Government-Run Health Care Passes First Committee

The Senate Health Committee this week passed a California Chamber of Commerce-opposed job killer bill that seeks to establish a government-run, single-payer health care system in California.

SB 562 (Lara; D-Bell Gardens/Atkins; D-San Diego) has been identified as a job killer because it creates a new single-payer government-run multi-billion-dollar health care system financed by an unspecified and undeveloped “revenue plan” which will penalize responsible employers and individuals and result in significant new taxes on all Californians and California businesses.

Although the financing mechanism for SB 562 has not yet been specified, past legislative attempts at government-run health care have proposed major increases in payroll and income tax on businesses and individuals. California just passed a $52 billion tax over 10 years of which the business community pays a significant share. Adding another tax burden under SB 562 will cost employers and taxpayers billions of dollars and result in significant loss of jobs in the state.

In testimony to the committee, CalChamber Policy Advocate Karen Sarkissian and other employer representatives underscored fundamental flaws with SB 562.

Costs Unsustainable

In 2008, the California Legislative Analyst’s Office (LAO) estimated that sustaining a single-payer system in Cali-

Targeted Tax on Contractors Passes Assembly Revenue/Taxation Committee

A California Chamber of Commerce-opposed job killer bill that imposes a tax on companies that do business with California’s prison systems passed the Assembly Revenue and Taxation Committee this week.

AB 43 (Thurmond; D-Richmond) imposes a 10% tax on contractors for the privilege of doing business with the state Department of Corrections and Rehabilitation to fund preschool and after school programs. Furthermore, the contractors would be prohibited from passing the cost on to the state purchaser.

According to an estimate from Assemblymember Tony Thurmond’s office, the tax would generate between $110 million and $170 million annually for early childhood education and after-school programs.

CalChamber has identified the bill as a job killer because AB 43 unfairly targets one category of taxpayers to fund a benefit for all of the state by imposing a tax on contractors for the privilege of doing business with the Department of Corrections and Rehabilitation, and requiring the contractor to absorb the cost while maintaining a price of lowest responsible bidder.

Potential Hit to Gasoline Supplies Held in Committee

A California Chamber of Commerce-opposed job killer bill that jeopardizes the production of California-based fuel stalled in its first policy committee this week when committee members failed to bring the bill to a vote.

AB 1645 (Muratsuchi; D-Torrance) bans the use of hydrogen fluoride and hydrofluoric acid at refineries that use more than 250 gallons and are located within 2 miles of a residence even though there are significant safety regulations in place at the local, state and federal levels.

CalChamber identified AB 1645 as a job killer because it does not consider the robust regulatory framework in place for chemical use nor does the proposal consider the negative economic impacts that will be felt should this legislation be enacted.

AB 1645 requires a refinery that at any time handles, maintains, or stores more than 250 gallons of hydrogen fluoride, including hydrofluoric acid and modified hydrofluoric acid, to, if possible, convert to a known, significantly less hazardous substitute by January 1, 2020. If that conversion is not possible and the refinery is located within 2 miles of a residential dwelling, the bill requires the refinery to cease handling, maintaining, or storing hydrogen fluoride, including hydrofluoric acid and modified hydrofluoric acid, by January 1, 2020.
Labor Law Corner

Overtime Pay Still Applies to Work Meetings Scheduled in Advance

My employees normally work Monday through Friday, 8 hours a day, and all are paid hourly for their work. There have been some issues among the employees, and I want to bring them all in for a 1-hour meeting on Saturday morning to discuss the issues. I’ve given everyone two weeks’ notice of the meeting. I’m hearing that some of the employees are expecting to get paid for 4 hours even though they’re only going to be at work for 1 hour. How much do I have to pay my employees for attending this meeting?

It sounds like your employees are discussing a concept called “reporting time pay.”

Reporting Time Pay

Under the California Wage Orders, an employee is entitled to receive half of his scheduled day’s pay if he is sent home before completing half of the scheduled shift. Moreover, under the Wage Orders, an employee is entitled to at least 2 hours of pay if he is required to report to work on an unscheduled day, or is called back to work a second time on a scheduled day of work.

