

ALERT

VOLUME 37, NUMBER 22 • JULY 1, 2011



State Budget Plan Depends on Strong Economic Growth



Governor Jerry Brown signed a budget compromise this week that relies on strong economic growth to remain balanced, but only after additional painful spending cuts to basic state

and local services.

The budget deal, consummated before the start of the 2011–12 fiscal year, recognized that the Republicans were not going to vote to extend the temporary tax increases adopted in 2009. New or extended taxes would require two-thirds approval by the Legislature, meaning at least two Republicans in each house would have to agree.

As a result, the state sales tax rate will drop down by 1 percentage point and rates will be reduced on vehicles newly registered or renewed starting next week. The income tax surcharge in effect in 2009

and 2010 expired on December 31, 2010.

Economic Recovery Key

California Chamber of Commerce President and CEO Allan Zarembek commented on the June 28 budget vote the next day by saying, “The budget passed last night is predicated upon economic recovery. This makes it clear that legislators must work to ensure no more harm is done to California’s economy.

“We all must work together to do everything possible to create certainty for employers. Any job killing bill has the potential to impact the state budget and result in more cuts to critical programs. Whether the priority is private sector jobs or public sector services, all will be hurt if job killing legislation is passed.”

Majority Vote Budget

The \$86 billion General Fund budget was the first spending plan adopted under the new procedures approved last

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Climate Change Tax Increase Passes Committee



Legislation that will impose a climate change tax increase passed the Assembly Natural Resources Committee on June 27.

The California Chamber of Commerce **opposes** “job killer” bill **SB 535 (De León; D-Los Angeles)**, which increases costs and discourages job growth by implementing unlimited fees and taxes under a cap-and-trade system.

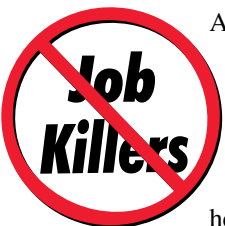
The bill seeks to establish the California Communities Healthy Air Revitalization Fund (CalCHART) and dedicate revenues from the Air Pollution Control Fund (pursuant to AB 32, the Global Warming Solutions Act of 2006) to fund climate change programs for selected “most impacted and disadvantaged” communities in California.

No Scientific Justification

In late 2010, the California Air Resources Board (ARB) completed a Co-Pollutant Emissions Assessment, an analysis of the impacts of cap-and-trade implementation in four communities. The assessment concluded that the cap-and-trade program will produce no increases in criteria pollutants or air toxics, which are the emissions that have a direct effect on public health in those communities.

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Costly Rate Regulation Bill Awaits Action



A California Chamber of Commerce-**opposed** “job killer” bill that creates uncertainty, increases the complexity in the health care system and will lead to higher costs

for employers and employees was the subject of testimony before the Senate Health Committee this week.

AB 52 (Feuer; D-Los Angeles)

imposes implementation fees on health insurers to support additional bureaucracy and to regulate rates without addressing the costs that drive the rates. The committee will vote on the proposal next week.

AB 52 Problems

Problems the CalChamber has identified with AB 52 include the following:

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Labor Law Corner

Handling Multiple Requests for Family Medical Leave/Care for a Parent



Sunny Lee
HR Adviser

We employ members of the same family who are requesting parental leave at the same time. Are we required to provide them with leave at the same time? What happens if the parent dies?

Not all employers are required to provide a leave of absence for the care of a parent. The answer to this question depends on what laws, policies and practices apply.

The first consideration should be to

review whether the employer is obligated to provide a Family Medical Leave (FMLA) leave and whether an employee qualifies for the leave.

Employee Rights

The FMLA and the state equivalent, the California Family Rights Act (CFRA), would require a leave of absence for parental care provided that the employer is covered by these laws (50 or more employees) or the employer has voluntarily elected to have an FMLA policy by policy or practice.

If that is the case, each one of the employees would be eligible for the leave provided that they have worked for the employer for one year; worked 1,250 hours during the last 12 months of employment; and work at a site with 50 or more employees within a 75-mile radius, unless it is a remote site that reports to an office with 50 or more employees.

