Newspapers Statewide Say ‘No’ on Proposition 82

Newspapers up and down California are continuing to recommend that voters say “no” to Proposition 82, the June ballot measure to create a massive new preschool bureaucracy.

The California Chamber of Commerce opposes Proposition 82, which increases taxes an estimated $2.4 billion annually to establish a new preschool program that even the measure’s supporters say will boost preschool enrollment by only 4 percent to 5 percent.

The 25 newspapers editorializing against Proposition 82 to date circulate to readers in major metropolitan areas statewide. Following is a sampling of comments.

● “Proposition 82... is so poorly designed that it could do more harm than good... The initiative would set up a cumbersome bureaucracy and place it under the state Department of Education, which has done a disappointing job with K-12 schools.” — Los Angeles Times

● “Expansion of preschool is a worthy goal. Proponents of 82 are right that a high-quality preschool system — reaching all kids — would lift the overall level of education in California. But this is not a referendum on a concept. It is approval of a patched-together blueprint that is binding, expensive and incomplete. We recommend a ‘no’ vote on Proposition 82.” — San Francisco Chronicle

● “Spending $2.4 billion a year to only increase the number of kids in preschool by 6 percentage points is crazy — especially when poorer families that See Newspapers: Page 4

Chamber-Supported Training Funding Restored for First Time in a Decade

Both Senate and Assembly budget subcommittees have voted to restore nearly full funding for a California Chamber of Commerce-supported training program that uses revenues from an employer-paid tax to provide job-training grants to companies of all sizes and industries in order to make the companies more competitive.

Full Funding — Finally

In 1982, California employers agreed to levy a special tax upon themselves to fund a one-of-a-kind program where employers get to choose the type of employee training needed to make that business more competitive in the national and international marketplace.

“This is the first time in almost a decade that policymakers have not diverted nearly half of Employment Training Panel (ETP) funds to other unrelated programs,” said Julianne Broyles, Chamber director of employee relations and small business. “Full funding for ETP will enable more companies to provide effective job training to advance the skills and earning capacity of their employees.”

In the 2006-07 budget, ETP initially was slated to keep only $40.3 million for job training grants. Action by both Senate and Assembly budget subcommittees in See Chamber-Supported: Page 4

Drive Toward November Ballot Continues with Signing of Infrastructure Bond Measures

Vital Funding for Levees, Education, Housing, Transportation

Governor Arnold Schwarzenegger has signed the remaining elements of the $37.3 billion infrastructure bond package called for in his Strategic Growth Plan.

The bonds to fund levee repair and flood control, education and housing will be placed on the November ballot along with the previously signed $20 billion transportation bond (Proposition 1B) and a constitutional amendment to assure revenues from the state gas tax motorists pay at the pump will be used for transportation (Proposition 1A).

Levees/Flood Control

The $4 billion levee repair and flood control bond measure, AB 140 (Núñez; D-Los Angeles) will be Proposition 1E on the November ballot. See Drive: Page 3

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Labor Law Corner

Wage Garnishment: When Employer May Honor More than One Order

Jessica Hawthorne
Assistant Employment Law Counsel

The May 19 “Labor Law Corner” highlighted the California Code of Civil Procedure Section 706.023(a) specification that only one order for wage garnishment can be honored at a time. In general, the first garnishment order received takes priority over all other garnishments, subject to specific exceptions for taxes and support payments.

The purpose of this article is to provide some clarity on the exceptions noted in the May 19 article.

IRS Garnishments

Regarding taxes, Internal Revenue Service (IRS) garnishments generally take priority over all other garnishment orders and must be paid in full before any additional garnishments are taken.

If the IRS order is less than 50-65 percent of the employee’s disposable income, however, the remaining amount may be taken for the support order or for a state tax garnishment.

Further, the IRS may yield in full to a support order, but there is no guarantee it will do so.

Child/Family Support Order

A support order for child or family support has priority over any other earnings withholding order pursuant to California Code of Civil Procedure Sections 706.030(c)(2) and 706.031(b), except an IRS garnishment as discussed above.

An employer is required to withhold 50-65 percent of the employee’s disposable income (or income after statutory withholdings), depending on a variety of factors. The amount of withholding should be specified in the order.