In this particular circumstance, your employees will not be entitled to “reporting time pay” because you scheduled this 1-hour “shift” on Saturday morning in advance. As a result, the employees are neither being sent home early, nor are they being asked to report on an unscheduled day, because in fact, you scheduled the meeting 2 weeks in advance. This particular issue was discussed in the fairly recent case of Aleman v. AirTouch Cellular, 209 Cal App 4th 556 (2012). In that case, the court ruled that Saturday and/or Sunday morning meetings that were scheduled 4 days in advance met the definition of a “scheduled shift,” and therefore no reporting time pay was required.

Overtime Pay

You should, however, be cognizant that if you are having your employees come in to work on the weekend after having already worked 40 hours during the workweek, that 1 hour of meeting time would be considered “overtime” and would have to be paid at the premium rate of 1.5 times the employees’ regular rate of pay.

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.

CalChamber-Sponsored Seminars/Trade Shows

More at www.calchamber.com/events.

Labor Law

HR Boot Camp. CalChamber. May 11, Sacramento; May 25, San Diego; June 6, Santa Clara; August 24, Thousand Oaks; September 6, Beverly Hills. (800) 331-8877.

Preventing Discrimination in the Workplace. CalChamber. May 18, Live Webinar. (800) 331-8877.


Leaves of Absence: Making Sense of It All. CalChamber. August 18, Sacramento; June 22, Huntington Beach. (800) 331-8877.


International Trade


California Pavilion—TUTTOFOOD Milan World Food Exhibition. Northern California-Sacramento Regional Center for International Trade Development (CITD) and Mission College CITD. May 8–11, Milan, Italy. (408) 855-5390.


Job Creator Bill Falls Short in Senate Policy Committee

A California Chamber of Commerce-supported job creator to enable employers to rely on compliance advice from the Labor Commissioner failed to win needed support this week in a Senate policy committee.

SB 524 (Vidak; R-Hanford) aims to reduce litigation and encourage compliance with labor laws by allowing employers to rely in good faith on written advice received from the Labor Commissioner regarding the interpretation of California’s complex labor and employment laws and regulations.

Currently, employers are encouraged to refer to written materials from the Division of Labor Standards Enforcement (DLSE) for “guidance” on wage, hour and working conditions when there is no published, on-point case available. However, employers are provided with no certainty that they will be shielded from liability if they comply in good faith with the DLSE’s written opinions or interpretations.

SB 524 eliminates this problem and provides businesses in California with the security to know that, if they seek out and receive written advice from the DLSE regarding how to comply with the law, they can actually rely upon that information.

Specifically, SB 524 prevents an employer from being financially penalized through the assessment of statutory civil and criminal penalties, fines and interest if the employer relies in good faith on written advice from the DLSE and a court ultimately determines the DLSE’s advice was wrong.

Helps Small Businesses

California has burdensome labor and employment laws that are unique from the rest of the country. Small businesses that lack the financial resources to hire a human resources department or outside counsel to advise them on how to comply with these labor and employment laws have only the DLSE for guidance.

SB 524 helps such small businesses by encouraging them to seek out and rely upon the advice they receive from the DLSE regarding how to comply with the law.

Employees Receive Full Wages

Although SB 524 prevents the assessment of any penalties, fines or interest against an employer who can prove its actions were based upon written guidance from the DLSE, the bill still requires the employer to pay all wages owed to an employee.

In fact, SB 524 requires an employer who has asserted its good faith reliance on the DLSE as a defense to post a bond for the disputed amount of wages, thereby ensuring the employee is made whole.

Bad Actors Not Protected

This bill ensures only the good actor who proactively seeks out advice and conforms to it will be able to avoid penalties, fines and interest.

