

ALERT

CALIFORNIA CHAMBER OF COMMERCE

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Price Control Expansion Among New ‘Job Killers’

Legislative Amendments Increase Tally of Damaging Proposals



Since the California Chamber of Commerce published its original “job killer” list in the June 23 issue of *Alert*, four more bills have

been added to the tally of legislation that, if passed, will have a negative impact on California’s strong economy and employer competitiveness.

Awaiting action on the Senate floor is **AB 457 (Núñez; D-Los Angeles)**, which creates burdensome and arbitrary new standards for price controls on numerous industries and opens the door to unfair competition prosecutions brought at the subjective whim of the Attorney General.

AB 457 significantly and arbitrarily expands price control laws, criminal sanctions and Section 17200 unfair competition liability for numerous types of

goods and services providers, including: farmers, food companies, grocers, retailers of all types, electronics companies, construction companies, building material and supply companies, paper product companies, pharmaceutical companies, oil companies, transportation, freight and storage companies, rental housing owners or companies, restaurants and hotels and motels.

Expands Current Laws

The bill creates a vague new trigger for price controls.

Currently, price control laws apply to companies only when there is a clearly defined, officially declared “state of emergency,” such as an earthquake, fire, flood or riot.

AB 457 significantly broadens these laws to apply also when there is an “abnormal market disruption.” The bill’s

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Chamber President: All Would Pay for Prop. 87

In a television ad that began airing this week, California Chamber of Commerce President Allan Zaremborg says Proposition 87 would impose a \$4 billion tax on oil produced in California, a tax that would lawfully be passed on to the “rest of us” in higher gas prices at the pump.

Zaremborg appears on camera to educate viewers that Chamber-opposed Proposition 87 on the November ballot is “not a tax on oil company profits. It’s a tax on oil produced in California.”

He goes on to explain that the tax “means less oil will be produced here,

more will be imported, which costs more to get here and more to refine.”

The ad is appearing in television markets statewide.

Increases Oil Prices

Proposition 87 would drive up prices for gasoline, diesel and jet fuel. The initiative would make California the highest taxed oil-producing state in the nation, and would place in-state producers at an extreme disadvantage in competing for new capital and investment, and ulti-

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Student Achievement Wins as Court Upholds State Exit Exam



In a victory for the California Chamber and other supporters of California’s High School Exit Exam (CAHSEE), the 1st District Court of appeal has upheld the exam.

“The court has recognized the Legislature’s intent that the CAHSEE serve as a tool ensuring high school students acquire basic skills in English and math,” said California Chamber President Allan Zaremborg.

Business Impact

“The business community is significantly affected by high school students who graduate without basic English and math skills, as they are unable to succeed in the workforce or continue on to higher education without costly and redundant remedial education,” Zaremborg said.

The Chamber, California Business Roundtable and California Business for Education Excellence filed a friend-of-the-court brief in support of CAHSEE in

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Labor Law Corner

Figuring Pay by Wage Averaging Not Good Practice in California



Gary Hermann
Labor Law Consultant

Is there any wage problem if an employee receives total compensation that averages at least the required minimum wage for all hours worked in the pay period?

Simply using a total compensation method may not be correct in California when an employee is paid on a piece-

rate, commission or flat-rate basis, even though federal interpretations would seem to indicate otherwise.

Federal Law

Under the Fair Labor Standards Act (FLSA), employees must be paid for all time spent in physical or mental exertion.

Therefore, under the FLSA, total compensation divided by the hours worked that resulted in an hourly rate of not less than the minimum wage would be valid.

Furthermore, federal courts consistently have followed the interpretation that *minimum wage* requirements are determined backwards from the date the payment is due without considering any hour or part of an hour in isolation.

State Law Differs

Under California law, however, employers are liable for all the time the employee is subject to the control of the employer, whether the employee is performing mental or physical activity or not.

In addition, the position of the California Division of Labor Standards Enforcement is that the obligation to pay minimum wage attaches to each and every separate hour worked during the pay period.

