

ALERT

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Coalition Opposition Helps Stop 'Job Killer' Legislation

Bill Reduced Health Care Access, Boosted Labor Costs

A California Chamber of Commerce-**opposed** "job killer" bill that would have reduced access to health care due to increased labor costs has missed the deadline for further action this year.

AB 1201 (Leno; D-San Francisco) sought to unlawfully alter federal labor law governing union eligibility requirements and secret ballot union elections. The bill failed to pass the Assembly Appropriations Committee for consideration by the full Assembly before the June 1 deadline.

Undermines Secret Ballot

In opposing AB 1201, a CalChamber-led coalition pointed out that it would have undermined the process that now

— through secret ballot — guarantees a fair vote.

Sponsored by the California Nurses Association, AB 1201 had nothing to do with patient care or patient safety. It was a special interest bill that attempted to dramatically, unnecessarily and unlawfully alter well-established federal labor law.

AB 1201 proposed to take away a worker's right to a private ballot when deciding whether to join a union by replacing the private ballot with a scheme called "card check," which allows a union to organize if a majority of workers simply sign a card. Under this system, the union organizers themselves oversee the process, and the workers'

See Coalition: Page 6



CalChamber President Zaremborg Joins Governor on Trade Mission to Canada

California Chamber of Commerce President Allan Zaremborg led a 50-member business delegation that accompanied Governor Arnold Schwarzenegger on his recent trade mission to Canada to promote California products, services and tourist destinations.

The three-day mission, May 29-31, included meetings with Ontario Premier Dalton McGuinty in Toronto and British Columbia Premier Gordon Campbell in Vancouver, as well as briefings by U.S. Ambassador David Wilkins and consular staff and business networking luncheons.

Canada is the second largest mar-

ket for California exports, with a total value of \$14.2 billion in 2006. Two-way trade with Canada supports an estimated 832,000 jobs in California, according to a study by the Bay Area Economic Forum (BAEF).

With a population and economy larger than Canada, California is a major market for Canadian manufactured goods, energy, forest and agri-food products and a wide range of services.

Canada-California trade has grown steadily since the 1970s, accelerating with the enactment of the Canada-U.S.

See CalChamber: Page 4

Underfunding of Medicare/Medi-Cal Drives Up Private Payer Costs

Uninsured Cost Shift Minimal

CFCE California Foundation for Commerce & Education

Government underpayments to hospitals in the Medicare and Medi-Cal programs are a substantial factor in driving up private health care costs, according to a study released this week by the California Foundation for Commerce and Education (CFCE), a non-partisan think tank for the business community.

Uncompensated care for the uninsured, on the other hand, had a minimal impact on private payers, the study found.

The extent to which health care providers shift costs — increase the markup charged to private patients in response to other (public or uninsured) patients' underpayments — is a key issue in health care reform debates.

Substantial Cost Shift

In the first study to focus on the extent to which California uncompensated care costs are actually shifted to private payers, Professor Daniel P. Kessler of the Stanford University Graduate School of Business found that cost shifting from Medicare and Medi-Cal is substantial.

Increasing reimbursements to cover these patients' costs would lead to an

See Underfunding: Page 3

Inside

- CalChamber Comments on AB 32 Report: Page 3

Labor Law Corner

OK to Convert Paper Personnel Files to Electronic Records



Jessica Hawthorne
Employment Law
Counsel

Can I maintain personnel files electronically and destroy the originals?

There is no law that specifically prohibits electronic retention of personnel files, but there are many rules regarding how the files must or can be reproduced, as well as destroyed.

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Electronic Records

You want to ensure a legible, printed copy can be produced if necessary and guarantee the security of the computer system in which the records are held. Your policy concerning who may access the personnel files must be enforced in the same manner if the files are "virtual," by limiting the number of passwords available and monitoring who accesses the files.

You also must ensure employees are able to access their personnel files without invading the privacy of their co-workers — creating separate, password-protected personnel files is necessary.