SB 524 requires the employer to prove that it prospectively sought out the written advice from the DLSE; provided accurate and factual information to the DLSE; conferred conduct to comply with the DLSE’s advice; and no facts or circumstances changed between the time the advice was received to the time of the alleged act or omission.

Notably, since 1947, the federal government has provided employers who rely in good faith upon the advice, opinion letters and guidance of the U.S. Department of Labor regarding the Fair Labor Standards Act with a complete defense against liability.

In the more than 60 years that the federal law, the Portal-to-Portal Act, has been in existence, there have not been any reported abuses of “bad actors” manipulating the system or process in order to gain an unfair advantage.

Uncertainty for California employers regarding the correct application of California’s numerous labor and employment laws has a detrimental impact on the state’s economy as well as employees.

Providing certainty through SB 524 will assist all employers in their efforts to comply with the law, thereby producing a better business environment, growth in the economy, and an improved work environment for employees.

Key Vote

Just one member of the Senate Labor and Industrial Relations Committee supported SB 524 on April 26:

Aye: J. Stone (R-Temecula).
Noes: Atkins (D-San Diego), Bradford (D-Gardena).
No vote recorded: Jackson (D-Santa Barbara), Mitchell (D-Los Angeles).

The bill was granted reconsideration.

Staff Contact: Jennifer Barrera

CalChamber Calendar

Capitol Summit:
May 31, Sacramento
International Forum:
May 31, Sacramento
Education Committee:
May 31, Sacramento
Water Committee:
May 31, Sacramento
Environmental Policy Committee:
May 31, Sacramento
Fundraising Committee:
May 31, Sacramento
Host Breakfast:
June 1, Sacramento
Board of Directors:
June 1, Sacramento
Government-Run Health Care Proposal Passes First Committee

From Page 1

California would require more than $210 billion in the first year, an amount increasing up to $250 billion in subsequent years. Even with the 12% tax on employers and employees under the 2008 measure, the LAO report predicted a net shortfall of $42 billion in the system’s first full year of implementation and even higher thereafter.

Just to cover the shortfall, the LAO estimated a tax of 16% on employers and employees would be needed, resulting in a multibillion-dollar tax increase on Californians.

New Tax Burden

A payroll tax increase, such as the one needed to finance this bill, not only has a detrimental impact on businesses already in California; it also discourages companies from locating and establishing a business here.

A large payroll tax would penalize responsible California employers and be a deterrent and disincentive to new employers. Additionally, payroll tax increases would likely lead to job layoffs as existing businesses and employers would be forced to cut costs to sustain the added new tax burden.

Significant Job Losses

The measure itself recognizes the significant job losses it will cause to those in the health insurance industry whose “jobs may be or have been ended as a result of the implementation of the program.” Even if those individuals are transitioned to other jobs within the program, it’s unlikely they will be compensated in the manner they had been in the private sector.

Health insurance industry positions will not be the only ones affected by this measure. The construction industry will suffer as well, since provider rates will include payments for provider capital improvements only if the provider is a nonprofit or governmental agency and only with prior approval. This provision will lead to a massive reduction of capital improvement by for-profit hospitals, medical groups and others, leading to construction job losses.

Twice Rejected by Voters

California voters have twice rejected a government-run health care system—in 1994 and 2004. Past focus groups and numerous opinion polls on health care reform have reinforced that California residents do not want a single-payer government-run system.

Less Efficient and Effective

Although the legislation’s goal of providing health coverage for all Californians is a laudable one, establishing a single-payer statewide bureaucracy is the wrong approach.

The CalChamber and coalition opposing SB 562 fundamentally disagree with the bill’s two major premises that government systems are more efficient than private business, and a single-payer system would be less costly than the current private system.

Significant budget shortfalls that will likely occur year after year would ultimately require drastic cuts in services. SB 562 will reduce the level and quality of health care and benefits currently enjoyed by millions of Californians. The bill will lead to increasingly long wait times to see a physician and will likely take away choice—not just choice in physicians, but choice in coverage.