Section 4 of each of the Industrial Welfare Commission (IWC) Orders says: "Every employer shall pay to each employee, on the established payday for the period involved, not less than the applicable minimum wage for all hours worked in the payroll period, whether the remuneration is measured by time, piece, commission or otherwise."

The IWC Orders define *hours worked* as the time during which an employee is subject to the control of the employer, and include all the time the employee is suffered or permitted to work, *whether required to do so or not*.

State Supreme Court Precedent

In the 1998 case *Morillion v. Royal Packing Co.* (22 Cal. 4th 575), the California Supreme Court concluded that employees must be paid no less than the applicable minimum wage for *each* hour worked.

In *Morillion*, the employer had agri-

cultural workers meet at a certain location from which they were bused up to half an hour or more to fields where they harvested crops on a piece-rate basis. Employees were not paid for the bus trip time.

The court ruled that during the travel time, the employees were subject to the employer's direction and control, whether they performed any work or not, and that they had to be paid no less than the applicable minimum wage for each such hour.

The basis for this decision was that the employees did not have a chance to earn the agreed rate while riding the bus.

When Decision Applies

It is likely that similar conclusions would be reached in other industries where employees are paid on a commission, flat-rate or piece-rate basis, for time on the job when the employees are subject to their employer's direction and control, but during which they have no opportunity to earn the commission, piece rate or flat rate pay. For example:

- In agriculture, employees involved in harvesting crops generally are paid on a piece-rate basis.
- In auto repair, mechanics frequently are paid on a flat-rate basis.
- In the construction industry, it is not unusual for certain employees to be paid on a piece-rate basis.
- In the trucking industry, employees may be paid a daily rate, a rate per mile or an hourly rate. Sometimes, regardless of their regular rate, employees may not be paid for driving unloaded miles, for time spent waiting for a load or for certain breakdown or clean-up time.

It also would appear to be a risky practice for an employer to specify time the employee is subject to the employer's direction and control that is unpaid because such time could result in a minimum wage liability for each such hour.

The Labor Law Helpline is a service to California Chamber preferred and executive members. For expert explanations of labor laws and Cal/OSHA regulations, not legal counsel for specific situations, call (800) 348-2262 or submit your question at www.hrcalifornia.com.

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Chamber-Opposed Prop. 86 Jeopardizes Critical Funding, Sets Bad Precedent



**STOP THE
\$2 BILLION
TAX HIKE**

The California Chamber of Commerce is **opposed** to Proposition 86, the Tobacco Tax Act of 2006, which will appear on the November 7 general election ballot.

The Tobacco Tax Act of 2006 increases the state's excise tax by 300 percent, add-

ing a \$2.60 per pack tax on the price of cigarettes, with increases on other tobacco products sold in California.

The estimated \$2.1 billion from the new tax will be allocated to a variety of public health programs, smoking prevention and cessation programs, as well as children's health insurance, and various public health research programs.

The largest share of the new tax revenues, approximately 40 percent, will go to hospitals to pay for emergency services. Less than 10 percent will actually go toward helping smokers quit or keeping kids from starting.

In addition, Proposition 86 throws millions at program after program without adequate legislative or governmental oversight.

"The California Chamber of Commerce opposes Prop. 86 — the Tobacco Tax Act of 2006. It is a poorly written and conceived proposal that deserves a 'NO' vote on November 7, 2006," said Chamber President Allan Zaremborg.

"Prop. 86 mandates \$2.1 billion in new taxes with virtually no accountability on how the funds will be spent. What's worse — it ties massive spending mandates to this new, unstable tax source, jeopardizing our general fund revenue and expenditures and leaving fewer options for funding critical programs like education and transportation, especially during economic downturns," Zaremborg said.

"Further, it would establish a dangerous precedent by sanctioning the use of the initiative process to allow one business segment to arbitrarily tax another business segment. Other industries could become the targets for more new taxes the next

time some special interest group is looking for funding."

Unstable Revenue Source

Proposition 86 creates new government programs and spending that becomes locked into the state budget.

When revenues drop, the costs for these new programs continue and other new taxes or revenue sources will have to be tapped to make up the difference.

When smokers act on the increased incentive to seek out alternative purchasing channels, in-state taxable sales fall, further challenging the stability of this revenue source.