Most tax forms are available in an electronic format so they can be retained in that format as well. As far as time records are concerned, California's Labor Commissioner has taken the position that the recording and storage of time records by electronic means, under certain circumstances, will meet the requirements of California law. Basic conditions are:

- The employer continues to bear the burden of proof regarding the accuracy of the information;
- In the event of a mechanical or electronic failure, the employer will have the burden of proving the number of hours worked; and
- The employer must provide a legible printed copy of the records in response to the request of the Labor Commissioner or the employee.

Destruction of Records

According to the Fair and Accurate Credit Transactions (FACT) Act, you must shred or burn personnel documents containing personal information. This protects current, past and prospective employees' personal information, such as Social Security numbers, addresses, telephone numbers and any other information that is reported to an employer by a consumer reporting agency.

If this information is stored

electronically, it must be destroyed before being discarded. If the data is stored on the hard drive of a computer that is being sold or donated to another party, the data must be removed in a way that makes it unrecoverable — simply deleting the records is insufficient. Consult with your information technology (IT) department or a specialist to ensure complete destruction of the records.

If you use an outside party to dispose of records, conduct due diligence in hiring a document destruction contractor. Due diligence could include:

- Reviewing an independent audit of a disposal company's operations and/or its compliance with this rule;
- Obtaining information about the disposal company from several references;
- Requiring that the disposal company be certified by a recognized trade association; and
- Reviewing and evaluating the disposal company's information security policies or procedures.

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.

Seminars/Trade Shows

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

Business Resources

Ready Humboldt! California Volunteers Office of the Governor. Bayside, June 18. (916) 650-6959.

Free Small Business Fair. California State Board of Equalization. Garden Grove, June 26. (213) 593-1311.

Free Nonprofit Tax Seminar. California State Board of Equalization. Pasadena, June 28. (213) 593-1311.

Make a difference on proposed laws

calchambervotes.com



Cal/EPA Advisory Committee Releases Draft of Greenhouse Gas Reduction Report

CalChamber Emphasizes Benefits of Using Market Forces



An advisory committee for the California Environmental Protection Agency (Cal/EPA) has released draft recommendations for the design of a cap-and-trade system to reduce greenhouse gas emissions in California.

Winston Hickox, chair of Cal/EPA's Market Advisory Committee, said a comprehensive approach would be needed to meet the Governor's greenhouse gas targets and get the most reductions in the quickest timeframe at the lowest cost.

"Ultimately, the Air Resources Board (ARB) will decide whether to include market-based compliance mechanisms in a comprehensive greenhouse gas emissions reduction program," Hickox said.

AB 32 (Núñez; D-Los Angeles), the landmark greenhouse gas reduction law signed by Governor Arnold Schwarzenegger last year, requires the state to reduce its greenhouse gas emissions to 1990 levels by 2020. The ARB is in charge of monitoring and enforcing regulations to implement the program, which will require an accurate measure-

ment of both the tons of greenhouse gases emitted in California in 1990 and the current level of emissions.

Market Approach Best

Upon the release of the advisory committee's draft report, California Chamber of Commerce President Allan Zaremborg issued a statement highlighting the benefits of using market forces to reduce greenhouse gas emissions cost-effectively:

"California has set aggressive goals to reduce greenhouse gas emissions in the coming years," Zaremborg said. "Using the innovation and efficiency of market forces to attack this challenge is essential if we are to meet these environmental goals, minimize the impact on consumers and ensure a strong economy in California. Markets are the most cost-effective way to reduce greenhouse gas emissions throughout the world, delivering the most carbon reductions per dollar spent."

Cap-and-Trade Systems

Zaremborg recapped remarks by Harvard Professor Robert Stavins at a recent meeting of the AB 32 Implementation Group, a business working group

spearheaded by the CalChamber and California Manufacturers and Technology Association that is dedicated to a fair and effective implementation of AB 32.