Under current law, those who wish to buy more, less or different coverage than others often can make those choices, just as those who have other priorities can exercise them in the market. Under SB 562, one size fits all, no matter what an individual’s preference might be.

Key Vote

SB 562 passed Senate Health on April 26, 5-2:
Ayes: Atkins (D-San Diego), Hernandez (D-West Covina), Leyva (D-Chino), Mitchell (D-Los Angeles), Monning (D-Carmel).
Noes: Nguyen (R-Garden Grove), Nielsen (R-Gerber).
Not voting: Newman (D-Fullerton), Roth (D-Riverside).

Action Needed

California has made significant progress in providing coverage to its residents. While the CalChamber shares the concerns about further increasing access to and affordability of health care, the CalChamber does not believe that a government-run single-payer health care system will achieve these goals.

SB 562 will be considered next by the Senate Appropriations Committee.

The CalChamber is urging businesses to contact their senators and members of the Senate Appropriations Committee and urge them to oppose SB 562 as a job killer.

Staff Contact: Karen Sarkissian
Potential Hit to Gasoline Supplies Held in Committee

From Page 1

Numerous Uses

Hydrogen fluoride (HF) has a wide range of beneficial uses in California, and it is critical to the broader California economy. In addition to the production of gasoline, HF is used across the state in a variety of applications, including the production of fluorine-containing materials such as refrigerants, pharmaceutical intermediates and fluoropolymers.

Other uses include metals manufacturing, glass etching and polishing, stainless steel pickling, semiconductor preparation, agriculture and various applications in the chemical and specialty metal production industries.

Negative Impact on California Gasoline Supply

Hydrofluoric acid plays a critical role in making California-specification gasoline at two major refineries in Southern California. These refineries alone represent 13% of statewide refining capacity and, even more important, 23% of capacity in Southern California’s gasoline market.

Hydrofluoric acid is used in the alkylation process, which creates an integral component of gasoline that is required to meet California’s unique gasoline specifications. Without the ability to use hydrofluoric acid to make this component, neither of these refineries can produce California-grade gasoline.

The inability of these refineries to make California gasoline would have a significant impact on California consumers, jobs and the economy as a whole.

Robust Safety Measures in Place

Significant regulations are in place at the local, state and federal levels to ensure the safe handling, use and transportation of hydrogen fluoride and hydrofluoric acid.

From federal state regulations on Process Safety Management to Department of Transportation regulations, there is a broad regulatory framework to ensure the safe use of hydrogen fluoride and reduce any impacts. Moreover, individual facilities that use and handle hydrogen fluoride and hydrofluoric acid have several mitigation measures in place, based upon their unique processes, to ensure further reduction of any risk associated with this product.

For example, the two refineries mentioned above have a number of layers of equipment within the refinery to ensure the safe use of acid.

Current Location

AB 1645 remains in the Assembly Environmental Safety and Toxic Materials Committee because committee members declined to vote for the bill.

To see the rest of the bills on the 2017 job killer list, visit www.CAJobKillers.com/Priorities.

Staff Contact: Amy Mmagu

Targeted Tax on Contractors Passes Assembly Revenue/Taxation Committee

From Page 1

Unfair, Targeted Tax

“It unfairly targets the contractors that are providing goods and services to the prisons,” CalChamber Policy Advocate Marti Fisher told the Los Angeles Times recently.

Although CalChamber and the coalition agree that funding for preschool and after school programs is an important policy area, “this is not the way to get there,” Fisher explained to the Times.

Contractors and vendors are pleased to do business with the state and can attribute a portion of their success to that relationship. An added tax on top of an already resource-intensive contracting process for businesses in California could jeopardize the viability of contracting with the Corrections and Rehabilitation Department if costs cannot be calculated into the bid equation.

Fewer Bidders, Higher Costs

Bids are a math calculation; if the math does not work, the transaction will not occur, leading to fewer companies participating in the bidding process. As a result, less competition could lead to higher costs to the state.