Since 2000, federal and state governments have increased their cigarette tax rates 65 times. In only six cases of 32 states that raised the tax did the 2004 state tax revenues actually meet or exceed the estimates. The other 26 states fell short of projections by as much as 59 percent.

Increased Illegal Activity

The increase in price of cigarettes will provide additional incentives for smokers to seek alternative venues to purchase cigarettes where state taxes are lower or can be illegally evaded. Law enforcement agencies such as the Bureau of Alcohol, Tobacco, Firearms and Explosives have concluded that there is a direct relationship between an increase in a state's excise tax and an increase in illegal trafficking.

Help Fight Ballot Initiatives Designed to Impede Business Voice in State

CALBUSPAC, the issues political action committee of the California Chamber of Commerce, is urging members to get involved in defeating several onerous ballot initiatives, including the tax on corporations to publicly finance political campaigns, Proposition 89.

CALBUSPAC accepts contributions in any amount, but it cannot accept contributions from foreign nationals. Additionally, it cannot accept any funds earmarked for any specific issue. The

board of CALBUSPAC decides its funding priorities based on its analysis of the importance of the issues to the business community and the needs and viability of the ballot measure committees formed to support the interests of business.

No Education Funding

According to a study by the Board of Equalization, California already loses hundred of millions of dollars annually in tobacco taxes because of smuggling and tax evasion.

In 1988, voters passed Proposition 98, which set a funding priority requiring that approximately 40 percent of all new tax revenue first be set aside for public education.

Under Proposition 98, some \$840 million of the \$2.1 billion in new tax revenue Proposition 86 is expected to generate should be going to California's schools. None of this new tax will go to education, however, because the measure amends the state Constitution to exempt this tax from the requirements and therefore avoids the required allocation of dollars to school funding.

This same \$840 million per year would put \$2,700 into every classroom every year for books, supplies and computers, or it could be used to hire 23,000 new teachers.

Join Opposition

The Chamber urges members of the business community and their supporters to join the campaign to oppose Proposition 86. For more information on how to get involved, please visit www.stop86.org.

Staff Contact: Jeanne Cain

To contribute to CALBUSPAC, send a check to: CALBUSPAC, ID #761010, c/o California Chamber of Commerce, 1215 K Street, Suite 1400, Sacramento, CA 95814, or visit www.calchamber.com/calbuspac.

Price Control Expansion Among New ‘Job Killers’

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definition of “abnormal market disruption” is extremely vague, including any “disruption” caused by any “activating event” anywhere in the world that suddenly reduces supply or damages distribution of a product.

This definition opens up price controls to be applied arbitrarily because disruptions and spikes and valleys in supply and distribution are normal and common in the marketplace.

This vague new trigger also makes use of price controls vulnerable to political pressure and trends.

Current price control laws apply to retailers; AB 457 expands the law to include any type of company that is in the chain of distribution or supply.

Other ‘Job Killer’ Additions

Other legislation added to the “job killer” list includes the following. The current location of each bill appears in italics after the bill description.

● **SB 1068 (Escutia; D-Norwalk)**

Antiquated Regulations — Stifles innovation and limits consumer choices by imposing antiquated regulations developed for monopolistic landline telephone services on rapidly growing and competitive telecommunications industry. *Assembly Utilities and Commerce.*

● **AB 3075 (Klehs; D-Castro Valley)**

Gas Tax Increase — Drives up fuel prices for businesses and consumers by imposing a 5 percent tax on oil companies’ net income in excess of \$10 million to fund a

reduction in the gasoline sales tax. *Senate Revenue and Taxation.*

● **ACA 36 (Nation; D-San Rafael)**
Gas Tax Increase — Makes California gasoline, already the most expensive in the nation, even more expensive by imposing a 25-cent increase over five years, none of which will be used for transportation. *In Assembly.*

Action Needed

The Chamber urges members to contact their legislators and ask them to **stop** these and other “job killers” from passing. Sample letters are available at www.calchamber.com/positionletters.
Staff Contact: Jeanne Cain

California Chamber President: All Would Pay for Prop. 87

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mately increase California’s dependence on outside and foreign oil.