An employee who is eligible for the leave should be given notice of his/her FMLA rights and asked to submit a serious health condition certification from the parent's doctor that shows the employee is needed for care or support.

Although it is unusual for an employer to have multiple requests from family members for an FMLA leave at the same time, each employee has rights to take a separate FMLA leave for up to 12 weeks within a 12-month period.

If each employee provides a certification, there is nothing in the law that would prevent the employees from taking leave all at the same time. Although it may be hard to manage, an employer would not be able to deny leave.

The only exception to the amount of leave each employee is entitled to take for parental leave is where both employees are husband and wife.

If the employees are husband and wife, the employer could limit the amount of parental leave to a combined total of 12 weeks. Although the total time provided for employees for parental leave may be limited, employees may request parental leave only for the care of their parent and not for the care of their spouse's parent.

FMLA Ends at Death

Because FMLA is limited to a serious health condition, if the parent dies, the

need for the leave ends and unless the employer has a bereavement leave or offers a personal leave, the employee would have to return to work.

In some cases, if the employee is distraught over the death, the employee may qualify for an FMLA serious health condition leave for himself/herself. Although this may not be typical, an employer should consider this and provide the certification form to an employee if that employee says he/she is unable to return to work.

Company Policy or Practice

An employer not bound by FMLA would look to its own policies and practices. If the employer has no policy or practice, it would be up to the employer to decide to grant or deny a leave.

Some companies do have family leave or a personal leave that may apply in this situation. In that case, the employer would go by the terms of its policy in approving the leaves.

It is not unusual for personal leaves to be discretionary based on the operating needs of the employer and for that reason, an employer may not find it possible to grant all leaves at the same time.

If a company had granted time off to another employee to care for a family member who is ill, then that may become the employer's practice and the employer may be discriminating by not providing the leave to other employees.

When there is no FMLA protection, the law does not mandate job protection for up to 12 weeks or continued medical insurance coverage; the employer may determine how long to provide a leave and let the employee know what is going to happen with insurance.

Because leaves often are difficult to manage, members may call and discuss situations with the Helpline and also refer to the CalChamber *Labor Law Digest* and *HRCalifornia* for more clarification.

The Labor Law Helpline is a service to California Chamber of Commerce 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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Alert (ISSN 0882-0929) is published weekly during legislative session with exceptions by California Chamber of Commerce, 1215 K Street, Suite 1400, Sacramento, CA 95814-3918. Subscription price is \$50 paid through membership dues. Periodicals Postage Paid at Sacramento, CA.

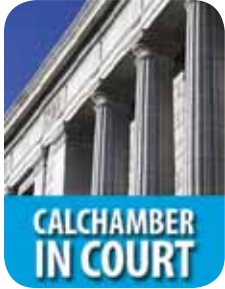
POSTMASTER: Send address changes to Alert, 1215 K Street, Suite 1400, Sacramento, CA 95814-3918. Publisher: Allan Zarembeg. Executive Editor: Ann Amioka. Associate Editor: Sara Espinosa. Art Director: Marcy Wacker. Capitol Correspondent: Christine Haddon. Photographer: Megan Wood.

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State Supreme Court Sides with Employers on Liability for Employee Actions



In a unanimous decision, the California Supreme Court has sided with employers in an important court case addressing employer liability for employee actions at work and whether

certain evidence may be used after the employer admits such liability.

The decision confirmed that when an employer admits vicarious liability, the plaintiff is barred from pursuing additional tort theories based on the employee/employer relationship.

The ruling in the case of *Diaz v. Carcamo, et al.* echoed an argument made by the California Chamber of Commerce and the Civil Justice Association of California (CJAC) in a friend-of-the-court brief filed last October.

No Additional Liability

The state Supreme Court agreed

with the CalChamber/CJAC argument that once an employer admits vicarious liability for an employee driver's negligence in causing an accident, the plaintiff cannot also pursue other legal theories, such as negligent hiring and/or retention, against the employer to recover additional damages.

The court upheld the policy rationale behind Proposition 51, a 1986 ballot initiative approved by voters to rein in inequitable damage awards by providing that parties to a negligence action pay no more than their respective percentage of fault for an injured party's non-economic damages.