Stavins said that cap-and-trade market systems:

- can be more environmentally effective and more cost-effective than conventional approaches;
- have a track record of achieving both environmental goals and cost savings; and
- create a common currency of emission credits that make it possible to link systems in different jurisdictions.

Zaremborg said: "We look forward to analyzing the report and working with the administration to implement the law in a way that leads to a coordinated global solution — a way that is fair to both environmental protections and ensuring a strong economy so that other states, the federal government and other countries will embrace and adopt our approach. To do otherwise risks not only hurting consumers and damaging our economy, but leaving California isolated in what would become a futile attempt to affect this global issue alone."

Staff Contact: Amisha Patel

Underfunding of Medicare/Medi-Cal Drives Up Private Payer Costs

From Page 1

8.3 percent decline in private payments to hospitals, according to the study by Kessler, who also is a senior fellow at the Hoover Institution.

Minimal Uninsured Impact

On the other hand, according to the study, cost shifting from the uninsured is minimal: increasing reimbursements to cover indigent patients' costs would lead to a decline in private payments to California hospitals of 1 percent.

"The message to state and federal policy makers is clear: the most efficient way to reduce private health care premiums is to increase public insurance program reimbursements," said CFCE President

Loren Kaye. "There are many benefits from increased health care coverage for the uninsured, but a significant reduction in private payer premiums is not one of them."

Kessler commented, "State health policy reforms that seek to cover the currently uninsured are unlikely to lead to significant reductions in private insurance premiums, at least due to decreases in cost shifting. In contrast, increases in public program reimbursement rates could have an economically important impact on premiums."

The study also reviewed the current literature on the magnitude and effect of the cost shift, and found that it has significant limitations. Only two studies

investigate the extent of cost shifting from the uninsured, and these have fundamental weaknesses.

Until now, no study had analyzed the most recent data from California hospitals to investigate whether cost shifting in the state has intensified or moderated in the 2000s.

Methodology

Kessler's paper used publicly available data on California hospitals from the Office of Statewide Health Planning and Development from 2000 to 2005.

He calculated how hospitals' markups on Medicare, Medi-Cal and indigent patients affect their markup on private-payer

See Underfunding: Page 4

CalChamber President Zaremborg Joins Governor on Trade Mission

From Page 1

Free Trade Agreement in 1989 and the North American Free Trade Agreement in 1994.

Governor Touts Innovation

In remarks at the Toronto Economic Club and upon signing a memorandum of understanding with British Columbia Premier Campbell to aim for reducing greenhouse gas emissions, the Governor highlighted the role of business investment and innovation in developing green technology.

"California is the leading edge of what I call 'the environmental economy,'" the Governor said in Toronto.

In British Columbia, the Governor emphasized the sales potential for companies that offer "green-clean technology products" and added that is why the memorandum he was signing with Campbell does not dictate how the goals of the greenhouse gas emission cap or low carbon fuel standards will be achieved.

"The market and the consumer choice will determine those kinds of decisions," the Governor said.

Company Tours

Part of the business delegation's itinerary included a visit to EnWave Energy Company to see its system of using cold energy from Lake Ontario to cool buildings in downtown Toronto, as well as a tour of Xantrex Technology Inc., which

Photo Courtesy Governor's Office



California Chamber President Allan Zaremborg and CalChamber member Margaret Wong of McWong Environmental & Energy Group attend a business networking reception during the trade mission to Canada.

develops advanced power electronics — products that convert raw electrical power from any source into high-quality electricity. Vancouver-based Xantrex counts a site in Livermore among its additional facilities.

Trade Opportunities

The make-up of the business delegation accompanying the Governor reflected the areas of opportunity highlighted by the BAEF study on the economic importance of the Canada-California partnership — science and technology, agriculture, tourism and energy.