An unduly burdensome tax structure built into contracting with the Department of Corrections will ultimately result in a loss to the state of qualified and competitive bidders, as well as a loss of business to the vendors that the state has come to rely on as quality and dependable.

CalChamber has consistently stated that any tax increase should be broad based and shared by all so that the financial impact is mitigated. The CalChamber and coalition appreciate the author’s effort to support preschool and after school programs as these are important issues that benefit all Californians. However, one category of taxpayers should not be burdened with the responsibility to fund these programs.

Key Vote

AB 43 passed Assembly Revenue and Taxation, 7-3 on April 24:

Ayes: Bocanegra (D-Pacoima), Burke (D-Inglewood), Dababneh (D-Encino), Gipson (D-Carson), Mullin (D-South San Francisco), Quirk (D-Hayward), Ridley-Thomas (D-Los Angeles).

Noes: T. Allen (R-Huntington Beach), Brough (R-Dana Point), Chen (R-Walnut).

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

Staff Contact: Marti Fisher

May 31 - June 1, 2017
CAPITOL SUMMIT & SACRAMENTO HOST BREAKFAST
California, Chile Continue to Build Up Growing Trade/Investment Relationship

Aspects of the growing trade and investment relationship between Chile and the United States, as well as California, were discussion topics at the annual Chile-California Council meeting last week.

The April 20–21 agenda included presentations by the U.S. ambassador to Chile and the Chilean ambassador to the United States, plus panel discussions on emergency management and entertainment.

Growning Partnership

U.S. Ambassador to Chile Carol Perez discussed the growing trade and investment between Chile and the United States; the partnerships being created in numerous areas, including disaster assistance and environmental issues; the expansion of academic and scientific exchanges; and the security and protection of Americans in Chile.

Approximately 50,000 Americans live in Chile, and about 240,000 Americans visited Chile last year. Americans generally feel safe and secure traveling in Chile.

Ambassador Perez went on to say that the U.S.-Chile Free Trade Agreement is the cornerstone of the U.S.-Chile partnership. Jobs are not leaving the United States as a result of the agreement, she stated; in fact, the United States has a trade surplus with Chile.

The ambassador is making a big push for involvement in the SelectUSA summit to be held in June with an emphasis on investment (see www.selectusasummit.us).

In addition to devoting half of her time to trade and investment issues, Ambassador Perez said she also is focused on supporting women microentrepreneurs and promoting English language among the Chilean population.

Less than 5% of Chileans speak English, which is the lowest figure in the hemisphere. In particular, there is an emphasis to educate at the university level, so academic works can be published in English.

Ambassador Perez concluded by saying that Chile is a model country in the hemisphere, both in developing democracy and anti-corruption efforts.

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California, Chile Continue to Build Up Trade/Investment Relationship

From Page 6

CAL FIRE Director Pimlott described how the 100 million acres of California land are one-third under federal jurisdiction, one-third under local jurisdictions with the assistance of approximately 1,000 fire departments ranging from Class 1 to volunteer fire departments, and one-third under the jurisdiction of the state/CAL FIRE, which are “trust lands” or “private watershed” lands.

In the state one-third, there are about 75,000 homes that are assessed fees to assist with fire prevention. Unfortunately, 95% of the fires in California are started by people.

The session concluded with the signing of an MOU between Chile and California, bringing closer the two territories in their efforts to tackle shared emergency concerns, including earthquakes, fires, mudslides and tsunamis.

Entertainment

Marketing professional Francisco Letelier moderated a panel on the entertainment industry—shared challenges and opportunities for Chile and California. The speakers were Lorenzo Soria, president of the Hollywood Foreign Press Association; Gary Shapiro, an American producer; Loreto Caro, a Chilean director; Pedro Pablo Cabrera, representing Shoot in Chile; and Juan de Dios Larraín, a Chilean producer.

Shapiro began by summarizing the importance of the entertainment industry to the global economy. He commented that 70% of entertainment business revenue comes from outside the United States (especially growing in China and Russia) and only 30% from within the U.S. This is the reverse of 10 years ago.