Once the employer acknowledged its vicarious liability for the employee's negligent driving in the course of employment, the Proposition 51 objective of allocating losses objectively "is not served by subjecting the employer to a second share of fault," the court wrote. The court affirmed that for the purpose of allocating fault, the employer in essence steps into the shoes of the employee.

The Supreme Court returned the case to the trial court for a complete retrial.

Law Explained

Before the recent upswing in negligent hiring/retention cases, employers generally were held liable only for negligent and intentional acts of employees done in the course and scope of employment when such acts injured others, under the doctrine of *respondeat superior*. Under that doctrine, injured third parties generally could not recover against employers if the wrongful acts occurred outside the scope of the employee's employment or were not in furtherance of the employer's business.

Under the negligent hiring/retention doctrine, however, injured third parties have, in certain situations, successfully sued employers for negligent hiring/retention of employees who engage in criminal or violent acts that occur after working hours or outside the scope of employment. Negligent hiring/retention, therefore, enables plaintiffs to recover damages in situations where the employer previously was protected from liability.

Staff Contact: Erika Frank

Costly Rate Regulation Bill Awaits Action in Senate Health Committee

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● **AB 52 will drive up the price of health coverage, lead to lengthy delays and limit choices by irresponsibly creating costly new government bureaucracies.** The added bureaucracy and administrative burden imposed by AB 52 will ultimately drive up the price of coverage because premiums will have to cover the added cost of complicated filings and legal challenges to new rates and the state's cost for reviewing those submissions.

In the long run, temporary artificial suppression of rates will lead to larger increases down the road because health insurance has to cover the cost of offering and providing health coverage. Policy changes requested by employers, even minor changes to benefits or cost-sharing, will be subject to regulatory review, delay and legal challenge. AB 52 will do the

opposite of what it claims to do: It will drive up insurance premium prices for employers and their employees and that will limit their choices for coverage.

● **AB 52 encourages expensive legal disputes—adding even more to employers' and employees' insurance costs.** AB 52 will lead to protracted, costly lawsuits and administrative hearings by offering lucrative financial rewards to lawyers for filing unnecessary legal challenges. The bill will enable almost any individual or group to intervene in an ongoing rate-setting proceeding, adding even more to the cost of employers' and employees' premiums, delaying approval of employers' health benefit packages and further limiting their choices.

Under AB 52, attorneys will have the power to block the sale of the high-deductible insurance relied on by many

small employers and to object to the contracts larger employers negotiate with health plans, creating uncertainty and complexity for employers. These legal challenges and regulatory reviews will add hundreds of days to the process, costing employers money and precious time.

● **AB 52 offers no relief from the underlying cost pressures that drive up employers' and employees' insurance premiums.** Health plans provide comprehensive, high-quality coverage to more than 27 million Californians at a price that—in a high-cost state—is around the national average. As it should, the lion's share of premiums is spent on medical expenses: 87 cents out of every \$1 in insurance premiums pay for hospitals, doctors, labs, prescription drugs and other health care costs.

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Climate Change Tax Increase Passes Committee

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This means there is no evidence that the communities SB 535 cites will be harmed due to the implementation of a cap-and-trade program.

Administrative Funds

SB 535 grants the ARB authority to raise revenues through a fee to cover the costs of administering the program and for no other purpose. Use of the revenues proposed by SB 535, however, would require additional authority granted by the Legislature or voters. If the revenues raised and spent by the cap-and-trade program are a tax and not a legal fee, a two-thirds vote will be required.

Furthermore, the bill grants up to 5% of the monies allocated to the CalCHART

Fund to be used for administrative purposes. The ARB already has the authority, however, to collect AB 32 administrative fees—an additional 5% of funds are not needed to administer the program. This is unfair double-dipping at the expense of business.

Premature Measure

The CalChamber is pointing out that because the ARB has not determined the appropriate use of revenues for other program purposes, SB 535 is a premature measure. The cap-and-trade market will not start until January 1, 2013, so it is unknown how much revenue the ARB will raise or how much revenue will be needed to meet AB 32 emission reduction goals, and to mitigate unintended and

harmful consequences of the program. SB 535 would unjustifiably divert funds from these purposes.