Creates a New Bureaucracy

Proposition 87 also authorizes a new state bureaucracy with 50 political appointees and allows them to operate outside the state budget review process and the normal checks and balances that govern other agencies.

It lets these appointees sell billions of dollars in bonds they may not be able to repay, which could force a state bailout at taxpayer expense. Moreover, Proposition

87 doesn’t even require that all the new taxes be spent in California, much less in the United States

Impact on Other Programs

The independent Legislative Analyst reports that Proposition 87 would reduce revenues available for schools, public safety, health care, local government and transportation needs.

Although the state Constitution (Proposition 98) requires a portion of new state tax revenues go toward education, Proposition 87 exempts its tax revenues from the law. The author of Proposition

98 and former secretary of education estimate Proposition 87 would deny schools \$1.9 billion in the coming years.

Opposition Campaign

More than 140 organizations — including taxpayers, educators, public safety officials, businesses and energy producers — are part of the fast-growing coalition opposed to Proposition 87.

To view the ad or for more information about Proposition 87, visit www.NoOilTax.com.

Staff Contact: Jeanne Cain

Student Achievement Wins as Court Upholds State Exit Exam

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June. An appeal of *O’Connell v. Superior Court (Alameda)* had challenged the lawfulness of the exit exam.

Grad Success Benefits Economy

“With the CAHSEE in place, California’s successful high school graduates will benefit the state and national economies,” said Zarembek. “The CAHSEE is a mechanism that ensures graduating high school seniors obtain the requisite knowledge and skills needed to succeed and

will help students become better prepared to take advantage of economic, political and social opportunities.”

CAHSEE was put in place by legislation passed by the Legislature and signed into law by the Governor in 1999. The CAHSEE was designed to address deficiencies in California’s public school system, specifically a lack of uniformity in high school graduation standards among California’s 1,003 school districts.

The class of 2006 was the first required to pass the CAHSEE in order to

graduate from high school. Test results from that class illustrate that the CAHSEE is an effective tool in identifying students in danger of completing high school without fundamental English and math skills. With each test administration, more and more students are passing the exam, demonstrating they have acquired basic aptitude in English and math.

To read the court’s opinion in its entirety, visit www.calchamber.com.

Staff Contact: Erika Frank

2006 'Job Killer' Bill List Grows

Following is an updated list of the 2006 proposals the California Chamber of Commerce considers to be "job killers" that will have a negative impact on California's strong economy and the competitiveness of employers here. Four bills have been added since the original "job killer" list appeared in the June 23 *Alert*.

The status of each bill as *Alert* went to press appears in italics after the bill description. For ongoing updates, visit www.calchamber.com/jobkillers.

Costly Workplace Mandates

● **AB 1835 (Lieber; D-Mountain View)/SB 1162 (Cedillo; D-Los Angeles) Automatic Minimum Wage Increases** — Increases the cost of doing business without regard to the state's economy by increasing the minimum wage with annual automatic increases. *AB 1835: Senate Appropriations Suspense File; SB 1162: Assembly Appropriations Suspense File.*

● **AB 1884 (Chu; D-Monterey Park) Unemployment Insurance Compensation Benefits** — Increases the cost of doing business in California by forcing California employers to subsidize a strike against their own company by providing unemployment insurance benefits to workers unemployed due to a strike. *To Governor.*

● **AB 2209 (Pavley; D-Agoura Hills) Unemployment Insurance Benefit Expansion** — Increases the cost of doing business in California by forcing employers, in essence, to subsidize a strike against their company by creating a new monetary penalty payment equivalent to all lost wages and benefits that employers must pay directly to all workers unemployed due to the strike. *Awaiting Assembly concurrence in Senate amendments.*

● **SB 300 (Kuehl; D-Santa Monica) Leave Law Abuse** — Opens California's leave law to potential abuse by removing controls that require that the employee actually provides the care, among other provisions. *Assembly Appropriations Suspense File.*

● **SB 840 (Kuehl; D-Santa Monica) Government-Run Health Care** — Imposes a government-run health care system on all Californians. *Assembly Appropriations.*