For example, an employer is currently honoring a wage order from the Employment Development Department in the amount of 25 percent of the employee’s disposable income. The employer then receives a wage garnishment order for child support for 25 percent of the employee’s disposable income.

The employer may continue to deduct the 25 percent for the first order, but must take an additional 25 percent from the employee’s disposable income for the support order.

Seek Clarification from Agencies

This area of the law is very complicated.

The California Chamber of Commerce recommends consulting with the agency that originated the order, as well as your legal counsel, before making payroll deductions for wage garnishment.

The California Franchise Tax Board has very useful information on its website that may provide additional guidance, as well. This information can be found at www.ftb.ca.gov/individuals/ewot.html#10.

Seminars/Trade Shows

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

Business Resources


Labor Law


International Trade


Visit www.calchamber.com for the latest business legislative news plus products and services to help you do business in California.
Drive Toward November Ballot Continues with Signing of Bond Measures

From Page 1

It includes $3 billion for evaluating, repairing and replacing levees and flood control infrastructure in the Central Valley and the Sacramento-San Joaquin Delta.

The Delta is made up of more than 1,100 miles of levees and is the source of drinking water for two-thirds of California’s population, as well as irrigation water for millions of acres of crops. The Delta also offers vital flood protection for the California Central Valley flood plains.

The bond funds will leverage federal and local monies to pay for flood prevention projects and improve disaster preparedness.

Programs to be funded by the bond include:

● evaluation and repair of the state/federal flood control system, addressing ongoing erosion, seepage and stability distress;

● modifications and improvements to increase flood protection for urban areas, such as modifying Folsom Dam, American River Common features, south Sacramento streams and other projects;

● ongoing local assistance for Delta levee subventions and special flood control projects to reduce the risk of Delta levee failure.

Other elements of the bond package include:

● $500 million to help pay the state’s share of flood control projects outside the Central Valley;

● $290 million to create new levees in coordination with the construction and preservation of setback levees, flood corridors and bypasses, as well as complete flood hazard and alluvial fan floodplain mapping needed to guide flood infrastructure investment;

● $300 million for grants to local entities to cost share storm water runoff projects as part of an integrated regional water management plan.

Earlier this month, California entered an agreement with the federal government under which the federal agencies agreed to complete all federal permitting by June 21 to ensure critical repairs are completed before the next flood season.

In February, Governor Schwarzenegger declared a state of emergency for the state’s levee system. That declaration permits state agencies to begin repair work immediately by fast-tracking state environmental permits and using emergency contracting procedures.

Levee repairs also require federal permits under the federal Clean Water Act, Endangered Species Act, National Environmental Protection Act and other federal laws.

Education Infrastructure

The $10.4 billion education infrastructure bond, AB 127 (Núñez; D-Los Angeles), will appear on the November ballot as Proposition 1D.

The $7.3 billion bond allocation for K-12 education includes:

● $500 million in supplemental grants for career technical education facilities;

● $500 million for charter school facilities;

● $1.9 billion for new construction;

● $3.3 billion for modernizing facilities;

● $1 billion to deal with overcrowding in schools;

● $100 million for green schools;

● $29 million for joint use facilities.

The amounts for new construction and modernization include $200 million for a new seismic safety program for schools identified as having the highest risk for potential seismic damage; and $200 million for small schools.

The $3.087 billion allocation for higher education includes:

● $1.58 billion for the University of California and California State University systems; and

● $1.5 billion for the California Community Colleges.

Housing

The $2.85 billion housing bond, SB 1689 (Perata; D-Oakland), will be Proposition 1C on the November ballot.

The bond will provide funding for financial assistance to first-time homebuyers, incentives to build affordable rental housing, construction of temporary and permanent homeless shelters and helping urban communities develop vacant parcels:

● $850 million for infill incentive grants for activities that promote infill housing development, including park creation, development or rehabilitation; water, sewer or other public infrastructure; transportation improvements; traffic mitigation; and brownfield cleanup.

● $725 million to help an estimated 23,600 families become or remain homeowners. This includes funding for the Building Equity in Neighborhoods Program, CalHome and the California Down Payment Assistance Program.