Key Vote

SB 535 passed Assembly Natural Resources on a party-line vote of 6-3 on June 27:

Ayes: Brownley (D-Santa Monica), Chesbro (D-North Coast), Dickinson (D-Sacramento), Hill (D-San Mateo), Monning (D-Carmel), Skinner (D-Berkeley).

Noes: Grove (R-Bakersfield), Halderman (R-Fresno), Knight (R-Antelope Valley).

The bill will be considered next by the Assembly Appropriations Committee.

Staff Contact: Brenda M. Coleman

CalChamber-Sponsored Seminars/Trade Shows

More information at

www.calchamber.com/events.

Business Resources

9th Annual Workers' Compensation Conference. California Coalition on Workers' Compensation. July 20–22, Anaheim. (916) 441-4111.

Northern California Tour. Water Education Foundation. October 12–14, Sacramento. (916) 444-6240.

Licensing Executives Society Annual Meeting. Licensing Executives Society (USA and Canada). October 16–19, San Diego. (703) 836-3106.

International Trade

Russian American Pacific Partnership. July 13–14, Kamchatskiy Territory, Russia.

International Traffic in Arms (ITAR) Export Compliance Training. El Camino Center for International Trade Development. July 14, Hawthorne. (310) 973-3173.

Food/Beverage Show. Exhibition Management Services. July 17–19, Johannesburg, South Africa.

Harmonized Tariff Schedule (HTS) Revision Seminar. El Camino Center for International Trade Development. July 19, Hawthorne. (310) 973-3173.

U.S. Customs Broker Prep Course.

El Camino Center for International Trade Development. July 19, Hawthorne. (310) 973-3173.

Export Tax Break/Interest Charge-Domestic International Sales Corporation Webinar. El Camino Center for International Trade Development. July 26, Webinar. (310) 973-3173.

Understanding Antidumping and Countervailing Duties. Women in International Trade. August 17, Torrance. (800) 514-6407.

Trade Mission to South Africa. U.S. Chamber of Commerce. September 19–23, South Africa. (202) 482-5496.

Cargo Loss: Natural Disasters and Piracy Theft. Women in International Trade. September 21, Long Beach. (800) 514-6407.

Incoterms. Women in International Trade. October 19, Torrance. (800) 514-6407.

Labor Law

How to Conduct Workplace Investigations. CalChamber. July 14, Webinar; July 25, On Demand. (800) 331-8877.

Determining Independent Contractor Status. CalChamber. September 8, Webinar; September 19, On Demand. (800) 331-8877.

IRS Announces Increase in 2011 Standard Mileage Rates

The Internal Revenue Service (IRS) recently announced an increase in the optional standard mileage rates for the final six months of 2011.

This rate may be used by taxpayers to calculate the deductible costs of operating a car for business and other purposes.

The rate will increase to 55.5 cents a mile for all business miles driven from July 1, 2011, through December 31, 2011. This is an increase of 4.5 cents from the 51-cent rate in effect for the first six months of 2011.

The new six-month rate for computing deductible medical or moving expenses will also increase by 4.5 cents to 23.5 cents a mile, up from 19 cents for the first six months of 2011. The rate for providing services for charitable organizations is set by statute, not the IRS, and remains at 14 cents a mile.

The IRS reminded taxpayers that they always have the option of calculating the actual costs of using their vehicle rather than using the standard mileage rates.

For more information, visit the IRS website at www.irs.gov.

One ‘Job Killer’ Vetoed; Others Still Moving



Governor Jerry Brown has vetoed a California Chamber of Commerce “job killer” bill, **SB 104 (Steinberg; D-Sacramento)**.

SB 104 would have essentially eliminated a secret ballot election for agricultural employees to choose whether to unionize and replaced it with the submission of representation cards signed by more than 50% of the employees, thereby leaving employees susceptible to coercion and manipulation by labor organizations.

CalChamber believes the current provisions of the Agricultural Labor Relations Act (ALRA) adequately protect the rights and interests of employees and employers, as well as unions.

CalChamber President and CEO Allan Zaremberg commented, “Governor Brown did the right thing in vetoing the card check bill. Eliminating the secret ballot election would have hurt workers and card check would have created more uncertainty for employers. The Governor certainly recognized that we must all work to create certainty for employers and protect our economy, particularly in light of a state budget that relies on revenue materializing, in his veto of this job killer bill.”