● **SB 1414 (Migden; D-San Francisco) Health Care Tax** — Imposes a tax on

employers with over 10,000 employees to spend the equivalent of 8 percent of their total payroll on health care or pay the equivalent amount to the state. *Assembly Appropriations.*



Economic Development Barriers

● **AB 32 (Núñez; D-Los Angeles/Pavley; D-Agoura Hills) Halts Economic Growth** — Increases costs for California businesses, makes them less competitive, and discourages economic growth with little or no proven environmental benefit by adopting an arbitrary cap on carbon emissions. *Senate Appropriations Suspense File.*

● **AB 1101 (Oropeza; D-Long Beach) Ports: Regulatory Complexity** — Hampers operations at ports, rail yards and airports by shifting regulatory authority over emissions from state to local entities, creating a patchwork of potentially inconsistent regulations statewide, creating conflicts with federal law. *Senate Floor.*

● **AB 1528 (Jones; D-Sacramento) Halts Economic Growth** — Halts much-needed housing in undeveloped areas by shifting flood liability from state government to local government, resulting in local governments refusing to issue development permits. *Senate Judiciary.*

● **AB 1899 (Wolk; D-Davis) Halts Economic Growth** — Prohibits development in the Central Valley by requiring the creation of a 200-year flood standard that is currently impossible to achieve. *Senate Appropriations Suspense File.*

● **AB 2641 (Coto; D-San Jose) Halts**

Economic Growth — Halts development indefinitely by requiring open-ended consultation and ultimate land use decision by an advocacy commission for Native Americans. *Senate Floor.*

● **SB 44 (Kehoe; D-San Diego) Affordable Housing Development Impediment** — Slows the development process by adding yet another element to be included within general plans and increases opportunities for "anti-growth" litigation. *Assembly Inactive File.*

● **SB 646 (Kuehl; D-Santa Monica) Water Discharge Fee** — Jeopardizes jobs and agriculture and timber industry revenues by imposing mandatory annual fees for water discharge waivers with no accountability requirements. *Assembly Inactive File.*

● **SB 764 (Lowenthal; D-Long Beach) Ports: Goods Movement Cost Increase** — Increases the costs of goods movement and drives business and jobs from California ports by requiring the City of Los Angeles and the City of Long Beach to prohibit any growth at their respective ports unless that growth can be accomplished with no net negative impact on air quality. *Assembly Appropriations Suspense File.*

● **SB 1368 (Perata; D-Oakland) Increases Electricity Costs** — Limits the available power sources to meet California's energy demands while substantially increasing the price of electricity to consumers and businesses by establishing an unattainable greenhouse gas emission performance standard. *Assembly Appropriations.*

● **SB 1523 (Alarcón; D-San Fernando Valley) Regulatory Hurdles** — Stifles economic development by adding an economic impact report prior to the superstore retailer approval process. *Assembly Appropriations.*

Expensive, Unnecessary Regulatory Burdens

● **AB 457 (Núñez; D-Los Angeles) Disasters: Price Controls** — Creates burdensome and arbitrary new standards for price controls on numerous industries and opens the door to unfair competition prosecutions brought at the subjective whim of the Attorney General. *Senate Floor.*

● **SB 1068 (Escutia; D-Norwalk)**

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2006 'Job Killer' Bill List Grows



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Antiquated Regulations

— Stifles innovation and limits consumer choices by imposing antiquated regulations developed for monopoly

services on rapidly growing and competitive telecommunications industry. *Assembly Utilities and Commerce.*

- **SB 1205 (Escutia; D-Norwalk)**

Punitive Regulation — Makes California unattractive to business by raising maximum fines for emission violations, creating a new category of violators with no due process for the determination of who is a violator while ignoring that there is no demonstrated connection between penalties and emission rates. *Assembly Appropriations Suspense File.*

- **SB 1252 (Florez; D-Shafter)**

Resource Regulation — Penalizes businesses that are in the process of implementing the latest air standards by imposing an additional civil penalty. *Assembly Appropriations Suspense File.*

