical suppliers only

• Illinois allowing unlicensed daycare for essential workers

• New Jersey open to all manufacturing but minimal employees to maintain operations

*States do their own enforcement – criminal, civil penalties*
What is Washington doing to Help?

- **Phase 1:** $8.3 billion “Coronavirus Supplemental” for vaccines, test kits
- **Phase 2:** $100 billion Families First Coronavirus Response Act signed into law
  - Paid Sick Leave, FMLA Expansion
  - Tax credits for employers
- **Phase 3:** $2 trillion economic stimulus package pending
  - Direct funds to individuals, states, loans to small businesses
  - Support for larger companies, tax provisions to support industry
- **Phase 4:** Multitrillion dollar continuation of stimulus
  - Funding for FEMA
  - Additional support for hospitals
  - More direct payments to individuals, payroll tax holiday possible
Phase 2: Expansion of Paid Sick Leave

- Emergency Paid Sick Leave applies to all employers with 1-499 employees
- If full time, pay 80 hours of sick leave
- If part time, pay based on avg. number of hours worked previous six months
- Paid Sick Leave reasons:
  - Employee subject to federal, state, local quarantine or isolation order (100% pay)
  - Employee told to self quarantine by government, health professional, employer (100% pay)
  - Employee is caring for individual subject to self-quarantine or illness (2/3 pay)
  - Employee caring for child under 18 if school/child care closed or unavailable (2/3 pay)
- 100% pay capped at $511/day ($5,110 aggregate) over two weeks
- 2/3 pay capped at $200/day ($2,000 aggregate) over two weeks
Phase 2: Expansion of Paid Sick Leave

- Businesses under 50 employees may seek a waiver from DoL if would “jeopardize the viability of the business”
- No application at this time, asking employers to “document” leave for later

- Expanded Paid Sick Leave in addition to existing paid leave policy
- Employee may use expanded sick leave prior to existing sick leave accrued
- Employer may not mandate employee use existing sick leave first

- Law in effect April 1 until December 31, 2020
- Employer must post a notice about new law for all employees by April 1
- Expanded sick days will not carry over
Phase 2: Expansion of Paid Sick Leave

- 100% refundable payroll tax for paid sick leave used
- Leave for self credit limited to $511/day ($5,110 total) per employee
- Leave for others credit limited to $200/day ($2,000 total) per employee
- Credit also covers cost of health care during leave
- Credit is claimed on a quarterly basis
- Credit is applied against employer Social Security taxes
- If credit exceeds amount employer has in Social Security, IRS will issue refund
Phase 2: Expansion of FMLA

- Applies to all employers with 1-499 employees
- Separate entities will be counted as a single employer
- Applies to employees working at least thirty days prior to leave
- 12 total weeks (10 weeks paid); first two weeks would be Paid Sick Leave

12 Weeks of FMLA (10 weeks after the Sick Leave 2 weeks):
“The employee is unable to work (or telework) due to the need for leave to care for the son or daughter under 18 years of age of such employee if the school or place of care has been closed, or the child care provider of such son or daughter is unavailable, due to a public health emergency.”

- Employee can use accrued PTO, Sick Leave, Vacation days for first 10 days
- Employer cannot require employee to use accrued paid sick leave
Phase 2: Expansion of FMLA

• Expanded FMLA pay is 2/3 of regular rate for full time employee
• Part time employee receives avg. pay over previous six months
• Pay limited to $200/day ($10,000 aggregate)

• Businesses under 50 employees may seek a waiver from DoL if would “jeopardize the viability of the business”
• No application at this time, asking employers to “document” leave for later

• 100 percent credit against the employer’s share of the payroll tax/employee
• Limited to $200 per day ($10,000 per employee total)
• Credits are refundable if exceeds amount the employer owes in payroll tax
Phase 3: Economic Stimulus Bill

• NADCA submitted ten recommendations to help mfg
  – Must improve cash flow
  – Make sure customers receiving federal bailout pay suppliers
  – Keep banks from pulling lines of credit
  – Have resources on hand to ramp up when time for recovery

• Senate Phase 3 legislation includes:
  – $367 billion small business lending program
  – $500 billion lending fund for corporations, cities, states
  – $150 billion for state and local stimulus funding
  – $130 billion for hospitals
  – Expansion of Unemployment Insurance Benefits
  – Net Operating Loss strengthened
Phase 3: Economic Stimulus Bill – Loan Program

- Companies up to 500 employees
- $367 billion Small Business Interruption Loan program through 7(a) loans
- Cover the period of March 1-December 31, 2020
- Capped at $10 million with formula based on avg. total monthly payments of previous 12 months on payroll, mortgage, rent, payments on other debt
- Payment deferral for up to 12 months
- Payroll costs forgiven under loan with certain limitations/reductions
- Loan uses: Working capital, and specifically, payroll support, including paid sick, medical or family leave and costs related to continuation of group health care benefits, salaries, mortgage payments, rent, utilities and certain other existing debt obligations
- Personal guarantee? Unclear
Phase 3: Economic Stimulus Bill – Businesses

• $500 billion lending program for 500 or more employees
  – Treasury to administer fund (similar to TARP) but Congress has some oversight
  – Corporations receiving federal aid must permanently provide 14 days paid sick leave
  – Must permanently pay minimum wage of $15/hour
  – Must maintain same workforce levels/pay until end of emergency

• Other business provisions
  – Payroll taxes due over two years – half due 12/31/2021; balance due 12/31/2022
  – Net Operating Loss for both pass-throughs and corporations – carryback 5 years losses from 2018, 2019, 2020
  – Increases interest deduction limitation from 30% of EBITDA to 50% for 2019 and 2020
  – Accelerate ability to recover AMT credits as refunds
COVID and Trade

- Trump under pressure to remove tariffs on China, others
- Considering 90 day deferral on tariff payments
- Prior to COVID, USTR only approving 3% of List 3 China tariff relief requests
- NADCA succeeded in preventing duties on imported Israeli magnesium
- Trump wants new NAFTA to Enter into Force June 1
- Transportation logistics causing manufacturing disruptions
- Can customer receive goods; can customer pay?

*Focus on your customer, not just impact of trade and COVID on your business*
Prior to COVID-19, Workforce Was Focus

• Higher Education Act Renewal
  - Allow Pell Grants for short term certifications (8-15 weeks)
  - Lobbying to expand 529s to cover certifications; long term learning accounts
  - Create more transparency into cost of college, student loans

• Congress Last Updated National Apprenticeship Act in 1937
  - House wants to simplify for employers pre-; youth; and registered apprenticeship programs
  - Connect apprenticeships with completing high school

• White House Industry Recognized Apprenticeship Program Rule Released
  - Associations become “certifiers” of industry-recognized apprenticeships
  - Applications due May 11
Next Steps

• More state governments will close to non-essential businesses
• States will likely increase limitations on “essential” if spread continues
• Trump wants economy reopened by Easter – states unlikely to comply
• FEMA asking for support: https://www.fema.gov/webform/covid-19-donations

• Expect a Phase 4 measure to move by mid-April
• Health experts predict it is a two-cycle virus – will come back later in 2020

• Impact on Presidential race unclear
• Only act of Congress can move November election (unlikely)
• How will Trump react to experts who want to keep country locked down?
Questions?

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