Governor’s Veto Message

In his veto message, Governor Brown reminded the bill’s supporters that while Governor in 1975 he signed the nation’s first agricultural labor relations act, the ALRA. Under its protections, tens of thousands of agricultural workers have voted for unionization or otherwise expressed their choices as to how their interests should be advanced, the veto message stated.

“Thirty-six years later, the ALRA is still recognized as the best labor relations act in the country,” Brown wrote. “I am not yet convinced that the far-reaching proposals of this bill—which alter in a

significant way the guiding assumptions of the ALRA—are justified.”

‘Job Killers’ Still Moving

Costly Workplace Mandates

● **AB 22 (Mendoza; D-Artesia) Hampers Employment Decisions.**

Unfairly limits private employers’ ability to use consumer credit reports for legitimate employment purposes, unless the information in the report is “substantially job-related” and for a “managerial position.”

● **AB 375 (Skinner; D-Berkeley) Expands Costly Presumptions.**

Increases workers’ compensation costs for public and private hospitals by presuming certain diseases and injuries are caused by the workplace.

● **AB 1155 (Alejo; D-Watsonville) Erodes Workers’ Comp Reforms.**

Increases costs and lawsuits in the workers’ compensation system by eroding the apportionment provision that protects an employer from paying for disability that did not arise from work.

● **SB 829 (DeSaulnier; D-Concord) Undermines Employer Rights.**

Undermines employer rights in California Division of Occupational Safety and Health (Cal/OSHA) citations by allowing private parties to interfere with the appeals process which could impose significant costs on employers, the Cal/OSHA Appeals Board and on Cal/OSHA.

Economic Development Barriers

● **AB 350 (Solario; D-Anaheim) Costly Employee Retention Mandate.**

Inappropriately alters the employment relationship by requiring any successor contractor for “property services,” defined as licensed security, landscape, window cleaning or food cafeteria services, to retain employees of the former contractor for 90 days and thereafter offer continued employment unless the employees’ performance during the 90-day period was unsatisfactory.

● **SB 508 (Wolk; D-Davis) Discourages Investment.**

Creates uncertainty for California employers

making long-term investment decisions by requiring all future tax credits to sunset after seven years.

● **SB 535 (De León; D-Los Angeles) Climate Change Tax Increase.** Increases costs and discourages job growth by implementing unlimited fees and taxes under a cap-and-trade system.

Employee Benefit Mandates

● **AB 325 (B. Lowenthal; D-Long Beach) Unpaid Bereavement Leave.**

Adds to California’s reputation of being an overly litigious state by creating a private right of action and mandating an employer to provide an employee with up to four days of unpaid bereavement leave. *Expensive, Unnecessary Regulatory Burdens*

● **AB 52 (Feuer; D-Los Angeles) Rate Regulation.** Imposes implementation fees on health insurers to support additional bureaucracy and to regulate rates without addressing the costs that drive the rates.

● **SB 568 (Lowenthal; D-Long Beach) Polystyrene Food Container Ban.** Threatens thousands of manufacturing jobs within the state by inappropriately banning all food vendors from using polystyrene foam food service containers, ignoring the numerous environmental benefits associated with polystyrene products.

Inflated Liability Costs

● **AB 559 (Swanson; D-Oakland) Undermines Judicial Discretion.**

Unreasonably increases business litigation costs by limiting judicial discretion to reduce or deny exorbitant attorneys fees in fair employment and housing claims that should have been raised in a limited civil proceeding.

● **AB 1062 (Dickinson; D-Sacramento) Undermines Efficient Dispute Resolution.** Dramatically increases litigation costs for employers by eliminating the right to appeal a court order denying or dismissing a petition to compel arbitration, driving more cases into the courts.

State Budget Plan Depends on Strong Economic Growth

From Page 1

November by the voters in Proposition 25. That measure reduced the vote threshold for the budget from a two-thirds margin to a simple majority of the Legislature. The budget was approved with no Republican votes.