● $345 million to provide affordable rental housing to an estimated 4,000 families.

● $135 million to provide rental and affordable ownership opportunities for more than 2,300 farm worker families.

● $245 million to build more than 2,400 permanent housing units for the homeless, homeless transition facilities and foster care youth.

● $50 million to build and expand homeless shelters and transitional housing for the homeless.

● $200 million for urban, suburban and rural parks.

Staff Contact: Jeanne Cain
Newspapers Statewide Say ‘No’ on Proposition 82

From Page 1

most need preschool are less likely to be able to take advantage of the program.” — San Diego Union-Tribune

● “Proposition 82, which would provide free voluntary ‘Preschool for All’ of California’s 4-year-olds, tries to do too much too fast . . . expanding California’s education system to include preschool for 4-year-olds should be considered as part of the whole state system of spending priorities and revenues, especially when there is a structural deficit.” — Sacramento Bee

● “California’s current K-12 educational system isn’t the envy of the nation. Critics of Proposition 82 have a valid point when they ask whether voters should essentially make preschool the responsibility of a state educational system that has been unable to solve many of its existing problems.” — San Jose Mercury News

● “A word of caution for voters who favor the idea of free preschool: Parents could end up shouldering the cost after all. Consult the fine print in Prop. 82, and you’ll find a provision that calls for users to pick up the tab if the wealthy don’t turn over $2.4 billion per year to fund this expanded bureaucracy.” — Pasadena Star News, Whittier Daily News, San Gabriel Valley Tribune

● “Proposition 82 offers no guarantees that it substantially would improve access to preschool for the poor and high-risk families that need it most. And it has several serious flaws. . . Already, about 62 percent of California’s 4-year-olds attend some kind of preschool program, about half of them paid for by families. Non-partisan analysis suggests that Proposition 82 would raise participation to only about 70 percent. That’s not enough improvement to justify a program that would cost billions.” — Modesto Bee

● “This new tax will encourage business owners, employers and entrepreneurs to leave California. . . As we’ve noted before, the loss of high-taxpaying households would end up draining money from the state’s treasury. Other government services and programs ultimately would be hurt.” — Santa Barbara News Press

● “Another strike against this measure is a requirement for credentialed teachers. The public schools are having enough trouble finding qualified teachers; forcing preschool programs to do the same only adds to the teacher shortage. . . Finally, under Proposition 82, the state will dictate the philosophy and goals for every preschool.” — Salinas Californian

● “There might well be good reason to expand spending on preschool for poor children. Sliding-scale subsidies for working families who struggle to pay preschool tuition could be a good idea. But a massive, permanent tax increase that provides free preschool to those who don’t need it, don’t want it and won’t even get much out of it? It doesn’t make sense.” — Redding Record Searchlight

For more information on Proposition 82, visit www.calchamber.com or the campaign website at www.stopreiner.org. Staff Contact: Jeanne Broyles

Chamber-Supported Training Funding Restored for First Time in a Decade

From Page 1

the past two weeks, supported by the Chamber and a coalition of labor and business organizations, stopped yet another proposed diversion of $32.9 million. This is great news for California employers because, for 2006-07, ETP will have at least $73.2 million to use for employer-chosen job training.

Great Return on Investment

On average, ETP collects between $80 million and $100 million annually in employer ETP taxes.

Every $1 million in ETP training supports more than 85 businesses and 800 workers, primarily in the manufacturing and high technology sectors. Independent research has documented the value of ETP-funded training for businesses and workers alike.

Overall, there has been a return on investment of more than $5 for every $1 in ETP funds spent on training, according to the ETP.

Benefit for Employers, Employees

Business and labor supported the creation of the ETP in 1982 to improve the skills of California’s frontline workers as a way to help retain businesses in the state. Employers are the sole source of funding for the ETP.

The grants can be used for retraining current frontline workers of businesses facing out-of-state competition. Ten percent of ETP funds are specially earmarked to provide grants to small business owners needing better entrepreneurial skill, as well as for training projects in areas of the state with high unemployment.

Under the ETP process, companies decide which workers need training, develop their own training plans and choose their own trainers.