According to the BAEF study, Canada:

- is the top foreign buyer of California agricultural products;

- supplies 23 percent of California's natural gas and a third of its hydropower;

- is one of California's largest sources of tourists, sending more visitors to California than any country except Mexico;

- attracted more than \$760 million in investment from Silicon Valley venture capital firms between 2002 and 2006, with Canadian venture capital firms investing nearly \$230 million in Silicon Valley during the same period.

Staff Contact: Susanne Stirling

Underfunding of Medicare/Medi-Cal Drives Up Private Payer Costs

From Page 3

patients, holding other characteristics of hospitals and their market environment constant. He then calculated how hospitals' markups on private-payer patients would fall if the revenues for Medicare, Medi-Cal and indigent patients were increased to cover costs.

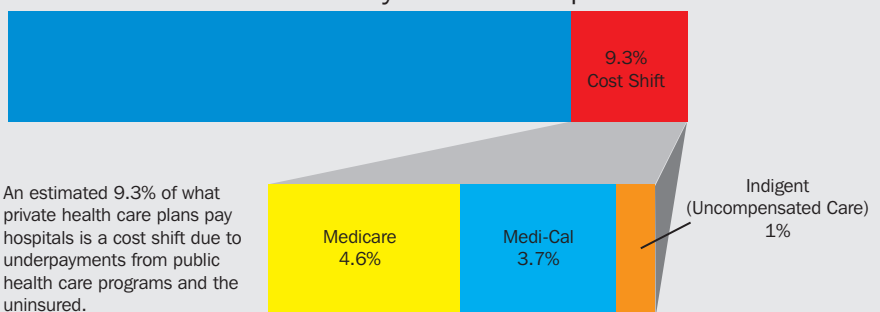
CFCE is a tax-exempt, 501(c)(3) non-profit corporation affiliated with the California Chamber of Commerce and dedicated to preserving and strengthening the California business climate and private enterprise.

The full report on cost shifting is available on the foundation website at www.cfcepolicy.org/reports.

Contact: Loren Kaye

Uninsured Not Significant Source of Higher Private Costs

Private Payments for Hospital Care



Source: California Foundation for Commerce and Education

CalChamber Participating in Update of Vital Statewide Water Strategy

A California Chamber of Commerce policy advocate is part of an advisory committee that is helping develop a roadmap for managing California's water resources.

The state Department of Water Resources (DWR) recently appointed Valerie Nera, CalChamber policy advocate for agriculture, resources and privacy, to the California Water Plan Update 2009 Public Advisory Committee. The California Water Plan is the state's strategic plan for managing water resources statewide. It is updated every five years, as required by the California Water Code, and is a key element in the Governor's Strategic Growth Plan.

State Water Needs

The water system that contributed to California's emergence as one of the world's major economic powers is faltering. Existing facilities are barely able to meet current public demands. Over the next 25 years, demand for water statewide will grow between 2 million and 6 million acre-feet, yet California is a dry winter or two away from a drought and subsequent water rationing for parts of the state.

Advisory committee members include representatives from business, agriculture, environmental interests, local government, and land use planning, citizens' organiza-

tions, recreation, agricultural and urban water suppliers, water use efficiency and water quality, and watershed and flood plain management.

Water Plan Update

Water Plan Update 2009 will be developed in a collaborative process with broad public input, and multiple opportunities for participation. In addition to the meetings of the advisory committee, regional workshops and forums focusing on regional water issues and management strategies will be held several times a year.

The Statewide Water Analysis Network (SWAN), a voluntary network of scientists and engineers from the public, private and non-governmental sectors, will hold public workshops on technical topics.

The last update, released in 2005, outlined two key initiatives: Promote integrated regional water management through regional partnerships and diversified management strategies, and maintain and improve statewide water management systems. Update 2009 will track and report progress on action plan items and initiatives, and present actual statewide water uses and supplies for water years 1998-2005. The potential impacts of climate change also will be addressed.