Even under a streamlined approval, all parties gave up some cherished demands. Legislative Democrats had insisted on new or extended taxes to support a higher level of spending. Governor Brown had insisted on a statewide vote of the people on a five-year extension of the 2009 temporary tax increases and using part of the extension to begin reducing the state's outstanding budget debt. Legislative Republicans had insisted on pension and regulatory reforms, and a tougher spending cap as a condition of higher taxes or a popular vote on taxes. None of these demands came to pass.

Key Budget Elements

The ultimate compromise included a mix of tough spending cuts, hopes for a more robust economic recovery and, failing that, additional spending reductions and a guaranteed continuation of budget deficits. Key elements of the budget include:

- **No new, increased or extended taxes.** As of July 1, the state sales tax and vehicle license fee will revert to January 2009 levels. Personal income tax rates have already dropped by one-quarter of a percentage point as of last January. On an annual basis, this means taxes are about \$9 billion less than in 2010.

- **Several new fees and tax collection schemes.** Vehicle registration fees were increased by \$12 to support the

Department of Motor Vehicles and a new fire suppression fee for rural homeowners was adopted. Also, e-commerce vendors with affiliates in California, such as Amazon, will be required to collect sales taxes on in-state purchases. Amazon has indicated it may terminate its relationships with California affiliates.

- **Major cuts to higher education.** Together, the University of California and California State University budgets will be reduced by \$1.3 billion, plus another \$200 million if the optimistic revenues don't materialize. These legislative actions will lead to higher tuition and reduced enrollment opportunities.

- **Further cuts to courts and public safety.** The state's trial courts will be cut a total of \$350 million in the latest compromise and more than \$300 million in courthouse construction will be delayed, which will eliminate numerous private sector jobs. Also, the state Department of Justice will see its budget reduced, which the Attorney General indicates will compromise public safety.

- **Public schools have been spared the worst of the budget ax this year.** They are fully funded within the Proposition 98 guarantee. If the \$4 billion in hoped-for revenues fails to materialize, however, school funding will fall by \$1.5 billion, which could trigger a seven-day reduction in the school year. A companion to the budget bill provides a guarantee that any money cut by the trigger will be restored in future years. In addition, it appears to prevent school districts from terminating teachers in 2011-12 due to lack of funds.

- **Redevelopment agencies eliminated.** In one of the more

controversial outcomes of this year's negotiations, the Legislature agreed to eliminate and replace redevelopment agencies. These local economic development bodies have been under fire for reasons ranging from abusing property rights to wasteful and ineffective practices. Savings to the state are estimated at \$1.7 billion, but this assumes the proposal survives a vigorous legal battle by the League of California Cities.

Third Try Signed

The budget signed this week was the third budget the Legislature approved this year. The first was passed in March, but not transmitted to the Governor, pending further negotiations on tax and reform issues. The second was passed just before the June 15 legislative deadline, in order to meet the requirements of Proposition 25 that the budget be passed by then or else legislative pay and expenses cease. The Governor unexpectedly vetoed that budget, which was laden with gimmicks and debt, but the State Controller stopped paying legislators anyway, saying the budget must not only be timely, but balanced. Observers have commented that the Controller's tactic may have increased the incentive for the Legislature to reach a budget compromise.

The budget is predicated upon the belief that \$4 billion in new revenues is possible based on recent increases in state revenues, so that essential programs should not be cut until the state knows for sure that its income hasn't met projections.

On the other hand, some economists have expressed skepticism over what they consider to be rosy revenue estimates in the adopted budget.

Ban on Credit Report Use for Employment Heads to Fiscal Committee



Legislation banning most employers from using consumer credit reports for employment purposes has passed a second Senate policy committee.

The California Chamber of Commerce **opposed AB 22 (Mendoza; D-Artesia)**, which hampers employment decisions by unfairly limiting private

employers' ability to use credit reports for legitimate employment purposes, unless the information in the report is "substantially job-related" and for a "managerial position."

The CalChamber has been pointing out that employee credit reports provide objective information about an individual's past behavior or character that can help employers reduce future litigation and loss.

Key Vote

AB 22 passed the Senate Judiciary Committee on June 28 on a vote of 3-2.