- **SB 1379 (Perata; D-Oakland)**

Biomonitoring — Makes California unfriendly to business by establishing a biomonitoring program that could generally lead to the elimination or reduction of use of certain chemicals that have not been scientifically proven harmful, based on mere detection. *Assembly Appropriations Suspense File.*

Fuel Price Increases

- **AB 1012 (Nation; D-San Rafael)**

Fuel Mandate — Disrupts California's transportation fuels market by mandating the sale of scarce alternative fuels such as ethanol and biodiesel, resulting in significant gas price spikes. *Senate Appropriations Suspense File.*

- **SB 1675 (Kehoe; D-San Diego)**

Increases Gas Prices — Creates market volatility, ignores current operational limitations and supply availability by mandating the use of biodiesel in fuels. *Assembly Appropriations Suspense File.*

Increases Frivolous Lawsuits

- **AB 581 (Klehs; D-Castro Valley)**

New Reason to Sue — Makes California less desirable as a place to establish or expand a business by opening new avenues

to sue employers by establishing a broad private right of action that permits joint labor management committees to sue any employer for certain Labor Code violations that may have occurred up to four years previously, among other provisions. *Senate Appropriations Suspense File.*

- **SB 109 (Ortiz; D-Sacramento) Excessive Litigation** — Increases litigation costs and potential lawsuits by allowing for both civil and criminal penalties for minor air quality violations. *Assembly Unfinished Business/Reconsideration.*

- **SB 1489 (Ducheny; D-San Diego) Government Agency Potential Harassment of Employers** — Invites unlimited "fishing expeditions" by the Attorney General under numerous statutes, including the Unruh Civil Rights Act and environmental laws, by permitting judges to make defendant companies pay all the investigation and lawsuit costs, including attorneys' fees, if the Attorney General "prevails." The term "prevail" could include settlements, changes in operation by a defendant or even a minuscule monetary award. *Assembly Floor.*

Tax and Fee Increases

- **AB 1177 (Chan; D-Oakland) Tax Increase** — Increases the tax burden on small business by increasing personal income tax rate to 10 and 11 percent and the alternative tax rate to 8.5 percent. *Senate Revenue and Taxation.*

- **AB 1766 (Dymally; D-Compton)/SB 1008 (Ducheny; D-San Diego)/Machado; D-Linden) Tax Increase** — Reduces the state's only remaining economic development tax credit by making it harder for business to qualify

for the credit and making it harder for banks to lend to these businesses. *AB 1766: Senate Floor; SB 1008: Assembly Revenue and Taxation.*

- **AB 2442 (Klehs; D-Castro Valley) Gas Tax Increase** — Drives up fuel prices for businesses and consumers by imposing a 2 percent tax on oil companies' net income in excess of \$10 million to fund a reduction in the gasoline sales tax. *Assembly Floor.*

- **AB 2829 (Ridley-Thomas; D-Los Angeles) Tax Increase** — Increases taxes on multinational companies that do business in California but whose parent company is incorporated overseas. *Assembly Floor.*

- **AB 3075 (Klehs; D-Castro Valley) Gas Tax Increase** — Drives up fuel prices for businesses and consumers by imposing a 5 percent tax on oil companies' net income in excess of \$10 million to fund a reduction in the gasoline sales tax. *Senate Revenue and Taxation.*

- **ACA 36 (Nation; D-San Rafael) Gas Tax Increase** — Makes California gasoline, already the most expensive in the nation, even more expensive by imposing a 25-cent increase over five years, none of which will be used for transportation. *In Assembly.*

- **SB 760 (Lowenthal; D-Long Beach) Ports: Goods Movement Cost Increase** — Increases the cost of goods movement in California by assessing a \$30 fee per twenty-foot equivalent unit on containers processed through the Los Angeles and Long Beach ports. *Assembly Appropriations.*

Seminars/Trade Shows

For more information on the seminars listed below, visit www.calchamber.com/events.

International Trade

International Business Leadership Program. Northern California World Trade Center. August 31, Sacramento. (916) 447-9827.

Labor Law

Workers' Compensation in California Web Seminar. California Chamber of Commerce. September 21. (800) 331-8877.