Valerie Nera

State Agencies

For the first time, DWR also will partner with 16 other state agencies to guide the Water Plan Update. This state agency steering committee will ensure water issues, initiatives and information from other state agencies are incorporated in the plan.

A two-day public meeting on June 4-5 in Sacramento served to orient members to their assignments, review the 2005 plan, evaluate policy positions and investigate key topics associated with the 2009 update.

Regional workshops and a regional forum are planned for this summer. The first plenary meeting is set for October 22-23 in Sacramento. All meetings are public.

More information is available at www.waterplan.water.ca.gov.

Staff Contact: Valerie Nera

CalChamber Board, Committee Focus on State Water Issues



The complexities of ensuring California has an adequate water supply were the subject of the recent meetings of the California Chamber of Commerce Water Resources Committee and Board of Directors. Gary Wolff (left), member, State Water Resources Control Board, speaks at the May 21 meeting of the CalChamber Water Committee. Wolff serves the board in the position of professional engineer. Lester Snow (center), director of the state Department of Water Resources, and Jeff Kightlinger, general manager for the Metropolitan Water District of Southern California, discuss the impact of a disaster in the Delta on water deliveries to the south state at the May 22 meeting of the CalChamber Board.

Legislative Outlook

An update on the status of key legislation affecting businesses. Visit www.calchambervotes.com for more information, easy-to-edit sample letters on hot topics 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.

CalChamber Supports Bill to Improve Tax Climate, Increase R&D



SUPPORT

The California Chamber of Commerce is **supporting** legislation to encourage investments in and expansions of California-based operations and jobs by establishing several key tax incentives.

SB 359 (Runner; R-Lancaster) would significantly improve California's tax climate by providing sales and tax relief for the airline industry; increasing the research and development (R&D) credit for all industries; and reducing the tax burden on multistate and multinational companies that locate and expand jobs and operations within the state.

The non-partisan Tax Foundation's 2007 business tax climate study ranks California 45 out of 50. California must work to ensure its tax structure encourages investment, job retention and expansion here and that California is a strong competitor with other states that offer aggressive tax incentives and inviting tax structures.

SB 359 contains three pro-investment and job-growth stimulation proposals:

- Provides sales and use tax relief for the airline industry by creating a tax exemption that caps, through 2017, the sales and use tax on jet fuel purchased in California for domestic use.

- Increases the R&D credit from 15 percent to 20 percent and makes other improvements in conformity with federal

law, encouraging investment and growth in R&D jobs, including the aerospace, biotechnology, computer and other high-technology industries. The credit has not been increased since the 2000-01 state budget and should be updated to more appropriately reflect inflation and increases in costs.

- Reduces the penalty effect of the current formula the state uses for determining the portion of taxes a multistate or multinational company owes California. Under this formula, the more operations and jobs the company has within California relative to its sales, the higher its tax burden.

The CalChamber supports changes to the apportionment formula that encourage retention and growth in investment, jobs and operations within the state's borders. Any such changes, however, should not result in a penalty or increase in tax liability for other industries or companies. SB 359 upholds and advances these sound public policy principles.

Action Needed

SB 359 awaits a hearing date in the Senate. Contact your senators and encourage them to **support SB 359**.

Staff Contact: Kyla Christoffersen

Coalition Opposition Helps Stop 'Job Killer' Legislation in Assembly

From Page 1

votes are made public to the employer, the union organizers and co-workers.

Workers are better protected from interference and intimidation by casting their vote privately with a secret ballot. To take away employees' access to a private secret ballot is undemocratic.

Labor unions in California are experiencing a decline in membership. Bolstering their membership should occur because workers see a need, not by adulterating the election process. The CalChamber and other coalition members support the

National Labor Relations Act and reject attempts to undermine the secret ballot process in California in any way. Undermining the secret ballot process sends the wrong message to new or growing businesses that could create jobs for California citizens.