When a company is unionized, the decisions are made jointly with their labor representatives. Employers must match the training funds awarded through ETP contracts. ETP provides funds for trainees who complete approved training programs and stay on the job for at least six months afterward.

Details to Work Out

The Assembly budget subcommittee also recommended that priority be given to training projects for low-wage workers. Because the Senate budget subcommittee has not voted on that issue, the recommendation will go to a conference committee, where both the Senate and the Assembly will have to agree to adopt the same recommendation and include it in the budget trailer bill.

Action Needed

Contact your Senate and Assembly representatives and urge them to support the ETP funding when the budget proposal comes before them for consideration. Also write the Governor to voice your support for full funding of the ETP. Staff Contact: Julianne Broyles
Chamber Supports Federal Bill to Prevent Frivolous Obesity Lawsuits Against Business

The California Chamber of Commerce is supporting federal legislation to prevent frivolous obesity lawsuits against restaurants, food manufacturers and other such businesses.

The legislation, S. 908 (McConnell; R-KY), prohibits lawsuits that allege a food manufacturer or seller is responsible for an individual’s weight gain or obesity-related health problems.

The Chamber is urging U.S. Senator Dianne Feinstein (D-San Francisco) to become a co-sponsor of the bill, the Commonsense Consumption Act, and provide leadership as a member of the U.S. Senate Judiciary Committee to ensure food-related businesses are protected from frivolous obesity lawsuits.

The Senate legislation has bipartisan support and is similar to legislation passed last year by the U.S. House of Representatives, H.R. 554, the Personal Responsibility in Food Consumption Act.

Need for National Standard

“The nation’s obesity problem cannot be fixed in court,” said Chamber legislative advocate Kyla Christoffersen. “Obesity is a complex problem resulting from many different personal contributing factors, such as genetics and dietary and exercise choices. Congress needs to set a national standard to stop the inappropriate use of litigation to regulate diet.”

Recently, trial lawyers have filed a number of civil lawsuits against restaurants and food manufacturers, claiming those businesses are responsible for the plaintiffs being overweight and for obesity-related injuries and illnesses.

These meritless lawsuits burden companies with exorbitant litigation costs, which stunts job growth, drives up consumer prices and chills economic growth. In addition, the frivolous lawsuits waste court resources and add to already-overcrowded court dockets, preventing legitimate claims from being considered.

Protection for Legitimate Claims

The legislation was designed to address frivolous obesity-related claims only. The bill would not prevent lawsuits claiming breach of contract or warranty nor legitimate claims against false or misleading labels or misbranding.

So far, similar legislation has become law in 22 states with bipartisan support, showing the need for a national standard to avoid a piecemeal approach.

Data from the Gallup Poll finds that nearly 90 percent of Americans oppose frivolous obesity lawsuits against food and beverage manufacturers, distributors and retailers.

“Enacting the Commonsense Consumption Act will send the message that, instead of lawsuits, productive steps such as proper nutritional education, healthier lifestyles and increased personal responsibility are the answer to the country’s obesity problem,” said Christoffersen.

Action Needed

Contact Senator Feinstein and urge her to support the Commonsense Consumption Act and become a co-sponsor of the bill.

Letters can be addressed to: The Honorable Dianne Feinstein, U.S. Senate, 331 Hart Senate Office Building, Constitution Avenue and Second Street, NE, Washington, D.C. 20510, Fax (202) 228-3954. District office addresses appear on the senator’s website at www.feinstein.senate.gov.

Staff Contact: Kyla Christoffersen

ChamberPAC Seeks Employer Support in Homestretch to June 6 Election

ChamberPAC, the bipartisan political action committee of the California Chamber of Commerce, is in the final countdown of what has shaped up to be an extremely hard-fought primary election campaign season.

With just days to go, ChamberPAC is pulling out all the stops to make sure the messages from the candidates it supports won’t be drowned out in the tidal wave of last-minute advertising. To do that, ChamberPAC needs employers’ support.

Contributions to ChamberPAC will be pooled with those of other employers to help bring pro-business legislators to Sacramento. The Chamber’s legislative advocacy team has been instrumental in netting business significant savings by building legislator support for protecting employer interests.