Specialized lower-budget films are becoming more popular in the United States. A recent example is La La Land, which has made $700 million around the world with an initial investment of less than $20 million.

Caro focused on the need for education and training in film making in Chile. Students still need to travel abroad to pursue graduate-level studies. There also is a need for Chile to work on intellectual property protection for creative works.

Soria discussed the major challenges as constantly evolving technology changes the entertainment landscape. An example is the new interest in binge watching. Soria also reported that the Golden Globes had 400 English titles (films) to review this year compared to 150 just five years ago.

De Dios Larraín suggested that Chile should develop incentives to attract filmmakers and create a Chilean brand to be recognized in Hollywood and internationally. Although Spanish language films have not brought Latin America together, de Dios Larraín said, perhaps new shows for television will.

Cabrera concluded by saying Chileans need to learn to speak more English and create a marketing plan for shooting films in Chile.

Best Practices

The meeting also gave an opportunity for discussion and sharing of best practices between the CalChamber and the American Chamber of Commerce in Chile (AmCham Chile) representatives.

An MOU between AmCham Chile and the CalChamber, together with the Los Angeles Area Chamber of Commerce, was signed in Santiago, Chile, on September 28, 2009 to encourage and promote trade and investment between the chambers.

More Information

The Chile-California Council is an international nonprofit organization that promotes mutually beneficial relationships and knowledge sharing between Chile and California in both the private and public sectors.

For more information, see the council website at https://chile-california.org or the CalChamber portal at www.calchamber.com/Chile.

Staff Contact: Susanne T. Stirling

13 CalChamber Members Creating Jobs with Help from Tax Credit

Thirteen California Chamber of Commerce member companies have been selected by the Governor’s Office of Business and Economic Development (GO-Biz) as recipients of the California Competes Tax Credit.

The California Competes Tax Credit (CCTC) committee recently approved $91.4 million in tax credits for 114 companies expanding and creating jobs in California.

The awards will help these companies create a projected 8,223 jobs and generate more than $828 million in total investment across California, according to GO-Biz.

CalChamber members being awarded credits in this round include:

- General Motor Company; automobile manufacturer;
- Proterra, Inc.; electric automobile manufacturing;
- Renovate American, Inc.; energy efficiency consulting services;
- Procore Technologies, Inc.; software development;
- Safeway, Inc.; food manufacturing;
- Pylonix, Inc.; video game development;
- Fanatics Retail Group Fulfillment, Inc.; online retail warehouse and distribution;
- Labcon, North America; plastics manufacturing;
- Lulu’s Fashion Lounge Inc.; clothing manufacturing;
- Montrose Environmental Group Inc.; emission testing services;
- Enviro Tech Chemical Services, Inc.; chemical manufacturing;
- Materion Brush, Inc; chemical and adhesive manufacturing; and
- Western Engineering Contractors, Inc.; engineering services.

The complete list of approved companies and award amounts is posted at business.ca.gov.

About California Competes

In 2013, the California Competes Tax Credit was created by Governor Edmund G. Brown Jr. to focus on helping businesses grow and stay in California. This fiscal year, GO-Biz allocated more than $240 million in total tax credits. Since 2014, GO-Biz has allocated $492.5 million to 688 companies projected to create 70,747 new jobs and make $14.4 billion in new investments.
LIVE WEBINAR: THURSDAY, MAY 18, 2017 | 10:00 - 11:30 AM PT

California Employer’s Guide to Preventing Discrimination in the Workplace

California’s Fair Employment and Housing Act (FEHA) prohibits discrimination and harassment based on protected classes.

Although most workplace discrimination lawsuits end in settlements, these settled cases cost significant money to resolve and open the door for similar claims by other employees.

Learn what you can do now to treat employees fairly and help protect your business from liability.

Cost: $199.00 | Preferred/Executive Members: $159.20

LEARN MORE online at calchamber.com/may18 or call (800) 331-8877.