Ayes: Corbett (D-San Leandro), Evans (D-Santa Rosa), Leno (D-San Francisco).

Noes: Blakeslee (R-San Luis Obispo), Harman (R-Huntington Beach).

The bill will be considered next by the Senate Appropriations Committee.

Staff Contact: Jennifer Barrera

CalChamber, Japanese Business Leaders Discuss Trade

On June 23, members of the Japan Business Association (JBA) and the Japanese Chamber of Commerce of Northern California (JCCNC) met with California Chamber of Commerce representatives to exchange comments on Japan's economic recovery efforts, international trade and the world economy.

Both associations include Japanese businesses that invest in California and employ Californians. JBA is marking its 50th anniversary in California while JCCNC is observing its 60th year.

Attendees included: Gosuke Nakae, Mitsubishi International; Masanori Yasunaga, Calbee America; Hiroshi Haruki, president, Japanese Chamber of Commerce of Northern California; Allan Zaremberg, CalChamber president and CEO; Koichi Kinoshita, president, Japan Business Association of Southern California (JBA); Yuko Kaifu, Union Bank; Katsuya Takamiya, Mitsubishi Electric; Steven Teraoka, Teraoka & Partners; Susanne Stirling, CalChamber;



Photo by Megan Wood

Allan Zaremberg, CalChamber president and CEO, exchanges gifts with Hiroshi Haruki, president of the Japanese Chamber of Commerce of Northern California; and Koichi Kinoshita, president of the Japan Business Association.

Hiroshi Tomita, Konica Minolta Laboratory; Toshihiko Sekine, FX Global; Ko Takigawa, Bank of Tokyo;

June-ko Nakagawa, executive director, JCCNC; Scott Keene, advisor to JBA and JCCNC.

Costly Rate Regulation Bill Awaits Action in Senate Health Committee

From Page 3

In comparison, only 3 cents out of every \$1 in premiums go to health plan profits. Underpayments for government insurance programs, such as Medi-Cal, and the cost of treating the uninsured drive up premium costs by as much as \$1,792 more per year for each insured California family.

Americans are living longer, leading to bigger medical bills and higher costs for the management of chronic illnesses. New technology often improves care, but is responsible for about half of the growth in medical spending.

As a result of all these and more underlying pressures, health care spending continues to outpace inflation and growth in the nation's economy—adding up to more than \$1 out of every

\$6 generated in the U.S. economy. AB 52's arbitrary price controls will apply only to health care premiums—not to the underlying causes of rising costs.

● **AB 52 is unnecessary—employers and their employees are already protected by new state and federal laws that call for rate review and limit excess profits.** AB 52 is not needed because new federal and state laws now impose limits on health insurance premiums and require rate review. The new federal health care law requires 80 cents to 85 cents out of every \$1 in premiums be spent on medical care. If the insurers don't meet these requirements, they will be required to pay a rebate to policyholders.

Enacted with bipartisan support, a new state law, SB 1163 (chaptered on

September 30, 2010), provides unprecedented accountability for rate changes by requiring far more disclosure than the federal health care law mandates. It requires health plans to have an independent actuary certify that any premium increases are justified. It gives the Department of Managed Health Care and the Department of Insurance new powers to review rate changes, and it provides for public comment on premium increases.

The new federal and state laws should be given a chance to work before adoption of an unnecessary and unproven price control scheme that could endanger the vital health care changes already underway.

Staff Contact: Marti Fisher

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Next Alert: July 22



Summer is here. You are required to provide training to prevent on-the-job heat illness.

Summer is here and it is still hot outside. Your company may face a liability that rises with the temperature. Cal/OSHA requires heat illness prevention for all California outdoor workers. This includes providing access to drinking water, shade and training for preventing, recognizing and treating heat illness to everyone working outside.

Don't take a chance with the heat. Prevent injuries, fines and lawsuits with our *Heat Illness Prevention Poster*, *Online Training* course and *Heat Illness Prevention—How to Comply with New Rules On-Demand Webinar*.

*Get a \$10 Starbucks gift card when you purchase \$100 in Heat Illness products by 7/29/11. Use priority code HIS. Cal/Chamber Preferred and Executive Members get their 20% discount as well.



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