To amplify the voice of business, ChamberPAC is asking that employers reinvest a portion of that savings, as little as $200 to as much as $5,600 (legal contribution limit), at this critical time.

ChamberPAC has an 82 percent success rate in supporting winning candidates. This election year, however, poses especially difficult challenges.

The way political districts are drawn virtually guarantees re-election to the incumbent party. Therefore, the competition for most legislative seats occurs in the primary elections, with the advantage going to candidates at both ends of the ideological spectrum because strongly ideological voters have a higher turnout rate in primaries.

Contribute Online

To learn more about ChamberPAC or to contribute online, visit www.calchamber.com/chamberpac.
Legislative Outlook

An update on the status of key legislation affecting businesses. Visit www.calchamber.com/position letters for more information, sample letters and updates on other legislation. Staff contacts listed below can be reached at (916) 444-6670. Address correspondence to legislators at the State Capitol, Sacramento, CA 95814. Be sure to include your company name and location on all correspondence.

Chamber Supports ADA Tax Credit Bill

California Chamber of Commerce-supported legislation helping small businesses make important accommodations for the disabled and comply with the law was pending in the Assembly Appropriations Committee as Alert went to press.

AB 1847 (Leslie; R-Tahoe City) increases the amount of tax credit that small businesses may receive to offset expenditures incurred to provide access to disabled individuals.

AB 1847 brings California’s disabled access tax credit into full conformity with federal law for a six-year period, during which small businesses would be able to claim a credit of 50 percent of eligible disabled access expenditures up to a maximum credit of $5,125.

This conformity more realistically and reasonably reflects the significant expenditures made by small businesses to comply with access laws.

Currently, California caps the disabled access tax credit at $125, a mere fraction of the costs businesses incur to comply with the law. Expenditures include, but are not limited to, purchases of adaptive equipment, removal of architectural barriers in facilities and vehicles, and fees for consulting services.

AB 1847 affirms California’s commitment to helping small businesses in their good faith efforts to comply with disability laws at a time when many small businesses are being shut down by predatory ADA lawsuits.

Staff Contact: Kyla Christoffersen

Bill Putting Economy, Development at Risk Heads to Senate

The California Chamber of Commerce is heading a coalition of business groups and taxpayer associations opposing legislation with serious detrimental potential for the state’s economy and future infrastructure investments.

AB 2641 (Coto; D-San Jose), which limits viability of land where Native American burial sites are discovered, already has made it through the Assembly and is heading to the Senate for consideration.

This bill has a variety of negative impacts on the state’s economy, including:

bullet substantially increasing taxpayer costs for future infrastructure projects while delaying and undermining delivery of those projects;

bullet creating greater uncertainty in the land use approval process; and

bullet threatening future job-generating projects and housing developments throughout California.

Conflicts with Current Law

AB 2641 places into law a new term, “Native American burial ground,” the definition of which easily can be interpreted to include, not only human remains but also associated grave artifacts, such as beads, crystals and arrowheads. Under this bill, discovery of a burial ground brings an immediate halt to development activity and sends the project into an open-ended consultation process.

The bill redefines “consultation” as established by law (SB 18) in 2004 to place the burden of mandated consultation on the landowner or project sponsor. AB 2641 also requires the landowner to “address every feasible option” for preserving the site and removes the right of the landowner to refuse a recommendation made by the consultant.

The bill also gives the Native American Heritage Commission (NAHC), a valuable but not unbiased body, the final say in deciding whether a site is a burial ground.

Critical Risks for Development

AB 2641 threatens to halt a broad range of development and infrastructure-building activity during the consultation and deliberation process.

The bill places evidence- and information-gathering power in the hands of tribes and imposes no timeframe on the NAHC to render a decision, neither of which promises a deliberate and forward-moving conclusion to the process.

Action Needed

AB 2641 passed the Assembly on a 42-4 vote and has moved to the Senate Rules Committee for assignment and consideration.

The Chamber strongly urges members to express their opposition to this legislation by writing to members of Senate Rules and their Senate representatives.