Chamber Calendar

International Luncheon Forum:

August 23, Sacramento

Water Committee:

September 7, Santa Monica

Fundraising Committee:

September 7, Santa Monica

Board of Directors:

September 7-8, Santa Monica

Tourism Committee:

September 8, Santa Monica

Strong Opposition Needed to Stop Two Health Care Mandate Proposals



Two California Chamber of Commerce-**opposed** “job killer” bills that will drastically drive up employers’ costs for health insurance and slow California’s economic growth are under consideration in the Assembly.

● **SB 840 (Kuehl; D-Santa Monica)** imposes a government-mandated health care system on all Californians.

● **SB 1414 (Migden; D-San Francisco)** imposes a tax on employers with more than 10,000 employees to spend the equivalent of 8 percent of their total payroll on health care or pay the equivalent amount to the state.

Government Mandate

California voters have twice rejected a government-mandated health care system — Proposition 72 in November 2004 and an initiative in 1994. Focus groups and numerous opinion polls on health care reform have reinforced that California residents do not want a single-payer government-run system, as SB 840 proposes.

Several sources have estimated that it

would cost tens of billions of dollars to operate the health care system envisioned by SB 840. There also would be billions of dollars in start-up and administration costs related to the new agency the bill proposes.

These costs would be financed through new health care taxes on consumers, employees and businesses in California, resulting in a multibillion-dollar tax increase on Californians.

The Chamber recognizes that the health care system in California has some serious problems and believes that the Legislature should look at current health care mandates and work toward making health care more affordable.

Before adopting new costly mandates, the Legislature should consider ways to streamline regulations to increase efficiency and reduce overall administrative costs.

SB 1414

SB 1414 does nothing to contain costs or improve the quality of care. Employer mandates do not solve problems, but rather threaten jobs and slow economic growth, sending a message that our state is unfriendly to business.

A recently released study by the Employment Policies Institute showed that, if passed nationwide, employer-paid mandates would trigger job losses for 315,000 Americans.

Any proposal that singles out large employers ignores the fact that all California businesses, regardless of size, are struggling with the soaring cost of health care.

Similar Law Overturned

SB 1414 is similar to a law adopted this year in Maryland that recently was overturned by a federal judge. The Maryland law would have required “non-governmental employers of 10,000 or more people in the state” to spend a certain portion of their payrolls on health care benefits.

Action Needed

The Chamber is strongly urging employers to ask their Assembly representatives to **oppose SB 1414** and **SB 840**.

For sample letters, visit www.calchamber.com/positionletters.
Staff Contact: Marti Fisher

‘Blank Check’ Litigation Bill on Assembly Floor



California Chamber of Commerce-**opposed** “job killer” legislation that in effect creates a “blank check” for the Attorney General’s office to pursue lawsuits

against business is awaiting action on the Assembly floor.

SB 1489 (Ducheny; D-San Diego) invites unlimited “fishing expeditions” by the Attorney General under numerous statutes, including the Unruh Civil Rights Act and environmental laws, by permitting judges to make defendant companies pay all the investigation and lawsuit costs, including attorneys’ fees,

if the Attorney General “prevails.” The term “prevail” could include settlements, changes in operation by the defendant or even a miniscule monetary award.

The bill applies retroactively to any lawsuits pending as far back as 2003 or 2004.

The Chamber and the diverse coalition of businesses opposing SB 1489 believe the ambiguity and scope of the bill in essence creates a blank check for the Attorney General’s office to conduct fishing expeditions and pursue lawsuits of all types against businesses, including suits under the Unruh Civil Rights Act, the Fair Employment and Housing Act, corporate securities laws, environmental laws and public nuisance laws.

SB 1489 could also open the door to numerous actions by private plaintiffs’ lawyers retained by the Attorney General’s office.

Action Needed

SB 1489 was amended on August 14 on the Assembly floor, but it remains a “job killer” and can be voted upon by the full Assembly at any time.

The Chamber strongly encourages business owners to write Assembly members to **oppose SB 1489**.

Sample letters can be found at www.calchamber.com/positionletters.
Staff Contact: Kyla Christoffersen

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