Interference with Rights

The proposed changes would have interfered with the rights of unions and employers to negotiate the terms of their collective bargaining agreements. The bill required that the parties agree to an agency

shop arrangement whereby employees are required, as a condition of employment, to join the union or pay the union a service fee. Under current law, agency shop provisions are subject to the collective bargaining process. AB 1201 was a clear attempt to upset the balance of that process.

Given the conflict AB 1201 created with well-established federal labor law, every substantive provision of the bill is pre-empted by the National Labor Relations Act and could have been invalidated by a court challenge.

Staff Contact: Marti Fisher

CalChamber in Court

CalChamber Joins Call for State High Court to Review Telecommunications Permitting

The California Chamber of Commerce is joining the telecommunications industry and has filed a “friend of the court” brief in a case that will have a profound impact on the future of telecommunications in California.

The California Supreme Court will review the case of *Sprint Telephony PCS, L.P. v. County of San Diego*.

Interference

A recent Court of Appeal decision gives local governments permission to interfere with the timely and efficient deployment of telecommunications infrastructure throughout California through discretionary permitting actions under local ordinances based on “aesthetics” or other subjective criteria without regard to the critical need for telecommunications infrastructure.

In its brief the CalChamber argues that if every city and county were to create its own discretionary permitting system with its own view of “aesthetics” for construction of new lines and equip-



ment in the public rights-of-way, the telecommunications system needed for the critical development of California would never have been built.

New Infrastructure Essential

The CalChamber argues that new telecommunications infrastructure is essential to future economic growth in the state. The CalChamber believes that it is the Legislature’s intention to promote the deployment of new telecommunications technology and cited an executive order signed by Governor Arnold Schwarzenegger in the fall of 2006, which created a Broadband Task Force to remove barriers to broadband access and to “enable the creation and deploy-

ment of new advanced communications technologies.”

The Governor expressly recognized that deploying “advanced communication services throughout California will enable continued improvements in health care, public safety, education and the economy.”

Technological Edge

The CalChamber believes that California’s economic success depends upon maintaining the state’s technological edge over global competitors. Installations of high-speed data lines and fiber-optic cable are crucial to maintaining that edge.

Allowing local governments to exercise discretionary control based on “aesthetics” will serve as a disincentive for telecommunications companies to invest in new infrastructure in California. Without continued investment in telecommunications, California businesses will lose the technological edge that is vital to the state’s economy.

Staff Contact: Erika Frank

CalChamber Honors HR Partner Chambers



California Chamber of Commerce president Allan Zaremborg (left) presents the HR Partner of the Year Award for the second year in a row to the Vallejo Chamber, represented by Rick Wells, chief executive and administrative officer. Also receiving the award this year was the San Diego East County Chamber, represented by Terry Saverson (center of right photo), president and chief executive officer, and Michele Tarbet, board chair. The award recognizes the local chamber of commerce that excels at working with the CalChamber in informing members about new state and federal laws.



Applications Due for Fit Business Awards

The deadline for applications for the 2007 California Fit Business Award is Friday, June 15.

The award, sponsored by the California Task Force on Youth and Workplace Wellness and the California 5 a Day — Be Active! Worksite Program, recognizes employers for excellence in providing healthy eating and physical activity programs at their workplaces and supporting and encouraging employees in making healthy choices.

Last year’s eight winners included seven California Chamber of Commerce members.

To obtain an application, visit www.wellnesstaskforce.org or contact Leah Cox, task force director, at (916) 760-7448.

In-depth information you need when you want it! *Pregnancy Disability Leave 201 On-Demand Web Seminar.*

Now you can view ***Pregnancy Disability Leave 201 On-Demand Web Seminar*** 24/7 and get an in-depth review of PDL requirements and their interaction with state disability insurance and paid family leave. This advanced-level, 90-minute event is ideal for any HR director, manager or business owner who must handle an employee's request for leave.

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