Staff Contact: Valerie Nera
Chamber-Opposed UI Tax Amnesty Bill Traps Law-Abiding Employers

The California Chamber of Commerce is urging businesses to oppose legislation that establishes an unemployment insurance (UI) tax amnesty program that could penalize all employers.

**AB 2344 (Chu; D-Monterey Park)** establishes two programs: a tax amnesty program for UI and a voluntary compliance initiative for abusive tax shelters. The UI tax amnesty program proposed in the bill creates a trap for law-abiding employers who do not believe the program should apply to them.

**Losing Situation, No Out**

This bill forces employers with legitimate questions or disputes about their tax liability into a losing situation. Employers must either:
- Participate in the amnesty program, which means they risk overpayment of their taxes and lose their right to appeal the overpayment; or
- Decline to participate in the amnesty program and risk extremely harsh, increased penalties if the tax liability questions are resolved against the employer.

Additionally, AB 2344 harshly penalizes employers who do not participate in the amnesty program because they believe they paid their taxes correctly but later through an audit or re-examination discover an innocent or unknowing mistake or error.

An employer’s UI tax liability is based upon a number of factors that frequently fluctuate. Thus, it is easy for employers to have legitimate questions or to make mistakes.

**True Amnesty Denied**

The Chamber believes a true tax amnesty program should be narrowly tailored to apply only to those taxpayers who have knowingly failed to pay or misreported their income. It should not trap law-abiding taxpayers who unknowingly made a mistake or have a legitimate question about the taxes they owe.

AB 2344 establishes a backwards tax administrative process in which innocent employers are presumed to be cheats merely for questioning their tax liability.

The Chamber also opposes the bill’s significant expansion of what is considered a criminally “abusive” tax shelter.

The new definition of “abusive” tax shelter is so broad that it could include fully legitimate efforts by law-abiding taxpayers to limit their tax liability. These innocent taxpayers could then be hammered with new and harsher penalties created by the bill.

Limiting tax liability is not an illegal act and should not be made illegal at the subjective whim of the taxing authority.

**Key Vote**

AB 2344 passed the Assembly Revenue and Taxation Committee on April 24 on a party-line vote of 5-2.

Ayes: Klehs (D-Castro Valley); Cane (D-Pittsburg); Chu (D-Monterey Park); Jones (D-Sacramento); Lieber (D-Mountain View).

Nos: Walters (R-Laguna Niguel); DeVore (R-Irvine).

Due to fiscal ramifications for the state from AB 2344, the Assembly Appropriations Committee placed the bill on its suspense file for further consideration at a later date.

The Chamber urges employers to contact members of Assembly Appropriations and their Assembly representatives to voice opposition to AB 2344.

Staff Contact: Kyla Christoffersen

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Business PAC Urges Financial Support on Initiative Battles

CalBusPAC, the issues political action committee of the California Chamber of Commerce, is urging the business community to get involved in the initiative process to protect and enhance the state’s economy.

For the June election, CalBusPAC is actively opposing Proposition 82, the so-called Reiner initiative that seeks to tax many individuals and small businesses in order to impose universal preschool and create a new state-run bureaucracy.

CalBusPAC was formed in 1976 by the Chamber to protect, preserve and further the private enterprise system. CalBusPAC is organized under California law as a general purpose issues committee (Fair Political Practices Commission committee identification number 761010) that makes contributions to support or to oppose ballot measure campaigns and other issues of interest to the business community.

CalBusPAC does not make any contributions or expeditures in support of or opposition to any candidate for public office.

CalBusPAC may accept contributions in any amount, but cannot accept contributions from foreign nationals. It also cannot accept any funds earmarked for any specific issue. CalBusPAC alone will decide 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.

Contributions to CalBusPAC are not deductible as charitable contributions for federal income tax purposes.

**To Contribute**

To contribute to CalBusPAC online, visit www.calchamber.com/calbuspac.

Contributions may be mailed to:

CALBUSPAC, ID# 761010

c/o California Chamber of Commerce

1215 K Street, Suite 1400
Sacramento, CA 95814

Staff Contact: Michele Zschau

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Next Alert: June 9
Successfully managing HR duties within a company is critical. Remaining compliant with current labor laws is crucial.

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